

IN THE SUPREME COURT OF THE STATE OF NEVADA

CEASAR SANCHAZ VALENCIA,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

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Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-16-315580-1

Docket No: 85694

RECORD ON APPEAL VOLUME 1

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NUMBERED PAGE(S)
1 - 26
WILL FOLLOW VIA
U.S. MAIL**


CLERK OF THE COURT

INFM
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DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 06/10/16
10:00 A.M.
PD S LISK

THE STATE OF NEVADA,

Plaintiff,

-vs-

CEASAR SANCHAZ VALENCIA,
#1588390

Defendant.

CASE NO: C-16-315580-1

DEPT NO: II

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That CEASAR SANCHAZ VALENCIA, the Defendant(s) above named, having committed the crimes of **ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50205); OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460); TRAFFICKING IN CONTROLLED SUBSTANCE (Category B Felony - NRS 453.3385.1 - NOC 51156); and POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony - NRS 453.336 - NOC 51127)**, on or about the 19th day of May, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

1 COUNT 1 - ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY
2 WEAPON

3 did willfully, unlawfully, feloniously and intentionally place another person in
4 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully
5 attempt to use physical force against another person, to-wit: J. JACOBITZ, a protected person
6 employed as a Police Officer with Las Vegas Metropolitan Police Department, while J.
7 JACOBITZ was performing his duties as a Police Officer with Las Vegas Metropolitan Police
8 Department, which Defendant knew, or should have known, that J. JACOBITZ was a Police
9 Officer with Las Vegas Metropolitan Police Department, with use of a deadly weapon, to-wit:
10 a firearm, by pointing said firearm at the said Officer J. JACOBITZ.

11 COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

12 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
13 his custody or control, a firearm, to-wit: a .38 caliber revolver, the Defendant being a convicted
14 felon, having in 2006, been convicted of Possession of Stolen Vehicle, in Case No. C224558,
15 and/or having in 2007, been convicted of Unlawful Possession of Electronic Stun Device and
16 Possession of Burglary Tools and Possession of Stolen Vehicle and Burglary, in Case No.
17 223991, in the Eighth Judicial District Court, Clark County, felonies under the laws of the
18 State of Nevada.

19 COUNT 3 - TRAFFICKING IN CONTROLLED SUBSTANCE

20 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
21 actually or constructively, 4 grams or more, but less than 14 grams, to-wit: approximately 11.8
22 grams of Heroin, or any mixture of substance consisting of approximately 11.8 grams
23 containing the controlled substance Heroin.

24 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE

25 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
26 controlled substance, to-wit: Cocaine.

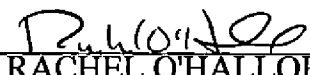
27 ///

28 ///

1 COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE

2 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
3 controlled substance, to-wit: Methamphetamine.

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

7 BY 
8 RACHEL O'HALLORAN
9 Deputy District Attorney
10 Nevada Bar #012840

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

11	<u>NAME</u>	<u>ADDRESS</u>
12	BARLOW, DAWN or designee	CCDA/INVESTIGATOR
13		200 LEWIS AVE 9TH FLR
14		LV NV 89155
15	BRYANT, K.	LVMPD P#7773
16	CUSTODIAN OF RECORDS	CCDC
17	CUSTODIAN OF RECORDS	LVMPD/COMMUNICATIONS
18	CUSTODIAN OF RECORDS	LVMPD/RECORDS
19	GOODRICH, A.	LVMPD P#9198
20	HOFFMAN, J.	LVMPD P#9001
21	HOUSTON, C.	LVMPD P#13249
22	JACOBITZ, J.	LVMPD P#9383
23	KLOSTERMAN, O.	LVMPD P#1317
24	LEFEBVRE, N.	LVMPD P#8383
25	WHITMARSH, B.	LVMPD P35645

26
27 16F08334X/pm/L-2
28 LVMPD EV#1605193387
(TK8)


CLERK OF THE COURT

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NEVADA BAR NO. 0556
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-16-315580-1
)	
v.)	DEPT. NO. 2
)	
CEASAR SANCHAZ VALENCIA,)	
)	DATE: July 19, 2016
Defendant,)	TIME: 9:00 a.m.
)	

DEFENDANT'S DISCOVERY MOTION

COMES NOW, the Defendant, CEASAR SANCHEZ VALENCIA, by and through STEVEN M. LISK, Deputy Public Defender, and hereby requests that, pursuant to Brady v. Maryland, 373 U.S. 83 (1963), this Court order the State to produce all discovery that it actually or constructively possesses.

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

DATED this 28th day of June, 2016.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Steven M. Lisk
STEVEN M. LISK, #12809
Deputy Public Defender

Argument

Prior to trial, the State must provide to the defense all exculpatory evidence (“Brady material”) that it actually or constructively possesses because 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, 87 (1963); Kyles v. Whitley, 514 U.S. 419, 432 (1995). The State’s duty to provide Brady material applies regardless of how the State has chosen to structure its overall discovery process. See Strickler v. Greene, 527 U.S. 263 (1999). Indeed, former Clark County District Attorney David Roger acknowledged the State’s continuing ethical obligation to turn over favorable evidence to the defense, stating “[w]e can’t play hide and seek with the defense. It’s our ethical obligation to the defense to give them information.” See David Kihara, Cabdriver Slaying Witness Unhappy, LAS VEGAS REVIEW JOURNAL, July 2, 2006. In addition to its ethical obligation, the State has a constitutional duty to turn over favorable evidence to the defense.

The State, of course, also has a constitutional duty to turn over favorable evidence to the defense, both under the United States Constitution (as referenced above) and under the Nevada Constitution. Indeed, Article 1, Section 8 of the Nevada Constitution guarantees every defendant a right to due process: “It is a violation of due process for the prosecutor to withhold exculpatory evidence, and his motive for doing so is immaterial . . . [t]he prosecutor represents the state and has a duty to see that justice is done in a criminal prosecution.” Jimenez v. State, 112 Nev. 610, 618 (1996) (citations and internal quotations omitted).

I. THE STATE MUST TURN OVER ALL EVIDENCE THAT IS MATERIAL, FAVORABLE TO THE ACCUSED, RELEVANT TO GUILT OR PUNISHMENT, AND WITHIN THE STATE’S ACTUAL OR CONSTRUCTIVE POSSESSION.

Brady material is evidence which is: (1) material, (2) favorable to the accused, (3) relevant to guilt or punishment, and (4) within the actual or constructive possession of anyone acting on behalf of the State. Brady, 373 U.S. at 87. Each of these requirements will be discussed briefly.

1 **A. Evidence is material if there exists a reasonable possibility that it would affect**
2 **the judgment of the trier of fact.**

3 The defense may request Brady material in a specific manner or in a general or broad
4 manner. The only significant difference between a “general” and a “specific” request for Brady
5 material is the standard of review on appeal for the State’s failure to disclose the information. The
6 fact that a general request, rather than a specific request, has been made, however, does not relieve
7 the State of its absolute obligation to turn over favorable evidence.

8 Furthermore, this is an area of Brady law where Nevada law differs from federal law.
9 Nevada law concerning the “materiality” of Brady material is more favorable than federal law. In
10 Nevada, when the defense makes a specific request for Brady material and the State does not
11 provide such material, the Nevada Supreme Court has held that there are grounds for reversal of a
12 conviction “if there exists a reasonable possibility that the claimed evidence would have affected
13 the judgment of the trier of fact, and thus the outcome at trial.” Roberts v. State, 110 Nev. 1121,
14 1132 (1994) (emphasis added); see also Lay v. State, 116 Nev. 1185, 1194 (2000) (same); Jiminez
15 v. State, 112 Nev. 610, 619 (1996) (same); State v. Bennett, 119 Nev. 589, 600 (2003) (same).

16 Even when a specific request was not made, reversal is warranted “if there is a reasonable
17 probability that, had the evidence been disclosed to the defense, the result of the proceeding would
18 have been different.” U.S. v. Bagley, 473 U.S. 667, 682 (1985) (emphasis added); Pennsylvania v.
19 Ritchie, 480 U.S. 39, 57 (1986) (same). According to this heightened standard of appellate review,
20 “evidence is material if there is a reasonable probability that the result would have been different if
21 the evidence had been disclosed.” Jimenez, 112 Nev. at 619. A “reasonable probability” is a
22 probability sufficient to undermine confidence in the outcome of the proceeding. Id. The defense
23 need not show that disclosure would have resulted in an acquittal. Kyles, 514 U.S. at 434. In the
24 federal courts, this is the one and only standard employed—regardless of whether the defense
25 request is specific, general, or no request is made at all. See id.; see also Strickler v. Greene, 527
26 U.S. 263, 280 (1999) (“the duty to disclose such evidence is applicable even though there has been
27 no request by the accused”).
28

1 Simply stated, the State's obligation to turn over favorable evidence to an accused in no
2 way depends upon the specificity of the request. Indeed, the State remains obligated to provide
3 favorable evidence even in the case where a defendant makes no pretrial request at all. Where a
4 specific request for certain evidence is made, however, Nevada law considers the evidence
5 "material" if there is a reasonable possibility that it could affect the fact finder's judgment.

6 **A. Evidence favorable to the accused is not limited strictly to exculpatory**
7 **evidence.**

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

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

18 Id. at 67. (citations omitted).

19 Thus, Brady material is defined broadly, and would include, but not be limited to, the
20 following evidence: forensic testing which was ordered, but not done, or which was completed but
21 did not inculcate the defendant; any medical or psychological treatment of any victim or witness;
22 criminal records or other evidence concerning State's witnesses which might show their bias (e.g.,
23 civil litigation) or otherwise impeach their credibility; evidence that the alleged victim has been the
24 alleged victim of an unusual number of crimes; investigative leads or ordinarily appropriate
25 investigation which were not followed-up on or completed by law enforcement; any information
26 relating to the credibility of any witness including law enforcement officers or other agents of the
27 state; and, of course, anything which is inconsistent with any prior or present statements of a
28 State's witness, including the failure to previously make a statement which is later made or
testified to. In addition, traditionally exculpatory evidence such as that which could show that
someone else committed the charged crime or that no crime was in fact committed would also
qualify as Brady material.

1 **C. Evidence that is relevant to punishment must be disclosed.**

2 Brady material encompasses not only evidence which deals with Mr. Valencia's guilt, but
3 also includes evidence which could serve to mitigate Mr. Valencia's sentence if he were to be
4 convicted. Brady, 373 U.S. at 87.

5 One example of this kind of evidence might be where the victim of a robbery who
6 identified the defendant as one of two people who robbed him also indicated that the defendant
7 tried to keep the co-defendant from further injuring him. Although the victim's statements would
8 actually help establish the defendant's guilt for the charged offense, they would also be Brady
9 material, since they could help mitigate the defendant's sentence. Other examples of this kind of
10 evidence could be evidence of a diminished mental state, even if not rising to a legal defense,
11 evidence that the defendant has mental health issues, evidence that the defendant was using drugs
12 or alcohol at the time of the offense, evidence that the defendant was under some kind of duress or
13 mistaken belief, evidence that the defendant tried to turn himself in, evidence that the defendant
14 tried to seek help, evidence that the defendant was remorseful, evidence that the defendant was
15 cooperative with law enforcement, and any similar type of evidence.

16 In essence, anything which could convince the Court to impose something less than a
17 maximum sentence would be relevant to punishment, and must be disclosed under Brady.

18 **D. The State must disclose evidence that it actually or constructively possesses.**

19 A prosecutor is responsible for turning over Brady material in his possession and in the
20 possession of any other State agents. Jimenez at 620. It is anticipated that the prosecution may
21 assert that it has an "open file" policy, and that if the requested material is not available in its file,
22 the State is under no obligation to produce it. This argument is unavailing.

23 In Strickler v. Greene, 527 U.S. 263, 284 (1999), the United States Supreme Court
24 explicitly held that a prosecutor's open file policy in no way substitutes for or diminishes the
25 State's obligation to turn over Brady material. The Nevada Supreme Court agrees: "[i]t is a
26 violation of due process for the prosecutor to withhold exculpatory evidence, and his motive for
27 doing so is immaterial." Jimenez at 618 (citation omitted).

1 **1. Prosecutors are responsible for seeking out Brady material, even if they**
2 **are initially unaware of its existence.**

3 In Kyles v. Whitley, the United States Supreme Court made it clear that the prosecutor has
4 an affirmative obligation to obtain Brady material and provide it to the defense, even if the
5 prosecutor is initially unaware of its existence. In so finding, the Supreme Court noted that “[t]he
6 prosecution’s affirmative duty to disclose evidence favorable to a defendant can trace its origins to
7 early 20th century strictures against misrepresentation and is of course most prominently associated
8 with this Court’s decision in Brady v. Maryland” 514 U.S. at 432. The Kyles Court also
9 made clear that this obligation exists even in the absence of a request for such evidence. Id.

10 The Kyles Court additionally made the following observations, worth quoting at length, in
11 finding that the State had breached its duty to Kyles:

12 This in turn means that the individual prosecutor has a duty to learn of any
13 favorable evidence known to the others acting on the government’s behalf in the
14 case, including the police. But whether the prosecutor succeeds or fails in meeting
15 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.

16 The State of Louisiana would prefer an even more lenient rule. It pleads that some
17 of the favorable evidence in issue here was not disclosed even to the prosecutor
18 until after trial, and it suggested below that it should not be held accountable under
19 Bagley and Brady for evidence known only to police investigators and not to the
20 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.

21 But neither is there any serious doubt that “procedures and regulations can be
22 established to carry [the prosecutor’s] burden and to insure communication of all
23 relevant information on each case to every lawyer who deals with it.” Since then,
24 the prosecutor has the means to discharge the government’s Brady responsibility if
25 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.

26 Kyles at 437-438 (citations omitted).
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1 **2. Prosecutors are deemed to have constructive knowledge of Brady**
2 **material, even if the State agency is withholding the evidence from the**
3 **prosecutor.**

4 Constructive knowledge is imputed to the prosecutor even if the Brady evidence is being
5 withheld by other agencies. The Nevada Supreme Court made this obligation clear in Jimenez v.
6 State: “even if the detectives withheld their reports without the prosecutor’s knowledge, ‘the state
7 attorney is charged with constructive knowledge and possession of evidence withheld by other
8 state agents, such as law enforcement officers.’” Jimenez at 620 (citation omitted). “Exculpatory
9 evidence cannot be kept out of the hands of the defense just because the prosecutor does not have
10 it, where an investigating agency does.” U.S. v. Zuno-Arce, 44 F.3d 1420, 1427 (9th Cir. 1995).

11 **3. Prosecutors are responsible for Brady material, even if it is in the**
12 **possession of an out-of-State agency cooperating with local law**
13 **enforcement.**

14 Furthermore, even if the evidence is being held by an out-of-jurisdiction agent that is
15 cooperating with local law enforcement, the prosecutor is deemed to have constructive knowledge.
16 As the Court noted in State v. Bennett, 119 Nev. 589 (2003), where a Utah police detective was
17 aware of the evidence, “[w]e conclude that it is appropriate to charge the State with constructive
18 knowledge of the evidence because the Utah police assisted in the investigation of this crime. . . .”
19 Id. at 603. Similarly, other state agents, such as probation and parole officers, welfare workers,
20 employees of Child Protective Services, employees of Department of Motor Vehicles, jail
21 personnel, out-of-state police agencies, and similar agents of the State are also State agents from
22 whom the prosecution must affirmatively collect Brady material.

23 There can be little question, therefore, that despite its “open file policy,” the prosecution
24 has an affirmative duty to seek out the previously discussed Brady material, regardless of whether
25 such material is in the hands of the prosecutor or in the hands of some other entity acting on behalf
26 of the State. Indeed, the prosecution must seek out Brady material from other state agents such as
27 probation and parole officers, Child Protective Service workers and their agents, jail personnel,
28 law enforcement personnel, and similar agents of the State. Simply put, prosecutors are obligated

1 to provide Defendant with far more than their “open file.” Disclosure of discovery materials
2 cannot be limited or restricted to materials in the possession of the District Attorney’s Office.

3 **II. MR. VALENCIA’S SPECIFIC BRADY REQUESTS.**

4 Based on the foregoing law and analysis, Mr. Valencia specifically requests that the State
5 produce the following Brady material without delay:

- 6 1. Details of any compensation or any other benefit that any of the State’s witnesses
7 received in exchange for their cooperation with this prosecution, including, but not
8 limited to, any information concerning any expectation of any benefit of any kind to
9 be received, or already received, by any State witness. This includes, but is not
10 limited to, any express or implied promise made to any witness to provide
11 counseling and/or treatment as a result of his/her participation in the prosecution of
12 this case.
- 13 2. Any information on any criminal history or any material or information which
14 relates to specific instances of misconduct of any material witness in the case from
15 which it could be inferred that the person is untruthful and which may be or may
16 lead to admissible evidence. This includes, but is not limited to, any juvenile
17 record, misdemeanors, out-of-state arrests and convictions, outstanding arrest
18 warrants or bench warrants, and cases which were dismissed or not pursued by the
19 prosecuting agency or any other information that would go to the issue of
20 credibility and bias, whether or not the information is admissible as evidence.
- 21 3. Disclosures of all statements (where tangible or intangible, recorded or unrecorded)
22 made by any State witness, or any other person, at any time, that are in any manner
23 inconsistent with the written and/or recorded statements previously provided to the
24 defense. This includes material or information which would tend to exculpate Mr.
25 Valencia of the charges, that might mitigate the punishment should he be convicted,
26 or that may lead to information which would tend to impeach or affect the
27 credibility of a State witness, including, but not limited to, any oral statements made
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to the prosecutor or any other State employee during pre-trial conferences or other investigative meetings.

- 4. Requests for and/or results of all crime scene analysis and/or testing performed on any of the physical or biological evidence in this case, including, but not limited to, the results of any DNA comparisons, blood analysis and/or medical examinations performed on the complaining witness.
- 5. Any photographs taken at any medical exams or taken by law enforcement.
- 6. Any 911 or 311 recordings regarding this incident, including the dispatch logs.
- 7. Copies of all video or audio recording of any form collected by the investigating officers or any other agent of the State during the course of the investigation.
- 8. All reports of any destruction of any evidence in the case.
- 9. Photocopies or other reproduction of all handwritten or otherwise memorialized notes kept by the investigating police officers in this case (sometimes known as “Case Monitoring Forms”), including, but not limited to, any notes documenting alternate suspects, investigative leads that were not followed up on, or any other matter bearing on the credibility of any State witness.
- 10. Any information which tends to show that Mr. Valencia did not commit the alleged crimes, including, but not limited to, any information suggesting a possible suspect other than Mr. Valencia, including investigative leads to other suspects.

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CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
RACHEL O'HALLORAN
Deputy District Attorney
Nevada Bar #12840
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-

CASE NO: C-16-315580-1

CEASAR SANCHAZ VALENCIA,
#1588390

DEPT NO: II

Defendant.

NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

TO: CEASAR SANCHAZ VALENCIA, Defendant; and

TO: STEVEN LISK, DEPUTY PUBLIC DEFENDER, Counsel of

Record:

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

ALTNETHER, JASON, P#14211 – A Forensic Scientist with the Las Vegas
Metropolitan Police Department. He is an expert in the field of chemical analysis of controlled
substances; will testify to the techniques employed in this case, results of those tests and any
reports therefrom, including the weight of the questioned substances.

MAY, CRYSTAL, P#9288 – A Criminalist with the Las Vegas Metropolitan Police
Department. She is an expert in the area of DNA technology and will give scientific opinions
related thereto. She is expected to testify regarding the DNA profiling analysis and related

1 procedures she performed in this case.

2 **SAHOTA, ERIC, P#9932** – A Latent Print Examiner with the Las Vegas Metropolitan
3 Police Department. He is an expert in the area of latent print examination and comparison and
4 will give scientific opinions related thereto. She will testify regarding the various latent print
5 comparisons he performed in this case.

6 These witnesses are in addition to those witnesses endorsed on the Information or
7 Indictment and any other witnesses for which a separate Notice of Witnesses and/or Expert
8 Witnesses has been filed

9 The substance of each expert witness' testimony and a copy of all reports made by or
10 at the direction of the expert witness has been provided in discovery.

11 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

15 BY Rachel O'Halloran
16 RACHEL O'HALLORAN
17 Deputy District Attorney
18 Nevada Bar #12840

19 **CERTIFICATE OF ELECTRONIC FILING**

20 I hereby certify that service of Notice of Expert Witnesses, was made this 1st
21 day of July, 2016, by Electronic Filing to:

22 STEVEN LISK, Deputy Public Defender
23 EMAIL: steven.lisk@clarkcountynv.gov;
24 pdclerk@clarkcountynv.gov

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

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**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
CURRICULUM VITAE**

Date: 9/23/2015

Name: Jason S. Altnether P#: 14211 Classification: Forensic Scientist II

Current Discipline of Assignment: Controlled Substances

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances	X	Toxicology/Blood Alcohol	
Toolmarks		Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	
Latent Prints		Crime Scene Investigations	
Serology		Clandestine Laboratory Response Team	X
Document Examination		DNA Analysis	
Quality Assurance		Technical Support / DNA	

EDUCATION			
Institution	Dates Attended	Major	Degree Completed
Arizona State University	1994-1999	Chemistry	B/S

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Hazard Assessment and Response Management for CBRNE Incidents – Center for Domestic Preparedness (FEMA)	Anniston, AL	09/09/15-09/11/15
Forensic GC-MS Workshop	Las Vegas, NV	04/27/15-04/29/15
Instructor Development Program	Las Vegas, NV	02/23/15-02/26/15
Clandestine Laboratory/Hazmat Recertification	Las Vegas, NV	11/05/2014

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Hazardous Material Technician for CBRNE Incidents – Center for Domestic Preparedness (FEMA)	Anniston, AL	01/12/14-01/18/14
Emergency Responder Hazardous Materials Technician for CBRNE Incidents – Center for Domestic Preparedness (FEMA)	Anniston, AL	01/08/12-01/14/12
Infrared Spectroscopy for Trace Analysis – presented by the Federal Bureau of Investigation	Quantico, VA	03/21/05-03/25/05
Anhydrous Ammonia Analysis & Identification (SWAFS)	Fort Worth, TX	11/03/03-11/06/03
GHB Analysis (SWAFS)	Fort Worth, TX	11/03/03-11/06/03
Methamphetamine Investigation Management Workshop – presented by the Bureau of Justice Assistance	Scottsdale, AZ	09/08/03-09/10/03
Mass Spectra: Theory and Interpretation – presented by the California Criminalists Institute	Huntington Beach, CA	05/20/03-05/22/03
Courtroom Presentation of Evidence – presented by the California Criminalists Institute	Sacramento, CA	08/28/02-08/30/02
Logical Care, Maintenance and Troubleshooting GC Columns – presented by Agilent Technologies	Phoenix, AZ	05/30/02
Chromatographic Methods in Forensic Sciences – presented by the Federal Bureau of Investigation	Quantico, VA	02/04/02-02/08/02
State and Local Forensic Chemists Seminar – presented by the Drug Enforcement Administration	Chantilly, VA	06/11/01-06/15/01
FT-Raman Operations Course – presented by ThermoNicolet	Madison, WI	02/19/01-02/21/01
Optimizing Performance of your Gas Chromatograph (SWAFS) – presented by Varian Inc.	Colorado Springs, CO	11/09/00
GC Applications (SWAFS)	Colorado Springs, CO	11/09/00

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Presumptive Drug ID (SWAFS)	Colorado Springs, CO	11/07/00
Collision Avoidance Training	Mesa, AZ	Fall 2000
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Clark County District Court (VIII)	Controlled Substances	21
Clark County Juvenile Court	Controlled Substances	2
Clark County Justice Court	Controlled Substances	1
Nye County Civil Court	Controlled Substances	1
Nye County District Court	Controlled Substances	5
Nye County Justice Court	Controlled Substances	1
Superior Court (Maricopa County, AZ)	Controlled Substances	16
Juvenile Court (Maricopa County, AZ)	Controlled Substances	1
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Las Vegas Metropolitan Police Department	Forensic Scientist II	12/2009 - Present
Aichi Prefectural Board of Education (Japan)	Assistant English Teacher	7/2005 - 7/2008
Mesa Police Department, Mesa, AZ	Criminalist	8/2000 - 7/2005
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>	<i>Date(s)</i>	
Southwestern Association of Forensic Scientists (SWAFS)	2011 - Present	
Clandestine Laboratory Investigating Chemists (CLIC) Association	2013 - Present	
PUBLICATIONS / PRESENTATIONS:		
None		

PUBLICATIONS / PRESENTATIONS:
OTHER QUALIFICATIONS:
None

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
CURRICULUM VITAE**

Date: 2/29/16

Name: Crystal May P#: 9288 Classification: Forensic Scientist II

Current Discipline of Assignment: Biology/DNA

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Toxicology/Blood Alcohol	
Toolmarks		Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	
Latent Prints		Crime Scene Investigations	
Serology	X	Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	X
Quality Assurance		Technical Support	
EDUCATION			
Institution	Dates Attended	Major	Degree Completed
University of New Haven	8/03-12/04	Forensic Science-Criminalistics	M.S.
Saint Mary-of-the-Woods College	8/99-6/03	Biology	B.S.
ADDITIONAL TRAINING / SEMINARS			
Course / Seminar	Location	Dates	
American Academy of Forensic Sciences 68 th Annual Scientific Meeting	Las Vegas, NV	2/25/16-2/26/16	
FEMA Instructor Development Workshop	Las Vegas, NV	10/12/15-10/14/15	
STRmix Training Workshop	Las Vegas, NV	9/17/15-9/18/15	
Basic Instructor Development	Las Vegas, NV	2/23/15-2/26/15	
Fair and Impartial Policing	Las Vegas, NV	11/17/2014	
American Academy of Forensic Sciences 66 th Annual Scientific Meeting	Seattle, WA	2/19/14-2/21/14	
Technical & Administrative Review Training	Las Vegas, NV	10/15/13	

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
DNA Mixture Interpretation Workshop/Webcast	Las Vegas, NV	4/12/13
Emergency Preparedness - LVMPD	Las Vegas, NV	11/29/12
How to Be a Good Expert Witness – NIJ/RTI	Las Vegas, NV	9/27/12
DNA Analyst Training Program Completion	Las Vegas, NV	9/13/12
Forensic Relationship Statistics Training	Las Vegas, NV	8/25/12
Single Source Sample Analysis Training Completion	Las Vegas, NV	5/21/12
Interpreting DNA Mixtures	Las Vegas, NV	1/25/12
Emerging DNA Technologies	Huntington, WV	12/05/11-12/07/11
Testifying in Court	Las Vegas, NV	5/2/11
Guidelines for Oral Board Raters	Las Vegas, NV	4/4/11
SWGDM Mixture Interpretation and Statistics	Las Vegas, NV	12/21/10
First Aide Training	Las Vegas, NV	10/20/10
Plexor HY Training	Las Vegas, NV	10/19/10
Forensic Biology Screening	Las Vegas, NV	9/29/10
Terminal Operator Certification	Las Vegas, NV	9/24/10
Plexor HY and Identifiler Plus	Las Vegas, NV	9/9/10
DNA Mixture and Interpretation & Statistics	Las Vegas, NV	7/15/10
Promega Plexor HY Overview	Las Vegas, NV	7/13/10
Evidence Evaluation and Collection for the Presence of DNA	Las Vegas, NV	3/10/10
AB HID University RT-PCR	Las Vegas, NV	2/3/10
AB HID University 240, Basic GMIDX	Las Vegas, NV	7/28/10
Urine Drug Screen Training Completion	Las Vegas, NV	6/18/09
Siemens Syva VIVA-E Analyzer	Las Vegas, NV	6/16/09
Blood Drug Screen Training Completion	Las Vegas, NV	3/2/09
Hair Evaluation for DNA Analysis (WVU online)	Las Vegas, NV	2/9/09

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Orasure Forensic Toxicology Training 101	Las Vegas, NV	1/27/09
Biological Fluid Identification	Sacramento, CA	7/15/08-7/18/08
AB CE Troubleshooting and GMID-X	Las Vegas, NV	6/4/08
AB7500 RT-PCR/Quant & Quant Duo Kit	Las Vegas, NV	6/24/08
Forensic Photography	Las Vegas, NV	2/14/08
Forensic Imaging Techniques	Las Vegas, NV	1/08
Applied Biosystems Training on 3130xl Genetic Analyzer	Las Vegas, NV	11/1/07
Introduction to Firearm Safety	Las Vegas, NV	10/24/07
Biological Terrorism (online)	Las Vegas, NV	12/27/06
National Incident Management System (online)	Las Vegas, NV	12/27/06
ABFDE Daubert Symposium 2006	Las Vegas, NV	11/06
Heartsaver First Aid (American Heart Association)	Las Vegas, NV	10/20/06
Drivers Training II	Las Vegas, NV	9/21/06
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Clark County District Court	Biology/DNA Evidence Screening	2
Clark County District Court	Biology/DNA Analysis	3
Nye County District Court	Biology/DNA Analysis	1
Clark County Grand Jury	Biology/DNA Analysis	2
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
LVMPD Forensic Laboratory	Forensic Scientist II	3/14-Present
LVMPD Forensic Laboratory	Forensic Scientist I	3/12-3/14
LVMPD Forensic Laboratory	Forensic Scientist Trainee	3/11-3/12

EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
LVMPD Forensic Laboratory	Forensic Laboratory Technologist	6/07-3/11
LVMPD Forensic Laboratory	Forensic Laboratory Technician	7/06-6/07
Denny's Pharmacy	Pharmacy Technician	8/05-6/06
Lucas County Coroner's Office	Toxicology Intern	5/05-8/05
University of New Haven	Chemistry Teaching Asst	9/03-12/04
Saint-Mary-of-the-Woods College	Chemistry Lab Asst	10/99-6/03
Argonne National Laboratory	Electrochemical Intern	5/02-8/02
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>	<i>Date(s)</i>	
None		
PUBLICATIONS / PRESENTATIONS:		
<p>Electrochemistry Communications, "New Cathode Materials for Silver-based Primary Batteries: AgCuO₂ and Ag₂Cu₂O₃" C.D. May, T.T. Vaughey 6 (2004) 1075-1079.</p> <p>Antoniewicz, A., Gauthier, K., & May, C. (2015, July 31) DNA Related to Cold Cases and Missing Persons. Presentation provided at the 29th Annual Parents of Murdered Children, Inc. National Conference, Las Vegas, NV.</p>		
OTHER QUALIFICATIONS:		
None		

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY 06/17/09
CURRICULUM VITAE**

Date: 11/09/2015

Name: Eric S. Sahota P#: 9932 Classification: Forensic Scientist II

Current Discipline of Assignment: Latent Prints

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Toxicology/Blood Alcohol	
Toolmarks		Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	
Latent Prints	X	Crime Scene Investigations	X
Serology		Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	
Quality Assurance		Technical Support /	

EDUCATION			
Institution	Dates Attended	Major	Degree Completed
The Johns Hopkins University	09/96 - 05/03	Natural Sciences	BA

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Understanding Exclusion and Sufficiency Decisions	Las Vegas, NV	11/02/15-11/06/15
NIST International Symposium on Forensic Science Error Management	Crystal City, VA	07/20/15-07/24/15
67 th Annual Scientific Meeting of the American Academy of Forensic Sciences	Orlando, FL	02/16/15-02/20/15
Next Generation Identification (ULW Training)	Las Vegas, NV	06/24/14-06/25/14
Advanced ACE-V Applications for Fingerprint Examiners	Las Vegas, NV	03/03/13-03/07/13

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
65 th Annual Scientific Meeting of the American Academy of Forensic Sciences	Washington, DC	02/18/13-02/23/13
Canadian Identification Society Annual Conference	Calgary, Alberta, Canada	09/16/12-09/17/12
64 th Annual Scientific Meeting of the American Academy of Forensic Sciences	Atlanta, GA	02/20/12-02/24/12
Canadian Identification Society Annual Conference	Ottawa, Ontario, Canada	10/26/11-10/29/11
19 th International Association of Forensic Sciences World Meeting (joint meeting with MAFS)	Funchal, Madeira	09/14/11-09/16/11
8 th International Conference on Forensic Inference & Statistics	Seattle, WA	07/18/11-07/21/11
Complex Latent Print Examinations	Chantilly, VA	6/13/11 – 6/17/11
The Fingerprint Society Annual Conference 2011	Telford, UK	4/8/11 – 4/10/11
Canadian Identification Society Annual Conference	Orillia, Ontario, Canada	9/20/10 – 9/24/10
Photoshop CS5	Las Vegas, NV	8/31/10
Advanced Ridgeology Comparison Techniques	Tucson, AZ	7/26/10-7/30/10
The Fingerprint Society Annual Conference 2010	London, UK	04/09/10-04/11/10
62 nd Annual Scientific Meeting of the American Academy of Forensic Sciences	Seattle, WA	02/22/10-02/26/10
IV th Mediterranean Academy of Forensic Sciences Meeting	Antalya-Bleck, Turkey	10/14/09-10/18/09
Tri-Division IAI 4 th Annual Training Conference	Las Vegas, NV	10/06/09-10/09/09
Southern California Assoc. of Fingerprint Officers 18 th Annual Training Conference	Burbank, CA	10/02/09-10/03/09
Canadian Identification Society 32 nd Annual Training Conference	Vancouver, British Columbia, Canada	09/22/09-09/24/09
International Fingerprint Research Group 2009	Lausanne, Switzerland	06/29/09-07/03/09
Forensic Science for the 21 st Century, ASU	Tempe, AZ	04/03/09-04/04/09
The Fingerprint Society Annual Conference 2009	Manchester, UK	03/20/09-03/22/09

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Analysis of Distortion in Latent Prints	Las Vegas, NV	02/09/09-02/10/09
GWS-L Latent User Methods and Operations	Las Vegas, NV	09/17/08-09/18/08
IAI 93 rd Educational Conference	Louisville, KY	8/18 - 8/22/08
Application of Statistics to Ridgeology And ACE-V Methodology	Las Vegas, NV	03/31/08-04/04/08
24-Hour Application Study in Forensic Photography	Las Vegas, NV	02/14/08
Finding Latent Evidence with Chemistry & Light	Henderson, NV	12/11/07-12/14/07
Advanced Palm Print Comparison	Fresno, CA	11/13/07-11/15/07
IAI 2 nd Annual Tri-Division Conference	Salt Lake City, UT	11/05/07-11/09/07
SCAFO 16 th Annual Training Conference	Riverside, CA	10/01/07-10/02/07
IAI 92 nd Annual Educational Conference	San Diego, CA	07/22/07-07/28/07
Crime Scene Search, Documentation, & Recovery	Baltimore, MD	05/08/06-05/26/07
COURTROOM EXPERIENCE		
Court	Discipline	Number of Times
Circuit Court for Baltimore City	Crime Scene	3
United States Court District of Nevada	Latent Prints	1
Clark County District Court	Latent Prints	10
Clark County Grand Jury	Latent Prints	5
Clark County Justice Court	Latent Prints	6
EMPLOYMENT HISTORY		
Employer	Job Title	Date
Las Vegas Metropolitan Police Department	Forensic Scientist	03/07-Present
Baltimore Police Department	Crime Lab Technician	09/05-03/07
PROFESSIONAL AFFILIATIONS		

CURRICULUM VITAE: SAHOTA

<i>Organization</i>	<i>Date(s)</i>
International Association for Identification	2007 - 2011
Canadian Identification Society	2007 - Present
Fingerprint Society (UK)	2007 - Present
American Academy of Forensic Science	2010 - Present
PUBLICATIONS / PRESENTATIONS:	
Presentations:	
"Controlling the Effects of Cognitive Bias on Fingerprint Identification" 19 th IAFS World Meeting, Funchal, Madeira, September 15, 2011	
"Controlling the Effects of Cognitive Bias on Fingerprint Identification" NEC AFIS Internet User Conference, Henderson, NV, August 30, 2011	
"Rethinking the Role of Cognitive Bias on Error." Fingerprint Society Conference, April 2011	
"Friction Ridge Skin Impressions", UNLV Law School, Criminal Justice, November 2010	
"Are Annotated Images a Solution for the Contemporaneous Documentation of Latent Print Examinations?" Fingerprint Society Conference, April 2010	
"The NAS Report" Fingerprint Society Conference, April 2010	
"Are Annotated Images a Solution for the Contemporaneous Documentation of Latent Print Examinations?" MAFS IVth Annual Meeting, Belek, Turkey, October 2009.	
"The NAS Report." Tri-Divisional IAI 4 th Annual Training Conference, Las Vegas, NV, October 2009.	
"Establishing the Frequency of Close Non-Matching Prints in AFIS." International Fingerprint Research Group Meeting, Lausanne, Switzerland 2009.	
"Validating Latent Print Methodology," Sahota and Haines, IAI 93 rd Annual Educational Conference, Louisville, KY 2008	
"Meeting the Challenges of the Daubert Trilogy: Refining and Redefining the Reliability of Forensic Evidence," Merlino et. Al, <i>Tulsa Law Review</i> . (43) 2 2007	
11/07/07 "Back to the Beginning: The Biological Basis for Latent Print Examination", IAI 2 nd Tri-Division Conference Salt Lake City, UT	
11/07/2007 "Who Moved My Print? Damaged, Disguised, Forged Fingerprints", IAI 2 nd Tri-Division Conference Salt Lake City, UT	
OTHER QUALIFICATIONS:	

CURRICULUM VITAE: SAHOTA

Executive Board Member, Canadian Identification Society 09/2009-09/2012.

1 CASE NO. C31550

2

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

4 COUNTY OF CLARK, STATE OF NEVADA

5

6

7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 vs.) CASE NO. 16F08334X

10 CAESAR VALENCIA,)

11 Defendant.)

12 _____)

13 REPORTER'S TRANSCRIPT OF WAIVER OF PRELIMINARY HEARING

14 BEFORE THE HONORABLE ANN E. ZIMMERMAN
15 JUSTICE OF THE PEACE
16 WEDNESDAY, JUNE 8, 2016
9:30 A.M.

17 APPEARANCES:

18 For the State: R. O'HALLARAN, ESQ.
DEPUTY DISTRICT ATTORNEY

19 For the Defendant: S. LISK, ESQ.
20 DEPUTY PUBLIC DEFENDER

21

22

23

24

25 Reported by: CHRISTA BROKA, CCR. No. 574

1

1 72 stipulated sentence on two counts running concurrent
2 as well as option to the right to argue still running
3 concurrent to each other as well this case. We talked
4 about this and I advised him to take it and he decided
5 to reject that offer. There's never been an offer of 12
6 to 36 months.

7 THE COURT: That was what you hoped to
8 secure for him but wasn't what the state offered?

9 MR. LISK: That's correct.

10 THE COURT: If you want to waive your right
11 to a preliminary hearing against your attorney's advice
12 because he stated he doesn't think it's in your best
13 interest, you can do that.

14 THE DEFENDANT: All right.

15 THE COURT: Has your attorney answered
16 your questions?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you have any questions for me
19 about your negotiations?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Do you understand you have a
22 right to a preliminary hearing in this matter?

23 THE DEFENDANT: Yes.

24 THE COURT: You have the right to confront
25 and cross-examine the witnesses the state presents; you

3

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[Signature]
CLERK OF THE COURT

2

1 LAS VEGAS, CLARK COUNTY, NEVADA,
2 JUNE 8, 2016 AT 9:30 A.M.
3 P R O C E E D I N G S

4
5
6 THE COURT: Caesar Valencia, 16F08334X.

7 Good morning.

8 MR. LISK: This was left on. I am
9 personally ready to proceed. He would like to waive his
10 right to a preliminary hearing. I'll submit that to the
11 Court. I would argue that I do think this is a
12 strategic position and I think it's my right to put this
13 on the preliminary hearing but he is objecting.

14 THE COURT: Mr. Valencia, do you wish to
15 waive your preliminary hearing without negotiations?

16 THE DEFENDANT: Correct.

17 THE COURT: Do you know why? I mean people
18 do that strategically sometimes?

19 THE DEFENDANT: I was offered a deal of 12
20 to 36 months two felonies then it got higher I guess and
21 I want to go to the next process.

22 MR. LISK: Your Honor, there was no offer
23 for a 12 to 36. There was a conversation that I had
24 with my client with regard to a possible stipulation and
25 everything we were trying to get. The offer was 19 to

4

1 have the right to present witnesses and evidence on your
2 behalf; you have the right to testify and you have the
3 right to remain silent and that may not be used against
4 you. Do you understand you're waiving these rights
5 today?

6 THE DEFENDANT: Yes.

7 THE COURT: When you get to District Court
8 if you change your mind, you'll proceed to trial on the
9 original charge. You will not be able to come back to
10 Justice Court for a preliminary hearing. Do you
11 understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Court having found from the
14 criminal complaint on file herein that crimes have been
15 committed: Count 1, assault on a protected person with
16 use of a deadly weapon; Count 2, ownership or possession
17 of a firearm by a prohibited; Count 3, trafficking in a
18 controlled substance; Counts 4 and 5, possession of a
19 controlled substance and there's probable cause to
20 believe that Caesar Valencia has committed said crimes.
21 I'm holding you to answer to said charges in the Eighth
22 Judicial District Court on the date my clerk gives you.

23 THE CLERK: June 10th at 10:00 a.m. lower
24 level.

25 MR. LISK: For the record, I am objecting to

5

1 the bind over. I wanted to put the preliminary hearing
2 today.

3 THE COURT: It's your client's decision even
4 though he won't take your advice.

5 MR. LISK: I understand.

6 THE COURT: I tried to make good a record.
7 It was against your advice.

8 MR. LISK: My hope, Your Honor, is for the
9 record that I can find something that says it was not
10 his decision and I can make the decision to put the
11 preliminary hearing on that's why I am objecting at this
12 point.

13 THE COURT: Is there anymore of a record
14 you'd like to make?

15 MR. LISK: I don't think so.

16 MR. LISK: For the record, I am objecting to
17 the bind over. I wanted to put the preliminary hearing
18 today.

19 THE COURT: It's your client's decision even
20 though he won't take your advice.

21 MR. LISK: I understand.

22 THE COURT: I tried to make good a record.
23 It was against your advice.

24 MR. LISK: My hope, Your Honor, is for the
25 record that I can find something that says it was not

6

1 his decision and I can make the decision to put the
2 preliminary hearing on that's why I am objecting at this
3 point.

4 THE COURT: Is there anymore of a record
5 you'd like to make?

6 MR. LISK: I don't think so.

7 * * * * *

8

9 ATTEST: FULL, TRUE AND ACCURATE
10 TRANSCRIPT OF PROCEEDINGS.

11

12 \s\Christa Broka
13 CHRISTA D. BROKA, CCR 574
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1 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
2 COUNTY OF CLARK, STATE OF NEVADA
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5 STATE OF NEVADA,)
6 Plaintiff,)
7 vs.) Case No. 16F08334X
8 CAESAR VALENCIA,) ATTEST RE: NRS 239B.030
9 Defendant,)
10 _____)
11

12 STATE OF NEVADA)
13) ss
14 COUNTY OF CLARK)

15 I, Christa D. Broka, a Certified Shorthand
16 Reporter within and for the county of Clark and the
17 State of Nevada, do hereby certify:
18 That REPORTER'S TRANSCRIPT OF PROCEEDINGS was
19 reported in open court pursuant to NRS 3.360 regarding
20 the above proceedings in Justice Court Department 8,
21 2016ss, Lewis Avenue, Las Vegas, Nevada.

22 That said TRANSCRIPT:
23 X Does not contain the Social Security number
24 of any person.
25 _____ Contains the Social Security number of a
person.

8

1 ATTEST: I further certify that I am not
2 interested in the events of this action.
3
4 \s\Christa Broka _____
5 CHRISTA D. BROKA, CCR 574
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Ceasar Valencia #1588390

330 S Casino Center Blvd
Las Vegas NV 89101

DISTRICT COURT
CLARK COUNTY, NEVADA

PP
DA

AOR: PD

MC

STATE OF NEVADA

Plaintiff,

vs.

Ceasar Valencia
#1588390

Defendant

Case No.:

C-16-315580-1

Dept. No.:

Electronically Filed
07/11/2016 11:21:46 AM

Docket No.:

8-2-16 @ 9:00 am

Allen D. Blum

CLERK OF THE COURT

Motion to Dismiss Counsel AND
Appointment of Alternate Counsel

COMES NOW, the defendant Ceasar Valencia #1588390, and moves this honorable Court to DISMISS COUNSEL, Public defender S LISK, and appoint other Counsel to represent this defendant. This motion is based upon all papers, pleadings and documents on file. Factual Statement set forth in POINTS AND AUTHORITIES Contained there in.

Dated this 29th day of June 2016

#1588390
Ceasar Valencia
330 Casino Center
BLVD, LAS VEGAS, N.V.
89101 #1588390

RECEIVED

JUL 11 2016

CLERK OF THE COURT

RECEIVED

JUL 08 2016

CLERK OF THE COURT

1
2 - Points And Authorities

3 IT is respectfully requested of this
4 Court to grant this Motion to dismiss
5 Counsel and appoint other for the reason
6 listed below:

7
8 PROCEDURAL BACKGROUND
9 AND
10 FACTUAL Summary

11
12 Since Public Defender SLISK was
13 appointed on or about May 24 2016 defendant
14 Ceaser Valencia #1588390 has been prejudiced
15 and suffered manifest injustice based on
16 Counsels refusal or failure to:

17
18 ① Communicate with defendant at detention
19 Center.

20
21 ② Locate potential witnesses and have them
22 interviewed

23
24 ③ FILE Appropriate motion in a timely
25 manner.

④ request and Secure Exculpatory
Discovery Materials.

⑤ Defendant has requested Copy of Discovery with no availability till this date nothing.

⑥ Investigate as to Clients oral/written request any defense that may help to mitigate or reduce his Sentence.

⑦ Talk To Defendant at any length as to defendants feelings or being forced into a plea bargain on or about May 31-2016.

⑧ Address Said "mistaken" - perhaps - information as to number of prior felonies that influenced Said "deal".

⑨ Thoroughly take investigative measures in this Cases; and Subsequently not using all available resources to assist in obtaining a "fair" Sentence for defendant or attempt at Finding Factual Basis as to defendants "FELONIES" claim.

10 Convey to the defendant OFFER MADE by the prosecution.

1
2 DEFENDANT, Cesar Valencia #1588390,
3 asserts he is being denied his rights to effective
4 representation due wholly inadequate action of
5 his Court appointed Counsel. Further, Counsel inmate
6 action comport to nothing more than visitation or
7 Defendant due process rights.

8 Counsel has not returned any of Defendant
9 phone calls; defendant has left numerous
10 messages with voice mail, Secretary and office clerks;
11 also defendant has written to said Counsel. Counsel
12 told defendant the following; Don't worry, when
13 sentencing comes I will bring the Felonies "Issue"
14 just wait. "Counsel was constantly not listening
15 not listening to my views during pretrial,
16 always telling me to "just wait" don't worry,"
17 and the like. Defendant has an unqualified right
18 to legal assistance that expresses loyalty
19 to said defendant. "The right to Counsel is
20 the right (also) to effective assistance
21 of Counsel." Cuyler V. Sullivan 100 S. Ct.
22 1708 (1980); and Frazier V. U.S. 18 F.3d
23 778 (9th Cir. 1994). Thus, the adversarial
24 process protected by the Sixth amendment
25 requires that the accused have "Counsel
action the role of an advocate

Anders v. California; 83 S.Ct. 1396/1480 (1963). A party
whose counsel is unable to provide effective or adequate assistance
is no better than one who has no counsel at all; and appeal(s) would be
futile in its gesture. Evitts v. Lucey 105 S.Ct. 830 (1985);
Douglas v. California 83 S.Ct. 814 (1963). Appointed counsel for
this defendant has done nothing to fairly/properly represent
him since that "deal" day (of which defendant had less than
five (5) minutes to make an informed -- rushed -- decision),
this alone is a viable claim as to ineffective counsel.
Crandel v. Bunnell No. 92-5530 D.C. No. CV-90-
6419-WJR(S); Filed May 25 1994 (9th cir.).

Therefore, defendant contends that although
counsel has been appointed in this case the actions of
counsel, or lack thereof have created unfair
prejudice and obstacles which do not comport the
fair procedures owed to the defendant. The plurality
opinion in Evitts and Douglas, *infra*, made it very
clear that: "There is lacking that equality demanded
by the fourteenth Amendment were the "rich man"
enjoys the benefit of the law being righteously
practiced

1 iii that, Counsel examination Step-by-step
2 (into the record of the Case), and research
3 of the law, and a marshaling of the facts/
4 arguments in his behalf is done as should
5 befit an advocate of defense; while the
6 indigent so burdened by a preliminary
7 determination in that his Case is without
8 merit, I's forced to shift for himself.

9 "1055.CT. at 842, 835.CT. AT 816-17,
10 Not withstanding the Strong policy Favoring
11 autonomy, "Ethical, professional and
12 Constitutional principals" establish Counsel
13 Standards owed to his client. See: American
14 Bar Association (ABA), and Professional
15 Responsibility Code (CPR). Defendant has
16 written a letter to filing a Complaint with
17 proper entity The State Bar of Nevada's
18 office of Bar Counsel to investigate
19 allegations of profession misconduct,
20 Pursuant to the Rules of Professional
21 Conduct. So clearly, a conflict of interest
22 now exist between Counsel/client (defendant
23 as all faith and trust has been diminished
24 as a result of Counselsation or lack thereof,
25 and a "showing" of conflict of interest
26 requires no showing of prejudice.
- Cuyler v. Sullivan, 100 S.Ct. at 1717.

1 THE Law addressess itself actualites

2 Adjudication is not a mere mechanical process
3 nor does it Compel any either (or determination
4 J. Griffin V. Illinois, 76 S.Ct. 585 592-594 (1956).

5
6 Therefore, Fundamental Fairness requires the
7 abolition of prejudice which defendant is
8 presently Suffering. There is an actuality that
9 the Law must address. Anything short of
10 abolition would further a manifest of injustice.
11 The "effectiveness (in assistance) of Counsel"
12 is an individuals most fundamental right, for
13 without it, every other right defendant
14 has to assert becomes affected.


15 Dated this 29th day of June, 2016

16 Submitted,

17 

18 Dated this 29th day of June 2016.

19 I Cesar Valencia #1588390, do Solemnely
20 Swear, Under penalty of perjury that the
21 above (aforementioned) text of Motion to
22 Dismiss Counsel.... is accurate, and is
23 correct to the best of my knowledge.
24 (N.R.S. 171.102 and N.R.S. 208.165)

25 Respectfully Submitted,
26 

Cesar Valencia #1588390
330 S Casino Cent Blvd
Las Vegas NV 89101

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Cesar Valencia #1588390
330 S Casino Center Blvd
Las Vegas NV 89101

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

vs.

Cesar Valencia #1588390

Defendant

Case No.:

C-16-315580-1

Dept. No.:

Docket No.:

Certification of Mailing

I hereby certify that on the 7 day of June, 2016
I placed a true and correct copy of the
following document: Motion to Dismiss Counsel &
motion to Suppress Evidence
in the United States mail, with first-class postage
prepaid addressed to the following

① Clerk of District Court
200 Lewis, Ave
Las Vegas, N.V. 89155

② District Attorney
200 Lewis, Ave
Las Vegas, N.V. 89155
Per N.R.S. 53.045

③ Public Defender office
309 S. Third St
Las Vegas, N.V. 89155

I declare under penalty
of perjury that the foregoing
is true and correct.

④
Cesar Valencia #1588390
330 S Casino Center Blvd
Las Vegas NV 89101
65

Ceasar Valencia
330, S Casino Center Blvd
Las Vegas, N.V. 89101
#1588390-3A

DISTRICT COURT
CLARK COUNTY, NEVADA

PP
DA
ADR: PD
MC

STATE OF NEVADA

Plaintiff,

vs.

Ceasar Valencia #1588390

Defendant

Case No.: C-16-315580-1

Electronically Filed
Dept. No.: 07/11/2016 11:23:09 AM

Docket No.:
8-2-16 @ 9:00 am

Alvin D. Blum

CLERK OF THE COURT

Motion To Suppress Evidence
And Return the Property to Defendant.

Comes Now The defendant, In Pro Se, or by
and Through his attorney, and pursuant to
N.R.S 179.085, moves this Court for an Order
returning property to the defendant, MR-Ceaser
Valencia #1588390, To wit Currency and Suppressing
any and all references made there to, Or any
evidence obtained, or therefrom, or the Currency itself,
for use as evidence on the grounds that (1) the property
was illegally Seized with out A Warrent (2) aside from
the illegal Confiscation of Currency.
IT Has no relevance or materiality to the upcoming
trial against MR-Valencia #1588390 and should be
returned to him.

RECEIVED
JUL 08 2016
CLERK OF THE COURT

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16 DATED THIS 29th day of June, 2016.

17 I, Cesar Valencia, do

18 solemnly swear, under the penalty of perjury, that

19 the above Motion to Suppress Evidence is accurate,

20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

22 Respectfully submitted,

23 Cesar Valencia #1588390
24 330 S Casino cent Blvd
25 Las Vegas NV 89101

Defendant

Ceasar Valencia #1588390
330 S Casino Center Blvd
Las Vegas NV 89101

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

vs.

Ceasar Valencia
#1588390
Defendant

) Case No.:

C-16-315580-1

) Dept. No.:

Electronically Filed
07/11/2016 11:25:30 AM

) Docket No.:

Allen B. Lamm

CLERK OF THE COURT

Production of All Papers
Documents And Items of Tangible
PROPERTY

PD S LISK

Nev. Rev. Stat. 7.055, provides that:

An attorney who has been discharged by his
client shall, upon demand... Immediately
delivery to the client all paper, documents,
pleading and items of tangible personal property
which belongs to or were prepared for that client.
Upon receiving this please prepared a copy for client
of CASE file by placing in mail or drop off at
Clark County Detention Center.

Sincerely-
Ceasar Valencia
330, S, Casino Center
Las Vegas, N.V. 89101
#1588390

RECEIVED

JUL 11 2016

CLERK OF THE COURT

RECEIVED


JUL 08 2016

CLERK OF THE COURT

See also Nev. Sup. Ct. Rule 166(4)

Upon termination of representation a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, ~~such as~~... Surrendering paper and property to which the client is entitled...

I hereby formally make demands that you provide a copy and my entire file, including, but not limited to all papers, documents, pleadings and items of tangible personal property which belong to or were prepared on my behalf to me at address set forth on this letter. As you know, pursuit of post-conviction claims are ground by stress enough the importance of your providing me a copy of my file to me as soon as possible. Your prompt attention to this very important matter is greatly appreciated.

Sincerely

Cesar Valencia #1588390
330 S. Casino Court Blvd
Las Vegas NV 89101

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16 DATED THIS 29th day of June, 2016.

17 I, Ceasar Valencia, do

18 solemnly swear, under the penalty of perjury, that

19 the above Motion Order Production of
Documents is accurate,

20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

22 Respectfully submitted,

23 

24
25 Defendant

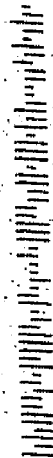
Ceasar Valencia # 1588390
330 S, Casino Center Blvd
Las Vegas, N.V. 89101.3A

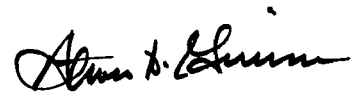
③

Cesar Valencia #7588390
330 S Casino Cent Blvd
Las Vegas NV 89101



Clerk of District Court
200 Lewis AV
Las Vegas NV 89155




CLERK OF THE COURT

RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
RACHEL O'HALLORAN
Deputy District Attorney
Nevada Bar #012840
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-

CEASAR SANCHAZ VALENCIA,
#1588390

Defendant.

CASE NO: C-16-315580-1

DEPT NO: II

STATE'S RESPONSE TO DEFENDANT'S DISCOVERY MOTION

DATE OF HEARING: 07/19/2016
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through RACHEL O'HALLORAN, Deputy District Attorney, and hereby submits the attached Points and Authorities in response to Defendant's Discovery Motion.

This Response 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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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 9, 2016, Defendant, Ceasar Sanchaz Valencia ("Defendant"), was charged by
4 way of Information as follows: Count 1 – Assault on a Protected Person with a Deadly
5 Weapon (Category B Felony – NRS 200.471); Count 2 – Ownership or Possession of
6 Firearm by Prohibited Person (Category B Felony – NRS 202.360); Count 3 – Trafficking in
7 Controlled Substance (Category B Felony – NRS 453.3385.1); and Possession of Controlled
8 Substance (Category E Felony – NRS 453.336).

9 On June 10, 2016, Defendant was arraigned; pled not guilty to the charges alleged in
10 the Information; and invoked his right to a speedy trial. Trial is currently set to begin on
11 July 25, 2016.

12 On June 28, 2016, Defendant filed the instant Motion to Compel Discovery. The
13 State hereby responds to Defendant's motion.

14 **ARGUMENT**

15 **I. GENERAL LAW RELATED TO DISCOVERY**

16 The Court can only compel "Discovery" under the Nevada Revised Statutes. Under
17 Common Law, a defendant has no right of discovery. State v. Wallace, 399 P.2d 909, 97
18 Ariz. 296 (1965). This, of course, can be superseded by statutory enactment and that is the
19 case in Nevada. Regarding the law of discovery in the State of Nevada, NRS 174.235, *et*
20 *seq.* controls. The Nevada Supreme Court has held that even an accused's statement is not
21 constitutionally compelled through pre-trial discovery. Mears v. State, 83 Nev. 3, 7, 422
22 P.2d 230, 232 (1967), Thompson v. State, 93 Nev. 342, 565 P.2d 1011 (1977).

23 In Franklin v. Eighth Judicial District Court, 85 Nev. 401, 455 P.2d 919 (1969), the
24 Nevada Supreme Court held that the lower court erred in granting defendant's Motion to
25 Discovery, inspect and copy statements of all persons to be called by the prosecution as
26 witnesses at trial, since NRS 174.245 does not authorize discovery of inspection of
27 statements made by State witnesses or perspective State witnesses to agents of the State.

28 ///

1 Nor does the defendant enjoy a constitutional right to discover them. With regard to the
2 discovery statutes previously alluded to, the Court stated that:

3 "Those provisions (NRS 174.235-174.295) represent the
4 legislative intent with respect to the scope of allowable pre-trial
discovery and are not lightly to be disregarded."

5 Id.

6 From the aforementioned, it is clear that Nevada's discovery statutes are to be strictly
7 construed and adhered to since no Common Law right of discovery existed. It should,
8 therefore, also be clear that the defendant's motion, so far as it exceeds the requirements of
9 NRS 174.235, *et. seq.*, must be denied.

10 NRS 174.235(1) outlines what discovery is to be provided by the State of Nevada. It
11 includes:

12 (a) Written or recorded statements or confessions made by
13 the defendant or any witness the State intends to call during the
case in chief of the State, within the custody of the State or
which the State can obtain by an exercise of due diligence.

14 (b) Results or reports of physical or mental examinations,
15 scientific tests or scientific experiments made in connection to
the case, within the control of the State, or which the State may
16 learn of by an exercise of due diligence.

17 (c) Books, papers, documents, tangible objects which the
18 State intends to introduce during its case in chief, within the
possession of the State, or which the State may find by an
exercise of due diligence.

19 The statute makes clear the defense is not entitled to any internal report, document or
20 memorandum prepared by the State in connection with the investigation or prosecution of
21 the case. Nor is the defense entitled to any report or document that is privileged.

22 **II. BRADY MATERIAL AND ITS PROGENY**

23 **A. Brady and its Progeny do not authorize the Court to Order Discovery.** 24 **They are Post-trial Remedies in the event the State Fails to Disclose an** **Item which the Court finds should have been disclosed**

25 The State has an obligation to disclose exculpatory evidence pursuant to Brady v.
26 Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963). Giglio v. United States, 405 U.S. 150, 92 S.
27 Ct. 763 (1972), requires that certain impeaching material be disclosed as well. The rule of
28 Brady v. Maryland, 373 U.S. 83 (1963), which requires the State to disclose to the defendant

1 exculpatory evidence, is founded on the constitutional requirement of a fair trial. Brady is
2 not a rule of discovery, however. As the Supreme Court held in Weatherford v. Bursy, 429
3 U.S. 545, 559, 97 S. Ct. 837, 846 (1977).

4 There is no general constitutional right to discovery in a criminal
5 case, and Brady did not create one... 'the Due Process Clause has
6 little to say regarding the amount of discovery which the parties
must be afforded....' Wardius v. Oregon, 412 U.S. 470, 474, 93
S. Ct. 2208, 2212, 37 L.Ed.2d 82 (1973).

7 In addition, Brady does not require the State to conduct trial preparation and
8 investigation on behalf of the defense. The obligation is to produce exculpatory information
9 which the defense would not be able to obtain itself through an ordinary exercise of
10 diligence.

11 While defense attorneys routinely claim they need to be provided the information in
12 order to conduct the investigation to determine if there is any exculpatory information; that is
13 simply not the law. In the Ninth Circuit, the obligation for the prosecution to examine
14 information is triggered by a defense request with no requirement that the defense make a
15 showing that the information is likely to contain helpful information. United States v.
16 Henthorn, 931 F.2d 29, 31 (9th Cir. 1990) (holding that the "government is incorrect in its
17 assertion it is the defendant's burden to make an initial showing of materiality," rather the
18 "obligation to examine the files arises by virtue of making a demand for their production");
19 United States v. Santiago, 46 F.3d 885, 895 (9th Cir. 1995) ("[u]nder Henthorn, the
20 government has a duty, upon defendant's request for production, to inspect for material
21 information the personnel records of federal law enforcement officers who will testify at
22 trial, regardless of whether the defense has made a showing of materiality") *accord* Sonner
23 v. State, 112 Nev. 1328, 930 P.2d 707 (1996)(requiring materiality before a review of a
24 police officer's personnel file.).

25 **B. The State Makes the Determination at its Own Peril if it will Disclose**
26 **the Information, not the Defense or the Court**

27 This, of course, does not mean that files are produced for the defense. Henthorn
28 explains that following that examination, "the files need not be furnished to the defendant or

1 the court unless they contain information that is or may be material to the defendant's case."
2 Id. Thus, the only time disclosure is required is if the State finds information that qualifies
3 as Brady material. If the prosecutor is unsure, the information should be provided to the
4 court for review. As the court explained:

5 We stated that the government must 'disclose information
6 favorable to the defense that meets the appropriate standard of
7 materiality If the prosecution is uncertain about the
8 materiality of information within its possession, it may submit
9 the information to the trial court for an in camera inspection and
evaluation. . . .' As we noted in Cadet, the government has a
duty to examine personnel files upon a defendant's request for
their production.

10 Id. at 30-31 (internal citation omitted). Despite this procedure, Defendant's routinely request
11 the Court to order production of information to them, or to the Court. It is not the Court's
12 responsibility under the Constitution. It is the prosecution's responsibility.

13 Moreover, Brady and its progeny are remedies post-trial for the prosecution's failure
14 to perform its responsibility. Brady does not support the defense's request to conduct an
15 investigation independent of the prosecution, or to ensure the prosecution completes its duty.

16 **III. TIMING OF DISCLOSURES**

17 **A. True Brady Material**

18 Traditionally, Brady material is information which indicates that Defendant did not
19 commit the crime, or his sentence should be less based upon culpability. The State's duty
20 under Brady is ongoing. When reviewing cases on appeal, however, courts decide
21 allegations of tardy Brady disclosures according to the facts surrounding the disclosure and
22 if the alleged Brady information was used in the trial. The Ninth Circuit has recognized that
23 "Brady does not necessarily require that the prosecution turn over exculpatory material
24 before trial. To escape the Brady sanction, disclosure 'must be made at a time when [the]
25 disclosure would be of value to the accused.'" United States v. Gordon, 844 F.2d 1397,
26 1403 (9th Cir. 1988). With this precedent, the Ninth Circuit has typically found no prejudice
27 when alleged Brady information was disclosed at some point before trial. Notwithstanding,

28 ///

1 whenever the State is in possession of true Brady material, it is the practice of the
2 undersigned to immediately turn over such information.

3 **B. Impeachment Material**

4 From Brady, a line of cases related to the credibility of testifying witnesses, the Court
5 established rules and requirements for impeachment material, or Giglio material. The right
6 to impeach witnesses is based on the Confrontation Clause of the constitution. The United
7 States Supreme Court has held that the Confrontation Clause is not “a constitutionally
8 compelled right of pretrial discovery.” Pennsylvania v. Ritchie, 480 U.S. 39, 52, 107 S. Ct.
9 989, 999 (1987). Instead, the right to confrontation is a trial right, “designed to prevent
10 improper restrictions on the types of questions that defense counsel may ask during cross-
11 examination.” It “does not include the power to require the pretrial disclosure of any and all
12 information that might be useful in contradicting unfavorable testimony.” It guarantees the
13 opportunity for effective cross-examination, “not cross-examination that is effective in
14 whatever way, and to whatever extent the defense might wish.” Id. at 53, 107 S. Ct. 999,
15 *citing* Delaware v. Fensterer, 474 U.S. 15, 20, 106 S. Ct. 292, 294 (1985).

16 Almost universally, courts have held that there is no Giglio obligation if the witness
17 does not testify.¹ See United States v. Green, 178 F.3d 1099, 1109 (10th Cir. 1999) (holding
18 that Giglio did not apply when the government “did not ever call” its confidential informant
19 as a witness); United States v. Mullins, 22 F.3d 1365, 1372 (6th Cir. 1994) (finding “no
20 authority that the government must disclose promises of immunity made to individuals the
21 government does not have testify at trial,” and holding that a grant of immunity could not be
22 “‘favorable to the accused’ as impeachment evidence because the government did not call
23 [the witness] and, thus, there was no one to impeach”); see also United States v. Pena, 949
24 F.2d 751, 758-59 (5th Cir. 1991) (impeachment evidence regarding a non-testifying witness
25 is an insufficient basis upon which to grant a new trial); United States v. Storey, 956 F.
26 Supp. 934, 942 (D. Kan. 1997) (holding that while impeachment evidence falls within the
27 Brady rule, “[s]uch evidence as it pertains to an informant, however is only discoverable if

28 ¹ The exception to this rule is where the witness will not testify, but the witness’ hearsay statement will be admitted, then the witness’ credibility may be in issue. See United States v. Jackson, 345 F.3d 59, 70-71 (2nd Cir. 2003).

1 the informant testifies”); Kowalczyk v. United States, 936 F. Supp. 1127, 1149 (E.D.N.Y.
2 1996) (holding that “[t]he Government was not obligated to produce the Janis arrest record,
3 assuming the prosecution was in possession of such information, as Janis was not a witness
4 at trial”); United States v. Hill, 799 F. Supp. 86, 90 (D. Kan. 1992), (denying defense request
5 for any information which could be used to impeach non-witnesses); United States v.
6 Villareal, 752 F. Supp. 851, 853 (N.D. Ill. 1991) (holding that “[a]s for statements by
7 government witnesses that qualify as impeachment materials, the government is under no
8 obligation to disclose this information before trial,” and that “the government is under no
9 obligation at any time to provide impeachment evidence for non-witnesses”); United States
10 v. Coggs, 752 F. Supp. 848, 849, (N.D. Ill. 1990) (holding that the government is not
11 required to produce impeachment evidence impacting non-witnesses, reasoning that
12 “[r]equiring that the government provide impeachment evidence for non-witnesses will not
13 further the interest sought to be served by Giglio-allowing for a meaningful determination of
14 witness credibility”). Finally, evidence of impeachment of a witness need not be disclosed
15 until the witness testifies. United States v. Rinn, 586 F.2d 113 (9th Cir. 1978) (“[S]ince
16 information concerning “favors or deals” merely goes to the credibility of the witness, it
17 need not be disclosed prior to the witness testifying.”). Thus, unless the witness is going to
18 testify, there is no basis to disclose any impeachment material.

19 IV. ORDER TO COMPEL

20 Defendant filed a motion to compel discovery prior to ever inspecting and copying
21 the information in the possession of the State. Thus, a motion to compel discovery is not
22 properly before the court. NRS 174.235 requires the State to allow the defense to inspect
23 and copy various pieces of information. NRS 174.295, allows for the defense to seek an
24 order to compel only upon the State’s failure to allow such an inspection. Specifically, NRS
25 174.295(2) states:

26 If at any time during the course of the proceedings it is brought
27 to the attention of the court that a party **has failed to comply**
28 with the provisions of NRS 174.234 to 174.295, inclusive, the
court may order the party to permit the discovery or inspection of
materials not previously disclosed, grant a continuance, or
prohibit the party from introducing in evidence the material not

disclosed, or it may enter such other order as it deems just under the circumstances.

(Emphasis added). It is clear from the language of the statutes that a motion to compel is only appropriate where the State refuses a defendant's request to review the discoverable material in its possession. As the State has complied with NRS 174.235, the Court must deny the motion in its entirety.

Moreover, Defendant seeks to compel items which are not discovery. Defendant predicates the Court's authority on a line of cases beginning with Brady v. Maryland. However, Brady and its progeny are not cases granting the Court the authority to compel discovery, but cases defining remedies upon the failure of the State to fulfill its constitutional obligations. Thus, the Court should not be in the business of usurping the constitutional authority of the State in making Brady determinations. As such, the Court should deny the motion in its entirety.

V. DEFENDANT'S SPECIFIC DISCOVERY REQUESTS

The State responds to Defendant's list of requests as follows:

1. **Details of any compensation or any other benefit that any of the State's witnesses received in exchange for their cooperation with this prosecution...**

To the extent Defendant is seeking disclosure of compensation to the State's witnesses as required by statute, the State requests that this request be denied.

First, the request exceeds the scope of Giglio. By law, any witness appearing in a criminal case in obedience to a subpoena is entitled to compensation, whether the subpoena is issued by the State or by the defendant. NRS 50.225(1)(a) entitles witnesses "attending the courts of this State in any criminal case... in obedience to a subpoena... [t]o be paid a fee of \$25 for each day's attendance, including Sundays and holidays." Witnesses are also entitled to "mileage reimbursement," NRS 50.225(1)(b) and a per diem allowance, NRS 50.225(2). Additionally, witnesses residing outside the jurisdiction of the Court are "entitled to reimbursement for the actual and necessary expenses for going to and returning from the place where the court is held." NRS 50.225(3).

1 Here, receipts showing that a State witness received statutorily required witness fees,
2 travel expenses, or per diem fees are not “evidence affecting credibility” under Giglio, and
3 consequently, are not discoverable. The fees cannot be favorable to the defendant because a
4 witness’s credibility cannot be impeached for receiving compensation to which he or she is
5 legally entitled to receive, and which the county is legally obligated to provide. Lacking
6 impeachment value, the payments are immaterial to both guilt and punishment because their
7 disclosure cannot affect the outcome of the trial. See United States v. Bagley, 473 U.S. 667,
8 675 (1985); Roberts v. State, 110 Nev. 1121, 1132, 881 P.2d 1, 8 (1994) (adopting the
9 “reasonable possibility” materiality test for nondisclosure of evidence favorable to the
10 defendant after a specific request).

11 Second, the request must be denied because the State bears no burden “to disclose
12 evidence which is available to the defendant from other sources, including diligent
13 investigation by the defense.” Steese v. State, 114 Nev. 479, 495 (1998); United States v.
14 Davis, 787 F.2d 1501, 1505 (11th Cir. 1986). Here, the requested evidence is maintained as
15 a public record by the Clark County Department of Finance. The defendant may subpoena
16 that office for these records.

17 Finally, it is important to note that the decision of this Court to preclude discovery of
18 the requested evidence in no way limits the defendant’s right of cross-examination. The
19 defendant is aware that a witness is entitled to per diem payments and travel
20 reimbursements; he can consequently fully cross-examine any witness whether the witness
21 received such payments or promises of payment. See Davis v. Alaska, 415 U.S. 308, 318
22 (1974) (Confrontation Clause violated when defendant denied right to cross-examine a
23 prosecution witness regarding the witness’s juvenile criminal record) but see Pennsylvania v.
24 Ritchie, 480 U.S. 39, 52-53 (1987) (holding that “the right to confrontation is a trial right,
25 designed to prevent improper restrictions on the types of questions that defense counsel may
26 ask during cross-examination... The ability to question adverse witnesses, however, does not
27 include the power to require the pretrial disclosure of any and all information that might be
28 useful in contradicting unfavorable testimony.”).

1 Expenses paid to witnesses by the State or its investigative agents, which are not
2 obligated by statute, constitute an inducement under Giglio and Bagley. See Giglio v. United
3 States, 405 U.S. 150 (1972); United States v. Bagley, 473 U.S. 667, 683-84 (1985) (wherein
4 the Court used the terms "promises of reward" and "inducements" to refer to a prosecutor's
5 disclosure obligation under Giglio). The State will disclose any such expenses.

- 6
7 **2. Any information on any criminal history or any material or information**
8 **which relates to specific instances of misconduct of any material witness in**
9 **this case from which it could be inferred that the person is untruthful and**
10 **which may be or may lead to admissible evidence. This includes, but is**
11 **not limited to, any misdemeanors, out-of-state arrests and convictions,**
12 **outstanding arrest warrants or bench warrants, and cases which were**
13 **dismissed or not pursued by the prosecuting agency or any other**
14 **information that would go to the issue of credibility and bias, whether or**
15 **not the information is admissible as evidence.**

16 The State objects to the request as overbroad. Additionally, the State objects to
17 Defendant's request for criminal history to the extent that such could be construed as a
18 request to run NCIC searches on material witnesses for defense counsel's benefit, as such
19 would be in violation of federal law. As a user of the National Crime Information Center
20 (NCIC) database, the State is prohibited from disseminating criminal history information to
21 non-criminal justice agencies as defined by Title 28 Code of Federal Regulations (CFR)§
22 20.3, which describes a criminal justice agency as: (1) Courts; and (2) a government agency
23 or any subunit thereof which performs the administration of criminal justice pursuant to a
24 statute or executive order, and which allocates a substantial part of its annual budget to the
25 administration of criminal justice. Unless specifically authorized by federal law, access to
26 the NCIC/III for non-criminal justice purposes is prohibited.

27 A 1989 United States Supreme Court case looked at this issue from the standpoint of
28 an invasion of privacy and ruled accordingly:

Accordingly, we hold as a categorical matter that a third party's
request for law enforcement records or information about a
private citizen can reasonably be expected to invade that citizen's
privacy, and that when the request seeks no "official

1 information" about a Government agency, but merely records
2 that the Government happens to be storing, the invasion of
3 privacy is "unwarranted."

4 United States Department of Justice v. the Reporters Committee for Freedom of the Press,
5 109 S.Ct. 1468, 1485 (1989).

6 Criminal defense attorneys, public or private, are not within the definition of
7 "criminal justice agency," nor is the criminal defense function considered a "criminal justice
8 purpose." Therefore, Defendant is not entitled to the criminal history information he seeks.

9 Furthermore, the State objects to Defendant's request for "information on any
10 criminal history or any material or information which relates to specific instances of
11 misconduct of any material witness in the case from which it could be inferred that the
12 person is untruthful...whether or not the information is admissible as evidence," Defendant's
13 Motion to Compel, pg. 9 (May 12, 2016), as Defendant's request is vague and overbroad.
14 Additionally, Defendant has provided no basis for disclosure of a witnesses "juvenile record,
15 misdemeanors, felonies, out-of-state arrests and convictions..." Id. Finally, the Defendant's
16 request is not reasonable, as on its face he may be requesting the State to provide
17 information regarding various out-of-state arrests and convictions and information on cases
18 that were not even prosecuted, as well as other material that is not in the State's possession.

19 However, should the State learn that one of its testifying witnesses has a felony
20 conviction or an arrest/conviction for a crime bearing on honesty or truthfulness, such
21 evidence will be disclosed. Similarly, should the State learn of any criminal proceeding that
22 may bear on bias, interest, and motive within the special circumstances of this case it will
23 provide such to defense counsel.

24 **3. Disclosure of all statements (where tangible or intangible, recorded or**
25 **unrecorded) made by any State witness, or any other person, at any time,**
26 **that are in any manner inconsistent with the written and/or recorded**
27 **statements previously provided to the defense...**

28 The State objects to this request as vague and overbroad. As to Defendant's request
for tangible or intangible statements, the State is unsure of what Defendant is requesting.

1 Giglio, governs what impeachment evidence the State must provide. The State asks
2 the Court to hold it to that constitutional standard. However, Defendant's request is worded
3 in an overbroad manner to encompass immaterial statements about which the State has no
4 knowledge.

5 The State does not object to providing defense with any inconsistent statements made
6 by any State witnesses that that is material to punishment or guilt. However, the State
7 objects to this request to the extent that Defendant is requesting inconsistent statements that
8 are collateral to the issues at hand. Giglio v. U.S., 405 U.S. 150,154, 92 S.Ct. 763 (1970)
9 (Generally, impeachment evidence constitutes Brady material when the evidence relates
10 directly to a key witness's veracity on matters about which he or she has testified at trial.).

11 **4. Requests for an/or results of all crime scene analysis and/or testing**
12 **performed on any of the physical or biological evidence in this case,**
13 **including, but not limited to, the results of any DNA comparisons, blood**
14 **analysis and/or medical examinations performed on the complaining**
 witness.

15 To the extent this request is applicable in the instant case, the State has no objection
16 to providing any crime scene reports and or forensic reports pertaining to any analysis
17 conducted in the instant case.

18 **5. Any photographs taken at any medical exams or taken by law**
19 **enforcement.**

20 The State requests that the instant request be denied. To the extent photographs were
21 taken by the Las Vegas Metropolitan Police Department in conjunction with this case, the
22 State is under no duty to disclose such photographs, unless said photographs are exculpatory
23 and/or the State intends to introduce them in its case in chief. To the extent any such
24 photographs exist, the State will disclose them pursuant to its statutory and Constitutional
25 duty to do so. Furthermore, Should the defense seek to introduce such material, Defendant
26 can subpoena the requested photographs himself as the State is not required to conduct his
27 investigation.

28 ///

1 **6. Any 911 or 311 recordings regarding this incident, including dispatch logs.**

2 The State has no objection to this request.

3 **7. Copies of all video or audio recording of any form collected by the**
4 **investigating officers or any other agent of the State during the course of**
5 **the investigation.**

6 The State objects to this request as overbroad. To the extent any video or audio
7 recordings were collected by the Las Vegas Metropolitan Police Department in conjunction
8 with this case, the State is under no duty to disclose such recordings unless they are
9 exculpatory and/or unless the State intends to introduce them in its case in chief. To the
10 extent any such recordings exist, the State will disclose them pursuant to its statutory and
11 Constitutional duty to do so. Furthermore, Should the defense seek to introduce such
12 material, Defendant can subpoena the requested items himself as the State is not required to
13 conduct his investigation.

14 **8. All reports of any destruction of any evidence in the case**

15 The State is not aware of the destruction of any evidence in this case but if it becomes
16 aware of any, it will disclose that fact to the defense.

17 **9. Photocopies or other reproductions of all handwritten or otherwise**
18 **memorialized notes or statements kept by the investigating police officers**
19 **in this case...**

20 The State objects to Defendant's request in that it is overbroad. Pursuant to Brady
21 and its progeny, the State is only required to turn over such documents if material and
22 favorable to the defense. Should the State become aware that such notes exist which are
23 material and favorable to the defense, they will be immediately produced. The request
24 should be denied to the extent Defendant seeks material falling outside of those two
25 categories of material.

26 ///

27 ///

28 ///

10. Any information which tends to show that Mr. Valencia did not commit the alleged crimes, including, but not limited to, any information suggesting a possible suspect other than Mr. Valencia, including investigative leads to other suspects.

The State has no objection to this request.

CONCLUSION

Based on the foregoing, the State respectfully requests Defendant's motion be DENIED to the extent outlined above.

DATED this 18th day of July, 2016.

Respectfully submitted,

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

BY

RACHEL O'HALLORAN
Deputy District Attorney
Nevada Bar #012840

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of State's Response to Defendant's Discovery Motion, was made this 18th day of July, 2016, by facsimile transmission to:

STEVEN LISK
DEPUTY PUBLIC DEFENDER
FAX#702-366-9684

BY:

P. Manis
P. Manis
Employee of the District Attorney's Office

RLO/pm/L-2

PP
DA
ADR: PD
MC 4

Cesar Valencia #1580390
330 S Casino Cent Blvd
Las Vegas NV 89101

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

CASE No: C-16-315580-1

PLAINTIFF

DEPT No:

Electronically Filed
07/18/2016 09:25:15 AM

VS.

DOCKET No:

Cesar Valencia #1580390

Alvin B. Blum

DEFENDANT

CLERK OF THE COURT

HEARING: 8/9/16

MOTION OF DEFENDANT TO INSPECT
ALL EVIDENCE FAVORABLE TO HIM

9:00AM

COMES NOW the defendant, Pro Se, or by and
through his attorney, and moves the court
for an Order requiring the plaintiff to reveal, produce
and permit the defendant to inspect and copy
all information and material favorable to a defense
of this cause (including all Books, papers, records,
goods and objects and all facts or information
of whatever source or form in the possession of, or
known to, the Plaintiff or any agents), which
material and information are or may become
of benefit to the defendant, either on merits of
the case or on question of credibility of witnesses,
by:

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CLERK OF THE COURT

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JUL 18 2016
CLERK OF THE COURT

Further, defendant requests the court to enter an Order requiring the plaintiff to furnish defendant with (1) a list of witnesses known to the plaintiff to have knowledge of this case favorable to the defense and a copy of the statement of any such witness; (2) a list of persons interviewed by plaintiff related to this case but who will not be called as witnesses by the plaintiff (3) all documents relating to the investigation of this case or of this defendant which will not be introduced into evidence by plaintiff and (4) a list of all former or of all former or present agents of plaintiff who have participated to any extent in the investigation and prosecution of this case who will not be called as plaintiffs witnesses. Defendant states that said inspection, information and statements are necessary for the preparation of his defense and for the defendant to obtain a fair trial and constitutional due process of law.

respectfully



Cesar Volunela #1588390
330 Scesino cent Blvd
Las Vegas NV 89101

Pro se or and through
② 87 Attorney for Defendant

POINTS AND AUTHORITIES

2

3 1. NRS 174.235. Defendant's statements or
4 confessions; reports of examinations and tests.

5 Copying any videotape recording of the
6 incidents of the traffic stop. On May 19th
7 2016.

8 Upon motion of a defendant the court may
9 order the District Attorney to permit the

10 defendant to inspect and copy or photograph
11 any relevant: (1) Written or recorded statements

12 or confessions made by the defendant, or
13 copies thereof, within the possession, custody
14 or control of the state, the existence of which
15 is known, or by the exercise of due

16 diligence may become known to the District
17 Attorney; and (2) Results or reports of

18 physical or mental examination, and of scientific
19 tests or experiments made in connection with

20 the particular case; or copies thereof, within the
21 possession, custody or control of the state,

22 the existence of which is known, or by
23 the exercise of due diligence may become

24 known to the District Attorney.

25

26

27

28

1 2. NRS 174.245. Other books, papers,
2 documents, tangible objects or places.

3 Upon motion of a defendant the court
4 may order the District Attorney to permit
5 the defendant to inspect and copy or
6 photograph books, papers, documents, tangible
7 objects, buildings or places, or copies or portions
8 thereof, which are within the possession,
9 custody or control of the state, upon a
10 showing of materiality to preparation of
11 his defense and that the request is reasonable.

12 Except as provided in subsection 2 NRS

13 174.235 and NRS 174.087, this section
14 does not authorize the discovery or inspection
15 of reports, memoranda or other internal state
16 documents made by state agents in connection
17 with the investigation or prosecution of
18 the case, or of statements made by witnesses
19 or prospective state witnesses (other than defendant)
20 to agents of the state.

21
22 3. The prosecution has the duty to disclose
23 to defendant all exculpatory evidence. Brady
24 v Maryland 373 U.S. 83 (1963); see also Giles
25 v Maryland 386 U.S. 66 (1967); Dennis v
26 U.S. 384 U.S. 855, 873 (1966).

1 4. A defendant has the right to any prior
2 statements given by witnesses who testify against him
3 Mears v State, 83 Nev. 3, 422 P.2d 230 (1967)

4 The better practice is to furnish the defendant
5 with the statements prior to trial to avoid trial
6 delay and disruption. Mears v. State, supra.

7
8 5. The trial court has wide discretion
9 in permitting discovery. See, Marshall v
10 District Court, 80 Nev. 478, 396 P.2d 680
11 (1964); Marshall v. District Court, 79 Nevada 289,
12 382 P.2d 214 (1963)

13
14 Cesar Valencia #1588390
15 330 S Casino cent Bld
16 Las Vegas NV 89101
17 Pro se and or through
18 Attorney for Defendant
19

20 Dated This 7th day of July, 2016
21 I Cesar Valencia #1588390, do solemnly swear
22 under penalty of perjury, that the above motion of
23 Defendant to Inspect ALL Evidence Favorable to him
24 is accurate, correct and true to the best of my
25 knowledge. NRS 171.102 and 208.165

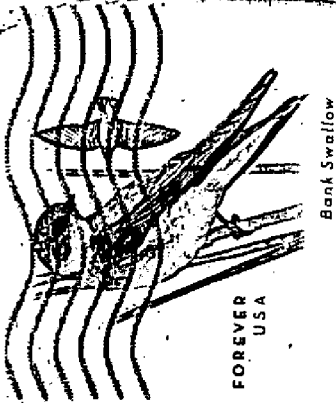
26 respectfully submitted

27
28 Cesar Valencia #1588390
330 S Casino cent Bld
Las Vegas NV 89101

Cesar Valencia #7588390
330 S Casino Cent Blvd
Las Vegas 89101

please return Filed stamp
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LAS VEGAS NV 890
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Clerk of the Court
200 Lewis AV 3rd FL
Las Vegas NV 89155

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CLERK OF COURT

1 Ceasar Valencia #1588390

2 330 S Casino Court Blvd

3 Las Vegas NV 89101

4 pro SE and on through
Attorney for Defendant

C-16-315580-1
CERT
Certificate of Mailing
4684806

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY NEVADA

9 State of Nevada

PLAINTIFF

Case No. C-16-315580-1

Dept No. _____

11 VS

12 Ceasar Valencia #1588390

13 DEFENDANT

Date of Hearing _____

Time of Hearing _____

CERTIFICATE OF MAILING

16 I HEREBY CERTIFY that on the 7th day
17 of July, 2016 I placed a true and correct copy
18 of the following document: NOTION OF DEFENDANT
19 TO INSPECT ALL EVIDENCE FAVORABLE
20 TO HIM in the United States Mail,
21 with first-class postage prepaid,
22 addressed to the following:

23 Clerk of the Court
24 200 Lewis Ave Suite 111
25 Las Vegas NV 89101

RECEIVED
JUL 11 2016
CLERK OF THE COURT

per NRS 55.045 I declare
under penalty of perjury
that the foregoing is true
and correct
Quilley
Ceasar Valencia #1588390
pro SE and on through
Attorney for Defendant

Cesar Sanchez Valencia
#1588390
330 Scavino cent Blvd
Las Vegas NV 89101
Defendant, Pro Se

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09/26/2016 03:08:10 PM

Alvin L. Blum
CLERK OF THE COURT

DA
PP

EIGHT JUDICIAL COURT
CLARK COUNTY NEVADA

State of Nevada

Plaintiff

VS

Case No. C-16-315580-1

Dept. No. 2

Cesar Sanchez Valencia
#1588390
Defendant

Date of hearing

Time of hearing

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 9th day
of September 2016 I placed a true and correct
copy of the following document Defendant's
DISCOVERY MOTION

in the United States Mail, with first-class
postage prepaid, addressed to the following

Clerk of the court

200 Lewis Av 3rd Fl

Las Vegas NV 89155-1160

Per NRS 53.045 I Declare
under penalty of perjury
that the foregoing is true
and correct.
Cesar Valencia #1588390
Defendant, Pro Se

RECEIVED

SEP 26 2016

CLERK OF THE COURT

55

Ann L. Linn

CLERK OF THE COURT

1 Ceasar Valencia #1588390

2 330 S. Casino cent Blvd

3 Las Vegas NV 89101

4 Defendant Pro Se

MC
DA
PP

7

DISTRICT COURT

8

CLARK COUNTY, NEVADA

9

THE STATE OF NEVADA

10

Plaintiff

CASE NO G-16-315801

11

v.

DEPT. NO 2

12

CEASAR SANCHEZ VALENCIA

10-18-16 @ 9:00am

13

#1588390

Defendant

14

DEFENDANT'S DISCOVERY MOTION

15

16 COMES NOW, the Defendant, CEASAR SANCHEZ
17 VALENCIA, by and through Ceasar Sanchez
18 Valencia, Pro Se, and hereby request that,
19 pursuant to Brady v. Maryland, 373 U.S. 83
20 (1963), this Court order the State to produce
21 and preserve all discovery evidence that it actually
22 or constructively possesses. Under the Due process clause
23 to the fourteenth Amendment to United States Constitution and Nevada
24 Constitution, Article 1 section 8, this Court order the State to produce
25 any and all relevant evidence in its actual or constructive
26 possession. This motion is made and based upon all the papers and
27 pleadings on file herein and oral argument at the time set for hearing
28 this Motion

CLERK OF THE COURT

SEP 26 2016

RECEIVED

Ceasar Valencia #1588390
330 S. Casino cent Blvd
Las Vegas NV 89101
Defendant Pro Se

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Argument

Prior to trial, the State must provide to the defense all exculpatory evidence (Brady material) that it actually or constructively possesses because failure to do so violates the Due Process Clauses of the Fifth and Fourteenth Amendments to United States Constitution. Brady v. Maryland, 373 U.S. 83, 87 (1963); Kyles v. Whitley, 514 U.S. 419, 432 (1995). The State's duty to provide Brady material applies regardless of how the State has chosen to structure its overall discovery process. See Strickler v. Greene, 527 U.S. 263 (1999). Indeed, former Clark County District Attorney David Roger acknowledge the State's continuing ethical obligation to turn over favorable evidence to the defense, stating "We can't play hide and seek with the defense. It's our ethical obligation to the defense to give them information." See David Kihara, Cabdriver Slaying Witness Unhappy, Las Vegas Review Journal July 2, 2006. In addition to its ethical obligation, the State has a constitutional duty to turn over favorable evidence to the defense.

The State, of course, also has a constitutional duty to turn over favorable evidence to the defense, both under the United States Constitution (as referenced above) and under the Nevada Constitution. Indeed, Article I, Section 8 of the Nevada Constitution guarantees every defendant a right to due process: "It is a violation of due process for the prosecutor to withhold exculpatory evidence, and his motive for doing so is immaterial... the prosecutor represents the state and has a duty to see that justice is done in a criminal prosecution." Jimenez v State, 112 Nev. 610, 618 (1996) (citations and internal quotations omitted).

1. THE STATE MUST TURN OVER ALL EVIDENCE THAT IS MATERIAL, FAVORABLE TO THE ACCUSED, RELEVANT TO GUILT OR PUNISHMENT, AND WITHIN THE STATE'S ACTUAL OR CONSTRUCTIVE POSSESSION.

Brady material is evidence which is: (1) material, (2) favorable to the accused, (3) relevant to guilt or punishment, and (4) within the actual or constructive possession of anyone

1 acting on behalf of the State. Brady 373
2 U.S. at 87. Each of these requirements will be
3 discussed briefly.

4
5 A. Evidence is material if there exists
6 a reasonable possibility that it would
7 affect the judgment of the trier of fact.

8
9 The defense may request Brady material in a
10 specific manner or in general or broad manner.
11 The only significant difference between a "general"
12 and a "specific" request for Brady material is
13 the standard of review on appeal for the
14 State's failure to disclose the information.
15 The fact that a general request, rather than a
16 specific request, has been made, however, does not
17 relieve the State of its absolute obligation to turn
18 over favorable evidence. Furthermore, this is
19 an area of Brady law where Nevada law
20 differs from federal law. Nevada law concerning
21 the "materiality" of Brady material is more
22 favorable than federal law. In Nevada, when
23 the defense makes a specific request for Brady
24 material and the State does not provide such
25 material, the Nevada Supreme Court has held
26 that there are grounds for reversal of a
27 conviction.

28

1 "If there exists a reasonable possibility that the
2 claimed evidence would have affected the judgment
3 of the trier of fact, and thus the outcome
4 at trial." Roberts v State, 110 Nev. 1121, 1132
5 (1994) (emphasis added); see also lay v. State,
6 116 Nev. 1185, 1194 (2000) (same); Jimenez
7 v. State, 112 Nev. 610, 619 (1996) (same);
8 State v. Bennett, 119 Nev. 589, 600 (2003)
9 (same). Even when a specific request was not
10 made, reversal is warranted "if there is
11 a reasonable probability that, had the evidence
12 been disclosed to the defense, the result of
13 the proceeding would have been different."
14 U.S. v Bagley, 473 U.S. 667, 682 (1985)
15 (emphasis added); Pennsylvania v. Ritchie, 480
16 U.S. 39, 57 (1986) (same). According to this
17 heightened standard of appellate review,
18 "evidence is material if there is a reasonable
19 probability that the result would have been
20 different if the evidence would have been
21 disclosed." Jimenez, 112 Nev. at 619. A
22 "reasonable probability" is a probability sufficient
23 to undermine confidence in the outcome
24 of the proceeding. Id. The defense need not
25 show that disclosure would have resulted in
26 an acquittal. Kyles, 514 U.S. at 434. In the
27 federal courts, this is one and only standard
28

1 "employed - regardless of whether the defense
2 request is specific, general, or no request is
3 made at all. See id.; see also Strickler v
4 Greene, 527 U.S. 263, 280 (1999)
5 ("the duty to disclose such evidence is applicable
6 even though there has been no request by the
7 accused"). Simply stated, the State's obligation
8 to turn over favorable evidence to an accused
9 in no way depends upon the specificity of the
10 request. Indeed, the State remains obligated
11 to provide favorable evidence even in the case
12 where defendant makes no pretrial request at all.
13 Where a specific request for certain evidence
14 is made, however, Nevada law considers the
15 evidence "material" if there is a reasonable
16 possibility that it could affect the fact finder's
17 judgment.

18
19 A. EVIDENCE FAVORABLE TO THE
20 ACCUSED IS NOT LIMITED
21 STRICTLY TO EXCULPATORY
22 EVIDENCE.
23

24 The Nevada Supreme Court has defined what
25 evidence is considered "favorable to the accused"
26 and therefore, qualifies as Brady material.
27
28

1 In Mazzan v. Warden, 116 Nev. 48 (2000), court stated:

2
3 Due process does not require simply the disclosure of
4 "exculpatory" evidence. Evidence also must be disclosed
5 if it provides grounds for the defense to attack the
6 reliability, thoroughness, and good faith of the police
7 investigation, to impeach the credibility of the state's
8 witnesses, or to bolster the defense to attack against
9 prosecutorial attacks. Furthermore, "discovery in a criminal
10 case is not limited to investigative leads or reports that
11 are admissible in evidence. "Evidence" need not have been
12 independently admissible to have been material."

13
14 Id. at 67. (citations omitted)

15
16 Thus, Brady material is defined broadly, and
17 would include, but not be limited to, the following
18 evidence: forensic testing which was ordered, but
19 not done, or which was completed but did not
20 incorporate the defendant's any medical or psychological
21 treatment of any victim or witness; criminal records
22 or other evidence concerning state's witnesses which
23 might show their bias (e.g., civil litigation)
24 or otherwise impeach their credibility; evidence
25 that the alleged victim has been the alleged victim
26 of an unusual number of crimes; investigative leads
27 or ordinarily appropriate investigation which were not
28

1 Followed-up on or completed by law enforcement
2 any information relating to credibility of any witness
3 including law enforcement officers or other
4 agents of the state; and, of course, anything which
5 is inconsistent with any prior or present statements
6 of a State's witness, including the failure to previously
7 make a statement which is later made or testified
8 to. In addition, traditionally exculpatory evidence
9 such as that which could show that someone
10 else committed the charged crime or that
11 no crime was in fact committed would also
12 qualify as Brady material.

13 The State must produce to court for inspection
14 any privilege material upon defendant's request
15 there is no need for confidentiality as seen
16 for In United States v. Nixon, 418 U.S.
17 683 (1973), the court held that the interest
18 of a criminal defendant in obtaining relevant
19 evidence for use in his trial outweighed the
20 need for conversations of the President of the
21 United States to remain privileged.

22 Specifically, the court said: We conclude
23 that when the ground for asserting privilege as
24 to subpoenaed materials sought for use in a
25 criminal trial based only on the generalized
26 interest in confidentiality, it cannot prevail over
27 the fundamental demands of Due Process

1 of law in the fair administration of criminal justice.
2 In any event, a defendant must be permitted to
3 present all relevant evidence in his behalf.
4 Discovery of relevant evidence contained in law
5 enforcement officers personnel files, the custodian
6 of the records is obligated to bring to trial court
7 all "potentially relevant" documents to permit
8 the trial court to examine them for itself.
9 Santa Cruz, supra, 49 Cal. 3d at p. 84, 260
10 Cal. Rptr. 520, 776 P.2d 222). A law
11 enforcement officers personnel record will
12 commonly contain many documents that
13 would in the normal case, be irrelevant
14 to a Brady motion, including those describ-
15 ing marital status and identify family members
16 employment applications, letters of recommendation
17 promotion records, and health records. Custodians
18 traditionally brought only Internal Affairs Files
19 and often truncated production by bringing only
20 those where complaints where the forms were
21 fully and properly filled out, examined and found
22 to have some rational basis. Complaints were
23 ranked and categorized and only a certain
24 class of complaints were produced. Even the use
25 of the word "Complaints" is outdated. Any
26 "potentially relevant" material must be produced.
27 The standard is now the potential for relevancy and
28

not the name of the box where the information is stored.

B. GENERICALLY THE FOLLOWING SPECIFIC FILES SHOULD BE PRODUCED IN THIS CASE.

(1) Training files

(2) Records of Other Agencies

(3) Performance reviews

(4) Levels of Discipline eg. supervisor notes, informal reprimands up to formal write ups.

(5) Workers Compensation filings

(6) Civil litigation files concerning the named officers

C. THE DEFENSE REQUESTS THAT THE FOLLOWING CLASSES OF DOCUMENTS BE PRODUCED:

(1) Any files which relate to prior claims by defendants of Miranda violations, Fifth Amendment violations or other constitutional violations.

(2) Any investigation internal or external or inquiries by hiring department, the Justice Department, District Attorney's office, the office of the Attorney General or other investigating agency

1 regarding potential misconduct by the named
2 officers.

3
4 The requested materials are well within the scope
5 of production under Brady which limited the
6 exclusion of "[d]ocuments [to those] clearly
7 irrelevant to a defendant's Brady request need not
8 be presented to the trial court for in camera
9 review. But if the custodian or District Attorney
10 has any doubt whether a particular document
11 is relevant, he or she should present it to the
12 trial court." That would include documents however
13 stored or labeled with potential relevancy
14 and not the file drawer name being the basis
15 for production.

16
17 D. **FIVE YEAR LIMITATIONS**
18 **DO NOT APPLY**

19
20 **THE PROSECUTOR HAS AN**
21 **INDEPENDENT AND CONTINUING**
22 **DUTY TO PRODUCE BRADY MATERIAL**
23 **REGARDLESS OF REQUEST.** This motion
24 seeks an order requiring an affirmative inquiry
25 by the prosecutor.

E. THE PROSECUTION MUST PRODUCE IMPEACHMENT EVIDENCE

Any and all evidence that can be used to impeach a witness is unquestionably subject to disclosure under Brady. See Strickler, 119 S.Ct. at 1948 (explaining that "the duty [imposed by Brady] encompasses impeachment evidence"); Bagley, 473 U.S. at 676, 105 S.Ct. 3375 (holding that impeachment evidence "falls within the Brady rule"); Giglio v. United States, 405 U.S. 150, 154, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). The Supreme Court has recognized that "if disclosed and used effectively, [impeachment evidence] may make the difference between conviction and acquittal." Bagley, 473 U.S. at 676, 105 S.Ct. 3375. Therefore any determinations as to "value" of impeachment evidence must be made by the trial Court on a materiality and/or Relevant evidence pursuant to NRS 48.015 means "any evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence". In any event, a defendant must be permitted to present all relevant evidence on his behalf.

F. PRODUCTION CANNOT BE DELAYED

The defense is preparing to file motions to suppress and to exclude testimony and statements (based upon coercion) of the other defendants in this case as they might apply to Caesar Valencio. The defense will also seek to exclude any photo identification evidence. The credibility and prior conduct of the named officers is relevant to those motions. Disclosure, to escape the Brady Sanction must be made at a time when the disclosure would be of value to the accused. See. *U.S. v Davenport*, 753 F.3d 1460, 1460, 1462 (9th cir. 1985); *United States v. Elmore*, 423 F.2d. 775, 779 (4th cir.) cert. denied, 400 U.S. 825, 19 S.Ct. 49, 27 L.Ed 2d 54 (1970).

G. THE PROSECUTOR HAS A DUTY INDEPENDENT OF ANY DEFENSE REQUEST

Any prior court proceedings involving the named officers must lead the prosecutor to initiate a detailed inquiry. Regardless of what should have happened, this motion and authorities herein and the state cases are completely in accord

1 with the federal standard having developed on
2 both state and federal due process grounds.
3 These cases hold that a prosecution's duty
4 to disclose also applies to evidence relating
5 to the credibility of material witnesses.
6 United States v Henthorn 931 F.2d 29 (9th Cir.
7 1991) MRS. 48.015 to relevant evidence.
8 Suppression of substantial material evidence
9 bearing on the credibility of a key prosecution witness
10 is a denial of due process. Brady material
11 Thus, [When the "reliability of a given witness
12 may well be determinative of guilt or innocence,"
13 non-disclosure of evidence affecting credibility'
14 may require a new trial. United States v
15 Agurs, 427 U.S. 97, 107, 49 L.Ed. 2d 342,
16 96 S.Ct. 2392 (1976). In order to comply
17 with this duty the prosecution not only must
18 disclose evidence in its possession, but also
19 accessible evidence possessed by investigating
20 agencies. In addition, as set forth by the
21 United States Supreme Court in Kyles v Whitley
22 the state case presume that prosecutor has
23 knowledge of all information assembled by
24 the state's investigation. The defense asks
25 that the prosecution be ordered to make full
26 inquiry and full disclosure into the named
27 officers as relevant to this case.

1 "Without a doubt, the record in this case establishes
2 bad faith as a matter of law on the part of
3 the District Attorney's office in refusing to
4 investigate the potentially exonerating evidence
5 that its own witnesses were conspiring to
6 commit perjury.

7
8 H. THE DUTY OF INQUIRY
9 EXTENDS TO POLICE AGENCY
10 INFORMATION

11
12 In making such inquiry the prosecution must heed
13 *Kyles v Whitley*, supra, 514 U.S. 419, which
14 requires a review that includes the records of the
15 prosecuting agency. This obligation also extends
16 to the records of related investigating agencies.

17 In *United States v Cadet*, 725 F.2d 1453
18 (9th Cir 1984) set forth the procedure the

19 prosecution must follow when confronted
20 with a request by a defendant for personnel

21 of testifying officers the District Attorney
22 must "disclose information favorable to the

23 defense. The District Attorney is incorrect

24 in its assertion that it is the defendant's

25 burden to make an initial showing of materiality.

26 The obligation to examine the files arises

27 by virtue of the making of a demand for

28 their production.

I. THE DEFENSE NEEDS NOT
DISCLOSE ALL INFORMATION
IN ITS BRADY MOTION

The defense has disclosed some trial related material in this motion and the defense will further information in court hearing. The defense need not disclose Attorney-client, trial strategy or Fifth Amendment information in order to obtain Brady discovery. The showing here on the record is intended to be sufficient by itself to allow the examination. If it is not, the defense seeks leave to make further showing in camera and under seal pursuant to following authorities. Absent such an examination, it cannot ordinarily determine whether it is obligated to turn over the files. See Id. at 1467-68, and See Id. at 1467; In Cadet, 727 F.2d 1453.

J. EVIDENCE THAT IS RELEVANT
TO PUNISHMENT MUST BE DISCLOSED

Brady material encompasses not only evidence which deals with Mr Valencia's guilt, but also includes evidence which could serve to mitigate Mr Valencia's Sentence if he were to be convicted.

1 Brady, 373, U.S. at 87.

2 One example of this kind of evidence might be where
3 the victim of a robbery who identified the
4 defendant as one of two people who robbed him
5 also indicated that the defendant tried to keep the
6 co-defendant from further injuring him. Although the
7 victim's statements would actually help establish
8 the defendant's guilt for the charged offense, they
9 would also be Brady material, since they could
10 help mitigate the defendant's sentence. Other
11 examples of this kind of evidence could be evidence
12 of a diminished mental state, even if not rising to
13 a legal defense, evidence that the defendant has
14 mental health issues, evidence that the defendant
15 was using drugs or alcohol at time of the offense,
16 that the defendant was under some kind of
17 duress or mistaken belief, evidence that the
18 defendant tried to turn himself in, evidence
19 that the defendant tried to seek help, evidence
20 that the defendant was remorseful, evidence
21 that the defendant was cooperative with law
22 enforcement, any similar type of evidence.
23 In essence, anything which could convince the
24 Court to impose something less than a
25 maximum sentence would be relevant to punishment,
26 and must be disclosed under Brady.

K. THE STATE MUST DISCLOSE
EVIDENCE THAT IT ACTUALLY
OR CONSTRUCTIVELY POSSESSES.

A prosecutor is responsible for turning over Brady material in his possession and in the possession of any other State agents, Jimenez at 620. 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, 284 (1999) the United States Supreme Court explicitly held that a prosecutors open file policy in no way substitutes for or diminishes the States obligation to turn over Brady material. The Nevada Supreme Court agrees: "[I]t is a violation of due process for the prosecution to withhold exculpatory evidence, and his motive for doing so is immaterial." Jimenez at 618 (citation omitted).

NRS 289.830: LAW ENFORCEMENT
AGENCY MAY REQUIRE PEACE
OFFICER TO WEAR PORTABLE
EVENT RECORDING DEVICE
WHILE ON DUTY REQUEST FOR
AND INSPECTION OF RECORD

MADE BY DEVICE

(1) A law enforcement agency may require uniformed peace officers that it employs to wear a portable event recording device while on Duty.

If a law enforcement agency so requires, the law enforcement agency shall adopt policies

and procedures governing the use of portable event recording devices, which must include, without limitation:

(2) Any record made by a portable event device pursuant to this section is a public Record which may be:

(a) Requested only on a per incident basis;

there are two event number in reference or connection with this case #C-16-315580-1

① 160519-3387 and ② 463-EV#160520-

4272 All Video footage under these events or connected to these is requested

The requested materials are well within scope of production under Brady.

pursuant to NRS 174.235, NRS 174.245 and NRS 174.087, NRS 48.015

1. PROSECUTORS ARE RESPONSIBLE FOR SEEKING OUT BRADY MATERIAL, EVEN IF THEY ARE INITIALLY UNAWARE OF ITS EXISTENCE.

1 In Kyles v Whitley, the United States Supreme
2 court made it clear that the prosecutor has an
3 affirmative obligation to obtain Brady material and
4 provide it to the defense, even if the prosecutor
5 is initially unaware of its existence. In so finding,
6 the Supreme Court noted that "The prosecution's
7 affirmative duty to disclose evidence favorable
8 to a defendant can trace its origins to
9 early 20th Century strictures against
10 misrepresentation and is of course most
11 prominently associated with this court's
12 decision in Brady v Maryland . . . " 514
13 US, at 432. The Kyles Court also
14 made clear that obligation exists even
15 in absence of a request of a request for
16 such evidence. Id. The Kyles Court
17 additionally made the following
18 observations, worth quoting at length,
19 in finding that the State had breached
20 its duty to Kyles:

21
22 This in turn means that the individual
23 prosecutor has a duty to learn of any favorable
24 evidence known to the others acting on the
25 government's behalf in the case, including the police.
26 But whether the prosecutor succeeds or fails
27 in meeting this obligation (whether, that is, a failure
28 to disclose is in good faith or bad faith),

1 the prosecution's responsibility for failing to
2 disclose known, favorable evidence rising to a
3 material level of importance is inescapable.

4
5 The State of Louisiana would prefer an even
6 more lenient rule. It pleads that some of
7 the favorable evidence in issue here was not
8 even to the prosecutor until after trial, and
9 it suggested below that it should not be
10 held accountable under Bagley and Brady
11 for evidence known only to police investigators
12 and not to the prosecutor. To accommodate the
13 State in this manner would, however, amount
14 to a serious change of course from the Brady
15 line of cases. In the State's favor it may be
16 said that no one doubts that police investigators
17 sometimes fail to inform a prosecutor of all they
18 know.

19
20 But neither is there any serious doubt that
21 "procedures and regulations can be established
22 to carry [the prosecutor's] burden and to insure
23 communication of all relevant information
24 on each case to every lawyer who deals with
25 it." Since then, the prosecutor has the means
26 to discharge the government's Brady responsibility
27 if he will, any argument for excusing a prosecutor
28 from disclosing what he does not happen to

1 know about boils down to a plea to substitute
2 the police for the prosecutor, and even for the
3 courts themselves, as the final arbiters of the
4 government's obligation to ensure fair trials.

5
6 Kyles at 437-438 (citations omitted)

7
8 2. PROSECUTORS ARE DEEMED
9 TO HAVE CONSTRUCTIVE
10 KNOWLEDGE OF BRADY
11 MATERIAL, EVEN IF THE STATE
12 AGENCY IS WITHHOLDING
13 THE EVIDENCE FROM
14 THE PROSECUTOR.

15
16 Constructive knowledge is imputed to the
17 prosecutor even if Brady evidence is being
18 withheld by other agencies. The Nevada
19 Supreme Court made this obligation clear in
20 Jiminez v State: "even if the detectives
21 withheld their reports without the prosecutor's
22 knowledge, the State Attorney is charged
23 with constructive knowledge and possession
24 of evidence withheld by other state agents, such
25 as law enforcement officers." Jiminez at
26 620 (citation omitted) "Exculpatory evidence cannot
27 be kept out of the hands of the defense just
28 because the prosecutor does not have it,

1 where an investigating agency does."

2 U.S. v Zuno-Arce, 44 F.3d 1420, 1427

3 (9th cir. 1995)

4
5 3. PROSECUTORS ARE RESPONSIBLE
6 FOR BRADY MATERIAL, EVEN
7 IF IT IS IN THE POSSESSION
8 OF AN OUT-OF-STATE AGENCY
9 COOPERATING WITH LOCAL LAW
10 ENFORCEMENT

11
12 Furthermore, even if the evidence is being
13 held by an out-of-jurisdiction agent that
14 is cooperating with local law enforcement, the
15 prosecutor is deemed to have constructive knowledge.
16 As the Court noted in State v Bennett, 119 Nev.
17 589 (2003), where a Utah police detective was
18 aware of the evidence, "[w]e conclude that it is
19 appropriate to charge the State with constructive
20 knowledge of the evidence because the Utah
21 police assisted in the investigation of this crime...
22 "Id. at 603. Similarly, other state agents, such
23 as probation and parole officers, welfare workers,
24 employees of child Protective Services, employees
25 of Department of Motor Vehicles, Jail personnel,
26 out-of-state police agencies, and similar agents
27 of the State are also State agents from whom the
28

1 prosecution must affirmatively collect Brady material.
2 There can be little question, therefore, that
3 despite its "open file policy," the prosecution
4 has an affirmative duty to seek out the
5 previously discussed Brady material, regardless
6 of whether such material is in the hands of
7 the prosecutor or in the hands of some other
8 entity acting on behalf of the State. Indeed,
9 the prosecution must seek out Brady material
10 from other state agents such as probation and
11 parole officers, child protective service workers
12 and their agents, jail personnel, law enforcement
13 personnel and similar agents of the State.
14 Simply put, prosecutors are obligated
15 to provide Defendant with far more than
16 their "open file." Disclosure of discovery
17 materials cannot be limited or restricted
18 to materials in the possession of the District
19 Attorney's Office.

20 21 II. MR. VALENCIA'S SPECIFIC 22 BRADY REQUESTS,

23
24 1. Details of any compensation or any other benefit
25 that any of State's witnesses received in exchange
26 for their cooperation with this prosecution, including
27 but not limited to, any information concerning any
28 expectation of any benefit of any kind to be received,

1 or already received, by any State Witness. This
2 included, but is not limited, any express or implied
3 promise made to any witness to provide counseling
4 and/or treatment as a result of his/her participation
5 in the prosecution of this case.

6
7 2. Any information on any criminal history or any
8 material or information which relates to specific
9 instances of misconduct of any material witness
10 in the case from which it could be inferred that
11 the person is untruthful and which may be or
12 may lead to admissible evidence. This includes,
13 but is not limited to any juvenile records;
14 misdemeanors, out-of-state arrest and convictions,
15 outstanding arrest warrants or bench warrants,
16 and cases which were dismissed or not pursued
17 by the prosecuting agency or any other information
18 that go to the issue of credibility and bias,
19 whether or not the information is admissible
20 as evidence.

21
22 3. Disclosure of all statements (where tangible or
23 intangible, recorded or unrecorded) made by any
24 State witness, or any other person, at any time,
25 that are in any manner inconsistent with the
26 written and/or recorded statements previously
27 provided to the defense.

1 This includes material or information which
2 would tend to exculpate Mr Valencia of the
3 charges, that might mitigate the punishment
4 should he be convicted, or that may lead to
5 information which would tend to impeach or affect
6 the credibility of a State Witness, including, but not
7 limited to, any oral statements made to the
8 prosecutor or any other State employee during
9 pretrial conferences or other investigative meetings.
10

11 4. Request for and/or results of all crime scene
12 analysis and/or testing performed on any of the
13 physical or biological evidence in this case, including
14 but not limited to the results of any DNA
15 comparisons, blood analysis and/or medical examinations
16 performed on the complaining witness.
17

18 5. Any photographs taken at any medical exams
19 or taken by law enforcement.
20

21 6. Any 911 or 311 recordings regarding this incident
22 including the dispatch log and/or Computer-automated
23 Dispatch also known as -CAD-
24

25 7. Copies of all video or audio recording of any
26 form collected by the investigating officers
27 or any other agent of the State during the course
28 of the investigation.

1 8. ALL reports of any destruction of any evidence
2 in this case.

3
4 9. Photocopies or other reproduction of all handwriting
5 or otherwise memorialized notes kept by
6 the investigating police officers in this case
7 ("Sometimes known as Case Monitoring Forms"),
8 including, but not limited to, any notes
9 documenting alternate suspects, investigative leads
10 that were not followed up on, or any other
11 matter bearing on the credibility of any State
12 witness.

13
14 10. Any information which tends to show that
15 Mr Valencia did not commit the alleged
16 crimes, including, but not limited to, any
17 information suggesting a possible suspect
18 other than Mr Valencia, including investigative
19 leads to other suspects.

20
21 11. Any and all information obtained by the use of
22 inside informants for any aspect of the
23 investigation of this case, to include, inside informants
24 who provide information allegedly learned while
25 incarcerated with the accused or through any
26 other means such as information learned from
27 co-conspirator, aider and abetter, accessory
28 after the fact or uncharged facilitators alleged

1 information about the accused regardless of the
2 the States intent to present testimony from said
3 informations in the states court presentation of
4 their case.
5

6 12. Access to and preservation of any and all material
7 collected in the investigation of this case to include
8 but not limited to forensic material, raw data,
9 video surveillance, photos negatives, digital
10 negatives, biological samples and toxicological
11 samples.
12

13 13. Any and all intercepted electronic or oral
14 communications and/or any and all communications
15 sent to and from handset and or telephone
16 and/or computers pursuant to the investigation
17 in this case, including but not limited to:
18 Audio, push to talk, Data, packet Data, electronic
19 messaging, encompassing Global system for mobile
20 communications, (GSM), short message service
21 (SMS), multimedia messaging service (MMS)
22 and internet relay chat, file transfer protocol (FTP)
23 internet protocol (IP), voice over internet protocol
24 (VOIP), Transmission control protocol (TCP) and
25 electronic mail or other internet based
26 communications, obtained by the State in its
27 investigation of this case via subpoena, interception
28 or other means.

14. Any and data recordings, reports and documentation of voice, monitoring devices and/or geographic tracking devices and or pen register and/or trap device installed pursuant to interception, warrant or other means, as part of the investigation in this case.

15 Any and all interviews of the defendant, any witnesses, and any potential witnesses in the case to include any and all audio and video recording of any form collected by the investigating officers or any other agent of the state during the course of the investigation. This includes any notes of interviews that were not later recorded, such as notes of patrol officers or not of phone calls made to potential witnesses, or attempts to contact such witnesses. This also includes 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, including, any 911 recordings to include the relevant dispatch log, any report of information related to the case, given by any one to any police, department or crime tip organization such as crime stoppers and reward or benefit received for such tip including but not limited to interviews and recorded telephone

1 calls to the following witnesses by LumpD

2
3 16. Disclosures of any and statements tangible or
4 intangible, recorded or unrecorded, made by any
5 material witness in the case that are in any
6 manner consistent of inconsistent with the
7 written and/or recorded statements previously
8 provided to the defense. Including but not
9 limited to any oral statements made to
10 any employee or representative of the District
11 Attorney's office or any other state
12 employee during pre-trial conferences or other
13 investigative meeting.

14
15 17. Any and all impeachment information located
16 in the personnel files of any police witness
17 called to testify at trial or any pretrial
18 hearing in this matter including, but not
19 limited to any statement of complaint
20 regarding the witness of this investigation,
21 any employee notice of Internal investigation,
22 any Internal affairs investigation, report of
23 complaint, any witness statement. Any Bureau
24 investigation supervisory Intervention, and any
25 other document maintained or generated by
26 the office of Internal Affairs, Critical Incident
27 Review panel or other investigative agency.
28

To include impeachment information for civilian employees included in the case, such as lab technicians.

18. All relevant reports of chain of custody.

19. Any documents used to prepare State's witnesses for preliminary hearing or trial, including any and all notes and reports of any expert in this case, to include mental Health workers, This includes any preliminary reports or notes not included in a final report.

20. Whether the alleged victim immediate family member or any other qualifying person has applied for a visa as a result of this case

21. Any and all records of the Las Vegas metropolitan police department concerning this case including photocopies or other reproduction of any and all handwritten or otherwise memorialized notes kept by the investigating police officers in each of the allegations on this case including but not limited to, any notes documenting alternate suspects, investigative leads that were not followed up on.

22. Request, results and/or reports of any and all
crime scene analysis, evidence collected and/or
forensic testing performed in this case,
including but not limited to any and all
photographs, the results of any fingerprint
collection and comparison, (AFIS)
(Automated Fingerprint Identification System)
Searches and or results, DNA testing, (CODIS)
(Combined DNA Index system), Searches or results,
toxicological analysis, footwear impressions,
trace evidence analysis any forensic analysis
of cellular telephones, any request for forensic
analysis regardless of outcome of such request.
The State should also include the complete case
file for any testing done, which should
include but not limited to: RAW data,
photographs, rough notes, draft reports,
recorded or otherwise memorialized notes
relied upon by experts in rendering an
opinion in this case.

23. Any and all video and audio recorded
and collected on this case and
marked patrol car unit 3DP40
with or reference to went # 160519-3397
and 463-EV# 160520-4272
BodyCam video from Officer Jacobitz #P
9383 or all bodycam or Dashcam footage

RELIEF REQUESTED

For the foregoing reasons, Mr Valencia
ask the Court to Compel the State to
produce and preserve Brady Material.

Dated This 9th day of September 2016.
I Cesar Valencia Sanchez #1588390, do
Solemnly swear, under the penalty of perjury that
that the above Defendant's Discovery Motion
is accurate, correct, and true to the best of my
Knowledge.

NRS 171.102 and NRS 208.165

respectfully Submitted

Cesar

Cesar Sanchez Valencia #1588390

330 Seesina Court Blvd

Las Vegas NV 89101

Defendant, Pro Se

CEASAR SANCHEZ VALENCIA #1588390

330 S Casino cent Blvd

Las Vegas NV 89101

Please Advise me of any

LEAGUE
MAIL

Dept 2 District Court

Clerk of the Court

200 Lewis Av 3rd FL
Las Vegas NV 89155-1160

1.78



SENT FROM CCDC

1 Ceasar Sanchez Valencio #1588390
2 3308 Casino Coast Blvd
3 Las Vegas NV 89101
4 Defendant; Pro Se

Alvin L. Lamm
CLERK OF THE COURT

MC
DA
PP

7 EIGHT JUDICIAL DISTRICT COURT
8 CLARK COUNTY NEVADA

9 STATE OF NEVADA

case no. C-16-315580-1

10 plaintiff

Dept NO II

11 vs

12
13 Ceasar Sanchez Valencio
14 #1588390
15 Defendant

16 NOTICE OF MOTION

17 YOU AND EACH OF YOU, will please take
18 notice that the undersigned will bring the
19 foregoing: DEFENDANT'S DISCOVERY
20 MOTION, on Hearing before the above-
21 entitled court on 18 day of Oct. 2016
22 9:00 a.m. of said date in Department 2.

23
24
25 Dated this 9th day of
26 September, 2016

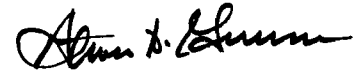
27 RECEIVED

28 SEP 26 2016

CLERK OF THE COURT

respectfully Submitted

Cesar Sanchez Valencio
Cesar Sanchez Valencio
3308 Casino Coast Blvd
Las Vegas NV 89101
Defendant; Pro Se



CLERK OF THE COURT

RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #013476
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-

CEASAR SANCHAZ VALENCIA,
#1588390

Defendant.

CASE NO: C-16-315580-1

DEPT NO: II

STATE'S RESPONSE TO DEFENDANT'S SECOND DISCOVERY MOTION

DATE OF HEARING: 10/18/16
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MICHAEL R. DICKERSON, Deputy District Attorney, and hereby submits the attached Points and Authorities in response to Defendant's Discovery Motion.

This Response 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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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 9, 2016, Defendant, Ceasar Sanchaz Valencia ("Defendant"), was charged by
4 way of Information as follows: Count 1 – Assault on a Protected Person with a Deadly
5 Weapon (Category B Felony – NRS 200.471); Count 2 – Ownership or Possession of Firearm
6 by Prohibited Person (Category B Felony – NRS 202.360); Count 3 – Trafficking in Controlled
7 Substance (Category B Felony – NRS 453.3385.1); and Possession of Controlled Substance
8 (Category E Felony – NRS 453.336).

9 On June 10, 2016, Defendant was arraigned; pled not guilty to the charges alleged in
10 the Information; and invoked his right to a speedy trial. Trial is currently set to begin on July
11 25, 2016.

12 On June 28, 2016, Defendant filed the instant Motion to Compel Discovery. The State
13 hereby responds to Defendant's motion.

14 **ARGUMENT**

15 **I. GENERAL LAW RELATED TO DISCOVERY**

16 The Court can only compel "Discovery" under the Nevada Revised Statutes. Under
17 Common Law, a defendant has no right of discovery. State v. Wallace, 399 P.2d 909, 97 Ariz.
18 296 (1965). This, of course, can be superseded by statutory enactment and that is the case in
19 Nevada. Regarding the law of discovery in the State of Nevada, NRS 174.235, *et. seq.*
20 controls. The Nevada Supreme Court has held that even an accused's statement is not
21 constitutionally compelled through pre-trial discovery. Mears v. State, 83 Nev. 3, 7, 422 P.2d
22 230, 232 (1967), Thompson v. State, 93 Nev. 342, 565 P.2d 1011 (1977).

23 In Franklin v. Eighth Judicial District Court, 85 Nev. 401, 455 P.2d 919 (1969), the
24 Nevada Supreme Court held that the lower court erred in granting defendant's Motion to
25 Discovery, inspect and copy statements of all persons to be called by the prosecution as
26 witnesses at trial, since NRS 174.245 does not authorize discovery of inspection of statements
27 made by State witnesses or perspective State witnesses to agents of the State.

28 ///

1 Nor does the defendant enjoy a constitutional right to discover them. With regard to the
2 discovery statutes previously alluded to, the Court stated that:

3 "Those provisions (NRS 174.235-174.295) represent the
4 legislative intent with respect to the scope of allowable pre-trial
discovery and are not lightly to be disregarded."

5 Id.

6 From the aforementioned, it is clear that Nevada's discovery statutes are to be strictly
7 construed and adhered to since no Common Law right of discovery existed. It should,
8 therefore, also be clear that the defendant's motion, so far as it exceeds the requirements of
9 NRS 174.235, *et. seq.*, must be denied.

10 NRS 174.235(1) outlines what discovery is to be provided by the State of Nevada. It
11 includes:

12 (a) Written or recorded statements or confessions made by the
13 defendant or any witness the State intends to call during the case
in chief of the State, within the custody of the State or which the
State can obtain by an exercise of due diligence.

14 (b) Results or reports of physical or mental examinations,
15 scientific tests or scientific experiments made in connection to the
16 case, within the control of the State, or which the State may learn
of by an exercise of due diligence.

17 (c) Books, papers, documents, tangible objects which the State
18 intends to introduce during its case in chief, within the possession
of the State, or which the State may find by an exercise of due
diligence.

19 The statute makes clear the defense is not entitled to any internal report, document or
20 memorandum prepared by the State in connection with the investigation or prosecution of the
21 case. Nor is the defense entitled to any report or document that is privileged.

22 **II. BRADY MATERIAL AND ITS PROGENY**

23 **A. Brady and its Progeny do not authorize the Court to Order Discovery.** 24 **They are Post-trial Remedies in the event the State Fails to Disclose an Item** **which the Court finds should have been disclosed**

25 The State has an obligation to disclose exculpatory evidence pursuant to Brady v.
26 Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963). Giglio v. United States, 405 U.S. 150, 92 S. Ct.
27 763 (1972), requires that certain impeaching material be disclosed as well. The rule of Brady
28 v. Maryland, 373 U.S. 83 (1963), which requires the State to disclose to the defendant

1 exculpatory evidence, is founded on the constitutional requirement of a fair trial. Brady is not
2 a rule of discovery, however. As the Supreme Court held in Weatherford v. Bursy, 429 U.S.
3 545, 559, 97 S. Ct. 837, 846 (1977).

4 There is no general constitutional right to discovery in a criminal
5 case, and Brady did not create one... 'the Due Process Clause has
6 little to say regarding the amount of discovery which the parties
must be afforded....' Wardius v. Oregon, 412 U.S. 470, 474, 93 S.
Ct. 2208, 2212, 37 L.Ed.2d 82 (1973).

7 In addition, Brady does not require the State to conduct trial preparation and
8 investigation on behalf of the defense. The obligation is to produce exculpatory information
9 which the defense would not be able to obtain itself through an ordinary exercise of diligence.

10 While defense attorneys routinely claim they need to be provided the information in
11 order to conduct the investigation to determine if there is any exculpatory information; that is
12 simply not the law. In the Ninth Circuit, the obligation for the prosecution to examine
13 information is triggered by a defense request with no requirement that the defense make a
14 showing that the information is likely to contain helpful information. United States v.
15 Henthorn, 931 F.2d 29, 31 (9th Cir. 1990) (holding that the "government is incorrect in its
16 assertion it is the defendant's burden to make an initial showing of materiality," rather the
17 "obligation to examine the files arises by virtue of making a demand for their production");
18 United States v. Santiago, 46 F.3d 885, 895 (9th Cir. 1995) ("[u]nder Henthorn, the government
19 has a duty, upon defendant's request for production, to inspect for material information the
20 personnel records of federal law enforcement officers who will testify at trial, regardless of
21 whether the defense has made a showing of materiality") accord Sonner v. State, 112 Nev.
22 1328, 930 P.2d 707 (1996)(requiring materiality before a review of a police officer's personnel
23 file.).

24 **B. The State Makes the Determination at its Own Peril if it will Disclose**
25 **the Information, not the Defense or the Court**

26 This, of course, does not mean that files are produced for the defense. Henthorn
27 explains that following that examination, "the files need not be furnished to the defendant or
28 the court unless they contain information that is or may be material to the defendant's case."

1 Id. Thus, the only time disclosure is required is if the State finds information that qualifies as
2 Brady material. If the prosecutor is unsure, the information should be provided to the court
3 for review. As the court explained:

4 We stated that the government must 'disclose information
5 favorable to the defense that meets the appropriate standard of
6 materiality If the prosecution is uncertain about the
7 materiality of information within its possession, it may submit the
8 information to the trial court for an in camera inspection and
9 evaluation. . . .' As we noted in Cadet, the government has a duty
10 to examine personnel files upon a defendant's request for their
11 production.

12 Id. at 30-31 (internal citation omitted). Despite this procedure, Defendant's routinely request
13 the Court to order production of information to them, or to the Court. It is not the Court's
14 responsibility under the Constitution. It is the prosecution's responsibility.

15 Moreover, Brady and its progeny are remedies post-trial for the prosecution's failure
16 to perform its responsibility. Brady does not support the defense's request to conduct an
17 investigation independent of the prosecution, or to ensure the prosecution completes its duty.

18 **III. TIMING OF DISCLOSURES**

19 **A. True Brady Material**

20 Traditionally, Brady material is information which indicates that Defendant did not
21 commit the crime, or his sentence should be less based upon culpability. The State's duty
22 under Brady is ongoing. When reviewing cases on appeal, however, courts decide allegations
23 of tardy Brady disclosures according to the facts surrounding the disclosure and if the alleged
24 Brady information was used in the trial. The Ninth Circuit has recognized that "Brady does
25 not necessarily require that the prosecution turn over exculpatory material before trial. To
26 escape the Brady sanction, disclosure 'must be made at a time when [the] disclosure would be
27 of value to the accused.'" United States v. Gordon, 844 F.2d 1397, 1403 (9th Cir. 1988). With
28 this precedent, the Ninth Circuit has typically found no prejudice when alleged Brady
information was disclosed at some point before trial. Notwithstanding,

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1 whenever the State is in possession of true Brady material, it is the practice of the undersigned
2 to immediately turn over such information.

3 **B. Impeachment Material**

4 From Brady, a line of cases related to the credibility of testifying witnesses, the Court
5 established rules and requirements for impeachment material, or Giglio material. The right to
6 impeach witnesses is based on the Confrontation Clause of the constitution. The United States
7 Supreme Court has held that the Confrontation Clause is not “a constitutionally compelled
8 right of pretrial discovery.” Pennsylvania v. Ritchie, 480 U.S. 39, 52, 107 S. Ct. 989, 999
9 (1987). Instead, the right to confrontation is a trial right, “designed to prevent improper
10 restrictions on the types of questions that defense counsel may ask during cross-examination.”
11 It “does not include the power to require the pretrial disclosure of any and all information that
12 might be useful in contradicting unfavorable testimony.” It guarantees the opportunity for
13 effective cross-examination, “not cross-examination that is effective in whatever way, and to
14 whatever extent the defense might wish.” Id. at 53, 107 S. Ct. 999, *citing* Delaware v.
15 Fensterer, 474 U.S. 15, 20, 106 S. Ct. 292, 294 (1985).

16 Almost universally, courts have held that there is no Giglio obligation if the witness
17 does not testify.¹ See United States v. Green, 178 F.3d 1099, 1109 (10th Cir. 1999) (holding
18 that Giglio did not apply when the government “did not ever call” its confidential informant
19 as a witness); United States v. Mullins, 22 F.3d 1365, 1372 (6th Cir. 1994) (finding “no
20 authority that the government must disclose promises of immunity made to individuals the
21 government does not have testify at trial,” and holding that a grant of immunity could not be
22 “‘favorable to the accused’ as impeachment evidence because the government did not call [the
23 witness] and, thus, there was no one to impeach”); see also United States v. Pena, 949 F.2d
24 751, 758-59 (5th Cir. 1991) (impeachment evidence regarding a non-testifying witness is an
25 insufficient basis upon which to grant a new trial); United States v. Storey, 956 F. Supp. 934,
26 942 (D. Kan. 1997) (holding that while impeachment evidence falls within the Brady rule,
27 “[s]uch evidence as it pertains to an informant, however is only discoverable if the informant

28
¹ The exception to this rule is where the witness will not testify, but the witness’ hearsay statement will be admitted, then the witness’ credibility may be in issue. See United States v. Jackson, 345 F.3d 59, 70-71 (2nd Cir. 2003).

testifies”); Kowalczyk v. United States, 936 F. Supp. 1127, 1149 (E.D.N.Y. 1996) (holding that “[t]he Government was not obligated to produce the Janis arrest record, assuming the prosecution was in possession of such information, as Janis was not a witness at trial”); United States v. Hill, 799 F. Supp. 86, 90 (D. Kan. 1992), (denying defense request for any information which could be used to impeach non-witnesses); United States v. Villareal, 752 F. Supp. 851, 853 (N.D. Ill. 1991) (holding that “[a]s for statements by government witnesses that qualify as impeachment materials, the government is under no obligation to disclose this information before trial,” and that “the government is under no obligation at any time to provide impeachment evidence for non-witnesses”); United States v. Coggs, 752 F. Supp. 848, 849, (N.D. Ill. 1990) (holding that the government is not required to produce impeachment evidence impacting non-witnesses, reasoning that “[r]equiring that the government provide impeachment evidence for non-witnesses will not further the interest sought to be served by Giglio-allowing for a meaningful determination of witness credibility”). Finally, evidence of impeachment of a witness need not be disclosed until the witness testifies. United States v. Rinn, 586 F.2d 113 (9th Cir. 1978) (“[S]ince information concerning “favors or deals” merely goes to the credibility of the witness, it need not be disclosed prior to the witness testifying.”). Thus, unless the witness is going to testify, there is no basis to disclose any impeachment material.

IV. DEFENDANT’S SPECIFIC DISCOVERY REQUESTS

The State responds to Defendant’s list of requests as follows:

1. **Details of any compensation or any other benefit that any of the State’s witnesses received in exchange for their cooperation with this prosecution...**

To the extent Defendant is seeking disclosure of compensation to the State’s witnesses as required by statute, the State requests that this request be denied.

First, the request exceeds the scope of Giglio. By law, any witness appearing in a criminal case in obedience to a subpoena is entitled to compensation, whether the subpoena is issued by the State or by the defendant. NRS 50.225(1)(a) entitles witnesses “attending the

1 courts of this State in any criminal case... in obedience to a subpoena... [t]o be paid a fee of
2 \$25 for each day's attendance, including Sundays and holidays." Witnesses are also entitled
3 to "mileage reimbursement," NRS 50.225(1)(b) and a per diem allowance, NRS 50.225(2).
4 Additionally, witnesses residing outside the jurisdiction of the Court are "entitled to
5 reimbursement for the actual and necessary expenses for going to and returning from the place
6 where the court is held." NRS 50.225(3).

7 Here, receipts showing that a State witness received statutorily required witness fees,
8 travel expenses, or per diem fees are not "evidence affecting credibility" under Giglio, and
9 consequently, are not discoverable. The fees cannot be favorable to the defendant because a
10 witness's credibility cannot be impeached for receiving compensation to which he or she is
11 legally entitled to receive, and which the county is legally obligated to provide. Lacking
12 impeachment value, the payments are immaterial to both guilt and punishment because their
13 disclosure cannot affect the outcome of the trial. See United States v. Bagley, 473 U.S. 667,
14 675 (1985); Roberts v. State, 110 Nev. 1121, 1132, 881 P.2d 1, 8 (1994) (adopting the
15 "reasonable possibility" materiality test for nondisclosure of evidence favorable to the
16 defendant after a specific request).

17 Second, the request must be denied because the State bears no burden "to disclose
18 evidence which is available to the defendant from other sources, including diligent
19 investigation by the defense." Steese v. State, 114 Nev. 479, 495 (1998); United States v.
20 Davis, 787 F.2d 1501, 1505 (11th Cir. 1986). Here, the requested evidence is maintained as a
21 public record by the Clark County Department of Finance. The defendant may subpoena that
22 office for these records.

23 Finally, it is important to note that the decision of this Court to preclude discovery of
24 the requested evidence in no way limits the defendant's right of cross-examination. The
25 defendant is aware that a witness is entitled to per diem payments and travel reimbursements;
26 he can consequently fully cross-examine any witness whether the witness received such
27 payments or promises of payment. See Davis v. Alaska, 415 U.S. 308, 318 (1974)
28 (Confrontation Clause violated when defendant denied right to cross-examine a prosecution

1 witness regarding the witness's juvenile criminal record) but see Pennsylvania v. Ritchie, 480
2 U.S. 39, 52-53 (1987) (holding that "the right to confrontation is a trial right, designed to
3 prevent improper restrictions on the types of questions that defense counsel may ask during
4 cross-examination... The ability to question adverse witnesses, however, does not include the
5 power to require the pretrial disclosure of any and all information that might be useful in
6 contradicting unfavorable testimony.").

7 Expenses paid to witnesses by the State or its investigative agents, which are not
8 obligated by statute, constitute an inducement under Giglio and Bagley. See Giglio v. United
9 States, 405 U.S. 150 (1972); United States v. Bagley, 473 U.S. 667, 683-84 (1985) (wherein
10 the Court used the terms "promises of reward" and "inducements" to refer to a prosecutor's
11 disclosure obligation under Giglio). The State will disclose any such expenses.

- 12 **2. Any information on any criminal history or any material or information**
13 **which relates to specific instances of misconduct of any material witness in**
14 **this case from which it could be inferred that the person is untruthful and**
15 **which may be or may lead to admissible evidence. This includes, but is not**
16 **limited to, any misdemeanors, out-of-state arrests and convictions,**
17 **outstanding arrest warrants or bench warrants, and cases which were**
18 **dismissed or not pursued by the prosecuting agency or any other**
information that would go to the issue of credibility and bias, whether or
not the information is admissible as evidence.

19 The State objects to the request as overbroad. Additionally, the State objects to
20 Defendant's request for criminal history to the extent that such could be construed as a request
21 to run NCIC searches on material witnesses for defense counsel's benefit, as such would be in
22 violation of federal law. As a user of the National Crime Information Center (NCIC) database,
23 the State is prohibited from disseminating criminal history information to non-criminal justice
24 agencies as defined by Title 28 Code of Federal Regulations (CFR)§ 20.3, which describes a
25 criminal justice agency as: (1) Courts; and (2) a government agency or any subunit thereof
26 which performs the administration of criminal justice pursuant to a statute or executive order,
27 and which allocates a substantial part of its annual budget to the administration of criminal

28 ///

1 justice. Unless specifically authorized by federal law, access to the NCIC/III for non-criminal
2 justice purposes is prohibited.

3 A 1989 United States Supreme Court case looked at this issue from the standpoint of
4 an invasion of privacy and ruled accordingly:

5 Accordingly, we hold as a categorical matter that a third party's
6 request for law enforcement records or information about a private
7 citizen can reasonably be expected to invade that citizen's privacy,
8 and that when the request seeks no "official information" about a
Government agency, but merely records that the Government
happens to be storing, the invasion of privacy is "unwarranted."

9 United States Department of Justice v. the Reporters Committee for Freedom of the Press, 109
10 S.Ct. 1468, 1485 (1989).

11 Criminal defense attorneys, public or private, are not within the definition of "criminal
12 justice agency," nor is the criminal defense function considered a "criminal justice purpose."
13 Therefore, Defendant is not entitled to the criminal history information he seeks.

14 Furthermore, the State objects to Defendant's request for "information on any criminal
15 history or any material or information which relates to specific instances of misconduct of any
16 material witness in the case from which it could be inferred that the person is
17 untruthful...whether or not the information is admissible as evidence," Defendant's Motion to
18 Compel, pg. 9 (May 12, 2016), as Defendant's request is vague and overbroad. Additionally,
19 Defendant has provided no basis for disclosure of a witnesses "juvenile record, misdemeanors,
20 felonies, out-of-state arrests and convictions..." Id. Finally, the Defendant's request is not
21 reasonable, as on its face he may be requesting the State to provide information regarding
22 various out-of-state arrests and convictions and information on cases that were not even
23 prosecuted, as well as other material that is not in the State's possession.

24 However, should the State learn that one of its testifying witnesses has a felony
25 conviction or an arrest/conviction for a crime bearing on honesty or truthfulness, such
26 evidence will be disclosed. Similarly, should the State learn of any criminal proceeding that
27 may bear on bias, interest, and motive within the special circumstances of this case it will
28 provide such to defense counsel.

- 1 **3. Disclosure of all statements (where tangible or intangible, recorded or**
2 **unrecorded) made by any State witness, or any other person, at any time,**
3 **that are in any manner inconsistent with the written and/or recorded**
4 **statements previously provided to the defense...**

5 The State objects to this request as vague and overbroad. As to Defendant's request for
6 tangible or intangible statements, the State is unsure of what Defendant is requesting.

7 Giglio, governs what impeachment evidence the State must provide. The State asks the
8 Court to hold it to that constitutional standard. However, Defendant's request is worded in an
9 overbroad manner to encompass immaterial statements about which the State has no
10 knowledge.

11 The State does not object to providing defense with any inconsistent statements made
12 by any State witnesses that that is material to punishment or guilt. However, the State objects
13 to this request to the extent that Defendant is requesting inconsistent statements that are
14 collateral to the issues at hand. Giglio v. U.S., 405 U.S. 150,154, 92 S.Ct. 763 (1970)
15 (Generally, impeachment evidence constitutes Brady material when the evidence relates
16 directly to a key witness's veracity on matters about which he or she has testified at trial.).

- 17 **4. Requests for an/or results of all crime scene analysis and/or testing**
18 **performed on any of the physical or biological evidence in this case,**
19 **including, but not limited to, the results of any DNA comparisons, blood**
20 **analysis and/or medical examinations performed on the complaining**
21 **witness.**

22 To the extent this request is applicable in the instant case, the State has no objection to
23 providing any crime scene reports and or forensic reports pertaining to any analysis conducted
24 in the instant case.

- 25 **5. Any photographs taken at any medical exams or taken by law enforcement.**

26 The State requests that the instant request be denied. To the extent photographs were
27 taken by the Las Vegas Metropolitan Police Department in conjunction with this case, the
28 State is under no duty to disclose such photographs, unless said photographs are exculpatory
and/or the State intends to introduce them in its case in chief. To the extent any such
photographs exist, the State will disclose them pursuant to its statutory and Constitutional duty

1 to do so. Furthermore, Should the defense seek to introduce such material, Defendant can
2 subpoena the requested photographs himself as the State is not required to conduct his
3 investigation.

4 **6. Any 911 or 311 recordings regarding this incident, including dispatch logs.**

5 The State has no objection to this request.

6 **7. Copies of all video or audio recording of any form collected by the**
7 **investigating officers or any other agent of the State during the course of**
8 **the investigation.**

9 The State objects to this request as overbroad. To the extent any video or audio
10 recordings were collected by the Las Vegas Metropolitan Police Department in conjunction
11 with this case, the State is under no duty to disclose such recordings unless they are
12 exculpatory and/or unless the State intends to introduce them in its case in chief. To the extent
13 any such recordings exist, the State will disclose them pursuant to its statutory and
14 Constitutional duty to do so. Furthermore, Should the defense seek to introduce such material,
15 Defendant can subpoena the requested items himself as the State is not required to conduct his
16 investigation.

17 **8. All reports of any destruction of any evidence in the case**

18 The State is not aware of the destruction of any evidence in this case but if it becomes
19 aware of any, it will disclose that fact to the defense.

20 **9. Photocopies or other reproductions of all handwritten or otherwise**
21 **memorialized notes or statements kept by the investigating police officers**
22 **in this case...**

23 The State objects to Defendant's request in that it is overbroad. Pursuant to Brady and
24 its progeny, the State is only required to turn over such documents if material and favorable to
25 the defense. Should the State become aware that such notes exist which are material and
26 favorable to the defense, they will be immediately produced. The request should be denied to
27 the extent Defendant seeks material falling outside of those two categories of material.

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- 1 **10. Any information which tends to show that Mr. Valencia did not commit the**
2 **alleged crimes, including, but not limited to, any information suggesting a**
3 **possible suspect other than Mr. Valencia, including investigative leads to**
4 **other suspects.**

5 The State has no objection to this request.

- 6 **11. Any and all information obtained by the use of inside informants for any**
7 **aspect of the investigation of this case...**

8 The State objects to this request. Defendant cites no law to indicate that confidential
9 informants who are not percipient witnesses to the events, and who do not form the basis of a
10 warrant, must be disclosed. In this case, there is no indication that any anonymous tips lead
11 directly to Defendant's arrest, particularly in light of the eyewitness statements, and the
12 statements made by victim Police Officer J Jacobitz identifying Defendant to 100% as the
13 person who pulled gun on him. Moreover, in Miller v. State, 86 Nev. 503, 506-07, 471 P.2d
14 213, 215 (1970), confidential informant told the police that a burglary was to occur at a
15 location at a particular time. Acting on that information, the police placed the location under
16 observation, witnessed the defendant attempt to enter, and apprehended him. Id. The defendant
17 attempted to learn the identity of the informant, but the District Court upheld the State's
18 exercise of its privilege. Id. The Nevada Supreme Court upheld the decision, noting, "[t]he
19 defendant was on trial because of his acts witnessed by the police who were on the scene. He
20 was not on trial because of prior information received." Id.

21 The State will comply with Brady, Giglio, NRS 174.235 and their progenies. The State
22 is not aware of the use of any "inside" informants. However, should an inside informant be
23 used, the State will disclose any Brady, or Gilgio material, or any written or recorded
24 statements that the State intends to use in its case in chief. The State objects to any attempt to
25 order disclosure of material not contemplated by case-law or statute.

- 26 **12. Access to and preservation of any and all material collected in the**
27 **investigation of this case to include but not limited to forensic material, raw**
28 **data, video surveillance, photo negatives, digital negatives, biological**
 samples and toxicological samples.

1 The State will comply with NRS 174.235, Brady and progeny. The State objects to any
2 attempt to obligate it to furnish additional information beyond that required by statute. The
3 State will comply with the Statute, which requires disclosure of:

4 2. Results or reports of physical or mental examinations, scientific tests or
5 scientific experiments made in connection to the case, within the control of the
6 State, or which the State may learn of by an exercise of due diligence.

7 Defendant must subpoena video surveillance, photographs, and related material
8 himself. If a properly executed subpoena is not honored by Metro, then the State will subpoena
9 and turn over such material.

10 **13. Any and all intercepted electronic or oral communications and/or any and**
11 **all communications sent to and from handset and or telephone and/or**
12 **computers pursuant to the investigation...**

13 The State will comply with Brady, Giglio, their progenies, and NRS 174.235. If the
14 State has intercepted communications which constitute written or recorded statements of
15 witnesses, then the State will turn those over. Further, if the State has intercepted
16 communications which contain Brady or Giglio information, then that information will be
17 disclosed. However, the State will not turn over any information in excess of this, nor can this
18 Court order disclosure of information in excess of NRS 174.235. There are no intercepted
19 communications in this case. If there is anything in GPS or other monitoring which constitutes
20 Brady, or Giglio information, it will be disclosed. Alternatively, if there is GPS or other
21 monitoring that the State intends to introduce in its case in chief, then it will be disclosed
22 pursuant to NRS 174.235. The State objects to any attempt to expand this Court's authority
23 beyond the Statute, or to expand its obligations beyond established case-law. There are no
24 GPS or other monitoring devices used in this case.

25 **14. Any and (sic) data records, reports and documentation (sic) of voice,**
26 **monitoring devices and/or geographic tracking devices and or pen registers**
27 **and or trap device...**

28 The State objects to this request and vague, overbroad and duplicative. See Defendant's
specific request 13, *supra*. The State will comply with Brady, Giglio, their progenies, and
NRS 174.235. The State objects to any attempt to expand this Court's authority beyond the

1 Statute, or to expand its obligations beyond established case-law. None of the requested items
2 currently known to be used in this case. However, where Defendant seeks production of his
3 own inculpatory statements which are not written or recorded, the Nevada Supreme Court has
4 determined he has no right under Brady or NRS 174.235 to production of such material.
5 Inculpatory material, such as incriminating statements in recorded jail calls, is not
6 encompassed under Brady because it is not exculpatory and it is not in the exclusive possession
7 of the State because Defendant made the statements. Lisle v. State, 113 Nev. 540, 547, 937
8 P.2d 473, 478 (1997) (noting it would constitute “a novel interpretation of Brady” to construe
9 suppression of a defendant’s confession as a due process violation); Thompson v. State, 93
10 Nev. 342, 330, 565 P.2d 1011, 1012 (1977) (“‘Pretrial discovery of the accused’s statements
11 is not constitutionally compelled by the Fourteenth Amendment.’ Further, voluntary
12 disclosure is not contemplated by our statutory provisions concerning criminal discovery. See
13 NRS 174.235(1).”) quoting Mears v. State, 83 Nev. 3, 7, 422 P.2d 230, 232 (1967). Because
14 Defendant is a party to the conversation, Defendant has access to the evidence through himself.
15 Steese, 114 Nev. at 495, 960 P.2d at 331. The State therefore does not violate Brady by failing
16 to inform Defendant about such conversations, should they exist. See Doe v. United States,
17 487 U.S. 201, 210, 108 S. Ct. 2341 (1988).

18 **15. Any and all interviews of the defendant, any witness, and any potential**
19 **witness in the case...**

20 To the extent Defendant seeks production of his own statements, the State will
21 provide whatever statements he has given that qualify under NRS 174.235. As to other
22 witness statements, NRS 174.235 provides:

- 23 1. Written or recorded statements or confessions made by
24 the defendant or any witness the State intends to call during
25 the case in chief of the State, within the custody of the State
or which the State can obtain by an exercise of due diligence.

26 The State will comply with Brady, Giglio, their progenies, and NRS 174.235. The State
27 objects to any attempt to expand this Court’s authority beyond the Statute, or to expand its

28 ///

1 obligations beyond established case-law. There are no GPS or other monitoring devices used
2 in this case.

3 **16. Disclosure of any and (sic) statements tangible or intangible, recorded or**
4 **unrecorded, made by any material witness in the case that are in any**
5 **manner consistent of (sic) inconsistent with the...**

6 The State objects as this request is vague, overbroad, and duplicative. This request was
7 addressed in Defendant's specific request subsection 3, *supra*.

8 **17. Any and all impeachment information located in the personnel files of any**
9 **police witness...**

10 Defendant next attempts to expand United States v. Henthorn, 931 F.2d 29 (9th Cir.
11 1991) beyond its opinion. Defendant appears to claim that he is entitled to disclosure of any
12 sort of disciplinary action against any police officer the State calls to testify. Such a position
13 cannot withstand the slightest scrutiny when compared to the actual law of Henthorn, and thus
14 cannot avail itself of even the persuasive, non-binding authority the case provides. In
15 Henthorn, the Ninth Circuit held that the State, once triggered by a request by the defense,
16 must inquire into the personnel files of its testifying law enforcement officers, for "evidence
17 of perjurious conduct or other like dishonesty. . . ." Hawthorn, 931 F.2d at 30. There is no
18 mention anywhere in the short opinion of disciplinary actions. See generally id. Similarly, the
19 Court in Hawthorn indicated that the State needed not to turn over such information to the
20 defense, but rather to the trial court for an *in camera* review. Id. Here, the State will comply
21 with Henthorn, but with Henthorn as it is written—not Defendant's radical expansion thereof.
22 The State will determine whether there is any "evidence of perjurious conduct or other like
23 dishonesty" in the personnel file of the law enforcement officers it calls to testify. Such
24 information will be disclosed. No additional inquiry is required, and no additional information
25 will be provided. Id. at 32 (holding that information is material if it relates to "evidence of
26 perjurious conduct or other like dishonesty," and holding that "the files need not be furnished
27 to the defendant or the court unless they contain information that is or may be material to the
28 defendant's case.").

1 **18. All relevant reports of chain of custody.**

2 The State has no objection to this request.

3 **19. Any documents used to prepare State's witnesses for preliminary hearing**
4 **or trial...**

5 The State will comply with Brady, Giglio, their progenies, and NRS 174.235. The State
6 objects to any attempt to expand this Court's authority beyond the Statute, or to expand its
7 obligations beyond established case-law. The state specifically objects to the Defendant's
8 seeming request for attorney work product and/or privileged material. As to expert notes and
9 or preliminary reports/notes, NRS 174.235 provides:

10 2. Results or reports of physical or mental examinations,
11 scientific tests or scientific experiments made in connection
12 to the case, within the control of the State, or which the State
 may learn of by an exercise of due diligence.

13 Hence, the State is only required to turn over "results or reports" and so the State will comply
14 with that obligation, but objects to any attempt to expand the Court's authority beyond the
15 Statute.

16 **20. Whether the alleged victim immediate family member or any other**
17 **qualifying person has applied for a visa as a result of this case.**

18 The State vague, overbroad, and outside of the State's knowledge and the Statute's
19 preview. Moreover, the victim in this case is a Las Vegas Metropolitan Police Officer, so
20 common sense and reason dictate that he is in all likelihood a United States citizen.

21 **21. Any and all records of Las Vegas Metropolitan Police Department ...**
22 **including notes kept by investigating police officers...**

23 The State will comply with Brady, Giglio, their progenies, and NRS 174.235. The State
24 objects to any attempt to obligate it to furnish additional information beyond that required by
25 statute. Specifically, the State objects to any demand for an officer or detective's notes. As an
26 initial matter, the notes of law enforcement are not covered by NRS 174.235 because they are
27 not written or recorded statements of witnesses the State intends to call in its case in chief. Cf.
28 Palermo v. United States, 360 U.S. 343, 335 & n.12, 79 S. Ct. 1217 (1959) (holding that a
 brief summary of a witness's statements is not a written or recorded statement under 18 U.S.C.

1 §§ 3500 (a), (b), which defines a statement as “(1) a written statement made by the witness
2 and signed or otherwise adopted or approved by him; (2) a stenographic, mechanical,
3 electrical, or other recording or transcription thereof, that is a substantially verbatim recital of
4 an oral statement made by said witness and recorded contemporaneously with the making of
5 such oral statement; or (3) a statement or transcription made by the witness to a grand jury.”);
6 United States v. Alvarez, 358 F.3d 1194, 1209–11 (9th Cir. 2004) (holding that officer’s notes
7 had not been shown to qualify as statements).

8 Courts have held that officer notes are not subject to discovery statutes. In State v.
9 Bray, 569 P.2d 688 (Ore. App. 1977), an officer arrested a suspect on a DUI charge. He
10 recorded observations in a booklet. He later prepared a report from his penciled notes and
11 erased the notes. The final report was furnished to the defense. At trial, the court ruled that
12 because the officer had taken notes while speaking to a witness and those notes had been
13 destroyed, the State would be precluded from calling the witness at trial. The issue on appeal
14 was whether the fragmentary notes of the officer constituted a statement within the meaning
15 of the state discovery statutes. The Appellate Court reversed the trial court:

16 We construe the statute to require production of any
17 “statement” which is intended by its maker as an
18 account of an event or a declaration of a fact. The
19 statutory purposes of providing witness statements are
20 to minimize surprise, avoid unnecessary trial, provide
21 adequate information for informed pleas and to promote
22 truthful testimony by allowing examination based on
23 prior inconsistent statements. . . . Requiring preservation
24 and availability of fragmentary notes intended only as a
25 touchstone for memory would be more likely to
26 discourage police officers from taking notes, with a
27 consequent reduction in accuracy, than to promote the
28 statutory goals. Furthermore, it would be unfair and
misleading to allow cross-examination of a witness
based upon fragmentary or cryptic notes which were
never intended to express a complete statement. For
these reasons, we hold that fragmentary notes are not
subject to production under discovery statutes.

///

1 Id. at 690; State v. Wrisley, 909 P.2d 877 (Ore. App. 1995) (noting that police notes are not
2 discoverable when their substance is incorporated into a report disclosed to the defendant); see
3 also State v. Jackson, 571 P.2d 523 (Ore. App. 1978) (holding that a rough draft of a report an
4 officer dictated to a stenographer was not discoverable). Moreover, Defendant has and shall
5 receive the final reports from law enforcement agents as required, which contain the
6 information located in the notes. Defendant can cite to no rule of law, nor statute, which
7 entitles him to any personal impressions contained in the writings, allowing him to peer into
8 the mental impressions of law enforcement agents.

9 To the extent that there is material contained within the notes of the law enforcement
10 agents, which is not incorporated into the final reports, and which is properly discoverable
11 under Brady—material to the defense, and which is not discoverable through the exercise of
12 reasonable diligence—it will be disclosed as required by Brady. However the raw notes
13 themselves are not discoverable and will not be disclosed.

14 **22. Request, results and/or reports of any and all crime scene analysis, evidence**
15 **collected and/or forensic testing performed in this case...**

16 The State objects to this request as vague, overbroad, and duplicative. This request was
17 previously addressed in Defendant's specific request number 4, *supra*.

18 **23. Any and all video and audio recorded and collected on this case...**

19 The State objects to this request as vague, overbroad, and duplicative. This request was
20 previously addressed in Defendant's specific request number 7, *supra*.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **CONCLUSION**

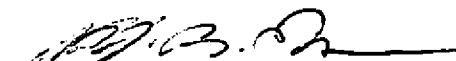
2 Based on the foregoing, the State respectfully requests Defendant's motion be
3 DENIED to the extent outlined above.

4 DATED this 5th day of October, 2016.

5 Respectfully submitted,

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

9 BY



10 MICHAEL R. DICKERSON
11 Deputy District Attorney
12 Nevada Bar #013476

13 **CERTIFICATE OF MAILING**

14 I hereby certify that service of State's Response to Defendant's Discovery Motion, was
15 made this 5th day of October, 2016, by mail to:

16 Ceasar Valencia, Defenadnt Pro Se,
17 CCDC Inmate #1588390
18 330 S CASINO CENTER BLVD
19 LV NV 89101

20 BY:



21 P. Manis
22 Employee of the District Attorney's Office
23
24
25
26
27

28 MRD/pm/L-2

MC
DA
PP

#1588390
Ceasar Sanchez Valencia
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant, Pro Se

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

Case No. C-16-315580-1

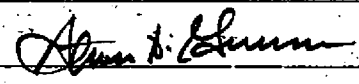
Plaintiff

Dept NO. 2

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VS

Ceasar Sanchez Valencia #1588390



Defendant

CLERK OF THE COURT

Hearing Date: 11/01/2016

Time: 9:00AM

NOTICE OF MOTION

YOU AND EACH OF YOU, WILL PLEASE
TAKE NOTICE that the undersigned
will bring the foregoing Motion to Right
of Access to the Courts

ON Hearing before the above entitled Court on
18 day of Oct 2016 9:00AM
of said date in Department 2

RECEIVED
OCT 17 2016
CLERK OF THE COURT

RECEIVED
OCT 17 2016
CLERK OF THE COURT

DATED this 3rd day
of October 2016

respectfully Submitted
Ceasar Sanchez Valencia #1588390
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant, Pro Se

MC
DA
PP

#1588390
Ceasar Sanchez Valencia
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant, Pro Se

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

vs.

Ceasar Sanchez Valencia #1588390
Defendant

Case No. C-16-315580-1

Dept No: II

Electronically Filed
10/11/2016 02:15:38 PM

Hearing Date: 11-01-16

Time: 9:00 AM

CLERK OF THE COURT

RIGHT OF ACCESS TO THE COURTS

COMES NOW, the defendant Ceasar Sanchez Valencia #1588390 by and through defendant Ceasar Sanchez Valencia, Pro Se, and respectfully moves this Honorable Court for an Order Right of Access to the Courts and for Public Defender's office to provide legal materials, to defendant pursuant to and in accordance with Faretta v. California, 422 U.S. 806 (1975), Bounds v. Smith, 430 US 817 (1977), Craig v. Hocker, 405 F.Supp 656 (D Nev. 1975) Furthermore the demands of the due process and equal protection clauses of Sixth and Fourteenth Amendment of the United States and also Nevada constitutions based upon the following grounds and following the following reasons:

1 That defendant's Motion on file herein, will
2 state a claim upon which relief can be granted.
3 This Motion is made and based upon all of the
4 pleadings, papers and records on file herein, the
5 points and authorities in support of this Motion,
6 which are filed here with and the oral argument
7 of Defendant if needed at the time this Motion is
8 heard.

9 10 POINTS AND AUTHORITIES

11
12 It is respectfully requested of this Court to
13 grant this Motion access to the courts and
14 Alternate methods of adequate law library
15 access.

16
17 While the right to counsel and the
18 right to access to the Courts are interrelated
19 since the provisions of counsel can be means
20 to accessing the Courts they are not the
21 same. Because the right to counsel is
22 an independent constitutional requirement
23 separate from the right of access to the Courts

24
25 On August 25th, 2016 I Cesar Sanchez
26 Valencia (hereinafter) defendant. Upon Court's
27 inquiry of defendant acknowledged his
28

1 decision to represent himself in the proceedings
2 Defendant stated the basis for his decision. During
3 and after Faretta canvas defendant stated
4 there is a problem Court advise we will
5 get to that in a minute. Colloquy regarding
6 previous Brady motions. Court directed
7 defendant to refile motions. Defendant
8 stated he has been denied access to
9 the law library and was assessed fees
10 for the copies when researching. Defendant
11 stated he is indigent. Court ordered 450
12 copy fee WAIVED and Directed Ms. O'Halloran
13 to prepare and order regarding the fees and
14 law library. No changes have been made.
15 as for access to law library or waived fees
16 of research. Mr. Coyer explained to defendant he has
17 had the similar problem for a while and
18 still ongoing till present day when provided
19 defendant with file in open Court. Clark
20 County Detention Center (hereinafter) "County"
21 is in violation of inmates Constitutional rights
22 When an inmate access law library its
23 done on a inmate request form also known
24 as a (paging system) and they have a kiosk in the
25 unit these forms of access amount to severely
26 inadequate law library there is no physical
27 library how can prose litigants get the
28

1 law library - access to an adequate law library
2 becomes constitutional right thus of virtue of
3 both equal protection and due process. Conditions
4 of confinement should include without limitation
5 the access of an inmate to resources of law
6 library. Kiosk access is free of charge but due
7 to housing assignments which limit the use
8 that if the County calls a lockdown
9 then every inmates in north tower will
10 remain in there cells the frequent lockdowns.
11 Policy and procedures or standards and
12 regulations the County puts a general heading of
13 "deprivation of privileges" because if an inmate
14 was to go through the inmate grievance process
15 won't be able to even get any results to change the
16 conditions created by this system of paging and
17 you will be charged for the research request and
18 an inmate is limited to two request per week
19 So pro-se litigants require more access than other
20 none pro-se litigants. Defendant has waived
21 counsel not right of access the conditions of
22 confinement make in a challenge to even adequate
23 if any to law library resources that's why defendant
24 request for alternate method of access to
25 legal books and legal materials from State
26 Public Defenders office, County Detention Center
27 will not be able to give access to pertinent
28

1 legal books those of which Defendant mentioned
2 during Farretta Canvas. Defendant is indigent
3 there is no other way of obtaining legal books.
4 legal books are necessary for preparation of the
5 upcoming trial. even if the content of these
6 books was available through law library. The material
7 itself could be copied it would be an onerous
8 and time consuming activity so yes it would be
9 off limits to any inmate wishing to access these
10 books. Hollis v. State 95 Nev. 664; 601 P2d
11 62 (1979) Due process demands that inmates
12 have access to the Courts, which requires County
13 Detention authorities to assist in the preparation
14 and filling of meaningful legal papers by providing
15 adequate law libraries or adequate assistance
16 from persons trained in the law In Hollis Defendant
17 elected to represent himself with the aid of the
18 Public defenders office to assist in preparing
19 legal documents and in obtaining pertinent legal
20 books. The Supreme of Nevada Court held that
21 defendant's waiver of his right to counsel was
22 voluntarily and intelligently made. The court
23 also held that defendant was not denied due
24 process as meaningful legal materials were provided
25 to him. Hollis was provided with pertinent
26 volumes of Nevada revised Statutes, Major Changes
27 in Nevada Evidence Rules. The Criminal law handbook
28 for Nevada, Federal Rules of Criminal Procedures, Vols 1 and 2

of Wharton, Criminal Procedures, Successful
techniques in the trial of Criminal Cases and other
materials. a similar case would be People v
Carter, 427 P2d 214 (Cal 1965). The California
court noted that a waiver which is made
conditional by a defendant cannot be effective
unless the condition is accepted by the court.
Moreover that court observed that the failure
of trial judge specifically to reject the condition
caused the defendant to believe that he permitted
meaningful access to library facilities. Bounds
v Smith, 430 U.S. 817 (1977). There, the United
States Supreme Court ruled the due Process
demands that inmates have access to the courts
which requires County Detention authorities to
assist in the preparation and filing of meaningful
legal papers by providing adequate law libraries
or adequate assistance from persons trained in the
law. In defendants instant case matter
meaningful legal materials need to be provided
to the defendant. When a defendant "elects to
conduct his own defense he requires access
to legal materials in order to present that
defense, it is equally clear that the defendant
does not necessarily give up the right to
present the most effective defense of which
he is capable. Of course, access to legal
materials is essential to the preparation of any

1 defense. The majority seems to suggest
2 that a defendant may "knowingly and intelligently
3 waive his right to counsel with no assurance
4 that he will be provided with access to any
5 legal materials at all. With this I cannot
6 agree there is no reason to distinguish
7 the line of cases that deal from Bounds
8 v. Smith, 430 U.S. 817 (1977). Although
9 Bounds dealt with a post-conviction situation
10 it does not seem logical to grant access
11 to law libraries to inmates, so that they may
12 attack their convictions collaterally, but
13 not to defendants in criminal trials. As
14 stated in Bounds, the States are required
15 "to provide indigent inmates with access
16 to an adequate law library for preparation of
17 legal actions", Wolff v. McDonell 418 U.S.
18 539, 578-79 (1974), whether they are
19 being held after conviction or awaiting a
20 trial in which they will be representing
21 themselves. The demands of equal protection
22 of the laws cannot be satisfied with less.
23 Defendant is Pro Se litigant both in criminal
24 and civil this request from defendant is required
25 because County Detention law library is severely
26 inadequate it cannot provide materials requested
27 in this motion and while inadequate law libraries
28 provided by County Detention are constitutionally

1 unacceptable, other methods are required
2 to assure meaningful access to the courts for
3 inmates. Alternative means may also be used
4 to achieve such access. The fundamental
5 constitutional right of access to courts held to
6 require County authorities to assist inmates in
7 preparation and filing of meaningful legal papers by
8 providing inmates with adequate law libraries or
9 adequate assistance from persons trained in law.
10 Younger v Gilmore, 404 US 15, Pp 821-833
11 The issue in this case is whether States
12 must protect the right of an inmate to access
13 to the courts by providing them with law
14 libraries or alternative sources of legal
15 knowledge. In Younger v Gilmore 404 U.S.
16 15 (1971) it was held per curiam that such
17 services are constitutionally mandated. The
18 conditions of confinement on an indigent inmate
19 are a challenge and a charge to request
20 any legal materials or any legal postage and
21 research of law and if you request medical
22 there is a challenge or a charge to defendant
23 Account will be charged for these services or
24 these items if a defendant don't have sufficient
25 funds an obligation will be created on defendant's
26 account. An inmate who is a Pro Se litigant and is
27 limited to a severely inadequate law library, would
28 require clarification to the order that was prepared

1 by Ms O'Halloran to be retroactive and to
2 waive legal postage and indigent charges to inmate
3 Account: that are or will be insufficient funds
4 that were created obligations on the defendants
5 account. another problem with access to
6 courts defendant requested a subpoena through
7 the clerk of the court and was responded
8 that a 50 cents per page for some of the
9 requested copies defendant is indigent both
10 Criminal and civil there should be no charge
11 or should not be denied because failure to pay
12 for request, denied because cannot be processed
13 until proper payment of docket fees is deposited
14 indigent defendants even after (trial state must
15 provide trial transcripts) See also Estel v
16 Washington Prison Bd, 357 U.S. 214 (1958) (provision
17 of trial transcript may not be conditioned on approval
18 of judge); Draper v Washington, 372 U.S. 487 (1963)
19 (same); Lane v Brown 372 U.S. 477 (1963) (Public
20 defender's approval may not be required to obtain
21 coram nobis transcript); Rinaldi v Yeager 384
22 U.S. 305 (1966) (unconstitutional to require reimbursement
23 for cost of trial transcript only from unsuccessful
24 imprisoned defendants); Long v District Court of
25 Iowa, 385 U.S. 192 (1966) (state must provide
26 transcript of post-conviction proceeding) Roberts
27 v La Valle 389 U.S. 40 (1967); (State must
28 provide preliminary hearing transcripts;

1 Gardner v California 393 U.S. 367 (1969)

2 (State must provide habeas corpus transcript);

3 Williams v Oklahoma City, 395 U.S. 458 (1969)

4 (State must provide transcript of petty-offense trial)

5 Mayer v Chicago, 404 U.S. 189 (1971) (state must

6 provide transcript of non-felony trial) The only

7 cases that have rejected indigent defendants

8 claims to transcripts have done so either because

9 an adequate was available but not used, Britt v

10 North Carolina 404 U.S. 226 (1971) or

11 because the request was plainly frivolous and

12 a prior opportunity to obtain a transcript was

13 waived United States v MacCollom 426 U.S.

14 317 (1976) Essentially the same standards

15 of access were applied in Johnson v Avery

16 393 U.S. 483 (1963) Moreover these line of

17 cases and their decisions have consistently

18 required States to shoulder affirmative obligations to

19 assure all inmates meaningful access to the courts.

20 It is indisputable that indigent inmates must

21 be provided at state expense with paper and pen

22 to draft legal documents, with notarial services to

23 authenticate them, and with stamps to mail

24 them. States must forgo collection of docket

25 fees otherwise payable to the treasury and expend

26 funds for transcripts. State expenditures are

27 necessary to pay lawyers for indigent defendants

28 at trial, Gideon v Wainwright 372 U.S. 335 (1963)

1 Angersinger v Hamlin, 407 US 25 (1952). And
2 in appeals as of right, Douglas v California, Supra.
3 This is not to say that economic factors
4 may not be considered, for example, in choosing
5 the methods used to provide meaningful
6 access. But the cost of protecting a constitutional
7 right cannot justify its total denial. So, if a
8 must perform such preliminary research, it is
9 no less vital for a Pro Se inmate. Indeed,
10 despite the "less stringent standards" by which
11 a pro se pleading is judged Haines v Kerner
12 404 US 519, 520 (1972) it is often more important
13 that an inmate complaint set forth a non
14 frivolous claim meeting all procedural
15 prerequisites, since the court may pass on it
16 deemed frivolous. See 28 U.S.C. subsection 1915.
17 Moreover, if the State files a response to
18 a pro se pleading it will undoubtedly contain
19 seemingly authoritative citations. With out a library
20 an inmate will be unable to rebut the State's
21 argument. It hardly follows that a law library or
22 or other legal assistance is not essential to
23 frame such documents. It would verge on
24 incompetence for a lawyer to file an initial
25 pleading without researching such issues as
26 jurisdiction, venue, standing, exhaustion of remedies,
27 proper parties plaintiff and defendant, and types of
28 relief available most important a Pro Se litigant

of course must know the rules of evidence
rules of the court procedures and all relevant
material to the court process and must know
what the law is in order to determine whether
a colorable claim exists, and if so what
facts are necessary to state that claim.

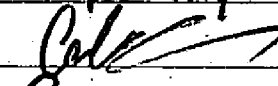
In Bounds the Court rejected the State's
claim that inmates are "ill-equipped to use"
"the tools of the trade of the legal profession"

making libraries useless in assuring meaningful
access. More importantly, that Courts experience
indicates that a pro se litigants are capable
of using lawbooks to file cases raising
claims that are serious and legitimate. Defendant
requires the Court to suggest if any or other
forms could be provided for a speedy remedy
because these lawbooks are requested to
be furnished by State Public defenders
office or would State District Attorneys
office would provided defendant with requested
books? Another request is for a meal enhancement

enhancement and PM Snack because even if
my family send me some money the created
obligation on my account will deduct so at
night the anxiety because be hungry and
stomach growls I can feel and hear the echo
in my head so this to is request the hardship
of not being able to buy a snack from

1 Commissary this request will be under
2 the Eighth Amendment to provide its inmates
3 with food shelter and medical care See Estate
4 v Gamble 429 US 97 these meals are not
5 enough and with the feeding times dinner is
6 3PM so the gap of time is until 4AM by
7 8PM I'm already hungry and stomach is growling
8 and it is by this time that they bring the
9 PM snacks to inmates that are on that list
10 Defendant requests that the Court orders for
11 this in the order Defendant Wherefore
12 Prays that this Honorable Court Grants
13 this Motion to Right of Access to the
14 Courts and Alternative method of law library
15 access because a denial will cause irreparable
16 injury suffered and will continue to suffer
17 expense, anxiety and inconvenience for exercising
18 his constitutional rights, The sixth and
19 Eighth and Fourteenth Amendments where a
20 man is on trial for his life he shall not be
21 refused those rights or denied those means
22 of defense

23 DATED This 3rd day of October
24 2016 respectfully Submitted

25 
26 Cesar Sanchez Valmiera
27 #1588390
28

DANIEL LEGAL MATERIALS REQUESTED

- 4 ① Major changes in Nevada Evidence Rule
- 5 ② The Criminal law Handbook for Nevada
- 6 ③ Federal rules of Criminal Procedures vols I & II
- 7 of Whorton ④ Criminal law Procedures
- 8 ⑤ Successful Techniques in the trial of Criminal
- 9 Cases ⑥ Criminal Defense Jury instructions
- 10 (by Harry Ackley Knowles lawbook)
- 11 ⑦ Nevada Civil litigation Manual (by state bar)
- 12 ⑧ The Goerge Town law Journal annual review
- 13 of criminal procedure ⑨ Nevada official Handbook
- 14 of legal forms (published by NALS of SIMS)
- 15 ⑩ Law Dictionary for non lawyers (by Daniel
- 16 ~~ORAN~~ Delmer Publishing Co)
- 17 ⑪ Trial Guidelines for the defense of Criminal
- 18 cases (ALI) ⑫ Nevada Criminal Defense Motions
- 19 forms manual ⑬ Webster Dictionary
- 20 ⑭ Nevada habitual Manual or referenced material (A.L.R.)
- 21 ⑮ Law Thesaurus - Dictionary (by William statzky
- 22 West Publishing) Other Materials:
- 23 ⑯ File holder accordion style clear preferred but
- 24 ⑰ 30 single file folders not required
- 25 ⑱ 50 stamped envelopes
- 26 ⑲ 50 manila envelopes
- 27 ⑳ 2 yellow legal pads and 5 white legal pads
- 28 ㉑ Pen and Pencils (short style only)

DATED THIS 3rd day of October
2016

I Ceasar Sanchez Valencia #1588390,
do Solemnly Swear, Under Penalty of
perjury that the above (aforementioned)
text of Motion right of Access to the
the Courts is accurate, and is
correct to the best of my knowledge.
(NRS 171.102 and NRS 208.165)

respectfully Submitted
~~Ceasar~~

Ceasar Sanchez Valencia
#1588390

330 S Casino Cent Blvd
Las Vegas NV 89102
Defendant, Pro Se

Caesar Sanchez Valencia #1588390

330 Casino Cent Blvd

Las Vegas NV 89101

please return A12 Stamped copy

Legat MAIL

At Dept 2

Clerk of the Court

200 Lewis Av 3rd FL

Las Vegas NV 89155

SENT FROM CCDC

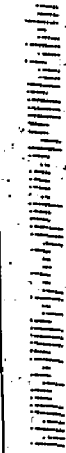
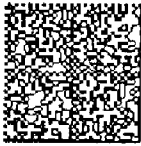


UNITED STATES POSTAGE

02 1P \$001.360

0000830502

MAILED FROM ZIP CODE 89101



OA
PP

Cesar Sanchez Valencia
#1588390
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant, Pro Se

Adam D. Colman
CLERK OF THE COURT

EIGHT JUDICIAL COURT

CLARK COUNTY NEVADA

State of Nevada

Plaintiff

CASE NO G16-31550-1

VS

Dept No 2

Cesar Sanchez Valencia
#1588390
Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 9th day
of September 2016 I placed a true and correct
copy of the following document Defendants
DISCOVERY Motion

in the United States mail with first class
postage prepaid addressed to the following

① District Attorney
PO BOX 552212
200 LEWS AV
Las Vegas NV 89155

② Clerk of the Court
205 TOWNS BLVD
Las Vegas NV 89155

③ Cesar Sanchez Valencia
#1588390
330 S Casino Cent Blvd
Las Vegas NV 89101

Per MRS S3.045 I Declare
under penalty of perjury
that the foregoing is true
and correct.

Cesar Sanchez Valencia #1588390
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant, Pro Se

DA
PP

Cesar Sanchez Valencia
#1588390
330 S Cassino Court Blvd
Las Vegas NV 89001
Defendant, Pro Se

DISTRICT COURT
CLARK COUNTY NEVADA

Alvin L. Johnson
CLERK OF THE COURT

STATE OF NEVADA

Plaintiff

vs

Cesar Sanchez Valencia #1588390

Defendant

Case No. C-16-315580-1

Dept No. 2

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on 3rd day of October 2016 I placed a true and correct copy of the following document Motion for RIGHT OF ACCESS to the Courts

in the United States mail, with first class postage pre-paid, addressed to the following:

① DISTRICT ATTORNEY

PO BOX 552212

200 LEWIS AV

Las Vegas NV 89195-0819

② Clerk of the Court

200 LEWIS AV 3rd FL

Las Vegas NV 89155

③ Philip J KOHN

Public Defenders Office

309 S Third St Suite 226

Las Vegas NV 89155

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

Cesar Sanchez Valencia
Cesar Sanchez Valencia #1588390
330 S Cassino Court Blvd
Las Vegas NV 89001
Defendant, Pro Se

Attn: Classifications pg 1 of 2

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
INMATE REQUEST/GRIEVANCE

Name: (last) <u>Valencia</u> (first) <u>Cesar</u> (middle initial) _____ Floor <u>5</u>				Date <u>9-21-16</u>
<input type="checkbox"/> REQUEST <input checked="" type="checkbox"/> GRIEVANCE		ID Number <u>1588390</u>	Housing Unit <u>A</u> Bed <u>17</u>	Prop Number _____

(All grievances must be submitted within 72 hours of incident.)

on or about August 07 2016 I was moved
from 3-A (to) 5-A. With NO REASON

I never Violated any Rules and have never
Been Written-up? please Explain?

I was informed By officer Rodriguez that
I was moved for being a "Jail House Lawyer"
That is a false accusation 100%

I Even have witnesses inc. officers Bisco,
Officer Carrada, If I was doing "legal work"

it was only for myself! I Represent
myself. may I please get a copy of Report.

9-21-16

Inmate's Signature

Date

Staff Person Receiving

A101295 9/21/16

Issue has been resolved as follows:

ACCORDING TO OFFICERS REPORT, YOU ARE LUCKY YOU
WERE NOT C4B'D AND ONLY REHOUSED. WE DO NOT GIVE COPIES
OF INCIDENT REPORTS.

Signature of employee who resolved the Request/Grievance Problem

Date/Time

9/23/16

ORIGINAL—INMATE FILE

YELLOW—RETURNED TO INMATE WITH RESPONSE

PINK—INMATE KEEPS

PP
Cesar Sanchez Valencia #1588390
330 S. Casino Cent Blvd
Las Vegas NV 89101

DISTRICT COURT
CLARK COUNTY NEVADA

Allen D. Johnson
CLERK OF THE COURT

State of Nevada

Case No. C-16-315580-1

Plaintiff

Dept No

II

vs

Cesar Sanchez Valencia #1588390
Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on 12th day of
December 2016, I placed a true and correct
copy of the following document: MOTION TO
SUPPRESS AND RETURN PROPERTY TO
DEFENDANT. In the United States mail,
with first-class postage pre-paid, addressed to
the following:

① Clerk of the Court
200 Lewis Ave 3rd FL
Las Vegas NV 89155

② District Attorney
P.O. Box 552212
200 Lewis Ave
Las Vegas NV 89195-0814

③ LEE FREEDMAN
General Counsel
Las Vegas Metropolitan Police
Department
400 S. Martin Luther King Blvd
Las Vegas NV 89106

PER NRS 53.045 I declare
under penalty of PERJURY that
the foregoing is true and correct.
[Signature] #1588390
Cesar Sanchez Valencia
330 S. Casino Cent Blvd
Las Vegas NV 89101

Defendant Pro Se

RECEIVED

DEC 28 2016

CLERK OF THE COURT

#53

DA
PP

Caesar Sanchez Valencia #1568390
330 S. Casino Cent Blvd
Las Vegas NV 89101
Defendant Pro Se

DISTRICT COURT
CLARK COUNTY, NEVADA

Alvin D. Lamm
CLERK OF THE COURT

State of Nevada

Plaintiff

VS

Caesar Sanchez Valencia #1568390

Defendant

Case No. C-16-315580-1

Dept No. II

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on 12th day of
December 2016, I placed a true and correct
copy of the following document: MOTION TO
DISMISS COUNSEL AND APPOINT
ALTERIVATE COUNSEL. In the United States mail,
with first-class postage pre-paid, addressed to
the following:

① Clerk of Court
200 Lewis Av Suite
Las Vegas NV 89155

② District Attorney
Room 5522/2
200 Lewis Av
Las Vegas NV 89155-0519

③ Gregory E. Coyer, Esq.
1600 S. Durango Dr Suite 220
Las Vegas NV 89106

④ State Bar of Nevada office
of Bar Counsel
600 E. Charleston Blvd
Las Vegas NV 89104

PER MRS 53.015 I declare under Penalty
OF PERJURY THAT The foregoing
is true and correct

Caesar
Caesar Sanchez Valencia #1568390
330 S. Casino Cent Blvd
Las Vegas NV 89101

RECEIVED

DEC 28 2016

Defendant Pro Se

CLERK OF THE COURT

#53

DA
PP

#1588390
Cesar Sanchez Valencia
330 S. Casino Cent Blvd
Las Vegas NV 89101
Defendant/Pro Se

DISTRICT COURT
CLARK COUNTY NEVADA

Ann L. Lamm
CLERK OF THE COURT

State of Nevada

Case No. C-16-31550-1

Plaintiff

Dept No. II

vs

Cesar Sanchez Valencia #1588390

Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on 12th day of
December 2016, I placed a true and correct copy
of the following document: MOTION FOR RIGHT OF
ACCESS TO THE COURTS. In the United States
mail, with first-class postage pre-paid,
addressed to the following:

① Clerk of the Court
200 Lewis Ave
Las Vegas NV 89155

② District Attorney
PO Box 552212
200 Lewis Ave
Las Vegas NV 89155-0819

③ LIESL FREEDMAN
General Counsel
Las Vegas Metropolitan Police
Department
400 S. MARTIN LUTHER King
Las Vegas NV 89106

④ Gregory E. Cayer Esq.
600 S. Tonopah Ave Suite 220
Las Vegas NV 89106

RECEIVED

DEC 28 2016

CLERK OF THE COURT

#57

PER NRS. 53.045 I declare under
PENALTY OF PERJURY THAT THE
FORGONE IS TRUE AND CORRECT

Cesar Sanchez Valencia #1588390
330 S. Casino Cent Blvd
Las Vegas NV 89101

172 Defendant Pro Se

MC
PA
PP
AOR
Gregory Coyer
Ceasar Sanchez Valencia #1588390
330 S. Casino Cent Blvd
Las Vegas NV 89101

DISTRICT COURT
CLARK COUNTY NEVADA

Allen D. Johnson
CLERK OF THE COURT

3
4 STATE OF NEVADA

5 Plaintiff

6 vs.

7 Ceasar Sanchez Valencia #1588390

8 Defendant

Case no. C-16-315580-1

Dept no. II

9
10 MOTION TO DISMISS COUNSEL

1-19-17 @ 9AM

11 AND

12 APPOINT ALTERNATE COUNSEL

13
14 COMES NOW, the Defendant Ceasar Sanchez
15 Valencia #1588390, and moves this honorable
16 court to DISMISS COUNSEL, Gregory E. Coyer,
17 ESQ., and appoint other COUNSEL to represent
18 Defendant.

19
20 This motion is based upon all papers, pleadings
21 and documents on file. Factual statements are
22 set forth in the POINTS AND AUTHORITIES
23 contained therein.

24 Dated this 12th day of December, 2016.

25 *Cesar*

26 Ceasar Sanchez Valencia #1588390

27 RECEIVED

DEC 22 2016

RECEIVED
DEC 28 2016
CLERK OF THE COURT #5

28 CLERK OF THE COURT

POINTS AND AUTHORITIES

It is respectfully requested of this court to grant this motion to dismiss counsel and appoint other counsel for the reasons listed below:

I. PROCEDURAL BACKGROUND AND FACTUAL SUMMARY

Since Gregory E. Coyer, Esq. was appointed as counsel on August 1st 2016 defendant Cesar Sanchez Valencia #1588390 has been prejudiced and suffered manifest injustice base on counsel's refusal or failure to:

- (1) Counsel's failure to investigate the facts
- (2) failure to call witnesses
- (3) failure to consider the legal defenses
- (4) failure to spend any time in legal research
- (5) file appropriate motions in a timely manner
- (6) denied me legal books
- (7) failed to and denied to subpoena metro records
- (8) Preventing assistance in obtaining or objecting to entitled assistance in parallel forfeiture criminal civil case an ancillary matter which involves my confinement for which I'm being held for and for which involves same facts and evidence in my criminal for which EDUd enforce the terms of a plea agreement

1
2 in the principal criminal charge.

3 (9) Denied legal materials and or legal postage
4 and presenting to court my request for
5 waive indigent charges.
6

7 Guide to Judiciary Policy, Vol 7 Defender
8 Services, part A Guidelines for Administering
9 the CJA and related Statutes, Chapter 2:
10 APPOINTMENT AND PAYMENT OF
11 COUNSEL

12 subsection 20.20.30
13

14 (a) Representation may be furnished for financially
15 eligible persons in "ancillary matters appropriate
16 to the proceedings"

17 (b) In determining whether a matter is ancillary
18 to proceedings, the court should consider whether
19 the matter, or the issues of law or fact in the matter,
20 arose from, or are the same as closely related to,
21 the facts and circumstances surrounding the
22 principal criminal charge.

23 (c) In determining whether representation in an ancillary
24 matter is appropriate to the proceedings, the court
25 should consider whether such representation
26 is reasonably necessary to accomplish, among other
27 things, one of the following objectives:
28

- (1) to protect a Constitutional right;
- (2) to contribute in some significant way to the defense of the principal criminal charge;
- (3) to aid in preparation for the trial or disposition of the principal criminal charge;
- (4) to enforce the terms of a plea agreement in principal criminal charge;

Subsection 210.20.40 Civil Forfeiture Proceedings

(a) Under 18 U.S.C. subsection 983(b)(1), if a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the person is represented by counsel appointed in connection with a related criminal case, the court may authorize counsel that person with respect to the claim.

(b) In determining whether to authorize counsel to represent a person in a judicial civil forfeiture proceeding under civil forfeiture statute, the court must take into account such factors as:
the persons standing to contest the forfeiture; and
whether the claim appears to be made in good faith

20.20.30 Ancillary Matter in part
subsection (e) and (f)

(e) Representation in an ancillary matter is compensable as part of the representation in the principal matter for which counsel has been appointed and is not considered a separate appointment for which a separate compensation maximum would be applicable under subsection 230.23.10(g).

(f) A private attorney appointed under the CJA may obtain through an ex parte application to the court, a preliminary determination that the representation to be provided in an ancillary matter is appropriate to the principal criminal proceeding and compensable under 18 U.S.C. subsection 3006A(c) and this guideline. However, failure to obtain such a preliminary determination does not bar the court from approving compensation related thereto are justified in memorandum submitted by attorney to the court at the conclusion of the principal criminal matter.

210.20.50 subsection in part (c) Prisoners bringing civil rights actions under 42 U.S.C. subsection 1983. Care should be taken to ensure that ensure that a prisoner is not denied the appointment of counsel due to the mislabeling of

the prisoner's action under 28 U.S.C. subsection 2254

However, CAFRA section 2 (106 Pub. L. No. 185, 114 stat. 202, 205) now permits appointment of counsel in civil forfeiture actions in two limited circumstances. First, if an attorney has been appointed to represent a party in a related criminal case, he may petition the court to be appointed to represent the same person in a judicial civil forfeiture matter provided the claimant demonstrates to the court that he has standing to contest the forfeiture is financially unable to obtain retained counsel and claim appears to be in good faith. See 18 USC subsection 983 (b)(1).

Two states have similar provisions, although they are not as restrictive as the federal CAFRA statute. New Mexico permits public defenders to represent clients in civil forfeiture proceedings, see N.M. Code Ann. subsection 31-27-6C(3), and Utah does not limit appointed representation to those charged as criminal defendants. See Utah Code Ann. subsection 24-1-9.

It is professional misconduct for Mr. Cover conduct involving dishonesty, fraud, deceit or misrepresentation of the law.

II. ARGUMENT

Defendant, Ceasar Sanchez Valencia #1588390, asserts he is being denied his right to effective representation due wholly inadequate actions of his court-appointed counsel. Further, counsel's actions constitute a violation of the defendant's due process rights.

Defendant has an unqualified right to legal assistance that expresses loyalty to said defendant.

"The right to counsel is the right [also] to effective assistance of counsel." *Cuyler v. Sullivan*, 100 S.Ct 1708 (1980); and *Frazier v. United States*, 18 F.3d 778 (9th cir. 1994). Thus, the adversarial process protected by the sixth Amendment requires that the accused have "counsel acting in the role of an advocate." *Anders v. California*, 87 S.Ct. 1996 (1967). "if the complete collapse of the attorney-client relationship is evident, a refusal to substitute counsel violates a defendant's Sixth Amendment rights." *Young v. State*, 120 Nev 983 (2004).

WHEREFORE, the undersigned prays that the court grants this motion to dismiss counsel and appoint other counsel for defendant.

1
2 Dated THIS 12th day of December, 2016
3

4 I Ceasar Sanchez Valencia #1588390, do
5 solemnly swear, under the penalty of
6 perjury, that the above MOTION TO DISMISS
7 COUNSEL AND APPOINT ALTERNATE
8 COUNSEL is accurate, correct, and true to the
9 best of my knowledge.

10 NRS 171.102 AND NRS 208.165
11
12

13 Respectfully Submitted
14 

15 Ceasar Sanchez Valencia #1588390
16 330 S. Casino cent Blvd
17 Las Vegas NV 89101
18

19 Defendant Pro Se
20
21
22
23
24
25
26
27
28

Inmate Balance History Report - Simple

Created: 11/17/2016 9:46:39AM

Number: 1588390

Secondary: 1600023857

Location: NT 7A 34 L

Name: VALENCIA, CEASAR SANCIAZ

Transaction	Date	Transaction Amount	Running Balance	Running Owed	Running Other
TOUCHPAY BOOKING DEPOSIT	03/11/2015 04:31:52PM	\$0.00	\$0.00	\$0.00	\$0.00
RELEASE INMATE - NO BALANCE	03/12/2015 11:10:57AM	\$0.00	\$0.00	\$0.00	\$0.00
TOUCHPAY BOOKING DEPOSIT	05/21/2016 10:50:37AM	\$0.00	\$0.00	\$0.00	\$0.00
TOUCHPAY WEB DEPOSIT	05/24/2016 11:15:36PM	\$40.00	\$40.00	\$0.00	\$0.00
ORDER DEBIT	05/26/2016 09:00:25PM	(\$18.45)	\$21.55	\$0.00	\$0.00
ORDER DEBIT	05/29/2016 08:47:49PM	(\$19.17)	\$2.38	\$0.00	\$0.00
ORDER DEBIT	06/02/2016 01:57:57PM	(\$2.37)	\$0.01	\$0.00	\$0.00
INDIGENT CHARGE	06/09/2016 02:26:22PM	(\$2.58)	\$0.00	(\$2.57)	\$0.00
INDIGENT CHARGE	06/16/2016 10:54:19PM	(\$1.29)	\$0.00	(\$3.86)	\$0.00
TOUCHPAY KIOSK DEPOSIT	06/28/2016 12:49:45PM	\$36.05	\$32.19	\$0.00	\$0.00
ORDER DEBIT	06/30/2016 02:35:29PM	(\$18.37)	\$13.82	\$0.00	\$0.00
LEGAL POSTAGE	07/05/2016 08:32:58AM	(\$1.36)	\$12.46	\$0.00	\$0.00
LEGAL COPIES	07/07/2016 10:49:36AM	(\$2.10)	\$10.36	\$0.00	\$0.00
ORDER DEBIT	07/07/2016 09:34:06PM	(\$9.77)	\$0.59	\$0.00	\$0.00
INDIGENT CHARGE	07/10/2016 11:32:02AM	(\$1.29)	\$0.00	(\$0.70)	\$0.00
LEGAL POSTAGE	07/12/2016 08:03:07AM	(\$0.21)	\$0.00	(\$0.91)	\$0.00
LEGAL POSTAGE	07/12/2016 08:03:26AM	(\$1.36)	\$0.00	(\$2.27)	\$0.00
LEGAL POSTAGE	07/12/2016 08:03:42AM	(\$1.15)	\$0.00	(\$3.42)	\$0.00
TOUCHPAY KIOSK DEPOSIT	07/12/2016 12:55:53PM	\$66.05	\$62.63	\$0.00	\$0.00
ORDER DEBIT	07/14/2016 08:55:09PM	(\$12.18)	\$50.45	\$0.00	\$0.00
ORDER DEBIT	07/17/2016 04:32:01PM	(\$1.39)	\$49.06	\$0.00	\$0.00
ORDER DEBIT	07/21/2016 05:36:55PM	(\$10.13)	\$38.93	\$0.00	\$0.00
ORDER DEBIT	07/24/2016 04:15:49PM	(\$5.07)	\$33.86	\$0.00	\$0.00
TOUCHPAY WEB DEPOSIT	07/30/2016 10:10:59AM	\$25.00	\$58.86	\$0.00	\$0.00
ORDER DEBIT	07/31/2016 10:31:45PM	(\$11.42)	\$47.44	\$0.00	\$0.00
LEGAL COPIES	08/04/2016 10:43:11AM	(\$1.50)	\$45.94	\$0.00	\$0.00
ORDER DEBIT	08/04/2016 11:10:10PM	(\$5.28)	\$40.66	\$0.00	\$0.00
ORDER DEBIT	08/07/2016 09:29:55AM	(\$2.67)	\$37.99	\$0.00	\$0.00
CORRESPONDENCE RECORDS CHARGE	08/09/2016 09:01:05AM	(\$0.50)	\$37.49	\$0.00	\$0.00
ORDER DEBIT	08/11/2016 02:24:27PM	(\$10.90)	\$26.59	\$0.00	\$0.00
LEGAL POSTAGE	08/12/2016 07:34:58AM	(\$0.21)	\$26.38	\$0.00	\$0.00
ORDER DEBIT	08/14/2016 02:34:23PM	(\$7.65)	\$18.73	\$0.00	\$0.00
LEGAL POSTAGE	08/15/2016 08:38:33AM	(\$1.36)	\$17.37	\$0.00	\$0.00
LEGAL COPIES	08/16/2016 01:43:29PM	(\$0.90)	\$16.47	\$0.00	\$0.00
ORDER DEBIT	08/18/2016 03:22:25PM	(\$9.83)	\$6.64	\$0.00	\$0.00
ORDER DEBIT	08/21/2016 03:18:18PM	(\$6.46)	\$0.18	\$0.00	\$0.00
TOUCHPAY KIOSK DEPOSIT	08/25/2016 10:16:08AM	\$17.05	\$17.23	\$0.00	\$0.00
ORDER DEBIT	08/25/2016 08:53:37PM	(\$17.17)	\$0.06	\$0.00	\$0.00
INDIGENT CHARGE	08/28/2016 08:46:50PM	(\$5.71)	\$0.00	(\$5.65)	\$0.00
LEGAL POSTAGE	08/30/2016 08:07:14AM	(\$1.78)	\$0.00	(\$7.43)	\$0.00
TOUCHPAY WEB DEPOSIT	09/01/2016 08:33:12PM	\$30.00	\$22.57	\$0.00	\$0.00
ORDER DEBIT	09/01/2016 08:59:05PM	(\$22.57)	\$0.00	\$0.00	\$0.00
LEGAL COPIES	09/07/2016 09:54:18AM	(\$4.20)	\$0.00	(\$4.20)	\$0.00
TOUCHPAY WEB DEPOSIT	09/10/2016 10:04:15AM	\$25.00	\$20.80	\$0.00	\$0.00
ORDER DEBIT	09/11/2016 09:37:45PM	(\$20.15)	\$0.65	\$0.00	\$0.00
LEGAL COPIES	09/19/2016 01:58:05PM	(\$1.05)	\$0.00	(\$0.40)	\$0.00
LEGAL POSTAGE	09/23/2016 08:10:16AM	(\$1.78)	\$0.00	(\$2.18)	\$0.00
LEGAL POSTAGE	10/05/2016 07:46:26AM	(\$1.36)	\$0.00	(\$3.54)	\$0.00
LEGAL COPIES	10/19/2016 01:05:54PM	(\$2.40)	\$0.00	(\$5.94)	\$0.00
TOUCHPAY WEB DEPOSIT	10/21/2016 08:49:23AM	\$30.00	\$24.06	\$0.00	\$0.00
ORDER DEBIT	10/23/2016 08:29:33PM	(\$10.32)	\$13.74	\$0.00	\$0.00
ORDER DEBIT	10/23/2016 09:42:53PM	(\$3.19)	\$10.55	\$0.00	\$0.00
LEGAL POSTAGE	10/26/2016 07:39:32AM	(\$1.36)	\$9.19	\$0.00	\$0.00

Inmate Balance History Report - Simple

Created: 11/17/2016 9:46:39AM

Number: 1588390

Secondary: 1600023857

Location: NT-7A 34 L

Name: VALENCIA, CEASAR SANCHAZ

Transaction	Date	Transaction Amount	Running Balance	Running Owed	Running Other
ORDER DEBIT	10/27/2016 09:10:01AM	(\$4.06)	\$5.13	\$0.00	\$0.00
ORDER DEBIT	10/30/2016 09:04:35AM	(\$4.49)	\$0.64	\$0.00	\$0.00
LEGAL POSTAGE	10/31/2016 08:27:48AM	(\$1.36)	\$0.00	(\$0.72)	\$0.00
INDIGENT CHARGE	11/06/2016 10:04:35PM	(\$1.29)	\$0.00	(\$2.01)	\$0.00
INDIGENT CHARGE	11/10/2016 03:13:11PM	(\$5.71)	\$0.00	(\$7.72)	\$0.00
INDIGENT CHARGE	11/13/2016 10:40:08PM	(\$1.29)	\$0.00	(\$9.01)	\$0.00
ORDER CREDIT	11/14/2016 08:17:13AM	\$1.29	\$0.00	(\$7.72)	\$0.00

Ending Totals:

\$0.00

(\$7.72)

\$0.00

14.20

\$ 50.00

Inmate
Copy

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
INMATE REQUEST/GRIEVANCE

5A

Name: (last) <u>Valencia</u> (first) <u>Pesor</u> (middle initial) _____			Floor <u>3</u>	Date <u>8-9-16</u>
<input checked="" type="checkbox"/> REQUEST <input type="checkbox"/> GRIEVANCE			Housing Unit <u>1A</u>	Bed <u>17</u>
ID Number <u>1588390</u>			Prop Number _____	

(All grievances must be submitted within 72 hours of incident.)

Nevada Rules of Civil Procedure

Rules 3, 8, 9, 10, 17, 18, 19, 20

4, 12

55, 58

EDCR 2.70

do you have an example motions

to set ASide a Default Judgment in civil
& in criminal Motion to produce & preserve
evidence or potential for relevancy

Cerrill

8-9-16 K20 1128 8-9-16

Inmate's Signature

Date

Staff Person Receiving

Date/Time

Issue has been resolved as follows:

DENIED. Inmate refusing to sign
for paperwork.

Signature of employee who resolved the Request/Grievance Problem

Date/Time

ORIGINAL—INMATE FILE

YELLOW—RETURNED TO INMATE WITH RESPONSE

PINK—INMATE KEEPS

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
INMATE REQUEST/GRIEVANCE

SA 8/8

Name: (last) <u>Valencia</u> (first) <u>Cesar</u> (middle initial)			Floor <u>2</u>	Date <u>8-4-16</u>
			Housing Unit <u>2</u>	Bed <u>2</u>
<input checked="" type="checkbox"/> REQUEST <input type="checkbox"/> GRIEVANCE <small>(All grievances must be submitted within 72 hours of incident.)</small>			ID Number <u>1588390</u>	Prop Number

I would like to request these research free of charge

Maryland v Dyson 527 US 465

US v Sperry Johnson 380 F3d 1013

US v Young 573 F3d 711

Whren v US 517 US 806

Arkansas v Sullivan 532 US 769

[Signature]
Inmate's Signature

8-4-16 *[Signature]*
Date Staff Person Receiving

8/5/16
Date/Time

Issue has been resolved as follows: DENIED. Inmate refusing to sign for paperwork.

go 8/15/16
Signature of employee who resolved the Request/Grievance Problem Date/Time

ORIGINAL—INMATE FILE

YELLOW—RETURNED TO INMATE WITH RESPONSE

PINK—INMATE KEEPS

LIB

5A

Date 8-9-16 Housing 3A I.D. # 1588390

Name Valencia Cesar requests the Inmate Library to make photocopies of the legal material below. The fee if any will be deducted from my inmate account.

Inmate's signature: Refused

Officer's signature: Maria 1921

ITEM DESCRIPTION	NUMBER OF PAGES	COPIES PER PAGE	AT \$15 PER PAGE	TOTAL CHARGE
RESEARCH	30	1	30	4.50

Total Charged Account 4.50

There is a charge of 15 (fifteen) cents per page.

MODULE OFFICER to return receipt to INMATE ACCOUNTS after inmate has signed receipt.

The call cases could you please Sheperdize for the 9th circuit

[Signature]
Inmate's Signature

8/16/16
Date

[Signature]
Staff Person Receiving

8-26-16
Date/Time

Issue has been resolved as follows:

pg 30

[Signature]
Signature of employee who resolved the Request/Grievance Problem

8/5/16
Date/Time

ORIGINAL—INMATE FILE

YELLOW—RETURNED TO INMATE WITH RESPONSE

PINK—INMATE KEEPS

LEON

Cesar Sanchez Valencia #1588590

330 S. Casino Cent Blvd

Las Vegas NV 89101

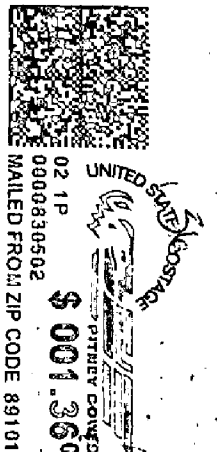
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200 LEWIS AV^{3rd}

Las Vegas NV 89155



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Cesar Sanchez Valencia #1555590

330 S. Casino Cent Blvd

Las Vegas NV 89101

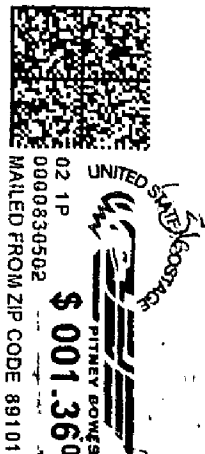
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Gregory
Coyne
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#1588390
Cesar Sanchez Valencia
330 S. Casino Cent Blvd
Las Vegas NV 89101
Defendant Pro Se

DISTRICT COURT
CLARK COUNTY NEVADA

3 State of Nevada

4 Plaintiff

5 VS

6 Cesar Sanchez Valencia
#1588390

7 Defendant

case no.

C-16-315580-1

dept no.

II

Electronically Filed
12/28/2016 10:28:47 AM

Allen B. Blum

CLERK OF THE COURT

11 NOTICE OF MOTION

13 YOU AND EACH OF YOU, will please
14 take notice that the undersigned will
15 bring the foregoing: MOTION TO DISMISS
16 COUNSEL AND APPOINT ALTERNATE
17 COUNSEL, on hearing before
18 the above - entitled court

19 on 19 day of JAN 20 17

20 9AM

m of said date in department 2.

22 DATED this 12th day of December
23 2016.

24 Respectfully Submitted

25 *Cesar Sanchez*
Valencia #1588390
330 S. Casino Cent Blvd
Las Vegas, NV 89101
26 Defendant/Pro Se

27 RECEIVED

28 DEC 28 2016

CLERK OF THE COURT

#53

MC
DA
PP
Ad-
Gregory
Cover
Ceasar Sanchez Valencia #1588390
330 S. Casino Cent Blvd
Las Vegas NV 89101
Defendant-Pro Se

DISTRICT COURT
CLARK COUNTY NEVADA

Alvin D. Blum
CLERK OF THE COURT

State of Nevada

Plaintiff

vs

Ceasar Sanchez Valencia #1588390

Defendant

Case No. C-16-315580-1

Dept No. II

NOTICE OF MOTION

YOU AND EACH OF YOU, will please take
notice that the undersigned will bring the foregoing:
**MOTION TO SUPPRESS AND RETURN PROPERTY
TO DEFENDANT.**

on hearing before the above - entitled court
on ¹⁹ day of JAN 20¹⁷ 9 AM M
of said date in department 2

DATED this 12th day of
December 2016

respectedly Submitted

[Signature]
Ceasar Sanchez Valencia #1588390

330 S. Casino Cent Blvd
Las Vegas NV 89101

Defendant Pro Se

RECEIVED

DEC 28 2016

CLERK OF THE COURT


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
RACHEL O'HALLORAN
Deputy District Attorney
Nevada Bar #012840
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-

CEASAR SANCHAZ VALENCIA,
#1588390

Defendant.

CASE NO: C-16-315580-1

DEPT NO: II

NOTICE OF WITNESSES
[NRS 174.234(1)(a)]

TO: CEASAR SANCHAZ VALENCIA, Defendant; and
TO: GREGORY E. COYER, ESQ., Counsel of Record:
YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses in its case in chief:

***Denotes Additional Witnesses**

NAME

ADDRESS

*ALTNETHER, J.

LVMPD P#14211

*BITSKO, J.

LVMPD P#6928

*BODDIE, C.

LVMPD P#8914

*BONNER, T.

LVMPD P#14029

*BROOKS, D.

LVMPD P#7947

*BROWN, R.

LVMPD P#10013

1	*BUTLER, D.	LVMPD P#6264
2	BRYANT, K.	LVMPD P#7773
3	*CARRILLO, S.	LVMPD P#7165
4	CUSTODIAN OF RECORDS	CCDC
5	CUSTODIAN OF RECORDS	LVMPD/COMMUNICATIONS
6	CUSTODIAN OF RECORDS	LVMPD/RECORDS
7	*CUSTODIAN OF RECORDS	T-MOBILE
8	*DELVILLAR, S.	LVMPD P#14851
9	*FINKE, N.	LVMPD P#8394
10	*GARCIA, C.	LVMPD P#13130
11	*GOLLMER, J.	LVMPD P#13429
12	GOODRICH, A.	LVMPD P#9198
13	*HAFEN, C.	LVMPD P#15073
14	*HARRIS, NICHOLAS	ADDRESS UNKNOWN
15	*HARTMAN, B.	LVMPD P#7053
16	*HOCKING, M.	LVMPD P#13346
17	HOFFMAN, J.	LVMPD P#9001
18	HOUSTON, C.	LVMPD P#13249
19	JACOBITZ, J.	LVMPD P#9383
20	*JANECEK, E.	LVMPD P#10026
21	*JOTZ, C.	LVMPD P#5608
22	*JURCEVIC, K.	LVMPD P#14718
23	*KEEN, J.	LVMPD P#14455
24	*KELLER, A.	LVMPD P#8796
25	KLOSTERMAN, O.	LVMPD P#1317
26	LEFEBVRE, N.	LVMPD P#8383
27	*LINDBERG, E.	LVMPD P#14824
28	*MAY, C.	LVMPD P#9288

1	*MILEWSKI, D.	LVMPD P#9678
2	*NASTASE, S.	LVMPD P#8781
3	*OCONNER, M.	LVMPD P#12890
4	*OVERSON, C.	LVMPD P#6035
5	*PARQUETTE, C.	LVMPD P#13937
6	*PEREZ, A.	LVMPD P#8392
7	*QUINTANA, J.	LVMPD P#13337
8	*ROBERTS, N.	LVMPD P#6644
9	*ROMPREY, S.	LVMPD P#7062
10	*SAHOTA, E.	LVMPD P#9932
11	*SALAZAR, S.	LVMPD P#13350
12	*SCHUMMER, D.	LVMPD P#7457
13	SHAMIRZA, ALFRED or designee	CCDA INVESTIGATOR 200 LEWIS AVE 9TH FLR LV NV 89155
14		
15	*SKENANDORE, S.	LVMPD P#13341
16	*SWARTZ, T.	LVMPD P#13142
17	*TAYLOR, A.	LVMPD P#9878
18	*VALLAD, J.	LVMPD P#12961
19	*VIGIL, C.	LVMPD P#14100
20	WHITMARSH, B.	LVMPD P35645
21	*WILLIAMS, S.	LVMPD P#13596
22	*WOOD, R.	LVMPD P#5266
23	///	
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1 These witnesses are in addition to those witnesses endorsed on the Information or
2 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
3 Witnesses has been filed.

4 STEVEN B. WOLFSON
5 DISTRICT ATTORNEY
6 Nevada Bar #001565

7 BY *R. SW 9182 for*
8 RACHEL O'HALLORAN
9 Deputy District Attorney
10 Nevada Bar #012840

11 CERTIFICATE OF FACSIMILE TRANSMISSION

12 I hereby certify that service of NOTICE OF WITNESSES was made this 10th day
13 of January, 2017, by facsimile transmission to:

14 GREGORY E. COYER, ESQ.
15 ATTORNEY FOR DEFENDANT
16 FAX#702-802-3157

17 BY: *P. Manis*
18 P. Manis
19 Secretary for the District Attorney's Office
20
21
22
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28 pm/L-2



[Handwritten signature]

**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3RD FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Brandi J. Wendel
Court Division Administrator

January 26, 2017

Attorney: Gregory E. Coyer
Coyer Law Office
Attn: Gregory E Coyer
600 S Tonopah Drive - Suite 220
Las Vegas NV 89106

Case Number: C-16-315580-1
Department: Department 2

Defendant: Ceasar Sanchaz Valencia

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70. Also included are the Case Summary and Minutes for A-16-738293-C.

Pleadings: **Subpoena For Production Of Documentary Evidence And Of Objects, Notice Of Motion & Certificate Of Mailing**

Rule 3.70. Papers which May Not be Filed

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,
DC Criminal Desk # 18

C-16-315580-1
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CLERK OF THE COURT

JAN 23 2017

RECEIVED




Deputy Clerk of the Court

case# C-16-315580

To the clerk of the court

I would like to request assistance with filing of this motion Subpoena please fill in the specifics and please forward copies to all parties involved please return file stamped copy thank you for your time and consideration

respectfully submitted

Cesar Sanchez Valenzuela
330 S casino-cent Blvd
Las Vegas NV 89101

I would also like to request the register of actions or court minutes for case# A-16-738293-C

I would like to request information how to file a motion for justice court and request minutes for my Domestic violence charge
Thank you

RECEIVED

JAN 20 2017

CLERK OF THE COURT

Cesar Sanchez Valencia #1588390
3305 Casino cent Blvd
Las Vegas NV 89101

DISTRICT COURT
CLARK COUNTY NEVADA

Defendant Pro Se

State of Nevada

Plaintiff

vs

Cesar Sanchez Valencia #1588390

Defendant

Case No. C-16-35580-1

Dept No. II

Subpoena for production of documentary
Evidence and of Objects.

Comes now, Cesar Sanchez Valencia #1588390,
one of the Defendants above-named, for itself
and for no other person or persons Pro Se,
and respectfully moves this Honorable Court for
an Order Subpoena for production of documentary
evidence and of objects to include dashcam and
all bodycam video footage pursuant to and accordance
with NRS 174.335 based upon the following: This Motion
is made and based upon all of the Pleadings, papers and records
on file herein, the Points and Authorities in Support of
this Motion, which are filed here with. It is respectfully
requested of this court to grant this Motion

RECEIVED

JAN 20 2017

CLERK OF THE COURT

Dated January 2, 2017

respectfully submitted
Call

Cesar Sanchez Valencia #1588390
Defendant Pro Se

Points And Authorities

NRS 174.335: Subpoena for production of documentary evidence and of objects:

① Except as otherwise provided in NRS 172.139, a subpoena may also command the person to whom it is directed to produce the books, papers, documents or other objects designated therein.

② The court on motion made promptly may quash or modify the subpoena if compliance would be unreasonable or oppressive.

③ The court may direct that books, papers or objects designated there in the Subpoena be produced before the court at a time before the court at a time before trial or before the time when they are to be offered in evidence and may, upon their production permit the books, papers, documents or objects or portions thereof to be inspected by the parties and their attorneys.

-UPON motion of defendant the court may order Subpoena to Custodian of records one of Named of witnesses known to the District Attorneys office. Defendant request a Subpoena for production of documentary evidence and other objects within the custody or control of Custodian of records: LVMPD/ Communications and LVMPD/Records. Documents or papers and other objects thereof within the possession, custody or control to be reveal, produce and permit the defendant to inspect and copy all information relevant and material favorable to a defense of this cause (including all books, papers, records, documents and objects and all facts or information of whatever source or form in possession of, or known to the Plaintiff or any of its agents) which material and information are or may become of benefit to the defendant either on the merits of the case. Further, defendant request the Court to enter an Order requiring the Custodian of records to furnish defendant with ^① a list of witnesses known to the Plaintiff to have knowledge of this Cause favorable to the defense and copy of the Statement of any such witness; ^② a list of persons interviewed by the Plaintiff relating to this case but who not be called as witnesses by the Plaintiff.

③ All documents relating to the investigation of this case or of this defendant which will not be introduced into evidence by the plaintiff and
④ a list of all former or present agents of plaintiff who have participated to any extent in the investigation and prosecution of this case who will not be called as plaintiff's witnesses. ⑤ Copies of All video or audio recording of any form collected by investigating officers ⑥ All photographs or any other agent of the State during the course of the investigation, the event numbers are in connection or relevant to this case along with all warrants to be included

⑦ event 160519-3387 and 463 EV #160520-4272 and 151102-0849

Defendant states that said inspection information and statements are necessary for the preparation of his defense and for the defendant to obtain a fair trial under Federal rule of Criminal Procedure 17 and defendant's Sixth Amendment right to compulsory process and Fifth Amendment right not to be subject to disabilities because of his financial status, necessity under the rule "relevant, material and useful for an adequate defense, and Constitutional due process of law.

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6 Dated This 2nd day of January 2017

7
8 I, Ceasar Sanchez Valencia #1588390
9 do solemnly swear, under the penalty
10 of perjury, that the above Subpoena
11 is accurate, correct, and true to the
12 best of my knowledge.

13
14 NRS 171.102 and NRS 208.165

15
16
17 Respectfully Submitted,
18 ~~Cesar Sanchez Valencia~~ #1588390
19 Cesar Sanchez Valencia
20 330 S casino cent Blvd
21 Las Vegas NV 89101

22
23 Defendant/Pro Se
24
25
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#1588390

Cesar Sanchez Valencia
330 S casino cent Blvd
Las Vegas NV 89101

Defendant ProSe

DISTRICT COURT
CLARK COUNTY NEVADA

State of Nevada

Plaintiff

VS

Cesar Sanchez Valencia #1588390

Defendant

Case No.

C-16-315580-1

Dept No.

II

NOTICE OF MOTION

YOU AND EACH OF YOU, will please take
notice that the undersigned will bring the foregoing:
SUBPOENA FOR PRODUCTION OF
DOCUMENTARY EVIDENCE AND
OBJECTS

on hearing before the above-entitled court
on day of 2017 M
of said date in Department 2.

Dated January 2 2017.

respectfully Submitted

~~Cesar Sanchez Valencia~~ #1588390

Cesar Sanchez Valencia
330 S casino cent Blvd
Las Vegas NV 89101

RECEIVED

JAN 20 2017

CLERK OF THE COURT

203 Defendant ProSe

#1588390

Cesar Sanchez Valencia
330 S Casino Cent Blvd
Las Vegas NV 89101
~~Defendant Pro Se~~

DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada

Plaintiff

vs

Cesar Sanchez Valencia #1588390

Defendant

Case No. C-16-315580-1

Dept No. II

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on 2nd day of January
2017, I placed a true and correct copy of the following
document: SUBPOENA FOR PRODUCTION OF
DOCUMENTARY EVIDENCE AND OBJECTS.

In the United States mail, with first-class postage
pre-paid addressed to the following:

① CLERK OF THE COURT
200 Lewis Av 2nd Fl
Las Vegas NV 89155

② DISTRICT Attorney
PO BOX 552212
200 Lewis Av
Las Vegas NV 89195-0819

③ LVMPD/RECORDS
400 S Martin Luther King Blvd
Las Vegas NV 89106

④ LVMPD/Communications
400 S Martin Luther King Blvd
Las Vegas NV 89106

PER NRS 53.045 I Declare
under Penalty of Perjury
that the foregoing is true and
CORRECT to my knowledge
Cesar Sanchez Valencia #1588390
Cesar Sanchez Valencia
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant Pro Se

RECEIVED

JAN 20 2017

CLERK OF THE COURT

Caesar Sanchez Valencia #FS88320
330 S Casino Cent Blvd
Las Vegas NV 89101

205

LEGAL
LEGAL

LEGAL

51.15



Clerk of The Court
200 Lewis Av 3rd FL
Las Vegas NV 89155



SENT FROM CCDC

#1588390

PP
DA1

Cesar Sanchez Valencia
330 S casino cent Blvd
Las Vegas NV 89101
Defendant Prose

DISTRICT COURT
CLARK COUNTY NEVADA

Allen D. Johnson
CLERK OF THE COURT

State of Nevada

Plaintiff

VS

Cesar Sanchez Valencia #1588390
Defendant

Case No. C-16-315580-1

Dept No. II

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on 19th day of
January 2017. I placed a true and correct copy
of the following document: MOTION FOR RIGHT
OF ACCESS TO THE COURTS. In the
United States mail, with first-class postage
pre-paid, addressed to the following:

① Clerk of the court
200 Lewis Ave 3rd fl
Las Vegas NV 89155

② District Attorney
P.O. Box 552212
200 Lewis Ave
Las Vegas NV 89155-0212

③ Clark County Detention Center
330 S casino cent Blvd
Las Vegas NV 89101

④ LEL Freedman
General Counsel
400 S Martin Luther King
Las Vegas NV 89106

Per NRS 53.045 I declare under
penalty of perjury that the foregoing
is true and correct

Cesar Sanchez Valencia
330 S casino cent Blvd
Las Vegas NV 89101
Defendant Prose

CLERK OF THE COURT

RECEIVED
FEB 03 2017
48

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

INMATE MONEY RELEASE

07/05/16 07:39 DSD BUSINESS OFC

Date:

July 1 2016

Housing Unit:

3 A 9

1588390

ID#:

1588390

I, Cesar
hereby authorize Detention Services Division to release

\$

1.36

of my funds (or less if account balance is

insufficient) to:

postage Due

(Name of Recipient)

ALL MONEY RELEASES ARE SUBJECT TO A 24-HOUR HOLD

Signature of Inmate

Date:

7-1-16

Witnessed by DSD Agent

P#:

8227

Date:

7/1/16

BELOW TO BE COMPLETED BY DSD AGENT RELEASING FUNDS

Check # (Business Office Only)

Business Office Employee

Date

Check Recipient's Signature

14510

Identification Used

M: Court Clerk, RIC

DSD Agent Releasing Funds

JUL 05 2016

P#:

Date:

LVMPD DSD 63 (Rev. 1/04) - AUTOMATED/WP12 DISTRIBUTION: BUSINESS OFFICE, CUSTODY FOLDER, AND PERSON RECEIVING MONEY

Date 6/29/16 Housing 3A-9 I.D. # 1588390

Name VALENZUELA, CESAR requests the Inmate Library to make photocopies of the legal material below. The fee if any will be deducted from my inmate account.

Inmate's signature CM Officer's signature Garza P#1160

ITEM DESCRIPTION	NUMBER OF PAGES	COPIES PER PAGE	AT \$0.15 PER PAGE	TOTAL CHARGE
RESEARCH	14	1	14	2.10

Total Charged Account 2.10

There is a charge of 15 (fifteen) cents per page.

MODULE OFFICER to return receipt to INMATE ACCOUNTS after inmate has signed receipt.

8068

JUL 07 2016

119
Lecor Sanchez Maria #1588390
330 Casino Cent. Blvd
Las Vegas NV 89101

Clerk of the Court
200 Lewis W 3rd Fl-
Las Vegas NV 89155

#1588390

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Cesar Sanchez Valencia
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant/Pro Se

DISTRICT COURT
CLARK COUNTY NEVADA

Allen D. Blum
CLERK OF THE COURT

State of Nevada

Case No. C-16-315580-1

Plaintiff

Case No. II

VS

Cesar Sanchez Valencia #1588390

Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on 19th day
of January, 2017, I placed a true and correct
copy of the following document: MOTION
TO DISMISS COUNSEL AND APPOINT
ALTERNATE COUNSEL. In the United States
Mail, with first-class postage pre-paid
addressed to the following:

① Clerk of the Court
200 Lewis Ave 3rd Fl
Las Vegas NV 89105

② District Attorney
Robert S. S. 2212
200 Lewis Ave
Las Vegas NV 89105-0819

③ Gregory Coyer Esq
1600 S Torrey Pines Dr Suite 220
Las Vegas NV 89106

Re NRS 53.045 I declare
under penalty of perjury
that the foregoing is true
and correct.
Cesar Sanchez Valencia
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant Pro Se

RECEIVED

FEB 03 2017

CLERK OF THE COURT

MC
DA
PP

Cesar Sanchez Valencia #1588390
330 S Casino Cent Blvd
Las Vegas NV 89101
Defendant Pro Se

DISTRICT COURT
CLARK COUNTY NEVADA

Alan D. Blum
CLERK OF THE COURT

AUR-
Gregory
Coyne

State of Nevada

Main Hall

Case No. C-10-315580-1

Dept No. II

VS

Cesar Sanchez Valencia #1588390

Defendant

DATE: 02/28/17

TIME: 9:00 AM

NOTICE OF MOTION

YOU AND EACH OF YOU, will please take notice
that the undersigned will bring the foregoing:
MOTION FOR RIGHT OF ACCESS TO THE
COURTS

on hearing before the above-entitled court
on _____ day of _____ 2017. -M
of said date in department 2.

Dated this 19th day
of January 2017

respectfully submitted

Cesar Sanchez Valencia #1588390
Cesar Sanchez Valencia
330 S Casino Cent.
Las Vegas NV 89101
Defendant Pro Se

CLERK OF THE COURT

RECEIVED
FEB 03 2017

212

(Signature)

#1588390

MC

DA

PP

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Cesar Sanchez Valencia
330 S casino cent Blvd
Las Vegas NV 89101
Defendant Pro Se

DISTRICT COURT
CLARK COUNTY NEVADA

Allen D. Quinn
CLERK OF THE COURT

State of Nevada

Plaintiff

Case No. C-16-35580-1

Dept No. II

vs
Cesar Sanchez Valencia #1588390

Defendant

DATE: 02/28/2017

TIME: 9:00 AM

NOTICE OF MOTION

YOU AND EACH OF YOU, will please take notice
that the undersigned will bring the foregoing:
MOTION TO DISMISS COUNSEL AND
APPOINT ALTERNATE COUNSEL.

on hearing before the above-entitled
court on _____ day of _____ 2017
in of said date in Department 2.

Dated this 19th day
of January 2017

respectfully Submitted
Cesar Sanchez Valencia
#1588390
Cesar Sanchez Valencia
330 S casino cent Blvd
Las Vegas NV 89101
Defendant / Pro Se

RECEIVED

JAN 27 2017

CLERK OF THE COURT


CLERK OF THE COURT

SLOW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #13476
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-

CASE NO: C-16-315580-1

CEASAR SANCHAZ VALENCIA,
#1588390

DEPT NO: II

Defendant.

SUPPLEMENTAL
NOTICE OF WITNESSES
[NRS 174.234(1)(a)]

TO: CEASAR SANCHAZ VALENCIA, Defendant; and
TO: GREGORY E. COYER, ESQ., Counsel of Record:
YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses in its case in chief:

***Denotes Additional Witnesses**

<u>NAME</u>	<u>ADDRESS</u>
ALTNETHER, J.	LVMPD P#14211
BITSKO, J.	LVMPD P#6928
BODDIE, C.	LVMPD P#8914
BONNER, T.	LVMPD P#14029
BROOKS, D.	LVMPD P#7947
BROWN, R.	LVMPD P#10013

1	BUTLER, D.	LVMPD P#6264
2	BRYANT, K.	LVMPD P#7773
3	CARRILLO, S.	LVMPD P#7165
4	CUSTODIAN OF RECORDS	CCDC
5	CUSTODIAN OF RECORDS	LVMPD/COMMUNICATIONS
6	CUSTODIAN OF RECORDS	LVMPD/RECORDS
7	CUSTODIAN OF RECORDS	T-MOBILE
8	DELVILLAR, S.	LVMPD P#14851
9	FINKE, N.	LVMPD P#8394
10	GARCIA, C.	LVMPD P#13130
11	*GILBERT, ERIC	2751 E. BONANZA, #21F, LV, NV
12	GOLLMER, J.	LVMPD P#13429
13	GOODRICH, A.	LVMPD P#9198
14	HAFEN, C.	LVMPD P#15073
15	HARRIS, NICHOLAS	ADDRESS UNKNOWN
16	HARTMAN, B.	LVMPD P#7053
17	HOCKING, M.	LVMPD P#13346
18	HOFFMAN, J.	LVMPD P#9001
19	HOUSTON, C.	LVMPD P#13249
20	JACOBITZ, J.	LVMPD P#9383
21	JANECEK, E.	LVMPD P#10026
22	JOTZ, C.	LVMPD P#5608
23	JURCEVIC, K.	LVMPD P#14718
24	KEEN, J.	LVMPD P#14455
25	KELLER, A.	LVMPD P#8796
26	KLOSTERMAN, O.	LVMPD P#1317
27	LEFEBVRE, N.	LVMPD P#8383
28	LINDBERG, E.	LVMPD P#14824

1	MAY, C.	LVMPD P#9288
2	MILEWSKI, D.	LVMPD P#9678
3	NASTASE, S.	LVMPD P#8781
4	OCONNER, M.	LVMPD P#12890
5	OVERSON, C.	LVMPD P#6035
6	PARQUETTE, C.	LVMPD P#13937
7	PEREZ, A.	LVMPD P#8392
8	QUINTANA, J.	LVMPD P#13337
9	*RIVERA, ANIBAL	UNKNOWN
10	ROBERTS, N.	LVMPD P#6644
11	ROMPREY, S.	LVMPD P#7062
12	SAHOTA, E.	LVMPD P#9932
13	SALAZAR, S.	LVMPD P#13350
14	SCHUMMER, D.	LVMPD P#7457
15	SHAMIRZA, ALFRED or designee	CCDA INVESTIGATOR 200 LEWIS AVE 9TH FLR LV NV 89155
16		
17	SKENANDORE, S.	LVMPD P#13341
18	SWARTZ, T.	LVMPD P#13142
19	TAYLOR, A.	LVMPD P#9878
20	VALLAD, J.	LVMPD P#12961
21	VIGIL, C.	LVMPD P#14100
22	WHITMARSH, B.	LVMPD P35645
23	WILLIAMS, S.	LVMPD P#13596
24	WOOD, R.	LVMPD P#5266
25	///	
26	///	
27	///	
28	///	

1 These witnesses are in addition to those witnesses endorsed on the Information or
2 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
3 Witnesses has been filed.

4 STEVEN B. WOLFSON
5 DISTRICT ATTORNEY
6 Nevada Bar #001565

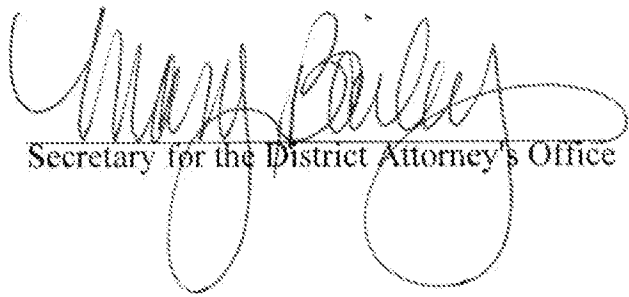
7 BY


8 MICHAEL R. DICKERSON
9 Deputy District Attorney
10 Nevada Bar #13476

11 **CERTIFICATE OF ELECTRONIC FILING**

12 I hereby certify that service of SUPPLEMENTAL NOTICE OF WITNESSES, was
13 made this 3rd day of February, 2017, by Electronic Filing to:

14 GREGORY COYER, ESQ.
15 EMAIL: gcoyer@coyerlaw.com

16 
17 Secretary for the District Attorney's Office
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28 16F08334X/mlb/L-2


CLERK OF THE COURT

1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL R. DICKERSON
6 Deputy District Attorney
7 Nevada Bar #13476
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-16-315580-1

12 CEASAR SANCHAZ VALENCIA,
13 #1588390

DEPT NO: II

14 Defendant.

15 **NOTICE OF INTENT TO SEEK PUNISHMENT AS**
16 **A HABITUAL CRIMINAL**

17 TO: CEASAR SANCHAZ VALENCIA, Defendant; and

18 TO: GREGORY COYER, ESQ., Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
20 207.010, the STATE OF NEVADA will seek punishment of Defendant CEASAR SANCHAZ
21 VALENCIA, as a habitual criminal in the event of a felony conviction in the above-entitled
22 action.

23 That in the event of a felony conviction in the above-entitled action, the STATE OF
24 NEVADA will ask the court to sentence Defendant CEASAR SANCHAZ VALENCIA as a
25 habitual criminal based upon the following felony convictions, to-wit:

26 1. That on or about 1999, the Defendant was convicted in the State of
27 California, for the crime of Possession of Narcotic Controlled Substance (felony) in 95460.

28 ///

1 2. That on or about 1999, the Defendant was convicted in the State of
2 California, for the crime of Carry Concealed Weapon in Vehicle (felony) in 93957.

3 3. That on or about 1999, the Defendant was convicted in the State of
4 California, for the crime of Possession of Controlled Substance (felony) in MF004462A.

5 4. That on or about 2002, the Defendant was convicted in the State of
6 Nevada, for the crime of Possession of Controlled Substance with Intent to Sell (felony) in
7 C180810.

8 5. That on or about 2002, the Defendant was convicted in the State of
9 Nevada, for the crime of Conspiracy to Commit Possession of Controlled Substance (felony)
10 in C188270.

11 6. That on or about 2006, the Defendant was convicted in the State of
12 Nevada, for the crime of Burglary (felony) in C223991.

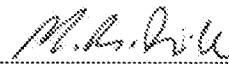
13 7. That on or about 2006, the Defendant was convicted in the State of
14 Nevada, for the crime of Possession of Stolen Vehicle (felony) in C223991.

15 8. That on or about 2006, the Defendant was convicted in the State of
16 Nevada, for the crime of Unlawful Possession of Electronic Stun Gun (felony) in C223991.

17 9. That on or about 2006, the Defendant was convicted in the State of
18 Nevada, for the crime of Possession of Stolen Vehicle (felony) in C224588.

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

22 BY


MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #13476

24 ///

25 ///

26 ///

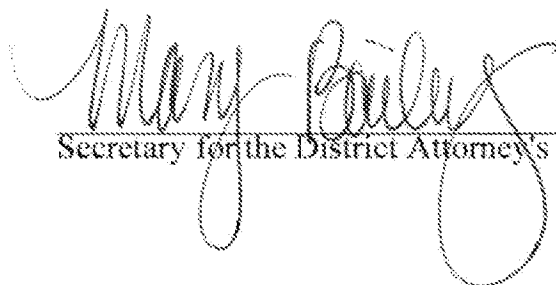
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1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of NOTICE OF INTENT TO SEEK PUNISHMENT AS
3 A HABITUAL CRIMINAL, was made this 3rd day of February, 2017, by Electronic Filing
4 to:

5 GREGORY COYER, ESQ.
6 EMAIL: gcoyer@coyerlaw.com

7 
8 Secretary for the District Attorney's Office

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28 16F08334X/mlb/L-2



1 MOT
2 GREGORY E. COYER, ESQ.
3 Nevada Bar No. 10013
4 **COYER LAW OFFICE**
5 600 S. Tonopah Dr., Suite 220
6 Las Vegas, Nevada 89106
7 Telephone: 702.802.3088
8 Facsimile: 702.802.3157
9 E-mail: gcoyer@coyerlaw.com
10 Attorney for Defendant

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
v.
CEASAR VALENCIA,
Defendant.

Case No.: C-16-315580-1
Dept. No.: II
Hearing Date: June 20, 2017
Time: 9:00 a.m.

HEARING REQUIRED

DATE: 6/20/17
TIME: 9:00 AM

MOTION TO CONTINUE TRIAL

COMES NOW, the Defendant, CEASAR VALENCIA, by and through his attorney, GREGORY E. COYER, and moves this Honorable Court to vacate the trial currently scheduled for June 26, 2017, and reset the trial at a time convenient for both the Court and the parties.

This Motion is based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and any information provided to the Court at the time set for hearing this motion.

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DECLARATION IN SUPPORT OF MOTION TO CONTINUE

GREGORY E. COYER makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Attorney appointed to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

2. That the defendant waived his right to a 60-day trial on July 19, 2016.

3. That the defendant currently has a trial date of June 26, 2017.

4. That this declarant is currently scheduled to attend the Nevada State Bar Annual Meeting from June 29 to July 1, 2017 in Austin, Texas.

5. That this declarant will be leaving town mid-day on June 28, 2017.

6. That this declarant believes, in good faith, that it will not be possible to have the defendant's trial completed by June 28, 2017, thereby necessitating a continuance of the instant matter.

7. That this request is made in good faith and is not made for the purposes of undue delay.

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

EXECUTED this 13th day of June, 2017.

/s/ Gregory E. Coyer
GREGORY E. COYER

MEMORANDUM OF POINTS AND AUTHORITIES

E.D.C.R. 7.30 provides that any party may, for good cause, move the Court for an order continuing the date set for trial. For the reasons set forth in the motion and declaration, counsel for the defendant hereby respectfully requests that this Court vacate the trial currently scheduled for June 26, 2017, and reset the trial at a time convenient for the Court and the parties. The undersigned counsel has provided a copy of the instant motion to the above-named defendant.

DATED this 13th day of June, 2017.

COYER LAW OFFICE

/s/ Gregory E. Coyer
GREGORY E. COYER, ESQ.
Nevada Bar No. 10013
600 S. Tonopah Dr., Suite 220
Las Vegas, Nevada 89106

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion To Continue Trial will be heard on the 20th day of June, 2017, at 9:00 a.m. in the Eight Judicial District Court, Department No. II.

DATED this 13th day of June, 2017.

COYER LAW OFFICE

/s/ Gregory E. Coyer
GREGORY E. COYER, ESQ.
Nevada Bar No. 10013
600 S. Tonopah Dr., Suite 220
Las Vegas, Nevada 89106

CERTIFICATE OF EMAIL

I hereby certify that service of the above and forgoing was made this 13th day of
June, 2017, by email to:

CLARK COUNTY DISTRICT ATTORNEY

Email: PDMotions@clarkcountyda.com

By /s/ Gregory Coyer



ORDR
GREGORY E. COYER, ESQ.
Nevada Bar No. 10013
COYER LAW OFFICE
600 S Tonopah Dr., Suite 220
Las Vegas, Nevada 89106
Telephone: 702.802.3088
Facsimile: 702.802.3157
Email: gcoyer@coyerlaw.com

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

CEASAR SANCHEZ VALENCIA,
#1588390,

Defendant.

Case No.: C-16-315580-1

Dept. No.: II


ORDER


ORDER TO CLARK COUNTY DETENTION CENTER TO REIMBURSE CHARGES
INCURRED DURING DEFENDANT'S SELF-REPRESENTATION

THIS MATTER, having been submitted to the Court in an Ex Parte Application, this Court having reviewed the charges at issue, and good cause appearing therefor;

IT IS HEREBY ORDERED, that the Clark County Detention Center shall reimburse the Defendant twenty-nine dollars and twenty-nine cents (\$29.29) in indigent charges, legal postage, and legal copies, which incurred during the time period when the Defendant was exercising his constitutional right to self-representation.

DATED this 14th day of June, 2017.


The Honorable Richard Scotti
District Court Judge, Dept. II

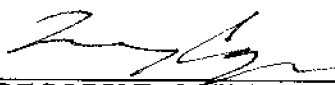

JUN 14 2017

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Submitted by:

COYER LAW OFFICE



GREGORY E. COYER, ESQ.
Nevada Bar No. 10013
600 S. Tonopah Dr., Suite 220
Las Vegas, Nevada 89106

ORIGINAL

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
CHAD LEXIS
Deputy District Attorney
Nevada Bar #010391
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

NOV 27 2017

BY, 
ALAN PAUL CASTLE, SR, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CEASAR SANCHAZ VALENCIA,
#1588390
Defendant.

CASE NO: C-16-315580-1

DEPT NO: XVIII

SECOND AMENDED
INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That CEASAR SANCHAZ VALENCIA, the Defendant(s) above named, having committed the crimes of **ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50205); TRAFFICKING IN CONTROLLED SUBSTANCE (Category B Felony - NRS 453.3385.1 - NOC 51156); and POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony - NRS 453.336 - NOC 51127)**, on or about the 19th day of May, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

//

//

C-16-315580-1
AINF
Amended Information
4700792



W:\2016\2016F\083\34\16F08334-AINF-(VALENCIA_CEASAR)-002.DOCX

1 COUNT 1 - ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY
2 WEAPON

3 did willfully, unlawfully, feloniously and intentionally place another person in
4 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully
5 attempt to use physical force against another person, to-wit: J. JACOBITZ, a protected person
6 employed as a Police Officer with Las Vegas Metropolitan Police Department, while J.
7 JACOBITZ was performing his duties as a Police Officer with Las Vegas Metropolitan Police
8 Department, which Defendant knew, or should have known, that J. JACOBITZ was a Police
9 Officer with Las Vegas Metropolitan Police Department, with use of a deadly weapon, to-wit:
10 a firearm, by pointing said firearm at the said Officer J. JACOBITZ.

11 COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

12 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
13 actually or constructively, 4 grams or more, but less than 14 grams, to-wit: approximately 11.8
14 grams of Heroin, or any mixture of substance consisting of approximately 11.8 grams
15 containing the controlled substance Heroin.

16 COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE


17 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
18 controlled substance, to-wit: Cocaine.

19 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE

20 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
21 controlled substance, to-wit: Methamphetamine.

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

25 BY


26 CHAD LEXIS
27 Deputy District Attorney
28 Nevada Bar #010391

//

//

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

<u>NAME</u>	<u>ADDRESS</u>
BARLOW, DAWN or designee	CCDA/INVESTIGATOR 200 LEWIS AVE 9TH FLR LV NV 89155
BRYANT, K.	LVMPD P#7773
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD/COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD/RECORDS
GOODRICH, A.	LVMPD P#9198
HOFFMAN, J.	LVMPD P#9001
HOUSTON, C.	LVMPD P#13249
JACOBITZ, J.	LVMPD P#9383
KLOSTERMAN, O.	LVMPD P#1317
LEFEBVRE, N.	LVMPD P#8383
WHITMARSH, B.	LVMPD P35645

16F08334X/pm/L-2/ckb
LVMPD EV#1605193387
(TK8)

NOV 28 2017

BY, Alan Paul Castle, Sr.
ALAN PAUL CASTLE, SR, DEPUTY

JURL

DISTRICT COURT

CLARK COUNTY, NEVADA

State of Nevada
vs
Ceasar Valencia

CASE NO.: C-16-315580-1

DEPARTMENT 18

JURY LIST

- | | |
|---------------------|---------------------|
| 1. ANNA DUNEGAN | 8. SONYA JOHNSON |
| 2. KIMBERLY WASDEN | 9. SHARON IACONI |
| 3. WESLEY LAYNE | 10. LETICIA MORALES |
| 4. JENNIFER FIGHERA | 11. SHAWNA PEREZ |
| 5. XAVIER ANTHEAUME | 12. SUSAN PENROD |
| 6. THOMAS MCAULEY | 13. AMY MCTEIR |
| 7. DEATRICE HIGGS | 14. EDWIN BLAZER |

ALTERNATES

SECRET FROM ABOVE

C-16-315580-1
JURL
Jury List
4701292



ORIGINAL

1 AINF
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 CHAD LEXIS
6 Deputy District Attorney
7 Nevada Bar #010391
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

DEC - 1 2017

4:35 p.m.

BY: 
ALAN PAUL CASTLE, SR., DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-16-315580-1
AINF
Amended Information
4701939



9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-16-315580-1

11 -vs-

DEPT NO: XVIII

12 CEASAR SANCHAZ VALENCIA,
13 #1588390

THIRD AMENDED
INFORMATION

14 Defendant.

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

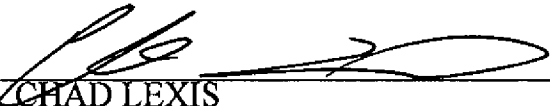
17 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
18 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That CEASAR SANCHAZ VALENCIA, the Defendant(s) above named, having
20 committed the crimes of **OWNERSHIP OR POSSESSION OF FIREARM BY**
21 **PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460)**, , on or about
22 the 19th day of May, 2016, within the County of Clark, State of Nevada, contrary to the form,
23 force and effect of statutes in such cases made and provided, and against the peace and dignity
24 of the State of Nevada, did willfully, unlawfully, and feloniously own, or have in his
25 possession and/or under his custody or control, a firearm, to-wit: a .38 caliber revolver, the
26 Defendant being a convicted felon, having in 2006, been convicted of Possession of Stolen
27 Vehicle (Felony), in Case No. C224558, and/or having in 2006, been convicted of Unlawful
28 Possession of Electronic Stun Device (Felony), Possession of Stolen Vehicle (Felony) and

1 Burglary(Felony), in Case No. C223991, in the Eighth Judicial District Court, Clark County,
2 felonies under the laws of the State of Nevada.

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

6 BY


7 CHAD LEXIS
8 Deputy District Attorney
9 Nevada Bar #010391

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

11	<u>NAME</u>	<u>ADDRESS</u>
12	BARLOW, DAWN or designee	CCDA/INVESTIGATOR
13		200 LEWIS AVE 9TH FLR
14		LV NV 89155
15	BRYANT, K.	LVMPD P#7773
16	CUSTODIAN OF RECORDS	CCDC
17	CUSTODIAN OF RECORDS	LVMPD/COMMUNICATIONS
18	CUSTODIAN OF RECORDS	LVMPD/RECORDS
19	GOODRICH, A.	LVMPD P#9198
20	HOFFMAN, J.	LVMPD P#9001
21	HOUSTON, C.	LVMPD P#13249
22	JACOBITZ, J.	LVMPD P#9383
23	KLOSTERMAN, O.	LVMPD P#1317
24	LEFEBVRE, N.	LVMPD P#8383
25	WHITMARSH, B.	LVMPD P35645

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27 16F08334X/pm/L-2/ckb
28 LVMPD EV#1605193387
(TK8)

1 VER

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

DEC - 1 2017

4:35p.m.

5 THE STATE OF NEVADA,

6 Plaintiff,

7 -VS-

8 CEASAR SANCHAZ VALENCIA

9 Defendant.

BY, Alan Paul Castle, Sr.
ALAN PAUL CASTLE, SR, DEPUTY

CASE NO: C-16-315580-1

DEPT NO: XVIII

C-16-315580-1
VER
Verdict
4701940



11 VERDICT

12 We, the jury in the above entitled case, find the Defendant as follows:

13 **COUNT 1** – ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY
14 WEAPON

15 *(Please check the appropriate box, select only one)*

- 16
- 17 ☐ Not Guilty
- 18 ☐ Guilty of Assault on a Protected Person
- 19 ☐ Guilty of Assault with a Deadly Weapon
- 20 ☒ Guilty of Assault on a Protected Person with use of a Deadly Weapon

21 **COUNT 2** – TRAFFICKING IN CONTROLLED SUBSTANCE (HERION)

22 *(Please check the appropriate box, select only one)*

- 23 ☐ Not Guilty
- 24 ☐ Guilty of Possession of Controlled Substance
- 25 ☒ Guilty of Trafficking in Controlled Substance

26 ///

27 ///

28 ///

(Please check the appropriate box, select only one)

☒ Guilty of Possession of Controlled Substance

(METHAMPHETAMINE)

☒ Guilty of Possession of Controlled Substance

number, 2017



FOREPERSON

1 INST

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

DEC - 1 2017

4:35 p.m.

2
3
4 DISTRICT COURT
CLARK COUNTY, NEVADA

BY, Alan Paul Castle, Sr.
ALAN PAUL CASTLE, SR, DEPUTY

5
6 THE STATE OF NEVADA,

7 Plaintiff,

CASE NO: C-16-315580-1

8 -vs-

DEPT NO: XVIII

9 CEASAR SANCHAZ VALENCIA

10 Defendant.
11

12 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I)

13 MEMBERS OF THE JURY:

14 It is now my duty as judge to instruct you in the law that applies to this case. It is your
15 duty as jurors to follow these instructions and to apply the rules of law to the facts as you find
16 them from the evidence.

17 You must not be concerned with the wisdom of any rule of law stated in these
18 instructions. Regardless of any opinion you may have as to what the law ought to be, it would
19 be a violation of your oath to base a verdict upon any other view of the law than that given in
20 the instructions of the Court.
21
22
23
24

25 C-16-315580-1
INST
Instructions to the Jury
4701941



INSTRUCTION NO. 2

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Information that CEASAR SANCHAZ VALENCIA, the Defendant(s) above named, having committed the crimes of ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY WEAPON; TRAFFICKING IN CONTROLLED SUBSTANCE and POSSESSION OF CONTROLLED SUBSTANCE, on or about the 19th day of May, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 - ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and intentionally place another person in reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use physical force against another person, to-wit: J. JACOBITZ, a protected person employed as a Police Officer with Las Vegas Metropolitan Police Department, while J. JACOBITZ was performing his duties as a Police Officer with Las Vegas Metropolitan Police Department, which Defendant knew, or should have known, that J. JACOBITZ was a Police Officer with Las Vegas Metropolitan Police Department, with use of a deadly weapon, to-wit: a firearm, by pointing said firearm at the said Officer J. JACOBITZ.

COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either actually or constructively, 4 grams or more, but less than 14 grams, to-wit: approximately 11.8 grams of Heroin, or any mixture of substance consisting of approximately 11.8 grams containing the controlled substance Heroin.

COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE

did willfully, unlawfully, feloniously, and knowingly or intentionally possess a controlled substance, to-wit: Cocaine.

1 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE

2 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
3 controlled substance, to-wit: Methamphetamine.

4 It is the duty of the jury to apply the rules of law contained in these instructions to the
5 facts of the case and determine whether or not the Defendant is guilty.

INSTRUCTION NO. 4

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

INSTRUCTION NO. 5

The Defendant is presumed innocent unless the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

**PLEADING
CONTINUES
IN NEXT
VOLUME**