

IN THE SUPREME COURT OF THE STATE OF NEVADA

CEASAR SANCHAZ VALENCIA,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
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Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-16-315580-1

Docket No: 85694

RECORD ON APPEAL VOLUME 2

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INSTRUCTION NO. 6

If you find that the State has failed to prove beyond a reasonable doubt any one element of a charged offense, you must find the Defendant not guilty of that offense.

1 INSTRUCTION NO. 7

2 You are here to determine the guilt or innocence of the Defendant from the evidence in
3 the case. You are not called upon to return a verdict as to the guilt or innocence of any other
4 person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt
5 of the Defendant, you should so find, even though you may believe one or more persons are
6 also guilty.

INSTRUCTION NO. 8

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

INSTRUCTION NO. 9

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he or she testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

INSTRUCTION NO. 10

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his or her opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

1
2 A person who unlawfully attempts to use physical force against the person of another
3 or intentionally places another person in reasonable apprehension of immediate bodily harm
4 is guilty of Assault.

5 To constitute an assault, it is not necessary that any actual injury be inflicted.

6 To constitute an unlawful attempt to use physical force against the person of another,
7 mere menace is not enough; there must be an effort to carry the intention into execution.

8 A person who commits an assault upon a police officer during the performance of his
9 duties as a police officer is guilty of Assault on a Protected Person.

10 A person commits an assault by or through the use of a deadly weapon is guilty of
11 Assault with a Deadly Weapon.

12 A person who commits an assault upon a police officer by or through the use of a deadly
13 weapon is guilty of Assault on a Protected Person with Use of a Deadly Weapon.
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As used in these instructions, a "deadly weapon" means:

- (1) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death; or
- (2) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death.

You are instructed that a Firearm is a deadly weapon. A firearm is a deadly weapon whether loaded or unloaded, operable or inoperable.

A "Firearm" means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.

INSTRUCTION NO. 13

In order to "use" a deadly weapon, there need not be conduct which actually produces harm but only conduct which produces a fear of harm or force by means or display of the deadly weapon in aiding the commission of the crime.

INSTRUCTION NO. 14

The State is not required to have recovered the deadly weapon used in an alleged crime, or to produce the deadly weapon in court at trial, to establish that a deadly weapon was used in the commission of the crime.

INSTRUCTION NO. 15

When it is impossible to commit a particular crime without committing, at the same time and by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense."

If you are not satisfied beyond a reasonable doubt that the Defendant is guilty of the offense charged, you may find the Defendant guilty of any lesser included offense, if the evidence is sufficient to establish his guilt of the lesser included offense beyond a reasonable doubt.

Assault on a Protected Person is a lesser included offense of Assault on a Protected Person with use of a Deadly Weapon.

Assault with a Deadly Weapon is a lesser included offense of Assault on a Protected Person with use of a Deadly Weapon.

Possession of Controlled Substance is a lesser included offense of Trafficking In Controlled Substance.

INSTRUCTION NO. 16

Any person who knowingly or intentionally is in actual or constructive possession of a Schedule I controlled substance, or any mixture which contains a Schedule I controlled substance, the quantity of which weighs, or is represented by that person to weigh, 4 grams or more, is guilty of Trafficking in Controlled Substance.

The phrase "4 grams or more" refers to the aggregate weight of the entire mixture rather than the weight of the controlled substance that is contained in the mixture.

It is not necessary for the State to prove that the defendant was aware of the amount of the controlled substance he possessed.

You are instructed that Heroin is a Schedule I controlled substance.

INSTRUCTION NO. 17

A person who knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, is guilty of Possession of Controlled Substance.

You are instructed that Methamphetamine is a Schedule I controlled substance.

You are instructed that Cocaine is a Schedule I controlled substance.

1
2 In order to prove the commission of Trafficking In Controlled Substance and
3 Possession Of Controlled Substance, the State must prove that the defendant had knowledge
4 of the item's nature as a controlled substance.

5 A defendant's knowledge that the substance he possessed was a controlled substance
6 may be shown by direct evidence or by circumstantial evidence and reasonably drawn
7 inferences.
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INSTRUCTION NO. 19

A person is in possession of an article or object if it is carried on his person or, if not carried on his person, he knows that it is present and he has custody, dominion, or control over it.

The law recognizes two kinds of possession: actual possession and constructive possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, knowingly has both the power and the intention, at a given time, to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

The law recognizes also that possession may be sole or joint. If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

You may find that the element of possession as that term is used in these instructions is present if you find beyond a reasonable doubt that a defendant had actual or constructive possession, either alone or jointly with others.

"Knowingly" imports a knowledge that the facts exist which constitute the act or omission of a crime, and does not require knowledge of its unlawfulness. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person on notice. An act or a failure to act is "knowingly" done if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason.

INSTRUCTION NO. 20

The intent of a person or the knowledge that a person possesses at any given time may not ordinarily be proved directly because there is no way of directly scrutinizing the workings of the human mind. In determining the issue of what a person knew or what a person intended at a particular time, you may consider any statements made or acts done by that person and all other facts and circumstances received in evidence which may aid in your determination of that person's knowledge or intent.

INSTRUCTION NO. 21

An act is not a crime if the act was committed through misfortune or by accident, when it appears that there was no evil design, intention or culpable negligence.

INSTRUCTION NO. 22

The flight of a person after the commission of a crime is not sufficient in itself to establish guilt; however, if flight is proved, it is circumstantial evidence in determining guilt or innocence.

The essence of flight embodies the idea of deliberately going away with consciousness of guilt and for the purpose of avoiding apprehension or prosecution. The weight to which such circumstance is entitled is a matter for the jury to determine.

INSTRUCTION NO. 23

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 24

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of the guilt or innocence of the Defendant.

INSTRUCTION NO. 25

It is the constitutional right of a Defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the Defendant on the advice and counsel of his attorney. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 26

When you retire to consider your verdict, you must select one of your members to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

During the course of this trial, and your deliberations, you are not to:

- (1) communicate with anyone in any way regarding this case or its merits-either by phone, text, Internet, or other means;
- (2) read, watch, or listen to any news or media accounts or commentary about the case;
- (3) do any research, such as consulting dictionaries, using the Internet, or using reference materials;
- (4) make any investigation, experimentation at the scene, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case or anyone involved with the case on your own.

You may, of course, during deliberations, communicate with other members of the jury while you are in the jury deliberation room, after the case has been submitted to you for deliberation.

INSTRUCTION NO. 28

If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and his counsel.

Playbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a playback, you must carefully describe the testimony to be read back so that the court reporter can arrange his/her notes. Remember, the court is not at liberty to supplement the evidence.

INSTRUCTION NO. 29

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN:


DISTRICT JUDGE

1 INST

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

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

DEC - 1 2017
5:28 p.m.

5 BY, Alan Paul Casile
ALAN PAUL CASILE, SR, DEPUTY

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. 1)

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.
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C-16-315580-1
INST
Instructions to the Jury
4701942



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.

INSTRUCTION NO. 3

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 crime of OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON, 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 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

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, did willfully, unlawfully, and feloniously own, or have in his possession and/or under his custody or control, a firearm, to-wit: a .38 caliber revolver, the Defendant being a convicted felon, having in 2006, been convicted of Possession of Stolen Vehicle (Felony), in Case No. C224558, and/or having in 2006, been convicted of Unlawful Possession of Electronic Stun Device (Felony), Possession of Stolen Vehicle (Felony) and Burglary (Felony), in Case No. C223991, in the Eighth Judicial District Court, Clark County, felonies under the laws of the State of Nevada.

It is the duty of the jury to apply the rules of law contained in these instructions to the 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.

INSTRUCTION NO. 6

1
2 You are here to determine the guilt or innocence of the Defendant from the evidence in
3 the case. You are not called upon to return a verdict as to the guilt or innocence of any other
4 person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt
5 of the Defendant, you should so find, even though you may believe one or more persons are
6 also guilty.

INSTRUCTION NO. 7

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

INSTRUCTION NO. 8

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he or she testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

INSTRUCTION NO. 9

A person who has been convicted of a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, shall not own or have in his possession or under his custody or control any firearm.

A "Firearm" means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.

A firearm is a deadly weapon whether loaded or unloaded, operable or inoperable.

Neither the concealment of the firearm nor the carrying of the weapon are necessary elements of the offense.

INSTRUCTION NO. 10

The law recognizes two kinds of possession: actual possession and constructive possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, knowingly has both the power and the intention, at a given time, to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

The law recognizes also that possession may be sole or joint. If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

You may find that the element of possession as that term is used in these instructions is present if you find beyond a reasonable doubt that a defendant had actual or constructive possession, either alone or jointly with others.

INSTRUCTION NO. 11

The flight of a person after the commission of a crime is not sufficient in itself to establish guilt; however, if flight is proved, it is circumstantial evidence in determining guilt or innocence.

The essence of flight embodies the idea of deliberately going away with consciousness of guilt and for the purpose of avoiding apprehension or prosecution. The weight to which such circumstance is entitled is a matter for the jury to determine.

INSTRUCTION NO. 12

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 13

It is the constitutional right of a Defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the Defendant on the advice and counsel of his attorney. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 14

When you retire to consider your verdict, you must select one of your members to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

During the course of this trial, and your deliberations, you are not to:

- (1) communicate with anyone in any way regarding this case or its merits-either by phone, text, Internet, or other means;
- (2) read, watch, or listen to any news or media accounts or commentary about the case;
- (3) do any research, such as consulting dictionaries, using the Internet, or using reference materials;
- (4) make any investigation, experimentation at the scene, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case or anyone involved with the case on your own.

You may, of course, during deliberations, communicate with other members of the jury while you are in the jury deliberation room, after the case has been submitted to you for deliberation.

INSTRUCTION NO. 16

If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and his counsel.

Playbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a playback, you must carefully describe the testimony to be read back so that the court reporter can arrange his/her notes. Remember, the court is not at liberty to supplement the evidence.

INSTRUCTION NO. 17

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN:


DISTRICT JUDGE

DEC - 1 2017
5:28 pm

DISTRICT COURT
CLARK COUNTY, NEVADA BY Alan Paul Castle, Sr.
ALAN PAUL CASTLE, SR, DEPUTY

1 VER

2
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4
5 THE STATE OF NEVADA,
6 Plaintiff,
7
8 -vs-
9 CEASAR SANCHAZ VALENCIA
10 Defendant.

CASE NO: C-16-315580-1

DEPT NO: XVIII

11 VERDICT

12 We, the jury in the above entitled case, find the Defendant as follows:

13 COUNT 1 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED
14 PERSON
15

16 *(Please check the appropriate box, select only one)*

17 ☐ Not Guilty

18 ☒ Guilty of Ownership or Possession of Firearm by Prohibited Person
19

20 DATED this 1 day of December, 2017

21
22 FOREPERSON
23
24
25
26

27 C-16-315580-1
28 VER
Verdict
4701943



**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
283 - 297
WILL FOLLOW VIA
U.S. MAIL**



JOC

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

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– ASSAULT ON A PROTECTED PERSON WITH USE OF A DEADLY WEAPON
(Category B Felony) in violation of NRS 200.471, COUNT 2 - TRAFFICKING IN
CONTROLLED SUBSTANCE (Category B Felony) in violation of NRS 453.3385.1,
COUNT 3 – POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony) in
violation of NRS 453.336, COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE
(Category E Felony) in violation of NRS 453.336, COUNT 5 – OWNERSHIP OR
POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in
violation of NRS 202.360, and the matter having been tried before a jury and the

1 Defendant having been found guilty of the crimes of COUNT 1 – ASSAULT ON A
2 PROTECTED PERSON WITH USE OF A DEADLY WEAPON (Category B Felony) in
3 violation of NRS 200.471, COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE
4 (Category B Felony) in violation of NRS 453.3385.1, COUNT 3 – POSSESSION OF
5 CONTROLLED SUBSTANCE (Category E Felony) in violation of NRS 453.336,
6 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony) in
7 violation of NRS 453.336, COUNT 5 – OWNERSHIP OR POSSESSION OF FIREARM
8 BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360;
9 thereafter, on the 25TH day of January, 2018, the Defendant was present in court for
10 sentencing with his counsel, Gregory Coyer, Esq. and Alexis Plunkett, Esq., and good
11 cause appearing,
12
13

14 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses as set forth in
15 the Jury's verdict under the SMALL HABITUAL Criminal Statute as to COUNT 1 and, in
16 addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee
17 including testing to determine genetic markers plus \$3.00 DNA Collection Fee, the
18 Defendant is SENTENCED to the Nevada Department of Corrections (NDC) as follows:
19
20 **COUNT 1 - a MAXIMUM of TWO HUNDRED AND FORTY (240) MONTHS with a**
21 **MINIMUM parole eligibility of EIGHTY-FOUR (84) MONTHS; COUNT 2 - a MAXIMUM**
22 **of SEVENTY-TWO (72) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR**
23 **(24) MONTHS, CONSECUTIVE to COUNT 1; COUNT 3 - a MAXIMUM of FORTY-**
24 **EIGHT (48) MONTHS with a MINIMUM parole eligibility of TWELVE (12) MONTHS,**
25 **CONCURRENT with COUNT 2; COUNT 4 - a MAXIMUM of FORTY-EIGHT (48)**
26 **MONTHS with a MINIMUM parole eligibility of TWELVE (12) MONTHS, CONCURRENT**
27 **with COUNT 3; COUNT 5 - a MAXIMUM of SEVENTY-TWO (72) MONTHS with a**
28

1 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with
2 COUNT 4; with SIX HUNDRED AND FIFTEEN (615) DAYS credit for time served. The
3 AGGREGATE TOTAL sentence is THREE HUNDRED AND TWELVE (312) MONTHS
4 MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF ONE HUNDRED AND EIGHT
5 (108) MONTHS.
6

7
8 DATED this 2 day of ~~January~~ ^{FEB}, 2018.
9

10
11 
12 _____
13 MARK B. BAILUS
14 DISTRICT COURT JUDGE
15
16
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1 **NOAS**

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*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 THE STATE OF NEVADA,

14 Plaintiff,

15 v.

16 CEASAR VALENCIA,

17 Defendant.

Case No.: C-16-315580-1

Dept. No.: XVIII

NOTICE OF APPEAL

NOTICE OF APPEAL

18 TO: THE STATE OF NEVADA, STEVEN B. WOLFSON, DISTRICT ATTORNEY,
19 CLARK COUNTY, NEVADA AND DEPARTMENT XVIII OF THE EIGHTH
20 JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR
21 THE COUNTY OF CLARK

22 NOTICE is hereby given that Defendant, CEASAR VALENCIA, presently incarcerated in
23 the High Desert State Prison, appeals to the Supreme Court of the State of Nevada from the Eighth
24 Judicial District Court Judgment of Conviction and sentence entered against said Defendant on or
25 about February 2, 2018.

26 DATED this 1st day of March, 2018.

COYER LAW OFFICE

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

COYER LAW OFFICE
600 S. TONOPAH DR., SUITE 220
LAS VEGAS, NEVADA 89106

CERTIFICATE OF MAILING

The undersigned does hereby certify that on the 1st day of March, 2018, I did deposit in the United States Post Office at Las Vegas, Nevada, a true copy of the above and forgoing Notice of Appeal addressed to the following:

STEVEN B. WOLFSON
Clark County District Attorney
Criminal Appeals Division
200 Lewis Avenue
Las Vegas, NV 89101

ADAM PAUL LAXALT
Nevada Attorney General
100 North Carson Street
Carson City, NV 89701

CEASAR SANCHEZ VALENCIA
ID# 94307
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070

By /s/ Gregory E. Coyer
An Employee of Coyer Law Office



ASTA
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
E-mail: gcoyer@coyerlaw.com

Attorney for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

v.

CEASAR VALENCIA,

Defendant.

Case No.: C-16-315580-1

Dept. No.: XVIII

CASE APPEAL STATEMENT

CASE APPEAL STATEMENT

1. **Appellant filing this case appeal statement:** Cesar S. Valencia.
2. **Judge issuing the decision, judgment, or order appealed from:** The Honorable District Court Judge Mark Bailus.
3. **All parties to the proceedings in the district court (the use of et al. to denote parties is prohibited):** The State of Nevada, Plaintiff; Cesar S. Valencia, Defendant.
4. **All parties involved in this appeal (the use of et. al. to denote parties is prohibited):** Cesar S. Valencia, Appellant; The State of Nevada, Respondent.

///

///

///

///

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

GREGORY E. COYER
Coyer Law Office
600 S. Tonopah Dr., Suite 220
Las Vegas, Nevada 89106
(702) 802-3088

Attorney for Appellant

STEVEN B. WOLFSON
Clark County District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-2500

ADAM PAUL LAXALT
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Attorneys for Respondent

6. **Whether appellant was represented by appointed or retained counsel in the district court:** Appointed.

7. **Whether appellant is represented by appointed or retained counsel on appeal:** Appointed.

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

9. **Date proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):** Information was filed in District Court on June 9, 2016.

10. **Brief description of the nature of the action:** Direct appeal from the District Court Judgment of Conviction pursuant to jury verdict filed on December 1, 2017.

11. **Type of Judgment or Order being appealed:** Judgment of Conviction (Jury Trial).

12. **Whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:** N/A.

///

///

///

1 13. **Whether the appeal involves child custody or visitation: N/A.**
2

3 DATED this 1st day of March, 2018.
4

5 **COYER LAW OFFICE**

6 By: /s/ Gregory E. Coyer
7 GREGORY E. COYER, ESQ.
8 Nevada Bar No. 10013
9 600 S. Tonopah Dr., Suite 220
10 Las Vegas, Nevada 89106
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CERTIFICATE OF MAILING

The undersigned does hereby certify that on the 1st day of March, 2018, I did deposit in the United States Post Office at Las Vegas, Nevada, a true copy of the above and forgoing Notice of Appeal addressed to the following:

STEVEN B. WOLFSON
Clark County District Attorney
Criminal Appeals Division
200 Lewis Avenue
Las Vegas, NV 89101

ADAM PAUL LAXALT
Nevada Attorney General
100 North Carson Street
Carson City, NV 89701

CEASAR SANCHEZ VALENCIA
ID# 94307
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070

By /s/ Gregory E. Coyer
An Employee of Coyer Law Office

#94307

Cesar Sanchez Valencia
Pobox 650
Indian Springs NV 89000

DISTRICT COURT
CLARK COUNTY NEVADA

Electronically Filed
3/2/2018 11:01 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

STATE OF NEVADA

Plaintiff

VS

Cesar Sanchez Valencia
#94307
Defendant

Case No C-16-315580-1

Dept 10 Dept 18

Notice of Appeal

COMES NOW THE DEFENDANT; I N PRO SE OR
BY AND THROUGH his attorney Cayer Gregory E.
and pursuant to Nevada Revised Statutes and Nevada
Rules of Appeal. Gives Notice of Appeal and would also
be requesting the court transcripts to include
but not limited to Feb 28 2017
Court hearing

Cesar Valencia
Pobox 650
Indian Springs NV 89000

RECEIVED

MAR 02 2018

CLERK OF THE COURT

Caesar Valencia #94307

Pobox 650

Indian Springs NV 89070

Please Return File Stamp copy

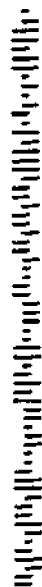
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Clerk of the Court
200 Lewis Ave 3rd Fl
Las Vegas NV 89135



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HIGH DESERT STATE PRISON
FEB 27 2018
UNIT 1 C/I

#94307
Cesar Sanchez Valera
PO Box 650
Indian Springs NV 89050

DISTRICT COURT
CLERK COUNTY RECORDS

Electronically Filed
3/2/2018 11:01 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

STATE OF NEVADA

Plaintiff

VS

Cesar Sanchez Valera
#94307

Defendant

CASE NO: C-16-35580-1

DEPT NO: 18

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 22nd day of

FEBRUARY 2018 I placed a true and correct

copy of the following document NOTICE OF APPEAL

AND REQUEST OF TRANSCRIPTS in the United States

Mail with first class postage prepaid addressed to

the following: ① Clerk of the Court

200 Lewis Av 3rd Fl

Las Vegas NV 89155

② DISTRICT Attorney

200 Lewis Av
Las Vegas NV 89155

③ Gregory E Cover, ESq

600 S Tonopah Dr.

Suite 220

Las Vegas NV 89106

per NRS 53.045 I declare under penalty
of perjury that the foregoing is

true and correct

Cesar Sanchez Valera #94307

PO Box 650

Indian Springs NV 89050

RECEIVED
MAR 02 2018
CLERK OF THE COURT



1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9
10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 CEASAR SANCHAZ VALENCIA,

14 Defendant(s),

Case No: C-16-315580-1

Dept No: XVIII

15
16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Ceasar Valencia

19 2. Judge: Mark B. Bailus

20 3. Appellant(s): Ceasar Valencia

21 Counsel:

22 Ceasar Valencia #94307
23 P.O. Box 650
24 Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: June 8, 2016

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 5 day of March 2018.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Ceasar Valencia



REQT
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
E-mail: gcoyer@coyerlaw.com
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

CEASAR VALENCIA,

Defendant.

CASE NO.: C-16-315580-1
DEPT. NO.: XVIII

APPELLANT'S REQUEST FOR ROUGH DRAFT TRANSCRIPTS

TO: Elsa Amoroso, Court Recorder
District Court, Department II

Dalyne Easley, Court Recorder
District Court, Department II

Robin Page, Court Recorder
District Court, Department XVIII

COMES NOW, CEASAR VALENCIA, the Defendant named above, and hereby requests
the preparation of rough draft transcripts of certain portions of the proceedings before the District
Court as follows:

///

1 Dates of proceedings: 7/19/16, 7/26/16 (Elsa Amoroso); 8/9/16, 8/23/16, 8/25/16,
2 10/18/16, 11/1/16, 11/8/16, 1/19/17, 2/7/17, 2/28/17 (Dalyne Easley); 11/27/17, 11/28/17,
3 11/29/17, 11/30/17, 12/1/17, 1/25/18 (Robin Page).

4 Portion of the transcripts requested: Any and all proceedings, including jury selection, but
5 excluding the reading of instructions to the jury, all transcripts to include word index.

6 This Notice requests a transcript of only those portions of the District Court proceedings
7 which counsel reasonably and in good faith believes are necessary to determine whether appellate
8 issues are present.

9 I recognize that I must personally serve a copy of this form on the above-named court
10 reporter and opposing counsel.

11 That, pursuant to NRAP 9(c)(1)(A), the above-named court reporters/recorders shall have
12 thirty (30) days from the date of service of this document to prepare an original plus one copy at
13 State's expense and file with the District Court Clerk the original rough draft transcript(s)
14 requested herein.

15 Further, pursuant to NRAP 9(c)(1)(A), the court reporter/recorder shall also deliver
16 certified copies of the rough draft transcript to appellant's counsel within thirty (30) days from the
17 date of service of this document.

18 Dated this 22nd day of March, 2018.

19
20 **COYER LAW OFFICE**

21 By: /s/ Gregory E. Coyer
22 GREGORY E. COYER, ESQ.
23 Nevada Bar No. 10013
24 600 S. Tonopah Dr., Suite 220
25 Las Vegas, Nevada 89106
26
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ELSA AMOROSO, Court Recorder
District Court, Department II
AmorosoE@clarkcountycourts.us

DALYNE EASLEY, Court Recorder
District Court, Department II
EasleyD@clarkcountycourts.us

ROBIN PAGE, Court Recorder
District Court, Department XVIII
PageRo@clarkcountycourts.us

CLARK COUNTY DISTRICT ATTORNEY
CHIEF DEPUTY STEVEN OWENS
Criminal Appeals Unit
200 Lewis Ave
Las Vegas, NV 89101
steven.owens@clarkcountyda.com

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1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 CEASAR VALENCIA,
12 Defendant.

} S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1
DEPT. 2

13
14
15 BEFORE THE HONORABLE JOSEPH BONAVENTURE, SENIOR JUDGE
16 TUESDAY, JULY 19, 2016

17 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
18 **CALENDAR CALL; DEFENDANT'S DISCOVERY MOTION**

19 APPEARANCES:

20 For the State: RACHEL O'HALLORAN, ESQ.
Deputy District Attorney

21 For the Defendant: STEVEN M. LISK, ESQ.
22 Deputy Public Defender

23
24
25 RECORDED BY: ELSA AMOROSO, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, July 19, 2016

2
3 [Hearing began at 9:06 a.m.]

4 THE COURT: Ceasar Valencia.

5 THE DEFENDANT: Morning, Your Honor.

6 THE COURT: Morning.

7 THE DEFENDANT: I am a -- I'm gonna --

8 THE COURT: Just a minute, let me make a record on this.
9 Take it easy, alright? Relax.

10 Alright, who's here for the record?

11 MR. LISK: Steven Lisk from Public Records Office, Bar
12 Number 12809.

13 MS. O'HALLORAN: Rachel O'Halloran for the State.

14 THE COURT: Alright. Notice is on for calendar call and
15 this is Motion for Discovery that I just received an opposition just
16 when I got here at 8:45. The Defendant has some pro per motions
17 to dismiss counsel on the 25th of July and various things here. I
18 think we have to, as far as the calendar call is concerned, what's the
19 situation on that; first of all?

20 MR. LISK: And Your Honor, with regards to the calendar
21 call, I informed the State, based on my conversation with Mr.
22 Valencia and based on our own progress in the case, that I would be
23 requesting a continuance. I don't believe the State has any
24 opposition.

25 THE COURT: Okay.

1 MR. LISK: So if we want to we could address the pro per
2 motion at this time but.

3 THE COURT: Well, I'm gonna continue those.

4 MR. LISK: That's fine.

5 THE COURT: So you have no objection to a continuance
6 on a trial?

7 MS. O'HALLORAN: That is correct, Your Honor.

8 THE COURT: Okay, we're gonna continue the trial
9 because you had some motions you have to -- you understand that?

10 THE DEFENDANT: Actually I want to waive my counselor
11 because --

12 THE COURT: Well, we will. It'll all be heard on the 21st,
13 alright?

14 THE DEFENDANT: Alright.

15 THE COURT: So, but for right now we're gonna vacate
16 the calendar call and we're gonna continue this until July 25th for the
17 Defendant's Discovery Motion and for Defendant's Pro Per Motion to
18 Dismiss counsel and any other proceedings.

19 MR. LISK: And that's fine, Your Honor. I do think we
20 would need the Tuesday day, so the 26th.

21 THE COURT: Pardon?

22 MR. LISK: I think we would need the 26th to hear all these
23 motions. I think that's when Judge Scotti has the next calendar.

24 THE COURT: I have it on the 25th on my calendar.

25 MR. LISK: I think that was because that was the start of

1 the trial date.

2 THE COURT: Okay.

3 MR. LISK: And obviously at this point we're vacating that.

4 THE COURT: So that's not a good day for Judge Scotti?

5 THE COURT CLERK: The trial date was for the 25th, but
6 the 26th is when we hear it.

7 THE COURT: Good. We'll hear it the 26th.

8 MS. OHALLORAN: This is a situation however where this
9 Defendant did also invoke his right to a speedy trial so he will need
10 to waive that today.

11 THE COURT: Right. Do you waive your right to a speedy
12 trial?

13 THE DEFENDANT: I don't think so.

14 THE COURT: Well then we're gonna go to trial on
15 Monday. You can't have your cake and eat it too.

16 THE DEFENDANT: Alright.

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1 THE COURT: Alright. He waives his right. We're gonna
2 resolve all this; alright? Twenty-sixth.

3 Thank you sir, you can sit down.

4 [Hearing concluded at 9:09 a.m.]

5 * * * * *

6 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
7 Procedure, I acknowledge that this is a rough draft transcript,
8 expeditiously prepared, not proofread, corrected, or certified to be an
9 accurate transcript.

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11 DALYNE EASLEY
12 Court Recorder/Transcriber
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1 **RTRAN**

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5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

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8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

10 **vs.**

11 **CEASAR SANCHAZ**
12 **VALENCIA,**

13 **Defendant.**

S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1

DEPT. 2

14
15 **BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE**
16 **TUESDAY, JULY 26, 2016**

17 ***RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:***
18 ***DEFENDANT'S DISCOVERY MOTION***

19 **APPEARANCES:**

20 **For the State:**

ERIKA MENDOZA, ESQ.
Deputy District Attorney

21 **For the Defendant:**

STEVEN M. LISK, ESQ.
Deputy Public Defender

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25 **RECORDED BY: ELSA AMOROSO, COURT RECORDER**

1 Las Vegas, Nevada, Tuesday, July 26, 2016

2
3 [Hearing began at 9:18 a.m.]

4 THE COURT: Let's go to page 8, State versus Ceasar
5 Valencia, C315580.

6 UNIDENTIFIED SPEAKER: Your Honor, I'm waiting on Mr.
7 Lisk. I think he should be here in a just a few minutes, please.

8 THE COURT: Okay. We can go ahead and continue that.
9 Go ahead and have a seat, sir. Thank you.

10 [Hearing concluded at 9:18 a.m.]

11 [Hearing recalled at 9:34 a.m.]

12 THE COURT: Mr. Lisk, I see you're here. We got a couple
13 of cases for you; right?

14 MR. LISK: I think I just have one, Your Honor.

15 THE COURT: Tell us what page you're on.

16 MR. LISK: Page 8, Ceasar Valencia.

17 THE COURT: Page 8, Ceasar Valencia, C315580. This is
18 Defendant's Discovery Motion.

19 MR. LISK: Well, it is Your Honor, but I think the more
20 pressing motion is Defendant's Pro Per Motion for Alternate Counsel.
21 That was the reason Judge Bonaventure passed it to today.

22 THE COURT: Oh, that was the main reason? Alright.

23 MR. LISK: That was the main reason. I think the
24 Discovery Motion, more or less, is self-explanatory and more for the
25 record than --

1 THE COURT: Right. Alright. Well, do you want to
2 present argument on the Motion to Dismiss Counsel?

3 MR. LISK: It's not really my motion, Your Honor.

4 THE COURT: Well, it's not your motion, I know, but do
5 you want to present a position?

6 MR. LISK: What I can say, Your Honor, is I've done
7 everything that I can with Mr. Valencia. I will continue to do so. I
8 know what my job is. I know how to be effective with my job.

9 I recognize the fact that there is a strain in the
10 attorney/client relationship here. However, if I'm the attorney going
11 forward I would do everything that I can to work with Mr. Valencia
12 and either try to resolve this case or to take it trial, whatever Mr.
13 Valencia decides he wishes to do at that time.

14 THE COURT: So let me hear from Mr. Valencia.

15 Mr. Valencia, can you explain, briefly, why it is you
16 continue in your belief that you need new counsel appointed.

17 THE DEFENDANT: Well, I already wrote the State Bar, told
18 them about misconduct, professional misconduct with Mr. Lisk that
19 he's threatened me. I felt he's threatening me and forcing me to
20 plead guilty, not even explaining to me the elements of the crime,
21 which are like contradicting -- the Count 2 and Count 5. And he
22 hasn't really done nothing for me. And then he just wants me to
23 plead guilty for something that I'm innocent.

24 THE COURT: Well, alright. One thing you got to
25 understand, an attorney could give an assessment of the case and

1 look at the risks involved and the evidence that's in the file and
2 make a recommendation on what he believes might be appropriate
3 under the circumstances. You control, you alone control whether
4 you want to accept it or not and if you reject his recommendation
5 you can then suggest to the attorney that you want to go ahead and
6 go to trial. Have you tried that route with your attorney?

7 THE DEFENDANT: No, when I invoke my speedy trial
8 that's when he moved it what was --

9 THE COURT: Yeah, I don't know -- did you invoke a
10 speedy trial right?

11 MR. LISK: He did at the time of the arraignment, Your
12 Honor --

13 THE DEFENDANT: But now because --

14 MR. LISK: -- however at the last court date --

15 THE COURT: Hold on one second. Yeah?

16 MR. LISK: At the last court date he did waive the speedy
17 trial so that he could have this motion heard.

18 THE COURT: I see, okay, very good.

19 So, you want to still get a trial as soon as possible or do
20 you want to get a new attorney to represent you to determine
21 what's in your best interest here?

22 THE DEFENDANT: I mean, yeah, because I cannot
23 continue with Mr. Lisk 'cause he's not agreeing with me and he's
24 threatened me --

25 THE COURT: So, he's a very competent attorney. Is your

1 main point of disagreement that he is recommending an approach
2 that you disagree with?

3 THE DEFENDANT: That is true. Why did I have to waive
4 my speedy trial at last court hearing? He should have been ready.
5 He had his 60 days to prepare for trial and what happened? He
6 didn't even pay me a visit. He never returned none of my calls. And
7 there is a pending investigation with the State Bar about that.

8 THE COURT: Alright, sir. Let me hear from the State
9 whether they take a position on this? Nope?

10 MS. MENDOZA: No position.

11 THE COURT: Well, I think the fact that you've now
12 submitted a complaint with the State Bar has created an
13 irreconcilable conflict here.

14 MR. LISK: I would just -- I don't know, I haven't seen the
15 complaint. I would just note that I haven't received anything from
16 the State Bar saying that there is an ongoing investigation, that there
17 was a complaint lodged or anything like that. Maybe that takes
18 some time but I don't want the Court to think that I somehow
19 received anything from the State Bar saying that there's a conflict.

20 THE COURT: No. No, I won't think that but I do find that
21 the position of the Defendant is clearly indicated that he's not
22 satisfied with counsel. The Court will put on the record that the
23 Court does believe that your current counsel is very highly
24 competent and that there's no reason for the Court to believe that
25 he's been ineffective, and there's no reason for the Court to believe

1 that he's done anything wrong.

2 The Court does recognize, however, that there's apparent
3 communication problem, and the working relationship between you
4 and your attorney has deteriorated such that the Court does not
5 believe that it would be conducive to your best interest at this time
6 to have him continue to serve as your counsel.

7 I will grant your motion to discharge Mr. Lisk as your
8 counsel and new counsel will be appointed. We can assign a track
9 counsel and you're gonna have to get along with the new counsel;
10 you understand that?

11 THE DEFENDANT: Thank you, Your Honor.

12 THE COURT: Alright. And we're also gonna set a trial
13 date for you. We're gonna set a status check first to discuss this
14 matter with your new attorney.

15 MS. MENDOZA: I think he has other motions on the
16 second, if we could do it the same day.

17 THE COURT: August 2nd?

18 THE COURT CLERK: The Pro Per Motion is set for the
19 second, which we just heard.

20 MS. MENDOZA: Yes.

21 THE COURT CLERK: We also show another motion set on
22 the ninth.

23 MS. MENDOZA: Oh, I'm sorry --

24 THE DEFENDANT: There's two more.

25 THE COURT: There's a pro per motion to inspect

1 evidence. Your pro per motions -- since I'm appointing counsel, your
2 new attorney is going to look at what you've drafted and then try to
3 work out with the State those motions. So I'm going to vacate
4 those motions because you can't proceed on your own now if you
5 have appointed counsel; alright?

6 THE DEFENDANT: Could I ask a question? Was it a
7 [indiscernible] motion or a *Brady*, is it the same thing?

8 THE COURT: Well, as to your *Brady* motion, first of all you
9 want a return --

10 THE DEFENDANT: Yeah.

11 THE COURT: -- of all your documents. Mr. Lisk will turn
12 over the complete file to your new attorney. Your new attorney will
13 consider the *Brady* motion and work with the State and then file a
14 new motion if he believes that *Brady* documents are still necessary.

15 THE DEFENDANT: What about the suppression about
16 the --

17 THE COURT: And, yeah, the Motion to Suppress
18 Evidence, your new attorney will look at that and refile that; alright?
19 Since you're gonna be represented by counsel you now have to take
20 the advice of your -- or you have to consider the advice of your
21 counsel and let him take the lead in filing documents with the court;
22 alright?

23 THE DEFENDANT: Alright.

24 THE COURT: But we are gonna go ahead and reset this
25 down for confirmation of counsel on, I'm not gonna be here on the

1 ninth, well let's reset everything for August 4th.

2 THE COURT CLERK: Okay. And that will be Mr. Coyer
3 that will be --

4 THE COURT: Mr. Coyer will be your new counsel and he's
5 gonna come in here on the fourth and confirm that; alright?

6 THE DEFENDANT: On the fourth?

7 THE COURT: August 4th.

8 Alright, anything else?

9 MS. MENDOZA: The motion that was on today, the
10 Motion for Discovery, is that off-calendar now that the PDs no
11 longer on the case?

12 THE COURT: Its off-calendar; alright?

13 MS. MENDOZA: Okay. So on the fourth is just status
14 check, confirm as counsel?

15 THE COURT: Status check, and please confer with Mr.
16 Coyer about working off the discovery issues. Alright?

17 MR. LISK: And Your Honor, once its --

18 THE COURT: I've looked at these discovery requests and I
19 got to tell you -- let me just say for the record. There's two different
20 types of responses I get from the State, usually. Sometimes I get a
21 set of responses that indicate we've reviewed the request, we
22 understand our obligation, we've reviewed our files, we complied
23 with our obligations and we turned over these particular categories
24 of documents. Those are great responses.

25 And a really good example of that was one of the -- we

1 already handled it earlier today. Someone did a really good of form
2 response. Let me tell you which one that was. That was on the
3 Turner matter, State versus Turner. Was that Leah Beverly? Yeah,
4 Leah Beverly did some great responses there. That's what I like to
5 see.

6 And then on this particular case the other type of response
7 I get is, is we understand our *Brady* obligations. We object to these
8 requests because it's vague, ambiguous, we know what we're
9 required to do and they're only entitled to exculpatory material
10 and/or impeachment material. And, by the way, we'll go and check
11 our files and we'll turn over anything that we find that's responsive.

12 MS. MENDOZA: Mm-hum.

13 THE COURT: That type of response suggests to me that
14 the State hasn't yet checked. And I think by the time it gets to
15 court where the motion's been pending for several weeks it really
16 would be helpful if by the time it comes to me for the hearing if the
17 State could tell me whether they've actually checked the files or not
18 and rather than saying they will check it some unspecified time in
19 the future.

20 MS. MENDOZA: I will definitely --

21 THE COURT: That would just be my preference.

22 MS. MENDOZA: -- pass that along. I think that the
23 change in responses has been in terms of concern for making sure
24 that everything is clear after a trial on appeal to make sure that
25 we're not limiting ourselves.

1 THE COURT: I appreciate that.

2 MR. LISK: And, Your Honor, I would like to just interject
3 with regards to Ms. O'Halloran who did respond to this motion. We
4 were in the process of working -- we were always in communication
5 with regards to discovery issues and everything. So with regards, I
6 don't feel that Ms. O'Halloran --

7 THE COURT: Well, Rachel does a great job and great
8 work. I'm not criticizing her response. I'm just indicating that
9 there's two types of responses I get. And it's a lot easier for me to
10 deal with the response that says we've checked our files and we
11 represent to the Court we have produced everything that's
12 responsive. When I get that type of response I'm gonna uniformly
13 deny the request to discovery because I trust the State's
14 representations.

15 But then it's a little bit harder for me to deal with a
16 response that says we will check our files in the future and turn over
17 anything that we might have. That doesn't provide a lot of comfort
18 that the defense is gonna get what it's entitled to in a timely
19 manner. That's all I'm trying to point out.

20 MS. MENDOZA: Okay, I will pass that along, Your Honor.

21 THE COURT: Thank you, I appreciate that.

22 Alright, thank you guys.

23 THE DEFENDANT: Your Honor?

24 THE COURT: Yeah, so we'll see you back here on the
25 fourth.

1 THE DEFENDANT: But the reason why I feel that that
2 motion with the discovery for the *Brady* motion is because the same
3 officer that he was under oath in a different preliminary hearing and
4 he stated like he shredded [indiscernible] --

5 THE COURT: Well, tell you what.

6 THE DEFENDANT: And then he was aggressive and he,
7 the day I got arrested he was threatening me that he should have
8 shot me, he should have killed me.

9 THE COURT: Alright. So, that's very important
10 information for you tell your new attorney; alright? And he'll decide
11 what motions to file. But I can't -- unless -- look, I can't allow
12 everybody to speak on an issue where you haven't been appointed
13 counsel yet. Your new attorney has to come in and confirm that he
14 has no conflict of interest and then talk to you and then present his
15 side of the story. And once he presents his side of the story on
16 these issues then I'll allow the State to present their side of the
17 story. I can't just hear one side; alright?

18 THE DEFENDANT: Alright.

19 THE COURT: So we got to postpone this; alright?

20 THE DEFENDANT: Alright, I apologize, Your Honor.

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THE COURT: Alright, no problem. Thank you, sir.

THE DEFENDANT: Thank you, Your Honor.

[Hearing concluded at 9:46 a.m.]

* * * * *

ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.


DALYNE EASLEY
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 CEASAR VALENCIA,
12 Defendant.

} S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1
DEPT. 2

13
14
15 BEFORE THE HONORABLE NANCY BECKER, SENIOR JUDGE
16 TUESDAY, AUGUST 9, 2016

17 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
18 **CONFIRMATION OF COUNSEL**

19 APPEARANCES:

20 For the State: LEAH C. BEVERLY, ESQ.
Deputy District Attorney

21 For the Defendant: GREGORY E. COYER, ESQ.

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25 RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, August 9, 2016

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3 [Hearing began at 9:26 a.m.]

4 THE COURT CLERK: C315580, Ceasar Valencia.

5 THE COURT: Defendant is present, in custody and Mr.
6 Coyer is here to confirm as counsel. Are you able to do that, Mr.
7 Coyer?

8 MR. COYER: I can and I will. And I believe we probably
9 need to set a trial date, Judge.

10 MS. BEVERLY: Judge, the case who this belongs to is Ms.
11 O'Halloran. She's going on maternity leave on September the 20th.
12 So is it possible for us to set a status check negotiation? There was
13 an offer that was made in the file and then she can be here to either
14 say reset it when she comes back or to pass it off to another deputy
15 in our office.

16 I know that he's in waive status. He waived on 7-19.

17 MR. COYER: We could do both.

18 MS. BEVERLY: And then he bench warranted so. Or, I'm
19 sorry, yeah, he waived.

20 THE COURT: July 26th it indicates that speedy trial was
21 waived.

22 MS. BEVERLY: Yes.

23 THE COURT: Not that we wouldn't still consider it. I
24 mean, you know, there's only so far we're gonna go but if you want
25 to set it for two weeks. Does that --

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MS. BEVERLY: Thank you.

THE COURT: Does that work for you, Mr. Coyer, to set the trial date?

MR. COYER: That's fine.

THE COURT: August 23rd, 9 a.m.

THE COURT: And it'll give you time to discuss with Mr. Valencia what motions he wanted filed and whether you think they're appropriate.

There's also a pending -- no, the discovery motion was already resolved.

MR. COYER: Alright, thank you. Appreciate it.

THE COURT: Thank you, Mr. Coyer.

[Hearing concluded at 9:28 a.m.]

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ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.


DALYNE EASLEY
Court Recorder/Transcriber



1 **RTRAN**

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5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

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8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

10 **vs.**

11 **CEASAR SANCHAZ**
12 **VALENCIA,**

13 **Defendant.**

S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1

DEPT. 2

14
15 **BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE**
16 **TUESDAY, AUGUST 23, 2016**

17 ***RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:***
18 ***STATUS CHECK: NEGOTIATIONS/TRIAL SETTING***

19 **APPEARANCES:**

20 **For the State:**

LEAH C. BEVERLY, ESQ.
Deputy District Attorney

21 **For the Defendant:**

GREGORY E. COYER, ESQ.

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25 **RECORDED BY: DALYNE EASLEY, COURT RECORDER**

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Las Vegas, Nevada, Tuesday, August 23, 2016

[Hearing began at 9:31 a.m.]

THE COURT: Let's go to page 11. State versus Ceasar Valencia; Mr. Coyer, yours, C315580. We'd he go? Coyer must have stepped outside. Alright. We got to wait for your attorney, okay?

THE DEFENDANT: Well, that's the thing, there's a problem with my attorney. I want to discharge him. His conduct has led me to know that he's been dishonest with me, [indiscernible] with me.

THE COURT: Well, sir, so let me -- why don't you express your view when he comes back in, alright, because I need to make sure he has a chance to hear -- Mr. Coyer, step up, sir.

Alright, I just called State versus Ceasar Valencia. Is that your file?

MR. COYER: No, Judge, but I'm prepared on Mr. Valencia's case, Judge.

THE COURT: Oh, because I had your name on here. Alright, C315580, this was a status check regarding negotiations or trial setting. The minutes showed that on August 9, 2016 you confirmed as counsel on this?

MR. COYER: I did, Judge [indiscernible].

THE COURT: While you were --

MR. COYER: What I meant was the file I had in my hand

1 right then was not the Valencia file. Now I have Mr. Valencia's file.

2 THE COURT: Okay, oh you do have the file, great.

3 MR. COYER: I did confirm.

4 THE COURT: And when I called the case, right before you
5 stepped in Mr. Valencia said that he wants a change in counsel.
6 And I told him, well hold on. Let Mr. Coyer step in here so we can
7 hear what your point of view is. So, we probably should address
8 that first because that may raise a conflict issue.

9 What do you have to say on that, Mr. Coyer?

10 MR. COYER: Well, I can only tell you what Mr. Valencia
11 was explaining this morning which was that he thinks he should
12 have -- either represent himself or have a different counsel. I advise
13 him that if he wanted to represent himself there's a thing called a
14 *Faretta Canvass* and the Court would have to go through that with
15 him. And then he said well maybe he just wants a different
16 attorney.

17 So, you know, I can't really get into the substance of his
18 concerns without divulging attorney/client communications. I'm
19 happy to do it in-camera or ex parte if the Court feels it needs to
20 hear it. But, you know, I'm not gonna take a position against Mr.
21 Valencia or anything he told me on the record here in Court, Judge.

22 THE COURT: Alright, Mr. Valencia, what would you like to
23 say to the Court?

24 THE DEFENDANT: Well, I already deposited a letter to the
25 State Bar for Mr. Coyer being dishonest with me just based on that

1 you don't want to file any motions or take any investigative
2 measures and use resources available to provide me more discovery.
3 And then the issue is that I was asking for potentially relevant
4 documents and any video or anything because of my claim with
5 misconduct with police, a violation of my rights.

6 THE COURT: Sir, Mr. Coyer is a very effective, reputable,
7 hard-working attorney and I have no reason to believe that he's not
8 doing his job in this case. You don't get to pick and choose your
9 counsel so you're gonna have to make it work with Mr. Coyer;
10 alright?

11 What you need to decide is you have the option of
12 discharging him and representing yourself if you want to do that.

13 THE DEFENDANT: Yeah.

14 THE COURT: I would highly advise against that but if you
15 want to do that then --

16 THE DEFENDANT: I mean, I have no choice.

17 THE COURT: Alright, well, you do have a choice because
18 I'm telling you, you got to give it a chance with Mr. Coyer to work.
19 He's gonna look at your case, look at the facts, look at the law and
20 help advise you on what the right thing is to do. These are certain
21 decisions that he's got to make that he believes is gonna provide
22 you with the most effective yet ethical representation. And so he's
23 got certain duties to the Court as well as duties to you, alright; so
24 you got to trust him.

25 //

1 If you don't trust him anymore and don't want to use him

2 --

3 THE DEFENDANT: Yes.

4 THE COURT: -- I'll let you discharge him and you can
5 represent yourself but at first I need to canvass you, it's called a
6 Faretta Canvass, and we're gonna do that Thursday, we're not
7 gonna do that today.

8 THE DEFENDANT: Alright.

9 THE COURT: Alright? So, I'm gonna give you a couple
10 days to think about it. You're gonna come back --

11 THE DEFENDANT: I'm already decided. Besides there's no
12 trust, there's no loyalty. His loyalty's with the prosecution for
13 agreeing with continuances based on that she's in -- her taking
14 maternity leave or whatever that I don't have any discovery. My
15 discovery is --

16 THE COURT: Mr. Coyer, do you want to say anything
17 about your efforts to obtain discovery for this Defendant?

18 MR. COYER: So Judge, I met with Mr. Valencia and we
19 discussed what discovery we thought we needed to seek out in
20 addition to what's already been provided. I explained to Mr.
21 Valencia that my discovery practice differs slightly from what you
22 typically see and what the Public Defender policy is. I don't work in
23 the Public Defender office.

24 I do written discovery requests in a letter and I anticipate a
25 written response. And when -- it's a paper trail that I build, that is

1 my practice. When the DA doesn't give me something that I think
2 I'm entitled to then I file a motion to compel that discovery. It's the
3 way I've been practicing discovery for the last five years. It's just
4 the way that I do it. It's my practice. I found it to be more effective
5 and quicker than what other attorneys do. That's my policy. And I
6 explained that to Mr. Valencia.

7 I do intend to make discovery requests --

8 THE COURT: It seems like --

9 MR. COYER: -- and if we don't get what we want I will
10 file a motion.

11 THE COURT: It seems like a very effective practice. I like
12 that practice. And Mr. Valencia, he's using a practice that's creating
13 a paper trail to make sure that he can get the documents that he
14 needs. He will file the appropriate motion --

15 THE DEFENDANT: But again, this is 30 days before trial
16 though.

17 THE COURT: Well, we don't have a trial date yet in this
18 case, right?

19 THE DEFENDANT: No.

20 MR. COYER: And Judge, what I explained is that the DA
21 is obligated to produce discovery within 30 days before trial. That's
22 the Nevada Revised Statutes. I can't change what the Nevada
23 Revised Statutes say. The deadline for producing discovery is 30
24 days before trial. There's not much we can do about that.

25 THE COURT: So, Mr. Valencia, I made my decision that

1 I'm going to request your request, your oral request now, to remove
2 Mr. Coyer; alright?

3 THE DEFENDANT: Can I [indiscernible] --

4 THE COURT: But I'm treating your request now -- I'm
5 sorry. I'm denying your request to have a new PD appointed;
6 alright? We're gonna continue your oral motion to remove Mr. Coyer
7 and have you represent yourself to Thursday. I will let you -- I want
8 you to think about it; alright? I know you're telling me you don't
9 want to think about it. I'm telling you think about it some more and
10 give me your final answer on Thursday when we come back.
11 Alright? Alright.

12 Mr. Coyer, can you be back here on Thursday, sir?

13 MR. COYER: Yes, Your Honor.

14 THE COURT: Alright, Clerk will give you a date.

15 THE COURT CLERK: August 25th at 9 a.m.

16 THE COURT: Alright, August 25th at 9 a.m.

17 MR. COYER: Thank you, Judge.

18 [Hearing concluded at 9:38 a.m.]

19 * * * * *

20 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
21 Procedure, I acknowledge that this is a rough draft transcript,
22 expeditiously prepared, not proofread, corrected, or certified to be an
23 accurate transcript.

24 
25 DALYNE EASLEY
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1

10 vs.

DEPT. 2

11 CEASAR SANCHAZ
12 VALENCIA,

13 Defendant.

14
15 BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
16 THURSDAY AUGUST 25, 2016

17 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
18 **STATUS CHECK: NEGOTIATIONS/TRIAL SETTINGS;**
19 **STATUS CHECK: MOTION TO DISMISS COUNSEL**

20 APPEARANCES:

21 For the State: RACHEL O'HALLORAN, ESQ.
Deputy District Attorney

22 For the Defendant: GREGORY E. COYER, ESQ.

23
24
25 RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 Las Vegas, Nevada, Thursday, August 25, 2016

2
3 [Hearing began at 10:01 a.m.]

4 THE COURT: Alright, page 16, State versus Valencia,
5 C315580, Negotiations/Trial Setting. Where are we on this one?
6 Defendant's present in custody.

7 MR. COYER: Judge, we were here Tuesday for
8 Negotiations/Trial Setting. Mr. Valencia indicated he would like to
9 represent himself and Your Honor passed it to today for a *Faretta*
10 canvass.

11 THE COURT: That is correct. I need to get my *Faretta*
12 canvass. Will you go grab my -- you won't know where to find it.
13 Court's gonna be in recess five minutes. I need to go get my binder.

14 [Recording paused at 10:01 a.m.]

15 [Recording resumed at 10:04 a.m.]

16 THE COURT: Alright, we're back on the record with State
17 versus -- go ahead and be seated everybody, State versus Valencia,
18 C315580. Mr. Valencia, is it still your intent, I gave you a couple of
19 days to decide what you wanted to do, is it still your intent to ask
20 this Court to allow you to represent yourself?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Alright, as is that because you believe your
23 current counsel, Mr. Coyer, has not been providing you with defense
24 that you believe is satisfactory --

25 THE DEFENDANT: Well, it's not just Mr. Coyer it's the

1 prosecution not providing me any proper discovery.

2 THE COURT: You understand Mr. Coyer explained to you
3 two days ago that he's got a method that he has found quite
4 effective in obtaining the necessary discovery. But you don't wish
5 to take his advice and utilize that method; is that correct?

6 THE DEFENDANT: That's correct and this is for the reason
7 being is because of I was already supposed to be in trial on July 25th
8 and I had to waive my speedy trial based on -- it's because the trial
9 was not ready.

10 THE COURT: And so --

11 THE DEFENDANT: And then I had submitted motions to
12 the Court for *Brady* material, *Brady* motion and I don't know what
13 happened with that. You said --

14 THE COURT: You had a *Brady* motion that you prepared,
15 you said?

16 THE DEFENDANT: Yeah, it should be on file with the
17 Court but I mean, he got assigned to the case and now we're here.
18 And I don't have nothing, and those certain materials like potentially
19 relevant documents that I would like to have for preparation of a
20 Motion to Suppress.

21 THE COURT: Well, I think you're making a wrong
22 decision. And I need to read you some words for you to consider for
23 you to make a proper decision. It's called a *Faretta* canvass.

24 THE DEFENDANT: Alright.

25 THE COURT: Alright? So I'm gonna read this to you so,

1 and then we're gonna discuss it to see if you truly want to do this
2 and whether you're competent to even represent yourself; alright?

3 THE DEFENDANT: And another --

4 THE COURT: Because I'm strongly recommending against
5 it and you still want to represent yourself, right?

6 THE DEFENDANT: Well, I mean this obstacle is being
7 created between having an attorney and me doing any type of --
8 receiving any kind of documents.

9 THE COURT: And that's the only reason why you want a
10 new counsel is because you're not getting the documents you
11 believe you need for your defense and you're not getting them fast
12 enough; is that correct?

13 THE DEFENDANT: Well, yeah. And other issues too.

14 THE COURT: So hold on, listen to me; alright? So, under
15 the Sixth Amendment of the United States Constitution you're
16 entitled to the assistance of an attorney at all stages of a criminal
17 proceeding. You have the right to represent yourself and conduct
18 your own defense. The Court cannot force a lawyer upon you
19 should you insist that you want to conduct your own defense.

20 You are given this right under the United States Supreme
21 Court decision of *Faretta versus California*. But you must first
22 knowingly and voluntarily waive and give up your right to the
23 assistance of an attorney before you can represent yourself.

24 Do you understand that you have the right to the
25 assistance of an attorney at all stage of the criminal proceeding? Do

1 you understand that, sir?

2 THE DEFENDANT: That's correct.

3 THE COURT: Alright, criminal law is a complex area where
4 experience and professional training is both required and desirable.
5 Mr. Coyer has that experience and training to competently represent
6 you. What legal training, if any, do you have, sir?

7 THE DEFENDANT: I'm not a sophisticated student of law,
8 I wish I was but I know the elements of the crime, I know the
9 punishments of what I might get, I know --

10 THE COURT: Are you familiar with what you've been
11 charged with, sir?

12 THE DEFENDANT: Yes.

13 THE COURT: What have you been charged with?

14 THE DEFENDANT: Assault with the use of deadly on a
15 protected person. Ex-felon or prohibited person with possession of a
16 firearm, and trafficking controlled substance/mid-level, and two
17 possessions not for the purpose of sale.

18 THE COURT: Do you have an understanding of what
19 potential sentence you could receive if you were found guilty on
20 those charges?

21 THE DEFENDANT: Yes.

22 THE COURT: Alright. How have you acquired that
23 understanding?

24 THE DEFENDANT: From reading the NRS.

25 THE COURT: The Nevada Revised Statutes?

1 THE DEFENDANT: Yes.

2 THE COURT: Alright, you have -- the Nevada Revised
3 Statutes are available to you in prison?

4 THE DEFENDANT: Yes, that's another issue that I wanted
5 to talk to you about.

6 THE COURT: We'll deal with that issue in a moment.

7 THE DEFENDANT: Okay, yes.

8 THE COURT: Do you know where to go --

9 THE DEFENDANT: Yes, I have -- no, yeah, I have the NRS
10 for that. I have that in prison.

11 THE COURT: Alright. Criminal trials present difficult
12 choices as to strategy and tactics. And even attorneys can differ as
13 to the proper defense to making a case. You're not trained to make
14 those choices because you haven't gone to law school and you
15 haven't practiced as a lawyer and you don't have experience trying
16 cases and representing clients.

17 An attorney knows the degree of proof that the State must
18 meet to prove your guilt beyond a reasonable doubt. And by
19 investigation and review of the State's evidence it may be
20 determined that the State cannot prove its case. You must
21 determine how to subpoena witnesses to testify on your behalf.
22 Would you even know how to do that, sir?

23 THE DEFENDANT: Through the Clerk of the Court?

24 THE COURT: You would also have to participate in
25 selecting a jury. Do you know how to conduct that process of

1 selecting a jury?

2 THE DEFENDANT: I remember a little but not too much
3 but I mean, like I said, I could read up on it.

4 THE COURT: You know there's a process where you can
5 exercise challenges to jurors for cause, that's removing some jurors
6 that you believe are not going to be fair and impartial. And there's
7 also a process where you can remove jurors called preemptory
8 challenge for any reason. Do you understand -- do you have any
9 knowledge about that process, sir?

10 THE DEFENDANT: Not really.

11 THE COURT: Do you believe you could learn about that
12 process in time to represent yourself effectively at trial?

13 THE DEFENDANT: Yes.

14 THE COURT: Is that something that you want to do is to
15 learn about the adequate procedural step so you can represent
16 yourself at trial?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you know that the attorney on your case
19 has the ability to research the law in similar cases and search his
20 experience and education to determine the best possible defenses
21 for you? Do you understand that if he was representing you he
22 could that for you?

23 THE DEFENDANT: Yes, I understand that.

24 THE COURT: Do you know how to research the law?

25 THE DEFENDANT: Yes.

1 THE COURT: Alright, what's your understanding as to
2 how you could research what are the charges against you and the
3 possible penalties and what are possible defenses? How would you
4 research the law, sir?

5 THE DEFENDANT: Well, I know there's a certain -- the
6 federal guidelines for sentencing and I know that that's what is
7 gonna be used.

8 THE COURT: You realize this is a state court proceeding?

9 THE DEFENDANT: Yes, but that's what my understanding
10 was that that's what is used to determine the line of punishment.

11 THE COURT: Do you realize sir that you have multiple
12 counts against you and if you're found guilty the Court has
13 discretion to either for some of these count it may be probationable
14 but some of the counts the Court may decide that incarceration is
15 the appropriate punishment; you understand that?

16 THE DEFENDANT: No drug treatment?

17 THE COURT: Drug treatment may be an option for the
18 Court to consider. You understand the Court has options?

19 THE DEFENDANT: Okay.

20 THE COURT: You understand that you have several
21 counts? If you're found guilty on all the counts the Court could
22 decide not only to incarcerate you, put you in jail, put you in prison
23 for those counts but the Court can decide to run those sentences
24 either concurrent or consecutive. You understand the difference
25 between concurrent and consecutive?

1 THE DEFENDANT: Yes.

2 THE COURT: If you're representing yourself, do you
3 understand sir that you would have an opportunity to cross-examine
4 witnesses that the State puts on against you?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you believe that you could effectively
7 cross-examine witness?

8 THE DEFENDANT: Yes, if I have a statement. If I have
9 some reports from them, I mean, 'cause there's no preliminary.

10 THE COURT: Sir, do you understand that -- and I don't
11 know if there are any statements, there might be statements of
12 some of the witnesses that the State puts on. Do you understand
13 that, sir?

14 THE DEFENDANT: Yes.

15 THE COURT: Alright. Do you understand sir that if I grant
16 your request for you to represent yourself and then you get
17 discovery from the State, and if you look at that discovery and
18 decide that you want an attorney, it's too late? Once you make the
19 decision you're bound by that decision to represent yourself.

20 THE DEFENDANT: Alright. Okay, I understand that.

21 THE COURT: Do you understand that even though you are
22 not a lawyer, if you choose to represent yourself in trial, the Court is
23 going to require you to comply with the normal rules of evidence?

24 THE DEFENDANT: Okay. Alright, yes.

25 THE COURT: Do you understand that there could be

1 instances where a witness is asked a question by the attorney and
2 it's an improper question? Do you understand that you have the
3 right to object to improper questions?

4 THE DEFENDANT: Yes.

5 THE COURT: Alright. How do you plan to familiarize
6 yourself with the types of objections that you are allowed to make at
7 trial?

8 THE DEFENDANT: Well, I know there's certain books that
9 I would like to request at some point but I know the law library at
10 the jail don't let nobody -- don't let the inmates borrow no books so
11 that would be kind of hard. And I don't have money to pay for them
12 but it's called the **Criminal Procedure** book. And then I got the
13 evidence one, the major changes in evidence in the **Nevada Rules of**
14 **Evidence**.

15 THE COURT: Alright. Well, there are rules of evidence
16 books that you could get.

17 Sir, do you also understand that you have a Constitutional
18 right not to testify? If you're representing yourself you can elect not
19 to testify and that would be your Constitutional right. Do you
20 understand that, sir?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that you have the ability
23 to waive the right and testify if you so choose; you understand that?

24 THE DEFENDANT: Yes, well, file a motion to request
25 material and under the Fifth Amendment I don't have to disclose like

1 full information why; right?

2 THE COURT: You don't have -- if you choose not to
3 testify --

4 THE DEFENDANT: Alright.

5 THE COURT: -- then I will give an instruction to the jurors
6 that they cannot consider the fact that you chose not to testify in
7 their deliberations. So they can't hold that against you. Do you
8 understand that, sir?

9 THE DEFENDANT: Yes.

10 THE COURT: Alright. Do you understand, however,
11 though if you choose to testify then and if you have a felony
12 conviction within the last ten years then the State has the right to
13 question you about that felony conviction? They can ask you when
14 you were convicted, what you were convicted for.

15 THE DEFENDANT: So it's a ten-year limit?

16 THE COURT: Yes. Do you understand that, sir?

17 THE DEFENDANT: Okay.

18 THE COURT: Alright. So they can ask you: when did it
19 happen, what was the felony and have you been convicted. So, you
20 understand all that?

21 THE DEFENDANT: Yes.

22 THE COURT: That's if you testify.

23 THE DEFENDANT: Okay.

24 THE COURT: Alright. And if they ask you those questions
25 then they can also comment on your prior felony in closing

1 arguments; do you understand that, sir?

2 THE DEFENDANT: Okay, I understand that.

3 THE COURT: And do you understand that a lot of these
4 things I've just mentioned are issues that if you have an attorney
5 representing you he could more thoroughly advise you on these
6 issues and how you should conduct yourself either leading up to trial
7 or at trial; you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Alright, so, sir, state your age.

10 THE DEFENDANT: I'm 36.

11 THE COURT: Alright, what is your level of education?

12 THE DEFENDANT: High school graduate, twelfth grade.

13 THE COURT: Alright, sir. Sir, after I have explained all
14 this to you and given you a chance to answer my questions, and
15 after you've had a chance to think about this some more, do you
16 wish to represent yourself in this case?

17 THE DEFENDANT: Yes.

18 THE COURT: Alright, do you understand that by you
19 representing yourself you're going against my recommendation?

20 THE DEFENDANT: Yeah, I wish to represent myself.

21 THE COURT: Alright. And you understand that you're --
22 you understand it's the Court's position that Mr. Coyer can provide
23 you with effective representation if you wished to use him? But you
24 don't wish to use him; is that correct?

25 THE DEFENDATION: That's correct.

1 THE COURT: Alright. Mr. Coyer, is there anything that
2 you would like to add to this *Faretta* canvass or as to the
3 Defendant's request to represent himself?

4 MR. COYER: No, Your Honor.

5 THE COURT: The Court finds that the Defendant, Mr.
6 Ceasar Valencia, is competent to represent himself. He's expressed
7 his desire to represent himself. He's expressed sufficient knowledge
8 of the resources available to him to prepare himself to represent
9 himself. That he has sufficient age, education and experience to
10 exercise his Constitutional right to represent himself.

11 And, for those reasons, I'm granting your request, sir. You
12 can represent yourself and I will then discharge Mr. Coyer as your
13 counsel; alright?

14 THE DEFENDANT: Alright. Thank you.

15 THE COURT: Alright. So Mr. Coyer, you're now
16 discharged.

17 Now, we need to set a trial date for you, Mr. Valencia, but
18 I understand you need to file -- you said that there's a pending
19 motion, a pending *Brady* motion. I don't know if we took that off
20 calendar because at the time it was filed you may have been
21 represented by Mr. Coyer. Let me ask the State if they've received
22 a *Brady* motion.

23 MS. O'HALLORAN: I know that there was a discovery
24 motion filed by the Public Defender's office. It was taken off
25 calendar. I'm looking to see what was -- he had a Pro Per Motion to

1 Suppress, a Motion to Inspect Documents, I believe, and --

2 THE COURT: So what you need to do Mr. Valencia is
3 refile those motions because they're not proper documents for you
4 to file while you had counsel representing you. So you need to refile
5 whatever motions you want me to hear, Motion to Suppress, Motion
6 for Discovery, anything else.

7 THE DEFENDANT: Well, first I would like to get Motion for
8 Production and Preserve Evidence.

9 THE COURT: Right, go ahead and file that motion and I'll
10 set it down for a hearing and we'll bring you back in court and we'll
11 argue that motion.

12 THE DEFENDANT: There's one more issue that's
13 happening with the law library access. I'm being denied because I
14 failed to sign one request that they're charging me for, four-fifty,
15 yeah, four-fifty. And I refused to sign that and ever since then, this
16 happened in 8 -- 9/16. And ever since then I haven't been able to
17 access the law library.

18 THE COURT: The library? What is the charge for? Four
19 hundred and fifty dollars, is that an access fee?

20 THE DEFENDANT: It's research, I guess. That's what
21 they're charging, if you'd like to see the papers.

22 THE COURT: Marshal, could you please retrieve the
23 paperwork? Allow the State to take a quick look at that.

24 MS. O'HALLORAN: Yeah, Your Honor, it appears he was
25 assessed a \$4.50 charge for 30 pages of copies that he made. It

1 appears it went to his research.

2 THE COURT: Alright, \$4.50 for copies? Alright, do you
3 have someone that can pay that for you?

4 THE DEFENDANT: No. But it's just for indigent, being
5 indigent why should I be charged? And then I'm representing
6 myself. Now, is there anything that the Court could issue for the
7 law library to give me access, more access? 'Cause we have access
8 through the kiosk in the unit but sometimes we're on lock-down
9 'cause I'm in north tower and it's just -- and then --

10 THE COURT: I'll waive this \$4.50 fee and I'll ask the
11 State to put together an order just stating that he's now
12 representing himself and he's to -- shall provide customary and usual
13 access to the law library that is typically afforded to defendants that
14 represent themselves. If you could prepare that please, I would
15 appreciate that, Ms. O'Halloran.

16 MS. O'HALLORAN: Yes, Your Honor.

17 THE DEFENDANT: Your Honor, one more question. Is
18 there any way where I can have access to or borrow the books from
19 anybody like the criminal handbook or the evidence, the major --

20 THE COURT: You need to see what's available at the law
21 library, if there's something --

22 THE DEFENDANT: They don't loan the books, that's the
23 problem. And then we're on lock-down. And since the law-library is
24 in NVC, North Valley Complex, they only give us access like once a
25 week maybe through the kite system, inter-department mail. And

1 that's -- it's very limited.

2 THE COURT: Well, that's a request -- I'm gonna ask that
3 you first -- to make that request through the prison system. So you
4 make that request for them and if you're not getting appropriate
5 access then file a motion with me. But you got to first go through
6 them; alright?

7 THE DEFENDANT: Alright.

8 THE COURT: Now, we need to set a trial date. Sir, do
9 you wish, let me go ahead and ask you again, do you wish to invoke
10 your right to a speedy trial? I don't know if you've waived that
11 already.

12 MS. O'HALLORAN: It's already been waived, Your Honor.

13 THE COURT: It's already been waived?

14 MS. O'HALLORAN: And it was. I did want to make a
15 representation to prior offers before we set the trial date.

16 THE COURT: You can do that too. The State is now
17 gonna make a representation as to prior offers for you to consider.
18 Please listen carefully to what she has to say.

19 MS. O'HALLORAN: There was a prior offer extended to
20 the Public Defender's Office, in fact, it was sought out by Mr. Lisk.
21 And that offer was for the Defendant to plead guilty to one count of
22 assault on a protected person with use of a deadly weapon, and one
23 count of possession of controlled substance with intent to sell. The
24 State would retain the right to argue but would have no opposition
25 to concurrent time.

1 Additionally, Defendant would agree to forfeit everything
2 seized in conjunction with this case. The State would not seek
3 habitual criminal treatment. That offer was rejected by the
4 Defendant and I just wanted that to be placed on the record for later
5 purposes, Your Honor.

6 THE COURT: Very good. Thank you very much for
7 representing that.

8 So, we're gonna go ahead and set this for trial in the
9 regular course. Madam Clerk, will you please provide the next
10 available trial date, please.

11 THE COURT CLERK: That would be -- you got two weeks
12 in November.

13 THE COURT: Alright, so I have --

14 THE COURT CLERK: Is that fine?

15 THE COURT: That's fine with me. So go ahead and tell
16 them, Ms. O'Halloran, so she can see if she's available.

17 MS. O'HALLORAN: If I may, Your Honor, and I will submit
18 this to the Court's discretion. The State would request a later date.
19 Simply, this is my case and I will be out on maternity leave until the
20 beginning of the year. But again, I'll submit that to Your Honor.

21 THE COURT: Alright, so I think I have -- so you're out
22 through the --

23 MS. O'HALLORAN: The first of the year.

24 THE COURT: Alright. So what do I have the beginning of
25 the year?

1 THE COURT CLERK: Our next stack --

2 THE COURT: That will give him more time to prepare.

3 THE COURT CLERK: Our next criminal stack would start in
4 February and that would be February 21st and that goes five weeks.

5 THE COURT: February 21, that's a five week stack. Can
6 we set it at the beginning of that stack?

7 THE COURT CLERK: The beginning is --

8 THE COURT: You'll be back then?

9 MS. O'HALLORAN: Yes, Your Honor.

10 THE COURT CLERK: Okay, so, we can do February --
11 calendar call February 7th at 9 a.m., jury trial February 14th at 10
12 a.m.

13 THE COURT: Alright, calendar call. Sir, that's when you
14 come back and report that you're ready for trial. That will be
15 February 7th at 9 a.m. So we'll have you back here then and we'll
16 discuss some of the logistics of trial then. And then jury trial is
17 actually gonna start February 14th in this court at 10?

18 THE COURT CLERK: Jury trial at 10.

19 THE COURT: At 10 a.m.

20 Ms. O'Halloran, will you do one more thing for me, please?
21 Will you please put on the record the potential sentences that this
22 Defendant could receive if he's found guilty on each of these
23 counts?

24 MS. O'HALLORAN: Absolutely, Your Honor.

25 THE COURT: And so, please listen to this. These are

1 what you're gonna be found guilty of and charged with, alright?

2 THE DEFENDANT: Alright.

3 THE COURT: Alright.

4 MS. O'HALLORAN: I just need a moment to locate the
5 information in my file. I apologize.

6 THE COURT: Well, while you're doing that, sir, --

7 MS. O'HALLORAN: I will say as to --

8 THE COURT: Hold on one second.

9 MS. O'HALLORAN: Okay.

10 THE COURT: I just want to say if, ordinarily once you
11 make that election to represent yourself, you can't go back on it. If
12 you believe that there is a compelling reason for you to now have a
13 public defender appointed and you firmly believe that you made a
14 bad decision and poor judgment in deciding to represent yourself --

15 THE DEFENDANT: There's no going back?

16 THE COURT: Well, I'm asking you now, bring that back to
17 the judge, bring that back to me with a motion and we'll consider it;
18 okay?

19 THE DEFENDANT: Alright, thank you.

20 THE COURT: Alright? So, bring it back on a motion if you
21 change your mind. I'm not saying I would grant it.

22 THE DEFENDANT: Alright.

23 THE COURT: But I would want to hear what your
24 difficulty is at that point in time in continuing to represent yourself;
25 alright?

1 THE DEFENDANT: Alright.

2 THE COURT: Thank you.

3 Ms. O'Halloran, please proceed.

4 MS. O'HALLORAN: Thank you, Your Honor. As to Count
5 1, assault on a protected person with use of a deadly weapon that's
6 Category B felony, potential prison sentence of one to six years.

7 Count 2, ownership or possession of a firearm by a
8 prohibited person is a Category B felony with a potential sentence of
9 one to six years.

10 Count 3, trafficking in controlled substance, a Category B
11 felony. If he's found guilty of that that is a mandatory prison
12 sentence of one to six years.

13 Counts 4 and 5, possession of controlled substances are
14 Category D felonies with a potential sentence of one to four years.

15 Additionally, this Defendant has 11 prior felonies so the
16 State will be seeking habitual criminal treatment in this case.

17 THE COURT: Sir, do you understand that the State is
18 indicated they're seeking habitual treatment?

19 THE DEFENDANT: [Inaudible].

20 THE COURT: Have you looked at the habitual treatment
21 statute?

22 THE DEFENDANT: Yes.

23 THE COURT: Alright, do you understand that if the State
24 proves that you should -- that you have two or more prior felonies
25 then the Court has discretion, if you're found guilty in this case, the

1 Court has discretion to treat you as what's called a small habitual
2 criminal --

3 THE DEFENDANT: Alright.

4 THE COURT: -- and the Court must then sentence you to
5 a minimum of not less than five years and a maximum of twenty
6 years; you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: And then you also understand if the Court
9 treats you as a large habitual criminal, if you have three or more prior
10 felonies, then the Court has discretion to designate you as a large
11 habitual? And then the Court must sentence you to either life
12 without parole, or life with parole, or life with a possibility of parole,
13 after 15 years?

14 MS. O'HALLORAN: Ten years, Your Honor.

15 THE COURT: Ten years. You understand that, sir?

16 THE DEFENDANT: And they are seeking the big or the
17 small?

18 THE COURT: Well, they, seeking both, they could argue
19 either one at the time of sentencing.

20 THE DEFENDANT: But the small one does --

21 THE COURT: So they're seeking -- they can ask for large
22 habitual based upon the number of felonies that they say you have.
23 You understand that? You understand serious consequences here.
24 You could be facing life without the possibility of parole.

25 THE DEFENDANT: I understand.

1 THE COURT: Alright, do you still wish -- I want to give
2 you one last chance. Do you still wish to represent yourself, sir?

3 THE DEFENDANT: For the meantime, I believe, yes
4 because --

5 THE COURT: Alright, sir. Your decisions been made.
6 You're representing yourself.

7 Alright, anything else you want to put on the record? We
8 got to continue, anything else?

9 MS. O'HALLORAN: No, Your Honor, thank you.

10 THE COURT: Alright, thank you. You may be seated, sir.
11 Thank you.

12 [Hearing concluded at 10:29 a.m.]

13 [Hearing recalled at 10:54 a.m.]

14 THE COURT: Mr. Coyer, you here?

15 MR. COYER: Yes, Your Honor.

16 THE COURT: Sir, you wanted page 16 back? And I think
17 we have -- we're almost done. Ordinarily I take a break but let's get
18 this done so we can let everyone get out of here.

19 Alright, page 16, State versus Valencia. What's the deal?

20 MR. COYER: Judge, Mr. Valencia called me over and we
21 had a little discussion. I thought it best to go ahead and just recall it
22 and make a record.

23 THE COURT: Alright.

24 MR. COYER: He felt very strongly about going ahead and
25 receiving his entire file today, which I'm happy to provide. But I just

1 wanted to put it on the record that I am gonna be providing Mr.
2 Valencia with his original file including all the discovery that I have
3 and the motions that were filed by him previously. I am going to
4 provide those to him now directly from my file, Judge.

5 THE COURT: Very good.

6 Marshal, is it okay if he receives documents from counsel
7 or do they need to go to you?

8 THE CORRECTIONS OFFICER: No, that's fine.

9 THE COURT: Alright, very good. You can go ahead and
10 transfer that file directly to the Defendant.

11 MR. COYER: Great. Thank you, Your Honor.

12 THE COURT: Record will reflect that Mr. Coyer is
13 compiling his documents at this time. While he's doing that -- Mr.
14 Coyer, could you do that off to the side then?

15 MR. COYER: Yes, absolutely.

16 THE COURT: Ms. O'Halloran, what's our next case?

17 [Hearing concluded at 10:56 a.m.]

18 * * * * *

19 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
20 Procedure, I acknowledge that this is a rough draft transcript,
21 expeditiously prepared, not proofread, corrected, or certified to be an
22 accurate transcript.

23 
24 DALYNE EASLEY
25 Court Recorder/Transcriber



1 **RTRAN**

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

7
8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

10 **vs.**

11 **CEASAR SANCHAZ**
12 **VALENCIA,**

13 **Defendant.**

S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1

DEPT. 2

14
15 **BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE**
16 **TUESDAY, OCTOBER 18, 2016**

17 ***RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:***
18 ***DEFENDANT'S PRO PER DISCOVERY MOTION***

19 **APPEARANCES:**

20 **For the State:**

RICHARD H. SCOW, ESQ.
Chief Deputy District Attorney

21 **For the Defendant:**

PRO SE

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25 **RECORDED BY: DALYNE EASLEY, COURT RECORDER**

1 Las Vegas, Nevada, Tuesday, October 18, 2016

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3 [Hearing began at 9:37 a.m.]

4 THE COURT: Let's go to page 7. This is State versus
5 Ceasar Valencia, C315580, Defendant is in custody.

6 THE DEFENDANT: Morning.

7 THE COURT: Alright, very good, and present. In this
8 particular case, if I recall correctly, the Defendant had moved
9 previously to discharge his counsel and wanted to represent himself
10 and the Court granted that. And now, the Defendant has brought
11 this motion styled as a discovery motion. The Defendant is actually
12 seeking an extensive list of supplies and books, things that he can't
13 find, supposedly, in the library in prison.

14 THE DEFENDANT: That's the other motion, Judge Scotti.
15 That's the Right of Access?

16 THE COURT: Right. Oh, the Right of Access Motion too.
17 You have a Discovery Motion and a Right of Access Motion.

18 Alright, so, since you're representing yourself sir I'll let you
19 go ahead and be heard first on the Discovery Motion. You may
20 explain to the Court what it is you're seeking, sir.

21 THE DEFENDANT: The specifics or just for the *Brady*
22 material basically a *Brady* Motion?

23 THE COURT: Right, I understand. Go ahead. Is there
24 anything more, I'm just giving you a chance, is there anything more
25 that you wanted to add?

1 THE DEFENDANT: The State claims that I'm not entitled
2 to any of the specifics or some of the specifics that I've listed in my
3 motion because, as they stated, that its work product. But I don't
4 think they're entitled to that work product because it's not privileged
5 for them it's privileged for the Defense. So that means that they
6 must let Defense inspect or copy or photograph any of the written
7 statements that they have.

8 The *Brady* isn't for impeachment and exculpatory evidence
9 but *Brady* -- the prosecutor failed to disclose exculpatory evidence in
10 the present case the prosecutor failed to disclose evidence that the
11 Defense might have used to impeach the government's witnesses by
12 showing bias or interest, impeachment evidence however, as well as
13 exculpatory evidence --

14 THE COURT: Right, I understand that's the law, sir, I
15 understand all that. So, what specific document do you believe the
16 State has that they won't turn over to you?

17 THE DEFENDANT: Well, any video footage of the actual
18 traffic stop and just statements from the actually -- from all the
19 officers that initiated the stop.

20 THE COURT: Alright, so let me go ahead and talk to the
21 State now.

22 Mr. Scow, is there anything that you believe you're holding
23 on to that is discoverable under *Brady*, or at least that should be
24 produced under *Brady* that you've not yet produced?

25 MR. SCOW: No, nothing that I'm aware of.

1 THE COURT: Okay, have all witness statements been
2 turned over to either prior counsel so it's in the file that he's gonna
3 get or turned over to the Defendant?

4 MR. SCOW: As far as I know, yes, it has.

5 THE COURT: Does any video tape exist of the incident, to
6 your knowledge?

7 MR. SCOW: That I don't know. I don't know if there's
8 body camera or not from the officers. We'll have to check into that.
9 If there is that would be turned over.

10 THE COURT: Right. And so, the Court believes that the
11 State understands its obligations under *Brady* and *Giglio*. The Court
12 will, and I don't need to make an order to that affect, the court will
13 simply, you know, for your benefit, remind the District Attorney's
14 Office to timely comply with its obligations to turn over any
15 exculpatory material including any material that would be relevant
16 and material for impeachment purposes, which you're entitled to.
17 They have to provide all that material to you within a timely manner
18 so that it doesn't prejudice your ability to prepare for trial.

19 THE DEFENDANT: Yes, Judge, I need to prepare some
20 motions and I need these documents.

21 THE COURT: Right, right.

22 THE DEFENDANT: I don't know anything about these
23 documents.

24 THE COURT: I understand. They're gonna -- they have a
25 duty under the law to turn that over to you. If it turns out that they

1 have failed to provide any exculpatory or impeachment material to
2 you and you're prejudiced by that then that could jeopardize the
3 validity of any judgment at trial. They know that and I'm sure that
4 they will honor their obligation.

5 So, what you need to do is give them some time to turn
6 over their material and if you find that you discover there's some
7 particular document that exists that hasn't been turned over you can
8 refile your motion. But this time there's nothing specific that they
9 have that is in their possession, custody or control that they have
10 not yet --

11 THE DEFENDANT: Well, what about the police file?

12 THE COURT: Well, you'll get the --

13 MR. SCOW: We turn over police reports, statements. I
14 mean, that is the police file, so.

15 THE COURT: Yeah, and have you turned that over or are
16 you still in the process of reviewing it right now?

17 MR. SCOW: It would be my understanding at this point
18 that that would have all been turned over. I don't have background
19 with this case so I can't say specifically but that's how every case
20 is --

21 THE COURT: Arrest report, police file, witness
22 statements, all that needs to be turned over to you.

23 THE DEFENDANT: They filed an expert notice of motion
24 back in July 1st and they said that they turned over that in discovery
25 to the whatever the substance of their report is. And they haven't

1 gave me nothing. They didn't come in the file or nothing.

2 THE COURT: Well, that's a different issue. So now you're
3 talking about any expert report.

4 THE DEFENDANT: Well, they filed that notice of motion
5 back in July 1st and they never -- they said a different -- the
6 substance of that -- of their opinion of the report was handed over in
7 discovery along with the other witnesses.

8 THE COURT: Alright, let me talk to Mr. Scow about that.
9 So, I think what he's referring to is your notice of expert
10 which probably has a general description of the anticipated subject
11 matter, but you probably don't have any expert report yet. Would
12 that be correct?

13 MR. SCOW: If it's for a controlled substance, that's likely
14 not done yet. That's the only thing I could think of based on the
15 nature of the charges.

16 THE COURT: So any expert reports are due 20 days
17 before trial; is my recollection.

18 MR. SCOW: Twenty-one, yes.

19 THE COURT: Twenty-one days before trial. That's what
20 the statute requires them to do. You have a trial date now of
21 February 13, 2017 and so calculate 21 days before that date and
22 that's the State's deadline to provide you with any expert reports.

23 THE DEFENDANT: They filed their notice of witnesses,
24 expert witnesses, stating that they already produced those
25 documents.

1 THE COURT: Okay, well but appears they haven't done it.
2 You're right, thank you, sir. But if they haven't done it by 21 days
3 before trial then I won't let them introduce it at trial. They have to
4 provide 21 days before trial they have to let me know, let you know
5 general substance of the opinions and a general statement of the
6 opinions that are gonna be offered; alright?

7 THE DEFENDANT: Alright.

8 THE COURT: And so they have to provide that. Alright,
9 so we'll wait and see if they do it on time.

10 So, that was your Discovery Motion. So basically I'm
11 denying it on the grounds that I'm accepting the representations of
12 the State that they're not presently in possession, custody or control
13 of any document that they have not yet turned over but I'm
14 reminding them of their obligation to comply with *Brady*, *Giglio* and
15 their progeny. And I'm denying your motion without prejudice,
16 meaning you can file it again if you learn of a specific document that
17 hasn't timely been produced.

18 Now, your next motion is a Pro Per Motion for Right of
19 Access. That actually, I looked it up, that actually is not set until
20 November 1 so we'll see you back here on November 1 on that;
21 alright?

22 THE DEFENDANT: Alright.

23 THE COURT: Alright, thank you, sir. See you back then.
24 Are you still confident -- still comfortable with you representing
25 yourself, sir?

1 THE DEFENDANT: Yes.

2 THE COURT: Alright, very good. We'll move

3 THE DEFENDANT: The problem is, Judge Scotti, that I
4 want to obtain the video footage by subpoena and I wrote the clerk
5 of the court; right? And I got denied. And they said that they
6 charged me 50 cents for copies and that I got to pay for them first
7 for any copies of any documents.

8 THE COURT: Well, video footage --

9 THE DEFENDANT: Yeah, I only subpoenaed records.

10 THE COURT: Well, the State's gonna produce the video
11 footage if they obtain it, right?

12 MR. SCOW: If any exists.

13 THE COURT: If any exists they will produce that to you;
14 okay? Alright, so if you don't get it within -- can you do this? Mr.
15 Scow, would you be able to notify the Defendant if you determine
16 that it doesn't exist so that he won't waste his time filing a
17 renewed motion to obtain the video footage?

18 MR. SCOW: Yeah, and I'm assuming that's for body cam
19 because I don't know what other video footage would exist.

20 THE DEFENDANT: Dash cam.

21 THE COURT: Well, either dash cam or video cam,
22 anything that law enforcement has that documents the incident at
23 issue here. If you check and determine it doesn't exist the Court
24 would appreciate it if you notify the Defendant in writing so that he
25 doesn't refile. If you don't hear back within, see, trial's set for

1 February 13 of next year, if you don't hear anything within 30 days
2 and you can refile your motion and then we'll consider it then, okay?

3 THE DEFENDANT: Thirty days before trial?

4 THE COURT: Thirty days from now.

5 THE DEFENDANT: Alright.

6 THE COURT: Thirty days from today, okay? So either
7 you're gonna get the video or you're gonna get a letter saying it
8 doesn't exist. But if you don't get the video and you don't get the
9 letter then file a new motion, okay?

10 THE DEFENDANT: Alright.

11 THE COURT: Alright, thank you, sir.

12 [Hearing concluded at 9:47 a.m.]

13 * * * * *

14 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
15 Procedure, I acknowledge that this is a rough draft transcript,
16 expeditiously prepared, not proofread, corrected, or certified to be an
accurate transcript.

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19 DALYNE EASLEY
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 CEASAR SANCHAZ
12 VALENCIA,

13 Defendant.

S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1

DEPT. 2

14
15 BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
16 TUESDAY, NOVEMBER 1, 2016

17 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
18 **DEFENDANT'S PRO PER MOTION TO RIGHT OF ACCESS TO THE**
19 **COURTS**

20 APPEARANCES:

21 For the State: NOREEN C. DEMONTE, ESQ.
Chief Deputy District Attorney

22 For the Defendant: PRO SE

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25 RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, November 1, 2016

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3 [Hearing began at 9:13 a.m.]

4 THE COURT: So, let's call page 6, State versus Ceasar
5 Valencia. Who's handling that one? I think that's a Pro Se. Alright,
6 let me take a look. It's C315580, Mr. Valencia, is that you, sir?

7 THE DEFENDANT: Yes.

8 THE COURT: Alright, you are present and in custody and
9 this was your Motion for Right of Access to the Courts, basically.
10 Let me pull out your file. What you're essentially seeking here -- and
11 I don't think the State has had an opportunity to respond in writing.

12 MS. DEMONTE: Because the Defendant served the wrong
13 party. We do not represent the Clark County Detention Center. He
14 needed to have served Metro.

15 THE COURT: Oh, right. You needed to serve Metro in
16 their custodial capacity of you and in charge of CCDC and then it
17 would have been the AG's office that would have represented them,
18 is that correct?

19 MS. DEMONTE: I know AG does prison --

20 THE COURT: Oh, would it have been -- Metro has their
21 own --

22 MS. DEMONTE: I think it just would have been Metro's
23 general counsel would have come in.

24 THE COURT: They have their own in-house counsel, right.

25 MS. DEMONTE: Right.

1 THE COURT: So, what we need to do, you need to
2 reserve your motion, sir, alright? You need to serve it on Clark
3 County Detention Center --

4 MS. DEMONTE: Charlotte Bible is general --

5 THE COURT: -- and Las Vegas Metropolitan Police
6 Department; alright?

7 THE DEFENDANT: I would have request the Court
8 permission to proceed with co-counsel? Is that permissible?

9 THE COURT: Oh, so you do want to have an attorney
10 appointed to represent you now?

11 THE DEFENDANT: Co-counsel, yes, please.

12 THE COURT: Co-counsel?

13 THE DEFENDANT: Yeah, if it's a requirement for me to
14 obtain the legal materials.

15 THE COURT: Well, I mean we could consider that. You
16 did have counsel at one point in time and then you terminated your
17 counsel.

18 THE DEFENDANT: Yeah, yes, sir, a conflict that happened
19 but --

20 THE COURT: I remember the conflict. Let me take a look
21 at the file. Give me a second here.

22 Alright, so I reviewed the minutes. What happened in this
23 case is you were alleging that Mr. Coyer was being ineffective and
24 you contended that he was not adequately representing your
25 interests and you contended that there was less conflict of interest

1 created in part by the lack of attention you felt Mr. Coyer was giving
2 you combined with the fact that you filed a Bar complaint against
3 him. And I was not inclined to remove Mr. Coyer and appoint new
4 counsel. And instead, you elected to represent yourself and so I
5 granted your request to then terminate Mr. Coyer and represent
6 yourself after we did a *Faretta* canvass so I could be satisfied that
7 you have the basic abilities necessary to at least proceed with
8 representing yourself.

9 If now you feel you cannot provide effective representation
10 for yourself and you wish to reengage counsel my inclination would
11 be to reappoint Mr. Coyer, alright, because you don't get to pick and
12 choose your counsel.

13 I understand that you filed this motion that you're seeking,
14 I mean you're seeking -- basically you want a law library and a lot of
15 materials; alright? I'm not gonna pass any opinion on whether the
16 law library in prison is sufficient or whether you need these other
17 things. But part of the benefit of having counsel representing you is
18 sometimes they have more resources.

19 So, are you asking me to reappoint Mr. Coyer or do you
20 want to continue to represent yourself?

21 THE DEFENDANT: Well, is he --

22 THE COURT: Those are your only two choices.

23 THE DEFENDANT: Is he gonna be co-counsel or is he
24 gonna be taking the case altogether?

25 THE COURT: You can't have co-counsel. He would be

1 your counsel but he has an ethical obligation to make sure that he
2 provides professional, effective representation after conferring with
3 you and making sure that he understands your needs and desires on
4 the case; alright?

5 So there's still a lot of things that you would control as
6 being the client on the case. And you would have another
7 opportunity, if you felt that you became incompatible, to ask that
8 him to be removed as long as that wasn't a tactic designed to delay
9 the trial.

10 THE DEFENDANT: Oh, would it be permissible to request
11 those legal materials still through him?

12 THE COURT: Yeah, you can ask him to get any materials
13 that you need. I mean you're asking for, you know --

14 THE DEFENDANT: [Indiscernible].

15 THE COURT: Whether he can get them to you in prison,
16 that's gonna have to be between him and you and law enforcement
17 at CCDC. I don't interfere with the way they run their job. They
18 can probably get you some materials; alright?

19 THE DEFENDANT: Alright.

20 THE COURT: So you want Mr. Coyer reappointed at this
21 point?

22 THE DEFENDANT: Yes, please.

23 THE COURT: Alright, so Mr. Coyer's not here. We're
24 gonna set this down for a status check for confirmation of counsel
25 to make sure that he believes he can still provide effective

1 representation to you. I need to hear it from him.

2 THE DEFENDANT: Okay, alright.

3 THE COURT: Alright? And then I will forward to him or he
4 will receive a copy of your brief so he knows all the different
5 materials that you're seeking access to.

6 THE DEFENDANT: Okay.

7 THE COURT: Alright? Very good?

8 THE DEFENDANT: Thank you.

9 THE COURT: Alright, so Mr. Coyer -- the Court is inclined
10 to reappoint Mr. Coyer as counsel to the case and the Court Clerk
11 will set this down for next week for a status check on confirmation
12 of counsel.

13 THE COURT CLERK: November 8th at 9 a.m.

14 THE COURT: Alright, we'll see you back then. And then
15 the motion is also continued to that date.

16 Alright, thank you, sir, you can have a seat.

17 [Hearing concluded at 9:20 a.m.]

18 * * * * *

19 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
20 Procedure, I acknowledge that this is a rough draft transcript,
21 expeditiously prepared, not proofread, corrected, or certified to be an
22 accurate transcript.

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24 DALYNE EASLEY
25 Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
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11 CEASAR SANCHAZ
12 VALENCIA,

13 Defendant.

S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1

DEPT. 2

14
15 BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
16 TUESDAY, NOVEMBER 8, 2016

17 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
18 **DEFENDANT'S PRO PER MOTION TO RIGHT OF ACCESS TO THE**
19 **COURTS; STATUS CHECK: CONFIRMATION OF COUNSEL**
20 **(GREGORY COYER)**

21 APPEARANCES:

22 For the State: NOREEN C. DEMONTE, ESQ.
Chief Deputy District Attorney

23 For the Defendant: GREGORY E. COYER, ESQ.

24
25 RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, November 8, 2016

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3 [Hearing began at 10:11 a.m.]

4 THE COURT: Mr. Coyer?

5 MR. COYER: Judge, its Valencia is on page 21. It's pro
6 per but I was asked to come and possibly confirm or reconfirm.

7 THE COURT: Alright, yeah, very good. Yes, State versus
8 Ceasar Valencia, C315580. Mr. Valencia had a Defendant's Pro Per
9 Motion for Right of Access to the Courts, basically he's seeking
10 various library materials and resources to assist him in his trial prep.
11 He elected, after we did the *Faretta* canvass and he elected to
12 represent himself he's now changed his mind and wants assistance
13 of counsel; perhaps for purposes of obtaining the resources that he
14 needs to prepare for trial.

15 Mr. Coyer, are you available to assist the Defendant?

16 MR. COYER: Judge, I'm available and I'm happy to do so.
17 I'm not a hundred percent sure that that's his request today but he
18 did want to make the Court aware, maybe this Court's never been
19 made aware of this but I've had this issue come up in a couple of
20 cases where I've had -- I've been standby or I've had a client who
21 ultimately went pro per. The jail's access to the library is, my
22 opinion, I would characterize it as highly restrictive.

23 The way the procedure works, Your Honor, is the
24 defendants don't actually get to go to the library like a normal
25 person would when they're doing legal research. They have to send

1 a kite that sort of asks for very specific what they want, like a
2 statute or a case. And then somebody working in the library will
3 then print or copy that material and then it will be brought back to
4 his jail cell.

5 Obviously, that turns normal legal research on its head. A
6 normal attorney would start with an issue like a motion to suppress
7 or a Fourth Amendment issue and go seek out what cases are
8 relevant. So, they're not allowed to do traditional legal research and
9 that creates problems for people who want to represent themselves
10 and exercise their right to represent themselves.

11 So, that's one issue that he's having and I just want to
12 make the Court available that this is the procedure in the jail. It's a
13 little bit, in my opinion, very restrictive.

14 The other issue is I believe he's still being charged for
15 materials to represent himself: paper, pencils; I assume things like
16 that. And I think there was supposed to be an order that he wasn't
17 gonna be charged because of his pro per, he shouldn't -- he's
18 indigent, he shouldn't be charged for those kind of materials, Judge.
19 I don't know if that issue was resolved or not but I was told that
20 maybe it'd already been discussed.

21 THE DEFENDANT: Legal postage.

22 MR. COYER: Postage, good example. So, those are some
23 of his frustrations that are causing him to rethink whether he wants
24 to represent himself. If he chooses not to I'm happy to be counsel
25 of record in the case but he did want to make those issues known to

1 the Court, Judge.

2 THE COURT: Let me hear from Ms. DeMonte on your
3 position on this.

4 MS. DEMONTE: Okay, with regard how to the Clark
5 County Detention Center handles legal research and whether they
6 charge him certain fees, we do not represent Clark County Detention
7 Center. We don't have a dog in that fight.

8 THE COURT: I understand all that.

9 MS. DEMONTE: How they handle their jail is how they
10 handle their jail. He needs to deal with that through the Clark
11 County Detention Center and their legal counsel, which would be
12 Metro.

13 With regard to, I believe what he said last time is he
14 wanted --

15 THE COURT: And Metro's counsel for CCDC is Geinzer, I
16 think her name is.

17 MS. COYER: Geinzer? It's Geinzer? Yeah.

18 THE COURT: Geinzer, yeah.

19 MS. DEMONTE: Right. The actual general counsel for
20 Metro is Liesel Freedman but I believe Martina Geinzer handles the
21 CCDC stuff.

22 With regard to last time when we were here the Defendant
23 was raising his motion for legal assistance as wanting co-counsel.
24 And just so everybody's clear, he either has counsel or he does not.
25 You either represent yourself or you don't. Mr. Coyer's not gonna

1 be his --

2 THE COURT: I think I made that clear last time that if
3 Coyer was coming in he was going to be counsel of record on the
4 matter.

5 MS. DEMONTE: Okay. Just so Defendant's aware of that
6 because I think he just still kept talking like he was getting co-
7 counsel. Just so we're all on the same page with where we're at. I
8 don't know where that leaves Mr. Valencia with how he wants to
9 approach things.

10 THE COURT: Okay. Is a court order necessary to give the
11 indigent defendant a bank of money to use for legal resources?

12 MS. DEMONTE: I don't know because I don't handle that.

13 THE COURT: Okay, very good, alright, Mr. Coyer?

14 MR. COYER: Judge, I only disagree with one point with
15 Ms. DeMonte and that is that it is one hundred percent between him
16 and the jail as to his library access. I believe that it is a right to
17 represent oneself and that this Court is tasked with seeing that this
18 Defendant receives due process. And if his library access fails to
19 meet that due process threshold I do think the Court can and should
20 intervene.

21 I've made that same request to other judges and been
22 denied. Other judges are willing to do more things and create
23 additional access but I do believe that --

24 THE COURT: If his terms and conditions of incarceration, I
25 think that has to be, I've always been told, I've done some research

1 on it, it has to be a separate civil rights action that the criminal court
2 handling the underlying criminal matter wouldn't have jurisdiction to
3 resolve.

4 MR. COYER: That may be true, that may be an opinion
5 that is out there, I don't know. But I do believe that if he doesn't
6 have -- if he's not receiving due process that is a concern for this
7 Court. And I just wanted to bring that to the Court's attention.

8 THE COURT: It would be, of course. I mean, I want him
9 to have due process; of course.

10 MR. COYER: And Judge, with respect to my representing
11 him, there's one disagreement that he has with that [indiscernible]
12 and that is this; and I promised I would put it on the record. And
13 that is there's a corresponding forfeiture case pending where the
14 Metro has filed a forfeiture action, which is an NRM action. It is a
15 civil action. If he has an attorney on this case he also wants
16 assistance with that matter. And I've explained to him that this
17 Court, the criminal court, doesn't appoint civil counsel to help with
18 an NRM forfeiture action. And I think that's a little bit of a
19 disagreement that we have.

20 But I'm happy to represent him in the criminal case I just
21 can't represent him in civil matters.

22 THE COURT: Well, let's find out what the Defendant
23 wants first as to representation.

24 Mr. Valencia, Are you comfortable with Mr. Coyer coming
25 to represent you and be the counsel of record on this matter?

1 THE DEFENDANT: Well, the only problem Your Honor is, I
2 mean is 'cause --

3 THE COURT: You got to speak up a little bit.

4 THE DEFENDANT: It's conflicting between like just the
5 criminal and the civil defense based off the same -- the civil is based
6 off of the felony, the felony that I committed on this criminal --

7 THE COURT: Yeah, but I don't have jurisdiction over the
8 civil matter and I can't appoint anybody to represent you in the civil
9 matter. And I would only have the ability to appoint Mr. Coyer to
10 represent you in the criminal matter and he would not be able to
11 work on the civil matter. I mean, if he chose to do it it would not be
12 with funding provided by the Public Defender's Office or Clark
13 County, it would be at his own --

14 THE DEFENDANT: Well, that's the conflict that we have is
15 based off of that because --

16 MR. COYER: Judge, my contract with the County requires
17 that I'm not soliciting private business from a court-appointed
18 counsel, from a court-appointed client.

19 THE COURT: Right. So you can't do it unless you wanted
20 to do it pro bono.

21 MR. COYER: Right. I can't have pay me to do the civil --

22 THE COURT: No, you can't do it.

23 MR. COYER: -- because I can't do that.

24 THE COURT: So there's nothing I can do for you on that.

25 THE DEFENDANT: So, alright Your Honor, but the thing is,

1 I cannot even rely on his advice for the same conduct that arises
2 that's the basis for that civil, then how can it be protection of laws,
3 the legal protection of laws and due process?

4 THE COURT: He can represent you in the criminal case.
5 That's all I can rule on.

6 THE DEFENDANT: But then --

7 THE COURT: I can't appoint you counsel to represent you.
8 You're not entitled to an order from me appointing counsel to
9 represent you in the civil case. You can -- Mr. Coyer can give you
10 the names of some resources that might be available to you, some
11 organizations that sometimes provide pro bono legal assistance to
12 indigent individuals on a pro bono basis. Mr. Coyer can provide you
13 with those contact phone numbers and contact people; right, Mr.
14 Coyer?

15 MR. COYER: Absolutely, Judge.

16 THE COURT: Alright, but he cannot represent you on the
17 civil matter. So, I can't do anything, so let's move on.

18 Question is do you want him, yes or no, to represent you
19 in your criminal matter?

20 THE DEFENDANT: Is he gonna be able to obtain -- furnish
21 some books for me?

22 THE COURT: He will provide you with any assistance that
23 he, in his best judgment, determines to be proper. So, you guys can
24 talk and collaborate and you can tell him what resources you want.
25 He can get things copied for you and get them to you in the jail. He

1 can do that. And provided that he complies with the Sheriff
2 Department and Metro's restrictions, he can get you writing
3 materials and paper and folders or envelopes, stuff like that to
4 organize your materials. Right, Mr. Coyer?

5 MR. COYER: With one exception, I can't bring in any
6 outside postage. It has to go through the jail. It's considered
7 contraband if I bring in --

8 THE COURT: Alright. So you represent him. So, sir, are
9 you comfortable with Mr. Coyer representing you and assisting you
10 in getting you those resources?

11 THE DEFENDANT: I'm gonna have to object to that, Your
12 Honor.

13 THE COURT: Okay.

14 THE DEFENDANT: I'd rather request an investigator that
15 could help me out with my defense and I'll just continue pro se and
16 file my own motions.

17 THE COURT: Alright, so Mr. Coyer, Defendant is
18 withdrawing his motion to have you appointed because he wants to
19 continue to represent himself pro se. Is that your final decision?

20 THE DEFENDANT: It's gonna be, yes, it's gonna be
21 conflicting between I can only request that advice based off of that,
22 off of the civil.

23 THE COURT: Okay. He's here to help you, you're turning
24 that down. I think it's a bad decision. I think you should take Mr.
25 Coyer's assistance. You turning it down, its your last chance.

1 THE DEFENDANT: I would ask that the Court order for
2 him to provide me at least a couple of books, fresh minted books,
3 for being once under the *Hollis* case and I'll accept the --

4 THE COURT: Mr. Coyer, do you know what books he
5 wants? I didn't get a chance to read his papers to see what books
6 he wants.

7 MR. COYER: I didn't have a chance to read the papers. I
8 don't know what books he's seeking.

9 THE COURT: Alright.

10 MR. COYER: If it's something that I can get and can get
11 into the jail I'd be happy to do that, but.

12 THE COURT: Are you comfortable with that? If he
13 represents you he'll do his best to try to get you the books you're
14 looking for. That's all we can do at this point. Yes or no?

15 THE DEFENDANT: Yes.

16 THE COURT: Alright, and so Mr. Coyer will be appointed
17 as your counsel and he's gonna confer with you about what
18 materials you want and he'll exercise his best efforts to try to assist
19 you in getting those materials. Is that your understanding?

20 THE DEFENDANT: Yes, yes.

21 THE COURT: Alright, that will be the order of the Court.
22 Mr. Coyer, please take a look at the list of items that he wants and
23 do your best to get him those things consistent with Metro's policies
24 and procedures. And if you have any issue, if you believe that you
25 need to get an exception to something that Metro's doing, try to

1 work with their general counsel to work that out. And if not, if you
2 guys both agree you can bring it back to me and I'll try to help you
3 guys out in resolving it.

4 MR. COYER: Sure.

5 THE COURT: Alright, anything else?

6 THE DEFENDANT: Excuse me one second, Your Honor,
7 that order you know that was ordered before for the charges for the
8 assessment, the research assessment, could it reflect for retroactive
9 and all postage for any future?

10 THE COURT: Well, Mr. Coyer needs to look and see what
11 is the allocation for indigent defendants for these materials, postage
12 and paper and whatever. And I'm willing to sign an order giving him
13 -- I'm willing to sign an order approving requisite funding so you can
14 provide effective defense, Mr. Coyer. So --

15 MR. COYER: Oh, I think he means like for the things that
16 he is purchasing and using --

17 MS. DEMONTE: Already paid for.

18 THE DEFENDANT: Specifically for the detention that there
19 was already an order before in the past issued from the District
20 Attorney --

21 THE COURT: So you want -- he wants reimbursement for
22 postage he's already paid?

23 THE DEFENDANT: Well, it's creating an obligation, yes. It
24 created an obligation --

25 THE COURT: How much have you paid?

1 THE DEFENDANT: Well, it's several -- I don't know right
2 off hand how much it is.

3 MR. COYER: So, Judge, what happens is during the time
4 period, he did a *Faretta* canvass in August. I was taken off the
5 case. So from August to now he's been representing himself.
6 During that timeframe he's probably bought paper, pencils, things
7 like that. CCDC runs a tab for him. If somebody were to put money
8 on his books that money is gonna be taken and used to pay down
9 that balance.

10 THE DEFENDANT: Right.

11 MR. COYER: I think what he's asking is, can we have an
12 order that retroactively makes from August till now --

13 THE DEFENDANT: June.

14 MR. COYER: -- that he doesn't have to pay for it because
15 he was representing himself.

16 THE COURT: And I wanted to know how much it is.

17 THE DEFENDANT: From June, back from June when I
18 filed my first proper motions.

19 THE COURT: I want to know how much it is so I can
20 determine whether it's a reasonable expenditure.

21 MR. COYER: Understood.

22 THE COURT: File a separate motion. Maybe you could
23 just stipulate with the State but I think you need to just --

24 THE DEFENDANT: Well, it's like two times a week for the
25 research is four fifty.

1 MR. COYER: The jail will have that record. I can get that
2 record, Judge.

3 THE COURT: Alright. I want to know the amount before I
4 approve it.

5 MR. COYER: Understood.

6 THE COURT: Alright:

7 MR. COYER: Understood.

8 THE COURT: So, your Defendant's Pro Per Motion for
9 Right of Access is denied as moot. And Mr. Coyer is confirmed as
10 counsel and any further motions, bring it back on and I'll consider;
11 alright? And good luck in getting your materials.

12 Thank you, Mr. Coyer.

13 MR. COYER: You're welcome.

14 THE DEFENDANT: Thank you, Your Honor.

15 THE COURT: Thank you.

16 [Hearing concluded at 10:25 a.m.]

17 * * * * *

18 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
19 Procedure, I acknowledge that this is a rough draft transcript,
20 expeditiously prepared, not proofread, corrected, or certified to be an
21 accurate transcript.

22 
23 DALYNE EASLEY
24 Court Recorder/Transcriber
25



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 CEASAR SANCHAZ
12 VALENCIA,

13 Defendant.

} S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1
DEPT. 2

14 BEFORE THE HONORABLE STEVEN KOSACH, SENIOR JUDGE
15 THURSDAY, JANUARY 19, 2017

16 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:**
17 **DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND**
18 **APPOINT ALTERNATE COUNSEL; DEFENDANT'S PRO PER MOTION**
19 **FOR RIGHT OF ACCESS TO THE COURTS; DEFENDANT'S PRO PER**
20 **MOTION TO SUPPRESS AND RETURN PROPERTY TO DEFENDANT**

21 APPEARANCES:

22 For the State: LEAH C. BEVERLY, ESQ.
23 Deputy District Attorney

24 For the Defendant: GREGORY E. COYER, ESQ.

25 RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 Las Vegas, Nevada, Thursday, January 19, 2017

2
3 [Hearing began at 9:15 a.m.]

4 THE COURT: Page 9, State of Nevada versus Ceasar
5 Valencia.

6 MR. COYER: Morning, Your Honor.

7 THE COURT: Good morning, your name, please?

8 MR. COYER: Gregory Coyer, C-O-Y-E-R.

9 THE COURT: Thank you, Mr. Coyer.

10 MR. COYER: On behalf of Mr. Valencia, Your Honor.

11 THE COURT: The minutes reflect that Mr. Coyer is
12 representing Mr. Valencia, this is a status hearing. What's the
13 procedure? What are we doing this morning?

14 MR. COYER: Your Honor, the matter was put on calendar
15 today because of some motions that Mr. Valencia filed on his own. I
16 can tell the Court that Judge Scotti had previously allowed Mr.
17 Valencia to represent himself and then later in the proceedings Mr.
18 Valencia again requested counsel so I took back over the case. I
19 believe it is his intent today to seek alternate counsel, or to
20 represent himself again. And that is why the matter was put on
21 calendar this morning.

22 THE COURT: Mr. Valencia, please?

23 THE DEFENDANT: Morning.

24 THE COURT: Morning.

25 THE DEFENDANT: Well, I filed a grievance with the state

1 Bar on Mr. Coyer. And Judge Scotti told me to refile my motions so
2 he could consider them for alternate counsel because the services
3 are not compatible with the case since I filed a right of access to the
4 courts requesting some legal books, so that's why I need an
5 alternate counsel that will practice civil. And there's also a criminal
6 forfeiture that I would like to request for an order for --

7 THE COURT: Don't you need an attorney to help you out?

8 THE DEFENDANT: Yeah, but that's why I'm asking for
9 alternate counsel but Mr. Coyer doesn't practice civil. That's why
10 Judge Scotti told me to file the motion.

11 THE COURT: Okay, alright.

12 Any comments?

13 MS. BEVERLY: Well, it's my understanding that he filed
14 several motions, which I don't know the accusative dockings at this
15 point because he currently is represented by Mr. Coyer. But the only
16 one that's not fugitive is whether he wants to represent himself or
17 not. So, that's why the State didn't file oppositions to his motions.
18 I don't know if he can just get his own new --

19 THE COURT: Well, that's right.

20 MS. BEVERLY: If he wants to hire someone that's fine or
21 if he wants to represent himself but.

22 THE COURT: Mr. Coyer is here.

23 MS. BEVERLY: Yeah. So, right now, unless he's planning
24 on hiring his own attorney or he wants to represent himself then Mr.
25 Coyer would remain on.

1 THE COURT: That's my understanding. Now, Mr. Coyer,
2 any comments?

3 MR. COYER: I would just add that, just so that it's clear,
4 Mr. Valencia and I don't have any problems with each other
5 personally. What he's looking for is an attorney that is able and
6 willing to help him with --

7 THE COURT: A civil matter.

8 MR. COYER: -- his forfeiture matter, which was, it was
9 money that was taken related to this arrest. So they're related,
10 certainly, but it's a civil forfeiture matter, it's not something that
11 he's, unfortunately, constitutionally entitled to counsel for. So, as
12 I've explained to him, I'm not gonna help him with that situation but
13 I'm happy to represent him in the criminal case.

14 So, I stand ready to serve if the Court wants me to stay on
15 the case, if Mr. Valencia wants to dismiss miss I'm fine with that as
16 well. For the record, I did go see him yesterday and provided him
17 with the newest discovery production. So he does have all the
18 discovery with one exception. There were photographs produced on
19 a compact disc and we're gonna ask the Court to at least just put in
20 the minutes in a minute order that it's okay for him to have those
21 photographs and I will print them out and get them to him so that he
22 can have those, if he chooses to represent himself here.

23 THE COURT: Mr. Valencia, what we have is apples and
24 oranges. Your apples, that's criminal stuff. Oranges is the civil
25 stuff. You want your money back, but if it came from an arrest, if it

1 came from these proceedings, that's apples. You're not gonna get
2 oranges until apples are cleared up.

3 So, I'm gonna deny the motion because you already have
4 an attorney. So, Mr. Coyer, you continue on representing and
5 because you don't have any problems, so be it.

6 Mr. Coyer is by far a better attorney than you are. The
7 person that represents themselves, and I'm sure that you've heard
8 this, has a fool for a client. So don't go there.

9 Motion is denied.

10 THE DEFENDANT: There's a grievance filed with the state
11 Bar.

12 THE COURT: So be it. That's apricots so that's a third
13 issue you got. Apples, oranges and apricots, could be pears.

14 THE DEFENDANT: So, I can't discharge him then?

15 THE COURT: No. I'm not gonna let you.

16 THE COURT CLERK: So, are all three motions denied,
17 Judge, because there's three motions on?

18 THE COURT: What's the first one, sorry?

19 THE COURT CLERK: To dismiss counsel and appoint
20 alternate --

21 THE COURT: Denied, sorry. The second one is --

22 THE COURT CLERK: Right of access to the Courts.

23 THE COURT: Well, we got photographs, so that's -- you
24 got access to the court, so that's denied. And the third one is
25 denied because, oranges; one thing at a time.

1 MS. BEVERLY: So the third one is Motion to Suppress or
2 Return Property. I think that's something maybe Mr. Coyer needs to
3 look at.

4 THE COURT: Later on.

5 MS. BEVERLY: Later on?

6 THE COURT: Exactly, that's exactly what I meant, later
7 on. If Mr. Coyer and you beat this you get your money back. If you
8 don't, you don't.

9 MS. BEVERLY: Thank you.

10 [Hearing concluded at 9:22 a.m.]

11 * * * * *

12 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
13 Procedure, I acknowledge that this is a rough draft transcript,
14 expeditiously prepared, not proofread, corrected, or certified to be an
15 accurate transcript.

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17 DALYNE EASLEY
18 Court Recorder/Transcriber
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1 **RTRAN**

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5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

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8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

10 **vs.**

11 **CEASAR SANCHAZ**
12 **VALENCIA,**

13 **Defendant.**

S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1

DEPT. 2

14
15 **BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE**
16 **TUESDAY, FEBRUARY 7, 2017**

17 ***RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:***
18 ***CALENDAR CALL***

19 **APPEARANCES:**

20 **For the State:**

NOREEN C. DEMONTE, ESQ.
Chief Deputy District Attorney

21 **For the Defendant:**

GREGORY E. COYER, ESQ.

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25 **RECORDED BY: DALYNE EASLEY, COURT RECORDER**

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Las Vegas, Nevada, Tuesday, February 7, 2017

[Hearing began at 9:16 a.m.]

THE COURT: Alright, State versus Ceasar Valencia, C315580, calendar call. Are we ready to proceed?

MR. COYER: Judge, this -- I wanted to make a little bit of a record on this matter. We were here in January. There was a senior -- I don't know if it was a senior judge or just a substitute judge from up north was sitting in for Your Honor that morning. And Mr. Valencia had put the matter back on calendar.

If you recall, Mr. Valencia was representing himself for a little while.

THE COURT: I remember that, yes.

MR. COYER: Your Honor had granted -- had *Faretta* canvassed him and everything, he was representing himself. There was some issues with him being charged, some monies from the jail, Your Honor had addressed that. And then it got to a point where he agreed and said okay, I'm gonna go ahead and have counsel step in now. I stepped in. I represented him for a while. He put it back on calendar in January and wanted to represent himself again, Judge, which is his right to do that. He's been advised by everybody that that's a bad idea but he put it nonetheless and the substitute judge that was here just kind of dismissed that request, gave him kind of the old adage about a full fare client and that was the end of that.

My concern for that state of the record is I've seen a lot of

1 cases reversed for not letting someone represent themselves. Even
2 though I'd rather Mr. Valencia not do that I wanted to let Your Honor
3 know that's that what happened at the last court date.

4 Mr. Valencia, as of today, does still want to represent
5 himself and wants a continuance of his trial but that is where we
6 are. As of today, I'm still counsel of record. You know, I can be
7 ready to try the case if the Court wants to push it forward, that's
8 what we're doing.

9 THE COURT: So how many times can a Defendant change
10 his mind? I mean, once if he clearly tells me he doesn't want to
11 represent himself anymore and he's satisfied with you as counsel, I
12 don't think that would be reversible error to deny that request, do
13 you?

14 MR. COYER: Well --

15 THE COURT: I mean, once he's waived --

16 MS. DEMONTE: I think the Supreme Court --

17 THE COURT: Pardon me? I mean how many times are
18 you allowed to change your mind?

19 MS. DEMONTE: I think the closer you get to trial --
20 midway through trial I don't think he can, you know, fire his counsel
21 and just go pro per but I think at this stage of the proceedings when
22 he's asking for a continuance to not --

23 THE COURT: Well I want to protect the record and --

24 MS. DEMONTE: Yes, and I think at this stage of the
25 proceedings it will be reversible error

1 THE COURT: Well, I don't want that.

2 MS. DEMONTE: As long as he passes the *Faretta* allow
3 him to do so. However, what the Court can do is say *Faretta's*
4 forever, you can't just cry uncle. Like once you're representing
5 yourself we are now done. I don't think its reversible error for this
6 Court to let the Defendant know that.

7 THE COURT: Well --

8 MR. COYER: And, Judge, I think that even unless it looks
9 like gamesmanship on the part of the Defendant I think he can
10 change his mind up to and including in the middle of trial, but that's
11 some of the case law that I've read and that's, you know.

12 THE COURT: We'll wait and see if we get there. Alright,
13 so --

14 MS. DEMONTE: It appears for today's purposes he is
15 asking for a continuance so we can probably just status check this.
16 He's got two motions pending on the 28th. Sorry, one's on the 28th.

17 THE COURT: What I plan to do then is vacate the trial
18 date and I'm gonna go ahead and vacate the trial date, which was
19 set for February 13. Mr. Valencia, I'm assuming you're okay with
20 that because you have two motions. You have a Motion for Right of
21 Access to the Courts and then Defendant's Pro Per Motion to
22 Dismiss Counsel and Appoint Alternate Counsel. Did you want to
23 proceed with both of those motions?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Alright, so those are set for February 28th.

1 I'll go ahead and hear those on February 28th. And just so that we
2 have a new date for trial I'm gonna go ahead and set the new date
3 for trial in due course. And we'll figure out on the 28th if you're
4 gonna represent yourself or if you're gonna allow Mr. Coyer to
5 continue to represent you. We'll find out on the 28th; alright?

6 THE DEFENDANT: Alright. Thank you.

7 THE COURT: Alright, so trial is vacated and we're going to
8 set this for a due course next available setting. Not the next
9 available just due course.

10 THE COURT CLERK: We'll due calendar call June 20th at 9
11 a.m., jury trial June 26th at 10 a.m.

12 THE COURT: Did you hear those dates, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT; Alright, June 20th is the new date we're
15 setting for trial but let us know February 28th -- we're gonna talk to
16 you about whether you're gonna represent yourself and if I do allow
17 you to represent yourself then I'll find out from you at that point in
18 time if the June 26th trial date gives you enough time to prepare.

19 THE DEFENDANT: Alright, so we talk about the motion --

20 THE COURT: We'll talk about the motion on the 28th. See
21 you back here then.

22 THE DEFENDANT: Alright, okay, alright.

23 THE COURT: Alright, Mr. Coyer, will you be here on the
24 28th, sir?

25 MR. COYER: I will, Judge.

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THE COURT: Thank you.

MR. COYER: I know he was concerned so your motions
did get calendared for the 28th.

THE DEFENDANT: Alright.

THE COURT: Yep, alright.

THE DEFENDANT: Thank you.

[Hearing concluded at 9:21 a.m.]

* * * * *

ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
Procedure, I acknowledge that this is a rough draft transcript,
expeditiously prepared, not proofread, corrected, or certified to be an
accurate transcript.


DALYNE EASLEY
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

CEASAR SANCHAZ
VALENCIA,
Defendant.

S.C. CASE #: 75282
D.C. CASE #: C-16-315580-1
DEPT. 2

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
TUESDAY, FEBRUARY 28, 2017

**RECORDER'S ROUGH DRAFT TRANSCRIPT OF HEARING:
DEFENDANT'S PRO PER MOTION FOR RIGHT OF ACCESS TO THE
COURTS; DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL
AND APPOINT ALTERNATE COUNSEL**

APPEARANCES:

For the State: NOREEN C. DEMONTE, ESQ.
Chief Deputy District Attorney

For the Defendant: GREGORY E. COYER, ESQ.

RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, February 28, 2017

2
3 [Hearing began at 11:14 a.m.]

4 THE COURT: Page 23, State versus Ceasar Valencia,
5 C315580. Defendant's Pro Per Motion for Right of Access to the
6 Courts. Alright, Mr. Valencia and Mr. Coyer --

7 MR. COYER: Morning, Judge.

8 THE COURT: -- is still your attorney and then you also
9 have a Pro Per Motion to Dismiss Counsel and Appoint Alternate
10 Counsel. Alright, well, let me ask Mr. Coyer first. What's your
11 understanding and what's going on here?

12 MR. COYER: Judge, Mr. Valencia has had a standing
13 request to represent himself from time to time.

14 THE COURT: Didn't I at one point -- wasn't I on the verge
15 of doing a *Faretta* canvass and we talked very carefully about his --
16 Defendant's options and he said he was inclined to keep you as his
17 attorney at that point?

18 MR. COYER: That's partly right, Judge. Back in August of
19 2016 you did actually *Faretta* canvass Mr. Valencia and he passed it
20 and you allowed him to represent himself.

21 After that --

22 THE COURT: Then he wanted you back on?

23 MR. COYER: I think I got back on for whatever reason, I
24 don't recall if it was his request or not, to be honest with you Judge,
25 and then he has since resubmitted a new request that was denied by

1 a substitute senior judge. And I told the Court that you might want
2 to reconsider that because of the way the record was made by the
3 previous judge. There was some concern by both parties. It's been
4 stated clearly that maybe the Court needed to do a more thorough
5 job of evaluating his request to represent himself, Judge.

6 I stand ready to represent him if you let me stay on the
7 case. I've provided a lot of discovery to Mr. Valencia including
8 witness interviews, forensics, police reports. The only thing I still
9 need to provide to him is photographs. I'm happy to continue
10 representing him if he wants that. If Your Honor deems it
11 appropriate for him to represent himself that is his right to do that as
12 well.

13 THE COURT: So, the judge that was sitting, I guess in
14 place of me, what was the precise issue that was presented to him?

15 MR. COYER: Mr. Valencia requested to represent himself
16 and --

17 THE COURT: The judge said no?

18 MR. COYER: Judge basically said, you know, no.
19 Whoever does that as a [indiscernible] --

20 THE COURT: Okay. Alright, well, let me talk to Mr.
21 Valencia.

22 Mr. Valencia, so, at one point we discussed whether you
23 were gonna represent yourself. You had wanted to at one point in
24 time but then you decided you want Mr. Coyer. Are you wanting to
25 change your mind now?

1 THE DEFENDANT: Well, Your Honor, my understanding
2 was that he was supposed to file the Motion for my Right of Access
3 to Courts 'cause that was the issue. [Indiscernible] hardship with the
4 --

5 THE COURT: Well, no, no, no, no, no, no. If you have an
6 attorney you have access to the courts. What he was going to do, I
7 remember this now, is you wanted things like notepads, red wells.
8 You wanted him to help find some authority. You wanted writing
9 pencils, --

10 THE DEFENDANT: Some research because I'm being
11 denied access.

12 THE COURT: -- you wanted some research. You wanted
13 your attorney to help you with supplies and help you with research,
14 things that attorneys normally do anyway; right? That's what he
15 was for. You didn't need to file a motion to do that.

16 THE DEFENDANT: Well, when he visited me November
17 17th he denied me any law books. He said he was gonna ask CCDC
18 and then he said if I wanted legal materials to order them from the
19 commissary. But I don't have -- they were creating an obligation for
20 me to pay just through -- just stuff that you order for indigent
21 packages. And I'm being denied access to a law library. And if I
22 want to research the law I have to pay for it. But I'm being denied.

23 THE COURT: But you don't need that if you have an
24 attorney who's doing research for you, right?

25 THE DEFENDANT: But he's denying me research, he's

1 denying me everything. He said if you want anything you have to
2 request it through the commissary. I can't -- I requested -- I asked
3 him for a simple folder and he was like no, I got yelled out before for
4 providing a client with a folder. And just conflict goes from back
5 from August 'cause when he visited me the first time he said that I
6 shouldn't get my money back on my forfeiture case because of the
7 simple fact that I've been found in possession of controlled
8 substances.

9 THE COURT: Alright.

10 THE DEFENDANT: And I filed a grievance with the State
11 Bar already and it's in reference number OBC170009 for Gregory
12 Coyer. So, I don't think I don't want him to represent me anymore
13 just because he's denying me everything.

14 It's true he provided me with discovery but on my
15 forfeiture case I need research and I failed to file a motion for
16 transportation because I don't have no legal envelopes or I don't
17 have no writing supplies or nothing. And I can't research it. I've
18 been almost sent to the hole because I spend too much time at the
19 kiosk where the research might be available for free.

20 THE COURT: Mr. Coyer?

21 MR. COYER: Yes, Judge.

22 THE COURT: Do you have anything that you want to add
23 on that or put on the record?

24 MR. COYER: I mean I'll just say, I had a previous client
25 years ago that had a similar case, similar to Mr. Valencia, and he

1 was a client I was close to. I was doing everything I could to help
2 him out. I went so far as to go to the post office and get the pre-
3 printed stamped envelope that are just like the ones they sell at the
4 commissary, and I would give them to my client so that he would,
5 you know, wouldn't have to spend his own money on envelopes.
6 And for that, I got dressed down by a lieutenant at the detention
7 center. They said it was contraband.

8 THE COURT: Okay.

9 MR. COYER: So, Mr. Valencia wanted a red well, like an
10 expanding folder. They don't offer those at the commissary and I
11 told him I can't just give you supplies. I can't just bring him office
12 supplies into the jail.

13 THE COURT: Alright, I understand.

14 MR. COYER: I can't do it. I'm sorry.

15 The other issue was law materials. He requested four or
16 five. I only had one. I had a law dictionary that I said I'm happy to
17 let you borrow, you know, but I can't get the County to go buy you,
18 you know, a law review book or, you know, a **Princeton Reader**. I
19 just can't -- the County doesn't just agree to just -- these are a
20 hundred and something dollar books and Mr. Valencia wants them
21 and I can't just go get County approval to provide those to him.

22 So, I'd love to have that kind of endless supply of
23 resources to provide to people and I would do it if it was up to me
24 but it's just not up to me, Judge.

25 I'm happy to defend him and do all those things that an

1 appointed attorney does but some of Mr. Valencia's requests exceed
2 what I'm able to do for him, unfortunately.

3 THE DEFENDANT: Excuse me, may I speak?

4 THE COURT: Yeah, last word.

5 THE DEFENDANT: Well that was -- you gave him -- he
6 was supposed to file the motion and you were supposed to sign the
7 order for me to get some assistance for providing me some legal
8 books. That was my understanding. And he said he would provide
9 me with supplies as long as they followed the guidelines, they fell
10 under the guidelines. So, if he can't provide me legal envelopes
11 then --

12 THE COURT: Well, it sounds like he tried and, you know,
13 the jail has their policies on what they allow him to do and what he
14 can't do, alright? So.

15 Alright, I'm gonna deny your motion to dismiss Mr. Coyer
16 because I'm checking the minutes. We did a very thorough *Faretta*
17 canvass before where I found that you were competent to make the
18 decision to represent yourself. And then after further inquiry you
19 had determined that you were going to work with Mr. Coyer and you
20 wanted Mr. Coyer to represent you. You've waived your right to
21 represent yourself; alright?

22 And you cannot now, for invalid reasons, reassert that
23 right; alright? You're trying to reassert that right based upon your
24 perception that Mr. Coyer is not providing you with things that he's
25 not allowed to provide. It's an invalid reason to try to reassert your

1 right to represent yourself. I'm not allowing you to change your
2 mind. You already waived your right to represent yourself; alright?

3 So, I don't want to see this motion again.

4 THE DEFENDANT: Alright.

5 THE COURT: Alright?

6 THE DEFENDANT: Alright.

7 THE COURT: You're just gonna have to accept the fact
8 that Mr. Coyer's representing you. Somewhere down the road if
9 you believe he's ineffective we can deal with that later but he's a
10 great attorney, he's doing good work for you and you're gonna have
11 to make it work; alright?

12 THE DEFENDANT: What about the reimbursement for the
13 charges that created obligation on the legal postage and all that, the
14 research and stuff like that, that was in order that was already
15 supposed to be prepared?

16 THE COURT: I issued an order that you had -- I issued
17 some order that you were allowed a certain stipend, right, for
18 copying and miscellaneous supplies; right? So what's your request
19 regarding that?

20 THE DEFENDANT: Well, it's supposed -- I was supposed
21 to provide you with the account history of how much they're
22 charging me for the legal postage and all that. I was supposed to be
23 reimbursed.

24 THE COURT: Right. Work that out with your attorney.
25 Mr. Coyer, can you look into that and see if he was personally -- if

1 his account was personally charged and if there's some way he can
2 get reimbursed for that? I thought I already addressed that.

3 MR. COYER: Well, Judge, what happened was you
4 wanted to get the accounting of what he was charged when he was
5 representing himself and you had agreed to order that part of it
6 reimbursed.

7 THE COURT: Yes.

8 MR. COYER: When I went to the jail to visit with him,
9 provide him discovery and show him some videos he didn't have the
10 accounting at that time. So, and he never sent me the accounting.
11 He filed a motion and then he attached the accounting to it. So I
12 now have it only because I was served with that motion. So, I'm
13 happy to take a look at that accounting and revisit that issue.

14 THE COURT: So, take a look at the accounting and submit
15 -- you can just submit an ex parte application, I suppose, for me to
16 review and sign and get it to whoever I need to get it to so he can
17 get reimbursed. I have no problem with him being reimbursed for his
18 out-of-pocket expenses for a reasonable amount of legal research
19 and copying. But at the time when he was either representing
20 himself or believing that he wasn't receiving the representation that
21 he felt he was entitled to; alright?

22 MR. COYER: No problem.

23 THE COURT: Alright. So, are there any other motions?
24 No. I'm denying the Pro Per Motion for Right of Access to the
25 Courts subject to evaluation of reimbursement issues. And I'm

1 denying the Pro Per Motion to Dismiss Counsel and Appoint
2 Alternate Counsel on the grounds that that right has been waive;
3 alright?

4 THE DEFENDANT: So I can't discharge my attorney then?

5 THE COURT: You cannot discharge your attorney. Nope.
6 Not at this point; alright? Thank you, sir.

7 THE DEFENDANT: Alright. Thank you.

8 [Hearing concluded at 11:26 a.m.]

9 * * * * *

10 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate
11 Procedure, I acknowledge that this is a rough draft transcript,
12 expeditiously prepared, not proofread, corrected, or certified to be an
accurate transcript.

13
14 
15 DALYNE EASLEY
16 Court Recorder/Transcriber
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1 **RTRAN**

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

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6
7 **THE STATE OF NEVADA,**

8 **Plaintiff,**

9 **vs.**

10 **CEASAR SANCHAZ VALENCIA,**

11 **Defendant.**

} **Case No. C-16-315580-1**

} **DEPT. XVIII**

12
13 **BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE**

14
15 **THURSDAY, JANUARY 25, 2018**

16 ***TRANSCRIPT OF PROCEEDINGS RE:***
17 **JURY TRIAL - SENTENCING**

18 **APPEARANCES:**

19 **For the Plaintiff:**

MICHAEL DICKERSON, ESQ.
(Deputy District Attorney)

20
21
22 **For the Defendant:**

GREGORY E. COYER, ESQ.
ALEXIS ANNE PLUNKETT, ESQ.

23
24 **RECORDED BY: ROBIN PAGE, COURT RECORDER**

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INDEX

EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
State's Exhibit Nos. 1 through 4	7

1 **LAS VEGAS, NEVADA, THURSDAY, JANUARY 25, 2018**

2 [Proceedings commenced at 9:58 a.m.]

3
4 THE COURT: First, is everybody ready, Mr. Coyer?

5 MR. COYER: Yes, Your Honor.

6 MR. DICKERSON: Yes.

7 THE COURT: On page 7, Case No. C-315580, *State vs.*
8 *Valencia.*

9 Counsel, state your appearances, please.

10 MR. DICKERSON: Michael Dickerson on behalf of the State.

11 MR. COYER: Gregory Coyer on behalf of Mr. Valencia, with
12 my co-counsel.

13 MS. PLUNKETT: Alexis Plunkett for Mr. Valencia.

14 THE COURT: This time set for entry of judgment and
15 imposition of sentence. Is there any legal cause or reason why
16 judgment should not be pronounced at this time?

17 MR. COYER: No.

18 MR. DICKERSON: Nothing from the State, Your Honor.

19 THE COURT: By verdict -- by verdict of the jury, I hereby
20 judge the defendant guilty of the offense of the -- the offenses of:

21 Count 1, assault on a protected person with use of a deadly
22 weapon;

23 Count 2, trafficking in controlled substance;

24 Counts 3 and 4, possession of a controlled substance.

25 MR. DICKERSON: And Count --

1 THE COURT: State, what's your position on sentencing?

2 MR. DICKERSON: And Count 5, Your Honor, possession of
3 firearm by a prohibited person.

4 THE COURT: I apologize. You're correct.

5 And Count 5, ownership or possession of firearm by a
6 prohibited person.

7 State, what's your position on sentencing?

8 MR. DICKERSON: Your Honor, in this case, the State is
9 seeking habitual treatment. We filed a habitual notice specifically on
10 February 3rd, 2017, listing nine different felony convictions. Here today I
11 have in my possession four judgments of conviction, detailing the
12 felonies on the State's Notice of Habitual, Nos. 4 through 9.

13 THE COURT: Have those been admitted in court and they're
14 certified copies?

15 MR. DICKERSON: They are certified copies. If I may
16 approach your clerk to have them marked?

17 THE COURT: Yes.

18 MR. DICKERSON: You sat through the trial in this case, Your
19 Honor, you heard the evidence. And based on the defendant's actions
20 and his criminal history is really why we're asking for habitual treatment
21 in this particular case.

22 What we have is an individual who has had a career of crime,
23 no doubt about it. Nine different felonies, one gross misdemeanor
24 conviction, 15 misdemeanors, 6 prison sentences, and 16 jail terms,
25 Your Honor.

1 He started back in, as an adult, in 1998 with a possession of
2 controlled substance conviction out of Bakersfield, California. In 1999,
3 carrying concealed weapon out of Visalia, California. Then '99 as well,
4 same time, different case, possession of controlled substance, Visalia,
5 California.

6 2001, he makes his way to Las Vegas, picks up a trafficking
7 controlled substance case, which is ultimately pled out to possession of
8 controlled substance with intent to sell. He receives probation, is
9 revoked, goes to prison there. Continues on into 2002, picking up
10 additional charges and being convicted in 2003 here in Las Vegas of
11 conspiracy to commit possession of a controlled substance, a felony
12 offense, sentenced to prison there.

13 He continues with drug offenses throughout the next several
14 years and onto 2006. He's also picked up and arrested and convicted of
15 possession of a stolen vehicle. Again, sent to prison. And as well as
16 another possession of stolen vehicle and possession of a stun device
17 case that he picked up in 2006 and is sent to prison on.

18 As -- again, Your Honor, you see his criminal activity
19 continuing, auto burglaries, possession of controlled substance,
20 domestic battery. One thing that stays constant is that he seems to
21 always be in possession of a controlled substance, as he was here.
22 And, ultimately, you heard that the day of the initial incident, when he ran
23 from police officers and pointed a firearm at Officer Jacobitz as he was
24 running from him, that was an incident where I think it would be
25 reasonable to say, why would he be running?

1 Well, we take a look at his history. We take a look at the fact
2 that he had a gun on him, that we know he's a felon, he's committing
3 that crime. And the fact that the next day, he gets arrested with
4 trafficking levels of multiple controlled substances. We see that there's
5 no doubt that he has been living a life of crime. And part of that includes
6 dealing drugs, based on the amount of controlled substances that he
7 has, and the way that he's carrying them. In fact that he's carrying that
8 weapon, as well, Your Honor, and he's willing to use that weapon.

9 The facts of this case show that he not only pulled the firearm
10 on Officer Jacobitz, but it is really something of a miracle that he wasn't
11 able to shoot Officer Jacobitz. Because what was formerly a fence that
12 was in the alleyway where he was running had been torn down, and
13 they'd left up that single fence post where he hit his arm. That fence
14 post was what saved Officer Jacobitz's life that day. It's because when
15 the defendant turned around to point his gun and fire at Officer Jacobitz,
16 his elbow just happened to hit that fence post that had been left over
17 from that old fence and he dropped the gun. That's why we're not here
18 on a much more serious crime or even much more tragic circumstances.

19 And then, ultimately, Your Honor, he's convicted of the drugs
20 and firearm as well.

21 So today, what I have is the judgments of conviction. Have
22 you been provided those, Your Honor?

23 THE COURT: I have and I reviewed them.

24 MR. DICKERSON: Okay. And do you accept those as
25 certified judgments of conviction of the defendant?

1 THE COURT: I do. I -- let me -- State -- shucks.

2 Defense, any objection to the admission of the certified copies
3 of the judgment and conviction State's Exhibits 1, 2, 3, and 4?

4 MR. COYER: No, Your Honor. We were previously provided
5 those.

6 THE COURT: They'll be admitted.

7 [State's Exhibit Nos. 1 through 4 admitted.]

8 MR. DICKERSON: So the defendant's now 38 years old. He
9 committed his first adult felony when he was 19. He's -- hasn't stopped
10 since. And he's escalated his behavior into trying to conceal it and
11 taking violent means towards police officers to do that.

12 For that reason, on Count 1, the assault with deadly weapon
13 on a protected person, we are asking for large habitual sentence of 10 to
14 life.

15 On Counts 2, 3, and 4, we are asking those to run consecutive
16 to Count 1. And these would be the various terms:

17 On Count 2 with the trafficking controlled substance, I would
18 ask for 24- to 72-month sentence;

19 On the Count 3, possession of controlled substance, I would
20 ask for 19- to 48-month sentence;

21 And on Count 4, possession of controlled substance, I would
22 ask for the same 19- to 48-month sentence.

23 Those three drug convictions we would ask to run concurrent
24 to one another, consecutive to Count 1.

25 As to Count 5, prohibited person in possession of a firearm, I

1 would ask for a 28- to 72-month sentence to run consecutive to Counts 1
2 through 4.

3 This is not the defendant's first firearm offense, as you can
4 see from his history. And this time he's actually taken steps to use the
5 firearm. For that reason, he should be punished to the maximum under
6 that.

7 But the one that I am seeking a habitual sentence on and
8 a 10-to-life sentence on is the assault with deadly weapon on a
9 protected person. And that's because the circumstances that we're
10 looking at here could have been much worse and it shows his intent to
11 use violence on our law enforcement officers, which cannot be stood for.

12 I'm showing that he has 615 days credit for time severed, Your
13 Honor. I would ask that you impose the sentence.

14 THE COURT: All right. So let me make sure I understand
15 your argument, counsel. On Count 1, you're asking the large habitual
16 criminal --

17 MR. DICKERSON: That's correct, Your Honor.

18 THE COURT: -- treatment? And then on Counts 2, 3, 4,
19 and 5, you're not asking any habitual treatment, you're asking me to
20 impose the statutory range of sentences; is that correct?

21 MR. DICKERSON: Correct, Your Honor.

22 THE COURT: Thank you, counsel.

23 Mr. Valencia, before your attorney speaks, is there anything
24 you'd like to tell the court on your own behalf before I pronounce
25 sentence?

1 THE DEFENDANT: Well, Your Honor, how can I deny that I
2 have been -- that I have a substance abuse problem. And that's -- that's
3 been my problem throughout the years. I've maintained relatively stable
4 employment. I don't deal drugs. I just use them. And I know that's
5 not -- no excuse, Your Honor. Nothing I can say. I mean, of course, to
6 say, it's -- yeah, it's an excuse. So that's all I would like to say. And I
7 know the court is going to be deciding a fair sentence for me today.

8 THE COURT: Defense, any argument in mitigation?

9 MR. COYER: Yes, Your Honor. Thank you.

10 My -- my goal today here, Your Honor, is to -- is to ask this
11 court to be reasonable, to issue a sentence that is reasonable and
12 appropriate given the verdict of the jury.

13 You've heard the State's argument, and they, by my
14 calculation, are asking this court to give Mr. Valencia almost 15 years to
15 life. In my practice, I routinely see murderers and rapists get less time
16 than that, Your Honor. And it's always been a mystery to me and a
17 curiosity as to which defendants get singled out for the habitual criminal
18 treatment.

19 Even -- even years ago when the State -- when the DA's office
20 had a repeat offender team, I was never able to discern or ever had
21 anybody articulate to me what exactly what -- what is the criteria? Why
22 does -- you know, why does this guy get singled out for habitual and the
23 next guy doesn't?

24 I mean, we all know what the statute says, right? It's two prior
25 felonies for the small, three priors for the large. That applies to half the

1 men you see sitting in the box here every day, Judge. And so it is
2 always discretionary. And we're asking this court for a reasonable
3 sentence.

4 Mr. Valencia has and has conceded, and the State has noted,
5 that all of his crimes involved controlled substances. He has a drug
6 problem. There's no doubt about that, Your Honor. But as I said, my
7 goal here today is to be reasonable. I'm not going to come in here with
8 Mr. Valencia's record and ask you to give him probation. I'm not going
9 to do that.

10 Your Honor heard the evidence in this trial. And I'm not -- I'm
11 not going to repeat any of that or belabor it. The information in this case
12 was filed June of 2016. The Notice of Intent to seek habitual criminal
13 was filed in February of 2017. And it was filed when the negotiations
14 broke down. Okay. I'm not saying it was done as punishment or making
15 him pay a trial tax or anything like that. But this case would never have
16 gone to trial had Mr. Valencia ever had the opportunity to plead guilty to
17 something that did not involve that firearm.

18 And Your Honor heard the evidence. You can't fault
19 Mr. Valencia for going to trial on those gun charges. And I'm not asking
20 the court to ignore the jury verdict. The jury found his guilty. But I'm just
21 asking the court to consider the evidence along with the jury verdict.

22 What I'm asking this court to do -- well, and -- and let me note
23 first, the State mentioned nine felonies, but there's only four judgments
24 of convictions. And they mentioned six prison sentences. Okay. So I
25 think for us to be reasonable, I think we need to put some of that into

1 perspective. Okay.

2 At least three of those prior felonies came out of one case.
3 And so it's clear for everybody, Mr. Valencia has been to prison twice.
4 Okay. We go through his PSI, and in 2002, he was sentenced to 12
5 to 30 months concurrent with the previous case where his probation had
6 been revoked. Okay. That's prison sentence -- that's prison, you know,
7 visit, if you will, number one.

8 Mr. Valencia was -- caught two cases in 2006, went to trial on
9 one of them and got convicted of -- of three felonies. Ultimately, dealt
10 the other case and was given 12 to 48 concurrent with the 24 to 60.
11 Okay. That's prison sentence number two.

12 He has not been to prison since then. And now we are here
13 on our case. So when -- and I expect Your Honor will -- when Your
14 Honor sentences him to prison, this will be his third term of going to the
15 Nevada Department of Corrections. The number of felony convictions
16 far exceeds the reality of how many times Mr. Valencia has gone to
17 prison, been released, and re-offended.

18 So my point, of course, is, why does Mr. Valencia get the
19 habitual criminal treatment as opposed to some other defendant? I
20 would submit to the court that that's the State's burden to persuade Your
21 Honor as to why that's appropriate. And I would submit that they failed
22 to do that today.

23 The seriousness of this offense that he was convicted of is not
24 in question. The bravery of Officer Jacobitz is not in question. The risk
25 that our officers take protecting us every day is not in question. What is

1 in question is what is the appropriate sentence for Mr. Valencia given his
2 history and this case, Judge.

3 I would submit to you that there are essentially two incidents in
4 this case. There's the incident from the date where the flee -- the fleeing
5 occurred. And there was the incident from when he was arrested and he
6 had drugs in his possession.

7 I'm going to ask this court for 24 to 60 months on the assault
8 on a protected person. I'm going ask this court for 24 to 60 months
9 consecutive for the trafficking. I'm going to ask the court to run all the
10 other counts concurrently. That's four to 10 years.

11 If we look at Mr. Valencia's prison history on the two times
12 he's been to prison previously, the one thing you'll note, Your Honor, is
13 the total absence of any grants of parole. This is not a man that the
14 parole board gives love to. This is a man that's going to serve every day
15 of whatever sentence you give him.

16 So a four to 10 is probably closer to about six and a half years.
17 And I think that's pretty reasonable for the defense to come in here and
18 make that request. And I want the court to be cognizant of that fact, that
19 a life tale is totally inappropriate given everything that you've heard. I
20 think a four to 10 is very reasonable, given the history and the conduct.
21 And that would be aggregate. Obviously, I've already said two to five
22 with a consecutive two to five.

23 Judge, and that's what we're asking for today. I'll submit it.

24 THE COURT: Thank you. I -- as to Count 1, the defendant is
25 to be adjudicated under the small habitual criminal statute. In

1 accordance with the laws of the State of Nevada, this court does now
2 sentence you as to Count 1 to confinement in the Nevada Department of
3 Corrections for a maximum term of 240 months, with a minimum parole
4 eligibility of 84 months.

5 As to Count 2, you're sentenced to confinement in the Nevada
6 Department of Corrections for a maximum term of 24 months with a
7 minimum term -- I'm sorry, with a maximum term of 72 months, with a
8 minimum parole eligibility of 24 months. Count 2 is to run consecutive to
9 Count 1.

10 As to Count 3, you are sentenced to a confinement in the
11 Nevada Department of Corrections for a maximum term of 48 months
12 with minimum parole eligibility of 12 months. Count 3 will run concurrent
13 to Count 2.

14 As to Count 4, you're sentenced to Nevada Department of
15 Corrections for a maximum term of 48 months with a minimum term
16 of 12 months. Count 3 will run -- I'm sorry, Count 4 will run concurrent to
17 Count 3.

18 As to Count 5, you're sentenced to confinement to -- in the
19 Nevada Department of Corrections for a maximum term of 72 months
20 with a minimum parole eligibility of 24 months. Count 5 will run
21 concurrent to Count 4.

22 With an aggregate sentence of a maximum term of 312
23 months, with a minimum parole eligibility of 108 months.

24 There's a \$25 administrative assessment fee, \$150 for a DNA
25 analysis fee and the defendant is to submit to testing, \$3 for a DNA

1 administrative assessment fee. The court does not impose a fine, no
2 restitution owes. And the defendant will be given credit for time served
3 in the amount of 608 days.

4 UNIDENTIFIED SPEAKER: Six hundred and what, Your
5 Honor?

6 MR. DICKERSON: I think it's --

7 THE COURT: 608 days.

8 MR. DICKERSON: I believe we have 615, Your Honor.

9 MR. COYER: It is, because we continued it --

10 THE COURT: 615 days credit --

11 MR. COYER: -- for the last week.

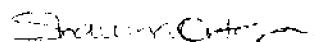
12 THE COURT: -- 615 days credit for time served.

13 Also, counsel, I'm attaching the letters of recommendation
14 and -- and his letter that were reviewed by the court as court's exhibit to
15 this sentencing.

16 MR. COYER: Thank you.

17 [Phase III proceedings concluded at 10:17 a.m.]

18
19
20 ATTEST: I do hereby certify that I have truly and correctly
21 transcribed the audio/video proceedings in the above-entitled case to the
22 best of my ability.

23 
24 _____

25 Shawna Ortega, CET*562



1 **RTRAN**

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

5
6
7 **THE STATE OF NEVADA,**

8 **Plaintiff,**

9 **vs.**

10 **CEASAR SANCHAZ VALENCIA,**

11 **Defendant.**

} **Case No. C-16-315580-1**

} **DEPT. XVIII**

12
13 **BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE**

14
15 **MONDAY, NOVEMBER 27, 2017**

16 ***TRANSCRIPT OF PROCEEDINGS RE:***
17 **JURY TRIAL - PHASE I - DAY 1**

18
19 **APPEARANCES:**

20 **For the Plaintiff:**

MICHAEL DICKERSON, ESQ.

(Deputy District Attorney)

CHAD N. LEXIS, ESQ.

(Deputy District Attorney)

21
22
23 **For the Defendant:**

GREGORY E. COYER, ESQ.

ALEXIS ANNE PLUNKETT, ESQ.

24
25 **RECORDED BY: ROBIN PAGE, COURT RECORDER**

1 **LAS VEGAS NEVADA, MONDAY, NOVEMBER 27, 2017**

2 [Proceedings commenced at 11:06 a.m.]

3
4 [Outside the presence of the prospective jury panel.]

5 THE COURT: Please be seated. This is Case No.
6 C-16-315580, *State of Nevada vs. Ceasar Sanchaz Valencia*. Counsel,
7 at this time set for trial, are the parties ready to go forward?

8 MR. DICKERSON: Good morning, Your Honor. Mike
9 Dickerson and Chad Lexis on behalf of the State. We are ready to go
10 forward.

11 MR. COYER: Your Honor, good morning. Gregory Coyer and
12 Alexis Plunkett on behalf of Mr. Valencia. He does pronounce his name
13 Ceasar Valencia.

14 THE COURT: Ceasar?

15 MR. COYER: And we are ready to proceed as well.

16 THE COURT: Okay.

17 MR. COYER: We did want to make just one -- make the court
18 aware of one issue before we bring in the jury panel and start jury
19 selection. But otherwise we are ready.

20 THE COURT: Yeah. And there's a couple of housekeeping
21 matters I need to resolve also.

22 But first of all, Mr. Coyer, when you submitted your jury
23 instructions, did you submit a second set with citations?

24 MR. COYER: I have a second set with citations, but I did not
25 submit them.

1 THE COURT: Okay. Could you submit that to my law clerk?

2 MR. COYER: Would you like it in -- I can do it in Word or
3 PDF, whichever you prefer.

4 THE CLERK: Doesn't matter to me.

5 MR. COYER: If it needs to be tweaked or anything, I'll just
6 sent you the Word and that would probably be the easiest.

7 THE COURT: Okay. If you could that on one of the breaks or
8 this morning, I'd appreciate it. I took the jury instructions home over the
9 holidays and reviewed them.

10 And Mr. Dickerson?

11 MR. DICKERSON: Yes, Your Honor.

12 THE COURT: On your jury instructions on the front page, if
13 you could delete his ID number.

14 MR. DICKERSON: Okay.

15 THE COURT: And also, I don't know if you want to be extra
16 cautionary, but Mr. Coyer's requesting a lesser included on the
17 trafficking. You might want to do a verdict form that also includes a -- a
18 lesser included on the -- on the trafficking charge in case --

19 MR. DICKERSON: Yes, Your Honor. We've already agreed
20 to that and that will be prepared. I think it already is prepared, actually.

21 THE COURT: Okay. Thank you, counsel.

22 MR. LEXIS: Just so you know too, Judge, there's a second
23 amended that was filed this morning taking out --

24 THE COURT: That's what I was going to ask. It's my
25 understanding we're doing a bifurcated trial?

1 MR. DICKERSON: Correct.

2 THE COURT: And that the State was going to file a second
3 amended; is that correct?

4 MR. DICKERSON: That's correct. The State has filed that,
5 Your Honor. At the conclusion of this portion of the trial, we will file the
6 third amended with the singular charge of ownership or possession of a
7 firearm by a prohibited person.

8 THE COURT: That was my understanding. Do you have a
9 copy of the second amended?

10 And Mr. Coyer, you said there is another housekeeping
11 matter.

12 MR. COYER: Yes, Judge. Your Honor may or may not be
13 aware, I know that when the court goes through the court's part of the
14 jury selection process, you typically will ask is any of the jury panel
15 members familiar with the defendant or any of the attorneys. My
16 colleague, my co-counsel, Ms. Plunkett, has been the subject of some
17 negative publicity over the last few weeks. I'm not sure if Your Honor is
18 aware of that.

19 THE COURT: I'm not.

20 MR. COYER: I anticipate there will be some panel members
21 that will recognize her from that. And if so, because the negative
22 publicity involves criminal charges that were later dismissed, I think in --
23 in cautiousness, we should individually voir dire those particular panel
24 members if they -- if they raise their hand and say yeah, I recognize
25 Ms. Plunkett from the news. So that they don't taint the entire panel by,

1 you know, suggesting that she's somehow the subject of a criminal
2 prosecution.

3 THE COURT: No. I understand.

4 State, what's your position?

5 MR. DICKERSON: We have no opposition.

6 THE COURT: Okay. As a practical matter, if somebody does
7 raise their hand, is the most prudent way to handle this would be excuse
8 the jurors and bring them in individually and then have them questioned
9 and then excuse them and bring, if there's more than one, each
10 individual -- each one individually, admonish them not to discuss
11 anything until you make a determination of whether you're going to
12 challenge them or not?

13 MR. COYER: I believe that would be the safest way to
14 prevent tainting the entire panel, Judge.

15 THE COURT: Is that agreeable to the State?

16 MR. DICKERSON: The State is fine with that, Your Honor.

17 THE COURT: Okay. I was going to have 12 jurors and two
18 alternates. I use the modified Arizona approach. I'll do my general
19 questioning for determination of extreme hardship. Once that
20 determination has been made, we'll have 24 potential jurors in the jury
21 box. Then I'll do my individual questions. I'll allow counsel to do
22 questions, voir dire questions. And then I usually take a break, excuse
23 the jurors, and we do challenges for cause. And then I bring back in -- if
24 certain of the potential jurors in the box have been challenged for cause,
25 I replace them. We ask certain questions individually to each juror.

1 I have a -- a group of questions I ask individually, some
2 general questions. And then once we have 24 acceptable potential
3 jurors, then we'll do 10 peremptory challenges. The first 12 will be the
4 jurors, and the next two, Seats 13 and 14, will be the alternates; is that
5 agreeable to the parties?

6 MR. DICKERSON: State is fine with that, Your Honor.

7 MR. COYER: Yes, Your Honor.

8 MR. LEXIS: And Judge, just like last time, you're going to let
9 us have five --

10 THE COURT: Correct.

11 MR. LEXIS: -- pertaining to everybody? You're not going to
12 have four and then one for the alternate?

13 THE COURT: That's correct, counsel.

14 MR. LEXIS: Okay.

15 THE COURT: So but just be aware that once you have 12 --
16 the first 12, the next -- the next challenge will be challenging the
17 alternates. So the first 12 will be the jurors.

18 MR. LEXIS: Gotcha.

19 THE COURT: And then the last two will be the alternates.
20 And we'll -- we won't advise them that they're alternates until the
21 conclusion of the trial.

22 MR. DICKERSON: And so I'm clear, I think I'm on the same
23 page, is that we can exercise our peremptory challenges in any way we
24 see fit? Just it's going to be in seating arrangement as to the first 12
25 being the jurors who are seated and the next two on the end being the

1 alternates?

2 THE COURT: That's correct.

3 MR. DICKERSON: Thank you, Your Honor.

4 THE COURT: And we'll just -- you know, usually the
5 peremptory challenges are on a sheet back and forth. And you
6 obviously can waive a peremptory if you so choose. You don't have to
7 use all of your peremptories. And -- but that's how I typically have done
8 it. It may take a little bit longer, but it seems to provide both parties with
9 the opportunity as far as jury selection.

10 So first we'll discuss extreme hardship with the entire panel.
11 I'll take a recess and you can make your position known on the ones that
12 you feel are extreme hardship. I'll excuse those individuals. Then I'll
13 seat 24 in the box. I'll do my individual questioning of those 24, and then
14 give counsel the opportunity to do their individual questioning. Then
15 we'll take another recess. And you will do -- we'll do the challenges for
16 cause. Then after we have been able to seat 24, then you'll do your
17 peremptory challenges and then that will be our jury. Is that acceptable?

18 MR. DICKERSON: It is, Your Honor.

19 THE COURT: Mr. Coyer?

20 MR. COYER: That is acceptable, Your Honor. Thank you.

21 THE COURT: Are we ready? And also, I'll allow counsel to
22 make introductions and a brief statement as to the case, and
23 introductions as to themselves, the attorneys, and the potential
24 witnesses.

25 Are we ready to bring the jury in? Since we're starting

1 about 11:15, I was going to go to about 12:30, take our lunch break.
2 Then I have to stop today at 4:30. Then I don't have any -- a heavy
3 calendar tomorrow, my criminal calendar, so I'm hoping to start
4 by 11:00, 11:30 tomorrow. And we'll call them back at -- at 11:00, 11:30,
5 depending how far we get today.

6 And then -- and how long do you -- at the calendar call you
7 anticipated the trial lasting three to five days; is that still correct?

8 MR. DICKERSON: That's correct, Your Honor. I would
9 imagine that if everything goes as planned, we'd probably finish with
10 closing arguments on Thursday. But we do want to have Friday
11 available in case.

12 THE COURT: And Friday will be an all day. I don't have court
13 on Friday, so we can start at 9:00 on Friday.

14 MR. DICKERSON: Great.

15 MR. LEXIS: Judge, would you be willing to tell them to eat
16 their lunch prior to coming tomorrow? If we start at 11:30, tell them eat
17 your lunch beforehand and then just take a couple breaks during that so
18 we can have that --

19 THE COURT: The problem is I have to give my staff a lunch
20 break.

21 MR. LEXIS: Oh, I gotcha.

22 THE COURT: We'll be going --

23 MR. LEXIS: My apologies.

24 THE COURT: We'll be going from 9:00 and then I'm going to
25 have to give them a -- a lunch break. So I --

1 MR. LEXIS: Gotcha. I understand.

2 MR. DICKERSON: We wouldn't want the staff to be hungry,
3 Your Honor.

4 MR. LEXIS: I forgot about that.

5 THE COURT: In any event, counsel, is there any other
6 housekeeping matters at this time?

7 MR. DICKERSON: Nothing from the State, Your Honor.

8 THE COURT: Okay. Well, I'm going to bring the -- I'm going
9 to bring the panel in. Counsel, I'm going to bring the panel in.

10 For the record, the record will reflect the presence of counsel
11 and the presence of Defendant. And the parties have announced ready
12 for trial.

13 MR. DICKERSON: Do we have a list of the venire, Your
14 Honor?

15 THE COURT: Do we have one? Of the jury panel?

16 THE CLERK: I think it's with the panel.

17 UNIDENTIFIED SPEAKER: It comes with the jurors.

18 MR. DICKERSON: Okay. Great.

19 THE COURT: Okay.

20 [Pause in proceedings.]

21 [Prospective jury panel convened at 11:31 a.m.]

22 THE COURT: Ladies and gentlemen, you're in
23 Department 18 of the Eighth Judicial District Court of the State of
24 Nevada. My name is Mark Bailus and I am the presiding judge in this
25 department.

1 You have been summonsed here today to serve as possible
2 jurors in a criminal trial. This trial may take three to five days. In a few
3 minutes, I'll give you the chance to talk about your ability to serve as a
4 juror in this case, but first let me take this opportunity to introduce the
5 court staff.

6 If anybody cannot hear me, please raise your hand. I -- I have
7 a soft voice, so I'm going to speak into the microphone. Otherwise, I
8 would have to raise my voice and sound like I was being loud. So if you
9 cannot hear me, please raise your hand.

10 Robin Page is the official court recorder, and be recording
11 everything that is said during the trial. Alan Castle is the deputy clerk,
12 deputy court clerk who administers -- administers the oaths to the
13 witnesses, marks exhibits, keep track of the evidence and prepares the
14 official record. Randy Stevenson is the marshal who maintains security
15 and who will be the person to escort you to and from the courtroom.
16 Also, if you need to contact the court for any reason when you are not
17 sitting in court, you should do so through the marshal. During
18 deliberations, the marshal look after you and maintain your privacy.
19 Alan Brereton is law clerk who assists me in legal matters. And
20 Shannon Fagan is my judicial executive assistant who'll also be present
21 from time to time to assist me with various things during the course of
22 the trial.

23 If any of you have a cell phone, now is the time to make sure
24 that it is turned off. While the court is in session, you must not use any
25 cell phones, smart phone, iPad, tablet, computer, or other portable

1 electronic device capable of making or accepting calls or sending or
2 receiving information.

3 During these proceedings, you will need to use -- during these
4 proceedings, if you need to use the restroom, please raise your hand to
5 let us know. We will, however, try to take a break at least
6 every 90 minutes.

7 The clerk will now call the roll of the panel of potential jurors.
8 When your name is called, please answer, present or here.

9 [Prospective jury panel roll called.]

10 THE COURT: Is there anyone here whose name was not
11 called? Court seeing no hands, apparently all the panel is present.

12 At this time, I'll allow the attorneys to make brief remarks for
13 the potential jurors. The attorneys may introduce themselves, who they
14 represent, and the nature of the case, and advise you of any potential
15 witnesses.

16 Ladies and gentlemen, this is not the opening statement of
17 attorneys. This is just a little information about the parties and the case
18 so you can better answer questions in the jury selection process.

19 Counsel for State, you may address the potential jurors.

20 MR. LEXIS: Good morning, ladies and gentlemen. My name
21 is Chad Lexis. This is Michael Dickerson. We are deputy district
22 attorneys at the Clark County District Attorney's Office. We represent
23 the people of the State of Nevada and we are prosecuting this case.

24 The defendant is charged with one count of assault on a
25 protected person with use of a deadly weapon, the protected person

1 being a police officer and the deadly weapon being a firearm. He's also
2 charged with one count of trafficking a controlled substance, that
3 controlled substance being heroin; and two counts of possession of a
4 controlled substance, those substances being meth and cocaine.

5 Please listen to the following list of names, as they may be
6 witness in this case. Only a fraction of these people, folks, are going to
7 testify, but I still need to read them all to you.

8 Jason Altnether; Crystal May; Eric Sahota; Officer Bitsko;
9 Officer Boddie; Officer Bonner; Officer Brooks; Officer Brown; Officer
10 Butler; Officer Bryant; Officer Carrillo; Officer Delvillar; Officer Finke;
11 Officer Garcia; Eric Gilbert; Officer Gollmer; Officer Goodrich; Officer
12 Hafen; Officer Harris; Officer Hartman; Officer Hocking; Officer Hoffman;
13 Officer Houston; Officer Jacobitz; Officer Janecek; Officer Jotz; Officer
14 Jurcevic; Officer Keen; Officer Keller; Officer Klosterman; Officer
15 Lefebvre; Officer Lindberg; Officer May; Officer Milewski; Officer
16 Nastase; Officer O'Conner; Officer Overson; Officer Parquette; Officer
17 Perez; Officer Quintana; Anibal Rivera; Officer Roberts; Officer
18 Romprey; Officer Sahota; Officer Salazar; Officer Schummer; Alfred
19 Shamirza; Officer Skenandore; Officer Swartz; Officer Taylor; Officer
20 Vallad; Officer Vigil; Officer Whitmarsh; Officer Williams; Officer Wood.

21 That's it. Thank you.

22 THE COURT: Counsel for the defendant, you may now
23 address the potential jurors.

24 MR. COYER: Thank you, Your Honor.

25 Good morning, everyone. My name is Gregory Coyer. My

1 co-counsel today is Alexis Plunkett.

2 MS. PLUNKETT: Good morning.

3 MR. COYER: And on the far side is our client, Ceasar
4 Valencia.

5 We do not have any additional witnesses beyond the ones
6 you've heard the State list already. With respect to those charges,
7 Mr. Valencia has pled not guilty to each and every one. Thank you.

8 THE COURT: Ladies and gentlemen, we're about to
9 commence examination of potential jurors in this case. During this
10 process, you will be asked questions bearing on your ability to sit as fair
11 and impartial jurors. The court, the lawyers, and all persons involved in
12 this case are interested in having this matter tried by a jury composed
13 of 12 open-minded people who are completely neutral and who have no
14 bias or prejudice towards either side.

15 In this trial we will also need two alternate jurors to listen to all
16 the proceedings and be prepared to take over as a juror in the event a
17 sitting juror is excused. In order to accomplish this, it is necessary for
18 me to ask some questions. The attorneys will then be given the
19 opportunity to ask questions. Although some of the questions may at
20 times seem quite personal, our only objective is to determine whether
21 there is any reason why any of you cannot sit as fair and impartial jurors
22 in this case. If a question seems too personal to you, you can raise your
23 hand and ask us to talk to you privately. But understand that your
24 answers will have to be on the record.

25 It is very important that you give full, complete, and honest

1 answers to all of the questions we're about to ask you. I caution you not
2 to try to hide or withhold anything which might indicate bias or prejudice
3 of any sort, by any of you. Should you fail to answer truthfully or if you
4 hide or withhold anything touching upon your qualifications, that fact may
5 tend to contaminate the verdict and subject you to further inquiry, even
6 after you're discharged as jurors. Your decision should be based upon
7 all the evidence presented during the trial and not based on
8 preconceived prejudice or bias.

9 During this process of selecting a jury, the attorneys for both
10 sides will have the right to request a particular person not serve as a
11 juror. These requests are called challenges. Please do not be offended
12 should you be excused by a challenge. This is simply part of the
13 process designed to protect the rights of the parties.

14 The questioning of potential jurors at the beginning of the case
15 is done under oath. But before the clerk issues the oath to you, I need
16 to know if any of you are not citizens of the United States or if any of you
17 are convicted felons whose civil rights have not been restored. To be
18 qualified to serve as a juror, one must be a citizen and not be -- and not
19 be a convicted felon whose rights have not been restored. Please raise
20 your hand if you are not a citizen or if you are a convicted -- a convicted
21 felon whose rights have not been restored.

22 The court seeing -- let the record reflect that the court sees no
23 hands being raised at this point.

24 Will counsel agree and stipulate that I may have the entire
25 panel sworn at the same time to answer questions truthfully -- to answer

1 truthfully all questions propounded to them as to their qualifications to
2 serve as jurors, so I might ask questions collectively and so it won't be
3 necessary to administer the oath to each replacement?

4 MR. LEXIS: State will --

5 THE COURT: Counsel?

6 MR. LEXIS: -- Your Honor.

7 MR. COYER: Yes, Your Honor.

8 THE COURT: At this time, would you stand, raise your right
9 hands to be sworn.

10 [Prospective jury panel sworn.]

11 THE COURT: Thank you. You can be seated.

12 Ladies and gentlemen, I now have some general questions to
13 help us in selecting the jury in this case. If I ask a question to the entire
14 group, please raise your hand if the question applies to you. I will then
15 follow up by asking you to identify your name and badge number. I may
16 also ask some questions to you individually.

17 Are any of you acquainted with any of the court personnel that
18 I have mentioned? The court's -- let the record reflect no hands have
19 been raised.

20 Are any of you acquainted with the prosecutor or the defense
21 attorneys or their law offices or their staff? Let the record reflect no
22 hands have been raised.

23 Are any of you acquainted with the defendant or his
24 attorneys? Let the record reflect no hands have been raised.

25 Are any of you acquainted with the anticipated witnesses in

1 this case, whose names were mentioned to you by the attorneys? Let
2 the record reflect no hands have been raised.

3 Have any of you heard or read anything about this case before
4 coming to court today?

5 Sir, please identify yourself by your name and badge number.

6 PROSPECTIVE JUROR NO. 1136: Chris Argento. My badge
7 number is 16-1136. I'm sorry, Chris Argento, Your Honor. My badge
8 number is 16-1136.

9 THE COURT: Sir, can you approach the bench with counsel?

10 [Bench conference transcribed as follows:]

11 PROSPECTIVE JUROR NO. 1136: Yes, sir.

12 THE COURT: Hi. I need you to speak slowly -- slowly --

13 PROSPECTIVE JUROR NO. 1136: Well, what --

14 THE COURT: So what have you heard about this case?

15 PROSPECTIVE JUROR NO. 1136: If I'm correct, I believe
16 this was on the front page of the *R-J* four months ago. The attorney was
17 caught bringing a cell phone into jail for the client. I don't know if that's
18 related to this, but she looked very familiar.

19 THE COURT: Okay. What I'm going to do, sir, is at some
20 point I'm going to excuse the rest of the panel. And then we'll let the
21 attorneys ask you some questions. And until I do that, please don't
22 discuss this with any of the other jurors until the attorneys have had an
23 opportunity to question you.

24 PROSPECTIVE JUROR NO. 1136: Sure.

25 THE COURT: Okay. Thank you. You can return at this point.

1 PROSPECTIVE JUROR NO. 1136: Thank you.

2 [End of bench conference.]

3 THE COURT: Does anyone know anything about this case
4 other than what has been stated in the courtroom today? Let the
5 reflect -- let the record reflect no hands have been raised.

6 Is there anyone who has such strong opinions relating to age,
7 religion, race, gender, or national origin that they feel it would affect their
8 ability to be open-minded, fair and impartial jurors? Let the record reflect
9 no hands have been raised.

10 Is there anyone here today who is seriously ill?

11 Yes, ma'am. Could you identify yourself with your name and
12 badge number?

13 PROSPECTIVE JUROR NO. 1001: Chablis
14 Stewart-Williams, 16-1001.

15 THE COURT: Ma'am, what is your illness?

16 PROSPECTIVE JUROR NO. 1001: I get severe migraines
17 and I have to take a medicine that makes me go to sleep.

18 THE COURT: And do you have --

19 PROSPECTIVE JUROR NO. 1001: And I will be out for four
20 hours.

21 THE COURT: Okay. And do you have a migraine right now?

22 PROSPECTIVE JUROR NO. 1001: I'm getting one. Yes, sir.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 1001: Because of the
25 fluorescent lights.

1 THE COURT: Okay. And the --
2 PROSPECTIVE JUROR NO. 1001: I have my medication too.
3 THE COURT: Have you taken your medication today?
4 PROSPECTIVE JUROR NO. 1001: No. I was getting ready
5 to, but I will end up falling asleep.
6 THE COURT: Okay. And what medication is that, ma'am?
7 PROSPECTIVE JUROR NO. 1001: It's Fiorinal.
8 THE COURT: All right. And you said the fluorescent lights is
9 inducing a migraine headache?
10 PROSPECTIVE JUROR NO. 1001: Yes, sir.
11 THE COURT: Okay. Thank you, ma'am.
12 Is there anybody here that is having difficulty hearing? Let the
13 record reflect no -- no hands have been raised.
14 Is there anybody here who is sight impaired? Let the record
15 reflect no hands have been raised.
16 Counsel approach.
17 [Bench conference transcribed as follows:]
18 THE COURT: I was going to ask if there was anybody here
19 who has any type of language barrier. Is that acceptable to the parties?
20 MR. COYER: Yeah.
21 MR. LEXIS: I'm fine with that.
22 THE COURT: And then I'll follow up if anybody raises their
23 hand. Okay. Thank you.
24 MR. LEXIS: Thank you.
25 [End of bench conference.]

1 THE COURT: Is there anybody here who has any type of
2 language barrier where you don't understand English language?

3 Yes, sir? Beginning -- we're going to go in order, sir. So if
4 you can identify yourself with your name and badge number.

5 PROSPECTIVE JUROR NO. 1603: I don't not speaking too
6 much and I don't -- I don't write, you know.

7 THE COURT: Okay. And is English a second language, sir?

8 PROSPECTIVE JUROR NO. 1603: No. Spanish is my -- oh,
9 yeah. Yeah.

10 THE COURT: So my -- is English a second language, sir?
11 Yes? I -- I can't hear you, sir.

12 MR. LEXIS: Judge, what's his badge number?

13 THE COURT: Sir, what's your badge number? What is your
14 badge number?

15 PROSPECTIVE JUROR NO. 1063: 16-1063.

16 THE COURT: Okay. And is Spanish your first language --

17 PROSPECTIVE JUROR NO. 1063: That's my first --

18 THE COURT: -- your native language?

19 PROSPECTIVE JUROR NO. 1063: Yes, sir.

20 THE COURT: Okay. If you could speak into that microphone.

21 PROSPECTIVE JUROR NO. 1063: Yes, sir. Yeah. That's
22 my first language.

23 THE COURT: And --

24 PROSPECTIVE JUROR NO. 1063: Spanish.

25 THE COURT: And English is your second language?

1 PROSPECTIVE JUROR NO. 1063: Yes, sir.

2 THE COURT: And you're having difficulty understanding what

3 I'm saying to you today in English?

4 PROSPECTIVE JUROR NO. 1063: Yeah. Yeah. I have --

5 THE COURT: Okay. And sir, if you could pass the

6 microphone to my bailiff.

7 THE MARSHAL: Who else back here?

8 THE COURT: Sir, what is your name and badge number,

9 please?

10 PROSPECTIVE JUROR NO. 1620: My name is Pablo Garcia.

11 My badge number is 1620.

12 THE COURT: Okay. And, sir, is English your second

13 language?

14 PROSPECTIVE JUROR NO. 1620: Yes.

15 THE COURT: And what is your native language?

16 PROSPECTIVE JUROR NO. 1620: Spanish.

17 THE COURT: Spanish?

18 PROSPECTIVE JUROR NO. 1620: Yes.

19 THE COURT: Okay. And you're having difficulty

20 understanding me in English; is that correct?

21 PROSPECTIVE JUROR NO. 1620: Yeah, correct.

22 THE COURT: And you believe that would -- would you -- and

23 you believe that you would have difficulty -- the witnesses are expected

24 to testify in English, and at some point I'm going to give the jury

25 instructions, those will also be in English; is that going to be difficult for

1 you to understand, sir?

2 PROSPECTIVE JUROR NO. 1620: Yes, a little bit difficult to
3 understand and --

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 1620: -- to speak back.

6 THE COURT: Okay. Counsel approach.

7 [Bench conference transcribed as follows:]

8 THE COURT: Is there any additional questions you want me
9 to ask?

10 MR. LEXIS: No, we can follow up, Judge.

11 THE COURT: Okay. All right. Then I'm going to move on to
12 the next questions.

13 MR. COYER: Okay.

14 THE COURT: All right.

15 [End of bench conference.]

16 THE COURT: And I may have asked this, I don't recall. Is
17 there anyone who is sight impaired? Okay. Let the record reflect no
18 hands have been raised.

19 And I previously established this, no one here has been
20 convicted of a felony; is that correct? No hands have been raised. Let
21 the record reflect no hands were raised.

22 This case is expected to last three to five days. The court may
23 excuse you from serving if doing so would be an undue hardship.

24 Example of things that are hardships are you live paycheck to paycheck
25 and you can't afford to miss time off from work; you're the sole

1 healthcare provider of somebody who needs constant care; you have
2 sole custody of children under the age of 16 and nobody to watch them;
3 you are a student who would miss several classes or tests; you have
4 surgery scheduled.

5 Example of things that are not hardships include a doctor or
6 dentist appointment that can be rescheduled; your employer or boss
7 does not want you to be here; or you just have too much work and you
8 don't want to fall behind.

9 Please raise your hand if serving as a juror during the time --
10 that time period would present an extreme hardship for any of you.

11 Yes, ma'am. Please, your name and badge number?

12 PROSPECTIVE JUROR NO. 1001: Chablis
13 Stewart-Williams, 16-1001. I have twins that are homeschooled and I
14 have an elderly mom. I just hired someone for today to watch them
15 while I'm here.

16 THE COURT: And if you were to serve as a juror, you would
17 have nobody else to take care of your children or your elderly mother?

18 PROSPECTIVE JUROR NO. 1001: No, sir. I'm an only child
19 and I'm not from here.

20 THE COURT: Okay. If you could -- who else on that row
21 raised their hand? Is there anybody else on the first row that raised your
22 hand? Okay.

23 On the second row?

24 Ma'am, please state your name and badge number.

25 PROSPECTIVE JUROR NO. 1031: Karlana Dasalla, 1031.

1 THE COURT: And what is your extreme hardship?

2 PROSPECTIVE JUROR NO. 1031: I live paycheck to
3 paycheck and I'm a single mom with two kids.

4 THE COURT: Okay. And when you say you live paycheck to
5 paycheck, does that mean that if you were to serve today, that you
6 would not get paid for the time period that you're serving as a juror --

7 PROSPECTIVE JUROR NO. 1031: Yes.

8 THE COURT: -- and would miss out on receiving a full
9 paycheck?

10 PROSPECTIVE JUROR NO. 1031: Yes.

11 THE COURT: And is it my understanding that you need that
12 paycheck to pay for your living expenses for you and your children?

13 PROSPECTIVE JUROR NO. 1031: Yes.

14 THE COURT: Okay. And is there anything else you want to
15 tell me regarding your extreme hardship?

16 PROSPECTIVE JUROR NO. 1031: That's it.

17 THE COURT: Okay. Is there anybody else in that row that
18 raised their hand? If you could pass it down to the -- that gentleman,
19 please.

20 Sir, what is your name and badge number?

21 PROSPECTIVE JUROR NO. 1009: Micheal
22 Montgomery, 1009.

23 THE COURT: And what is your extreme hardship?

24 PROSPECTIVE JUROR NO. 1009: Well, I got a pre-op
25 appointment Thursday afternoon for a surgery. I've got a tumor in my

1 neck that I'm going to have removed.

2 THE COURT: Okay. And when is your surgery scheduled
3 for?

4 PROSPECTIVE JUROR NO. 1009: Oh, like I say, it's a
5 pre-op appointment, so --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 1009: -- I really -- it's not
8 scheduled yet.

9 THE COURT: I'm sorry, sir?

10 PROSPECTIVE JUROR NO. 1009: It's not scheduled yet.

11 THE COURT: Okay. And --

12 PROSPECTIVE JUROR NO. 1009: It's just --

13 THE COURT: -- what time is your appointment on Thursday?

14 PROSPECTIVE JUROR NO. 1009: It's 1:45 on Thursday,
15 the 30th.

16 THE COURT: Okay. All right. Is there anything else, sir?

17 PROSPECTIVE JUROR NO. 1009: That's it.

18 THE COURT: Okay. If you could pass it to my bailiff -- my
19 marshal, please. If you could pass the microphone to my marshal.

20 Sir, what is your name and badge number?

21 PROSPECTIVE JUROR NO. 1090: John Baborian. And my
22 badge number is 1090.

23 THE COURT: And what is your extreme hardship, sir?

24 PROSPECTIVE JUROR NO. 1090: I have two children under
25 five and I just got a job after five months of being off of work and my

1 paycheck is needed in the house.

2 THE COURT: I'm sorry, I didn't hear the last.

3 PROSPECTIVE JUROR NO. 1090: My paycheck is needed
4 in the house. If I didn't work these days, there's no money coming in
5 from me.

6 THE COURT: And your wife -- are you married, sir?

7 PROSPECTIVE JUROR NO. 1090: Yes.

8 THE COURT: And your wife doesn't work?

9 PROSPECTIVE JUROR NO. 1090: She works right now, but
10 we're -- we -- we need the money.

11 THE COURT: Okay. And is that because you've been out of
12 work for five months?

13 PROSPECTIVE JUROR NO. 1090: Yes, sir. And I'm the sole
14 transporter for the child going to school in the morning.

15 THE COURT: Okay. Your wife --

16 PROSPECTIVE JUROR NO. 1090: He won't be able to get to
17 school. She's already gone by that time.

18 THE COURT: At -- at her employment?

19 PROSPECTIVE JUROR NO. 1090: Yes.

20 THE COURT: And when you say she, we're -- you're meaning
21 your wife?

22 PROSPECTIVE JUROR NO. 1090: Yes, sir.

23 THE COURT: And -- and how old are your children, sir?

24 PROSPECTIVE JUROR NO. 1090: Two and five.

25 THE COURT: And so it's the five-year-old that has to be

1 taken to school in the morning?

2 PROSPECTIVE JUROR NO. 1090: Yes.

3 THE COURT: And you're the only person that can take your
4 five-year-old child?

5 PROSPECTIVE JUROR NO. 1090: Yes, sir.

6 THE COURT: Okay. Thank you, sir.

7 Is there anybody else in that row? No.

8 Next row?

9 PROSPECTIVE JUROR NO. 1127: Hi. Deanna Yturalde,
10 Badge No. 1127. I have a disabled husband at home. I do also work.
11 The only person who could care for him, because he tends to fall and
12 trip because he can't feel from the waist down, is my mother who is 87,
13 or his sister who has multiple sclerosis. So when he -- when I'm at work,
14 he can't do anything. They just kind of sit all day. So you know, I worry
15 about him when I'm not there. He's actually waiting outside, because I
16 refused to leave him at home by himself.

17 THE COURT: Okay. So when do you work?

18 PROSPECTIVE JUROR NO. 1127: I work -- it depends on
19 when they schedule me. I can work any hours.

20 THE COURT: And what do you do?

21 PROSPECTIVE JUROR NO. 1127: I'm a pharmacy
22 technician.

23 THE COURT: Okay. So when you're at work, who takes care
24 of your husband?

25 PROSPECTIVE JUROR NO. 1127: Like I said, his sister

1 comes, who has MS, and they -- they get to sit together during my eight
2 hours of work.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 1127: Because either one of
5 them really can't do anything.

6 THE COURT: And so there's no -- if you were to serve as a
7 juror, there's no one that could take care of your disabled husband
8 during the day?

9 PROSPECTIVE JUROR NO. 1127: Again, his sister, who's
10 also disabled, they just kind of sit together --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 1127: -- to make sure nothing
13 happens to him.

14 THE COURT: All right. Thank you, ma'am.

15 PROSPECTIVE JUROR NO. 1127: You're welcome, sir.

16 THE COURT: There was a -- sir, your name and badge
17 number?

18 PROSPECTIVE JUROR NO. 1141: Oscar Cano,
19 Badge No. 1141. I got a 2-year-old and an 8-year-old that I take to
20 school Wednesday through Fridays, and I work six days a week.

21 THE COURT: Okay. So you -- do you have sole custody of
22 your two and five -- I'm sorry, was it 2- and 8-year-old?

23 PROSPECTIVE JUROR NO. 1141: 2- and 8-year-old,
24 uh-huh.

25 THE COURT: Okay. Do you have sole custody?

1 PROSPECTIVE JUROR NO. 1141: We got shared custody,
2 shared primary custody. I watch my children from Wednesday afternoon
3 until Saturday afternoon.

4 THE COURT: Okay. And when -- do you work, sir?

5 PROSPECTIVE JUROR NO. 1141: Yes.

6 THE COURT: And when you're at work, who watches your --
7 your children?

8 PROSPECTIVE JUROR NO. 1141: My son is at school, and
9 once he gets out of school he goes to daycare, for the 8-year-old.
10 The 2-year-old is in daycare until I get off of work.

11 THE COURT: And what time do you usually get off work?

12 PROSPECTIVE JUROR NO. 1141: Around 5:00, but I don't
13 make it at home until 6:00. So I work in Henderson.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 1141: And my children are in
16 Torrey Pines and Alta.

17 THE COURT: And if this matter were -- if you were to be
18 selected as a juror in this matter, it's anticipated that we would not go
19 beyond 5:00; would that create any type of extreme hardship for you?

20 PROSPECTIVE JUROR NO. 1141: At that point it would just
21 be the days that I'd be missing from work.

22 THE COURT: I'm sorry?

23 PROSPECTIVE JUROR NO. 1141: At that point, it'd just be
24 the days that I'd be missing from work.

25 THE COURT: And do you live from paycheck to paycheck,

1 sir?

2 PROSPECTIVE JUROR NO. 1141: Yes.

3 THE COURT: Do you provide child support for your children?

4 PROSPECTIVE JUROR NO. 1141: Yes.

5 THE COURT: Okay. And again, it's your -- you're advising
6 the court that if you were to miss a couple of days at work, you would not
7 be able to pay your living expenses?

8 PROSPECTIVE JUROR NO. 1141: No. I wouldn't be paid for
9 the days that -- that I'm off.

10 THE COURT: Okay. Sir, is there anything else you'd like to
11 tell me?

12 PROSPECTIVE JUROR NO. 1141: That would be it.

13 THE COURT: Okay. Is there anybody else who raised their
14 hand?

15 Yes, ma'am, your name and badge number, please.

16 PROSPECTIVE JUROR NO. 2005: My name is Lacy
17 Huckins. My badge number is 2005.

18 THE COURT: And what is your extreme hardship, ma'am?

19 PROSPECTIVE JUROR NO. 2005: I'm a senior at UNLV and
20 it is finals week December 11th through 13th. So I -- it could interfere
21 with required days of class.

22 THE COURT: Okay. And you're a full-time student at UNLV;
23 is that correct?

24 PROSPECTIVE JUROR NO. 2005: Yes.

25 THE COURT: And you have finals coming up?

1 PROSPECTIVE JUROR NO. 2005: Yes. So I have a
2 required group presentation on Wednesday, and then finals week is
3 December 11th through 13th.

4 THE COURT: Okay. Is there anything else, ma'am?

5 PROSPECTIVE JUROR NO. 2005: I also live paycheck to
6 paycheck and --

7 THE COURT: You do?

8 PROSPECTIVE JUROR NO. 2005: -- that is all.

9 THE COURT: And what do you do for a living?

10 PROSPECTIVE JUROR NO. 2005: I work at Lee Canyon as
11 a guest services.

12 THE COURT: And are -- is that -- do you live solely on your
13 paycheck?

14 PROSPECTIVE JUROR NO. 2005: Yes.

15 THE COURT: Are you married?

16 PROSPECTIVE JUROR NO. 2005: No.

17 THE COURT: Okay. Is there anything else?

18 PROSPECTIVE JUROR NO. 2005: No.

19 THE COURT: All right. Thank you.

20 Under our system, certain basic principles of law apply in
21 every criminal trial. They are that the defendant is presumed innocent
22 and that the State has a burden of proving beyond a reasonable doubt
23 that the defendant is guilty. Does anyone not believe in these basic
24 principles of American justice? Let the record reflect no hands were
25 raised.

1 There is one more thing I need to mention to everybody as a
2 group. Under the law, if you are selected to serve as a juror, you will be
3 required to decide the facts of the case. In making your decision,
4 however, you must be guided by the law as it applies to the facts.

5 It will be my duty to instruct you on what the law is. So my
6 question to all of you is this: Is there anybody who will not be able to
7 follow the law if you believe that -- believe the law should be different
8 from what -- than what I tell you? Let the reflector -- record reflect the
9 court hears no responses and seeing no hands raised, assumes
10 everybody here agrees to follow the law as will be instructed to them.

11 Ladies and gentlemen, I am -- I will now confer with counsel
12 for a few minutes. I'm going to excuse you. We're going to take a short
13 recess, except for the gentleman that I had approach the bench.

14 Where's my book on the admonishments?

15 During this recess you're admonished not to talk or converse
16 among yourselves or with anyone else on any subject matter connected
17 with this case, or read, watch, or listen to any report or commentary on
18 the -- this trial or any person connected with this trial via any medium of
19 information, including without limitation, social media, text, newspapers,
20 television, the Internet, radio; do not do any posting or communications
21 on any social networking sites or do any independent research, including
22 Internet searches or form or express any opinion on any subject
23 connected with the trial until the case is submitted.

24 At this time we'll take a short recess, probably around 15, 20
25 minutes. So if you could return in about 15 minutes, I'd appreciate it.

1 [Prospective jury panel recessed at 12:03 p.m.]
2 THE COURT: Sir, if you -- Mr. Dickerson, can you get my
3 bailiff? I need to hand the --
4 MR. DICKERSON: Yes, Your Honor.
5 THE COURT: -- potential juror the microphone. And could
6 you tell my marshal to shut the door, please? Thank you.
7 Sir, if you could restate your name and badge number.
8 PROSPECTIVE JUROR NO. 1136: Christopher Argento,
9 Badge No. 1136.
10 THE COURT: And you had indicated at the bench that you
11 had heard something about this case; is that correct?
12 PROSPECTIVE JUROR NO. 1136: If it's the case from the
13 *Review-Journal* from a few months ago, I feel like I recognize the female
14 defense attorney from that.
15 THE COURT: And what had you heard, sir?
16 PROSPECTIVE JUROR NO. 1136: The part I remember
17 most was that the female defense attorney had gotten in trouble for
18 going into the prison and getting physical with a inmate, also providing
19 them a cell phone.
20 THE COURT: Okay. Does counsel want to ask this
21 gentleman any questions?
22 MR. COYER: Yes. May we proceed with those?
23 THE COURT: Yes.
24 MR. COYER: Okay. Sir, based on the things that you read
25 about my co-counsel, does that cause you to have a negative opinion

1 of -- and I know it's awkward, because she's standing right here. But
2 what -- does that cause you to have an negative opinion towards her in
3 any way?

4 MS. PLUNKETT: No offense --

5 PROSPECTIVE JUROR NO. 1136: If I'm being honest, yes.
6 Sorry.

7 MS. PLUNKETT: No offense.

8 MR. COYER: Do you think you'd have the ability to put the
9 negative feelings aside and listen to the evidence in the case or -- or do
10 you think, regardless of the evidence, you're still going to hold the same
11 opinion about Ms. Plunkett?

12 PROSPECTIVE JUROR NO. 1136: I mean, I would like to
13 think I could just judge it by the evidence, but knowing what I know about
14 the case, I don't want to give anyone an unfair trial. So I would have to
15 say no, I wouldn't be able to be fair.

16 MR. COYER: I don't have any further questions, Your Honor.

17 THE COURT: State?

18 MR. LEXIS: State doesn't have any questions, Your Honor.

19 THE COURT: Sir, thank you. And if you could return in
20 about 15 minutes. Just wait outside until my marshal escorts you in, if
21 you would, please. Thank you.

22 [Prospective Juror No. 1136 exited courtroom.]

23 THE COURT: First let's address the undue hardships.
24 State, what's your position?

25 MR. DICKERSON: Can you give us a couple minutes to talk?

1 THE COURT: Sure.

2 MR. DICKERSON: Thank you very much, Your Honor.

3 THE COURT: I'm going to take a -- how long do you need,
4 five minutes?

5 MR. DICKERSON: Five minutes would be great.

6 THE COURT: All right. Just let my bailiff know when you're
7 ready.

8 MR. DICKERSON: Thank you, Your Honor.

9 THE COURT: Thank you. We'll be in recess.

10 [Court recessed at 12:06 p.m. until 12:15 p.m.]

11 [Outside the presence of the prospective jury panel.]

12 THE COURT: Please remain seated. At this point I'm only
13 going to address undue hardships. We'll address challenges for cause
14 at -- at the appropriate time. I'm going to give counsel -- both counsel
15 the opportunity -- the gentlemen who said they had the language barrier,
16 I'm going to give you the opportunity to ask questions. I don't know if
17 you need to ask any additional questions of the gentleman who's heard
18 something about the case. I gave you that opportunity, so I'm assuming
19 there's no additional questions.

20 MR. DICKERSON: State has no further questions. And we
21 actually discussed with defense counsel, and we have no objection to
22 their upcoming request to actually ask the venire whether any of them
23 are familiar with any cases of any of the attorneys in the courtroom or
24 have seen any of the attorneys specifically on the news.

25 THE COURT: All right. Well, I was going to let you do that

1 during individual questioning.

2 MR. DICKERSON: Okay.

3 THE COURT: And the same thing with the gentlemen who
4 have the language barrier, I was going to let you ask additional
5 questions. At this point, I wasn't going to address challenges for cause,
6 just undue hardship.

7 MR. LEXIS: Judge, can we do down in order? I think --

8 THE COURT: Sure. And my first question is, has the parties
9 agree on anybody who should be excused for undue hardship?

10 MR. LEXIS: I'm not certain, but --

11 THE COURT: Okay.

12 MR. LEXIS: -- we could probably breeze through it.

13 THE COURT: Let's just go --

14 MR. LEXIS: 1001, I believe was the first one, Judge.

15 THE COURT: Okay.

16 MR. LEXIS: She was the individual that said she falls asleep
17 and has migraines. The State has no objection to kicking her.

18 MR. COYER: Defense has no objection.

19 THE COURT: State?

20 MR. LEXIS: No objection.

21 THE COURT: Okay. So we're going to excuse
22 Juror No. 1001. What about 1009?

23 MR. LEXIS: That tumor-on-the-neck individual, the State has
24 no objection to kicking him as well, Judge.

25 THE COURT: State -- does defense?

1 MR. COYER: Defense has no objection to dismissing.
2 MR. LEXIS: The next one, Judge, was 1031. The State has
3 no objection to kicking her.
4 THE COURT: Defense?
5 MR. COYER: No objection.
6 MR. LEXIS: The next individual, Judge, was the language
7 issue on 1063. State has no objection to kicking that --
8 MR. DICKERSON: I think he was going to go into cause.
9 MR. COYER: You -- and I -- Judge, I thought we were going
10 to address language barrier separately, but --
11 THE COURT: That's correct. It's -- I was going to give you
12 the opportunity to --
13 MR. LEXIS: I just don't want --
14 THE COURT: To me that's not --
15 MR. LEXIS: -- to waste time. If they don't object, Judge, I
16 mean --
17 THE COURT: Well, they may object though. I mean, my
18 concern --
19 MR. LEXIS: You want to keep -- you guys want to keep
20 them?
21 MR. COYER: Yeah. We have some issues with the
22 Hispanic --
23 MR. LEXIS: Okay.
24 MR. COYER: -- language barriers we'd like to put on the
25 record.

1 THE COURT: Correct. And that's why --

2 MR. LEXIS: Okay. Sounds good.

3 THE COURT: -- I told you at the bench to ask me if you
4 wanted me to ask it at this point or wait until later. So I -- I wasn't going
5 to address the language barrier or the other gentleman until we do
6 challenges for cause.

7 MR. COYER: Understood.

8 MR. LEXIS: The next one, Judge, then is 1090. Judge, this
9 individual says that he -- he takes kids to school, but then when you
10 asked him about that, he says, oh, well, I get off work at 5:00 and then
11 they had somewhere to go until 6:00. I mean, that's not going to be an
12 issue. And then he also said that he just got a job but he's been out of a
13 job for a while and there is another income. The State would request
14 that he stay.

15 THE COURT: What's the State's -- I'm sorry, what's the
16 defense position on 1090, John Babaronian?

17 MR. COYER: The defense does not object to Mr. Baborian
18 staying or going, Judge at this point.

19 THE COURT: Okay. So at this point, I'm not going to excuse
20 him as an undue hardship. Obviously, you would have the opportunity, if
21 you want, to use a peremptory challenge.

22 What about No. 2005, Lacy Hutchins [sic]?

23 MR. LEXIS: The UNLV student, the State has no objection to
24 kicking her due to finals.

25 THE COURT: Defense?

1 MR. COYER: No objection.

2 THE COURT: I apologize, I -- I went out of order. I'll let you
3 go in order. My -- I have a list of my own, so --

4 MR. LEXIS: Okay. The next one, Judge, would be 1127.
5 This is the one with the disabled husband. She did say, though, that she
6 does work regularly, and that the sister does pretty much go with the
7 husband to that location. And plus, I mean, she's working eight-hour
8 shifts. Here, it's only going to be an afternoon situation or midday to
9 afternoon. The State would request that she stay.

10 THE COURT: And that was No. 1127?

11 MR. LEXIS: Correct. The one with the disabled husband.

12 THE COURT: And I wasn't quite clear on her answer. I asked
13 her if she worked. She says she can get called in at any time. So I
14 wasn't clear what her work hours were.

15 MR. DICKERSON: She did indicate that when she does work,
16 it's an eight-hour shift.

17 THE COURT: Right.

18 MR. DICKERSON: And that the sister comes over and they
19 sit there the whole time.

20 THE COURT: Right. So on 1127, you do not believe she has
21 an extreme hardship and should be excused?

22 MR. DICKERSON: We did not.

23 THE COURT: Defense?

24 MR. COYER: Judge, our position is that the sister, if you will
25 recall, that comes and sits, was also disabled. I believe she said she

1 had MS. The part of her answer that concerned me was the part when
2 she said that when she's not with her husband at all times, she's very
3 worried about him. My concern would be her ability to focus on the
4 evidence and spend the time necessary deliberating.

5 THE COURT: Okay. And counsel --

6 MR. COYER: So we would prefer that she be dismissed for
7 hardship, but based on that --

8 THE COURT: Okay. I -- again, I'm going to let you do some
9 follow-up questions. If you believe she -- you know, at -- at this point, it
10 was unclear to me how sitting in the -- as a juror would be any difference
11 than her going to work. In other words, apparently she makes
12 arrangements with individuals to sit with her husband when she goes to
13 work, so it was unclear to me how that was an undue hardship. If she
14 can go to work and leave him with various relatives, why she -- she
15 couldn't come to court. And, obviously, we're not going to be going eight
16 hours a day, quite frankly.

17 So again, I didn't -- I wasn't going to excuse her for an undue
18 hardship.

19 Is that correct? Was that her correct -- is that correct, counsel.

20 MR. LEXIS: Yes, Judge.

21 THE COURT: She stated that when she went to work, she left
22 him with the same individual she identified in court today?

23 MR. DICKERSON: Correct, Your Honor.

24 THE COURT: Okay.

25 MR. LEXIS: The next one, Judge, is 1136. The State has no

1 objection to kicking that person.

2 THE COURT: Defense, what's your position on number --
3 Badge No. 1136?

4 MR. COYER: Excuse me, Your Honor, that is correct. We
5 obviously would dismiss that -- that individual. And then I don't know
6 when -- when the court would deem it appropriate, but I did want to
7 expand on that issue a little bit.

8 THE COURT: What do you mean expand?

9 MR. COYER: The question that the court asked the venire
10 was whether or not any of them were acquainted with any of the
11 attorneys, to which there were no hands raised. But when Your Honor
12 asked if anyone had seen anything in the news about this case, that's
13 when Mr. Argento raised his hand.

14 THE COURT: Okay. Well, here's the --

15 MR. COYER: I think --

16 THE COURT: -- situation, counsel. On No. 1136, No. 1063,
17 and No. 1620, I -- I didn't view them as being excused for undue
18 hardship. The -- I view those three as going to be challenges for cause.
19 And I was going to give counsel the opportunity to ask individual
20 questions of -- of those three. So again, I'm -- I'm not going to address
21 challenges for cause at this time.

22 MR. COYER: I -- I didn't want to move to strike him for cause
23 at this time. I just wanted to suggest to the court that when the venire
24 comes back, I think we would like the court to ask a specific question
25 about whether or not anybody has seen anything in the news about any

1 of the attorneys.

2 THE COURT: Okay. And you don't want -- I was going to
3 give you the opportunity to ask that when I start the individual
4 questioning of jurors in the box.

5 MR. COYER: Okay.

6 THE COURT: But if you want -- if counsel wants, I'll ask it of
7 the entire panel.

8 MR. DICKERSON: And we would request that you ask, Your
9 Honor. I think it'd --

10 THE COURT: Okay.

11 MR. DICKERSON: -- probably be more effective.

12 THE COURT: And what's the question you want me to ask?
13 If you could restate it, counsel.

14 MR. COYER: Whether or not anybody has seen any news
15 publicity about any of the attorneys here today.

16 THE COURT: Whether or not anyone has seen any -- what
17 was the last part, counsel?

18 MR. COYER: News publicity.

19 THE COURT: News publicity?

20 MR. COYER: Yes. About any of the attorneys here today.

21 THE COURT: And do you want me to ask that question after I
22 excuse the individuals for hardship?

23 MR. DICKERSON: Sure.

24 THE COURT: Okay. Have -- what's the next one, counsel?

25 MR. LEXIS: The last one, Judge, is 1141.

1 THE COURT: And --

2 MR. LEXIS: The State would object to Oscar Cano-Pena,
3 similarly with the other guy. I mean, this guy has kids, works. It didn't
4 rise to the level of undue hardship. I'm sure other people in the panel
5 are in the same boat.

6 THE COURT: What's the defense position?

7 MR. COYER: We concur with the State's position.

8 THE COURT: Okay. So I'm going to excuse for undue
9 hardship Badge No. 1001, Badge No. 1009, Badge No. 1031, and
10 Badge No. 2005; is that correct?

11 MR. DICKERSON: That's correct, Your Honor.

12 THE COURT: And I am not going to excuse Badge No. 1090
13 or Badge No. 1127; is that correct?

14 MS. PLUNKETT: Or 1141.

15 THE COURT: I'm sorry?

16 MS. PLUNKETT: Also you are not excusing 1141.

17 MR. LEXIS: Well, the other one that you're saying for cause,
18 Judge, is 1620. That's the three that you're --

19 THE COURT: All right. The ones that I --

20 MR. LEXIS: -- basically saying -- correct.

21 THE COURT: -- view are for cause are going to be
22 Badge No. 1136, Badge No. 1063, and Badge No. 1620. We'll address
23 those potential jurors at the time we do the challenges for cause.

24 MR. LEXIS: Correct.

25 THE COURT: Okay. And the ones I'm not excusing, again,

1 are Badge No. 1090, 1127, and 1141; is that correct?

2 MR. LEXIS: Correct.

3 MS. PLUNKETT: Correct.

4 THE COURT: Okay. So I'm excusing four.

5 MR. DICKERSON: And You Honor, if I could inquire, I may
6 have missed it during the roll call, but Badge No. 1123, Jeanette Hayes,
7 is she not present? Okay.

8 MR. COYER: That's what I heard too.

9 THE COURT: That's correct.

10 MR. DICKERSON: Thank you.

11 THE COURT: All right. Counsel, it's 11:25. I was going to
12 bring the jurors in, excuse them. How -- I have -- what time did you want
13 to take a lunch break?

14 MR. LEXIS: It's up to you, Judge.

15 MR. DICKERSON: I think we could follow your original
16 schedule, Your Honor, if you want to take it right now.

17 THE COURT: Okay. So we're just going to excuse the -- and
18 then I guess I can ask that one question.

19 MR. LEXIS: Yeah. Let's ask that one question and get those
20 individuals in one by one --

21 THE COURT: See if we need individually --

22 MR. LEXIS: -- in case --

23 THE COURT: -- voir dire them.

24 MR. DICKERSON: That would be great.

25 THE COURT: Okay. Then we'll take an hour lunch break and

1 then go till 4:30 this afternoon.

2 MR. DICKERSON: Great.

3 THE COURT: Okay. All right. Please bring the panel back in.

4 [Prospective jury panel reconvened at 12:27 p.m.]

5 THE COURT: Let the record reflect the presence of the
6 attorneys for the State and the defense, and the defendant, and the jury
7 panel.

8 The following persons may be excused from court and leave
9 with our thanks for appearing today: Badge No. 1001; Badge No. 1009;
10 Badge No. 1031; and Badge No. 2005.

11 At this time, I need to ask an additional question of the entire
12 panel, whether or not anyone has seen any news or publicity about any
13 of the attorneys here today? Okay.

14 Sir, could you -- what is your name and badge number?

15 PROSPECTIVE JUROR NO. 1004: Glenn Locke. It's 1004.

16 THE COURT: Sir, can you approach the bench with counsel?

17 [Bench conference transcribed as follows:]

18 THE COURT: Sir, if you could keep your voice down just a
19 little bit, there's a microphone right there.

20 PROSPECTIVE JUROR NO. 1004: Oh, then I've got to
21 speak --

22 THE COURT: What -- what news or publicity have you heard
23 about any of the attorneys?

24 PROSPECTIVE JUROR NO. 1004: I think I saw the lady
25 defendant in the news a few months ago about something to do with a

1 defendant and -- I think it was a cell phone issue, I think.

2 THE COURT: Okay. Did you want me to take a lunch break
3 and have this gentleman -- I think somebody else raised their hand --

4 MR. LEXIS: Yeah. That would be --

5 THE COURT: -- and then do some questioning outside the
6 presence of the rest of the panel?

7 MR. DICKERSON: In addition, Judge, when you --
8 [indiscernible].

9 THE COURT: Okay.

10 MR. COYER: Yeah. Okay. Sir, if you can have a seat. I'm
11 going to excuse the rest of the panel for the lunch break. And if you
12 could just stay for a few minutes, the attorneys want to ask you some
13 questions outside the presence of the rest of the panel. So if you could
14 just have a seat for a few minutes. Okay.

15 MR. DICKERSON: In addition, Judge, when you give your
16 normal admonishment to them right now, include in there just that
17 they're not also to do any research regarding any attorneys involved in
18 this case as well.

19 THE COURT: Okay. All right. There was another gentleman.

20 MR. COYER: Same one.

21 MS. PLUNKETT: Same guy.

22 THE COURT: Huh?

23 MR. DICKERSON: That's the same guy.

24 MR. LEXIS: Same ones that we've already questioned.

25 [End of bench conference.]

1 THE COURT: Okay. And sir, the other gentleman that raised
2 your hand --

3 PROSPECTIVE JUROR NO. 1136: Yes?

4 THE COURT: -- you are the same gentleman we've already
5 spoken to, so.

6 PROSPECTIVE JUROR NO. 1136: Yes, sir.

7 THE COURT: Thank you.

8 At this time, ladies and gentlemen, we're going to take our
9 lunch recess.

10 Counsel, I apologize, if you could approach one more time.

11 [Bench conference transcribed as follows:]

12 THE COURT: What did you want me to admonish -- put in
13 the --

14 MR. LEXIS: Your usual admonishment --

15 THE COURT: Right.

16 MR. LEXIS: -- but just make sure you add in that also
17 includes not to make any --

18 MR. DICKERSON: Research about the case --

19 MR. LEXIS: -- research into the attorneys and --

20 THE COURT: Okay. So do not do any research on any of the
21 attorneys in this case --

22 MR. DICKERSON: Or the case itself.

23 THE COURT: -- on -- of any attorneys involved or the case --

24 MR. DICKERSON: Yeah. And you can just --

25 MR. LEXIS: It's probably because you're --

1 MR. DICKERSON: And you can just say, you know,
2 specifically, don't Google them or look up on social media --

3 THE COURT: Right. I think I've covered that.

4 MR. COYER: Yeah. Just after you do your normal
5 admonishment --

6 THE COURT: Right.

7 MR. COYER: -- I would just explain when I said case, that
8 means it goes for the attorneys as well.

9 THE COURT: Okay.

10 MR. DICKERSON: Thank you, Your Honor.

11 THE COURT: All right. Thank you.

12 [End of bench conference.]

13 THE COURT: Okay. So we're going to take approximately a
14 one-hour lunch recess. It is 12:30 right now, so if you could return
15 by 12:30. Again, remain outside and my marshal, whenever everybody
16 is here, will bring everybody back in.

17 During this recess, you are admonished not to talk or
18 converse among yourselves or with anyone else on any subject
19 connected with this -- with this trial -- shucks -- with this trial, or read,
20 watch, or listen to any report of or commentary on the trial or any person
21 connected with this trial by any medium of information, including without
22 limitation, the social media, text, newspapers, television, the Internet,
23 and radio; do not visit the scene of any events mentioned during the trial,
24 undertake any investigation, and that includes any type of Internet
25 investigation or social media; and you're not do to any research

1 regarding anybody involved in this case, including the attorneys or the --
2 or the case itself. And do not do any posting or communication on any
3 social networking sites or do any independent research, including
4 Internet searches or form or express any opinion or any subject
5 connected with the trial until the case is finally submitted to you.

6 At this time, except for the one gentleman, we'll be in recess
7 for a lunch break.

8 [Prospective jury panel recessed at 12:34 p.m.]

9 THE COURT: Apparently another juror has remained.

10 Your badge number and your name, sir?

11 PROSPECTIVE JUROR NO. 2007: My -- my --

12 THE COURT: You can stay right there, sir.

13 PROSPECTIVE JUROR NO. 2007: My badge number
14 is 2007. And my name is Bryan Alvarez.

15 THE COURT: And, sir, is there something you wanted to
16 address the court?

17 PROSPECTIVE JUROR NO. 2007: I didn't -- I didn't speak up
18 about the -- the hardship. I was wanting to, but I have stage fright and I
19 don't know why I didn't. But I just wanted to say that I -- I just moved out
20 from 19 and -- and due to the holiday weekend, I was unable to work
21 and I've already missed two days off -- off of work because of the
22 holidays. And I live paycheck to paycheck and I really can't afford to
23 have any more days off.

24 THE COURT: Okay. And you -- are you concerned that your
25 employer will fire you or it's just that you live --

1 PROSPECTIVE JUROR NO. 2007: No, I just -- I just --

2 THE COURT: -- paycheck to paycheck?

3 PROSPECTIVE JUROR NO. 2007: -- I live paycheck to
4 paycheck and I -- I can't really afford any more days off.

5 THE COURT: And are you the -- do you live by yourself, sir?

6 PROSPECTIVE JUROR NO. 2007: No, I'm married.

7 THE COURT: And does your wife work?

8 PROSPECTIVE JUROR NO. 2007: No. She's -- she's
9 unemployed.

10 THE COURT: Do you have any children?

11 PROSPECTIVE JUROR NO. 2007: No, sir.

12 THE COURT: And when you live -- when you say you live
13 paycheck to paycheck, if you were to sit -- this trial is anticipated to last
14 three to five days; will you be able to make your monthly expenses, such
15 as your rent or mortgage or your household --

16 PROSPECTIVE JUROR NO. 2007: Well --

17 THE COURT: -- expenses, utilities, things of that nature?

18 PROSPECTIVE JUROR NO. 2007: Well, due to the holiday
19 weekend, we -- we had an -- we had to take two days off of work. They
20 were mandatory. And I can't -- I can't afford any more days. Because if
21 I take three more off, that's a week and I would -- I wouldn't be able to
22 pay rent this month.

23 THE COURT: Okay. And are you saying you didn't get paid
24 for the Thanksgiving holidays?

25 PROSPECTIVE JUROR NO. 2007: No, sir.

1 THE COURT: Okay. What do you do, sir?

2 PROSPECTIVE JUROR NO. 2007: I am -- I'm a warehouse

3 worker.

4 THE COURT: And do you get paid hourly? Daily?

5 PROSPECTIVE JUROR NO. 2007: Hourly, sir.

6 THE COURT: You get paid hourly?

7 PROSPECTIVE JUROR NO. 2007: Yes.

8 THE COURT: And are you full time?

9 PROSPECTIVE JUROR NO. 2007: Yes.

10 THE COURT: Okay. Is there any questions by counsel?

11 MR. LEXIS: What hours do you work, sir?

12 PROSPECTIVE JUROR NO. 2007: I work from 6:00 in the

13 morning until 2:00.

14 MR. LEXIS: Would you be able to work half a day?

15 PROSPECTIVE JUROR NO. 2007: The -- the warehouse

16 closes at 4:00 and they -- they don't really schedule half -- half days.

17 MR. LEXIS: Thank you.

18 THE COURT: All right. Sir, why don't you take a lunch recess

19 and we'll -- we'll address this over the lunch hour.

20 PROSPECTIVE JUROR NO. 2007: Okay. Thank you.

21 THE COURT: Thank you.

22 [Prospective Juror No. 2007 exited courtroom.]

23 THE COURT: And the other gentleman who I asked to stay, if

24 you could approach, please.

25 Sir, if you could restate your badge number and name.

1 PROSPECTIVE JUROR NO. 1004: 1004, Glenn Locke.

2 THE COURT: Okay. And sir, you said that you have -- you
3 had heard something on the news or publicity regarding one of the
4 attorneys in this case?

5 PROSPECTIVE JUROR NO. 1004: Yes, sir. I -- I --

6 THE COURT: Sir, can you approach this podium right here so
7 I can pick you up on the -- the recorder can pick you up.

8 PROSPECTIVE JUROR NO. 1004: Yes, sir. I could have --
9 wasn't really sure, but I thought about it over the break. And I thought I
10 had read in the paper about the defense attorney lady had gotten in
11 trouble for passing a cell phone, I thought, to a defendant that she
12 wasn't supposed to. I don't remember the outcome.

13 THE COURT: Is there anything else you remember about the
14 news or publicity that you heard about one of the attorneys in this case?

15 PROSPECTIVE JUROR NO. 1004: I thought she was also
16 having a supposed affair with the defendant and was in trouble for that.
17 I -- again, I don't remember the outcome.

18 THE COURT: Okay. Counsel, any questions of this person?

19 MR. LEXIS: Sir, do you understand that this case is totally
20 separate from --

21 PROSPECTIVE JUROR NO. 1004: Right.

22 MR. LEXIS: -- that issue that you saw on TV?

23 PROSPECTIVE JUROR NO. 1004: Yes, sir.

24 MR. LEXIS: And involves a totally separate defendant,
25 separate set of facts?

1 PROSPECTIVE JUROR NO. 1004: Yes, sir.

2 MR. LEXIS: Would you be able to put that to the side or what
3 you saw on TV, and be fair and impartial in this case?

4 PROSPECTIVE JUROR NO. 1004: Yes, sir.

5 MR. LEXIS: Nothing further, Judge.

6 THE COURT: Defense?

7 MR. COYER: Hello, sir. I'm --

8 PROSPECTIVE JUROR NO. 1004: Yeah.

9 MR. COYER: -- right behind you there. Sorry. Given what
10 you heard, whether it's regarding the cell phone or whether it's regarding
11 the personal relationship, does that cause you to have any kind of
12 negative opinion about -- about my co-counsel? And I know that's
13 probably awkward that she's standing right here, but we do need you to
14 answer honestly.

15 MS. PLUNKETT: I won't be offended.

16 PROSPECTIVE JUROR NO. 1004: No. I -- I don't -- like I
17 said, I don't remember the outcome, like I said. And --

18 MR. COYER: Would knowing the outcome of that case
19 change in any way how you feel, whether it's negative or positive,
20 toward my co-counsel?

21 PROSPECTIVE JUROR NO. 1004: I don't remember too
22 many details. And I guess not.

23 MR. COYER: Okay. When it comes time for -- if you're -- if
24 you're seated on the jury, when it comes time to deliberate, would you
25 be able to put that issue out of your mind, if it's a close call and, you

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