

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAYSHAWN D. BAILEY,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

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Clerk of Supreme Court

Case No: C-20-347887-1
Related Case A-22-857574-W
Docket No: 85808

RECORD ON APPEAL VOLUME 7

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I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 240
2	241 - 480
3	481 - 720
4	721 - 960
5	961 - 1200
6	1201 - 1440
7	1441 - 1680
8	1681 - 1902

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
7	9/28/2022	3-Day Expedited Order for Transcript	1658 - 1659
1	4/3/2020	Amended Criminal Bindover	143 - 176
1	4/3/2020	Amended Criminal Bindover (Confidential)	88 - 142
7	9/8/2021	Amended Information	1492 - 1493
7	9/14/2022	Application to Proceed Informa Pauperis (Confidential)	1647 - 1650
7	7/13/2022	Case Appeal Statement	1641 - 1642
8	1/17/2023	Certification of Copy and Transmittal of Record	
1	4/2/2020	Criminal Bindover	1 - 32
1	4/2/2020	Criminal Bindover (Confidential)	33 - 85
6	9/7/2021	Defendant's Motion for Supplemental Discovery Related to Expert Witness Dr. Christina Di Loreto (Continued)	1380 - 1440
7	9/7/2021	Defendant's Motion for Supplemental Discovery Related to Expert Witness Dr. Christina Di Loreto (Continuation)	1441 - 1476
6	8/30/2021	Defendant's Motion for Supplemental Discovery Related to Expert Witness Dr. Christina Di Loreto (Sealed per Minute Order 009/03/2021)	1224 - 1334
7	12/8/2021	Defendant's Motion to Appoint Alternate Counsel for Motion to Withdraw Plea	1525 - 1527
4	3/8/2021	Defendant's Motion to Exclude Statements and Request For Evidentiary Hearing Pursuant to Jackson v. Denno (Continued)	730 - 960
5	3/8/2021	Defendant's Motion to Exclude Statements and Request For Evidentiary Hearing	961 - 1043

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		Pursuant to Jackson v. Denno (Continuation)	
3	1/11/2021	Defendant's Motion to Stay District Court Proceedings; Hearing Date Requested	621 - 624
3	3/1/2021	Defendant's Notice of Expert Witnesses, Pursuant to NRS 174.234(2) (Continued)	660 - 720
4	3/1/2021	Defendant's Notice of Expert Witnesses, Pursuant to NRS 174.234(2) (Continuation)	721 - 728
7	9/7/2021	Defendant's Reply to State's Opposition to Motion for Supplemental Discovery Related to Expert Witness Dr. Diloreto	1487 - 1490
5	3/25/2021	Defendant's Reply to State's Opposition to Motion to Exclude Statements	1119 - 1122
7	9/7/2021	Defendant's Reply to States Opposition to Motion to Preclude Admission of Internet Search	1483 - 1486
7	9/7/2021	Defendant's Reply to State's Opposition to Motion to Preclude Expert Opinion Testimony That the Manner of Death is Homicide	1478 - 1482
2	6/8/2020	Defendant's Reply to State's Return to Writ of Habeas Corpus	354 - 357
8	1/17/2023	District Court Minutes	1869 - 1902
8	1/17/2023	Documentary Exhibits (Unfiled) Confidential	1810 - 1868
8	1/17/2023	Documentary Exhibits (Unfiled) Sealed	1801 - 1809
2	8/12/2020	Ex Parte Order	472 - 473
5	3/18/2021	Ex Parte Order for Transcript	1045 - 1047

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
7	4/5/2022	Exhibits A - D to Defendant's Sentencing Memorandum (Filed Under Seal)	1541 - 1631
7	9/8/2021	Guilty Plea Agreement	1494 - 1501
1	4/2/2020	Information	86 - 87
7	4/27/2022	Judgment of Conviction (Plea of Guilty)	1632 - 1634
2	12/14/2020	Motion for Own Recognizance or Setting of Bail (Continued)	474 - 480
3	12/14/2020	Motion for Own Recognizance or Setting of Bail (Continuation)	481 - 543
1	4/20/2020	Motion for Own Recognizance Release	178 - 185
7	11/2/2021	Motion for Own Recognizance Release or Setting of Reasonable Bail	1502 - 1507
5	8/30/2021	Motion for Specific Disclosure and Identification of Electronic Evidence (Continued)	1199 - 1200
6	8/30/2021	Motion for Specific Disclosure and Identification of Electronic Evidence (Continuation)	1201 - 1203
6	9/7/2021	Motion in Limine to Preclude Admission of Irrelevant and Prejudicial Internet Search	1374 - 1379
6	8/30/2021	Motion in Limine to Preclude Admission of Irrelevant and Prejudicial Internet Search (Sealed per Minute Order 09/03/2021)	1204 - 1223
5	8/30/2021	Motion in Limine to Preclude Expert Opinion Testimony that the Manner of Death in this Case is Homicide	1132 - 1198
2	7/6/2020	Motion to Compel Production of Discovery & Brady Material	363 - 397

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
7	9/29/2022	Motion to Withdraw as Attorney of Record; Hearing Date Requested	1660 - 1662
7	9/6/2022	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed	1643 - 1646
7	7/12/2022	Notice of Appeal	1635 - 1640
1	4/17/2020	Notice of Department Reassignment	177 - 177
1	4/21/2020	Notice of Hearing	186 - 186
1	4/21/2020	Notice of Hearing	187 - 188
2	5/18/2020	Notice of Hearing	341 - 341
2	7/7/2020	Notice of Hearing	398 - 398
3	12/14/2020	Notice of Hearing	544 - 544
3	1/12/2021	Notice of Hearing	625 - 625
5	3/9/2021	Notice of Hearing	1044 - 1044
6	8/30/2021	Notice of Hearing	1335 - 1335
6	8/30/2021	Notice of Hearing	1336 - 1336
6	8/31/2021	Notice of Hearing	1369 - 1369
7	9/7/2021	Notice of Hearing	1477 - 1477
7	9/7/2021	Notice of Hearing	1491 - 1491
7	11/3/2021	Notice of Hearing	1508 - 1508
7	12/9/2021	Notice of Hearing	1528 - 1528
7	10/1/2022	Notice of Hearing	1663 - 1663
2	8/12/2020	Order	460 - 471
7	11/15/2021	Order	1516 - 1517
8	10/24/2022	Order	1799 - 1800

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
3	12/28/2020	Order Denying Defendant's Motion for Own Recognizance Release or Setting of Bail	618 - 620
2	6/17/2020	Order Denying Defendant's Pretrial Petition for Writ of Habeas Corpus	358 - 360
2	5/18/2020	Petition for Writ of Habeas Corpus; Hearing Date Requested	273 - 340
7	11/24/2021	Presentence Investigation Report (Unfiled) Confidential	1518 - 1524
2	6/29/2020	Receipt of Copy	361 - 361
2	6/29/2020	Receipt of Copy	362 - 362
4	3/4/2021	Receipt of Copy	729 - 729
7	4/5/2022	Sentencing Memorandum	1529 - 1540
5	8/9/2021	Settlement Conference Acknowledgment	1128 - 1131
5	3/23/2021	State's Amended Opposition to Defendant's Motion to Exclude Statements	1074 - 1118
6	8/31/2021	State's Notice of Motion and Motion to Present Testimony of Expert Witness Dr. Christina Diloreto Through Audio Visual Transmission at Trial	1356 - 1360
2	7/14/2020	State's Notice of Witnesses and/or Expert Witnesses [NRS 174.234]	399 - 428
1	4/22/2020	State's Opposition to Defendant's Motion for Own Recognizance Release	189 - 213
3	12/16/2020	State's Opposition to Defendant's Motion for Own Recognizance Release or Setting of Bail	545 - 617
7	11/4/2021	State's Opposition to Defendant's Motion for Recognizance Release or Setting of Bail	1509 - 1515

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
6	8/31/2021	State's Opposition to Defendant's Motion for Specific Disclosure and Identification of Electronic Evidence	1337 - 1340
6	9/1/2021	State's Opposition to Defendant's Motion for Supplemental Discovery Related to Expert Witness, Dr. Diloreto	1370 - 1373
6	8/31/2021	State's Opposition to Defendant's Motion in Limine to Preclude Admission of Internet Search	1341 - 1347
6	8/31/2021	State's Opposition to Defendant's Motion in Limine to Preclude Expert Opinion Testimony that the Manner of Death is Homicide	1348 - 1355
5	3/23/2021	State's Opposition to Defendant's Motion to Exclude Statements	1048 - 1073
3	1/19/2021	State's Opposition to Defendant's Motion to Stay District Court Proceedings	626 - 628
2	7/15/2020	State's Response to Defendant's Motion to Compel Production of Discovery and Brady Material	429 - 459
2	6/2/2020	State's Return to Writ of Habeas Corpus	342 - 353
6	8/31/2021	State's Second Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234]	1361 - 1368
3	2/24/2021	State's Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234]	629 - 659
1	4/27/2020	Transcript of Hearing Held on April 1, 2020 (Continued)	214 - 240
2	4/27/2020	Transcript of Hearing Held on April 1, 2020 (Continuation)	241 - 272

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
5	3/30/2021	Transcript of Hearing Held on June 11, 2020	1123 - 1127
8	10/5/2022	Transcript of Hearing Held on June 16, 2021	1753 - 1798
7	10/5/2022	Transcript of Hearing Held on May 12, 2021 (Continued)	1664 - 1680
8	10/5/2022	Transcript of Hearing Held on May 12, 2021 (Continuation)	1681 - 1752
7	9/14/2022	Unfiled Document(s) - Attorney Letter w/Copy of Unfiled Motion for the Appointment of Counsel; Request for Evidentiary Hearing	1651 - 1657

1 A. That's correct.

2 Q. You would have personally seen them yourself -- you
3 would have personally seen what was being photographed?

4 A. That's correct.

5 MR. SCHWARTZER: Your Honor, may I approach?

6 THE COURT: Yes.

7 BY MR. SCHWARTZER:

8 Q. Let's start with State's Proposed Exhibits 1 through 5.
9 Detective, just quietly look through those and see if you
10 recognize those photographs.

11 A. These are photographs taken of the crime scene on the
12 19th.

13 Q. You recognize these photographs from that scene that
14 were taken near or at that time this investigation was going on
15 on January 19th?

16 A. Yes, I did.

17 MR. SCHWARTZER: Move for admission of 1 through
18 5, Your Honor.

19 MS. HAMMERS: I have to clarify. You recognized
20 those because these are things you saw?

21 THE WITNESS: Yes.

22 MS. HAMMERS: Not because these are photographs
23 that someone gave you previously and just seen the photographs?

24 THE WITNESS: I recognized these photographs
25 because I was standing at the scene as the photographs were

1 taken.

2 MS. HAMMERS: That's all I wanted to clarify.

3 Thank you. No objection.

4 THE COURT: State's 1 through 5 will be admitted.

5 BY MR. SCHWARTZER:

6 Q. On Exhibits 1 through 5 those show -- those depict the
7 scene; is that correct?

8 A. Yes.

9 Q. Could you go through the photographs, go through them
10 with the Judge and tell the Judge what you are seeing?

11 THE COURT: You can go through them and then I'll
12 look at them.

13 THE WITNESS: The top of the first one is an
14 overview of where Fred Brown and Dwayne Stedman meet. It just
15 shows the sanitary sewer cover in the middle of the road. It's
16 kind of an overview. The second one -- the second one is the
17 manhole cover has been removed and it's a shot from street
18 level down looking into the sanitary sewer.

19 BY MR. SCHWARTZER:

20 Q. This also shows that Puppy Chow bag as well?

21 A. It does. The second pictures is a close up more in
22 focus detail view of what was in the sanitary sewer.

23 Q. Again showing the bag?

24 A. The Puppy Chow dog food bag, that's correct. This next
25 picture just shows the steps that were taken to get detectives

1 down into the sewer and the method we used to hoist the body.

2 THE COURT: Can we identify what number is on the
3 back?

4 THE WITNESS: State's 5.

5 THE COURT: Thank you.

6 THE WITNESS: Now we are back to State's Exhibit 4
7 this just shows that once the body is removed the legs of body
8 were actually plugging the flow of the drain and causing the
9 water level inside the pipe to rise. This just shows once the
10 body is removed the functioning water level of the sewer.

11 BY MS. HAMMERS:

12 Q. How was body removed?

13 A. We had detectives from our armored section put straps
14 around it and actually hoist the body out.

15 Q. Once that happened what happened with the material that
16 was inside the sewer?

17 A. There was a jacket with a green stripe kind of
18 underneath the body. The space was confined that only one
19 person could fit in there. When you were down there you
20 couldn't bend over because your knees would hit one side and
21 your butt would hit the other side. So they got a strap around
22 it and when they lifted it up the jacket fell off and the
23 pressure of the current of all the pent up water washed the
24 jacket from underneath the body into the drain. Then the level
25 of the drain quickly subsided to working level.

1 Q. Were you able to recover that jacket or did the jacket
2 become lost in the sewer system?

3 A. The jacket became lost in the sewer system.

4 Q. What you have is the 911 call and you have a body in
5 the sewer. Were you able to identify who that body was?

6 A. There was a missing persons report that we were made
7 aware of very early on in the investigation of Tamyah Trotter
8 and she lived about six houses away from this sewage drain.

9 Q. At that point in your investigation do you start to
10 investigate this as the person that being that missing person
11 Tamyah Trotter?

12 A. We weren't really sure but we were going with the
13 investigation that it was her.

14 Q. How far away -- the 911 caller was the defendant
15 Mr. Bailey. Were you able to determine where he was living at
16 that time?

17 A. He was living at 2120 which was three houses away from
18 where the sewer was.

19 Q. Were you able to determine -- you mentioned that Tamyah
20 Trotter was about four houses away from this sewage that's
21 where she was living?

22 A. She was living with her sister, that's correct. I
23 don't know her address. It's on the same street. 2126 maybe.

24 Q. That's what I'm getting at is both the defendant and
25 Miss Trotter's residences were close to each other?

1 A. That's correct.

2 Q. Now, Mr. Bailey gave a statement to another detective;
3 is that correct?

4 A. That's correct.

5 Q. And that would be your partner?

6 A. Yes, Detective Embrey.

7 Q. But you weren't present during that initial statement?

8 A. I was not.

9 Q. Fair to say on January 19th, 2020, Mr. Bailey wasn't
10 arrested?

11 A. He was not.

12 Q. On January 20th, 2020, did you attend the autopsy?

13 A. We did.

14 Q. On January 21st, 2020, did you have a follow-up
15 investigation with the defendant?

16 A. We did. Detective Embrey reached out to Jayshawn
17 Bailey and requested that he take a polygraph test.

18 Q. Did Mr. Bailey agree to do so?

19 A. He did. He actually -- we had the test scheduled for
20 12:30 that afternoon. At first he asked if we could schedule
21 it later because he had to take a college courses. He had a
22 class and then he said that it was important he take the test
23 and he changed his class schedule to meet us.

24 Q. Where did he meet you at?

25 A. We actually drove to his house to pick him up and drove

1 him to headquarters.

2 Q. Specifically where at headquarters did you talk to
3 Mr. Bailey?

4 A. Headquarters is kind of set up in a U. It's three
5 buildings. We have an A building, a B building, and a C
6 building. The bottom part of the U is the B building and it
7 took place on the second floor of the B building.

8 Q. By headquarters you're talking about that building on
9 Bonneville and --

10 A. It's Martin Luther King and Alta.

11 Q. At that point did a polygraph operator become involved
12 as well?

13 A. That's correct.

14 Q. Before Mr. Bailey was going through a polygraph
15 examination and was asked any further questions was he
16 Mirandized?

17 A. He was.

18 Q. Was that Miranda captured on tape?

19 A. It was.

20 Q. Did Mr. Bailey acknowledge that he understood his
21 rights?

22 A. He did.

23 Q. Did he continue to do the polygraph?

24 A. He did. There's also a consent for polygraph form that
25 he completed.

1 Q. That also includes waiver of Miranda rights?

2 A. That's correct.

3 Q. And did you witness the polygraph?

4 A. We were not in the room. The polygraph is video and
5 audio recorded and we watch it remotely from a different
6 location.

7 Q. You have a live feed?

8 A. That's correct.

9 Q. I'm not going to get into the questions asked by the
10 polygraph examiner but at the end of the examination did you
11 then re-interview Mr. Bailey?

12 A. We did.

13 Q. And that would be you and who else?

14 A. Detective Embrey.

15 Q. And during this interview did the story change from
16 what you talked about the 911 call?

17 A. It did.

18 Q. Can you tell the Court how that statement changed?

19 MS. HAMMERS: I'm going to raise an objection. I
20 think that -- I'm not going to do this on every question, all
21 of these statements I think there are corpus problems here
22 because we have an individual who had died. We have not
23 established this was a death by criminal agency. So we haven't
24 met corpus for murder. I think beyond that we can't admit
25 statements by Mr. Bailey as far as confessions or admissions.

1 I would be objecting to any of them coming in.

2 THE COURT: Mr. Schwartzer?

3 MR. SCHWARTZER: My response would be you heard
4 the coroner say this was a homicide, Your Honor. I think this
5 statement is against an interest which would be allowed.

6 THE COURT: All right. The objection will be
7 overruled but I understand the objection is for all statements
8 that were elicited from him moving forward.

9 MS. HAMMERS: Thank you.

10 BY MR. SCHWARTZER:

11 Q. Okay. Did the statement -- in this interview after the
12 polygraph examination did the statement change from what was
13 said on January 19th, 2020, that you referred to?

14 A. Yes.

15 Q. Can you tell us how?

16 A. We started the interview we told him we believed he had
17 took part in dumping the body. He did not think he actually
18 killed her but he participated in dumping the body and he knew
19 way more than he was telling us about actually disposing of the
20 body. As the interview progressed his conscience kind of got
21 to him and he broke down and he just said you guys got me. I'm
22 going to tell you everything. Then he went into the story. On
23 December 12th he was at McDonald's --

24 Q. That would be December 12th --

25 A. 2019.

1 Q. And what McDonald's?

2 A. The one at Lake Mead and Martin Luther King within
3 walking distance of the both of their residences maybe two
4 blocks away.

5 Q. All right.

6 A. At the McDonald's and he ran into Miss Trotter and she
7 was kind of despondent. She had been kicked out of her house
8 and she didn't have a place to live.

9 Q. This was Mr. Bailey telling you this?

10 A. That's correct. They exchanged Snapchat. A way to
11 communicate via Snapchat and Jayshawn went home. A short time
12 later there was communication from Miss Trotter to Jayshawn can
13 I come over to your house. He allowed her to come stay at his
14 residence.

15 Q. Okay. Did Mr. Bailey say whether he was intoxicated or
16 not?

17 A. He said he had taken Xanax and was drinking wine.

18 Q. Did he say whether Miss Trotter at McDonald's was
19 intoxicated?

20 A. He didn't believe she was.

21 Q. At some point in this new statement did he say Miss
22 Trotter came over to his residence?

23 A. Yes.

24 Q. At that point when she was at his residence did he say
25 she drank some alcohol?

1 A. Yes, they had finished a bottle of wine together.

2 Q. Then did he say what happened after that?

3 A. Miss Trotter became aggressive towards him and was
4 brandishing a pink in color Tazer.

5 Q. We are referring to Miss Trotter and he is referring to
6 Miss Trotter, did the defendant actually give you the name of
7 the person who came over?

8 A. Tamyah.

9 Q. Does he actually use the last name as well --

10 A. Yes --

11 Q. -- Tamyah Trotter is what he says the person's name is?

12 A. He does. That's correct, yes.

13 Q. I didn't mean to interrupt.

14 A. She was getting so aggressive with the Tazer that he
15 grabbed her and put her in a headlock which he thought was only
16 about ten seconds.

17 Q. Did he show what the headlock looked like?

18 A. He did. He kind of demonstrated the headlock.

19 Q. Describing this for the Court you took your -- do that
20 again.

21 A. He took his left arm and circled it around her head and
22 grabbed his right arm. He thought for about ten seconds. Then
23 her body just went limp.

24 Q. Then he repeated that ten seconds a few times in the
25 statement?

1 A. Yes.

2 Q. After Miss Trotter went limp what did the defendant say
3 happened?

4 A. He performed CPR on her. He said he could still feel
5 she was warm so he performed CPR for what he thought was two
6 hours. She didn't come back and she started getting cold. So
7 he believed she was dead.

8 Q. What did he do after that?

9 A. He actually hid her in his bedroom.

10 Q. Did he tell you how long he hid her in his bedroom for?

11 A. Until that entire day until the next night.

12 Q. Did he tell you what he did with Miss Trotter's body
13 the next night?

14 A. He loaded the body up into a very large wheeled garbage
15 can and used the garbage can as a cart and wheeled the garbage
16 to the sewer where he dumped the body down into the sewer.

17 Q. Did he say whether anyone helped him?

18 A. He said he was alone.

19 Q. So no one helped him -- according to the defendant no
20 one helped him move the body or open the manhole cover?

21 A. No.

22 Q. Or dispose of the body?

23 A. That's correct.

24 Q. Did he tell you why he didn't initially call the
25 police?

1 A. He was afraid of repercussions. He was scared of
2 police. He didn't want to explain why he had Tamyah dead in
3 his room.

4 Q. Now after you give that statement did he also give a
5 third statement as well after this statement?

6 A. As far as?

7 Q. I guess at some point after he gave this statement and
8 his polygraph examination, did you and Detective Embrey go out
9 of the room to try and talk to the district attorney's office?

10 A. We did.

11 Q. After you guys came back in did the defendant talk some
12 more regarding this incident?

13 A. Yes, he did.

14 Q. Did he actually recant at that point?

15 A. He said it was more of a self-defense and then he just
16 said you know what I'm evil.

17 Q. Did you do a search warrant at his residence that day?

18 A. We did.

19 Q. That was back on January 21st, 2020?

20 A. That's correct.

21 Q. That was at 2120 Fred Brown Drive?

22 A. That's correct.

23 Q. Was the search warrant actually executed and formed at
24 that time?

25 A. It was.

1 Q. Did you find anything of note during your search at
2 2120 Fred Brown Drive?

3 A. In the residence we found a matching Puppy Chow dog
4 food bag that was full. It appeared that one dog food bag was
5 empty and was put in the garbage can that he used and when he
6 dumped the body the Puppy Chow bag fell out of the garbage can
7 and into the sewer. In his bedroom we also found apparent
8 blood on the carpet.

9 Q. How about some hair as well?

10 A. There was --

11 MS. CLARK: Objection, Your Honor. Leading.

12 BY MR. SCHWARTZER:

13 Q. Was there hair found at the scene?

14 THE COURT: Overruled.

15 THE WITNESS: Yes, there was.

16 BY MR. SCHWARTZER:

17 Q. Was this -- and besides the blood and the hair was
18 there also other items recovered from the bedroom?

19 A. Yes. There was some condoms in the garbage can. Used
20 condoms in trash can. There was also gloves.

21 Q. Were those recovered as well?

22 A. They were.

23 Q. Have those all been submitted for DNA testing?

24 A. They have.

25 Q. As of today's date has that DNA testing returned?

1 A. We have not.

2 Q. But those were submitted near the time of this search?

3 A. In January sometime, yes.

4 Q. And since you mentioned the condoms was it -- did you
5 specifically ask the question of whether he had sex or sexual
6 relations with --

7 A. It was.

8 Q. What did the defendant say?

9 A. He said he did not.

10 MR. SCHWARTZER: May I approach, Your Honor?

11 THE COURT: Yes.

12 BY MR. SCHWARTZER:

13 Q. Showing you Exhibits 6 through 8. These are
14 photographs that I want you to take a look and let me know if
15 you recognize them?

16 A. I recognize them.

17 Q. Are these photograph that were taken during the
18 execution of the search warrant?

19 A. They are.

20 Q. You recognize them because you are the case agent and
21 reviewed all photographs?

22 A. That's correct. I was there when they were taken.

23 Q. That's my next question.

24 MR. SCHWARTZER: Move for admission of Exhibits 6
25 through 8.

1 THE COURT: Any objection?

2 MS. HAMMERS: No Your Honor.

3 THE COURT: State's Exhibit 6 through will be
4 admitted.

5 BY MR. SCHWARTZER:

6 Q. I am going to ask for you to go through the photographs
7 real quick and tell the Judge what we are looking at. Just
8 announce what photograph you are looking at.

9 A. State's Exhibit 6 is an overview of the Puppy Chow dog
10 food bag as we found it in place inside the residence. Number
11 7 is just a close up of the front of the bag to show it's the
12 same brand and the same make and type and size as the bag that
13 was found in the sewer. Then State's Exhibit No. 8 is a
14 photograph to the right of the picture is are the two garbage
15 cans that would have been on the north side of his residence.
16 One of those would have been the garbage can used as a cart to
17 haul Tamyah's body to the sewer.

18 MR. SCHWARTZER: Court's indulgence. I'll pass
19 the witness.

20 THE COURT: Cross-examination.

21

22 CROSS-EXAMINATION

23 BY MS. CLARK:

24 Q. Detective Jaeger, you said you were the lead case
25 agent?

1 A. Yes, I was.

2 Q. You actually responded to the scene on Fred Brown on
3 the 19th?

4 A. I did.

5 Q. Mr. Bailey was present at that time?

6 A. He was.

7 Q. He stayed present the whole time?

8 A. That's correct.

9 Q. Now when Mr. Bailey gave that statement on the 19th you
10 weren't present for that statement; correct?

11 A. I was not.

12 Q. So you remained at the scene?

13 A. Yes.

14 Q. Was Mr. Bailey transported to headquarters or was he
15 interviewed at the scene?

16 A. He was transported to headquarters.

17 Q. Was that by your partner Detective Embrey?

18 A. Yes.

19 Q. Was it only Detective Embrey that was transporting --

20 A. Detective Embrey and Robello (phonetic.) There was two
21 of them.

22 Q. Two detectives?

23 A. Yes.

24 Q. Do you know if he was transported in a squad car or
25 unmarked car, do you remember?

1 A. I don't know if it was Detective Embrey's or Robello's
2 car but it would have been an unmarked LVMPD car. I believe it
3 was Detective Embrey has a gray SUV.

4 Q. He was transported by detectives who probably look very
5 much like yourself plain clothes officers wearing badges --

6 A. Yes.

7 Q. -- fair to say? Not physically look like you.

8 A. Not many people do.

9 Q. You remained at the scene so you were there when the
10 body was retrieved?

11 A. That's correct.

12 Q. You mentioned a couple of items that you physically
13 observed inside of the sewer. I think one of them was a fake
14 flower petal?

15 A. It was a purple plastic flower petal.

16 Q. That could have been something that someone flushed
17 down the toilet?

18 A. Yes.

19 Q. You mentioned that as soon as the body was removed the
20 water level dissipated immediately?

21 A. That's correct.

22 Q. The items that you saw in the manhole cover the dog
23 food bag, et cetera, were those impounded by officers or were
24 they lost when --

25 A. We collected those prior and they were impounded by CSA

1 Heather Ovens.

2 Q. Same CSA that took the photographs?

3 A. Yes.

4 Q. You mentioned Mr. Bailey obviously was not arrested in
5 January 19th?

6 A. No.

7 Q. On January 21st you contacted him about taking a
8 polygraph examination?

9 A. Detective Embrey did. I think he made the call from my
10 desk. We were right next to each other.

11 Q. That was something he agreed to do, Mr. Bailey agreed
12 to voluntarily?

13 A. Yes.

14 Q. Obviously he agreed to that date you asked him to come
15 in even though he had another obligation?

16 A. Yes. He changed his class schedule for it.

17 Q. Now you weren't present -- going back for a second, you
18 weren't there on the 19th when Detective Embrey interviewed
19 Mr. Bailey. Were you aware that a DNA test was done that time?

20 A. A DNA? A buccal swab.

21 Q. A buccal swab.

22 A. Yes.

23 Q. Some pictures were taken of Mr. Bailey?

24 A. That's correct.

25 Q. At that time on the 21st was he your only suspect in

1 this case?

2 A. He was only the suspect and witness.

3 Q. On the 21st Detective Embrey went to his home to pick
4 him up?

5 A. Yes.

6 Q. In an unmarked vehicle or squad car?

7 A. Same unmarked vehicle.

8 Q. Same situation in plain clothes?

9 A. Yes.

10 Q. Seems like you wear your badge everywhere?

11 A. When I am on duty.

12 Q. Were you wearing it that day?

13 A. Yes.

14 Q. Same as Detective Embrey.

15 A. Yes.

16 Q. Do you carry a firearm with you?

17 A. Yes.

18 Q. When Mr. Bailey was transported for the interview was
19 he in the backseat of the car?

20 A. He was in the front seat.

21 Q. Front seat. You were in the backseat?

22 A. Mm-hmm.

23 Q. You mentioned you interviewed him at headquarters
24 building B?

25 A. That's correct.

- 1 Q. Second floor?
- 2 A. Yes.
- 3 Q. You and Detective Embrey walked him into the building?
- 4 A. Yes.
- 5 Q. Took him upstairs?
- 6 A. Yes.
- 7 Q. Put him in an interview room?
- 8 A. There's a parking spot behind the building so you don't
- 9 have to walk as far. We went in the back and it's one flight
- 10 of stairs up.
- 11 Q. Okay. You took the stairs up?
- 12 A. Yes.
- 13 Q. When you put him in an interview room I assume that
- 14 interview room doesn't have windows to the outside?
- 15 A. No. Two of them do but not the one he was in.
- 16 Q. Not the one he was in. No windows. Obviously there
- 17 was a door to the room?
- 18 A. Yes.
- 19 Q. Was the door closed while you were talking to him?
- 20 A. Yes.
- 21 Q. Do you know if it was locked or unlocked?
- 22 A. It wouldn't have been locked.
- 23 Q. Besides yourself and Detective Embrey you said there
- 24 was one other or examiner in the room, the polygraph examiner?
- 25 A. When the polygraph was going on we weren't in the room.

1 It was just Jayshawn and the polygraph examiner. Then he
2 stepped out and then it was Detective Embrey and myself.

3 Q. Correct. Before you stepped out for the polygraph
4 examination you gave him Miranda warnings?

5 A. The polygraph examiner did.

6 Q. Were you present for that?

7 A. Yes.

8 Q. At that point you, Detective Embrey, and the polygraph
9 examiner were in the room?

10 A. Yes.

11 Q. Then you and Detective Embrey left the room and he was
12 alone with the polygraph examiner?

13 A. Correct.

14 Q. But you were watching like via a two-way mirror or a
15 live feed on the camera?

16 A. It's a live feed on the camera.

17 Q. Now after that polygraph examination the examiner did
18 they leave as soon as the test was over and come get you?

19 A. The examiner was interviewing him about the results of
20 the test. The interviewer he wasn't getting anywhere with him.
21 It was just a back and forth with him of I think I passed and
22 no you failed.

23 Q. I don't want to cut you off. Let me ask you this: The
24 officer that does the polygraph is a law enforcement officer;
25 right?

1 A. He's a retired law enforcement officer. I don't think
2 he is a Nevada post certified officer.

3 Q. I'm not sure what post certified means.

4 A. It's police officer standards of training. He's
5 retired from out-of-state who gets hired as a civilian to do
6 all polygraph examinations.

7 Q. He would not have a P number?

8 A. He does have a P number but everybody who works for the
9 department has P number. Even if you work in records you would
10 have a P number.

11 Q. He is a civilian contractor who comes in and does
12 polygraphs?

13 A. Yes.

14 Q. Did you authorize him to do some questioning after the
15 test was over as the case agent?

16 A. As far as?

17 Q. Would you have authorized that civilian polygraph
18 examiner to conduct questioning of your suspect?

19 A. Yes.

20 Q. While you were watching?

21 A. Yes.

22 Q. Then after he conducted some questioning of his own
23 while you were watching he leaves and you and Detective Embrey
24 come back in the room?

25 A. That's correct.

1 Q. When you and Detective Embrey come back in -- was there
2 ever a time when Mr. Bailey was left alone in that room?

3 A. I don't think so.

4 Q. In between the polygraph examiner leaving and you
5 coming back in?

6 A. Because there's equipment and stuff in the room that
7 you don't want to get damaged. There would be someone in the
8 room.

9 Q. You mean the polygraph equipment?

10 A. Yes.

11 Q. When you re-entered the room you didn't reissue any
12 Miranda warnings; correct?

13 A. No.

14 YS. CLARK: Court's indulgence.

15 BY MS. CLARK:

16 Q. You were asked some questions a moment ago obviously
17 when you went back in Mr. Bailey told you what -- the story
18 about what happened and the state asked you some questions
19 about a third statement he made even after that. Do you
20 remember those questions?

21 A. Yes.

22 Q. The third time he's classified the incident was more of
23 self-defense?

24 A. That's correct.

25 Q. That's seems to be fairly consistent with what he said

1 in the original statement to you?

2 A. That's correct.

3 MS. CLARK: Court's indulgence.

4 THE COURT: Sure.

5 MS. CLARK: I don't have any further questions.

6 THE COURT: Any redirect?

7 MR. SCHWARTZER: No.

8 THE COURT: Thank you very much, Detective, for
9 your testimony. You are free to step down and free to leave.
10 Please do not discuss your testimony, sir. Thank you. Any
11 other witnesses from the state?

12 MR. SCHWARTZER: No, the state -- before I rest
13 based on the coroner's testimony regarding the amendment I
14 made.

15 THE COURT: Yes.

16 MR. SCHWARTZER: At this point I think I will take
17 out strangling and leave it as asphyxiation and/or unknown
18 means.

19 THE COURT: With that the state rests?

20 MR. SCHWARTZER: State rests.

21 THE COURT: Any witnesses by the defense?

22 MS. HAMMERS: No, Your Honor. We have spoken to
23 Mr. Bailey and he is aware of his right to testify today and he
24 is going to waive that right.

25 THE COURT: Mr. Bailey, I too will advise you have

1 the right to testify at this preliminary hearing but it's my
2 understanding you're to going waive that right; is that
3 correct?

4 THE DEFENDANT: Yes.

5 THE COURT: Defense rests?

6 MS. HAMMERS: Yes.

7 THE COURT: Any argument by the state?

8 MR. SCHWARTZER: Waive and reserve for rebuttal.

9 THE COURT: Argument by defense.

10 MS. HAMMERS: We'll submit.

11 THE COURT: Mr. Bailey, sir, it does appear to me
12 from the testimony adduced at this preliminary hearing and the
13 evidence presented to the Court there's slight or marginal
14 evidence to believe that the crime of murder has been committed
15 and the defendant Jayshawn Bailey has committed these charges.
16 Sir, you are going to appear in the Eighth Judicial District
17 Court on the following date and time:

18 THE CLERK: April 3rd at 8:00.

19 * * * * *

20

21 ATTEST: FULL, TRUE AND ACCURATE

22 TRANSCRIPT OF PROCEEDINGS.

23

24 \s\Christa Broka

25 CHRISTA D. BROKA, CCR 574

1 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

2 COUNTY OF CLARK, STATE OF NEVADA

3 -o0o-

4

5 STATE OF NEVADA,)

6 Plaintiff,)

7 vs.) Case No. 20F

8 JAYSHAWN BAILEY,) ATTEST RE: NRS 239B.030

9 Defendant,)

10 _____)

11

STATE OF NEVADA)

12) ss

COUNTY OF CLARK)

13

14 1, Christa D. Broka, a Certified Shorthand Reporter

15 within and for the county of Clark and the State of Nevada, do

16 hereby certify:

17 That REPORTER'S TRANSCRIPT OF PROCEEDINGS was reported

18 in open court pursuant to NRS 3.360 regarding the above

19 proceedings in Las Vegas Justice Court 3, 2020, Lewis Avenue,

20 Las Vegas, Nevada.

21 That said TRANSCRIPT:

22 X Does not contain the Social Security number of any
23 person.

24 Contains the Social Security number of a person.

25

1 ATTEST: I further certify that I am not interested in
2 the events of this action.

3

4 \s\Christa Broka _____

5 CHRISTA D. BROKA, CCR 574

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16

17

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21

22

23

24

25

1	6	aggressive [2] - 34:3, 34:14	22:21	become [2] - 28:2, 30:11
1 [7] - 1:16, 2:15, 3:2, 25:8, 25:17, 26:4, 26:6	6 [5] - 2:20, 38:13, 38:24, 39:3, 39:9	ago [1] - 47:16	assume [2] - 5:11, 44:13	bedroom [4] - 35:9, 35:10, 37:7, 37:18
12:30 [1] - 29:20	7	agree [1] - 29:18	AT [1] - 3:2	BEFORE [1] - 1:14
12th [2] - 32:23, 32:24	7 [2] - 2:21, 39:11	agreed [5] - 42:11, 42:14	attached [1] - 18:23	begun [1] - 17:9
13 [1] - 3:13	8	ahead [2] - 13:12, 17:1	attempted [1] - 13:7	behind [1] - 44:8
16 [1] - 2:5	8 [4] - 2:22, 38:13, 38:25, 39:13	alcohol [3] - 9:3, 9:7, 33:25	attend [2] - 15:14, 29:12	below [1] - 24:9
19 [2] - 2:6, 3:25	8:00 [1] - 49:18	allowed [2] - 32:5, 33:13	attention [2] - 6:9, 21:7	bend [1] - 27:20
19th [10] - 21:7, 21:13, 25:12, 25:15, 29:9, 32:13, 40:3, 40:9, 42:5, 42:18	9	alone [3] - 35:18, 45:12, 47:2	ATTEST [3] - 49:21 50:8, 51:1	better [1] - 17:15
2	911 [5] - 21:21, 23:17, 28:4, 28:14, 31:16	Alta [1] - 30:10	attorney's [1] - 36:9	between [1] - 47:4
2 [1] - 2:16	9:30 [2] - 1:16, 3:2	amend [1] - 3:12	ATTORNEYS [1] - 1:20	beyond [2] - 18:6, 31:24
20 [1] - 2:9	A	amendment [1] - 48:13	audio [1] - 31:5	bilateral [1] - 12:3
20-00363 [1] - 6:11	A.M [2] - 1:16, 3:2	analyst [2] - 24:20, 24:21	authorize [1] - 46:14	black [1] - 24:12
2018 [1] - 5:9	able [17] - 5:2, 7:7, 7:10, 9:12, 9:15, 9:19, 10:12, 10:20, 13:23, 14:7, 15:2, 18:22, 28:1, 28:5, 28:15, 28:19	AND [1] - 49:21	authorized [1] - 46:17	blocks [1] - 33:4
2019 [1] - 32:25	absolutely [1] - 14:20	announce [1] - 39:8	autopsies [4] - 6:1, 6:3, 6:4, 6:7	blood [7] - 8:22, 8:24, 9:12, 9:19, 17:3, 37:8, 37:17
2020 [11] - 1:16, 3:2, 6:10, 21:8, 21:13, 29:9, 29:12, 29:14, 32:13, 36:19, 50:19	according [2] - 14:13, 35:19	answer [1] - 14:23	autopsy [6] - 6:9, 6:10, 6:11, 6:15, 10:4, 29:12	blue [2] - 23:24, 24:12
20F [1] - 50:7	ACCURATE [1] - 49:21	anticipate [1] - 3:11	Avenue [1] - 50:19	Blue [1] - 20:6
20F01565X [3] - 1:9, 3:6, 4:5	acknowledge [1] - 30:20	apparent [1] - 37:7	aware [3] - 28:7, 42:19, 48:23	body [47] - 6:25, 7:6, 7:8, 7:13, 7:20, 8:2, 8:3, 9:12, 9:13, 14:16, 15:11, 16:20, 17:9, 17:16, 17:23, 18:1, 18:10, 21:25, 22:2, 22:10, 22:11, 23:13, 24:11, 24:12, 27:1, 27:7, 27:10, 27:12, 27:14, 27:18, 27:24, 28:4, 28:5, 32:17, 32:18, 32:20, 34:23, 35:12, 35:14, 35:16, 35:20, 35:22, 37:6, 39:17, 41:10, 41:19
20th [2] - 6:10, 29:12	acquire [1] - 9:19	appear [2] - 49:11, 49:16	B	bone [1] - 16:15
2120 [3] - 28:17, 36:21, 37:2	action [1] - 51:2	APPEARANCES [1] - 1:18	backseat [2] - 43:19, 43:21	Bonneville [1] - 30:9
2126 [1] - 28:23	acute [1] - 10:24	appeared [3] - 13:13, 13:20, 37:4	bad [1] - 12:7	bottle [1] - 34:1
21st [5] - 29:14, 36:19, 42:7, 42:25, 43:3	address [2] - 3:10, 28:23	applied [6] - 11:16, 11:18, 11:21, 12:9, 12:19, 12:21	badge [1] - 43:10	bottom [1] - 30:6
239B.030 [1] - 50:8	adduced [1] - 49:12	applies [1] - 11:25	badges [1] - 41:5	bow [1] - 24:13
26 [5] - 2:15, 2:16, 2:17, 2:18, 2:19	admission [2] - 25:17, 38:24	apply [1] - 12:6	bag [11] - 24:12, 26:20, 26:23, 26:24, 37:4, 37:6, 39:10, 39:11, 39:12, 41:23	box [1] - 3:8
3	admissions [1] - 31:25	approach [2] - 25:5, 38:10	bailey [7] - 30:3, 30:14, 33:15, 40:5, 40:9, 48:25, 49:11	brand [1] - 39:12
3 [2] - 2:17, 50:19	admit [1] - 31:24	April [1] - 49:18	BAILEY [2] - 1:10, 50:8	brandishing [1] - 34:4
3.360 [1] - 50:18	admitted [2] - 26:4, 39:4	APRIL [2] - 1:16, 3:2	Bailey [25] - 3:6, 3:8, 4:4, 15:16, 23:15, 23:16, 24:1, 28:15, 29:2, 29:9, 29:17, 29:18, 30:20, 31:11, 31:25, 33:9, 40:14, 42:4, 42:11, 42:19, 42:23, 43:18, 47:2, 47:17, 48:23, 49:15	broad [1] - 16:22
39 [4] - 2:10, 2:20, 2:21, 2:22	ADMITTED [1] - 2:14	area [1] - 13:8	ballpark [1] - 7:10	BROKA [3] - 1:25, 49:25, 51:5
3rd [1] - 49:18	advise [1] - 48:25	argument [2] - 49:7, 49:9	based [13] - 3:12, 3:25, 7:12, 7:13, 7:14, 14:13, 14:14, 18:19, 19:4, 19:20, 19:25, 23:4, 48:13	Broka [3] - 49:24, 50:14, 51:4
4	affected [1] - 13:16	arm [2] - 34:21, 34:22	became [2] - 28:3, 34:3	broke [1] - 32:21
4 [3] - 2:4, 2:18, 27:6	afraid [1] - 36:1	armored [1] - 27:13		Brown [5] - 21:14, 26:14, 36:21, 37:2, 40:2
5	afternoon [1] - 29:20	arrested [2] - 29:10, 42:4		buccal [2] - 42:20, 42:21
5 [6] - 2:19, 25:8, 25:18, 26:4, 26:6, 27:4	agency [1] - 31:23	arrive [1] - 22:24		Buddy [1] - 22:23
500 [1] - 6:6	agent [8] - 22:21, 22:22, 23:6, 23:8, 24:25, 38:20, 39:25, 46:15	arriving [1] - 22:8		bug [1] - 13:14
574 [3] - 1:25, 49:25, 51:5		artery [6] - 11:19, 11:21, 11:25, 12:4, 12:9, 12:20		building [9] - 30:5, 30:6, 30:7, 30:8,
		asphyxia [3] - 11:14, 16:22, 16:23		
		asphyxiation [4] - 3:14, 11:9, 16:19, 48:17		
		assigned [2] - 21:1,		

43:24, 44:3, 44:8
buildings [1] - 30:5
butt [1] - 27:21
BY [18] - 4:22, 9:1,
 15:1, 16:6, 19:16,
 20:23, 24:3, 25:7,
 26:5, 26:19, 27:11,
 32:10, 37:12, 37:16,
 38:12, 39:5, 39:23,
 47:15

C

C-H-R-I-S-T-I-N-A [1] -
 4:17
c347887 [1] - 1:1
caller [2] - 21:22,
 28:14
camera [2] - 45:15,
 45:16
cans [1] - 39:15
captured [1] - 30:18
car [5] - 40:24, 40:25,
 41:2, 43:19
carotid [6] - 11:18,
 11:21, 11:25, 12:3,
 12:9, 12:20
carpet [1] - 37:8
carry [1] - 43:16
cart [2] - 35:15, 39:16
cartilage [1] - 16:16
case [26] - 4:24, 6:10,
 7:2, 8:13, 9:3, 14:12,
 15:3, 15:17, 16:17,
 17:7, 19:1, 19:8,
 22:21, 22:22, 22:23,
 23:3, 23:5, 23:6,
 23:8, 23:11, 24:25,
 38:20, 39:24, 43:1,
 46:15
CASE [2] - 1:1, 1:9
Case [1] - 50:7
causing [1] - 27:8
cavity [2] - 8:2, 8:3
CCR [3] - 1:25, 49:25,
 51:5
certain [1] - 17:24
certainty [1] - 7:8
certified [2] - 46:2,
 46:3
Certified [1] - 50:14
certify [2] - 50:16,
 51:1
cetera [1] - 41:23
change [2] - 31:15,
 32:12
changed [3] - 29:23,
 31:18, 42:16
changes [3] - 10:3,
 17:14, 18:4
charges [1] - 49:15
choking [1] - 11:9
Chow [6] - 24:12,
 26:20, 26:24, 37:3,
 37:6, 39:9
CHRISTA [3] - 1:25,
 49:25, 51:5
Christa [2] - 4:16,
 50:14
CHRISTINA [1] - 2:3
Christina [1] - 4:6
circled [1] - 34:21
circumstances [9] -
 7:12, 7:14, 14:14,
 14:15, 14:20, 15:11,
 15:12, 15:13
civilian [3] - 46:5,
 46:11, 46:17
clarify [2] - 25:19, 26:2
CLARK [10] - 1:4,
 1:22, 3:1, 37:11,
 39:23, 47:15, 48:3,
 48:5, 50:2, 50:12
Clark [5] - 5:6, 5:17,
 21:10, 21:16, 50:15
clark [2] - 2:10, 47:14
class [3] - 29:22,
 29:23, 42:16
classified [1] - 47:22
classify [1] - 17:10
clear [1] - 9:10
CLERK [5] - 4:9, 4:14,
 20:11, 20:16, 49:18
close [4] - 23:1, 26:21,
 28:25, 39:11
closed [1] - 44:19
clot [1] - 17:3
clothes [2] - 41:5,
 43:8
clothing [1] - 23:23
cold [1] - 35:6
collected [1] - 41:25
college [1] - 29:21
color [2] - 7:1, 34:4
comfortable [1] -
 17:22
coming [2] - 32:1,
 47:5
committed [2] - 49:14,
 49:15
communicate [1] -
 33:11
communication [1] -
 33:12
complaint [1] - 3:13
completed [1] - 30:25
compression [3] -
 11:14, 11:15, 12:3
condition [1] - 13:6
condoms [3] - 37:19,

37:20, 38:4
conduct [2] - 6:13,
 46:18
conducted [4] - 6:5,
 6:22, 9:17, 46:22
confessions [1] -
 31:25
confidence [1] - 17:25
confined [1] - 27:18
confirm [2] - 10:12,
 10:20
congestion [1] - 17:2
conscience [2] - 22:1,
 32:20
consciousness [5] -
 12:4, 12:8, 12:10,
 12:11, 12:18
consent [1] - 30:24
consider [2] - 15:16,
 15:19
considered [1] - 19:7
considering [1] -
 15:19
considers [1] - 14:18
consistent [1] - 47:25
consumed [2] - 9:4,
 9:7
contacted [1] - 42:7
contain [1] - 50:22
Contains [1] - 50:24
continue [2] - 12:7,
 30:23
contractor [1] - 46:11
coroner [6] - 3:12,
 3:15, 3:17, 5:16, 6:1,
 32:4
Coroner's [1] - 5:7
coroner's [5] - 3:15,
 5:10, 14:7, 19:5,
 48:13
corpus [2] - 31:21,
 31:24
correct [58] - 5:11,
 5:12, 5:14, 5:15,
 5:23, 7:19, 9:20,
 9:22, 9:23, 10:6,
 10:9, 10:23, 11:1,
 11:4, 11:7, 13:22,
 17:8, 17:19, 18:16,
 18:21, 21:17, 22:5,
 22:8, 22:14, 23:7,
 23:10, 23:18, 24:24,
 25:1, 25:4, 26:7,
 26:24, 28:22, 29:1,
 29:3, 29:4, 30:13,
 31:2, 31:8, 33:10,
 34:12, 35:23, 36:20,
 36:22, 38:22, 40:8,
 40:10, 41:11, 41:21,
 42:24, 43:25, 45:3,

45:13, 46:25, 47:12,
 47:24, 48:2, 49:3
counsel [1] - 19:19
COUNTY [4] - 1:4, 3:1,
 50:2, 50:12
County [4] - 5:6, 5:17,
 21:11, 21:16
county [1] - 50:15
couple [4] - 12:22,
 12:23, 21:25, 41:12
courses [1] - 29:21
Court [6] - 24:4,
 31:18, 34:19, 49:13,
 49:17, 50:19
COURT [44] - 1:3, 3:6,
 3:17, 3:20, 4:1, 4:4,
 4:7, 4:18, 8:23, 14:5,
 14:11, 14:19, 14:22,
 16:2, 19:12, 19:25,
 20:2, 20:6, 20:20,
 24:2, 25:6, 26:4,
 26:11, 27:2, 27:5,
 32:2, 32:6, 37:14,
 38:11, 39:1, 39:3,
 39:20, 48:4, 48:6,
 48:8, 48:15, 48:19,
 48:21, 48:25, 49:5,
 49:7, 49:9, 49:11,
 50:1
court [1] - 50:18
court's [3] - 39:18,
 47:14, 48:3
courtroom [2] - 3:20,
 23:21
cover [5] - 22:9, 26:15,
 26:17, 35:20, 41:22
COVID [1] - 3:25
CPR [2] - 35:4, 35:5
crime [5] - 23:14,
 24:19, 24:21, 25:11,
 49:14
criminal [2] - 3:13,
 31:23
Cross [2] - 2:5, 2:10
cross [2] - 16:2, 39:20
CROSS [2] - 16:5,
 39:22
Cross-Examination
 [2] - 2:5, 2:10
cross-examination [2]
 - 16:2, 39:20
CROSS-
EXAMINATION [2] -
 16:5, 39:22
CSA [2] - 41:25, 42:2
current [1] - 27:23
cut [1] - 45:23

D

damaged [1] - 47:7
dark [1] - 10:14
darker [1] - 10:17
date [4] - 3:7, 37:25,
 42:14, 49:17
dead [2] - 35:7, 36:2
death [21] - 9:6, 9:8,
 11:22, 12:20, 13:24,
 14:3, 14:10, 14:14,
 14:18, 15:3, 15:6,
 15:10, 15:15, 15:20,
 15:23, 17:20, 17:25,
 18:25, 19:20, 31:23
deceased [1] - 22:12
decendent [1] - 19:6
December [3] - 7:16,
 32:23, 32:24
decomposed [5] -
 16:20, 17:10, 17:11,
 17:16
decomposing [9] -
 7:6, 7:8, 7:20, 9:6,
 9:12, 9:19, 11:3,
 17:9, 17:23
decomposition [6] -
 9:4, 10:3, 17:12,
 17:14, 17:18, 18:1
dedicated [1] - 23:13
DEFENDANT [1] -
 49:4
Defendant [3] - 1:11,
 1:21, 50:9
defendant [10] - 19:8,
 28:14, 28:24, 29:15,
 34:6, 35:2, 35:19,
 36:11, 38:8, 49:15
DEFENDERS4 [1] -
 1:22
defense [6] - 19:19,
 36:15, 47:23, 48:21,
 49:5, 49:9
define [1] - 11:24
degree [1] - 5:11
delegated [1] - 23:14
delegating [1] - 23:9
demonstrated [1] -
 34:18
Department [1] - 21:1
department [2] -
 21:21, 46:9
depict [1] - 26:6
DEPUTY [2] - 1:20,
 1:22
describe [2] - 17:14,
 24:5
describing [1] - 34:19
descriptive [1] - 17:14
desk [1] - 42:10

despite [1] - 9:18
despondent [1] - 33:7
detail [1] - 26:22
detected [1] - 8:22
Detective [24] - 20:9, 22:23, 22:24, 23:14, 24:1, 25:9, 29:6, 36:8, 40:17, 40:19, 40:20, 41:1, 41:3, 42:18, 43:3, 43:14, 44:3, 44:23, 45:2, 45:8, 45:11, 46:23, 47:1, 48:8
detective [9] - 20:25, 21:3, 21:4, 21:8, 29:2, 29:16, 31:14, 39:24, 42:9
detectives [6] - 22:18, 23:12, 26:25, 27:13, 40:22, 41:4
determination [4] - 15:22, 18:14, 18:25, 19:1
determine [5] - 15:3, 15:12, 18:11, 28:15, 28:19
determined [3] - 22:11, 23:2, 23:16
determining [1] - 14:10
Di [2] - 2:3, 4:17
Di [2] - 4:6, 4:16
diarrheal [1] - 13:13
died [3] - 11:6, 16:9, 31:22
different [2] - 3:16, 31:5
Direct [1] - 2:4
DIRECT [2] - 4:21, 20:22
direct [4] - 2:9, 6:9, 18:10, 21:7
discoloration [1] - 10:17
discuss [3] - 3:22, 20:3, 48:10
disease [4] - 8:8, 8:15, 13:7, 15:9
diseases [1] - 11:6
dispose [1] - 35:22
disposing [1] - 32:19
dissipated [1] - 41:20
distance [1] - 33:3
district [1] - 36:9
DISTRICT [1] - 1:20
District [1] - 49:16
DNA [4] - 37:23, 37:25, 42:19, 42:20
doctor [8] - 4:23, 5:5, 5:10, 6:1, 13:23,

15:2, 16:7, 19:17
Doctor [1] - 10:5
documenting [1] - 7:1
documents [1] - 4:23
dog [8] - 24:12, 26:24, 37:3, 37:4, 39:9, 41:22
done [1] - 42:19
door [2] - 44:17, 44:19
down [11] - 21:24, 22:2, 22:10, 24:7, 26:18, 27:1, 27:19, 32:21, 35:16, 41:17, 48:9
Dr [1] - 4:6
drain [4] - 27:8, 27:24, 27:25, 28:8
drank [1] - 33:25
drinking [1] - 33:17
Drive [2] - 36:21, 37:2
drove [2] - 29:25
due [1] - 11:14
dumped [2] - 35:16, 37:6
dumping [2] - 32:17, 32:18
during [8] - 10:1, 10:7, 29:7, 31:15, 37:1, 38:17
duty [1] - 43:11
Dwayne [2] - 21:15, 26:14

E

early [1] - 28:7
Eighth [1] - 49:16
either [1] - 9:3
either/or [1] - 9:5
elicited [1] - 32:8
Embrey [22] - 22:23, 22:24, 23:14, 29:6, 29:16, 31:14, 36:8, 40:17, 40:19, 40:20, 41:3, 42:9, 42:18, 43:3, 43:14, 44:3, 44:23, 45:2, 45:8, 45:11, 46:23, 47:1
Embrey's [1] - 41:1
employed [2] - 20:24, 20:25
empty [1] - 37:5
end [1] - 31:10
enforcement [2] - 45:24, 46:1
entered [1] - 47:11
entire [1] - 35:11
entirely [1] - 18:7
environment [2] - 18:3, 18:4
equipment [2] - 47:6, 47:9
ESQ [4] - 1:19, 1:20, 1:21, 1:22
establish [1] - 14:9
established [1] - 31:23
estimate [1] - 7:12
et [1] - 41:23
ethanol [2] - 8:22, 8:23
events [1] - 51:2
everywhere [1] - 43:10
evidence [6] - 8:15, 10:22, 11:17, 18:17, 49:13, 49:14
evil [1] - 36:16
exact [1] - 6:4
EXAMINATION [5] - 4:21, 16:5, 19:15, 20:22, 39:22
examination [23] - 6:13, 6:22, 6:24, 7:5, 7:13, 7:22, 7:24, 8:1, 8:12, 14:16, 15:2, 16:2, 18:10, 18:20, 19:21, 30:15, 31:10, 32:12, 36:8, 39:20, 42:8, 45:4, 45:17
Examination [5] - 2:4, 2:5, 2:6, 2:9, 2:10
examinations [4] - 6:6, 6:7, 6:8, 46:6
examine [1] - 8:3
examined [1] - 18:23
examiner [14] - 9:2, 12:1, 14:7, 31:10, 44:24, 45:1, 45:5, 45:9, 45:12, 45:17, 45:19, 46:18, 47:4
examining [2] - 8:2, 18:10
example [1] - 11:18
exams [1] - 10:21
exchanged [1] - 33:10
executed [1] - 36:23
execution [1] - 38:18
Exhibit [12] - 2:15, 2:16, 2:17, 2:18, 2:19, 2:20, 2:21, 2:22, 27:6, 39:3, 39:9, 39:13
Exhibits [4] - 25:8, 26:6, 38:13, 38:24
EXHIBITS [1] - 2:14
expect [3] - 3:16, 16:10, 16:21
expertise [1] - 14:9
explain [1] - 36:2

external [8] - 6:7, 6:24, 7:4, 7:21, 7:24, 11:16, 16:12, 18:3
extremity [2] - 10:10, 10:11
eyes [1] - 16:11

F

face [1] - 16:12
fact [3] - 7:20, 9:18, 24:25
factor [2] - 14:21, 19:20
factors [1] - 13:1
failed [1] - 45:22
fair [4] - 11:2, 12:18, 29:9, 41:7
fairly [2] - 13:4, 47:25
fake [2] - 24:13, 41:13
falls [1] - 16:23
familiar [8] - 6:11, 8:18, 12:16, 12:17, 15:16, 24:23
far [9] - 16:19, 17:10, 18:10, 18:25, 28:14, 31:25, 36:6, 44:9, 46:16
fast [1] - 18:4
fatal [2] - 15:8, 15:9
feed [3] - 31:7, 45:15, 45:16
feet [2] - 24:9, 24:10
fell [2] - 27:22, 37:6
few [2] - 6:5, 34:24
fifteen [3] - 12:5, 12:8, 21:4

findings [8] - 8:18, 8:21, 16:24, 17:4, 17:5, 19:22
finished [1] - 34:1
firearm [1] - 43:16
first [9] - 3:9, 4:5, 4:15, 5:23, 6:22, 6:24, 22:8, 26:13, 29:20
fit [1] - 27:19
five [1] - 24:9
flight [1] - 44:9
floor [2] - 30:7, 44:1
flow [1] - 27:8
flower [3] - 24:13, 41:14, 41:15
fluidity [1] - 17:3
flush [1] - 24:7
flushed [1] - 41:16
focus [1] - 26:22
follow [1] - 29:14
follow-up [1] - 29:14
following [1] - 49:17

food [6] - 24:12, 26:24, 37:4, 39:10, 41:23
forensic [1] - 5:6
form [1] - 30:24
formed [1] - 36:23
forth [1] - 45:21
forward [1] - 32:8
four [1] - 28:20
fracture [1] - 16:14
Fred [5] - 21:14, 26:14, 36:21, 37:2, 40:2
free [3] - 20:3, 48:9
front [4] - 4:23, 39:11, 43:20, 43:21
FULL [1] - 49:21
full [1] - 37:4
functioning [1] - 27:10

G

gallbladder [2] - 18:23, 18:24
gallstones [4] - 18:17, 18:24, 19:19, 19:23
garbage [8] - 35:14, 35:15, 37:5, 37:6, 37:19, 39:14, 39:16
gastroenteritis [1] - 13:11
general [1] - 16:23
generalization [1] - 17:13
generalizations [1] - 18:2
glasses [1] - 23:24
gloves [1] - 37:20
God [2] - 4:12, 20:14
gold [1] - 23:24
grabbed [2] - 34:15, 34:22
graduate [1] - 5:13
grand [2] - 5:21, 5:24
gray [1] - 41:3
green [1] - 27:17
ground [1] - 24:10
guess [3] - 12:16, 13:14, 36:7
guys [3] - 22:16, 32:21, 36:11

H

hair [4] - 7:1, 37:9, 37:13, 37:17
Hammer [1] - 14:11
hammers [1] - 2:5
HAMMERS [17] - 1:21,

14:1, 14:12, 16:3,
16:6, 19:10, 20:1,
25:19, 25:22, 26:2,
27:11, 31:19, 32:9,
39:2, 48:22, 49:6,
49:10
hand [3] - 4:8, 4:9,
20:11
HARMONY [1] - 1:14
haul [1] - 39:17
head [2] - 6:7, 34:21
headlock [3] - 34:15,
34:17, 34:18
headquarters [7] -
30:1, 30:2, 30:4,
30:8, 40:14, 40:16,
43:23
health [4] - 13:2, 13:4,
13:16, 18:11
healthy [3] - 13:4,
13:20, 18:15
hear [3] - 4:2, 16:7
heard [1] - 32:3
HEARING [1] - 1:13
hearing [4] - 3:7, 5:23,
49:1, 49:12
hearings [1] - 5:22
Heather [2] - 24:21,
42:1
help [2] - 4:11, 20:13
helped [3] - 35:17,
35:19, 35:20
hemorrhage [2] -
10:9, 10:12
hemorrhages [3] -
16:11, 16:13, 17:2
hemorrhaging [2] -
10:22, 11:10
hereby [1] - 50:16
hid [2] - 35:9, 35:10
hide [1] - 15:11
hired [1] - 46:5
hit [2] - 27:20, 27:21
hmm [1] - 43:22
hoist [2] - 27:1, 27:14
holds [1] - 12:15
home [2] - 33:11, 43:3
homicide [8] - 15:6,
15:24, 19:1, 21:1,
21:5, 21:8, 22:12,
32:4
Honor [10] - 3:11,
4:19, 19:24, 25:5,
25:18, 32:4, 37:11,
38:10, 39:2, 48:22
HONORABLE [1] -
1:14
hours [1] - 35:6
house [4] - 21:24,
29:25, 33:7, 33:13

houses [3] - 28:8,
28:17, 28:20
hyoid [1] - 16:15

I

identified [6] - 6:16,
8:15, 15:8, 15:9,
15:10, 24:1
identify [3] - 23:23,
27:2, 28:5
identifying [1] - 6:25
illness [1] - 13:13
imagine [1] - 6:1
immediately [1] -
41:20
important [1] - 29:22
impossible [1] - 7:10
impounded [2] -
41:23, 41:25
IN [2] - 1:3, 50:1
incident [2] - 36:12,
47:22
incidental [1] - 19:22
includes [5] - 5:21,
6:7, 6:25, 8:2, 31:1
INDEX [1] - 2:1
indicate [2] - 9:2, 11:6
indication [2] - 9:7,
10:19
individual [3] - 6:15,
13:1, 31:22
individually [1] - 8:4
indulgence [3] -
39:18, 47:14, 48:3
information [2] -
14:15, 19:4
initial [1] - 29:7
initiated [1] - 15:15
injuries [2] - 8:5,
16:13
injury [10] - 7:1, 8:9,
8:16, 10:12, 10:19,
10:25, 11:2, 11:17,
15:8, 16:12
inside [5] - 24:11,
27:9, 27:16, 39:10,
41:13
intend [1] - 3:15
intent [1] - 15:11
interest [1] - 32:5
interested [1] - 51:1
intermuscular [1] -
10:8
internal [5] - 8:1,
11:15, 11:16, 16:13,
18:3
interrupt [1] - 34:13
intersection [1] -
21:14

interview [10] - 23:14,
31:11, 31:15, 32:11,
32:16, 32:20, 43:18,
44:7, 44:13, 44:14
interviewed [3] -
40:15, 42:18, 43:23
interviewer [1] - 45:20
interviewing [1] -
45:19
intoxicated [2] -
33:15, 33:19
investigate [1] - 28:10
investigation [6] -
15:15, 25:14, 28:7,
28:9, 28:13, 29:15
investigative [1] -
14:15
investigator [2] - 7:18,
19:5
investigators [1] -
15:14
involved [1] - 30:11
issue [2] - 10:8, 13:20
issues [1] - 10:8
items [3] - 37:18,
41:12, 41:22

J

J-A-E-G-E-R [1] -
20:19
jacket [6] - 27:17,
27:22, 27:24, 28:1,
28:3
JAEGER [1] - 2:8
Jaeger [3] - 3:19,
20:10, 39:24
January [12] - 6:10,
21:7, 21:13, 25:15,
29:9, 29:12, 29:14,
32:13, 36:19, 38:3,
42:5, 42:7
JAYSHAWN [2] - 1:10,
50:8
Jayshawn [5] - 3:6,
4:4, 23:15, 23:16,
29:16, 33:11, 33:12,
45:1, 49:15
Jean [1] - 20:7
Judge [3] - 26:10,
39:7
Judicial [1] - 49:16
judicial [1] - 5:17
July [1] - 5:9
juries [1] - 5:24
jury [3] - 5:21, 5:24
JUSTICE [3] - 1:3,
1:15, 50:1
Justice [1] - 50:19

K

kicked [1] - 33:7
killed [1] - 32:18
kind [8] - 12:15, 17:13,
26:16, 27:17, 30:4,
32:20, 33:7, 34:18
King [3] - 21:18,
30:10, 33:2
knees [1] - 27:20

L

L-O-R-E-T-O [1] - 4:17
Lake [2] - 21:17, 33:2
large [1] - 35:14
laryngeal [1] - 16:15
Las [3] - 20:25, 50:19,
50:20
LAS [3] - 1:3, 3:1, 50:1
last [4] - 4:15, 4:17,
6:5, 34:9
law [2] - 45:24, 46:1
lead [4] - 12:20, 23:3,
23:4, 39:24
leading [1] - 37:11
least [2] - 17:20, 17:24
leave [7] - 11:10,
11:13, 11:16, 11:19,
45:18, 48:9, 48:17
leaves [1] - 46:23
leaving [1] - 47:4
left [5] - 10:9, 10:11,
34:21, 45:11, 47:2
legs [1] - 27:7
LETIZIA [1] - 1:14
level [10] - 9:9, 22:10,
24:8, 24:9, 26:18,
27:9, 27:10, 27:24,
27:25, 41:20
Lewis [1] - 50:19
lifted [1] - 27:22
light [1] - 10:14
limp [2] - 34:23, 35:2
line [1] - 3:13
listed [1] - 17:6
live [4] - 31:7, 33:8,
45:15, 45:16
lived [1] - 28:8
liver [2] - 18:23, 18:24
living [5] - 5:5, 28:15,
28:17, 28:21, 28:22
loaded [1] - 35:14
location [1] - 31:6
locked [2] - 44:21,
44:22
log [1] - 20:3
look [7] - 8:13, 22:9,
25:9, 26:12, 38:14,
41:4, 41:7

looked [1] - 34:17
looking [4] - 18:6,
26:18, 39:7, 39:8
Loreto [2] - 4:6, 4:16
LORETO [1] - 2:3
lose [1] - 12:8
lost [4] - 12:4, 28:2,
28:3, 41:24
lower [2] - 10:9, 10:11
Luther [3] - 21:17,
30:10, 33:2
LVMPD [1] - 41:2

M

ma'am [4] - 4:7, 4:18,
20:2, 20:4
manhole [5] - 24:8,
24:9, 26:17, 35:20,
41:22
manner [2] - 13:24,
14:2, 14:3, 14:9,
14:14, 14:18, 15:3,
15:22, 18:25
marginal [1] - 49:13
mark [2] - 11:13, 11:19
markings [1] - 11:10
marks [3] - 6:25, 10:13
Martin [3] - 21:17,
30:10, 33:2
matching [1] - 37:3
material [1] - 27:15
matters [1] - 3:9
McDonald's [4] -
32:23, 33:1, 33:6,
33:18
Mead [2] - 21:17, 33:2
mean [6] - 7:15, 15:7,
17:23, 18:12, 34:13,
47:9
means [5] - 3:14, 15:6,
15:7, 46:3, 48:18
medical [9] - 5:11, 9:2,
12:1, 13:8, 13:19,
14:7, 18:11, 18:19
meet [3] - 26:14,
29:23, 29:24
mention [1] - 10:7
mentioned [12] - 9:11
9:21, 10:4, 11:5,
19:19, 28:19, 38:4,
41:12, 41:19, 42:4,
43:23
met [1] - 31:24
method [1] - 27:1
Metropolitan [1] -
21:1
microscope [1] - 8:14
microscopic [5] -
8:14, 9:21, 9:24,

10:1, 10:21
microscopically [2] - 8:16, 10:12
middle [1] - 26:15
mine [1] - 17:16
minutes [3] - 12:22, 12:24
Miranda [4] - 30:18, 31:1, 45:4, 47:12
Mirandized [1] - 30:16
mirror [1] - 45:14
Miss [16] - 6:20, 7:5, 15:3, 19:20, 28:25, 33:6, 33:12, 33:18, 33:21, 34:5, 34:6, 35:2, 35:12
miss [1] - 34:3
missing [3] - 7:16, 28:6, 28:10
moment [1] - 47:16
month [1] - 21:22
morning [1] - 4:2
mortem [1] - 6:6
move [4] - 8:1, 25:17, 35:20, 38:24
moving [1] - 32:8
MR [38] - 3:11, 3:19, 3:23, 4:6, 4:19, 4:22, 9:1, 14:6, 14:17, 14:20, 15:1, 15:25, 19:13, 19:16, 19:24, 20:9, 20:23, 23:25, 24:3, 25:5, 25:7, 25:17, 26:5, 26:19, 32:3, 32:10, 37:12, 37:16, 38:10, 38:12, 38:24, 39:5, 39:18, 48:7, 48:12, 48:16, 48:20, 49:8
MS [22] - 14:1, 14:12, 16:3, 16:6, 19:10, 20:1, 25:19, 25:22, 26:2, 27:11, 31:19, 32:9, 37:11, 39:2, 39:23, 47:14, 47:15, 48:3, 48:5, 48:22, 49:6, 49:10
murder [2] - 31:24, 49:14
muscle [1] - 16:14
muscles [1] - 10:16
must [1] - 17:23

N

name [9] - 4:15, 4:16, 4:17, 6:18, 20:17, 20:18, 34:6, 34:9, 34:11

natural [6] - 8:8, 8:14, 11:5, 11:7, 13:7, 15:9
nature [1] - 21:20
near [3] - 21:17, 25:14, 38:2
necessarily [2] - 11:12, 11:19
neck [8] - 10:9, 10:11, 10:16, 11:11, 11:13, 11:15, 16:12
need [4] - 3:10, 5:1, 5:2, 14:23
negative [1] - 17:5
Nevada [4] - 21:11, 46:2, 50:15, 50:20
NEVADA [6] - 1:4, 1:7, 3:1, 50:2, 50:5, 50:11
new [1] - 33:21
next [9] - 7:25, 8:11, 20:8, 24:11, 26:24, 35:11, 35:13, 38:23, 42:10
night [2] - 35:11, 35:13
NO [2] - 1:1, 1:9
nobody [1] - 3:20
non [1] - 16:20
non-decomposed [1] - 16:20
nonspecific [2] - 16:24, 17:4
north [1] - 39:15
note [7] - 7:4, 7:21, 8:6, 8:8, 8:20, 10:1, 37:1
nothing [7] - 4:11, 10:24, 11:6, 18:6, 19:24, 20:1, 20:13
noticed [1] - 21:22
noting [1] - 6:25
NRS [2] - 50:8, 50:18
number [10] - 6:4, 6:10, 27:2, 39:10, 46:7, 46:8, 46:9, 46:10, 50:22, 50:24

O

object [1] - 14:1
objecting [1] - 32:1
objection [7] - 14:22, 26:3, 31:19, 32:6, 32:7, 37:11, 39:1
obligation [1] - 42:15
observed [1] - 41:13
obviously [5] - 9:5, 42:4, 42:14, 44:16, 47:16

occur [2] - 18:1, 18:4
occurred [1] - 17:21
OF [14] - 1:3, 1:4, 1:7, 1:13, 1:15, 49:22, 50:1, 50:2, 50:5, 50:11, 50:12, 50:17
Office [1] - 5:7
office [6] - 5:9, 5:10, 14:7, 15:14, 15:15, 36:9
officer [5] - 45:24, 46:1, 46:2, 46:4
officers [4] - 22:3, 22:6, 41:5, 41:23
often [1] - 19:22
old [6] - 6:20, 6:21, 13:5, 13:21, 18:15
once [4] - 22:11, 27:7, 27:9, 27:15
one [21] - 10:16, 12:11, 12:24, 13:8, 19:13, 22:19, 26:13, 26:16, 27:18, 27:20, 33:2, 35:19, 35:20, 37:4, 39:16, 41:13, 44:9, 44:15, 44:16, 44:24
open [2] - 35:20, 50:18
opened [1] - 18:24
opening [2] - 3:24, 8:2
operator [1] - 30:11
opinion [3] - 11:25, 12:21, 14:8
order [2] - 3:21, 5:10
organs [2] - 8:2, 8:3
original [1] - 48:1
out-of-state [1] - 46:5
outside [3] - 8:9, 13:19, 44:14
Ovens [2] - 24:21, 42:1
overall [2] - 13:2, 13:16
OVERLY [1] - 1:20
overruled [3] - 14:22, 32:7, 37:14
overview [3] - 26:14, 26:16, 39:9
own [3] - 15:14, 18:20, 46:22

P

PAGE [1] - 2:2
pairs [1] - 22:22
parking [1] - 44:8
part [6] - 9:5, 19:7, 21:18, 23:8, 30:6, 32:17

participated [1] - 32:18
particular [1] - 8:13
partner [4] - 22:20, 22:22, 29:5, 40:17
pass [2] - 16:1, 39:18
passed [2] - 13:17, 45:21
pathologist [2] - 5:6, 5:14
patrol [2] - 22:3, 22:6
patrolmen [1] - 22:8
PEACE [1] - 1:15
pent [1] - 27:23
people [4] - 19:22, 21:22, 23:9, 41:8
performed [5] - 6:6, 6:15, 8:16, 35:4, 35:5
period [4] - 11:22, 12:19, 17:18, 17:24
person [9] - 22:12, 23:16, 24:16, 27:19, 28:10, 34:7, 50:23, 50:24
person's [1] - 34:11
personally [3] - 6:13, 25:2, 25:3
persons [1] - 28:6
petal [3] - 24:13, 41:14, 41:15
petechial [2] - 16:11, 17:2
phonetic [1] - 40:20
photograph [3] - 38:17, 39:8, 39:14
photographed [1] - 25:3
photographs [17] - 19:6, 24:14, 24:17, 24:22, 24:23, 25:10, 25:11, 25:13, 25:22, 25:23, 25:24, 25:25, 26:9, 38:14, 38:21, 39:6, 42:2
physical [1] - 13:6
physically [2] - 41:7, 41:12
pick [2] - 29:25, 43:3
picture [2] - 26:25, 39:14
pictures [2] - 26:21, 42:23
piece [1] - 23:23
pink [1] - 34:4
pipe [3] - 24:10, 24:11, 27:9
pipes [1] - 24:8
place [3] - 30:7, 33:8, 39:10

plain [2] - 41:5, 43:8
Plaintiff [2] - 1:8, 50:6
plastic [2] - 24:12, 41:15
plugging [1] - 27:8
point [11] - 12:10, 13:20, 23:23, 28:9, 30:11, 33:21, 33:24, 36:7, 36:14, 45:8, 48:16
police [5] - 21:21, 22:1, 35:25, 36:2, 46:4
Police [1] - 21:1
polygraph [24] - 29:17, 30:11, 30:14, 30:23, 30:24, 31:3, 31:4, 31:10, 32:12, 36:8, 42:8, 44:24, 44:25, 45:1, 45:3, 45:5, 45:8, 45:12, 45:17, 45:24, 46:6, 46:17, 47:4, 47:9
polygraphs [1] - 46:12
portion [1] - 11:24
possible [3] - 10:7, 10:20, 18:7
post [4] - 5:13, 6:6, 46:2, 46:3
PR [1] - 23:15
preliminary [6] - 3:7, 3:9, 5:21, 5:23, 49:1, 49:12
PRELIMINARY [1] - 1:13
present [7] - 9:4, 29:7, 40:5, 40:7, 40:10, 42:17, 45:6
presented [1] - 49:13
pressure [11] - 11:16, 11:18, 11:21, 11:25, 12:6, 12:9, 12:11, 12:20, 12:22, 13:1, 27:23
pretty [1] - 12:13
previously [1] - 25:23
problems [1] - 31:21
proceedings [1] - 50:19
PROCEEDINGS [2] - 49:22, 50:17
product [3] - 9:4, 9:6, 11:3
progressed [1] - 32:20
Proposed [1] - 25:8
provided [1] - 7:17
proximity [1] - 23:1
PUBLIC [1] - 1:22
public [1] - 3:25
Puppy [6] - 24:12,

26:20, 26:24, 37:3,
37:6, 39:9
purple [1] - 41:15
pursuant [1] - 50:18
put [5] - 27:13, 34:15,
37:5, 44:7, 44:13
putting [1] - 21:23

Q

qualifications [1] -
14:3
qualified [1] - 14:2
questioning [3] -
46:14, 46:18, 46:22
questions [8] - 15:25,
19:10, 30:15, 31:9,
47:16, 47:18, 47:20,
48:5
quick [1] - 39:7
quickly [2] - 12:13,
27:25
quietly [1] - 25:9

R

raise [4] - 4:7, 4:9,
20:11, 31:19
ran [1] - 33:6
range [2] - 12:24,
12:25
re [2] - 31:11, 47:11
RE [1] - 50:8
re-entered [1] - 47:11
re-interview [1] -
31:11
reached [1] - 29:16
ready [1] - 3:9
real [1] - 39:7
really [1] - 28:12
rebuttal [1] - 49:8
recant [1] - 36:14
received [2] - 19:4,
21:21
recent [1] - 9:6
recognize [5] - 25:10,
25:13, 38:15, 38:16,
38:20
recognized [2] -
25:19, 25:24
record [7] - 4:15, 13:8,
13:9, 13:19, 20:17,
23:25, 24:2
recorded [1] - 31:5
records [3] - 18:11,
18:20, 46:9
recover [1] - 28:1
recovered [2] - 37:18,
37:21
Redirect [1] - 2:6

redirect [2] - 19:12,
48:6
REDIRECT [1] - 19:15
refer [2] - 5:1, 5:2
referred [1] - 32:13
referring [2] - 34:5
reflect [2] - 23:25,
24:2
regain [3] - 12:10,
12:11, 12:18
regarding [5] - 13:4,
14:8, 36:12, 48:13,
50:18
reissue [1] - 47:11
relations [1] - 38:6
relative [1] - 10:17
released [1] - 12:11
relying [1] - 14:13
remain [1] - 3:8
remained [2] - 40:12,
41:9
remember [2] - 40:25,
47:20
remotely [1] - 31:5
removed [7] - 22:9,
24:9, 26:17, 27:7,
27:10, 27:12, 41:19
removing [1] - 8:3
repeat [1] - 14:23
repeated [1] - 34:24
repercussions [1] -
36:1
report [10] - 4:24, 5:1,
5:2, 9:10, 10:5, 10:7,
14:13, 17:13, 22:1,
28:6
reported [2] - 7:16,
50:17
Reported [1] - 1:25
Reporter [1] - 50:14
REPORTER'S [2] -
1:13, 50:17
requested [1] - 29:17
reserve [1] - 49:8
residence [7] - 33:14,
33:22, 33:24, 36:17,
37:3, 39:10, 39:15
residences [2] -
28:25, 33:3
resolved [1] - 13:13
responded [2] - 22:4,
40:2
responding [1] -
21:20
response [1] - 32:3
responsibility [1] -
23:8
rest [1] - 48:12
rests [3] - 48:19,
48:20, 49:5

results [1] - 45:19
retired [2] - 46:1, 46:5
retrieved [1] - 41:10
returned [1] - 37:25
review [1] - 9:24
reviewed [2] - 24:25,
38:21
rights [2] - 30:21, 31:1
rise [1] - 27:9
road [1] - 26:15
Robello [1] - 40:20
Robello's [1] - 41:1
role [2] - 5:16, 23:13
room [16] - 31:4, 36:3,
36:9, 44:7, 44:13,
44:14, 44:17, 44:24,
44:25, 45:9, 45:11,
46:24, 47:2, 47:6,
47:8, 47:11
rotation [2] - 23:4
round [1] - 24:10
running [1] - 24:11
runs [1] - 24:10
RYAN [2] - 2:8, 20:18
Ryan [3] - 3:19, 20:9,
20:18

S

slChrista [2] - 49:24,
51:4
sanitary [5] - 22:10,
24:6, 26:15, 26:18,
26:22
saw [4] - 18:20, 21:25,
25:20, 41:22
scar [1] - 43:6
scared [1] - 36:1
scars [1] - 7:1
scene [22] - 21:10,
21:13, 21:14, 23:11,
23:13, 23:14, 23:19,
24:4, 24:5, 24:6,
24:14, 24:19, 24:21,
25:11, 25:13, 25:25,
26:7, 37:13, 40:2,
40:12, 40:15, 41:9
scenes [1] - 15:15
schedule [3] - 29:20,
29:23, 42:16
scheduled [2] - 3:7,
29:19
SCHWARTZER [39] -
1:19, 3:11, 3:19,
3:23, 4:6, 4:19, 4:22,
9:1, 14:6, 14:17,
14:20, 15:1, 15:25,
19:13, 19:16, 19:24,
20:9, 20:23, 23:25,
24:3, 25:5, 25:7,

25:17, 26:5, 26:19,
32:3, 32:10, 37:12,
37:16, 38:10, 38:12,
38:24, 39:5, 39:18,
48:7, 48:12, 48:16,
48:20, 49:8
Schwartz [5] - 2:6,
4:18, 14:5, 20:20,
32:2
schwartz [2] - 2:4,
2:9
search [6] - 13:8,
36:17, 36:23, 37:1,
38:2, 38:18
seat [2] - 43:20, 43:21
seated [1] - 20:16
second [5] - 26:16,
26:21, 30:7, 42:17,
44:1
seconds [6] - 12:5,
12:9, 12:12, 34:16,
34:22, 34:24
section [2] - 21:2,
27:13
Security [2] - 50:22,
50:24
see [24] - 4:2, 4:23,
8:14, 12:15, 13:3,
16:10, 16:11, 16:12,
16:14, 16:17, 16:21,
16:24, 16:25, 17:1,
17:2, 17:6, 17:7,
18:22, 22:6, 22:10,
22:11, 23:21, 25:9
seeing [1] - 26:10
self [2] - 36:15, 47:23
self-defense [2] -
36:15, 47:23
sergeant [1] - 22:19
set [1] - 30:4
seventeen [5] - 6:21,
13:4, 13:5, 13:20,
18:15
seventeen-year [4] -
13:4, 13:5, 13:20,
18:15
seventeen-years [1] -
6:21
sewage [3] - 24:11,
28:8, 28:20
sewer [24] - 21:23,
21:25, 22:2, 22:7,
22:9, 22:10, 22:12,
24:6, 26:15, 26:18,
26:22, 27:1, 27:10,
27:16, 28:2, 28:3,
28:5, 28:18, 35:16,
37:7, 39:13, 39:17,
41:13
sex [1] - 38:5

sexual [1] - 38:5
shirt [1] - 23:24
short [1] - 33:11
Shorthand [1] - 50:14
shot [1] - 26:17
show [3] - 26:6, 34:17,
39:11
showing [3] - 19:6,
26:23, 38:13
shows [5] - 26:15,
26:20, 26:25, 27:7,
27:9
sick [1] - 13:5
side [3] - 27:20, 27:21,
39:15
significant [2] - 11:22,
11:24
signs [1] - 18:14
sister [2] - 3:24, 28:22
sits [1] - 24:8
situation [1] - 43:8
six [2] - 22:18, 28:8
size [1] - 39:12
skeletal [2] - 10:24,
16:13
slides [3] - 9:21, 9:24,
10:2
slight [1] - 49:13
slow [1] - 18:4
Snapchat [2] - 33:10,
33:11
Social [2] - 50:22,
50:24
soft [3] - 10:8, 16:14
solemnly [2] - 4:10,
20:12
someone [9] - 11:24,
12:1, 14:17, 16:9,
23:3, 24:19, 25:23,
41:16, 47:7
sometime [1] - 38:3
soon [2] - 41:19,
45:18
sorry [2] - 12:7, 13:12
space [2] - 4:17, 27:18
specific [2] - 12:23,
18:5
specifically [4] - 6:10,
24:16, 30:2, 38:5
spell [2] - 4:14, 20:16
spoken [1] - 48:22
spot [1] - 44:8
squad [3] - 22:18,
40:24, 43:6
ss [1] - 50:12
stairs [2] - 44:10,
44:11
stand [1] - 4:7
standards [1] - 46:4

standing [1] - 25:25
start [2] - 25:8, 28:9
started [2] - 32:16, 35:6
STATE [5] - 1:4, 1:7, 50:2, 50:5, 50:11
state [12] - 4:5, 4:14, 20:8, 20:9, 20:16, 46:5, 47:18, 48:11, 48:12, 48:19, 48:20, 49:7
State [2] - 1:19, 50:15
state's [2] - 26:4, 27:4
State's [13] - 2:15, 2:16, 2:17, 2:18, 2:19, 2:20, 2:21, 2:22, 25:8, 27:6, 39:3, 39:9, 39:13
statement [18] - 15:17, 15:19, 29:2, 29:7, 31:18, 32:5, 32:11, 32:12, 33:21, 34:25, 36:4, 36:5, 36:7, 40:9, 40:10, 47:19, 48:1
statements [4] - 19:7, 31:21, 31:25, 32:7
statute [2] - 14:6, 14:7
stay [1] - 33:13
stayed [1] - 40:7
Stedman [2] - 21:15, 26:14
step [2] - 8:11, 48:9
stepped [2] - 45:2, 45:3
steps [1] - 26:25
still [4] - 9:12, 9:19, 14:17, 35:4
stomach [3] - 13:14, 13:17, 13:19
stop [1] - 12:7
story [3] - 31:15, 32:22, 47:17
strangling [2] - 3:13, 48:17
strangulation [2] - 16:9, 16:23
strap [1] - 27:21
straps [1] - 27:13
street [9] - 21:23, 22:9, 24:8, 24:9, 26:17, 28:23
stripe [1] - 27:17
structures [2] - 11:15, 16:15
study [1] - 8:17
stuff [1] - 47:6
submit [1] - 49:10
submitted [4] - 8:13, 9:16, 37:23, 38:2

subpoena [1] - 4:25
subsided [1] - 27:25
supposed [1] - 14:8
surrounding [1] - 10:17
suspect [3] - 42:25, 43:2, 46:18
suspicious [4] - 14:15, 15:10, 15:12, 15:13
sustained [2] - 12:22, 12:25
SUV [1] - 41:3
swab [2] - 42:20, 42:21
swear [3] - 4:8, 4:10, 20:12
system [3] - 5:17, 28:2, 28:3

T

Tamyah [7] - 6:19, 28:7, 28:11, 28:19, 34:8, 34:11, 36:2
Tamyah's [1] - 39:17
tape [1] - 30:18
tattoos [1] - 7:1
Tazer [2] - 34:4, 34:14
team [1] - 22:16
ten [7] - 5:20, 12:4, 12:8, 12:12, 34:16, 34:22, 34:24
term [1] - 16:22
test [7] - 29:17, 29:19, 29:22, 42:19, 45:18, 45:20, 46:15
testified [1] - 5:16
testify [2] - 48:23, 49:1
testifying [2] - 3:17, 18:9
testimony [12] - 3:12, 3:15, 3:22, 4:10, 14:1, 20:3, 20:4, 20:12, 48:9, 48:10, 48:13, 49:12
testing [4] - 8:22, 9:17, 37:23, 37:25
THE [67] - 1:3, 1:7, 1:14, 1:15, 3:6, 3:17, 3:20, 4:1, 4:3, 4:4, 4:7, 4:9, 4:13, 4:14, 4:16, 4:18, 8:23, 8:24, 14:5, 14:11, 14:19, 14:22, 14:24, 16:2, 19:12, 19:25, 20:2, 20:5, 20:6, 20:11, 20:15, 20:16, 20:18, 20:20, 24:2, 25:6, 25:21, 25:24,

26:4, 26:11, 26:13, 27:2, 27:4, 27:5, 27:6, 32:2, 32:6, 37:14, 37:15, 38:11, 39:1, 39:3, 39:20, 48:4, 48:6, 48:8, 48:15, 48:19, 48:21, 48:25, 49:4, 49:5, 49:7, 49:9, 49:11, 49:18, 50:1
third [3] - 36:5, 47:19, 47:22
three [4] - 12:24, 21:6, 28:17, 30:4
thyroid [1] - 16:15
timeframe [1] - 17:22
timeline [1] - 7:17
tissue [3] - 8:13, 10:8, 10:18
tissues [2] - 16:14, 17:3
today [2] - 23:21, 48:23
today's [1] - 37:25
together [1] - 34:1
toilet [3] - 24:7, 41:17
took [9] - 9:10, 24:21, 30:7, 32:17, 34:19, 34:21, 42:2, 44:5, 44:11
top [1] - 26:13
towards [1] - 34:3
town [1] - 21:18
TOWNSHIP [2] - 1:3, 50:1
toxicological [1] - 15:9
toxicology [7] - 8:16, 8:18, 8:20, 8:22, 9:10, 9:11, 9:16
training [1] - 46:4
TRANSCRIPT [4] - 1:13, 49:22, 50:17, 50:21
transported [5] - 40:14, 40:16, 40:24, 41:4, 43:18
transporting [1] - 40:19
trash [1] - 37:20
traumatic [2] - 8:9, 15:8
trials [2] - 5:21, 5:24
Trotter [16] - 6:19, 6:20, 7:5, 13:3, 28:7, 28:11, 28:20, 33:6, 33:12, 33:18, 33:22, 34:3, 34:5, 34:6, 34:11, 35:2
Trotter's [6] - 7:20,

9:13, 15:3, 19:20, 28:25, 35:12
TRUE [1] - 49:21
truth [6] - 4:11, 20:13
try [2] - 17:13, 36:9
twenty [1] - 12:12
two [12] - 12:24, 21:22, 21:24, 24:10, 33:3, 35:5, 39:14, 40:20, 40:22, 44:15, 45:14
two-way [1] - 45:14
type [1] - 39:12
types [2] - 16:9, 16:20

U

UFC [1] - 12:15
unconscious [1] - 12:2
under [2] - 8:14, 16:22
underneath [2] - 27:18, 27:24
understood [1] - 30:20
uniform [1] - 22:6
uniformed [2] - 22:3, 22:8
unknown [2] - 3:14, 48:17
unlocked [1] - 44:21
unmarked [4] - 40:25, 41:2, 43:6, 43:7
unspecified [2] - 15:6, 15:7
up [16] - 4:7, 13:23, 14:14, 17:4, 21:23, 26:21, 27:22, 27:23, 29:14, 29:25, 30:4, 35:14, 39:11, 43:4, 44:10, 44:11
upstairs [1] - 44:5

V

varies [1] - 18:2
VEGAS [3] - 1:3, 3:1, 50:1
Vegas [3] - 21:1, 50:19, 50:20
vehicle [2] - 43:6, 43:7
vett [1] - 22:6
via [2] - 33:11, 45:14
victim [1] - 3:23
video [1] - 31:4
view [3] - 10:14, 15:11, 26:22
visualized [1] - 18:24
voluntarily [1] - 42:12
vs [2] - 1:9, 50:7

W

waited [2] - 21:24, 21:25
waive [3] - 48:24, 49:2, 49:8
walver [1] - 31:1
walk [1] - 44:9
walked [1] - 44:3
walking [1] - 33:3
warm [1] - 35:5
warnings [2] - 45:4, 47:12
warrant [3] - 36:17, 36:23, 38:18
washed [1] - 27:23
watch [1] - 31:5
watching [3] - 45:14, 46:20, 46:23
water [4] - 27:9, 27:10, 27:23, 41:20
wear [1] - 43:10
wearing [2] - 41:5, 43:12
WEDNESDAY [1] - 1:16
weeks [2] - 21:24, 21:25
wheeled [2] - 35:14, 35:15
whole [3] - 4:11, 20:13, 40:7
wide [1] - 12:24
windows [2] - 44:14, 44:16
wine [2] - 33:17, 34:1
witness [8] - 3:9, 3:18, 4:5, 16:1, 20:8, 31:3, 39:19, 43:2
WITNESS [15] - 2:2, 4:3, 4:13, 4:16, 8:24, 14:24, 20:5, 20:15, 20:18, 25:21, 25:24, 26:13, 27:4, 27:6, 37:15
witnesses [4] - 3:21, 20:6, 48:11, 48:21
words [1] - 17:15
works [1] - 46:8
wrestling [1] - 12:15
wrote [1] - 10:4

X

Xanax [1] - 33:17

Y

Yaeger [1] - 20:18
year [4] - 13:4, 13:5,

13:20, 18:15
years [3] - 6:5, 6:21,
21:4
yourself [5] - 22:16,
24:25, 25:2, 41:5,
44:23

Exhibit C

(Filed Under Seal)

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
9/7/2021 12:48 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jayshawn Bailey

Case No.: C-20-347887-1

Department 12

NOTICE OF HEARING

Please be advised that the Motion in Limine to Preclude Admission of Irrelevant and Prejudicial Internet Search in the above-entitled matter is set for hearing as follows:

Date: September 21, 2021

Time: 11:00 AM

Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.


STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Ondina Amos
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Ondina Amos
Deputy Clerk of the Court



ROPP

DARIN F. IMLAY, PUBLIC DEFENDER

NEVADA BAR NO. 5674

KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER

NEVADA BAR NO. 9049

PUBLIC DEFENDERS OFFICE

309 South Third Street, Suite 226

Las Vegas, Nevada 89155

Telephone: (702) 455-4685

Facsimile: (702) 455-5112

HamersKM@clarkcountynv.gov

Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

JAYSHAWN D. BAILEY,

Defendant,

CASE NO. C-20-347887-1

DEPT. NO. XII

DATE: September 9, 2021

TIME: 11:00 a.m.

DEFENDANT'S REPLY TO STATE'S OPPOSITION TO MOTION TO PRECLUDE

EXPERT OPINION TESTIMONY THAT THE MANNER OF DEATH IS HOMICIDE

COMES NOW, the Defendant, JAYSHAWN D. BAILEY, by and through
KATHLEEN M. HAMERS, Deputy Public Defender and hereby submits the following reply.

DATED this 7th day of September, 2021.

DARIN F. IMLAY

CLARK COUNTY PUBLIC DEFENDER

By: /s/Kathleen M. Hamers

KATHLEEN M. HAMERS, #9049

Deputy Public Defender

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KATHLEEN M. HAMERS makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Deputy Public Defender for the Clark County Public Defender's Office appointed to represent Defendant Jayshawn D. Bailey in the present matter;

2. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

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

EXECUTED this 7th day of September, 2021.

/s/Kathleen M. Hamers
KATHLEEN M. HAMERS

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1 this Court should *not* find that the opinion will assist the jury since the jury can evaluate this non-
2 specialized evidence without expert opinion testimony.

3 The California Supreme Court's determination in Mercado, cited by the State, that a
4 medical examiner may rely on hearsay information without violating the Confrontation Clause,
5 is also inapplicable here. The issue is not whether the medical examiner can receive hearsay
6 information, but whether the opinion itself, the manner of death being homicide when based on
7 suspicion or a perceived intent to hide the body, is proper expert opinion testimony. It is not, the
8 opinion is not based on special expertise and the jury can easily evaluate this evidence without
9 the expert opinion.

10 Dr. DiLoreto's opinion that the manner of death in this case is homicide is not based on
11 one shred of medical evidence. The opinion testimony should not be admitted.

12
13
14 DATED this 7th day of September, 2021.

15 DARIN F. IMLAY
16 CLARK COUNTY PUBLIC DEFENDER

17
18 By: /s/Kathleen M. Hamers
19 KATHLEEN M. HAMERS, #9049
20 Deputy Public Defender
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1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that service of the above and forgoing DEFENDANT'S REPLY
3 TO STATE'S OPPOSITION TO MOTION TO PRECLUDE EXPERT OPINION TESTIMONY
4 THAT THE MANNER OF DEATH IS HOMICIDE was hereby served this 7th day of
5 September 2021 via electronic e-filing service to:

6 CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
7 Motions@clarkcountyda.com
8 MICHAEL J. SCHWARTZER, Chief Deputy District Attorney
9 E-mail: michael.schwartz@clarkcountyda.com
10 Attorney for Plaintiff, State of Nevada

11 By: /s/ Sara Ruano
12 Secretary for the Clark County Public Defender's Office
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ROPP
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 9049
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
HamersKM@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-347887-1
)	
v.	)	DEPT. NO. XII
)	
JAYSHAWN D. BAILEY,)	
	)	DATE: September 9, 2021
Defendant,	)	TIME: 11:00 a.m.
_____)	

DEFENDANTS REPLY TO STATES OPPOSITION TO MOTION TO PRECLUDE
ADMISSION OF INTERNET SEARCH

COMES NOW, the Defendant, JAYSHAWN D. BAILEY, by and through
KATHLEEN M. HAMERS, Deputy Public Defender and hereby submits the following reply.

DATED this 7th day of September, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Deputy Public Defender for the Clark County Public Defender's Office appointed to represent Defendant Jayshawn D. Bailey in the present matter;

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

/s/Kathleen M. Hamers
KATHLEEN M. HAMERS

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DATED this 7th day of September, 2021.

By: /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
Motions@clarkcountyda.com
 MICHAEL J. SCHWARTZER, Chief Deputy District Attorney
 E-mail: michael.schwartz@clarkcountyda.com
 Attorney for Plaintiff, State of Nevada

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ROPP
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 9049
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
HamersKM@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-347887-1
)	
v.	)	DEPT. NO. XII
)	
JAYSHAWN D. BAILEY,)	
	)	DATE: September 9, 2021
Defendant,	)	TIME: 11:00 a.m.
)	

**DEFENDANT'S REPLY TO STATE'S OPPOSITION TO MOTION FOR
SUPPLEMENTAL DISCOVERY RELATED TO EXPERT WITNESS DR. DILORETO**

COMES NOW, the Defendant, JAYSHAWN D. BAILEY, by and through
KATHLEEN M. HAMERS, Deputy Public Defender and hereby submits the following reply.

DATED this 7th day of September, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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KATHLEEN M. HAMERS makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Deputy Public Defender for the Clark County Public Defender's Office appointed to represent Defendant Jayshawn D. Bailey in the present matter;

2. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

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

EXECUTED this 7th day of September, 2021.

/s/Kathleen M. Hamers
KATHLEEN M. HAMERS

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DATED this 7th day of September, 2021.

By: /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that service of the above and forgoing DEFENDANT'S REPLY
3 TO STATE'S OPPOSITION TO MOTION FOR SUPPLEMENTAL DISCOVERY RELATED
4 TO EXPERT WITNESS DR. DILORETO was hereby served this 7th day of September 2021 via
5 electronic e-filing service to:

6 CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
7 Motions@clarkcountyda.com
8 MICHAEL J. SCHWARTZER, Chief Deputy District Attorney
9 E-mail: michael.schwartz@clarkcountyda.com
Attorney for Plaintiff, State of Nevada

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11 By: /s/ Sara Ruano
12 Secretary for the Clark County Public Defender's Office
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DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
9/7/2021 2:56 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jayshawn Bailey

Case No.: C-20-347887-1

Department 12

NOTICE OF HEARING

Please be advised that the Defendant's Motion for Supplemental Discovery Related to Expert Witness Dr. Christina Di Loreto in the above-entitled matter is set for hearing as follows:

Date: September 21, 2021
Time: 11:00 AM
Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Imelda Murrieta
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Imelda Murrieta
Deputy Clerk of the Court



AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL J. SCHWARTZER
Chief Deputy District Attorney
Nevada Bar #010747
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JAYSHAWN D. BAILEY,
#5216003
Defendant.

CASE NO: C-20-347887-1

DEPT NO: XII

**AMENDED
INFORMATION**

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That JAYSHAWN D. BAILEY, the Defendant(s) above named, having committed the crime of VOLUNTARY MANSLAUGHTER OF A VULNERABLE PERSON (Category B Felony - NRS 200.040, 200.050, 200.080, 193.1675 - NOC 50020), on or about the 12th day of December, 2019, 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, feloniously, without malice and without

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///

1 deliberation, kill TAMYAH TROTTER, a human being and a vulnerable person, by
2 asphyxiation and/or unknown means.

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

7 BY /s/MICHAEL J. SCHWARTZER
8 MICHAEL J. SCHWARTZER
9 Chief Deputy District Attorney
10 Nevada Bar #010747
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28 LVMPD EV#200100088926
(TK3)



1 **GPA**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL J. SCHWARTZER
6 Chief Deputy District Attorney
7 Nevada Bar #10747
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JAYSHAWN D. BAILEY,
13 #5216003

14 Defendant.

CASE NO: C-20-347887-1

DEPT NO: XII

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: VOLUNTARY MANSLAUGHTER OF A
17 VULNERABLE PERSON (Category B Felony - NRS 200.040, 200.050, 200.080, 193.1675 -
18 NOC 50020), as more fully alleged in the charging document attached hereto as Exhibit "1".

19 My decision to plead guilty is based upon the plea agreement in this case which is as
20 follows:

21 The parties stipulate to a sentence of four (4) to ten (10) years in the Nevada Department
22 of Corrections (NDOC) on the charge of Voluntary Manslaughter. Additionally, the State
23 retains the right to argue on the Vulnerable Person enhancement. The parties further agree to
24 waive any defects in the pleading.

25 All remaining counts contained in the Criminal Complaint which were bound over to
26 District Court shall be dismissed when Defendant is adjudged guilty and sentenced.

27 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
28 and/or impounded in connection with the instant case and/or any other case negotiated in

1 whole or in part in conjunction with this plea agreement.

2 I understand and agree that, if I fail to interview with the Department of Parole and
3 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
4 by affidavit review, confirms probable cause against me for new criminal charges including
5 reckless driving or DUI, but excluding minor traffic violations, the State will have the
6 unqualified right to argue for any legal sentence and term of confinement allowable for the
7 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
8 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
9 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
10 twenty-five (25) year term with the possibility of parole after ten (10) years.

11 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
12 plea agreement.

13 CONSEQUENCES OF THE PLEA

14 I understand that by pleading guilty I admit the facts which support all the elements of
15 the offense(s) to which I now plead as set forth in Exhibit "1".

16 I understand that as a consequence of my plea of guilty, the Court must sentence me to
17 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
18 ONE (1) year and a maximum term of not more than TEN (10) years, plus a consecutive term
19 of ONE (1) year to TEN (10) years for the vulnerable person enhancement. The minimum
20 term of imprisonment may not exceed forty percent (40%) of the maximum term of
21 imprisonment. I understand that I may also be fined up to \$10,000.00.

22 I understand that the law requires me to pay an Administrative Assessment Fee.

23 I understand that, if appropriate, I will be ordered to make restitution to the victim of
24 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
25 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
26 reimburse the State of Nevada for any expenses related to my extradition, if any.

27 I understand that I am eligible for probation for the offense to which I am pleading
28 guilty. I understand that, except as otherwise provided by statute, the question of whether I

1 receive probation is in the discretion of the sentencing judge.

2 I understand that I must submit to blood and/or saliva tests under the Direction of the
3 Division of Parole and Probation to determine genetic markers and/or secretor status.

4 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
5 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
6 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
7 and may receive a higher sentencing range.

8 I understand that if more than one sentence of imprisonment is imposed and I am
9 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
10 the sentences served concurrently or consecutively.

11 I understand that information regarding charges not filed, dismissed charges, or charges
12 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

13 I have not been promised or guaranteed any particular sentence by anyone. I know that
14 my sentence is to be determined by the Court within the limits prescribed by statute.

15 I understand that if my attorney or the State of Nevada or both recommend any specific
16 punishment to the Court, the Court is not obligated to accept the recommendation.

17 I understand that if the offense(s) to which I am pleading guilty was committed while I
18 was incarcerated on another charge or while I was on probation or parole that I am not eligible
19 for credit for time served toward the instant offense(s).

20 I understand that if I am not a United States citizen, any criminal conviction will likely
21 result in serious negative immigration consequences including but not limited to:

- 22 1. The removal from the United States through deportation;
- 23 2. An inability to reenter the United States;
- 24 3. The inability to gain United States citizenship or legal residency;
- 25 4. An inability to renew and/or retain any legal residency status; and/or
- 26 5. An indeterminate term of confinement, with the United States Federal
27 Government based on my conviction and immigration status.
- 28

Regardless of what I have been told by any attorney, no one can promise me that this conviction will not result in negative immigration consequences and/or impact my ability to become a United States citizen and/or a legal resident.

I understand that the Division of Parole and Probation will prepare a report for the sentencing judge prior to sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. This report may contain hearsay information regarding my background and criminal history. My attorney and I will each have the opportunity to comment on the information contained in the report at the time of sentencing. Unless the District Attorney has specifically agreed otherwise, the District Attorney may also comment on this report.

WAIVER OF RIGHTS

By entering my plea of guilty, I understand that I am waiving and forever giving up the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.
2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a reasonable doubt each element of the offense(s) charged.
3. The constitutional right to confront and cross-examine any witnesses who would testify against me.
4. The constitutional right to subpoena witnesses to testify on my behalf.
5. The constitutional right to testify in my own defense.
6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4). However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

1 VOLUNTARINESS OF PLEA

2 I have discussed the elements of all of the original charge(s) against me with my
3 attorney and I understand the nature of the charge(s) against me.

4 I understand that the State would have to prove each element of the charge(s) against
5 me at trial.

6 I have discussed with my attorney any possible defenses, defense strategies and
7 circumstances which might be in my favor.

8 All of the foregoing elements, consequences, rights, and waiver of rights have been
9 thoroughly explained to me by my attorney.

10 I believe that pleading guilty and accepting this plea bargain is in my best interest, and
11 that a trial would be contrary to my best interest.

12 I am signing this agreement voluntarily, after consultation with my attorney, and I am
13 not acting under duress or coercion or by virtue of any promises of leniency, except for those
14 set forth in this agreement.

15 I am not now under the influence of any intoxicating liquor, a controlled substance or
16 other drug which would in any manner impair my ability to comprehend or understand this
17 agreement or the proceedings surrounding my entry of this plea.

18 My attorney has answered all my questions regarding this guilty plea agreement and its
19 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

20 DATED this 8 day of September, 2021.

21
22 
23 JAYSHAWN D. BAILEY
Defendant

24 AGREED TO BY:

25
26 /s/MICHAEL J. SCHWARTZER
27 MICHAEL J. SCHWARTZER
28 Chief Deputy District Attorney
Nevada Bar #10747

1 CERTIFICATE OF COUNSEL:


2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
charge(s) to which guilty pleas are being entered.
- 5 2. I have advised the Defendant of the penalties for each charge and the restitution
6 that the Defendant may be ordered to pay.
- 7 3. I have inquired of Defendant facts concerning Defendant's immigration status
and explained to Defendant that if Defendant is not a United States citizen any
8 criminal conviction will most likely result in serious negative immigration
consequences including but not limited to:
- 9 a. The removal from the United States through deportation;
- 10 b. An inability to reenter the United States;
- 11 c. The inability to gain United States citizenship or legal residency;
- 12 d. An inability to renew and/or retain any legal residency status; and/or
- 13 e. An indeterminate term of confinement, by with United States Federal
Government based on the conviction and immigration status.

14 Moreover, I have explained that regardless of what Defendant may have been
15 told by any attorney, no one can promise Defendant that this conviction will not
16 result in negative immigration consequences and/or impact Defendant's ability
to become a United States citizen and/or legal resident.

- 17 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
consistent with the facts known to me and are made with my advice to the
18 Defendant.
- 19 5. To the best of my knowledge and belief, the Defendant:
- 20 a. Is competent and understands the charges and the consequences of
pleading guilty as provided in this agreement,
- 21 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
- 22 c. Was not under the influence of intoxicating liquor, a controlled
23 substance or other drug at the time I consulted with the Defendant as
24 certified in paragraphs 1 and 2 above.

25 Dated: This 8 day of September, 2021.

26 
27 K. HAMERS, DEPUTY PUBLIC
DEFENDER

28 dd/MVU

1 **AINF**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **MICHAEL J. SCHWARTZER**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #010747**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

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

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

CASE NO: C-20-347887-1

11 **-vs-**

DEPT NO: XII

12 **JAYSHAWN D. BAILEY,**
13 **#5216003**

14 **Defendant.**

AMENDED
INFORMATION

15 **STATE OF NEVADA)**
16 **COUNTY OF CLARK) ss.**

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

19 **That JAYSHAWN D. BAILEY, the Defendant(s) above named, having committed the**
20 **crime of VOLUNTARY MANSLAUGHTER OF A VULNERABLE PERSON (Category B**
21 **Felony - NRS 200.040, 200.050, 200.080, 193.1675 - NOC 50020), on or about the 12th day**
22 **of December, 2019, within the County of Clark, State of Nevada, contrary to the form, force**
23 **and effect of statutes in such cases made and provided, and against the peace and dignity of**
24 **the State of Nevada, did willfully, unlawfully, feloniously, without malice and without**

25 **///**

26 **///**

27 **///**

28 **///**


EXHIBIT '1'

1 deliberation, kill TAMYAH TROTTER, a human being and a vulnerable person, by
2 asphyxiation and/or unknown means.

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

7 BY /s/MICHAEL J. SCHWARTZER
8 MICHAEL J. SCHWARTZER
9 Chief Deputy District Attorney
10 Nevada Bar #010747
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MOT

DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 9049
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
HamersKM@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

JAYSHAWN D. BAILEY,

Defendant,

CASE NO. C-20-347887-1

DEPT. NO. XII

DATE: November 5, 2021
TIME: 11:00 a.m.

**MOTION FOR OWN RECOGNIZANCE RELEASE OR SETTING OF REASONABLE
BAIL**

COMES NOW, the Defendant, JAYSHAWN D. BAILEY, by and through KATHLEEN M. HAMERS, Deputy Public Defender, and hereby requests that this Court grant him an own recognizance release, or, in the alternative, set reasonable bail pending sentencing in this case.

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

DATED this 2nd day of November, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Deputy Public Defender for the Clark County Public Defender's Office appointed to represent Defendant Jayshawn D. Bailey in the present matter;

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

/s/ Kathleen M. Hamers
KATHLEEN M. HAMERS

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On September 9, 2021, Jayshawn entered a guilty plea to one count of voluntary manslaughter of a vulnerable person. He has stipulated to a prison sentence in this case. Sentencing is scheduled for January 5, 2022, where he is to receive a sentence of 4-10 years on the voluntary manslaughter charge and an additional sentence of up to ten years on the vulnerable person enhancement.

Pursuant to N.R.S. 178.4853, the factors to consider in reviewing the custody status of a person are:

1. The length of residence in the community—Jayshawn has lived in this community his entire life
2. The status and history of employment—Prior to incarceration, Jayshawn has been employed.
3. Relationships with the person's spouse and children, parents or other family members and with close friends—as explained further below, it is Jayshawn's close relationship with his mother, Wealthy McNair, that motivates his desire for a release pending sentencing.

4. Reputation, character and mental condition—Jayshawn does not have a bad reputation and has not shown bad character previously. He is intellectually disabled and suffers from Fetal Alcohol Syndrome.
5. Prior criminal record—Jayshawn has no prior criminal record.
6. The identity of responsible members of the community who would vouch for the reliability of the person—Jayshawn's mother, Wealthy McNair, would vouch for Jayshawn's character and his reliability and whereabouts while on any release from custody.
7. The nature of the offense . . . probability of conviction and the likely sentence—Jayshawn has entered a guilty plea to voluntary manslaughter, he will be adjudicated guilty and he will be sentenced to time in prison.
8. The nature and seriousness of the danger to the alleged victim, and any other person or the community that would be posed by the person's release—Jayshawn is not a danger to anyone if granted a release pending sentence. The circumstances of this case were an anomaly and not consistent with his character, he is not a danger.
9. Any other factors concerning the person's ties to the community or bearing on the risk that the person may willfully fail to appear—Jayshawn has consistently shown his cooperation and that he will not flee. He cooperated with police in this case, reported the body, and ultimately confessed. He never tried to flee despite a lengthy opportunity to do so. He will not fail to appear at sentencing.

If the court releases Jayshawn without bail pending sentencing, the Court can impose any conditions necessary on his release to ensure his future appearance pursuant to N.R.S. 178.4851.

Jayshawn's desire to be released pending sentencing stems from his close relationship with his mom, Wealthy McNair. Ms. McNair adopted Jayshawn as an extremely premature, drug and alcohol exposed special needs baby. She raised him his entire life and as she has gotten older, Jayshawn has been a tremendous help to her. Jayshawn fears that with his upcoming

1 prison sentence, by the time he is able to be paroled, Ms. McNair will no longer be living. Both
2 Jayshawn and Ms. McNair strongly desire to have this time together as it will near certainly be
3 their last.

4 Wealthy McNair says that Jayshawn is a son to her and means so much to her. She
5 appreciates him and loves him. She says that he has never been a bad kid, and did chores around
6 the house. He vacuumed; cleaned up after the dogs; washed the dishes; and took her to the store
7 and her appointments. Wealthy was proud that Jayshawn eventually finished high school and
8 hoped he could go on to attend college with financial aid. She loves him with all of her heart.

9 Jayshawn says that Wealthy means everything to him. She took care of him when no one
10 else would when his biological mom had damaged him before he was born and then wouldn't
11 take care of him. Wealthy was always there for him. Jayshawn mentioned that Ms. McNair
12 never had a lot of money, was on assistance herself, but still shared everything she had with him,
13 still always had birthday parties for him. Wealthy always forgave him. She would get angry and
14 she would discipline him, but she always forgave him. Though Jayshawn was born with
15 virtually no chance of being loved and cared for by his family, Wealthy loved him. She is 81
16 years old and Jayshawn desperately wants a chance to spend some time with his mom before he
17 goes to prison and loses that chance forever.

18 CONCLUSION

19 For the foregoing reasons, Jayshawn Bailey requests that this Court grant him an own
20 recognizance release, or, set reasonable bail, pending his January 5, sentencing in this case.

21
22 DATED this 2nd day of November, 2021.

23 DARIN F. IMLAY
24 CLARK COUNTY PUBLIC DEFENDER

25
26 By: /s/Kathleen M. Hamers
27 KATHLEEN M. HAMERS, #9049
28 Deputy Public Defender

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YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 5th day of November, 2021, at 11:00 a.m.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC SERVICE

By: /s/ Jennifer Georges -PD
An employee of the
Clark County Public Defender's Office

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
11/3/2021 7:23 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jayshawn Bailey

Case No.: C-20-347887-1
Department 12

NOTICE OF HEARING

Please be advised that the Defendant's Motion for Own Recognizance Release or Setting of Reasonable Bail in the above-entitled matter is set for hearing as follows:

Date: November 09, 2021
Time: 8:30 AM
Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Marie Kramer
Deputy Clerk of the Court

Case Number: C-20-347887-1

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On January 21, 2020, Defendant Jayshawn Bailey ("Defendant") was arrested for the
4 crime of murder. On January 22, 2020, Defendant was charged via a Criminal Complaint
5 with one count of Open Murder. Defendant was arraigned on January 24, 2020 and a
6 preliminary hearing was originally set for March 4, 2020.

7 On March 4, 2020, the preliminary hearing was continued due to the autopsy report
8 not being finished. On March 16, 2020, Defendant filed a motion to be placed on house
9 arrest. The State filed an opposition on March 18, 2020. On March 18, 2020, Judge Letizia
10 denied Defendant's motion.

11 On April 1, 2020, a preliminary hearing was conducted. At the conclusion of
12 evidence, Judge Letizia bound the case up to district court for trial. An Information was filed
13 on April 2, 2020.

14 On April 16, 2020, Defendant was arraigned in district court and invoked his right to
15 a speedy trial. Defendant filed a Motion for Own Recognizance Release on April 20, 2020.
16 The State Opposed the Motion in writing. The Court continued the Motion to review the
17 Preliminary Hearing Transcript. On May 7, 2020, the Court denied the Defendant's Motion
18 and a Jury Trial was scheduled for August 10, 2020 with a Calendar Call date of August 4,
19 2020.

20 On May 18, 2020, Defendant filed a Petition for Writ of Habeas Corpus. The State
21 filed a Return to the Writ on June 2, 2020. Defendant filed a Reply on June 8, 2020. The
22 Court denied the Petition of Writ on June 11, 2020.

23 The Defendant's trial date was vacated and continued to September 28, 2020. The
24 Defendant filed a Motion for Discovery on July 6, 2020 and the State filed a Response on
25 July 15, 2020. The Court ruled on the discovery motion on July 21, 2020.

1 On September 23, 2020, Defendant requested a continuance for jury trial and the
2 State had no opposition. Trial was rescheduled for January 4, 2021. That trial date was
3 subsequently vacated, and trial was scheduled for January 25, 2021.¹

4 On December 14, 2020, Defendant filed a second Motion for Own Recognizance
5 Release or Setting of Reasonable Bail. The State opposed the Motion on December 16, 2020.
6 The court denied the Defendant's motion on December 18, 2020.

7 On September 9, 2021, the Defendant entered a plea of guilty to Voluntary
8 Manslaughter of a Vulnerable Person. Pursuant to the Guilty Plea Agreement, the parties
9 stipulated to four (4) to ten (10) years in the Nevada Department of Corrections on the
10 Voluntary Manslaughter charge and the State retains the right to argue on the Vulnerable
11 Person enhancement. Sentencing is currently scheduled for January 7, 2022.

12 On November 2, 2021, the Defendant filed a third Motion for Own Recognizance of
13 Release or Setting of Reasonable Bail. The State opposes as follows.

14 **STATEMENT OF RELEVANT FACTS**

15 On January 19, 2020, the Defendant called 911 stating that a month prior he noticed
16 two people putting something in the sewer up the street from his house. See "Preliminary
17 Hearing Transcript" attached as Exhibit 1. The Defendant stated he waited two weeks, went
18 down to the sewer, and found a body. PHT, 21. The Defendant claimed he waited another
19 couple of weeks and his conscience got to him, so he called police. PHT, 21-22. Patrol
20 officers arrived at the scene at the intersection of Fred Brown and Dwayne Stedman. PHT,
21 21. Officers removed the sewer cover and saw the body below. PHT, 22. Homicide
22 Detectives Yaeger and Embrey arrived at the scene. PHT, 22.

23 Detective Yaeger observed the body inside the sewer, as well as a blue Puppy Chow
24 dog food bag, a plastic bowl, and a fake flower petal. PHT, 24. Detectives confirmed the
25 deceased body missing person Tamyah Trotter ("Trotter"). PHT, 28. Detectives discovered
26 that the Defendant resided three (3) houses from the sewer where Trotter's body was found.

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¹ Trial was subsequently vacated.

1 PHT, 28. Detectives were also discovered that Trotter's house was located on the same street
2 as the Defendant's home and the sewer. PHT, 28.

3 On January 21, 2020, Detectives interviewed the Defendant at Metro Headquarters.
4 PHT, 29. The Defendant consented to a polygraph examination. PHT, 31. After the
5 polygraph, Detectives re-interviewed the Defendant. PHT, 31. Once confronted with
6 inconsistencies, the Defendant admitted that on December 12, 2019, he ran into Trotter at
7 McDonalds. PHT, 32-33. The Defendant claimed Trotter said she had been kicked out of her
8 house and didn't have a place to live. PHT, 33. The Defendant claimed the two exchanged
9 Snapchat information and continued to communicate through the app. PHT, 33. The
10 Defendant claimed Trotter asked to come to his house and he agreed. PHT, 33. The
11 Defendant stated Trotter came over and they drank a bottle of wine together. PHT, 34. The
12 Defendant claimed Trotter became aggressive and brandished a pink tazer. PHT, 34. The
13 Defendant stated he grabbed her and put her in a headlock for approximately ten (10)
14 seconds. PHT, 34. The Defendant indicated Trotter's body went limp. PHT, 34. The
15 Defendant claimed he tried performing CPR for two (2) hours but Trotter's body turned cold
16 and he thought she was dead. PHT, 35. The Defendant stated he hid Trotter's body in his
17 bedroom until the following night. PHT, 35. The Defendant admitted that he loaded Trotter's
18 body into a very large wheeled garbage can and dumped her body in the sewer. PHT, 35.

19 Detectives interviewed the Defendant a third time where he began to recant his story.
20 PHT, 36. The Defendant claimed it was self-defense and then stated, "you know what I'm
21 evil." PHT, 36.

22 On January 20, 2020, an autopsy was performed on Trotter's body. PHT, 6. Forensic
23 Pathologist, Dr. Christina Di Loreto ("DiLoreto"), indicated there was possible soft tissue
24 injury and hemorrhage in the left lower extremity. PHT, 10. One of the muscles of the neck
25 had darker discoloration relative to the surrounding tissue. PHT, 10. Di Loreto indicated the
26 discoloration could have resulted from injury or decomposition. PHT, 11. Di Loreto stated
27 that asphyxiation or choking would not necessarily leave a mark on someone's neck
28 depending on how pressure was applied and if the asphyxia is due to compression of internal

1 structures of the neck. PHT, 11. Specifically, if pressure to the carotid artery was applied,
2 there may not be a mark. PHT, 11. Di Loreto indicated that pressure to the carotid artery
3 would result in loss of consciousness within ten to fifteen seconds. PHT, 12. However,
4 pressure that was applied for a couple of minutes could result in death. PHT, 12.

5 Di Loreto determined Trotter's cause of death was homicide by unspecified means.
6 PHT, 15. "Unspecified means" is where there are no fatal traumatic injuries, no fatal natural
7 disease, or toxicological cause of death identified. PHT, 15.

8 On January 21, 2020, Detectives executed a search warrant at the Defendant's
9 residence. PHT, 36. Detectives recovered a matching Puppy Chow dog food bag. PHT, 37.
10 They also recovered apparent blood on the carpet and hair. PHT, 37. Additionally, used
11 condoms and gloves were found in the garbage can. PHT, 37.

12 ARGUMENT

13 14 **I. DEFENDANT IS NOT ENTITLED TO BAIL AND SHOULD NOT BE** 15 **RELEASED ON HIS OWN RECOGNIZANCE SINCE THERE IS NO** 16 **LONGER THE PRESUMPTION OF INNOCENSE.**

17 NRS 178.484 provides that individuals arrested and held pursuant to a charge of
18 murder may be held without bail, and indeed, must be held without bail where the proof is
19 evident or presumption great that the defendant committed the crime. Specifically, it states:

20 1. Except as otherwise provided in this section, a person arrested
21 for an offense other than murder of the first degree must be admitted
22 to bail.

23 ...

24 4. A person arrested for murder of the first degree *may* be
25 admitted to bail *unless* the proof is evident or the presumption great
26 by any competent court or magistrate authorized by law to do so in
27 the exercise of discretion, giving due weight to the evidence and to
28 the nature and circumstances of the offense.

27 NRS 178.484(1);(4) (2019). The language of NRS 178.484 specifically states that a person
28 arrested for murder in the first degree is not entitled to bail unless the court finds the proof is

1 not evident or the presumption is not great. Then and only then, may the court consider the
2 factors outlined in NRS 178.498 and NRS 178.4853.

3 This Court previously determined that the proof is evident and the presumption great
4 when it denied bail on May 27, 2020 and again on December 18, 2021. The only change of
5 circumstances since the court denied the Defendant's second motion is that Defendant pleaded
6 guilty to Voluntary Manslaughter of a Vulnerable Person. Furthermore, the Defendant has
7 stipulated to serve a minimum of four (4) to ten (10) years in prison with the State retaining
8 the right to argue for additional time for the vulnerable person enhancement. Therefore, the
9 Defendant no longer has the presumption of innocence he once did before entering his plea.

10 Additionally, even if this court were to find that bail should be set after the Defendant's
11 plea, there is significant concern regarding the Defendant's likelihood to appear at future court
12 dates since he has now stipulated to substantial prison time. In Valdez-Jimenez, the Nevada
13 Supreme Court held that where a court is considering bail, the bail amount and restrictions, if
14 any, must be directly related to one of two state interests: "to ensure the appearance of the
15 accused at all stages of the proceedings or to protect the safety of the victim and the
16 community." Valdez-Jimenez, 136 Nev. Ad. Op. at 13. Thus, the court must relate the bail
17 setting to one of the two aforementioned principles in determining the amount and any non-
18 monetary release conditions.

19 The Defendant's reason for seeking an Own Recognizance release is to spend time with
20 his mother before going to prison. While the Defendant may prefer that option, one not
21 afforded to the victim in this case before her death, it is not compelling enough to outweigh
22 the risk of flight before sentencing. The Defendant was living with his mother when the victim
23 suffered her death. There is nothing to suggest the Defendant is not a threat to the community
24 once released to the same conditions that existed when the victim was killed.

25 CONCLUSION

26 Provided the Defendant was charged with Murder for which he subsequently pled
27 guilty; the Defendant is not entitled to bail. Even if the court were to find the Defendant is
28

1 entitled to bail, there is no combination of nonmonetary conditions sufficient to reasonably
2 ensure the Defendant's appearance for future court appearance and safety to the community.

3 DATED this 4th day of November, 2021.

4 Respectfully submitted,

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

8 BY /s/MICHAEL J. SCHWARTZER
9 MICHAEL J. SCHWARTZER
10 Chief Deputy District Attorney
11 Nevada Bar No. 10747

12 CERTIFICATE OF ELECTRONIC FILING

13 I hereby certify that service of the above and foregoing, was made this 4th day of
14 November, 2021, by Electronic Filing to:

15 KATHLEEN HAMERS, Deputy Public Defender
16 Email: hamerskm@clarkcountynv.gov

17 BY: /s/Deana Daniels
18 Secretary for the District Attorney's Office
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20F01585X/MJS/dd/MVU

Heather L. Hume
CLERK OF THE COURT

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SARAH E. OVERLY
Chief Deputy District Attorney
Nevada Bar #012842
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAYSHAWN D. BAILEY,
#5216003
Defendant.

CASE NO: C-20-347887-1

DEPT NO: XII

ORDER

THIS MOTION having come before the above entitled Court and based off of a Minute Order issued on the 8th day of November, 2021.

The court having reviewed the pleadings submitted herein. IT IS HEREBY ORDERED that the Defendant's Motion for Own Recognizance Release or Setting of Reasonable Bail is DENIED.

DATED this _____ day of November, 2021. Dated this 15th day of November, 2021

Michelle Leavitt

DISTRICT JUDGE

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

**989 D9F AD8E 3C4C
Michelle Leavitt
District Court Judge**

BY /s/ Sarah E. Overly
SARAH E. OVERLY
Chief Deputy District Attorney
Nevada Bar #012842
20F01585X/saj/MVU

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-20-347887-1

7 vs

DEPT. NO. Department 12

8 Jayshawn Bailey
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/15/2021

15 PUBLIC DEFENDER

PDclerk@ClarkCountyNV.gov

16 Kathleen Hamers

HamersKM@clarkcountynv.gov

17 Sara Ruano

ruanosg@clarkcountynv.gov

18 DA Motions

Motions@clarkcountyda.com

19 DC 12 Law Clerk

Dept12LC@clarkcountycourts.us

20 Michael Schwartzer

Michael.Schwartz@clarkcountyda.com

21 Sarah Overly Deputy District Attorney

Sarah.Overly@clarkcountyda.com

22 Anna Clark Chief Deputy Public Defender

Anna.Clark@clarkcountyNV.gov

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
1518 - 1524
WILL FOLLOW VIA
U.S. MAIL**



MOT

DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 9049
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
HamersKM@clarkcountynv.gov
Attorneys for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-347887-1
)	
v.	)	DEPT. NO. XII
)	
JAYSHAWN D. BAILEY,)	
	)	DATE: January 7, 2022
Defendant,	)	TIME: 11:00 a.m.
)	

**DEFENDANT'S MOTION TO APPOINT ALTERNATE COUNSEL
FOR MOTION TO WITHDRAW PLEA**

COMES NOW, the Defendant, JAYSHAWN D. BAILEY, by and through KATHLEEN M. HAMERS, Deputy Public Defender and hereby requests that this Court appoint alternate counsel for the purpose of moving to withdraw his guilty plea.

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

DATED this 7th day of December, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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KATHLEEN M. HAMERS makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Defender for the Clark County Public Defender's Office appointed to represent shawn D. Bailey in the present matter;

2. I am more than 18 years of age and am competent to testify as to the matters I am familiar with the procedural history of the case and the substantive law by The State of Nevada. I also have personal knowledge of the facts stated and have been informed of these facts and believe them to be true.

3. Mr. Bailey has expressed his desire to move to withdraw his guilty plea in cause counsel represented him in negotiations and for entry of plea, Mr. Bailey alternate counsel for purposes of a motion to withdraw his guilty plea. He is the Court appoint him counsel for that purpose.

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

DATED this 7th day of December, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 7th day of January, 2022, at 11:00 a.m., in District Court Department XII.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC SERVICE

By: /s/ Sara Ruano
An employee of the
Clark County Public Defender's Office

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
12/9/2021 7:19 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jayshawn Bailey

Case No.: C-20-347887-1

Department 12

NOTICE OF HEARING

Please be advised that the [72] Defendant's Motion To Appoint Alternate Counsel For Motion To Withdraw Plea in the above-entitled matter is set for hearing as follows:

Date: January 06, 2022
Time: 11:00 AM
Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Kadir Beckom
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Kadir Beckom
Deputy Clerk of the Court



MEMO

DARIN F. IMLAY, PUBLIC DEFENDER

NEVADA BAR NO. 5674

KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER

NEVADA BAR NO. 9049

PUBLIC DEFENDERS OFFICE

309 South Third Street, Suite 226

Las Vegas, Nevada 89155

Telephone: (702) 455-4685

Facsimile: (702) 455-5112

HamersKM@clarkcountynv.gov

Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

JAYSHAWN D. BAILEY,

Defendant,

CASE NO. C-20-347887-1

DEPT. NO. XII

SENTENCING MEMORANDUM

COMES NOW, the Defendant, JAYSHAWN D. BAILEY, by and through KATHLEEN M. HAMERS, Deputy Public Defender and hereby submits the following SENTENCING MEMORANDUM.

DATED this 4th day of April, 2022.

DARIN F. IMLAY

CLARK COUNTY PUBLIC DEFENDER

By: /s/Kathleen M. Hamers

KATHLEEN M. HAMERS, #9049

Deputy Public Defender

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KATHLEEN M. HAMERS makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Deputy Public Defender for the Clark County Public Defender's Office appointed to represent Defendant Jayshawn D. Bailey in the present matter;

2. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

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

EXECUTED this 4th day of April, 2022.

/s/Kathleen M. Hamers
KATHLEEN M. HAMERS

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I. SOCIAL HISTORY¹

Jayshawn Bailey is a young man that has faced many developmental and social challenges in his life. The trajectory of Jayshawn's development were severely impacted by the actions of his biological mother. Through no fault of his own, Jayshawn was born with a brain that functioned differently because of his mother's drug and alcohol use during her pregnancy. Research has shown that the effects of alcohol and drug use on developing fetuses causes lifelong physical, cognitive, and behavioral impairment. Jayshawn comes before the Court, not functioning as a typical young man, but according to Dr. Novick-Brown, functioning at the level of a six-year-old.²

Jayshawn's birth was a chaotic event that happened shortly after his mother used cocaine. Records show that Jayshawn was born prematurely at thirty-four weeks in respiratory distress, with a heart defect, and addicted to cocaine. His mother had no prenatal care, and she admitted that she had been using marijuana, cocaine, and alcohol throughout her pregnancy. Because of the circumstances surrounding his birth, Jayshawn was hospitalized for almost a month before he was released to Child Haven. Exhibit A.

After Jayshawn's release from the hospital as a young infant, he was taken to Child Haven. A complaint filed against the state and county by the National Center for Youth Law in 2006 notes that Child Haven had been allowed to operate without meeting the minimum licensing standards set forth by state law. Exhibit B. The lawsuit alleged that infants and small children were living alongside teenagers, who posed a risk of harm to small children. The lawsuit also alleged that children's needs were not being met. Jayshawn was placed into a

¹ This social history was collected and prepared by mitigation specialist Emily Reeder, PhD, MSW.

² Dr. Novik-Brown's findings were reported in her report that was previously provided to the Court and referenced in Dr. Brown's testimony at the hearing on Jayshawn's motion to suppress his statements made to police in this case.

1 chaotic environment at Child Haven in his early formative moments in life when he was only
2 weeks old.

3 After residing at Child Haven for a short time, Jayshawn went to live with Wealthy
4 McNair, who is his paternal great-grandmother. Jayshawn was fortunate to live with Wealthy,
5 who, despite her advanced aged, loved Jayshawn as her son. She petitioned the courts for
6 guardianship when Jayshawn was a toddler, and she was appointed as his guardian. Wealthy
7 remained Jayshawn's guardian throughout his childhood.

8 The guardianship records note that neither one of Jayshawn's biological parents was able
9 to care for him. Jayshawn's mother was addicted to crack cocaine, had been incarcerated
10 numerous times, and had given birth to nine children (all of whom were removed from her care).
11 Jayshawn's father was unable to care for him because he was incarcerated. Both of Jayshawn's
12 parents suffered from emotional problems and his mother's side of the family had a history of
13 bipolar disorder and depression. Jayshawn's parents were not able to provide the specialized
14 care that he needed.

15 Jayshawn required special care because of his exposure to drugs and alcohol while he
16 was in-utero. When Jayshawn was about seven months old, he was evaluated at the Special
17 Children's Clinic. He was found to be mildly delayed, and it was recommended that he receive
18 physical therapy in addition to a speech and language evaluation. Exhibit C. As he became a
19 toddler, it was apparent that Jayshawn continued to require special care. Jayshawn was
20 identified as developmentally delayed at the age of two, and he had deficits in the areas of
21 cognition and social/emotional functioning. Exhibit D. As Jayshawn grew older, it was clear to
22 the professionals around him that his exposure to drugs and alcohol in-utero caused him to fall
23 behind the developmental curve for normal children.

24 Jayshawn experienced emotionally challenging events during his childhood, even as he
25 was struggling with the effects of his damaged central nervous system. His guardian, Wealthy
26 McNair, recalls that he was picked on in school because of his small size. Additionally, when he
27 went to visit his biological mother, she hit him in the head with a phone after he was playing
28

1 with other children and got too loud. He also suffered a great loss when the home he shared with
2 Wealthy was destroyed due to a fire. Wealthy explains that Jayshawn was devastated by the fire
3 as a small child, especially because he lost all his toys. These were difficult difficult experiences
4 in childhood that Jayshawn had to navigate on top of all the deficits associated with his
5 impairment.

6 As Jayshawn grew older, he was able to accomplish some significant feats. He graduated
7 high school at the age of twenty, and he was able to secure employment. Although he struggled
8 with medical issues such as headaches, anxiety, and possible brainstem lesions as a young adult,
9 he was able to help Wealthy with chores around the house. He avoided trouble with the law, and
10 he enjoyed spending time close at home with family and friends. Even with his deficits,
11 Jayshawn has accomplished many things in his life to be proud of – graduating high school,
12 gaining employment, and building close relationships to family and friends.

13 14 **II. FACTS OF THIS CASE**

15 In this case, it appears that Jayshawn and Ms. Trotter happened upon each other by
16 chance. She had an argument at home and told Jayshawn she had been kicked out of the house.
17 Jayshawn was staying with the mother that had raised him Wealthy McNair, that lived a few
18 houses away from Tamaya's family. Tamaya went back to that house with Jayshawn, either for
19 a while or for the night and they spent time together. The encounter wasn't planned and the
20 invitation wasn't made with malicious intent.

21 At some point, Jayshawn and Tamaya are in a physical altercation and what Jayshawn
22 explained to police in this case is that he grabbed Tamaya by the neck to get her off of him. Not
23 that he tried to choke or strangle her to unconsciousness. He said that this lasted for ten seconds
24 and that she dropped, not the couple of minutes the medical examiner testified it would take to
25 cause death. It is unclear what actually killed Tamaya. The medical examiner concluded the
26 cause of death was unspecified means.

1 Unfortunately, and likely partially due to Jayshawn's own mental disabilities, he didn't
2 respond the way he needs to when Tamaya either has died or desperately needs help. She ends
3 up tragically being hidden in a sewer. It's hard to believe that Jayshawn was able to do that by
4 himself. It appears that would be something very difficult to do as a very small man without
5 anyone else's help. The Detective that opened the sewer drain said it was very heavy to open,
6 and that was with appropriate equipment. Jayshawn would have been very easy to influence if
7 he had sought out help from someone he thought was a friend in this situation, he is very
8 suggestible. But if that was the case, and this was something that was initiated by someone else,
9 Jayshawn never admitted as much.

10 But because Jayshawn has a heart, and never intended for anything bad to happen to
11 Tamaya, he couldn't live with her being down there in that sewer and no one knowing about it.
12 He called police and reported it. He knew her family was looking for her. If he hadn't called,
13 who knows when she would have been discovered. And had Jayshawn not called, he may never
14 have been connected to her death in any way. But he called anyway.

15 Jayshawn really is a good person at heart. He cares deeply for the woman who raised
16 him. He is hopeful for his future and he remorseful for what happened in this case. He feels for
17 Tamaya and for the pain her family suffers.

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1 **III. CONCLUSION**

2 The negotiations in this case are for 4-10 years for the voluntary manslaughter charge
3 with a right to argue on the enhancement which carries a consecutive 1-10 years. Jayshawn is
4 asking for a sentence of 12-30 months on the enhancement. He is a vulnerable and
5 developmentally disabled person himself. He did not go into this situation intending to do any
6 harm to Tamaya Trotter. The circumstances of this case are an anomaly and he will not do harm
7 in the future. He is very young and has a good chance of rehabilitating and leading a productive
8 life upon release. He feels sincere and appropriate remorse.

9
10
11 DATED this 4th day of April, 2022.

12 DARIN F. IMLAY
13 CLARK COUNTY PUBLIC DEFENDER

14
15 By: /s/Kathleen M. Hamers
16 KATHLEEN M. HAMERS, #9049
17 Deputy Public Defender
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1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that service of the above and forgoing SENTENCING
3 MEMORANDUM was hereby served this 5th day of March 2022 via electronic e-filing service

4 to:

5 CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

6 Motions@clarkcountyda.com

7 MICHAEL SCHWARTZER, Chief Deputy District Attorney

8 E-mail: Michael.Schwartzter@clarkcountyda.com

9 Attorney for Plaintiff, State of Nevada

10 By: /s/ Sara Ruano

11 Secretary for the Clark County Public Defender's Office

EXHIBIT A
(Filed Under Seal)

EXHIBIT B
(Filed Under Seal)

EXHIBIT C
(Filed Under Seal)

EXHIBIT D
(Filed Under Seal)

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
1541 - 1631
WILL FOLLOW VIA
U.S. MAIL**

Heather A. Hamers

CLERK OF THE COURT

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAYSHAWN D. BAILEY
#5216003

Defendant.

CASE NO. C-20-347887-1

DEPT. NO. XII

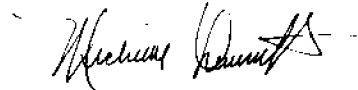
JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of VOLUNTARY MANSLAUGHTER OF A VULNERABLE PERSON (Category B Felony) in violation of NRS 200.040, 200.050, 200.080, 193.1675; thereafter, on the 21st day of April, 2022, the Defendant was present in court for sentencing with counsel KATHLEEN HAMERS and ANNA CLARK, Deputy Public Defenders, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, and \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00 DNA Collection Fee,

1 the Defendant is sentenced to the Nevada Department of Corrections (NDC) as
2 follows: a MAXIMUM of TEN (10) YEARS with a MINIMUM parole eligibility of FOUR
3 (4) YEARS; plus a CONSECUTIVE term of MAXIMUM TEN (10) YEARS with a
4 MINIMUM parole eligibility of FOUR (4) YEARS for Vulnerable Person Enhancement,
5 with EIGHT HUNDRED TWENTY-TWO (822) DAYS credit for time served. The
6 AGGREGATE TOTAL sentence is TWENTY (20) YEARS MAXIMUM with a MINIMUM
7 of EIGHT (8) YEARS.
8

9
10 Dated this 27th day of April, 2022

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12
13 *hvp*
14 **14A 3CE C060 F889**
15 **Michelle Leavitt**
16 **District Court Judge**
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1 **CSERV**

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

5
6 State of Nevada

CASE NO: C-20-347887-1

7 vs

DEPT. NO. Department 12

8 Jayshawn Bailey
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/27/2022

15 PUBLIC DEFENDER

PDclerk@ClarkCountyNV.gov

16 Kathleen Hamers

HamersKM@clarkcountynv.gov

17 Sara Ruano

ruanosg@clarkcountynv.gov

18 DC 12 Law Clerk

Dept12LC@clarkcountycourts.us

19 Michael Schwartzer

Michael.Schwartzter@clarkcountyda.com

20 Anna Clark Chief Deputy Public Defender

Anna.Clark@clarkcountyNV.gov

Steven D. Grierson

Jayshawn D. Bailey ID NO. 1256551

HIGH DESERT STATE PRISON
22010 COLD CREEK ROAD
P.O. BOX 650
INDIAN SPRINGS, NEVADA 89018

District Court
Clark County, Nevada

The State of Nevada Plaintiff

v.

Jayshawn D. Bailey Defendant

CASE NO.: C-20-347887-1

DEPT. NO.: XII

DOCKET: _____

Notice of appeal

COMES NOW, Defendant Jayshawn D. Bailey, herein above respectfully
moves this Honorable Court for an Notice of appeal post-conviction

This Motion is made and based upon the accompanying Memorandum of Points and
Authorities,

DATED: this 06 day of 30, 2020

BY: Jayshawn Bailey

Jayshawn Bailey # 1256551
Defendant/In Proper Personam

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JUL 11 2022

CLERK OF THE COURT

Argument

I want to appeal my judgement of conviction through post-conviction relief. I would like to argue ineffective assistance from my former counsel that was assigned to me to represent me. I know for a fact that the public defender did not represent me through the best of her abilities. me and my attorney was not on good terms and also she was very manipulative. Because of me not being in the right state of mind I was ultimately taken advantage of. Because of that I was sent to prison for a charge that I shouldn't have been charged with from the beginning if it wasn't for my counsel representation I know for a fact that it would be a different outcome. I was told by multiple sources that I had a specific amount of time to file this notice of appeal. I was denied access to the library due to the intake process at high desert state prison. I requested multiple motion forms and I never recieved a response. It took me sixty plus days to gain access to the law library to get this form so I can file this notice of appeal. I pray that the honorable court let me proceed with this appeal.

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CERTIFICATE OF SERVICE BY MAILING

I, Jayshawn D. Bailey, hereby certify, pursuant to NRCP 5(b), that on this 06
day of 30, 2020, I mailed a true and correct copy of the foregoing, "notice
of appeal"

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

DC Court
200 Lewis Avenue
Las Vegas, Nevada
89101

H.D.S.P
Indian Springs, Nevada
89074-0150

CC:FILE

DATED: this 06 day of 30, 2020.

Jayshawn D. Bailey

Jayshawn Bailey

#126651

/In Propria Personam

Post Office box 650 [HDSP]

Indian Springs, Nevada 89018

IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

Notice of appeal
(Title of Document)

filed in District Court Case number C-20-347887-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

(State specific law)

-or-

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

Jayshawn Bailey
Signature

06-30-2022
Date

Jayshawn Bailey
Print Name

appeal
Title

Jayshawn Bailey #1210001

H.D.S.P

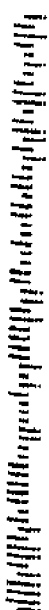
Indian Springs, Nevada

89570-0650

HIGH DESERT STATE PRISON
JUL 04 2022
UNIT 6 C/D

89101-630000

District Court - Hot Pannello
200 Lewis Avenue
Las Vegas, Nevada
89101



LAS VEGAS NV

5 JUL 2022 PM 4:10



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JUL 11 2022

CLERK OF THE COURT



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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 JAYSHAWN D. BAILEY,

14 Defendant(s),
15

Case No: C-20-347887-1

Dept No: XII

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Jayshawn D. Bailey

20 2. Judge: Michelle Leavitt

21 3. Appellant(s): Jayshawn D. Bailey

22 Counsel:

23 Jayshawn D. Bailey #1256551
24 P.O. Box 650
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. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

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: April 2, 2020

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

Type of Judgment or Order Being Appealed: Judgment of Conviction

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 13 day of July 2022.

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: Jayshawn D. Bailey

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAYSHAWN D. BAILEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 85030
District Court Case No. C347887

FILED

SEP - 6 2022

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"ORDER this appeal DISMISSED."

Judgment, as quoted above, entered this 8th day of August, 2022.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
September 02, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk

C-20-347887-1
CCJD
NV Supreme Court Clerks Certificate/Judgm
5004969



IN THE SUPREME COURT OF THE STATE OF NEVADA

JAYSHAWN D. BAILEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85030

FILED

AUG 08 2022


ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

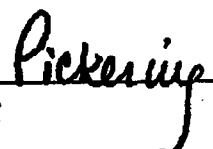
This is a pro se appeal from a judgment of conviction. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

This court's preliminary review of this appeal reveals a jurisdictional defect. Specifically, the district court entered the judgment of conviction on April 27, 2022. Appellant did not file the notice of appeal, however, until July 12, 2022, well after the expiration of the 30-day appeal period described by NRAP 4(b). "[A]n untimely notice of appeal fails to vest jurisdiction in this court." *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994). Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.


Silver


Cadish


Pickering

cc: Hon. Michelle Leavitt, District Judge
Jayshawn D. Bailey
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAYSHAWN D. BAILEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 85030
District Court Case No. C347887

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

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

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

DATE: September 02, 2022

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):

Hon. Michelle Leavitt, District Judge
Jayshawn D. Bailey
Clark County District Attorney

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on SEP - 6 2022.

HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED
APPEALS

SEP - 6 2022

CLERK OF THE COURT

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
1647 - 1650
WILL FOLLOW VIA
U.S. MAIL**



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

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

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

September 14, 2022

Attorney: Public Defender
Clark County Public Defender
309 S 3rd Street Suite #2
Las Vegas NV 89101

Case Number: C-20-347887-1
Department: Department 12

Defendant: Jayshawn D Bailey

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: **Motion For Appointment Of Counsel**

Rule 3.70. Papers which May Not be Filed

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

Cordially yours,

DC Criminal Desk # 7

Deputy Clerk of the Court

Case No. C-202417887-1

Dept. No. XII

IN THE Eighth JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF Clark.

Jayshawn Bailey
Petitioner,

**MOTION FOR THE APPOINTMENT
OF COUNSEL**

-vs-

The State of Nevada
Respondents.

REQUEST FOR EVIDENTIARY HEARING

COMES NOW, the Petitioner, Jayshawn Bailey, proceeding pro se, within the
above entitled cause of action and respectfully requests this Court to consider the appointment of counsel
for Petitioner for the prosecution of this action.

This motion is made and based upon the matters set forth here, N.R.S. 34.750(1)(2), affidavit of
Petitioner, the attached Memorandum of Points and Authorities, as well as all other pleadings and
documents on file within this case.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF THE CASE

This action commenced by Petitioner Jayshawn Bailey, in state custody,
pursuant to Chapter 34, et seq., petition for Writ of Habeas Corpus (Post-Conviction).

II. STATEMENT OF THE FACTS

To support the Petitioner's need for the appointment of counsel in this action, he states the
following:

1. The merits of claims for relief in this action are of Constitutional dimension, and
Petitioner is likely to succeed in this case.

RECEIVED
SEP 09 2022
CLERK OF THE COURT

2. Petitioner is incarcerated at the Petitioner is unable
to undertake the ability, as an attorney would or could, to investigate crucial facts
involved within the Petition for Writ of Habeas Corpus.
3. The issues presented in the Petition involves a complexity that Petitioner is unable to
argue effectively.
4. Petitioner does not have the current legal knowledge and abilities, as an attorney
would have, to properly present the case to this Court coupled with the fact that
appointed counsel would be of service to the Court, Petitioner, and the Respondents
as well, by sharpening the issues in this case, shaping the examination of potential
witnesses and ultimately shortening the time of the prosecution of this case.
5. Petitioner has made an effort to obtain counsel, but does not have the funds
necessary or available to pay for the costs of counsel, see Declaration of Petitioner.
6. Petitioner would need to have an attorney appointed to assist in the determination of
whether he should agree to sign consent for a psychological examination.
7. The prison severely limits the hours that Petitioner may have access to the Law
Library, and as well, the facility has very limited legal research materials and
sources.
8. While the Petitioner does have the assistance of a prison law clerk, he is not an
attorney and not allowed to plead before the Courts and like Petitioner, the legal
assistants have limited knowledge and expertise.
9. The Petitioner and his assisting law clerks, by reason of their imprisonment, have a
severely limited ability to investigate, or take depositions, expand the record or
otherwise litigate this action.
10. The ends of justice will be served in this case by the appointment of professional
and competent counsel to represent Petitioner.

II. ARGUMENT

Motions for the appointment of counsel are made pursuant to N.R.S. 34.750, and are addressed to
the sound discretion of the Court. Under Chapter 34.750 the Court may request an attorney to represent any

such person unable to employ counsel. On a Motion for Appointment of Counsel pursuant to N.R.S. 34.750, the District Court should consider whether appointment of counsel would be of service to the indigent petitioner, the Court, and respondents as well, by sharpening the issues in the case, shaping examination of witnesses, and ultimately shortening trial and assisting in the just determination.

In order for the appointment of counsel to be granted, the Court must consider several factors to be met in order for the appointment of counsel to be granted; (1) The merits of the claim for relief; (2) The ability to investigate crucial factors; (3) whether evidence consists of conflicting testimony effectively treated only by counsel; (4) The ability to present the case; and (5) The complexity of the legal issues raised in the petition.

III CONCLUSION

Based upon the facts and law presented herein, Petitioner would respectfully request this Court to weigh the factors involved within this case, and appoint counsel for Petitioner to assist this Court in the just determination of this action

Dated this 18 day of August, 2022

Jayshawn Bailey
Petitioner.

VERIFICATION

I declare, affirm and swear under the penalty of perjury that all of the above facts, statements and assertions are true and correct of my own knowledge. As to any such matters stated upon information or belief, I swear that I believe them all to be true and correct.

Dated this 18 day of August, 2022.

Jayshawn Bailey
Petitioner, pro per.

CERTIFICATE OF SERVICE BY MAIL

I, Jayshawn Bailey, hereby certify pursuant to N.R.C.P.
5(b), that on this 18 day of August, of the year 2022 I mailed a true and
correct copy of the foregoing Motion for Leave to Proceed in Forma Pauperis; Affidavit in Support of
Motion for Leave to Proceed in Forma Pauperis; Motion for the Appointment of Counsel; and Request for
Evidentiary Hearing, addressed to:

district court eight
Name

Name

Name

200 Lewis Avenue
89155-1160

Address

Address

Address

Jayshawn Bailey
Petitioner

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding motion

for the appointment of counsel

(Title of Document)

filed in District Court Case No. C-203417887

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

(State specific law)

-OR-

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

Raymond Bailey
(Signature)

08-18-2022
(Date)

Jayshawn Bailey #1256551

H.D.S.P.

Indian Springs, Nevada

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LAS VEGAS NEVADA 890

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Thinking of You

Haly Pannullo

200 Lewis Avenue

Las Vegas, Nevada

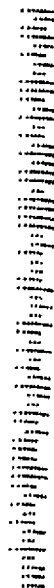
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DISTRICT COURT ROOM

89101-680000



Heather L. Hume
CLERK OF THE COURT

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #10539
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAYSHAWN BAILEY,
#5216003

Defendant.

CASE NO: C-20-347887-1

DEPT NO: XII

**3-DAY EXPEDITED
ORDER FOR TRANSCRIPT**

Upon the ex-parte application of the State of Nevada, represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through, ALEXANDER CHEN, Chief Deputy District Attorney, in order to create a full and accurate record on appeal and necessary for the State to prepare its Court ordered Response that is on calendar October 27, 2022, good cause appearing therefor,

IT IS HEREBY ORDERED that a transcript of the **All Pending Motions – 05/12/2021** and **All Pending Motions – 06/16/2021**, be prepared by Sara Richardson, Court Recorder for the above-entitled Court within 3 days by September 30, 2021.

DATED this _____ day of September, 2022.

Dated this 28th day of September, 2022

Michelle Leavitt
DISTRICT JUDGE

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

93B 9DD 6A2C 2D13
Michelle Leavitt
District Court Judge

BY /s/ Alexander Chen

ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #10539

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-20-347887-1

7 vs

DEPT. NO. Department 12

8 Jayshawn Bailey
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 9/28/2022

15 PUBLIC DEFENDER

PDclerk@ClarkCountyNV.gov

16 Kathleen Hamers

HamersKM@clarkcountynv.gov

17 Sara Ruano

ruanosg@clarkcountynv.gov

18 DC 12 Law Clerk

Dept12LC@clarkcountycourts.us

19 Michael Schwartzer

Michael.Schwartzter@clarkcountyda.com

20 Anna Clark Chief Deputy Public Defender

Anna.Clark@clarkcountyNV.gov



1 **MTWC**
2 **DARIN F. IMLAY, PUBLIC DEFENDER**
3 **NEVADA BAR NO. 5674**
4 **KATHLEEN M. HAMERS, DEPUTY PUBLIC DEFENDER**
5 **NEVADA BAR NO. 9049**
6 **PUBLIC DEFENDER'S OFFICE**
7 **309 South Third Street, Suite 226**
8 **Las Vegas, Nevada 89155**
9 **Telephone: (702) 455-4685**
10 **Facsimile: (702) 455-5112**
11 **HamersKM@clarkcountynv.gov**
12 **Attorneys for Defendant**

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

10 THE STATE OF NEVADA,)	
)	
11 Plaintiff,	)	CASE NO. C-20-347887-1
)	
12 v.	)	DEPT. NO. XII
)	
13 JAYSHAWN D. BAILEY,)	
)	
14 Defendant,	)	HEARING DATE REQUESTED

15 **MOTION TO WITHDRAW AS ATTORNEY OF RECORD**

16 COMES NOW, the Defendant, JAYSHAWN D. BAILEY, by and through
17 KATHLEEN M. HAMERS, Deputy Public Defender, and hereby requests that this Court allow
18 the Public Defender's Office to withdraw from the instant case.

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

22 DATED this 29th of September, 2022.

23 **DARIN F. IMLAY**
24 **CLARK COUNTY PUBLIC DEFENDER**

25
26 By: /s/Kathleen M. Hamers
27 KATHLEEN M. HAMERS, #9049
28 Deputy Public Defender

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KATHLEEN M. HAMERS makes the following declaration:

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

2. Mr. Bailey desires to proceed with a post-conviction petition for writ of habeas corpus and raise grounds of ineffective assistance of counsel. He wishes to have this Court appoint counsel to assist him in that effort. The Public Defender's Office is unable to represent him in that capacity. He recently filed a pro se motion for appointment of counsel that was returned to the Public Defender's Office as he is currently represented by counsel.

3. The Public Defender's Office is requesting to withdraw from this case so that Mr. Bailey may proceed with his motion to appoint counsel and his post-conviction petition for writ of habeas corpus.

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

EXECUTED this 29th day of September, 2022.

KATHLEEN M. HAMERS

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO
WITHDRAW AS ATTORNEY OF RECORD will be heard on a date and time to be determined
and notified by the Clerk of the Court, and set on calendar in District Court, Department 12.

DATED this 29th day of September, 2022.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Kathleen M. Hamers
KATHLEEN M. HAMERS, #9049
Deputy Public Defender

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION TO
WITHDRAW AS ATTORNEY OF RECORD was served via electronic e-filing to the Clark
County District Attorney's Office at motions@clarkcountyda.com on this 29th day of
September, 2022.

By: /s/ Sara Ruano
An employee of the
Clark County Public Defender's Office

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
10/1/2022 4:32 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jayshawn Bailey

Case No.: C-20-347887-1
Department 12

NOTICE OF HEARING

Please be advised that the Motion to Withdraw as Attorney of Record in the above-entitled matter is set for hearing as follows:

Date: October 18, 2022
Time: 8:30 AM
Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court



DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

JAYSHAWN D. BAILEY,

Defendant.

CASE NO. C-20-347887-1

DEPT. NO. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

WEDNESDAY, MAY 12, 2021

RECORDER'S TRANSCRIPT OF PROCEEDINGS
JACKSON V. DENNO HEARING AND STATUS CHECK: TRIAL SETTING

APPEARANCES:

For the State:

MICHAEL J. SCHWARTZER
SARAH OVERLY
Chief Deputy District Attorneys

For the Defendant:

KATHLEEN M. HAMERS
ANNA C. CLARK
Deputy Public Defenders

RECORDED BY: SARA RICHARDSON, COURT RECORDER

INDEX OF WITNESSES

STATE'S WITNESSES:

PAGE

BUDDY EMBREY

Direct Examination by Mr. Schwartzer	7
Cross-Examination by Ms. Clark	20
Redirect Examination by Mr. Schwartzer	30
Recross-Examination by Ms. Clark	47

RYAN JAEGER

Direct Examination by Mr. Schwartzer	48
Cross-Examination by Ms. Clark	62
Redirect Examination by Mr. Schwartzer	76
Recross-Examination by Ms. Clark	78

DEFENSE'S WITNESSES:

PAGE

NATALIE NOVICK BROWN (via teleconference)

Direct Examination by Ms. Hamers	80
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1
2
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LIST OF EXHIBITS

STATE'S EXHIBITS

PAGE

Exhibit 2

36

DEFENDANT'S EXHIBITS

PAGE

None

1 LAS VEGAS, NEVADA, WEDNESDAY, MAY 12, 2021, 1:41 P.M.

2 * * * * *

3 THE COURT: State of Nevada versus Bailey, case C347887. He's present
4 and he is in custody and he's appearing via BlueJeans.

5 Do the attorneys want to make their appearances?

6 MR. SCHWARTZER: Michael Schwartzer and Sarah Overly for the State.

7 MS. HAMERS: Kathleen Hamers and Anna Clark for the defendant.

8 THE COURT: Okay. Does the State want to call their first witness?

9 MR. SCHWARTZER: Yes, Your Honor. The State will call -- well, first off, the
10 State did invoke the exclusionary rule, so.

11 THE DEFENDANT: Your Honor?

12 THE COURT: Who -- who --

13 THE DEFENDANT: I apologize for interrupting, it's Mr. Bailey.

14 THE COURT: I just want to --

15 THE WITNESS: Is it a possibility I could talk to my attorney before we begin
16 please?

17 THE COURT: Sure. What we'll do is she'll call you on the phone.

18 THE MARSHAL: We need to know what room they're in first.

19 THE DEFENDANT: Thank you.

20 THE COURT: Officer, what's the phone number there that she can call him
21 on?

22 THE CORRECTIONS OFFICER: 8334.

23 THE COURT: 8334, so it's 671, right?

24 THE MARSHAL: Yes.

25 MS. HAMERS: And just so Jayshawn's aware, we have a time limit for this

1 hearing so we don't have a lot of time before we start, but I'll give you a call right
2 now.

3 THE DEFENDANT: Thank you.

4 THE COURT: And it's relevant to this hearing, correct?

5 Well, I assume.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: It is?

8 THE DEFENDANT: Yes.

9 THE COURT: Is it relevant to this hearing?

10 THE DEFENDANT: Yeah, I want to ask my attorney a question before we
11 begin. It's very important.

12 THE COURT: Okay. No problem. No problem.

13 THE DEFENDANT: Thank you. Thank you.

14 [Proceedings trailed until 1:45 p.m.]

15 THE COURT: Okay. Everything's good? Okay. All right.

16 The State --

17 Are you okay?

18 THE DEFENDANT: Yes, I'm okay.

19 THE COURT: All right. I mean, if you want to sit down during the hearing you
20 can. You don't have to stand there.

21 THE DEFENDANT: Thank you. But I prefer to stand up.

22 THE COURT: Okay. That's fine.

23 THE DEFENDANT: I appreciate it. Thank you.

24 THE COURT: Okay. You can call your first witness.

25 MR. SCHWARTZER: The State will call Detective Buddy Embrey.

1 THE CLERK: Please stand and raise your right hand.

2 **BUDDY EMBREY,**

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

4 THE CLERK: You may be seated.

5 THE MARSHAL: And it's been a while, so don't drink the water. If you need
6 water, I'll get you some.

7 THE WITNESS: Okay.

8 THE MARSHAL: I didn't know we were having in person today, so sorry.

9 THE CLERK: Please state and spell your first and last name for the record.

10 THE WITNESS: It's Buddy, B-U-D-D-Y, Embrey, E-M-B-R-E-Y.

11 MR. SCHWARTZER: And, Your Honor, just for clarification, have you been
12 able to review the exhibits, like, with the audio and the full video?

13 THE COURT: I didn't look at the video, but yes.

14 MR. SCHWARTZER: Okay.

15 THE COURT: And, I mean, I've read the transcript in its entirety.

16 MR. SCHWARTZER: Understood. But you haven't actually watched the
17 video yet?

18 THE COURT: I have not watched the video.

19 MR. SCHWARTZER: Okay. Thank you, Your Honor.

20 THE CLERK: I haven't given her everything you've given me.

21 MR. SCHWARTZER: No, it was attached to our motions.

22 THE COURT: It was attached to, yeah, the pleadings.

23 MR. SCHWARTZER: I think both of those.

24 ///

25 ///

DIRECT EXAMINATION OF BUDDY EMBREY

BY MR. SCHWARTZER:

Q Detective, can you tell the Court how you're employed?

A I'm employed with the Las Vegas Metropolitan Police Department. I'm a homicide detective.

Q How long have you been a homicide detective?

A It will be ten years tomorrow.

Q How long have you been in the detective bureau?

A 13 years.

Q And as part of homicide detective, I assume you respond to suspicious deaths?

A I do.

Q And specifically are you -- how do you become assigned to a suspicious death to do an investigation?

A We work on a rotational basis. At that time our squad happened to be up for the next murder, homicide, suspicious death, whatever our section lieutenant decides that we respond to.

Q Okay. I want to direct your attention now to January 19th, 2020, you understand the reason why you're subpoenaed here today; is that correct?

A Yes.

Q Okay. January 19, 2020, did you respond or did a partner of yours respond to a scene at 2120 Fred Brown Drive?

A Yes, we did.

Q And do you recall the nature of that -- of that call?

A The nature of the call was that they had discovered human remains in a

1 sewer system.

2 Q And was that sewer system roughly outside of that 2120 Fred Brown
3 residence?

4 A Yes.

5 Q And was there someone who was identified as the 9-1-1 caller?

6 A Yes, there was.

7 Q And did the 9-1-1 caller indicate that there would be a body in that
8 sewer system?

9 A Yes.

10 Q And do you recall who the caller identified himself as?

11 A Yes, Jayshawn Bailey.

12 Q Additionally, did a 9-1-1 -- during that 9-1-1 call, did that -- the 9-1-1
13 caller indicate that he at one point -- well, first off, that he saw someone putting
14 something in the sewer system; is that correct?

15 A That's correct.

16 Q And then did the 9-1-1 caller also indicate some further follow up to
17 what was -- how he knew there was something in the sewer system?

18 A There was a period of time between the caller or Mr. Bailey observing
19 the people placing the object in the sewer system, approximately two weeks after
20 that he went and checked the sewer system and that's when he discovered it was
21 actually a human body.

22 Q Okay. And this is all information that was relayed to the 9-1-1 caller?

23 A That's correct.

24 Q Or 9-1-1 dispatch?

25 A That's correct, yes.

1 Q Based on that, homicide responded?

2 A Yes.

3 Q I assume patrol responded probably beforehand?

4 A Patrol initially responded. I believe the fire department also responded
5 because of the close space confinement. It's just part of their OSHA. And then
6 along with that our armor section also responded due to the close confinement.

7 Q And you already talked about this, but human remains were indeed
8 found in that sewer system outside of the Fred Brown address?

9 A Yes.

10 Q Based on the nature of where the remains were found, did this become
11 an investigation for the Homicide Unit?

12 A Yes, it did.

13 Q And you specifically were one of the people assigned to this case?

14 A It was mine and my partner's.

15 Q And who's your partner?

16 A Detective Jaeger.

17 Q Okay. And that's the individual that's outside right now?

18 A Yes. He's the lead.

19 Q Okay. Now, the lead would also be, like, the case agent?

20 A Yes.

21 Q Okay. Based on that 9-1-1 call and where the remains were found, was
22 it important to call -- talk to the 9-1-1 caller in further detail?

23 A Yes.

24 Q Is it fair to say an interview done by yourself would be different than
25 what a 9-1-1 dispatcher would be looking for?

1 A Absolutely.

2 Q And, specifically, 9-1-1 dispatcher is looking for when an event occurred
3 and what kind of response is needed, right?

4 A Yes.

5 Q You were looking to, kind of, figure out how that person got there and
6 what eventually caused her death?

7 A Yes.

8 Q Did you try to talk to -- and do you see Mr. Bailey here today?

9 A I do. He's on the screen.

10 MR. SCHWARTZER: Okay. Let the record reflect the detective identified the
11 defendant as Mr. Bailey.

12 THE COURT: So reflected.

13 BY MR. SCHWARTZER:

14 Q Did you attempt to talk to, you or someone from your team attempt to
15 talk to Mr. Bailey in that area? At the residence around at Fred Brown Drive?

16 A After we were briefed about the initial investigation they pointed out that
17 Mr. Bailey was at his residence. Myself and Detective Ravelo walked up, introduced
18 ourselves, asked him -- obviously, we needed to speak to him to gather further
19 information. At that time there was kind of a crowd starting to gather in the
20 neighborhood. He was a little apprehensive to speak to us in front of this crowd.
21 We were --

22 Q Is that something unusual for you as a detective?

23 A I won't say it happens too often. But it was a very enclosed kind of
24 residential area. All the house us were pretty close. And on top that he just seemed
25 really uncomfortable to speak to us in front of the crowd.

1 Q Okay. So when a witness -- at this time was Mr. Bailey a suspect? A
2 witness? What was he to you?

3 A No. At that point he was just a 9-1-1 caller, witness.

4 Q Okay. So if a witness is uncomfortable talking to you in front of other
5 individuals, what do -- what do you do?

6 A We try to remove that person, if they're willing to, from the area, makes
7 them more comfortable, more freely able to discuss what they observed.

8 Q Okay.

9 A Without the, you know, the peering eyes so to speak.

10 Q Was there also some type of -- was there also people, kind of, angry in
11 that crowd as well?

12 A Yes, there was.

13 Q Specifically, was there a missing 17-year-old girl from that
14 neighborhood?

15 A We had received some information that there was a missing
16 17-year-old girl that had been missing for a period of time. We had very limited
17 information about her at that point. It was just kind of a very dynamic scene.

18 Q Understood. But the family would have been in that scene?

19 A Our understanding is that the girl was actually missing from the
20 neighborhood. So, yes, some of the people in the crowd were family members.

21 Q Okay. So since Mr. Bailey seemed uncomfortable to talk to you in front
22 of that crowd, what did you specifically do with Mr. Bailey?

23 A I asked him if he would accompany us down to our headquarters which
24 is roughly, I think, a mile just down the street.

25 Q Okay.

1 A He agreed to go with Detective Ravelo and I.

2 Q And did you guys transport him to Las Vegas Metropolitan Police
3 Department's headquarters?

4 A We did.

5 Q Was he handcuffed?

6 A No.

7 Q Was he -- and like you said, you asked him if he wanted to go and he
8 agreed to?

9 A Yes.

10 Q At any point if he wanted to -- if he said no, would you have transported
11 him to the headquarters?

12 A No. We couldn't do that.

13 Q And, specifically, the reason why you transported him away from that
14 crowd was what?

15 A Basically to make him feel more comfortable and more freely to speak
16 with us.

17 Q Okay. So when you got to the headquarters was he able to walk in
18 without any handcuffs on or was he even was he even searched?

19 A He was not searched and at no point was he handcuffed.

20 Q Okay. Where do you take him in the headquarters to talk to him?

21 A I believe that was a Sunday, the -- our building at that point is, in
22 essence, closed for business. So we took him to the rear. We actually took him in
23 to the suspect inner room, portion of the building. It's easy -- easy access instead of
24 operating numerous closed doors to get to where we needed to go.

25 Q And those -- in that area can you record audio and visually what's

1 occurring?

2 A Yes.

3 Q Do you do that in this case?

4 A Yes, we did.

5 Q Do you read him Miranda at this point?

6 A No, I do not.

7 Q And why do you not do that?

8 A At that point he was a witness, a 9-1-1 caller. He was not under arrest.

9 He was not in custody. I did not even consider him a suspect.

10 Q Okay. During that did you tell him that the interview was being
11 recorded?

12 A Yes.

13 Q And that's something you do for all your witnesses in your
14 investigations?

15 A Yes.

16 Q Okay. So he understood that anything being said would have been
17 recorded?

18 A Absolutely.

19 Q Did you ask him to expand upon what he said during the 9-1-1 call?

20 A Yes. That's where we went into more detail.

21 Q Let me ask you this, at any point during that conversation with him in
22 the first statement that occurred on January 19th of 2020, did Mr. Bailey seem to not
23 understand your questions?

24 A No.

25 Q Did he ever respond, and the Judge has the transcripts and all that, but

1 in your opinion did he ever respond inappropriately to any of your questions?

2 A Not one bit.

3 Q Okay. So it wasn't -- none of the answers were, like, didn't make sense
4 based on the question you asked?

5 A That's correct.

6 Q He seemed to understand everything you said?

7 A Yes.

8 Q Okay. Specifically, did he talk about -- going into, kind of, his
9 competency, did he talk about his employment?

10 A Said he had previously worked at Amazon, had recently got fired, and
11 at that time he was working for Wendy's.

12 Q Okay. Did he talk about any education at all?

13 A Said he had quit high school early but had went back to school,
14 received his diploma, and was starting, I believe, criminal justice program at CSN.

15 Q Okay. Regarding leaving -- not graduating on -- he mentioned to you
16 he didn't graduate on time; is that fair?

17 A That's correct.

18 Q Did he tell you why?

19 A I believe the term he used is he started hanging around with the wrong
20 crowd.

21 Q Okay. A crowd that didn't -- wasn't interested in school?

22 A Yes.

23 Q Okay. Is that -- is that the reason why he blamed on not graduating on
24 time?

25 A That's correct.

1 Q Okay. At some point -- and during the conversation he -- does he talk
2 about going down into the sewer and observing the body?

3 A He does.

4 Q Okay. Does he -- did he tell you that he knew who the body was during
5 that interview?

6 A No. He said he did not know who the person was.

7 Q Did you know who the body was at that time?

8 A No.

9 Q Did you, in fact, ask him about people besides Ms. Trotter that the body
10 could be?

11 A During our interview we had asked about who was in his household.
12 He mentioned besides his mom there was another roommate that hadn't been seen
13 in a couple weeks after a fight. And I asked -- asked him who that person was. He
14 provided a name and, sorry, I don't recall what it is, but he -- I asked, specifically, in
15 if the person in the sewer was that person.

16 Q And did he give you a negative answer? Or he said he didn't know?

17 A He said, no, it's not and that person was a larger person and wouldn't fit
18 in the manhole.

19 Q So he gave rational reason why that person wouldn't be the person in
20 the sewer?

21 A That's correct.

22 Q Okay. At some point do you bring up the possibility of a polygraph?

23 A I did.

24 Q And why is that?

25 A Well, part of the thing is some of his actions were not suspicious, kind

1 of weird, and we use a polygraph as elimination. I want to be able to totally
2 eliminate him from -- so to be a suspect pool. Then I could focus on who truly was
3 responsible.

4 Q And by you said some of his answers were weird, specifically, what do
5 you recall was weird about them?

6 A The fact that he actually crawled down and touched the body, he
7 admitted to touching the chest portion and the leg portion.

8 Q Okay. So it wasn't necessarily the answer was -- or his answer was
9 inappropriate based on the question, it was just the way he said he acted toward the
10 body?

11 A True. Yes.

12 Q Did he understand what a polygraph was?

13 A Yes. He said is that the lie detector.

14 Q Okay. And then, specifically, did he ask you anything about the
15 polygraph?

16 A Once we were wrapping up the interview, he asked how the polygraph
17 worked. He asked if it went off of brain waves. And I just basically told him it was
18 basically physiological reactions to telling lies or truths.

19 Q Okay. By the end of the interview did he agree to do the polygraph?

20 A Yes, he did.

21 Q By the end of the interview did he agree to provide a sample of DNA?

22 A Yes.

23 Q Okay. And to be clear -- well, you didn't -- you didn't -- well, to be clear,
24 if he didn't -- if he didn't provide you consent, would you have sought a warrant for
25 his DNA?

1 A Yes, I would have.

2 Q And is that based on -- what is that based on?

3 A Basically, with his admission of touching the body, we need that so we
4 can eliminate his DNA from unknown source.

5 Q Okay. So if you found multiple DNA --

6 A We would be to say --

7 Q -- on this body --

8 I'm sorry?

9 A We'd be able to say it was his DNA.

10 Q Okay. And if there was someone else's DNA on there, then you would
11 be able to focus on that individual?

12 A Correct.

13 Q Okay. But you didn't tell him that you would have sought a warrant if he
14 refused or anything like that?

15 A He asked if he didn't provide, I said at that point I'd get a -- and he
16 clarified, I'm going to give consent, just what happens if I don't, and I said I would
17 seek a search warrant.

18 Q Okay. At any point was he free to leave that interview?

19 A Yes, he could have.

20 Q Or stop that interview?

21 A Yes.

22 Q Did you -- when the interview was over, did you arrest him?

23 A No.

24 Q Did you handcuff him?

25 A No.

**PLEADING
CONTINUES
IN NEXT
VOLUME**