

No. 86694

IN THE NEVADA SUPREME COURT

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Elizabeth A. Brown
Clerk of Supreme Court

John Seka,

Petitioner-Appellant,

v.

State of Nevada, et al.

Respondents-Appellees.

Petitioner-Appellant's Appendix
Volume 10 of 15

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ALPHABETICAL INDEX

Document	Date	Page No.
Advance Opinion	7/8/2021	2666
Appellant's Answer to Respondent's Petition for En Banc Reconsideration	9/21/2021	2746
Appellant's Opening Brief	9/3/2020	2524
Appellant's Reply Brief	12/3/2020	2641
Case Appeal Statement	5/25/2023	3065
Court Minutes	4/3/2019	1826
Court Minutes	7/24/2019	1827
Findings of Fact, Conclusions of Law and Order Denying Petition for Writ of Habeas Corpus (Post-Conviction)	1/31/2005	1568
Index of Exhibits in Support of Petition for Writ of Habeas Corpus and Exhibits 1-15	11/1/2022	2822
Judgment of Conviction (Jury Trial)	5/9/2001	1492
Jury Trial, Vol. I, Transcript	2/12/2001	133
Jury Trial, Vol. I, Transcript	2/13/2001	340
Jury Trial, Vol. I, Transcript	2/14/2001	524
Jury Trial, Vol. I, Transcript	2/16/2001	700
Jury Trial, Vol. I, Transcript	2/20/2001	894
Jury Trial, Vol. I, Transcript	2/21/2001	1076
Jury Trial, Vol. I, Transcript	2/22/2001	1239
Jury Trial, Vol. I, Transcript	2/23/2001	1348
Jury Trial, Vol. II, Transcript	2/12/2001	238
Jury Trial, Vol. II, Transcript	2/13/2001	453
Jury Trial, Vol. II, Transcript	2/14/2001	629
Jury Trial, Vol. II, Transcript	2/16/2001	775

Document	Date	Page No.
Jury Trial, Vol. II, Transcript	2/20/2001	1004
Jury Trial, Vol. II, Transcript	2/21/2001	1166
Jury Trial, Vol. II, Transcript	2/22/2001	1287
Jury Trial, Vol. II, Transcript	2/23/2001	1421
Motion for New Trial	11/19/2019	1828
Motion for New Trial Cont. Part 2	11/19/2019	2076
Motion for New Trial Cont. Part 3	11/19/2019	2325
Motion for the Court to Take Judicial Notice of the Filings in Mr. Seka's Criminal Case Number	11/1/2022	2888
Notice of Appeal	5/25/2023	3069
Notice of Entry of Findings of Fact, Conclusions of Law and Order	5/10/2023	3035
Notice of Intent to Seek Death Penalty	7/26/1999	130
Opposition to State's Response to Petition for Writ of Habeas Corpus (Post-Conviction)	4/5/2023	2992
Order Granting Motion for New Trial	3/24/2020	2763
Order Regarding Genetic Marker Analysis	2/15/2018	2705
Order Regarding Genetic Marker Analysis	1/24/2019	2893
Order Denying En Banc Reconsideration	10/7/2021	2521
Order Denying Rehearing	8/9/2021	1662
Order for Petition for Writ of Habeas Corpus	2/13/2023	1494
Order Granting Post-Conviction Petition Requesting a Genetic Marker Analysis of Evidence within Possession or Custody of the State of Nevada	9/19/2017	1574
Order of Affirmance	4/8/2003	1665
Order of Affirmance	6/8/2005	1820

Document	Date	Page No.
Petition for Genetic Marker Analysis Transcript	12/14/2018	1670
Petition for Writ of Habeas Corpus (Post-Conviction)	2/13/2004	1507
Petition for Writ of Habeas Corpus (Post-Conviction)	11/1/2022	2768
Petition for Writ of Habeas Corpus Transcript	4/12/2023	3015
Post-Conviction Petition Requesting a Genetic Marker Analysis of Evidence within Possession or Custody of the State of Nevada	6/19/2017	1588
Preliminary Hearing Transcript	6/28/1999	001
Remittitur	11/2/2021	2765
Reply in Support of Motion for New Trial	3/4/2020	2511
Reply in Support of Petition for Post-Conviction Genetic Marker Analysis Testing, NRS 176.0918	9/5/2017	1643
Respondent John Seka's Answering Brief	11/4/2020	2574
Respondent John Seka's Petition for En Banc Reconsideration	8/23/2021	2706
Respondent John Seka's Petition for Rehearing	7/26/2021	2689
State's Exhibit List	2/14/2001	695
State's Response to Motion for New Trial	1/30/2020	2493
State's Response to Petition for Writ of Habeas Corpus and Motion to Dismiss	3/28/2023	2896
State's Response to Petition Requesting Genetic Marker Analysis	8/15/2017	1627
State's Trial Ex. 38, 1933 Evidence Items List	2/20/2001	1075
Verdict	3/1/2001	1490

CHRONOLOGICAL INDEX

Document	Date	Page No.
Volume 1 of 15		
Preliminary Hearing Transcript	6/28/1999	001
Notice of Intent to Seek Death Penalty	7/26/1999	130
Jury Trial, Vol. I, Transcript	2/12/2001	133
Volume 2 of 15		
Jury Trial, Vol. II, Transcript	2/12/2001	238
Jury Trial, Vol. I, Transcript	2/13/2001	340
Volume 3 of 15		
Jury Trial, Vol. II, Transcript	2/13/2001	453
Jury Trial, Vol. I, Transcript	2/14/2001	524
Jury Trial, Vol. II, Transcript	2/14/2001	629
State's Exhibit List	2/14/2001	695
Volume 4 of 15		
Jury Trial, Vol. I, Transcript	2/16/2001	700
Jury Trial, Vol. II, Transcript	2/16/2001	775
Volume 5 of 15		
Jury Trial, Vol. I, Transcript	2/20/2001	894
Jury Trial, Vol. II, Transcript	2/20/2001	1004
State's Trial Ex. 38, 1933 Evidence Items List	2/20/2001	1075
Volume 6 of 15		
Jury Trial, Vol. I, Transcript	2/21/2001	1076
Jury Trial, Vol. II, Transcript	2/21/2001	1166
Jury Trial, Vol. I, Transcript	2/22/2001	1239

Volume 7 of 15		
Jury Trial, Vol. II, Transcript	2/22/2001	1287
Jury Trial, Vol. I, Transcript	2/23/2001	1348
Jury Trial, Vol. II, Transcript	2/23/2001	1421
Verdict	3/1/2001	1490
Judgment of Conviction (Jury Trial)	5/9/2001	1492
Order of Affirmance	4/8/2003	1494
Volume 8 of 15		
Petition for Writ of Habeas Corpus (Post-Conviction)	2/13/2004	1507
Findings of Fact, Conclusions of Law and Order Denying Petition for Writ of Habeas Corpus (Post-Conviction)	1/31/2005	1568
Order of Affirmance	6/8/2005	1574
Post-Conviction Petition Requesting a Genetic Marker Analysis of Evidence within Possession or Custody of the State of Nevada	6/19/2017	1588
State's Response to Petition Requesting Genetic Marker Analysis	8/15/2017	1627
Reply in Support of Petition for Post-Conviction Genetic Marker Analysis Testing, NRS 176.0918	9/5/2017	1643
Order Granting Post-Conviction Petition Requesting a Genetic Marker Analysis of Evidence within Possession or Custody of the State of Nevada	9/19/2017	1662
Order Regarding Genetic Marker Analysis	2/15/2018	1665

Volume 9 of 15		
Petition for Genetic Marker Analysis Transcript	12/14/2018	1670
Order Regarding Genetic Marker Analysis	1/24/2019	1820
Court Minutes	4/3/2019	1826
Court Minutes	7/24/2019	1827
Volume 10 of 15		
Motion for New Trial Part 1	11/19/2019	1828
Volume 11 of 15		
Motion for New Trial Cont. Part 2	11/19/2019	2076
Volume 12 of 15		
Motion for New Trial Cont. Part 3	11/19/2019	2325
State's Response to Motion for New Trial	1/30/2020	2493
Reply in Support of Motion for New Trial	3/4/2020	2511
Order Granting Motion for New Trial	3/24/2020	2521
Volume 13 of 15		
Appellant's Opening Brief	9/3/2020	2524
Respondent John Seka's Answering Brief	11/4/2020	2574
Appellant's Reply Brief	12/3/2020	2641
Advance Opinion	7/8/2021	2666
Respondent John Seka's Petition for Rehearing	7/26/2021	2689
Order Denying Rehearing	8/9/2021	2705
Respondent John Seka's Petition for En Banc Reconsideration	8/23/2021	2706
Appellant's Answer to Respondent's Petition for En Banc Reconsideration	9/21/2021	2746
Order Denying En Banc Reconsideration	10/7/2021	2763

Remittitur	11/2/2021	2765
Volume 14 of 15		
Petition for Writ of Habeas Corpus (Post-Conviction)	11/1/2022	2768
Index of Exhibits in Support of Petition for Writ of Habeas Corpus and Exhibits 1-15	11/1/2022	2822
Motion for the Court to Take Judicial Notice of the Filings in Mr. Seka's Criminal Case Number	11/1/2022	2888
Order for Petition for Writ of Habeas Corpus	2/13/2023	2893
State's Response to Petition for Writ of Habeas Corpus and Motion to Dismiss	3/28/2023	2896
Volume 15 of 15		
Opposition to State's Response to Petition for Writ of Habeas Corpus	4/5/2023	2992
Petition for Writ of Habeas Corpus Transcript	4/12/2023	3015
Notice of Entry of Findings of Fact, Conclusions of Law and Order	5/10/2023	3035
Case Appeal Statement	5/25/2023	3065
Notice of Appeal	5/25/2023	3069

Dated October 4, 2023.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Jonathan M. Kirshbaum

Jonathan M. Kirshbaum
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2023, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include:
Alexander G. Chen and Aaron D. Ford.

I further certify that some of the participants in the case are not registered appellate electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

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/s/ Kaitlyn O'Hearn

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

JOHN JOSEPH SEKA,

Petitioner,

vs.

STATE OF NEVADA,

Respondent,

CASE NO. 99C159915
DEPT. XXV

HEARING DATE: February 10, 2020
HEARING TIME: 9:00 a.m.

DEFENDANT JOHN SEKA'S MOTION FOR A NEW TRIAL

The purpose of the criminal justice system is not to obtain and uphold convictions at all costs, but rather it is the pursuit of justice. Mr. Seka is serving four consecutive life sentences for his 2001 murder convictions. Because new physical evidence now exists that absolves Mr. Seka of responsibility for these murders, Mr. Seka respectfully asks this Court to issue an Order for New Trial pursuant to Nev. Rev. Stat. § 176.515(3) and Nev. Rev. Stat. § 176.0918(a).

I.

SUMMARY

In late 1998, the bodies of two men, Eric Hamilton and Peter Limanni, were found in

1 relatively remote areas of the Nevada and California deserts. Mr. Hamilton was found on
2 November 16th and had been shot twice in the torso and once in the leg. Weeks later, on December
3 23rd, Mr. Limanni was found dead. He had been shot eight times in the head/neck area and twice
4 in the heart. Because Mr. Seka knew both men, the police focused their investigation on him and
5 ultimately arrested him for the murders. Mr. Seka fully cooperated with police but unwaveringly
6 maintained his innocence. No physical evidence placed Mr. Seka at the scene of the crimes. No
7 physical evidence connected Mr. Seka to the victims. No relevant physical evidence put Mr. Seka
8 at the sites where their bodies were discarded.

9 Although no physical evidence inculpated Mr. Seka, the State of Nevada went forward
10 with an entirely circumstantial case against him. At his trial, the State contended that Mr. Seka
11 must have been the perpetrator because he (1) worked with both victims; (2) lived in the building
12 next door to where Hamilton was shot; and (3)had access to the vehicles that were alleged to have
13 transported the victims' bodies from the crime scene to the dumping sites. The State implied that
14 Mr. Seka's motive to kill both men was robbery and that Mr. Seka had further motive to kill Mr.
15 Limanni because Mr. Limanni treated him poorly. Finally, Thomas Cramer, a mentally unstable
16 man, testified that Mr. Seka had confessed to the murder of Mr. Limanni.

17 Trial started on February 12, 2001. The jury commenced deliberations on February 23rd
18 and returned their verdict on the afternoon of March 1, 2001. The jury's verdict did not mirror
19 Mr. Seka's original charges.¹ Rather, the jury found Mr. Seka guilty of one count of Murder of
20 the First Degree with the Use of a Deadly Weapon (Hamilton), one count of Murder in the Second
21 Degree with the Use of a Deadly Weapon (Limanni), and two counts of Robbery. The district court
22 judge, Donald Mosley, sentenced Mr. Seka after the jury was unable to decide on an appropriate
23 penalty. Mr. Seka was sentenced to the following: Life without the possibility of parole for the
24 Murder in the First Degree and the use of a deadly weapon; Life with the possibility of parole on
25 the second-degree murder charge with use of a deadly weapon and 35/156 months on each robbery
26 conviction. Judge Mosley, in addition to running the deadly weapon consecutive as is required by

27
28 ¹ Mr. Seka was originally charged with Two counts of Murder (Open Murder) with use of a deadly
weapon and two counts of Robbery with use of a deadly weapon.

1 law, opted to run all the counts consecutive as well.

2 Although some DNA testing was conducted as part of the investigation of the murders, the
3 physical evidence that was tested at the time produced primarily inconclusive results as more
4 advanced DNA testing was not available. While a few pieces of the physical evidence tested at the
5 time of trial did produce incomplete DNA profiles, Mr. Seka was either excluded as the source of
6 the DNA or the evidence was collected from Mr. Seka's residence, so it had no probative value.

7 Now, with scientific advances over the last eighteen years, DNA testing of the same
8 evidence and additional evidence that could not have been tested at the time of trial exculpates Mr.
9 Seka and, more importantly, inculcates another individual. Had a jury been told about this
10 probative physical evidence -- specifically genetic marker analysis of evidence collected from Mr.
11 Hamilton's body, the area immediately surrounding the site where his body was found, and the
12 actual crime scene associated with his murder -- the result of the trial would have been very
13 different. The materiality of this evidence is such that it would bring a different result in a new
14 trial. The evidence is not merely cumulative, and is not an attempt to contradict, impeach, or
15 discredit a former witness. This evidence points directly to the true perpetrator of the crime and is
16 the best evidence the case admits. In short, this evidence alone meets the standard for a new trial
17 under Nevada law.

18 However, additional evidence, both new and available at trial, also supports Mr. Seka's
19 Motion for a New Trial. First, Mr. Seka was not the only person who had access to the vehicles
20 that were allegedly used to transport the bodies. Many others, including three alternative suspects
21 who were not investigated, had access, motive and opportunity. Indeed, a new witness claims to
22 have evidence that one of the alternative suspects is the actual perpetrator. Second, proof exists
23 that Mr. Hamilton had no money when he was killed, and Mr. Seka was never in possession of
24 anything of value connected specifically to Mr. Limanni or Mr. Hamilton. Further, a new witness
25 can attest that Mr. Seka and Mr. Limanni were like brothers, destroying the State's theory that Mr.
26 Seka's purported motive for murdering the two men was robbery or because of a bad relationship
27 with Mr. Limanni. Third, material evidence was not turned over to the defense, including the
28 results of fingerprint testing on a purse that was found in the ceiling of Mr. Limanni's business

1 which wholly excluded Mr. Seka. Additionally, Mr. Cramer's girlfriend, who was present when
2 Mr. Seka allegedly confessed to Mr. Limanni's murder, unequivocally states that no such
3 confession occurred, and that Mr. Cramer was an unstable individual who was angry at Mr. Seka
4 for helping her commit him to a mental institution. Finally, when looking at the totality of the
5 evidence, not only does the new physical evidence likely change the outcome of this case, but
6 considering the new evidence, the circumstantial evidence adduced at trial does not support
7 maintaining the verdict.

8 Because new physical evidence now exists that absolves Mr. Seka of responsibility for
9 these murders, he respectfully asks this Court to order a new trial.

10 II.

11 STATEMENT OF FACTS

12 Cinergi and Peter Limanni's Business Dealings

13 In September of 1998, Mr. Seka moved from Philadelphia to Las Vegas, Nevada to work
14 for his friend, Peter Limanni.^{2 3} Mr. Limanni owned and operated a heating, ventilation, air-
15 conditioning and refrigeration business called Cinergi at 1933 Western Avenue in Las Vegas
16 ("1933").⁴ Mr. Limanni and Mr. Seka not only worked at Cinergi but lived in the back room of the
17 business.⁵ During Mr. Seka's employment, Mr. Limanni was transitioning Cinergi into a cigar
18 shop.⁶ As a result, Mr. Limanni and Mr. Seka purchased lumber to build a humidor.⁷ The lumber
19

20 ² Mr. Seka and Mr. Limanni lived in the same area and had been friends for a long time. See
21 Exhibit 1 - Jim Thomas Interview Transcript of Lee Polsky, Feb. 9, 2006, p. 3.

22 ³ Exhibit 2, a true and correct copy of pertinent portions of Trial Tr. February 22, 2001, Vol. 2,
23 31:23-32:7. Mr., Seka has only provided pertinent pages of the trial transcripts as it relates to this
Motion; however, if it is the Court's desire to receive the entire trial transcripts, Mr. Seka will
provide those.

24 ⁴ Exhibit 3 - a true and correct copy of pertinent portions of Trial Tr. February 13, 2001, Vol. 2,
37:12-38:8.

25 ⁵ Exhibit 4 - a true and correct copy of pertinent portions of Trial Tr. February 14, 2001, Vol. 1,
53:24-54:13.

26 ⁶ Exhibit 5 - a true and correct copy of pertinent portions of Trial Tr. February 16, 2001, Vol. 2,
27 93:1-5.

28 ⁷ Exhibit 6 - true and correct copy of crime scene photos from 1933 Western Ave 31, 34, 82; and
Exhibit 7 - Voluntary Statement from John Seka, in Las Vegas, Nev., Nov. 17, 1998, p. 6.

1 was stacked inside and outside of 1933.⁸ Justin Nguyen, who worked with Mr. Limanni and Mr.
2 Seka at Cinergi for several months, stated that Mr. Limanni treated Mr. Seka "like his own
3 brother," that they got along very well, and that he never observed Mr. Limanni call Mr. Seka
4 names or mistreat him.⁹ Takeo Kato and Kazutoshi Toe were two Japanese investors who
5 financially backed Cinergi and lived at the business for a short time in the summer or fall of 1998.¹⁰
6 They described Mr. Seka and Mr. Limanni as "having a good friendship," "buddies" and like
7 brothers.¹¹ See Exhibit 5, 81:4-82:23; 88:8-89:17; and Exhibits 9-10.

8 Mr. Kato and Mr. Toe not only provided Mr. Limanni with approximately one million
9 dollars¹² in capital, but also four white vans to help operate Cinergi.¹³ Mr. Kato's name was also
10 on the lease for 1933.¹⁴ During the transition, Mr. Limanni attempted to obtain more financial
11 backing from Mr. Kato and Mr. Toe but was unsuccessful.¹⁵ However, Mr. Limanni did receive
12 capital for the cigar shop from Amir Mohammed and Smir Akkad, business investors who resided
13 in Las Vegas. See Exhibit 11 – true and correct copy of Thowsen 12/10/98 Officer's Report, p. 15-
14 16; Exhibit 12 – a true and correct copy of Decl. of Ed Heddy, Private Investigator, May 16, 2007,
15 p. 2-4.

16 All the investors had full access to 1933, and to the vans and Toyota truck associated with
17 the business.¹⁶ In addition, Mr. Limanni's girlfriend, Jennifer Harrison and numerous others who
18

19 ⁸ *Id.*

20 ⁹ See Exhibit 8 - a true and correct copy of the Unsigned Decl. of Ed Heddy, Investigator, Federal
Public Defender, District of Nev., July 2008.

21 ¹⁰ See Exhibit 5, 81:4-82:23; 88:8-89:17; Exhibit 9 – a true and correct copy of the Telephone of
22 Kazutoshi Toe; Exhibit 10 – a true and correct copy of the Telephone Interview of Takeo Kato.

23 ¹¹ The defense did not call Mr. Nguyen as a witness at trial. However, the prosecution called Mr.
Limanni's girlfriend, Jennifer Harrison, as a witness at trial. She testified that Mr. Limanni was
24 "disrespectful" to Mr. Seka and the prosecution argued that Mr. Limanni's treatment of Mr. Seka
was, in part, the reason Mr. Seka killed him. See Exhibit 4.

25 ¹² Mr. Toe indicated that he and Mr. Kato had invested one million dollars with Mr. Limanni.
Exhibit 9. Mr. Kato indicated that he had invested three hundred thousand dollars. Exhibit 10.

26 ¹³ *Id.*

27 ¹⁴ *Id.*

28 ¹⁵ Exhibit 5, 93:1-10.

¹⁶ See Exhibit 5, 91:21-92:6 and Exhibit 11, p 15-16.

1 were invited to the frequent parties Mr. Limanni hosted, had access to the business and the vehicles
2 at 1933.¹⁷ The keys for the vehicles were easily accessible as they were located directly inside the
3 business. Exhibit 15 - a true and correct copy of pertinent portions of Trial Tr. February 21, 2001,
4 Vol 1, 12:1-3; Exhibit 16 - true and correct copy of pertinent portions of Trial Tr. February 21,
5 2001, Vol 2, 45:16-23.

6 As early as September 1998, Mr. Limanni began removing large sums of money from his
7 bank accounts and was even overdrawn.¹⁸ On September 22, 1998, Mr. Limanni signed a lease for
8 an office space in Lake Tahoe and paid a deposit by check.¹⁹ Mr. Limanni's check bounced and
9 he returned to Lake Tahoe on October 5, 1998, with another check.²⁰ Mr. Limanni paid for three
10 months of the lease and he intended to move into the office space on October 15, 1998.²¹ Mr.
11 Limanni left one of Cinergi's work vans in Lake Tahoe for the future transition.²² Mr. Limanni
12 also took tools and other equipment to Lake Tahoe, purportedly in an attempt to hide them from
13 his investors. Exhibit 10.

14 Mr. Kato and Mr. Toe visited Cinergi in late summer or fall 1998.²³ They became extremely
15 dissatisfied with the use of their finances because they believed that Mr. Limanni was diverting
16 business funds for personal use.²⁴ As a result, Mr. Kato attempted to cancel the lease on 1933.²⁵
17 In addition, Mr. Kato told Mr. Limanni that he wanted his investment money returned.²⁶ Mr. Kato
18 and Mr. Toe confronted Mr. Limanni in an attempt to recover the business vehicles and recoup
19

20 ¹⁷ See Exhibit 5, 91:21-92:6 and Exhibit 11, p 15-16.; Exhibit 13 - a true and correct copy of
21 Thowsen, 1/11/99 Officer Report, p.17; Exhibit 14, a true and correct copy of pertinent portions
22 of Trial Tr. February 20, 2001, Vol. 2. 16:1-17:18.

23 ¹⁸ Exhibit 16, 70:17-71:21.

24 ¹⁹ See Exhibit 4, 86-87; Exhibit 11, p. 19.

25 ²⁰ Exhibit 11, p. 19.

26 ²¹ *Id.*

27 ²² Exhibit 4, 86:7-87:1.

28 ²³ Exhibit 5, 91:2-20.

²⁴ *Id.* at 89:18-90:14.

²⁵ Exhibit 3, 67:2-18.

²⁶ Exhibit 5, 90:1-16.

1 some of their investment, but Mr. Limanni refused to give them the keys and the two left with only
2 a refrigerator they had purchased.²⁷ On October 26, 1998, before Mr. Limanni disappeared, Mr.
3 Kato repossessed one of the vans that he provided for the business.²⁸ Unable to receive a return
4 on his large investment, Mr. Kato was forced to start bankruptcy proceedings that same month.
5 Exhibit 18, a true and correct copy of page 97:16-21 of Volume 2 of Trial Tr. Feb. 15, 2001.

6 Another investor, Mr. Mohammed abruptly moved out of the state shortly after Mr.
7 Hamilton's body was discovered and the police began investigating the crime scene at 1929
8 Western Avenue.²⁹ Marilyn Mignone, Mr. Mohammed's former business associate,
9 characterized Mr. Mohammed as a dangerous person and indicated that the FBI was investigating
10 him around the time of the murders. Exhibit 13.

11 **Peter Limanni Disappears**

12 On November 2, 1998, Mr. Limanni closed his bank accounts.³¹ On Friday, November 6,
13 1998, the property manager for 1933, Michael Cerda, reported seeing Mr. Limanni around 10:30
14 a.m. outside the Cinergi business.³² Mr. Limanni asked Mr. Cerda if he could delay making the
15 monthly payment because, although he had between \$2,000.00 and \$3,000.00 in cash with him,
16 he needed the money for a cigar show at Cashman Field that he was attending over the weekend.³³
17 Mr. Cerda reminded him that since it was after the fifth of the month, he was already late on the

18
19 ²⁷ Exhibit 9, p. 12.

20 ²⁸ Exhibit 3, 34:4-14; Exhibit 17, a true and correct copy of the Declaration of Warrant/Summons,
21 p. 11.

22 ²⁹ Investigator Jim Thomas attempted to locate Mr. Mohammed in 2006 but found no record of
23 him in the United States. Exhibit 19 – a true and correct copy of the Investigation Mem. by Jim
24 Thomas, Investigator, Federal Public Defenders, District of Nev., Mar. 13, 2006, p. 4. He described
25 Mr. Mohammed as a “ghost” and believed the identity Mr. Mohammed presented to Mr. Limanni
26 and Mr. Seka was fictitious. Exhibit 20 – a true and correct copy of the Investigation Mem. by Jim
27 Thomas, Investigator, Federal Public Defenders, District of Nev., Mar. 7, 2006, p. 1. Further, Mr.
28 Mohammed used a social security number that belonged to another person, Jay Dobson. Exhibit
21, – a true and correct copy of the Investigation Mem. by Jim Thomas, Federal Public Defenders,
District of Nev., July 30, 2008, p. 2.) Mr. Mohammed was a Syrian national and Investigator Ed
Heddy believed he may have moved back to Syria. Exhibit 8, p. 4.

26 ³⁰ Exhibit 11, p. 3, 15-16.

27 ³¹ Exhibit 16, 70:17-71:21.

28 ³² Exhibit 3, 39:23-40:19.

³³ *Id.* at 41:4-42:1.

1 payment so there would be a late fee assessed.³⁴ Mr. Limanni agreed and left. He was not seen
2 again. Mr. Limanni's sister filed a missing person report on December 2, 1998. Exhibit 22, a true
3 and correct copy of pertinent portions of Trial Tr. Feb. 22, 2001, Vol 1, 25:25-27:18.

4 Unsure of the whereabouts of his friend, Mr. Seka called several mutual friends on the east
5 coast and informed them that he was worried because he could not find Mr. Limanni.³⁵ With Mr.
6 Limanni missing, Mr. Seka pawned various items from the business to keep the business afloat but
7 was unsuccessful. Exhibit 23, a true and correct copy of pertinent portions of Trial Tr. Feb. 23,
8 2001, Vol. 2, 21:1-5,

9 **Eric Hamilton Found**

10 Around 6 a.m. on November 16, 1998, a construction worker found a male body in a remote
11 area with several pieces of lumber scattered on top of the corpse.³⁶ The police found a ring on
12 the man's finger and a note in his pants pocket with the name, "Jack," and a telephone number.³⁸
13 Later, the police traced the telephone number to a landline at 1933.³⁹ Crime scene analysts also
14 collected two empty Beck's beer bottles, two cigarette butts,⁴⁰ and a Skoal chewing tobacco
15 container near the body. Exhibit 16, 14:25-15:24; Exhibit 25, a true and correct copy of pertinent
16 portions of Trial Tr. Feb. 20, 2001, Vol. 1 54:19-55:21, Exhibit 26, a true and correct copy of
17 pertinent portions of Trial Tr. Feb. 16, 2001, Vol. 1, 57:20-24,

18 The State determined that the man, who was later identified as Eric Hamilton, died from
19
20

21 ³⁴ Exhibit 3, 41:7-8.

22 ³⁵ Exhibit 2, 46:5-47:5.

23 ³⁶ From the pieces of lumber collected, three boards contained fingerprints from Mr. Seka and Mr.
24 Limanni. *Another two boards contained latent prints that did not match Mr. Seka* or Mr.
25 Limanni. These unidentified latent prints were never compared to the latent prints identified on the
26 Beck's beer bottle found near Mr. Hamilton's body or to any of the alternative suspects. Exhibit
27 16, 16:4-17:17.

28 ³⁷ Exhibit 24, a true and correct copy of pertinent portions of Trial Tr. Feb. 14, 2001, Vol. 2, 13:4-
14:9.

³⁸ *Id.* at 17:18-24.

³⁹ *Id.* at 18:10-16.

⁴⁰ The cigarette filters did not match the type Mr. Seka smoked at the time. Exhibit 22, 9:25-10:5.

1 three gunshot wounds to his leg, chest and abdomen.⁴¹ The coroner also noted a minor laceration
2 just above the right wrist that he said was possibly consistent with someone removing a bracelet.⁴²
3 The coroner estimated Mr. Hamilton's time of death to be within twenty-four hours of when the
4 body was found. Exhibit 4 at 30:4-8.

5 Mr. Hamilton was a drifter with a history of drug abuse and mental illness who used
6 multiple names and social security numbers.⁴³ He moved to Las Vegas from California shortly
7 before his death and had been working sporadically at Cinergi doing construction.⁴⁴ When
8 questioned, Mr. Seka realized that he knew Mr. Hamilton by the name "Seymour."⁴⁵ According to
9 Mr. Seka, Mr. Hamilton would come to Cinergi looking for work.⁴⁶ Mr. Seka last saw Mr.
10 Hamilton about a month before his death, and at that time told Mr. Hamilton to call Cinergi in
11 about a month to see if there was work available. Exhibit 17, p. 5.

12 Mr. Hamilton's sister, Michelle Hamilton, testified that Mr. Hamilton had approximately
13 \$3,000 dollars with him when he moved to Las Vegas.⁴⁷ However, Mr. Hamilton had been held in
14 the city jail for a trespassing charge from November 6, 1998, until November 12, 1998, four days
15 before his body was found, and three days before he was thought to have been killed.⁴⁸ When
16 booked into the jail, (and released on November 12, 1998) he had no money with him. Exhibit 16,
17 53:4-56:16.

18 **1929 Western Avenue Crime Scene**

19 On November 17, 1998, the day after Mr. Hamilton's body was found, a neighboring
20 business owner called Mr. Cerda and the police about an alleged break-in at an abandoned business
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23 ⁴¹ Exhibit 4, 24:23-25:9; 28:17-18.

24 ⁴² *Id.* at 25:11-25.

25 ⁴³ Exhibit 16, 57:3-58:14.

26 ⁴⁴ Exhibit 5, 64:18-20; 66:19-67:5.

27 ⁴⁵ Exhibit 3, 18:25-19:8; 32:12-14; Exhibit 11, p. 9.

28 ⁴⁶ Exhibit 7, p. 9-11.

⁴⁷ Exhibit 5, 62:5-7.

⁴⁸ Exhibit 16, 53:4-56:16.

1 at 1929 Western Avenue ("1929").⁴⁹⁵⁰ Upon arrival, the police noticed broken glass and apparent
2 blood in 1929.⁵¹ In the parking lot immediately in front of 1929, the police found a piece of
3 molding from the broken window with what appeared to be a bullet hole.⁵² Finally, a lead
4 projectile (assumed to be from a bullet) was found on the sidewalk outside of 1929 next to droplets
5 of blood. Exhibit 24, 42:12-20; Exhibit 26, 18:12-13.

6 All indications were that Mr. Hamilton was murdered in 1929.⁵³ In addition to the broken
7 window, the police found copious amounts of blood on the entryway carpet and on the broken
8 glass that was later matched to Mr. Hamilton.⁵⁴ There were two sets of bloody drag marks across
9 the carpet, one of which led to the broken window.⁵⁵ Police recovered latent fingerprints from the
10 "exterior north vertical metal frame edge" of the point-of-entry window, the glass pane on the
11 interior of the front door, and from a glass fragment inside the point-of-entry on the office floor.⁵⁶
12 A black baseball cap that Mr. Hamilton always wore, his gold bracelet, and a rolled-up jacket with
13 blood and bullet holes were also found in 1929.⁵⁷ The bullet holes were later found to be consistent
14 with Mr. Hamilton's wounds.⁵⁸ The police also found three jacketed bullets and three bullet
15 fragments in 1929.⁵⁹ The bullet fragments were "class consistent" to the bullets used to kill Mr.
16 Hamilton. Exhibit 15, 65:12-66:3.

17
18 ⁴⁹ 1929 Western was next door to Cinergi and had been home to a boiler room operation. Exhibit
19 3, 56:5-23,

20 ⁵⁰ Exhibit 4, 38:16-39:25.

21 ⁵¹ Exhibit 25, 57:25-58:23.

22 ⁵² Exhibit 24, 42:12-20.

23 ⁵³ Exhibit 24, 19:12-24; 42:21-43:8; 46:9-14.

24 ⁵⁴ *Id.* at 42:12-43:8; Exhibit 25, 58:1-20.

25 ⁵⁵ Exhibit 24, 42:12-43:8; Exhibit 27, a true and correct copy of the Officer's Report by James
26 Buczek, Detective, LVMPD, Dec. 1, 1998, p. 6.

27 ⁵⁶ Exhibit 28, a true and correct copy of the Crime Scene Report by David Ruffino, Senior Crime
28 Scene Analyst, LVMPD, Nov. 17, 1998, p. 3.

There is no indication in the record that these latent prints, purportedly belonging to the perpetrator,
were ever compared to Mr. Seka's fingerprints. Nor were they compared to other latent prints
recovered from the physical evidence.

⁵⁷ Exhibit 28, Exhibit 25, 58:19-23; Exhibit 3, 17:9-14; 32:4-7; Exhibit 27, p. 6.

⁵⁸ Exhibit 24, 19:18-20:5; Exhibit 27, p. 6.

⁵⁹ Exhibit 24, 19:15-17.

1 While the police were investigating 1929, Mr. Seka arrived in the Toyota pickup truck that
2 belonged to Cinergi.⁶⁰ The police approached Mr. Seka and informed him of the disturbance in
3 1929.⁶¹ The police asked Mr. Seka if they could search 1933 in case anyone inside needed medical
4 attention.⁶² Mr. Seka informed them that Mr. Limanni was not there but may be in Lake Tahoe
5 with his girlfriend.⁶³ Nonetheless, Mr. Seka signed a consent to search card, giving the police
6 permission to "search for items directly or indirectly related to the investigation of MURDER
7 W/DW."⁶⁴ Mr. Seka and Mr. Cerda accompanied the police into 1933.⁶⁵ After noticing a bullet
8 and some knives in 1933, the police decided to search Mr. Seka and then handcuffed him as they
9 continued to search 1933.⁶⁶ Mr. Cerda stayed with Mr. Seka while the officers searched the
10 business.⁶⁷ Mr. Cerda informed officers that he was the only person with a key to 1929 and that
11 the business had been vacant for approximately a month and a half. Exhibit 31 at p. 7.

12 Mr. Seka was then taken to the Las Vegas Metro Police Department detective bureau.⁶⁸
13 Mr. Seka provided a voluntary taped statement.⁶⁹ During the interview, Mr. Seka was fully
14 cooperative with the police, answering all their questions but denying hurting Mr. Hamilton.⁷⁰ The
15 police then fingerprinted Mr. Seka and obtained a buccal swab after he signed a consent to search.⁷¹
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18 ⁶⁰ Exhibit 25, 61:5-11.

19 ⁶¹ *Id.*

20 ⁶² *Id.* at 63:24-64:7.

21 ⁶³ Exhibit 29, a true and correct copy of the Officer's Report by Robert Kroll, Police Officer,
22 LVMPD, Dec. 10, 1998, p. 2.

23 ⁶⁴ Exhibit 25, 64:3-7; Exhibit 30, a true and correct copy of the Consent to Search Card from
24 Detective Buczek, signed by John Seka, Nov. 17, 1998.

25 ⁶⁵ Exhibit 31, a true and correct copy of the Voluntary Statement from Michael Kirk Cerda, Nov.
26 17, 1998, p. 8-10.)

27 ⁶⁶ Exhibit 25, 64:21-65:20.

28 ⁶⁷ Exhibit 31, p. 8-10.

⁶⁸ Exhibit 16, 36:11-20.

⁶⁹ Exhibit 7.

⁷⁰ *Id.* at p. 21.

⁷¹ Exhibit 30; Exhibit 16, 43:20-44:6.

1 The police took Mr. Seka back to 1933 after advising him that he was not under arrest.⁷² Upon
2 arriving at 1933, Mr. Seka could not enter the business because it was being processed by a crime
3 scene analyst. Exhibit 16, 44:14-17.

4 Mr. Seka told the police that he had a dinner appointment and needed a vehicle.⁷³ The
5 police informed Mr. Seka that he could not take the Toyota truck because the police were
6 impounding it to process it as evidence.⁷⁴ Mr. Seka provided the police with the key to the Toyota
7 and asked if he could retrieve the keys to one of two remaining business vans.⁷⁵ The police entered
8 the business and retrieved the keys to the vans.⁷⁶ The police gave Mr. Seka keys to the unmarked
9 white business vehicle without license plates.⁷⁷ The police then reconsidered and suggested that
10 Mr. Seka drive the van with the large business decals.⁷⁸ Before giving him the keys, the police
11 asked Mr. Seka if they could search the van with the large decals, to which Mr. Seka readily
12 agreed.⁷⁹ After discovering what appeared to be blood, the police impounded the vehicle.⁸⁰ After
13 the police searched the unmarked van and found no apparent "evidentiary connection to any of the
14 cases," they again gave Mr. Seka the keys and told him he was free to leave.⁸¹ Exhibit 16, 47:4-
15 9.

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18 ⁷² Exhibit 16, 43.

19 ⁷³ Exhibit 16, 44:18-22.

20 ⁷⁴ *Id.*

21 ⁷⁵ *Id.* at 44:23-45:3.

22 ⁷⁶ *Id.* at 45:16-23.

23 ⁷⁷ *Id.* at 46:3-4; 69:5-70:9.

24 ⁷⁸ *Id.* at 46:7-12.

25 ⁷⁹ *Id.*

26 ⁸⁰ *Id.* at 46:17-47:2.

27 ⁸¹ Based upon the inconsistencies in the police reports, it is difficult to discern how the decision
28 was made to allow Mr. Seka to take one of the vans. Officer Randy M. McPhail states that,
"Numerous vehicles were parked on the front, West side of the business including two vans bearing
the business logo 'Cinergi' and a gold colored 1998 Toyota Pick-up truck which were located
directly in front of the business." Exhibit 32- a true and correct copy of the Crime Scene Report
by Randy M. McPhail, Crime Scene Analyst, At trial, however, he testifies that he "somehow
became confused" when he wrote his report. Exhibit 15, 11:18-12:3.

1 When the police searched the vehicles they impounded, they discovered drops of blood in
2 one of the vans and in the bed of the Toyota pickup truck.⁸² The blood on the floor of the van and
3 on some magnetic cards found in the door of the van matched Mr. Limanni.⁸³ The blood in the bed
4 of the pickup truck matched Mr. Hamilton.⁸⁴ Police also made taped lifts of the footwear prints
5 located in the rear cargo area of the van.⁸⁵ There is no indication in the record these footwear prints
6 were compared to Mr. Seka's.⁸⁶

7 **1933 Western Avenue**

8 Police thoroughly searched 1933 where Cinergi was located and where Mr. Limanni and
9 Mr. Seka worked and lived before Mr. Limanni disappeared.⁸⁷ Among the clothes, papers and
10 other items scattered around 1933, the police found several items they deemed significant. Exhibit
11 25, 64:18-65:20; Exhibit 27, p. 6-8.

12 First, the police found Mr. Limanni's wallet in the ceiling above his desk.⁸⁸ The wallet
13 contained cards and a birth certificate belonging to Mr. Limanni.⁸⁹ The police also found a purse
14 in the ceiling in another room that was later identified as belonging to Lydia Gorzoch who reported
15 it missing on November 6, 1998 at 9:52 a.m.⁹⁰ The purse contained \$36.06 when found.⁹¹ Ms.
16 Gorzoch was later contacted and denied knowing either Mr. Limanni or Mr. Seka.⁹² When asked
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18 ⁸² Exhibit 16, 46:17-47:2; Exhibit 4, 5:19-22; Exhibit 26, 51:2-; Exhibit 5, 28:20-30:22.

19 ⁸³ Exhibit 26, 45:6-8, 17-18; 48:13-14.

20 ⁸⁴ *Id.* at 55:12-17.

21 ⁸⁵ Exhibit 32, p. 2.

22 ⁸⁶ When asked by defense counsel whether these footwear prints were ever compared to Mr. Seka,
crime scene analyst Randall McPhail responded, "I don't know." Exhibit 15, 38:10-17,

23 ⁸⁷ Exhibit 4, 53:24-54:13; Exhibit 27, p. 6-8.)

24 ⁸⁸ Exhibit 24, 22:13-23:17.

25 ⁸⁹ *Id.*

26 ⁹⁰ Exhibit 11, p. 13.

27 ⁹¹ In his report, Ed Heddy concludes it is "suspicious" the purse still contained \$36.06. Exhibit 33
- a true and correct copy of the Investigation Memorandum by Ed Heddy, Investigator, Federal
Public Defenders, June 20, 2006, p. 1. He proposes someone would normally take a purse to steal
the money or credit cards. *Id.*

28 ⁹² Exhibit 34 - a true and correct copy of the Investigation Memorandum by Ed Heddy,
Investigator, Federal Public Defenders, District of Nev., Feb. 21, 2007, p. 2.

1 about the purse at trial, Detective James Buczek stated that it was “not important” and the
2 prosecution immediately moved on to other matters.⁹³ However, before trial, fingerprints were
3 identified on the purse but they did not belong Mr. Seka, Mr. Hamilton, or Mr. Limanni.⁹⁴ That
4 report was not provided to Mr. Seka until 2018. Further, Ms. Gorzoch’s purse was stolen out of
5 her vehicle after someone fired a .357 bullet through the window to gain entry, the same caliber as
6 those found in 1933 and at the 1929 crime scene.⁹⁵ On November 23, 1998, while police were still
7 investigating Mr. Hamilton’s homicide and while Mr. Limanni was still missing, the “purse with
8 wallet, personal items and ID . . . [and] \$36.06 in U.S. Currency” was released to Ms. Gorzoch by
9 the Las Vegas Metropolitan Police Department and as a result was unavailable for post-conviction
10 DNA testing in 2018-2019.⁹⁶

11 Second, the police found several beer bottles in the dumpster behind Cinergi and in two
12 trash cans in the business.⁹⁷ Fingerprints identified on the beer bottles from the trash can in the
13 south-central office matched both Mr. Hamilton and Mr. Seka.⁹⁸ The presence of both sets of
14 fingerprints is due to the fact that Mr. Hamilton helped Mr. Limanni and Mr. Seka on construction
15 projects at 1933 three or four times after he moved to Las Vegas. Exhibit 7, p. 9-11; Exhibit 5,
16 61:16-24; 64:18-65:2; 66:19-67:5.

17 Third, police found several small stains in the 1933 office and living space that tested
18 positive for presumptive blood.⁹⁹ Once tested, Mr. Seka’s blood was identified on the front right
19 pocket area of a pair of his jeans, a drop of his blood was identified on a wall being remodeled and

20 _____
21 ⁹³ Exhibit 24, 23:16-17.

22 ⁹⁴ Exhibit 35 – a true and correct copy of the Forensic Laboratory Report of Examination by Fred
23 M. Boyd, March 5, 1999. This fingerprint evidence was not disclosed at trial and was only
24 discovered in 2018.

25 ⁹⁵ Exhibit 36 – a true and correct copy of the Forensic Laboratory Report of Examination by Torrey
26 D. Johnson, Criminalist, LVMPD, Apr. 27, 1999; Exhibit 37 – a true and correct copy of the
27 Forensic Laboratory Report by Torrey D. Johnson, Criminalist, LVMPD, Dec. 17, 1998; Exhibit
28 13, p. 13.

⁹⁶ Exhibit 38, a true and correct copy of the Property Receipt Form, Nov. 23, 1998.

⁹⁷ Exhibit 14, 65:5-13.

⁹⁸ *Id.*; Exhibit 15, 84:22-85:22.

⁹⁹ Exhibit 13, p. 8; Exhibit 5, 6:19-25.

1 on the sink counter.¹⁰⁰ However, his blood was not found anywhere in 1929, the actual crime
2 scene.¹⁰¹ Further, no blood belonging to either Mr. Hamilton or Mr. Limanni was found in the
3 1933 offices.¹⁰² Exhibit 26, 46-58.

4 Fourth, bullet cartridges and empty shell casings of different calibers, included those
5 matching the ones used in the murders, were found in 1933.^{103 104} This was not surprising as bullets
6 had been observed by at least one witness, Jennifer Harrison, in the business well before the
7 murders occurred.¹⁰⁵ In their search, the police found a .357 cartridge case in the false ceiling in
8 the northwest office and a second .357 cartridge case near the center of the south wall in that
9 office.¹⁰⁶ Another .357 cartridge case was found on the light fixture in front of the double doors
10 leading into the almost-completed humidor.¹⁰⁷ The police also discovered a single .357 bullet
11 fragment buried in the wall of 1933 that had been shot through the couch.^{108 109} The bullet fragment
12 had no blood on it.¹¹⁰ All the .357 cartridges had the same characteristic markings, suggesting
13 they were all shot from the same firearm although the State could not identify which type of
14 firearm.¹¹¹ The police also found complete .32 caliber bullets in the toilet bowl and in the northeast
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17 ¹⁰⁰ Exhibit 26, 48:22-23; 49:23-24; 56:17-22; 57:6-7; Exhibit 32, p. 2.

18 ¹⁰¹ Exhibit 26, 46-58.

19 ¹⁰² It also did not appear that 1933 had been cleaned. Exhibit 14, 38:2-7,

20 ¹⁰³ One witness testified that she saw at least one bullet in the business well before the murders
17. occurred. Exhibit 39, a true and correct copy of the Voluntary Statement of Jennifer Harrison p.

21 ¹⁰⁴ Exhibit 24, 22:10-12, Exhibit 32 p. 3; Exhibit 14, 40:15-17; Exhibit 15, 55:2-56:18.

22 ¹⁰⁵ Exhibit 39, p. 17.

23 ¹⁰⁶ Exhibit 14, 39:18-21; 39:24-40:1.

24 ¹⁰⁷ *Id.* at 9:22-24.

25 ¹⁰⁸ The State's expert witness, Torrey Johnson, characterized this bullet fragment as "class
26 consistent" to those found in Mr. Limanni's body. Exhibit 15, 65:12-66:10. Mr. Johnson testified
27 that more than ten different types of ammunition and various types of firearms could have been
28 associated with the bullet fragment. *Id.* While the State suggested that this bullet is proof that Mr.
Limanni was killed in 1933, there's no indication about how or when that bullet was shot into the
wall. Exhibit 14, 40:15-17. Nor was there any blood on the bullet. *Id.*

¹⁰⁹ Exhibit 15, 37:7-12.

¹¹⁰ *Id.*

¹¹¹ Exhibit 15, 56:15-18; 57:4-10.

1 office.¹¹² A .24 caliber cartridge was found in the false ceiling above the chair in the northeast
2 office. Exhibit 14, 40:15-17.

3 Finally, officers searched the dumpster located behind 1933; however, the description of
4 what was found varies depending on the report.¹¹³ Detective Thowsen reported that the first time
5 officers looked in the dumpster it was empty, but when they checked later it contained several
6 items of clothing and checks purportedly belonging to Mr. Limanni.¹¹⁴ Officer Nogues reported
7 there were miscellaneous papers and trash at the bottom of the dumpster when he arrived on the
8 scene.¹¹⁵ Later, Officer Nogues noted several pieces of clothing, including a tennis shoe, along
9 with six inches of paper and other "debris" in the dumpster, none of which was there before.¹¹⁶
10 Exhibit 40, p. 3.

11 Between the police's first and second examination of the dumpster, Mr. Seka was either
12 with Mr. Cerda or at the police station.¹¹⁷ Furthermore, numerous officers, including Detectives
13 Hefner and Buczek, responded to the scene to investigate 1929 and 1933.¹¹⁸ Detectives Haffner
14 and Buczek were at the scene for between eight and nine hours and never left the scene during that
15 time.¹¹⁹ The police were at the scene "constantly, continually" throughout the day investigating.
16 Exhibit 24, 35:7-8.

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20 ¹¹²Exhibit 14, 40:10-14; 56:13-15; 57:3-5.

21 ¹¹³ Exhibit 14, 40:22-41:5; Exhibit 11, p. 8-9; *see also* Exhibit 40, a true and correct copy of
22 Nogues Officer Report, Dec. 5, 1998, p. 2.

23 ¹¹⁴ Exhibit 25, 84:1-12; 88:7-89:1; Exhibit 11, p. 8-9.

24 ¹¹⁵ Exhibit 40, p. 2.

25 ¹¹⁶ The police alluded to Mr. Seka somehow depositing the items in the dumpster in an attempt to
26 destroy evidence. Exhibit 41, a true and accurate copy of pertinent portions of the Prelim. Hr'g
Tr., 30:4-21; 35:8-36:16. However, Mr. Seka was always either with Mr. Cerda or in police
custody when the items could have been placed in the dumpster. Exhibit 31, p. 10; Exhibit 24,
35:7-8.

27 ¹¹⁷ Exhibit 31, p. 10.

28 ¹¹⁸ Exhibit 27.

¹¹⁹ Exhibit 16, 33:2-9.

1 **Mr. Seka Leaves Las Vegas**

2 The police did not indicate that Mr. Seka was expected to return to 1933 after his dinner
3 appointment on November 16, so he went to a friend's home where he had been staying after Mr.
4 Limanni disappeared and the business ceased to operate.¹²⁰ Mr. Seka had no money and no
5 employment after Mr. Limanni disappeared, so he returned to his home on the East Coast in
6 December of 1998.¹²¹ Before leaving Nevada, Mr. Seka informed the police that his daughter and
7 parents lived on the East Coast.¹²² In addition, Mr. Seka provided the police with several addresses
8 and phone numbers where he could be reached.¹²³ The police never attempted to contact Mr. Seka
9 at the numbers or addresses he provided. Exhibit 2, 20:6-9.

10 **Peter Limanni's Body is Found**

11 On December 23, 1998, Mr. Limanni's body was found off a service road in the California
12 desert near the Nevada border.¹²⁴ He was found near some tire tracks lying face down and buried
13 from the legs down.¹²⁵ The body was badly decomposed, but several tattoos were noted -- a vulture
14 tattoo on the right arm and an eagle tattoo on the left.¹²⁶ A fingerprint was obtained and later
15 matched to Mr. Limanni.¹²⁷ The body showed varying degrees of decomposition and
16 mummification consistent with a body that had been outdoors partially buried for several weeks.¹²⁸
17 ¹²⁹ The coroner found eight gunshot wounds in the head and neck area: two in the back of the
18 skull, two on the left side of the skull, two on the top of the head, one on the right side of the skull,
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21 ¹²⁰ Exhibit 16, 47:21-23; Exhibit 22, 15:18-17: 25; Exhibit 29, p. 2.

22 ¹²¹ Exhibit 2, 37:23-38:1; Exhibit 39, p. 39-40; Exhibit 7, p. 5.

23 ¹²² Exhibit 7, p. 4.

24 ¹²³ *Id.*; Exhibit 22, 20:19-24; Exhibit 2, 21:20-23.

25 ¹²⁴ Exhibit 24, 4:23-5:25.

26 ¹²⁵ Exhibit 5, 108:9-11; 111:4-12.

27 ¹²⁶ *Id.* at 111:22-23; 113:4-15.

28 ¹²⁷ *Id.* at 113:16-114:8.

¹²⁸ The defense did not call an expert to opine as to the time of death.

¹²⁹ *Id.* at 50:22-51:1.

1 and at least one on the top of the left shoulder.¹³⁰ The coroner removed several bullets from the
2 skull cavity; all of which he testified could have been fatal.¹³¹ Additionally, Mr. Limanni was
3 fatally shot in the heart, indicated by the two wounds in the back of the chest. Exhibit 5, 53:15-18.

4 Mr. Cramer¹³²

5 When Mr. Seka returned to Philadelphia, he reconnected with his old friend, Thomas
6 Cramer. Mr. Cramer initially learned of the homicide of Mr. Limanni and the ensuing police
7 investigation in December 1998 from Lee Polsky, a mutual friend of Mr. Seka and Mr. Limanni.¹³³
8 ¹³⁴ Mr. Cramer suffered from severe drug addiction, and frequently became physically and
9 emotionally abusive.¹³⁵ In fact, Mr. Cramer testified that Paxil made him feel really violent.¹³⁶
10 During these abusive episodes, his girlfriend, Margaret Daly, would contact Mr. Seka for
11 assistance in calming Mr. Cramer. Exhibit 2, 19:25-20:16; 24:3-8.

12 On January 23, 1999, Ms. Daly frantically contacted Mr. Seka from the residence she
13 shared with Mr. Cramer and Mr. Cramer's grandmother to request assistance controlling Mr.
14 Cramer.¹³⁷ Mr. Seka came over and Mr. Cramer became incensed, and at one point, pushed Mr.
15 Seka down the stairs.¹³⁸ Mr. Cramer also physically attacked Ms. Daly who finally called the
16 police.¹³⁹ The police arrived and involuntarily committed Mr. Cramer to a mental institution for
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19 ¹³⁰ Exhibit 5, 51:8-25.

20 ¹³¹ *Id.* at 53:19-20; 54:9-10.

21 ¹³² Mr. Cramer's name is spelled both "Mr. Cramer" and "Mr. Creamer." For the sake of clarity,
22 he will be referred to "Mr. Cramer" throughout this memo.

23 ¹³³ Mr. Polsky knew Mr. Seka and Mr. Cramer were good friends. Exhibit 42 – a true and correct
24 copy of the statement of Lee M. Polsky by Philip B. Needham, Investigator, Feb. 18, 2000 p. 4.
25 Mr. Polsky called Mr. Cramer to see if he knew anything about Mr. Seka because he heard some
26 rumors "something happened." *Id.* Mr. Polsky and Mr. Cramer were merely acquaintances. *See id.*

27 ¹³⁴ Exhibit 2, 48:17-50:12; Exhibit 43 – a true and correct copy of Officer Dusak's Interview
28 Record of Thomas Creamer, Apr. 9, 1999, p. 2.

25 ¹³⁵ Exhibit 2, 18:3-21.

26 ¹³⁶ Exhibit 25, 25:6-7.

27 ¹³⁷ Exhibit 2, 19:25-20:8; 24:3-8.

28 ¹³⁸ *Id.* at 24:13-25:3.

¹³⁹ *Id.* at 26:9-25.

1 ten days as a result of his erratic and violent behavior.¹⁴⁰ Ms. Daly subsequently filed for a
2 restraining order against him. Exhibit 2, 17:7-9.

3 After being released from the mental institution, Mr. Cramer claimed that he pushed Mr.
4 Seka down the stairs because Mr. Seka said, "Do you want me to do to you what I did to Pete
5 Limanni?"¹⁴¹ However, in 2017, Ms. Daly (who changed her name to Ms. McConnell) signed a
6 declaration stating that she was present during the altercation and asserts that Mr. Seka never
7 confessed to Mr. Cramer.¹⁴² Ms. McConnell suggests that Mr. Cramer fabricated the confession
8 because he was angry with Mr. Seka for allegedly attempting to steal Ms. McConnell's affection
9 and believed Mr. Seka was responsible for committing him to the mental institution. Exhibit 44 at
10 3.

11 **Trial and Post-Conviction Proceedings**

12 After law enforcement became aware of Mr. Cramer's statement, an arrest warrant was
13 issued for Mr. Seka on February 26, 1999.¹⁴³ On March 15, 1999, the District Court of Nevada
14 ordered the United States Marshals and other federal agencies to arrest Mr. Seka.¹⁴⁴ Mr. Seka was
15 arrested at his home in Pennsylvania on March 31, 1999 and extradited to Nevada.¹⁴⁵

16 A Preliminary Hearing was held on June 28, 1999, before Justice of the Peace, William D.
17 Jansen. Mr. Cramer testified at the preliminary hearing, regarding the supposed "confession" by
18
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20 ¹⁴⁰ Exhibit 2, 16:24-17:6; 24:2-26:25; Exhibit 41, 67:4-9.

21 ¹⁴¹ Exhibit 25, 13:17-14:3.

22 ¹⁴² Exhibit 44, a true and correct copy of the Declaration of Margaret Ann McConnell, p. 4.

23 ¹⁴³ Exhibit 45, a true and correct copy of pertinent portions of Trial Tr., February 22, 2001, Vol.
24 1, 20:2-10.

25 ¹⁴⁴ Exhibit 46, a true and correct copy of the Warrant for Arrest, United States District Court,
26 District of Nev., Mar. 15, 1999.

27 ¹⁴⁵ From the beginning, the police connected the deaths of Mr. Limanni and Mr. Hamilton.
28 Specifically, the arrest warrant stated that Mr. Seka "was involved in a series of crimes in order to
obtain money which included the theft of the (Ms. Gorzoch's) purse from the parking lot of the
Crazy Horse II, the pawning of construction equipment believed to belong to Peter Limanni, and
the murder and apparent robbery of Eric Hamilton in which Hamilton was shot to death with a
.38/357 handgun and transported to Las Vegas Boulevard near Lake Mead in the 1998 brown
Toyota pickup truck..." Exhibit 17 - p. 15.

1 Mr. Seka.¹⁴⁶ No evidence was presented that either Mr. Limanni or Mr. Hamilton were robbed.¹⁴⁷
2 The State asserted that the deaths occurred at the same time, although the bodies were discovered
3 more than forty-three days apart. Mr. Seka was bound over on all charges.¹⁴⁸The State filed an
4 Intent to Seek Death in his case on July 26, 1999.

5 Mr. Seka's trial began on February 12, 2001, before District Court Judge Donald Mosley.
6 The trial lasted seven days¹⁴⁹ and was followed by five days of jury deliberation. On March 1,
7 2001, the jury returned a guilty verdict. The March 2, 2001, penalty hearing resulted in a jury
8 deadlock. On March 13, 2001, Mr. Seka waived sentencing by a jury in favor of being sentenced
9 by a three-judge panel. On April 26, 2001, Mr. Seka was sentenced to two sentences of Life
10 without the Possibility of Parole, two sentences of Life with the Possibility of Parole plus an
11 additional three-hundred and twelve (312) months for the robbery charges, all to be served
12 consecutively. Judgment of Conviction was entered May 3, 2001. Exhibit 47 – a true and correct
13 copy of the Judgment of Conviction.

14 On May 15, 2001, Mr. Seka appealed the Judgment of Conviction to the Nevada Supreme
15 Court. Mr. Seka's appeal was dismissed November 20, 2001. This was affirmed April 8, 2003. On
16 February 13, 2004, Mr. Seka filed a State Post-Conviction Writ of Habeas Corpus, and a hearing
17 was held on November 5, 2004. On February 1, 2005, Notice and Entry of Decision and Order
18 was filed, denying Mr. Seka's Writ of Habeas Corpus. On February 9, 2005, Mr. Seka filed a
19 Notice of Appeal. The Nevada Supreme Court issued its Order of Affirmance on June 8, 2005,
20 followed by Remittitur on July 22, 2005. On July 22, 2005, Mr. Seka filed a pro se Federal Writ
21 of Habeas Corpus. August 24, 2005, Mr. Seka was appointed post-conviction counsel through the
22

23 ¹⁴⁶ Exhibit 41, p 30- 84.

24 ¹⁴⁷ *Id.* at 121:16-123:7.

25 ¹⁴⁸ *Id.* at 126:1-16.

26 ¹⁴⁹ In closing arguments, the State continued to connect the murders of Mr. Limanni and Mr.
27 Hamilton, explicitly discussing the "series of events" that led to their deaths. Exhibit 23, 63:17.
28 The State postulated that Mr. Hamilton was an innocent bystander when Mr. Limanni was killed,
and that perhaps Mr. Hamilton helped dispose of Mr. Limanni's body and then became a "loose
end" that needed to be "cleaned up." *Id.* at 67:11-23.

1 Federal Public Defender for the District of Nevada, namely Debra Bookout. Through this
2 appointment he was also provided with extensive investigation services performed by Ed Heddy,
3 an investigator with the Federal Public Defender (now retired). Through counsel an Amended
4 Petition for Writ of Habeas Corpus was filed on May 18, 2007. On August 26, 2008, the United
5 States Court of Appeals for the Ninth Circuit denied Seka's Petition for Writ of Habeas Corpus.

6 On September 25, 2008, Mr. Seka entered a Notice of Appeal of the Ninth Circuit's Denial.
7 After requesting a Certificate of Appealability and being granted such on several issues, Mr. Seka
8 proceeded through the Federal Habeas Corpus process. Ultimately, the United States Supreme
9 Court denied Writ of Certiorari on March 5, 2012.

10 On June 19, 2017, Mr. Seka filed a Post-Conviction Petition Requesting A Genetic Marker
11 Analysis of Evidence Within the Possession or Custody of the State of Nevada (NRS 176.0918).
12 On August 15, 2017, the State filed a Response to Defendant's Petition Requesting Genetic Marker
13 Analysis. On September 5, 2017, Mr. Seka filed Defendant's Reply to State's Opposition of
14 Defendant's Petition for Post-Conviction Genetic Marker Analysis Testing NRS 176.0918. On
15 September 19, 2017, the court granted Mr. Seka's petition and ordered preservation of the physical
16 evidence and an inventory of the evidence to be produced. On February 15, 2018, the court ordered
17 post-conviction DNA testing of Mr. Hamilton's fingernail clippings, hair identified under Mr.
18 Hamilton's fingernails, and cigarette butts located near Mr. Hamilton's body. On December 14,
19 2018, the Court held an evidentiary hearing on the probative value of the remaining items of
20 evidence Mr. Seka requested be DNA tested. On January 24, 2019, the court ordered post-
21 conviction DNA testing of additional physical evidence including Mr. Hamilton's baseball hat that
22 was left at the murder scene and a Skoal tobacco container and two beer bottles that were collected
23 from the area around where Mr. Hamilton's body was discovered.

24 **2018-2019 Genetic Marker Analysis Results**

25 Physical evidence collected from the 1929 crime scene and the area where Mr. Hamilton's
26 body was discovered have recently undergone Genetic Marker Analysis. This physical evidence
27 likely contains the actual perpetrator(s) DNA. Specifically, the following pieces of evidence were
28

1 tested.

2 A. Mr. Hamilton's Fingernail Clippings: At the autopsy, fingernails were collected
3 from Mr. Hamilton's left and right hands. Detective Thowsen requested DNA testing and Dr.
4 Welch performed PCR-RFLP testing on the left-hand clippings. Mr. Welch testified that he was
5 unable to determine if the blood found on Mr. Hamilton's fingernail clippings belonged to a male
6 or female but that he could exclude Mr. Seka as a contributor.¹⁵⁰ Dr. Welch merely tested the
7 blood identified under Mr. Hamilton's fingernails, not the touch DNA potentially available under
8 the fingernail clippings.¹⁵¹ The 2018 STR DNA testing concluded that assuming Mr. Hamilton
9 was a contributor, a second foreign contributor was detected on Mr. Hamilton's fingernail
10 clippings from both his left and right hands.¹⁵²¹⁵³ Mr. Seka was fully excluded as the other
11 contributor. *Id.*

12 B. Hair: At autopsy, hairs with apparent blood were collected from under Mr. Hamilton's
13 fingernails. Dr. Welch tested the apparent blood identified on the hairs, but not the hairs
14 themselves.¹⁵⁴ In 1998, Mr. Seka was excluded as a possible contributor to the blood identified on
15 the hair.¹⁵⁵ The 2018 STR DNA testing showed that the hair belonged to Mr. Hamilton.¹⁵⁶ Mr.
16 Seka was excluded as a possible source of the hair. ¹⁵⁷

17 C. Marlboro cigarette butt:¹⁵⁸ This item was collected near Mr. Hamilton's body, 2.1 miles
18 south of State Route 146 on Las Vegas Blvd. Police Officer Vincent Roberts collected the cigarette
19

20 ¹⁵⁰ Exhibit 5, 11:20-12:7.

21 ¹⁵¹¹⁵¹ Exhibit 48 – a true and correct copy of the LVMPD Forensic Laboratory Report of
Examination, Dec. 18, 1998.

22 ¹⁵² Mr. Hamilton was also the contributor of the hair underneath his fingernails. Mr. Seka was
also fully excluded as a contributor of that hair.

23 ¹⁵³ Exhibit 49 – a true and correct copy of the LVMPD Forensic Laboratory Report of Examination,
July 24, 2018.

24 ¹⁵⁴ Exhibit 48.

25 ¹⁵⁵ *Id.*

26 ¹⁵⁶ Exhibit 49.

27 ¹⁵⁷ *Id.*

28 ¹⁵⁸ Two cigarette butts were collected and tested. The other cigarette butt, Lab Item 1, did not
produce a DNA profile.

1 butt, Detective Thowsen requested it be tested for DNA, and Mr. Welch attempted to conduct
2 PCR-RFLP DNA typing on it in 1998.¹⁵⁹ Mr. Welch was unable to obtain any DNA typing
3 results.¹⁶⁰ The 2018 STR DNA testing produced a full DNA profile and excluded both Mr.
4 Hamilton and Mr. Seka as contributors.¹⁶¹ The DNA profile was uploaded to the Local DNA Index
5 System and the National DNA Index System (CODIS) for comparison.¹⁶²

6 C. Skoal Container: This item was collected near Mr. Hamilton's body, 2.1 miles
7 south of State Route 146 on Las Vegas Blvd. In 1999, the Skoal chewing tobacco container was
8 examined for latent fingerprints.¹⁶³ No latent prints were identified on the evidence and it was not
9 DNA tested. The 2019 DNA testing identified two DNA profiles and excluded Mr. Hamilton and
10 Mr. Seka as possible contributors. Exhibit 51 -- a true and correct copy of the Las Vegas
11 Metropolitan Police Department Forensic Laboratory Report of Examination, Mar. 19, 2019.

12 D. Beck's beer bottle:¹⁶⁴ This item was collected near Mr. Hamilton's body, 2.1 miles
13 south of State Route 146 on Las Vegas Blvd. In 1999, the Beck's beer bottle was examined for
14 latent prints.¹⁶⁵ Mr. Seka, Mr. Limanni and Mr. Hamilton were excluded as the source of the latent
15 prints, but no DNA testing was conducted at the time. The 2019 STR DNA testing identified a
16 female profile on the evidence.¹⁶⁶ Both Mr. Hamilton and Mr. Seka were excluded as possible
17
18

19 ¹⁵⁹ Exhibit 48.

20 ¹⁶⁰ Exhibit 5, 20:10-22.

21 ¹⁶¹ Exhibit 49.

22 ¹⁶² Eligibility requirements for a CODIS upload requires documentation that includes "(1) That a
23 crime has been committed; (2) That demonstrates the DNA sample was recovered directly from
24 the crime scene and it is attributed to the putative perpetrator; and (3) That elimination
25 samples(s) have been requested, if applicable." National DNA Index System (NDIS) Operational
26 Procedures Manual, [https://www.fbi.gov/file-repository/ndis-operational-procedures-](https://www.fbi.gov/file-repository/ndis-operational-procedures-manual.pdf/view)
27 [manual.pdf/view](https://www.fbi.gov/file-repository/ndis-operational-procedures-manual.pdf/view) (last visited October 29, 2019).

28 ¹⁶³ Exhibit 50 -- a true and correct copy of LVMPD Lab. a true and correct copy of the LVMPD
Forensic Laboratory Report of Examination, February 17, 1999.

¹⁶⁴ A second Beck's beer bottle was collected, and a DNA profile was obtained. However,
although that profile was consistent with at least one contributor, due to the limited nature of this
profile it is unsuitable for interpretation and comparison.

¹⁶⁵ Exhibit 50.

¹⁶⁶ Exhibit 51.

1 contributors.¹⁶⁷ The DNA profile was uploaded to the Local DNA Index System and the National
2 DNA Index System (CODIS) for comparison. Exhibit 51.

3 E. Brown JCPenney Construction baseball cap: This item belonging to Mr. Hamilton
4 was collected in 1929 where Mr. Hamilton was likely killed. This item was not DNA tested at the
5 time of trial. The 2019 DNA testing identified three profiles on the cap, one belonging to Mr.
6 Hamilton and two unknown profiles.¹⁶⁸ No further conclusions could be drawn from the DNA
7 mixture. Exhibit 51.

8 As outlined above, fingerprint analysis was conducted on several items of evidence.¹⁶⁹
9 Latent fingerprints were identified and examined on Miller beer bottles found inside and outside
10 of 1933, inside the Toyota truck, on the assorted wood covering Mr. Hamilton's body, on the
11 Beck's beer bottle recovered from where Mr. Hamilton's body was found and on Ms. Gorzoch's
12 purse collected from the ceiling in 1933.¹⁷⁰ Mr. Seka's fingerprints were identified on the Miller
13 beer bottles collected from inside 1933 and the dumpster just outside his home and business in
14 1933.¹⁷¹ Mr. Seka and Mr. Limanni's fingerprints were identified on the lumber that was taken
15 from 1933 and used to cover Mr. Hamilton's body; however, additional unknown fingerprints, not
16 belonging to Mr. Seka or Mr. Limanni were also identified.¹⁷² The unknown fingerprints identified
17 on the Beck's beer bottle and Ms. Gorzoch's purse did not belong to Mr. Seka, Mr. Limanni or
18 Mr. Hamilton.¹⁷³ Fingerprints were also identified and collected from 1929 "north vertical metal
19 frame edge to the west front point-of-entry window, the interior front west door on the glass pane,
20 and from a glass fragment inside the point-of-entry on the office floor", but the prints were not
21 examined.¹⁷⁴ Unfortunately, the unidentified prints found on the important physical evidence, the

22 ¹⁶⁷ Exhibit 51.

23 ¹⁶⁸ *Id.*

24 ¹⁶⁹ Exhibit 50.

25 ¹⁷⁰ *Id.*; Exhibit 35.

26 ¹⁷¹ Exhibit 50.

27 ¹⁷² *Id.*

28 ¹⁷³ *Id.*; Exhibit 35.

¹⁷⁴ *Id.*, Exhibit 28, p. 3.

1 three separate sets of prints around the point of entry to the 1929 crime scene, the unidentified
2 prints on the lumber found covering Mr. Hamilton's body, the beer bottle found near Mr.
3 Hamilton's body, and unknown prints identified on Ms. Gorzoch's purse were never compared to
4 each other and were never compared to the alternative suspects fingerprints. Exhibit 35.

5 III.

6 ARGUMENT

7 I. THE RESULTS OF THE GENETIC MARKER ANALYSIS ARE NEWLY 8 DISCOVERED EVIDENCE THAT REQUIRE MR. SEKA BE GRANTED A NEW 9 TRIAL

10 For approximately 20 years, Mr. Seka has maintained his innocence for the murders of
11 Peter Limanni and Eric Hamilton. The prosecution's case against Mr. Seka was wholly
12 circumstantial and no physical evidence linked Mr. Seka to any crime at 1929. Further, although
13 Mr. Seka's DNA was found at 1933, he worked and lived there, and there was no evidence that a
14 crime occurred there. Furthermore, others with actual motive to hurt Mr. Limanni, including his
15 disgruntled co-investors, were never properly investigated. Now, physical evidence from the crime
16 scene and the scene where Mr. Hamilton's body was discarded, exclude Mr. Seka from any
17 involvement and include another unknown individual. If the actual physical evidence exonerating
18 Mr. Seka and implicating someone else is presented to a jury, the result of Mr. Seka's original trial
19 will not stand. Thus, based on this recent genetic marker testing, Mr. Seka is respectfully
20 requesting a new trial under Nev. Rev. Stat. § 176.515(1) and Nev. Rev. Stat. § 176.0918(1)(a-b).

21 "The court may grant a new trial to a defendant . . . on the ground of newly discovered
22 evidence." Nev. Rev. Stat. § 176.515(1). Generally, a motion for a new trial must be filed within
23 two years after the verdict or finding of guilt. *Id.* at (3). However, if the newly discovered evidence
24 is favorable genetic marker testing, the two-year statute of limitations is waived. Nev. Rev. Stat. §
25 176.0918 (1)(a-b).

26 To establish a basis for a new trial on this ground, the evidence must be:

27 (1) newly discovered; (2) material to the defense; (3) such that even with the
28 exercise of reasonable diligence it could not have been discovered and produced
for trial; (4) non-cumulative; (5) such as to render a different result probable upon
retrial; (6) not only an attempt to contradict, impeach, or discredit a former witness,

1 unless the witness is so important that a different result would be reasonably
2 probable (7) and the best evidence the case admits.

3 *Sanborn v. State*, 107 Nev. 399, 812 P.2d 1279, 1284-85 (1991) (quoting *McLemore v. State*, 94
4 Nev. 237, 577 P.2d 871 (1978)).

5 The grant or denial of a new trial on the ground of newly discovered evidence is within the trial
6 court's discretion and will not be reversed on appeal absent its abuse. *Sanborn*, 812 P.2d at 1284
7 (citing *McCabe v. State*, 98 Nev. 604, 655 P.2d 536 (1982)); *See also State v. Crockett*, 84 Nev.
8 516, 444 P.2d 896, 897 (1968) (holding that the appellate court will presume the trial court's
9 decision to grant a new trial correct and proper until the appellant shows the contrary).

10 As demonstrated below, the results of the genetic marker testing on physical evidence in
11 this case meet all of the requirements for this Court to grant Mr. Seka a new trial: First, it is newly
12 discovered and even with the exercise of reasonable diligence could not have been discovered at
13 trial; second, it is not merely cumulative; third, it is not merely an attempt to contradict, impeach
14 or discredit a former witness; fourth, it is both material to the defense and such as to render a
15 different result probable upon retrial; and finally, it is the best evidence the case admits.

16 **A. The Results of the Genetic Marker Testing Qualify as Newly Discovered**
17 **Evidence and Even with the Exercise of Reasonable Diligence Could Not**
18 **Have Been Produced at Trial.**

19 New developments in DNA science allow for more advanced testing which was not
20 available¹⁷⁵ when the evidence was discovered in 1998-99 or when it was presented at trial in 2001.
21 These scientific developments not only make the results of the 2019 Genetic Marker Analysis new,
22 but also make them unobtainable by trial counsel.

23 When the evidence in this case was collected, the only available DNA testing at the Las
24 Vegas Metropolitan Police Department was an older Polymerase Chain Reaction ("PCR") testing
25 called Restriction Fragment Length Polymorphism ("PCR-RFLP").¹⁷⁶ At the time of trial, a newer

26 ¹⁷⁵ In its response to Defendant's Petition Requesting Genetic Marker Analysis, the State did not
27 dispute that, pursuant to Nev. Rev. Stat. § 176.0918(3)(c), Mr. Seka was requesting genetic marker
28 testing that was not available at the time of trial. *See State's Response to Defendant's Petition*
Requesting Genetic Marker Analysis filed August 18, 2017. Thus, for the State to do so in response
to Mr. Seka's Motion for a New Trial would be disingenuous.

¹⁷⁶ Exhibit 26, 62:9-63:20.

1 PCR testing was used in the field, but it was not conducted on any of the evidence in this case.
2 David Welch, a criminalist with the Las Vegas Metropolitan Police Department and a witness for
3 the prosecution, testified at trial that the PCR-RFLP testing the LVMPD laboratory was using was
4 only a test to eliminate, not a test to identify.¹⁷⁷ In other words, Mr. Welch testified that if he could
5 produce a profile at all, he would simply be able to exclude the victims or Mr. Seka as contributors,
6 but that he would not be able to identify any other individual's DNA profile.¹⁷⁸ Using this PCR-
7 RFLP testing, Mr. Welch testified that no DNA typing results were obtained from the cigarette
8 butts found near Mr. Hamilton's body.¹⁷⁹ Mr. Welch further testified that using PCR-RFLP he was
9 unable to determine if the DNA found on Mr. Hamilton's left-hand fingernail clippings belonged
10 to a male or female but that he could exclude Mr. Seka as the contributor.¹⁸⁰ None of the other
11 pieces of evidence tested in 2018-19 were subjected to DNA testing at the time of trial. Considering
12 the PCR-RFLP testing method used at the time, DNA profiles likely would not have been obtained
13 from the beer bottle, the hat or the Skoal container using this outdated PCR-RFLP testing method,
14 and if they had, they simply would have been able to exclude Mr. Seka, not include another
15 perpetrator.

16 However, in 2018 and 2019, pursuant to Mr. Seka's Petition Requesting Genetic Marker
17 Analysis, the Court ordered DNA testing be conducted on five remaining key pieces of evidence.
18 Short Tandem Repeats ("STR") DNA testing using a twenty-one Combined DNA Index System
19 ("CODIS") loci was used and the results were deeply probative – not only did the results fully
20 exclude Mr. Seka but they also identified at least one unknown profile on each piece of evidence.
21 First, an unknown contributor was identified on the fingernail clippings from Mr. Hamilton's left
22 and right hands during the STR genetic marker testing. Second, although one of the cigarette butts
23 remained inconclusive, the other produced a full DNA profile which belonged to neither Mr. Seka
24 nor Mr. Hamilton. Third, both the Skoal container and the Beck's beer bottle found near Mr.

25 _____
26 ¹⁷⁷ *Id.*; Exhibit 5, 17:16-19; 18:10-12.

27 ¹⁷⁸ *See generally id.*

28 ¹⁷⁹ Exhibit 26, 57:25-58:17.

¹⁸⁰ Exhibit 5, 11:20-12:7.

1 Hamilton's body produced full DNA profiles, neither of which belonged to Mr. Seka or Mr.
2 Hamilton. Finally, Mr. Hamilton's hat, which he was always known to wear and was removed
3 from his head and left at the scene of the crime, produced two profiles in addition to Mr. Hamilton's
4 profile, but no further inferences could be drawn because of the inconclusive mixture.

5 The results from the Genetic Marker Analysis were reported on July 24, 2018 and March
6 19, 2019, eighteen years after Mr. Seka's conviction using a testing method that was not available
7 at the time of Mr. Seka's trial. Because these results are new and were not available to counsel at
8 the time of trial, a new jury should be allowed to consider them as part of Mr. Seka's defense in a
9 new trial.

10 **B. The Results of the Genetic Marker Testing Are Not Cumulative.**

11 Another element of a new trial motion is that the new evidence must not be merely
12 cumulative of evidence that was known at the time of trial. *Sanborn v. State*, 812 P.2d 1279, 1284
13 (1991) (quoting *McLemore v. State*, 94 Nev. 237, 577 P.2d 871 (1978)). While cumulative is not
14 expressly defined in either statute or case law, the Nevada Supreme Court has held that evidence
15 is cumulative if it was "significantly referred to during trial." *Porter v. State*, 576 P.2d 275, 280
16 (Nev. 1978). Additionally, the Nevada Supreme Court has characterized evidence as cumulative
17 if it is "in addition to or corroborative of what has been given at the trial." *Gray v. Harrison*, 1
18 Nev. 502, 509 (Nev. 1865).

19 By way of example, in *O'Briant v. State*, 295 P.2d 396 (Nev. 1956), the defendant was
20 charged with arson for setting fire to his own business. At trial, defendant claimed that the fire
21 was not incendiary but rather accidental when flammable materials, including petroleum residue,
22 in the backroom of the business spontaneously combusted. *Id.* at 397. On a motion for a new trial,
23 the defendant's newly discovered evidence was expert testimony that polishing cloths, similarly
24 to those stored in the backroom, were also "subject to spontaneous combustion." *Id.* at 398. In
25 rejecting the expert testimony as cumulative, the Nevada Supreme Court held that the defendant's
26 spontaneous combustion theory had been presented to the jury and was rejected because it did not
27 explain evidence of two independent fires or the fact that defendant was seen in the building
28

1 moments before the fires began. *O'Briant*, 295 P.2d at 398-399. In other words, the court held that
2 the jury was "well aware" of defendant's theory of how a fire started and new evidence simply
3 adding to defendant's specific theory, and not refuting other determinative evidence, was
4 cumulative. *Id.* at 398.

5 Similarly, in an unpublished opinion, the court denied a motion for a new trial in part
6 because the DNA evidence was cumulative of trial testimony. *Lapena v. State*, 429 P.3d 292, 2018
7 WL 5095822 (Nev. 2018). In this murder-for-hire case, the State argued that defendant hired a
8 second man to kill the victim. *Id.* at *1. During trial, the hired killer testified that he had only slit
9 the victim's throat, that he had not strangled her. *Id.* The medical examiner testified, however, that
10 the victim had been strangled and the defense used the medical examiner's testimony to undermine
11 the killer's credibility. *Id.* When DNA results confirmed the medical examiner's theory of
12 strangulation, the defendant moved for a new trial. *Id.* In finding that the evidence was cumulative,
13 the court held that new DNA evidence suggesting that the victim was strangled with the electrical
14 cord before her throat was slit was cumulative of the medical examiner's trial testimony. *Id.* at *2.
15 Reasoning that the killer had already been impeached on this inconsistency, the court held that the
16 new evidence did not "suggest that a different result was reasonably probable." *Id.*

17 On the other hand, in *Hennie v. State*, 968 P.2d 761, 761-762 (Nev. 1998), the defendant
18 claimed he had been framed by his two roommates for several burglaries. Both roommates testified
19 against him and he was ultimately convicted of all charges. *Id.* at 763. At sentencing, the defendant
20 learned that both witnesses had been involved in a murder conspiracy four years earlier and one
21 had testified untruthfully about his indebtedness. *Id.* Based upon this information, the defendant
22 appealed and moved for a new trial. *Id.* Although the defendant attacked the witnesses' credibility
23 throughout the trial, the Nevada Supreme Court held that the evidence was not cumulative because
24 "the newly discovered evidence, which the jury never heard, severely undermine[d] the credibility
25 of the State's two key witnesses upon whose testimony [the defendant] was largely convicted." *Id.*
26 at 764. As a result, the Court held the defendant was entitled to a new trial. *Id.* at 765.

27 Here, the 2018 and 2019 Genetic Marker testing is not cumulative as the State's case was not
28 based upon physical evidence connecting Mr. Seka to the crimes, but rather on circumstantial

evidence that could be interpreted in several ways. In short, no similar evidence was offered at trial. Most of the physical evidence that was DNA tested in 2018 and 2019 could not be tested at the time of trial and thus was ignored. The physical evidence that was tested at the time of trial provided no useful results. Specifically, the State's forensic chemist testified that no DNA typing results were obtained from the cigarette butts found near Mr. Hamilton's body and although he excluded Mr. Seka from the DNA underneath Mr. Hamilton's fingernails, he could not obtain a full profile of the contributor.¹⁸¹ In essence, this testimony added nothing to the trial, to the State's circumstantial theory that Mr. Seka was the perpetrator, or to Mr. Seka's defense that he was wholly innocent. Thus, unlike in *O'Briant* and *Lapena*, the 2018 and 2019 Genetic Marker testing is entirely new. The 2018 testing identified a DNA profile from one of the Marlboro cigarette butts found near Mr. Hamilton's body – both Mr. Hamilton and Mr. Seka were excluded. Further, the recent Genetic Marker testing identified two profiles, at least one of which is male, under Mr. Hamilton's fingernails. Mr. Hamilton is presumed to be one of the contributors. However, Mr. Seka is fully excluded from the fingernail clippings on both of Mr. Hamilton's hands. He is also excluded as a contributor on the Beck's beer bottle and the Skoal container found at the dumpsite. This physical evidence is of a totally different caliber of the evidence produced at trial, it could not have been referred to at trial as it was not available, and it is not corroborative of any other evidence presented in this fully circumstantial case. Simply put, the new Genetic Marker testing evidence cannot be considered cumulative.

C. The Result of the Genetic Marker Testing is Not Merely Impeachment Evidence.

For purposes of a new trial, the defendant must show that new evidence is “not only an attempt to contradict, impeach, or discredit a former witness, unless the witness is so important that a different result would be reasonably probable.” *Sanborn v. State*, 812 P.2d 1279, 1284-85 (1991) (quoting *McLemore v. State*, 94 Nev. 237, 577 P.2d 871 (1978)). By definition, impeachment evidence is evidence used to attack the credibility of a witness. *See Nev. Rev. Stat* § 50.075. The Nevada Supreme Court has held that evidence is merely impeachment if its sole purpose is to

¹⁸¹ Exhibit 26, 57:25-58:17.

1 discredit a witness. See *O'Neill v. State*, 238 P.3d 843, 2008 WL 6102001 (Nev. 2008)
2 (unpublished opinion). The Nevada Supreme Court has waived the requirement that newly
3 discovered evidence cannot be merely impeachment evidence and therefore may be enough to
4 justify granting a new trial if the witness impeached is so important that impeachment would
5 necessitate a different verdict. *King v. State*, 596 P.2d 501, 503 (Nev. 1979).

6 Here, no argument exists to characterize the results of the genetic marker analysis of physical
7 evidence found at the crime scene and the site where Mr. Hamilton's body was dumped as
8 impeachment evidence. The 2018-2019 results are not an attempt to re-hash or discredit the results
9 previously obtained by the technicians or other experts at trial -- indeed, the physical evidence that
10 was available and tested at the time of trial was inconclusive or was taken from Mr. Seka's
11 residence. The case against Mr. Seka was circumstantial. No physical evidence placed Mr. Seka
12 at the scene of the crime. No physical evidence connected Mr. Seka to the victims' deaths. No
13 relevant physical evidence put Mr. Seka at the sites where their bodies were dumped.¹⁸² Now, with
14 scientific advances over the last eighteen years, DNA testing has proven exculpatory to Mr. Seka
15 -- newer testing methods than those used at trial. Thus, the results are additional, instead of
16 contradictory or impeaching, to the circumstantial evidence presented at trial.

17 In sum, the results of the Genetic Marker Analysis are not impeachment evidence under any
18 interpretation. No direct evidence was presented at trial that connected Mr. Seka to the murders --
19 now there is physical evidence that not only excludes him as a participant but also identifies the
20 actual perpetrator. Mr. Seka should be allowed to present this evidence in a new trial.

21
22
23
24 ¹⁸² Fingerprints belonging to Mr. Seka, Mr. Limanni and an unknown individual were found on
25 the lumber that covered Mr. Hamilton's body. The lumber was the same lumber that had been
26 stacked both inside and outside 1933 while Mr. Seka, Mr. Limanni and sometimes, Mr. Hamilton,
27 built a humidor for the transitioning Cingeri business. The unknown fingerprints have never been
28 compared to any of the other physical evidence in the case to determine if there is a consistency
that could identify the actual perpetrator. In addition, a note with Mr. Seka's name and phone
number were found in Mr. Hamilton's pocket. Because Mr. Hamilton was working for Mr.
Limanni, he needed a way to contact the business which Mr. Seka provided.

1 **D. The Results of the Genetic Marker Testing are Material to the Defense and**
2 **are Such as to Render a Different Result Probable upon Retrial.**

3 Under Nevada law, materiality of evidence is synonymous with the probability of a different
4 result upon retrial, so these two elements supporting Mr. Seka's Motion for a New Trial will be
5 discussed in tandem. *Sanborn*, 812 P.2d at 1284-85 (quoting *McLemore*, 577 P.2d 871). The term
6 "material" has not been expressly defined¹⁸³ in Nevada Law, but can be viewed at its most strict
7 as evidence that "goes to the essence of [the defendant's] guilt or innocence." *State v. Crockett*, 84
8 Nev. 516, 444 P.2d 896, 897 (1968). In both the context of a *Brady* violation and new trial,
9 evidence is defined as "material" if the evidence leads to the conclusion that "there is a reasonable
10 probability that . . . the result of the proceeding would have been different." *United States v.*
11 *Bagley*, 473 U.S. 667, 682 (1985); *see also Steese v. State*, 114 Nev. 479, 960 P.2d 321 (1998);
12 *Crockett*, 444 P.2d at 897. In considering whether the evidence "renders a different result
13 reasonably probable," the court should consider whether the new evidence undermines the
14 dispositive evidence, which "incorporate[s] assessing whether the new evidence materially
15 strengthen[s] the defense theory." *Lapena v. State*, 429 P.3d 292, 2018 WL 5095822 (Nev. 2018).
16 Importantly, "credibility is not the test of the motion for new trial, instead the trial judge must
17 review the circumstances in their entire light, then decide whether the new evidence will probably
18 change the result of the trial." *Crockett*, 444 P.2d at 897-898.

19 For example, in *Crockett*, the court granted a new trial when a previously unavailable
20 witness revealed that he, and not the defendant, was the individual seen leaving the crime scene
21 with a weapon. *Crockett*, 444 P.2d at 896. The court reasoned that "the guilt or innocence of [the
22 defendant] might well turn on that evidence." *Id.* at 897. Furthermore, the court noted that this new
23 information implicated the declarant and explained that "identifying the real killer as someone
24

25 ¹⁸³ Black's Law Dictionary defines materials as "Important; more or less necessary; having
26 influence or effect; going to the merits; having to do with matter, as distinguished from form. An
27 allegation is said to be material when it forms a substantive part of the case presented by the
28 pleading. Evidence offered in a cause, or a question propounded, is material when it is relevant
and goes to the substantial matters in dispute, or has a legitimate and effective influence or bearing
on the decision of the case." <https://www.freelawdictionary.org/material/> (last accessed September
29, 2019).

1 other than the defendant is not only material to [the] defense but establishes a real possibility of a
2 different result on retrial.” *State v. Crockett*, 444 P.2d at 896.

3 Nevada appellate courts have only been faced with a Motion for New Trial in one case
4 involving DNA evidence. *See Lapena*, 429 P.3d 292. As noted above, the *Lapena* court denied a
5 Motion for a New Trial because the DNA was cumulative and therefore did not “suggest that a
6 different result was reasonably probable.” *Id.* at *2. However, other state courts who have been
7 presented with new DNA evidence have granted new trial motions.

8 For example, in *Aguirre-Jarquin v. State*, the defendant was charged with stabbing two
9 acquaintances in their home after his DNA was found on the murder weapon and the victims’
10 blood was found on his clothing. 202 So. 3d 785, 791-792 (Fla. 2016). Although he claimed he
11 had touched the murder weapon and the victims when he entered their house and discovered they
12 had been killed, he was convicted of both murders and sentenced to death. *Id.* at 788. Post-
13 conviction DNA testing showed that eight bloodstains found at critical locations around the house
14 belonged to someone else. *Id.* at 791. The court held that the new DNA evidence, along with an
15 alleged confession from the actual perpetrator, created conflicts with the evidence presented at trial
16 that gave “rise to a reasonable doubt as to his culpability” and the court ordered a new trial. *Id.* at
17 795.

18 Similarly, in *State v. Parmar*, two eyewitnesses identified the defendant as the sole male
19 perpetrator of a violent robbery and murder. 808 N.W.2d 623, 626-27 (Neb. 2012). Post-conviction
20 DNA testing conclusively excluded the defendant as the contributor of physical evidence at the
21 scene and, although no actual perpetrator was identified, the court granted a new trial emphasizing
22 that DNA evidence, even with the testimony of eyewitnesses, was highly probative. *Id.* at 631-632
23 (citing *State v. White*, 740 N.W.2d 801 (Neb. 2007)). In setting the bar for a new trial based upon
24 DNA evidence, the court held that where “DNA [evidence] create[s] a reasonable doubt about
25 [defendant's] guilt and [is] probative of a factual situation different from the ... State’s [witnesses]”
26 a new trial is warranted. *Parmar*, 808 N.W.2d at 634. The court continued by stressing that even
27 if the DNA evidence “cannot prove that the witnesses’ testimonies were false” it is sufficient if it
28 “makes their version of the facts less probable” because the defendant need not “show that the

1 DNA testing results undoubtedly would have produced an acquittal at trial” but only that a
2 reasonable probability exists. *Parmar*, 808 N.W.2d at 634; see also *Arrington v. State*, 983 A.2d
3 1071 (Md. 2009); *State v. Peterson*, 836 A.2d 821 (N.J.Sup. 2003); *People v. Waters*, 764 N.E.2d
4 1194 (Ill. App. Ct. 2002) (all holding that newly discovered DNA evidence warranted the grant of
5 defendant’s new trial motion).

6 Here, as in *Crockett* and *Parmar*, the newly discovered DNA evidence, which was
7 unavailable at the time of trial, is material because the guilt or innocence of Mr. Seka turns on it.
8 Although it has not yet been matched to the real perpetrator, it conclusively excludes Mr. Seka
9 from the crime scene and from the dump site of one of the victims. Importantly, it also identifies
10 the contributor, telling the story of a different perpetrator than the one that was convicted. In what
11 otherwise is a fundamentally circumstantial case, this evidence is at the essence of Mr. Seka’s guilt
12 or innocence and “establishes the real possibility of a different result on retrial.”

13 First, Mr. Seka is fully excluded from the DNA under Mr. Hamilton’s fingernails¹⁸⁴ and
14 another individual’s profile was obtained. This physical evidence alone calls into question the
15 prosecution’s theory that Mr. Seka is responsible for Mr. Hamilton’s death. The perpetrator shot
16 Mr. Hamilton two times in 1929. Bullet holes and blood on Mr. Hamilton’s jacket indicate that he
17 was wearing it when he was shot.¹⁸⁵ The actual perpetrator removed Mr. Hamilton’s jacket from
18 his body and left it at the crime scene before dragging Mr. Hamilton’s body from the business to
19 the parking lot.¹⁸⁶ Mr. Hamilton was likely dragged by his wrists and hands because his gold
20 bracelet was broken and was also left at the crime scene.¹⁸⁷ Had the motive for killing Mr.

21
22 ¹⁸⁴ DNA testing of fingernail clippings has been the basis for several national exonerations. Sample
23 cases include Daniel Anderson (Illinois), Michael Blair (Texas), Malcolm Bryant (Maryland),
24 Chad Heins (Florida), Jose Caro (Puerto Rico), Nevest Coleman (Illinois), Larry Davis
25 (Washington), Robert Dewey (Colorado), Tyrone Hicks (New York), Harold Hill (Illinois), Paul
26 House (Tennessee), Paul Jenkins (Montana), Anthony Johnson (Louisiana), Evin King (Ohio) and
27 Curtis McCarty (Oklahoma). All cases are outlined in the National Registry of Exonerations at
28 <http://www.law.umich.edu/special/exoneration/Pages/about.aspx> (last visited September 29,
2019).

¹⁸⁵ Exhibit 27 p. 6.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

1 Hamilton been robbery, his gold bracelet would not have been left behind.¹⁸⁸ In addition, the
2 perpetrator's DNA could have been transferred to Mr. Hamilton's hands and fingernails during
3 this process. The police saw this evidentiary potential and tested the blood and hair found under
4 Mr. Hamilton's fingernails and the left-hand clippings themselves at the time of Mr. Seka's trial.
5 However, the PCR-RFLP DNA testing that was used at the time was limited and was only able to
6 be used for exclusion purposes. Mr. Seka was excluded as a possible contributor of the blood under
7 Mr. Hamilton's fingernails. The 1998 DNA testing was limited and did not include testing for skin
8 cells or touch DNA. Now, the fingernails have produced a full genetic profile, one that does not
9 belong to Mr. Seka or Mr. Hamilton. This physical evidence now goes beyond merely an exclusion
10 from the victim source blood identified -- it gives the State the opportunity to determine who the
11 actual perpetrator is. It also gives a jury the opportunity to understand not only that Mr. Seka is
12 excluded from those fingernail clippings but that someone else, in addition to Mr. Hamilton, is
13 included. If this evidence had been available at the time of Mr. Seka's trial, investigators could
14 have made reasonable efforts to investigate alternative suspects and possibly identify the actual
15 perpetrator through this DNA profile. Certainly, this information would, at the very least, create a
16 reasonable doubt and thus lead to a probable different result should a new trial be ordered.

17 Second, Mr. Seka is excluded from all the relevant evidence collected at the site where Mr.
18 Hamilton's body was discarded.¹⁸⁹ On the day that Mr. Hamilton's body was discovered, police
19 collected two cigarette butts, two empty Beck's beer bottles, and a Skoal chewing tobacco
20 container near Mr. Hamilton's body. Although there was a freeway within sight, the actual
21 location of his body was on the side of a road that was not well-travelled. Importantly, the police
22 deemed the items near Mr. Hamilton's body important enough to collect and, indeed, attempted to

23
24 ¹⁸⁸ Exhibit 27 p. 6.

25 ¹⁸⁹ Mr. Seka's fingerprints, along with Mr. Limanni's, were found on the lumber that covered Mr.
26 Hamilton's body. The lumber was the same lumber that had been stacked both inside and outside
27 1933 while Mr. Seka, Mr. Limanni and sometimes, Mr. Hamilton, built a humidor for the
28 transitioning Cingeri business. Additionally, police also discovered a set of unknown fingerprints
on the lumber, fingerprints that were never compared to any of the other physical evidence in the
case in an attempt to identify the actual perpetrator. In addition, a note with Mr. Seka's name and
phone number were found in Mr. Hamilton's pocket. Because Mr. Hamilton was working for Mr.
Limanni, he needed a way to contact the business which Mr. Seka provided.

1 get latent prints from the Skoal tobacco container and the beer bottles and attempted to DNA test
2 the cigarette butts. Unfortunately, at the time, the DNA testing results of the cigarette butts were
3 inconclusive.¹⁹⁰ A latent fingerprint was identified on one of the beer bottles, but was dissimilar to
4 Mr. Seka, Mr. Limanni and Mr. Hamilton's fingerprints and was not tested for DNA.¹⁹¹ No latent
5 prints were identified on the Skoal tobacco container. Now, Mr. Seka is excluded as a contributor
6 to the DNA on all three of those items. The genetic marker analysis results on the items found next
7 to Mr. Hamilton's body are as probative now as they would have been at the time of trial – and
8 Mr. Seka should have the opportunity to tell a jury that he could not have been the person who
9 deposited those items around Mr. Hamilton's body. Additionally, investigators may be able to
10 identify the person who left their DNA and fingerprints on the physical evidence and whether they
11 are one of the alternative suspects.

12 However, the newly discovered DNA evidence should not be looked at in a vacuum.
13 Rather, this Court should review "the circumstances in their entire light" before deciding whether
14 "the new evidence will probably change the result of the trial." *Crockett*, 444 P.2d at 897-898. In
15 so doing, this Court should look at all the evidence that convicted Mr. Seka and determine whether
16 the new DNA evidence makes the State's "version of facts less probable." *Parmar*, 808 N.W.2d
17 at 634. Mr. Seka respectfully asserts that it does.

18 First, all indications are that Mr. Hamilton was murdered in 1929.¹⁹² The front glass in the
19 entryway of 1929 was shattered.¹⁹³ The police found copious amounts of Hamilton's blood on the
20 entryway carpet and on the broken glass.¹⁹⁴ The police also discovered apparent drag marks in the
21 blood on the floor of 1929 and a bloody jacket with apparent bullet holes.¹⁹⁵ These holes were later
22 compared to Mr. Hamilton's wounds, and were found to be similar to those in Mr. Hamilton's
23

24 ¹⁹⁰ Exhibit 26, 57:20-58:7.

25 ¹⁹¹ Exhibit 15, 72:23-73:3.

26 ¹⁹² Exhibit 24, 19:12-24; 42:21-25; 46:9-14.

27 ¹⁹³ *Id.*

28 ¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

1 body.¹⁹⁶ The police also found three jacketed bullets and three bullet fragments next to the blood
2 in 1929. In the parking lot immediately in front of 1929, the police found a piece of molding from
3 the broken window with what appeared to be a bullet hole.¹⁹⁷ Finally, a lead projectile (assumed
4 to be from a bullet) was found on the sidewalk outside of 1929.¹⁹⁸ Nowhere, however, in 1929 did
5 they find Mr. Limanni's blood or Mr. Seka's blood – or any other physical evidence that would tie
6 Mr. Seka to the scene. The State did not even show how Mr. Seka could have had access to 1929
7 – a business that had been abandoned by a group of criminals shortly before the murders. In fact,
8 the property manager, Mr. Cerda, told police that there was only one key to 1929 and it was in his
9 possession. He alone had access to 1929.

10 Further, 1933 showed no signs of a crime.¹⁹⁹ The police did not find any blood from the
11 victims, any signs of a struggle or break-in, or any bullet riddled clothing.²⁰⁰ Instead the police
12 discovered a single bullet fragment buried in the wall of 1933.²⁰¹ The bullet fragment had no blood
13 on it.²⁰² In fact, the State's own expert, Torrey Johnson, characterized the bullet as "class
14 consistent" to those found in Mr. Limanni's body.²⁰³ Mr. Johnson further testified that more than
15 ten different types of ammunition and numerous different types of firearms could have been
16 associated with that bullet fragment.²⁰⁴ While the State suggested that this bullet is proof that 1933
17 was the scene of Mr. Limanni's death, there is no indication how or when that bullet was shot into
18

19
20 ¹⁹⁶ Although the State states in its Response that "[i]nside Defendant's residence at 1933 Western,
21 a recovered bullet fragment matched the bullet recovered from Hamilton's body" the State's
22 medical examiner testified that Mr. Hamilton was shot three times and each bullet had an exit
wound so that no bullets or bullet fragments were found in Mr. Hamilton's body. Exhibit 4, 24-
31. Furthermore, the State only asserted at trial that the bullet fragments found in 1929 were only
"class consistent" not a "match." Exhibit 15, 65:12-66:3.

23 ¹⁹⁷ Exhibit 24, 42:14-20.

24 ¹⁹⁸ *Id.*

25 ¹⁹⁹ Exhibit 15, 37:7-12.

26 ²⁰⁰ *Id.*

27 ²⁰¹ *Id.*

28 ²⁰² *Id.*

²⁰³ Exhibit 15, 65:12-66:3.

²⁰⁴ *Id.*

1 the wall.²⁰⁵ Further, despite Mr. Limanni being shot ten times (twice in the chest and eight times
2 in the head), there is absolutely no blood or other evidence of such brutality in 1929 or 1933. What
3 is more, the other complete bullet cartridges found in 1933 included calibers other than those used
4 in the murders, and a witness testified that she saw at least one bullet in the business well before
5 the murders occurred.²⁰⁶ Finally, although the police discovered some of Mr. Seka's blood in 1933,
6 it was not only the place where he worked doing manual labor but was also his home. The State's
7 assertion that Mr. Seka's blood was found on the right pocket of a pair of his own jeans, a drop on
8 the wall and on a sink counter of his home somehow implicates Mr. Seka in two brutal murders is
9 untenable, particularly when all other physical evidence excludes him and includes someone else.
10 Exhibit 26, 48:22-23; 49:23-24; 56:17-22; 57:6-7.

11 The police also found a beer bottle in 1933 with Mr. Hamilton's fingerprints.²⁰⁷ However,
12 numerous beer bottles were also found and collected from trash cans in the south central office, in
13 the south eastern office, and in the dumpster in the back of 1929 and 1933.²⁰⁸ It was impossible to
14 determine when Mr. Hamilton left that beer bottle in 1933, but his presence at that location was
15 no surprise. Mr. Hamilton occasionally worked for Mr. Limanni and Mr. Seka.²⁰⁹ Mr. Hamilton's
16 employment relationship with the business also explains why Mr. Seka's phone number was found
17 on a note in Mr. Hamilton's pocket.²¹⁰ Importantly, there is physical evidence found at the dump
18 site that implicates another perpetrator – the unknown fingerprints on the lumber that covered Mr.
19 Hamilton's body. Although three lumber boards contained fingerprints from Mr. Seka and Mr.
20 Limanni which can be attributed to them using the lumber in the humidor construction at 1933,
21 another two boards found out the dump site contained latent prints that did not match Mr. Seka or
22 Mr. Limanni. These unidentified latent prints were never compared to the latent prints identified
23

24 ²⁰⁵ Exhibit 14, 40:15-17; Exhibit 39, p. 17.

25 ²⁰⁶ *Id.*

26 ²⁰⁷ Exhibit 14, 65:5-9.

27 ²⁰⁸ *Id.*

28 ²⁰⁹ Exhibit 5, 66:19-67:5

²¹⁰ *Id.*

1 on the Beck's beer bottle found near Mr. Hamilton's body, the three sets of fingerprints identified
2 near the point of entry to the 1929 crime scene or the unknown fingerprints identified on Ms.
3 Gorzoch's purse.²¹¹ Nor were any of these unknown fingerprints compared to the alternative
4 suspects who had motive to kill Mr. Limanni. Now, there is further physical evidence of a different
5 perpetrator – evidence that should not be ignored as the unknown fingerprints on the lumber, at
6 the 1929 crime scene and on Ms. Gorzoch's purse were at the time of trial.

7 Importantly, many individuals besides Mr. Limanni, Ms. Harrison (Mr. Limanni's
8 girlfriend at the time), Mr. Hamilton and Mr. Seka had access to 1933.²¹² Specifically, Mr. Kato
9 and Mr. Toe had access as did Mr. Mohammed.²¹³ These investors financed Mr. Limanni's
10 business and lost hundreds of thousands of dollars after Mr. Limanni mismanaged and stole their
11 funds.²¹⁴ Not only were these individuals financing Mr. Limanni's business, Mr. Kato and Mr. Toe
12 leased the business vehicles (four vans and a truck) for Mr. Limanni.²¹⁵ Indeed, Mr. Kato was also
13 the guarantor on the note on the business.²¹⁶ These investors were angry and at least one witness,
14 a witness that can be considered new, claims that Mr. Mohammed was capable of the kind of
15 violence that killed Mr. Limanni and Mr. Hamilton and that her investigation points towards Mr.
16 Mohammed as the actual perpetrator.²¹⁷

17 Anyone who had access to 1933 also had access to the five vehicles associated with the
18 business.²¹⁸ While Mr. Limanni and Mr. Seka drove the work vehicles interchangeably, there was
19

20 ²¹¹ Exhibit 16, 16:22-17:17.

21 ²¹² Numerous other people patronized the business as Mr. Limanni and Mr. Seka hosted frequent
22 parties at that location. Exhibit 14, 16:1; Exhibit 5, 88:21-23; 91:3-20; 96:22-24.

23 ²¹³ Exhibit 5; Exhibit 11, p. 15-16.

24 ²¹⁴ *Id.*

25 ²¹⁵ *Id.*

26 ²¹⁶ Exhibit 52, a true and correct copy of the pertinent portion of Trial Transcript, February 13,
27 2001, Vol I, 52:20-22.

28 ²¹⁷ Unfortunately, the police chose not to collect DNA samples from any of the alternative suspects
– Ms. Harrison, Mr. Kato, Mr. Toe or Mr. Mohammed so no comparisons could be made then or
now. Should the Court order a retrial for Mr. Seka, the hope would be that prosecution or police
would consider trying to identify the unknown profiles found on the evidence.

²¹⁸ Exhibit 4, 89.

1 a period of time that Ms. Harrison drove the Toyota truck.²¹⁹ The keys for all of the vehicles were
2 located inside the business and were accessed from the business.²²⁰ During the police investigation,
3 the police were even able to retrieve the business keys from inside the business.²²¹ On October 26,
4 1998, before Mr. Limanni disappeared, Mr. Kato repossessed one of the vans.²²² He did not have
5 his own set of keys; he simply obtained the keys from inside the business.²²³ Although the blood
6 in one of the vans and the Toyota truck may allow the inference that Mr. Hamilton and/or Mr.
7 Limmani were transported in those vehicles, the blood does not allow the inference that it was Mr.
8 Seka when so many others, others with actual motive, had equal access to those vehicles.

9 With regards to motive, that is no more certain than the use of the vehicles. The State
10 contended that Mr. Seka's motive for killing the two men was robbery. However, everything that
11 Mr. Hamilton had of value -- his bracelet, his ring, his leather jacket and his cap -- remained in
12 1929 or with his body, except his money which was gone before he went to jail on November 5,
13 belying any claim of robbery. Further, Mr. Seka was never in possession of any of Mr. Limanni's
14 valuables or money, except for those items he pawned from the business after Mr. Limanni
15 disappeared. In fact, Mr. Seka was forced to return to his home in Pennsylvania because he had no
16 money and no place to stay once the business closed.

17 The State further contended that Mr. Seka's motive for killing Mr. Limanni was that Mr.
18 Limanni treated him poorly. To support his contention, the State called Ms. Harrison. However, in
19 a post-conviction declaration, Justin Nguyen avers that the relationship between Mr. Limanni and
20 Mr. Seka was good. Mr. Nguyen was an employee Cinergi, working closely with Mr. Limanni and
21 Mr. Seka for several months. Mr. Nguyen states that Mr. Limanni treated Mr. Seka "like his own
22 brother," that they got along very well, and that he never observed Mr. Limanni call Mr. Seka
23
24

25 ²¹⁹ Exhibit 4, 89.

26 ²²⁰ Exhibit 15, 12:1-3

27 ²²¹ Exhibit 16, 45.

28 ²²² Exhibit 3, 34:1-16; Exhibit 5, 92:20-25; Exhibit 17.

²²³ *Id.*

1 names or mistreat him.²²⁴ At first blush, Mr. Nguyen's statement, which can also be considered
2 new evidence, may appear to be for the purpose of contradicting the testimony of Mr. Limanni's
3 girlfriend, Ms. Harrison, but it is not for that *sole* purpose. Ms. Harrison's testimony that Mr.
4 Limanni was "disrespectful" to Mr. Seka was the only evidence the prosecution used to infer Mr.
5 Seka's motive to kill Mr. Limmani.²²⁵ Here, Mr. Nguyen's declaration not only calls Ms.
6 Harrison's testimony into question, but can also be used "to negate an essential element
7 of the State's case..." motive, which is considered a non-impeachment purpose. *Julian v. State*,
8 52 P.3d 1168. Further, even if the court were to find that Mr. Nguyen's testimony was merely for
9 impeachment purposes, Ms. Harrison's testimony regarding Mr. Seka's motive for murder is so
10 important that impeachment would necessitate a different verdict and therefore this element can
11 be waived. *See King v. State*, 596 P.2d 501, 503 (Nev. 1979).

12 Finally, the only direct evidence of Mr. Seka's involvement in Mr. Limanni's murder is
13 the testimony of Thomas Cramer, a mentally unstable man who was angry at Mr. Seka for
14 committing him to a mental institution after they had a violent altercation. Mr. Cramer's story that
15 Mr. Seka confessed during that altercation was only relayed to police once Mr. Cramer had been
16 released from the institution and was approached by law enforcement who were specifically
17 investigating Mr. Seka. Most notably, Mr. Cramer's girlfriend at the time has stated in a sworn
18 declaration that Mr. Cramer was lying. She states, without hesitation, that she was present during
19 the altercation between Mr. Seka and Mr. Cramer and that no such confession occurred. With
20 absolutely nothing tying Mr. Seka to Mr. Limanni's murder and all other evidence showing that
21 he could not have been involved in Mr. Hamilton's murder, the State's circumstantial case is
22 destroyed, and a new result is probable upon retrial.

23 **1. The New DNA Results Support Mr. Seka's Motion For a New Trial**
24 **For All of the Charges for Which He was Convicted.**

25 While the new DNA results support Mr. Seka's new trial motion as to Mr. Hamilton's
26 murder, they also, by extension, support a new trial in Mr. Limanni's murder and the two robberies

27 ²²⁴ Exhibit 8.

28 ²²⁵ Exhibit 4, 56:18-20. 59:12-19.

1 for which he was also convicted. The State has always claimed that Mr. Seka killed Mr. Hamilton
2 and Mr. Limanni at the same time, with the same gun, and that his motive was robbery. In so doing,
3 the State has claimed that Mr. Seka's charges all occurred in a single incident. Now, because the
4 newly discovered DNA evidence supports a new trial on part of that incident, it also supports a
5 new trial on all the other charges.

6 Although the Nevada courts have not been faced with this issue, the New York Supreme
7 Court directly addressed it in *People v. Wise*, 194 Misc. 2d 481, 752 N.Y.S.2d 837 (2002). In
8 *Wise*, five young defendants confessed to and were convicted of rape of one woman and robbery
9 of one man during a night of "wilding" in Central Park. *See id.* at 483. When the actual perpetrator
10 of the rape confessed and the DNA from the rape kit matched him, the defendants moved for a
11 new trial on all charges based upon the newly discovered DNA evidence. *Id.* at 488. In considering
12 whether the new DNA evidence warranted a new trial on all charges, the court reasoned that "[t]he
13 crimes the defendants were charged with were . . . all . . . part of a single incident – a rampage in
14 the park" *Id.* at 495. The court emphasized that the People had relied upon the "single
15 incident" theory both in their investigation and in their prosecution of the case. *Id.* Indeed, in their
16 closing argument, the People encouraged the jurors to consider the "overall pattern of behavior"
17 and the defendants' "joint purpose." *Id.* Further, the People conceded that "there was no significant
18 evidence at trial establishing the defendants' involvement in the other crimes of which they stand
19 convicted that would not have been substantially and fatally weakened by the newly discovered
20 evidence in this matter" and "[a]ssessing the newly discovered evidence is required solely in light
21 of the proof introduced at the earlier trials, we conclude that there is a probability that the new
22 evidence, had it been available to the juries, would have resulted in verdicts more favorable to the
23 defendants, not only on the charges arising from the attack on the female jogger, but on the other
24 charges as well." *Id.* at 496. Ultimately, the *Wise* court found that the newly discovered evidence
25 was "so intertwined with all the crimes charged against the defendants . . . that the newly
26 discovered evidence would create a probability that had such evidence been received at trial, the
27 verdict would have been more favorable to the defendants as to *all* the convictions. *Id.* (emphasis
28 added). Accordingly, the defendants' motion for a new trial, based on the newly discovered

1 evidence was granted for all the convictions. *People v. Wise*, 194 Misc. 2d 481, 498, 752 N.Y.S.2d
2 837 (2002).

3 Here too, the crimes for which Mr. Seka was convicted are “intertwined” and were from
4 the time the State first sought to arrest Mr. Seka to the appeals after the conviction. For example,
5 the arrest warrant for Mr. Seka states,

6 It appears that Seka ...was involved in a *series of crimes* in order to obtain money
7 which included the theft of the purse from the parking lot of the Crazy Horse II, the
8 pawning of construction equipment believed to belong to Peter Limanni, and the
9 murder and apparent robbery of Eric Hamilton in which Hamilton was shot to death
10 with a .38/357 handgun and transported to Las Vegas Boulevard near Lake Mead
11 in the 1998 brown Toyota pickup truck...”

12 See Exhibit 17, p. 15. (emphasis added).

13 Even in closing arguments the State explicitly discussed the “series of events” that led to
14 the deaths of Eric Hamilton and Peter Limanni.²²⁶ The State continually connected the two murders
15 and robberies, postulating that Mr. Hamilton was an innocent bystander when Mr. Limanni was
16 killed, and that perhaps Mr. Hamilton helped dispose of Mr. Limanni’s body and then became a
17 “loose end” that needed to be “cleaned up.” Exhibit 23, 67:11-23.

18 On appeal, the State continued to emphasize the connection between the two murders. The
19 Nevada Supreme Court adopted the theory of a “common scheme or plan” stating:

20 In the present case, we conclude that the district court did not err in finding that
21 there was sufficient evidence to support a conclusion that the murders of Limanni
22 and Hamilton were conducted and concealed by Seka in roughly the same manner
23 as part of a *common scheme or plan* for financial gain. Both individuals disappeared
24 in November of 1998. Both bodies were transported in Cinergi vehicles and were
25 discovered partially concealed by dirt or wood in shallow graves. An intensive
26 amount of forensic evidence was introduced at trial, including bullets, fingerprint
27 evidence, and DNA evidence indicating that both men were murdered at the
28 businesses owned by Limanni at 1929 and 1933 Western Avenue. Also, both
victims died as a result of gunshot wounds. Lastly, witnesses testified that both
victims had large amounts of cash in their possession shortly before they were
missing and no such cash was found on their bodies or amongst their personal
possessions. Finally, the State presented evidence linking Seka to the victims,
Cinergi and the Western Avenue locations.

28 ²²⁶ Exhibit 23, 63:17.

1 Ultimately, because the State connected the two murders and robberies before, during and
2 after trial, making them so intertwined that the newly discovered DNA evidence must be
3 considered in connection with the entire “scheme.” Much like the defendants’ in *Wise*, Mr. Seka
4 is entitled to a new trial on all charges because the new DNA evidence not only proves he did not
5 kill Mr. Hamilton, it casts reasonable doubt on the entire “series of crimes” for which the State
6 contends Mr. Seka is responsible.

7 **F. The Results of the Genetic Marker Analysis Are the Best Evidence**
8 **Supporting Mr. Seka’s Motion for a New Trial.**

9 Facts supporting a motion for a new trial must be shown by the best evidence possible.
10 *Pacheco v. State*, 81 Nev. 639, 641-42, 408 P.2d 715, 716 (1965) (citing *People v. Beard*, 46
11 Cal.2d 278, 294 P.2d 29 (1956)). Here, the results of the Genetic Marker Analysis are the best
12 evidence that has ever existed in this case. Accordingly, if the State still believes that Mr. Seka is
13 guilty of murder and robbery, it should be required to present its case to a new jury and Mr. Seka
14 should be able to present the jury with the definitive and exculpatory DNA evidence.

15 Mr. Seka’s 2001 conviction was based entirely on circumstantial evidence. The jury was
16 forced to draw inferences and create explanations to connect any of the evidence to fact. Although
17 the Nevada Supreme Court has held that “circumstantial evidence may constitute the sole basis for
18 a conviction,” *Canape v. State*, 109 Nev. 864, 869, 859 P.2d 1023, 1026 (1993), it is difficult to
19 imagine that direct physical evidence absolving a defendant of guilt in an entirely circumstantial
20 case would not form the basis for a new trial.

21 Simply put, new direct evidence now exists that exculpates Mr. Seka and is the best
22 evidence available in this case. Not only was Mr. Seka’s DNA not present under Mr. Hamilton’s
23 fingernails, it was also not present on any of the evidence that the police found important enough
24 to collect at the site where Mr. Hamilton’s body was dumped and the site where they believed he
25 was killed. Further, not only was Mr. Seka excluded as a contributor of any of the crime scene(s)
26 DNA, at least one unknown profile was found on each piece of evidence – a profile that a jury
27 could easily infer belonged to the real killer. This DNA evidence not only stands alone as the best
28 evidence the case admits, but it casts a new light on the circumstantial evidence that was presented

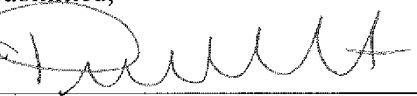
1 to the jury and allows a wholly different set of inferences – inferences that create a scenario where
2 Mr. Seka had nothing to do with the murders of Mr. Hamilton and Mr. Limanni. Thus, along with
3 the other elements supporting Mr. Seka’s Motion for a New Trial, this element necessitates that
4 Mr. Seka receive a new trial.

5 IV.

6 CONCLUSION

7 For all the foregoing reasons, Mr. Seka is entitled to a New Trial and requests that this
8 Honorable Court grant his Motion.

9 Respectfully submitted,

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An employee of CLARK HILL PLLC

Exhibit	Date	Description
1	02-09-06	Jim Thomas Interview Transcript of Lee Polsky
2	02-22-01	Trial Transcript Volume 2
3	02-13-01	Trial Transcript Volume 2
4	02-14-01	Trial Transcript Volume 1
5	02-16-01	Trial Transcript Volume 2
6		Western Ave Crime Scene Photos
7	11-17-98	Voluntary Statement from John Seka
8	07-09-08	Unsigned Decl. of Ed Heddy, Investigator, Federal Public Defender
9	03-07-06	Interview of Kazutoshi Toe
10	02-28-06	Interview of Takeo Kato
11	12-10-98	Officer's report by Thomas Thowsen, detective, LVMPD
12	05-16-07	Decl. of Ed Heddy, Private Investigator
13	01-11-99	Officer's report by Thomas Thowsen, detective, LVMPD
14	02-20-01	Trial Transcript Volume 2
15	02-21-01	Trial Transcript Volume 1
16	02-21-01	Trial Transcript Volume 2
17	02-26-99	Declaration of Warrant/Summons
18	02-16-01	Trial Transcript Volume 2
19	03-13-06	Investigation Mem. By Jim Thomas, Investigator, Federal Public Defenders
20	03-07-06	Investigation Mem. By Jim Thomas, Investigator, Federal Public Defenders
21	07-30-08	Investigation Mem. By Jim Thomas, Investigator, Federal Public Defenders
22	02-22-01	Trial Transcript Volume 1
23	02-23-01	Trial Transcript Volume 2
24	02-14-01	Trial Transcript Volume 2
25	02-20-01	Trial Transcript Volume 1
26	02-16-01	Trial Transcript Volume 1
27	12-01-98	Officer's Report by James Buczek, Detective, LVMPD
28	11-17-98	Crime Scene Report by David Ruffino, Senior Crime Scene Analyst, LVMPD
29	12-10-98	Officer's Report by Robert Kroll, Police Officer, LVMPD
30	11-17-98	Consent to Search from Detective Thowsen signed by John Seka
31	11-17-98	Voluntary Statement form Michael Kirk Cerda
32	11-17-98	Crime Scene Reports from Randy M. McPhail
33	06-20-06	Investigation Memorandum by Ed Heddy, Investigator, Federal Public Defenders

34	02-21-07	Investigation Memo. By Ed Heddy, Investigator, Federal Public Defenders
35	02-17-99	Forensic Laboratory Report of Examination by Fred M. Boyd, Latent Print Examiner, LVMPD
36	04-27-99	Forensic Laboratory Report of Examination by Torrey D. Johnson, Criminalist, LVMPD
37	12-17-98	Forensic Laboratory Report of Examination by Torrey D. Johnson, Criminalist, LVMPD
38	11-23-98	Property Receipt Form
39	12-07-98	Voluntary Statement - Jennifer Harrison
40	12-5-98	Officer's Report by Rick Nogues, Police Officer, LVMPD
41	06-28-99	Preliminary Hearing Transcript
42	2-18-00	Statement of Lee M. Polsky by Philip B. Needham, Investigator,
43	04-09-99	Officer Dusak's Interview of Thomas Creamer
44	04-15-17	Decl. of Margaret Ann McConnell
45	02-22-01	Trial Transcript Volume 1
46	03-15-99	Warrant for Arrest, United States District Court, District of Nevada
47	05-03-01	Judgment of Conviction
48	12-18-98	LVMPD Forensic Laboratory Report of Examination
49	07-24-18	LVMPD Forensic Laboratory Report of Examination
50	02-17-99	LVMPD Forensic Laboratory Report of Examination - Boyd
51	3-19-19	LVMPD Forensic Laboratory Report of Examination
52	2-13-01	Trial Transcript Volume 1

EXHIBIT 1

SEKA000001

APP1876

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Telephone (702) 388-7175

Fax (702) 388-7376

February 10, 2006

Debra Bookout, Esq.

Law Offices of the Federal Public Defender

411 E. Bonneville Ave., Suite 250

Las Vegas, NV 89101

RE: JOHN JOSEPH SEKA
Our File No. 05-1-150
Interview with Lee Polsky

The following is a tape recorded interview between Jim Thomas (JT) and Lee Polsky (LP). The date is February 9, 2006 and the time is 3:17 PM. The interview is taking place via telephone number [REDACTED] 1700.

JT: Lee, do you understand this interview is being tape recorded?

LP: Yes I do.

JT: Do I have your permission to do that?

LP: Yes.

JT: Is it true I'm speaking to you at a telephone number of [REDACTED] 1700?

LP: Yes.

JT: And I believe that's your work telephone number?

LP: Correct.

JT: And where do you work, sir?

LP: Uh, The Car Lot in Deptford, NJ.

SEKA000002

APP1877

JT: Okay, what's the name of your lot?

LP: The Car Lot.

JT: Oh, The Car Lot is the name? Okay.

LP: Yeah.

JT: And what's the street address for that?

LP: 1382 Delsea Dr., Deptford, NJ 08096.

JT: Okay. For the benefit of my secretary who has to type a transcript, can you spell Delsea?

LP: D-E-L-S-E-A. D as in David, E-L-S-E-A.

JT: And could I get your home address and home phone number, sir?

LP: Home address is [REDACTED] Woodbury, NJ 08096.

JT: Okay and is that telephone number [REDACTED] 7222?

LP: Yes.

JT: Okay. Are you acquainted with John Seka?

LP: Yes.

JT: You know him as Jack, is that correct?

LP: Correct.

JT: And how do you know him?

LP: Uh, he worked with me at a car dealership, at another automobile sales place.

JT: Okay. What did he do?

LP: He was a title clerk and he was a runner, and, uh, he did a little bit of everything.

JT: Okay.

LP: Helped out.

JT: And did you also know Peter Limanni?

LP: Yes.

JT: And how did you know Peter?

LP: I just knew Peter from being in the, uh, in the area. He lived in the same area I did.

JT: And you're aware that John Seka is currently in prison for the murder of Peter Limanni?

LP: Yes.

JT: Okay and I believe you gave an interview in the past to an investigator named Archie?

LP: Yes, sir.

JT: Were you also interviewed by the police at any time?

LP: I don't believe I was.

JT: Okay and they brought you out here, did you testify at trial?

LP: I believe I did testify. I'm not really sure because at the time that I came out, I was actually sick with a bad disk in my back and I couldn't move around and I didn't do anything out there. And I actually, I'm not sure if I did testify or not. I probably did but I wouldn't swear to it. They did bring me out as a witness for Jack.

JT: Okay and can you talk to me for a while about Jack, tell me who he is, the type of guy he is, that you know?

LP: The type of guy that I know, he was a very hard worker. He was pretty sharp mentally. He was very personable. He, if you ask him to get the job done, more often than not he would get the job done. He was a very likeable guy, or he is a very likeable guy, and he wasn't violent by any means. And, uh, he was good with, you know, my son at that time was very young and he used to take him, they had a good time. He'd take him out on the water Seadooing or, you know, jet skiing and whatever and, you know, we had him at our house and he used to stay with us occasionally and, you know, he was a good guy.

JT: And the same thing, tell about the Peter Limanni you knew.

LP: Pete Limanni was a, I guess you could say an acquaintance of mine. I knew him, uh, he had been over to my house a few times helping me out with my computer. He was a real nice guy. He helped out a friend of mine, did some heating and plumbing work with him. He was very good at what he did, very good at what he did. Like a crackerjack, he knew what he was doing as far as heating and ventilation, whatever his business was. I guess you could say he was quiet. I saw on occasion where he had a short fuse. He had a real bad temper, extremely bad temper, and, uh, I guess that's it. I didn't, it's not that, how can I say this? I knew him on a different level. In other words, he did work for me and he helped me so it's not like I was a crony who hung around with him. Maybe, I was older than him so, you know, he showed me respect and, uh, I don't know. I guess that's all I can say.

JT: Okay. Before we went on tape you mentioned the fact that you thought he was an ex-boxer.

LP: Yeah, I believe he was. I had heard stories that he was a, he learned how to fight at an early age, uh, boxing. I heard he was pretty good at it too.

JT: Okay. You also led me to believe that maybe he liked to fight.

LP: Yeah, I could believe that. I know one instance where, I understand now, it's not fact, but where he got in a fight with a guy, he beat the guy up and, uh, a bigger guy than him, in Paulsboro where we lived and then the guy came back and shot him and blew half his shoulder away. I know that for a fact.

JT: Blew Pete's shoulder away?

LP: Yeah, yeah, yeah. Oh yeah.

JT: So he had somebody mad enough at him in the past that they shot him --

LP: Yeah, this guy came back and shot him.

JT: And then later on he winds up being shot again and dies?

LP: Yeah. This guy actually shot him.

JT: Okay.

LP: I mean if they looked at his body they could tell. Half his shoulder was blown away.

JT: Do you know who that guy was?

LP: No, it happened, I believe it happened in Paulsboro, NJ.

JT: Okay. In a set-to between Jack and Pete, who do you think would come out on top?

LP: If there was ever an altercation?

JT: Mm-hmm (affirmative).

LP: No doubt Pete.

JT: No question about that?

LP: Jack wasn't a fighter. Jack didn't have a mean streak, or doesn't have a mean streak in him. I mean I worked with the guy and he did stuff for me for probably, uh, three, four years.

JT: Now they both wind up out in Las Vegas. Do you know how that comes about?

LP: Well Pete had left to, left this area to, I guess, start anew I guess you could say, in Vegas. Everybody knows that Vegas is growing, you know. And, uh, I guess he went out there to set up his heating and air conditioning business from what I understand and then a while later, I don't know how later, if it was shortly later or after, that Jack had went out there to work with him or work for him.

JT: Okay. Did you stay in touch with Jack after he left?

LP: Well they used to call me. They'd call me every once in a while from, I guess, wherever they lived and apparently they had two phones because Pete would be on one and Jack would be on the other while they talked to me.

JT: Okay, so they lived together?

LP: As far as I know, yeah.

JT: And did they seem to get along okay together?

LP: Yeah, uh-huh (affirmative), yes.

JT: Do you know how the heating, air conditioning business was going?

LP: No, I don't. I really don't.

JT: Then later on was there some kind of talk about starting another business venture?

LP: I think they were trying to do something with cigars or Pete was trying to do something with cigars.

JT: From time to time would either one of them come back to the Philly area?

LP: Uh, I don't recall that Pete ever did, but Jack did I think to see his daughter. He had a young daughter with a girl and I think he came back for her birthday. Maybe it was around Halloween of whatever year.

JT: Would you see him when he came back to that area?

LP: I think I did see him when he came back, yes. I think I saw him at one time when he came back.

JT: Okay, so you two remained friendly?

LP: Oh yeah. There was no reason not to be friendly. He did nothing but help me.

JT: Now, shortly after he came back for the daughter's birthday is when Pete is killed. Does that sound right to you?

LP: Well, I don't know when Pete was killed. I know he came home for his daughter's birthday and I remember he went back and he called me a few days later and told me he didn't know what happened to Pete and that he

can't believe that Pete would have taken off because he left his dog there.

And he said, you know, Pete wouldn't go anywhere without that dog.

JT: And did John sound sincere when he's telling you all this?

LP: Oh yeah, yeah. I'll tell you, either he sounds sincere or else he deserves an Academy Award. Seriously.

JT: Were there other conversations after Pete disappeared?

LP: I think yeah, I believe he called me a few days afterward and told me that the police had picked him up for questioning with regard to Pete and held him and questioned him, and then they released him and he said he couldn't believe that they released him because they had his name and I believe social number and if they would have ran anything on him, he can't understand why they didn't pick something up in PA for maybe not reporting to probation or something stupid or a ticket. I don't know what it was. So he said that he was going to get out of there before they came back and locked him up for violation of probation. He didn't want to get locked up.

JT: Okay, so that was the reason he gave you on why he –

LP: Oh yeah.

JT: Okay.

LP: It made sense because I know that he had a problem back here and he was on probation. And it stands the reason, if he's out there he can't report to probation here. So sure he violated it.

JT: During that conversation, did he talk to you at all about why the cops thought that maybe he'd had something to do with Pete's murder?

LP: I don't think he mentioned that they thought that he had something to do with it. They just questioned him about where Pete was. It wasn't about a murder. I don't remember it being about a murder. Now, when he talked to me he didn't know that he was murdered.

JT: Okay.

LP: It was just that Pete wasn't around and Jack checked with his girlfriend, couldn't find him and he went to cash a check that Pete gave him and either the account was closed prior to it and he couldn't understand why he would've given him a check on an account that was closed. I think that was it. Then he really couldn't understand why he would take off and not take his dog. Hold on one second (talking to someone in the background). I'm sorry.

JT: That's okay. Did he give you any, rephrase that. Did he talk to you at all about anything that Pete had going on where maybe somebody would be mad at him or business was going down the tubes or anything like that?

LP: I don't know if he talked to me about that or not to tell you the truth. I heard that, I don't know if I heard it from him or through the grapevine how you hear things, I heard that Pete had a couple Japanese investors out of L.A. who maybe put money up for him so that he, business, or maybe cosigned or got him the trucks that he had, he had a couple trucks out

there, and maybe they were upset with him. I don't know. I don't know if Jack told me that or if I heard it from other people.

JT: Okay.

LP: I wish I could tell you, but that I don't know.

JT: With both of them being from that area, was there quite a bit of talk going around after Pete's body was found and Jack was arrested?

LP: Yeah, oh yeah, sure. Well, Woodbury especially since he was in the car, or worked in the, car dealers are like old women, you know? It starts with one guy and by the time it gets to, the tenth guy hears it, it's way blown out of proportion. Plus his brother is an oil dealer here and his brother is friendly with a car dealer in Woodbury who, you know, would go over and say different things.

JT: Okay. Did he talk to you anymore after he said he was going to split because of the parole or probation violation?

LP: I don't recall that he did, but it's quite possible he did. I don't recall.

JT: Did he call you at all after he was arrested?

LP: Did he call me after he was arrested? Yeah, I believe he did. I'm sure he did. He has called me since he's been incarcerated. He's written me letters but I, a lot of my, I haven't responded to. He's called a few times. I spoke to him a couple years ago, maybe a year ago, but he stopped calling. Maybe he thought I was giving him the cold shoulder but I had problems of my own, do you understand?

JT: Yeah, I –

LP: I can only handle so many at a time.

JT: I know how that goes. Did you ever have any indication, I mean did you ever sense that he had done what he was accused of or, how did you feel when he was convicted?

LP: What do I think?

JT: Yep.

LP: I can't see, I can't see how he would have done something like that. I just can't fathom that with him. Not the way that he was. And I know him, I mean this kid slept over my house, you know, I trust him with my son. Uh, yeah, he just didn't work with me or work for me, he was like, he was like a little brother to me, this kid.

JT: Okay. Any talk going around back there afterwards about maybe something that Pete got himself involved in?

LP: Yeah, you heard that maybe these Japanese guys had something to, or the Chinese, Japanese I think they were, uh, might have something done to him or maybe he, uh, screwed somebody else or, you know, you hear different stories but you always hear stories.

JT: Did the name Amir Mohamed ever come up?

LP: No.

JT: Okay. Is there anything else at all that I haven't asked you about that you feel might be important to my investigation? I know it's been a long time, but...

LP: The only thing I can tell you is Pete had a violent streak in him where Jack was just opposite.

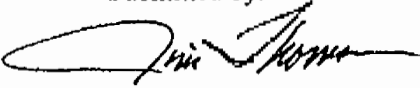
JT: Okay. If called upon to do so at some time in the future, would you be willing to appear and testify again?

LP: Absolutely. I could use a little vacation. Last time I stayed in my room the whole time. My back was out (laughing).

JT: Okay. If there's nothing else, we'll go ahead and end the interview at this time. It's now 3:33 PM and I want to thank you very much.

LP: It's my pleasure. Should you need me again, call me.

Submitted by:

A handwritten signature in black ink, appearing to read "Jim Thomas", with a stylized, flowing script.

Jim Thomas

JT:lt

EXHIBIT 2

SEKA000014

APP1889

ORIGINAL

FILED IN OPEN COURT

FEB 23 2001

19

SHIRLEY B. PARRAGUIRRE, CLERK
BY Linda Skinner
LINDA SKINNER, DEPUTY

Defendant.

Case No. C159915
Dept. XIV

REPORTER'S TRANSCRIPT
OF
JURY TRIAL

At 2:00 p.m.,

Reported by: Maureen Schorn, CCR No. 496, RPR

MAUREEN SCHORN, CCR NO. 496, RPR

SEKA000015

APP1890

1 Q Ms. Daly, do you live here in Las Vegas?

2 A No, I do not.

3 Q Where are you from?

4 A From Philadelphia.

5 Q And do you know an individual named Jack

6 Seka?

7 A Yes, I do.

8 Q How long have you known him?

9 A Since the summer of '94.

10 Q Do you know also an individual named Thomas

11 Creamer?

12 A Yes, I do.

13 Q And how do you know him?

14 A He is my ex-boyfriend.

15 Q And when did you first start a relationship

16 with Mr. Creamer?

17 A In the summer of '94, August of '94.

18 Q And has it been an ongoing relationship
19 since that time? In other words, has it been a constant
20 relationship?

21 A No. I separated with him in January of '99.

22 Q Did something happen in January of '99
23 causing to you separate from Mr. Creamer?

24 A Yes. Mr. Creamer -- I don't know how to
25 explain this. I had to have him committed.

1 Q You had to have him committed?

2 A Yes. I had to have him 302'd.

3 Q 302'd. Is that something --

4 A Involuntary commitment to a psych ward.

5 Q That's under Pennsylvania law?

6 A Under Pennsylvania law.

7 Q And did you also cause a restraining order

8 to be placed against him?

9 A Yes, definitely.

10 Q Do you remember when the first restraining

11 order you had?

12 A It was January 31st, and it ran up to

13 February 1st of 2000. And since then I've gotten one on

14 August 8th of this year.

15 Q Just so I'm clear, did you have a

16 restraining order back in January of 1999 when you had him

17 committed?

18 A Yes.

19 Q And was that the first one?

20 A That was the first one.

21 Q What happened in January of 1999 that caused

22 you to have him 302'd and to cause you to get a

23 restraining order?

24 A He was getting aggressive and angry and

25 violent with lots of people, and was making nuisance. He

1 was heavily medicated, going to several different doctors
2 for the same prescriptions.

3 Q Do you know what kind of medications he was
4 on in January of 1999?

5 A I know he was on Xanax, Paxil, and he was
6 taking muscle relaxers he got from my father.

7 Q How would you describe his behavior during
8 that time frame? And a lot of these questions are from
9 January through April of 1999, the questions I'm going to
10 ask for you. How would you describe his overall behavior
11 that you witnessed during that time?

12 A He was orational, emotional, and he just
13 didn't make any sense.

14 Q Was he aggressive towards you?

15 A He was very aggressive in January when I got
16 the restraining order. Several times before that day that
17 I went to go get it, he pushed me around, he attacked me
18 and threatened to kill several sometimes, including when I
19 went to call my sister, because I told her I would call
20 her, and he said he would strangle me with the telephone
21 cord.

22 Q And all these are factors you used to get
23 your restraining order. Is that a correct statement?

24 A Yes.

25 Q Would you see him on a daily basis before he

1 was committed in January of '99?

2 A Yes.

3 Q And you testified that about his behavior
4 and that he was aggressive, things of that type. Did he
5 suffer from any type of memory loss?

6 A Yes, he did. Frequently, I would just stay
7 with him because I was concerned that he was going to hurt
8 himself, his grandmother, or his best friend, because he
9 would take so many pills that he would be knocked out.
10 And he would wake up hours later, and going to sleep at
11 5:30 and wake up at 3:00 in the morning and say: What
12 happened, what he did, if he ate, because he couldn't
13 remember.

14 Q Was that a frequent occurrence?

15 A That was very frequent.

16 Q He told you he couldn't remember?

17 A Between October and December to January, it
18 was all the time.

19 Q Now, in January of 1999, was John Seka there
20 with you in the home where you were staying?

21 A Yes, he was.

22 Q And why was he at your home? Or, wait a
23 minute, where were you staying? Was it your house, or
24 someone else's house?

25 A Before I got the restraining order I was

1 staying with Tom's grandmother with Tom. After that, I
2 was staying with my mother.

3 Q And Jack Seka was staying with you when you
4 were staying with your mother?

5 A Yes.

6 Q Was there a reason he stayed with you?

7 A He was support for me, as well as for Tommy
8 at the time.

9 Q You didn't have an intimate relationship
10 with Jack Seka, did you?

11 A No, I did not.

12 Q So he was a friend of yours?

13 A He was a very good friend. I had met him
14 when I first met Tommy. Tommy was wanting to know what he
15 thought about me. He thought a lot about what Jack
16 thought because he was his best friend.

17 Q And so you've known Seka throughout the same
18 time that you've known --

19 A I've known him through the same time. He's
20 always been considered family.

21 Q And just so I don't get in trouble with the
22 court reporter, wait until I get done with my question and
23 then you can answer.

24 A Okay.

25 Q Now, did you know Jack Seka was in Las Vegas

1 for a period of time in 1998?

2 A Yes.

3 Q Did you know why he was out here?

4 A I thought he was working out here.

5 Q Did you know anything about who he was
6 working with, or what type of work he was doing?

7 A No. I just know that he came back for every
8 holiday to visit.

9 Q Do you know an individual named Peter
10 Limanni?

11 A No.

12 Q During the time frame that Jack stayed at
13 your home, this is from January 1999 until, I suppose, the
14 end of March, would you see Jack Seka on a regular basis,
15 a daily basis in the home?

16 A Yeah, yeah.

17 Q Did you ever have any conversations with
18 Jack about what happened in Las Vegas, what he was doing
19 in Las Vegas, or about Peter Limanni?

20 A He told me that -- well, he told Tommy and I
21 that he was questioned here. And he said on one of his
22 visits when he came back that he had given them numbers to
23 contact him if they had any questions. So as far as --

24 Q Well, did Jack tell you why he was
25 questioned by the authorities here?

1 A Yes, yes.

2 Q Was there an incident?

3 A There was an incident. He was off all
4 weekend, like, terrorizing his grandmother and myself,
5 threatening us and tearing the house apart, very
6 aggressive and violent behavior.

7 And I had asked Jack to come over several
8 times to help me talk him out of a trait. I knew that he
9 wasn't getting better, and he wouldn't go to his
10 counselor. And the medicine he was taking I was told was
11 supposed to mellow him out, and it wasn't mellowing him
12 out, it was making him more angry.

13 And they were upstairs and I heard all this
14 commotion up and down the stairs all night long, and he
15 threw Jack down the stairs.

16 Q Did you witness him throwing Jack down the
17 stairs?

18 A I saw Jack falling down the stairs at the
19 very bottom.

20 Q Did you hear anything that was said
21 preceding Jack falling down the stairs?

22 A Tommy had come downstairs and he started
23 screaming how dare he tell me to --

24 Q What, exactly, did he say?

25 A He said, told me to shut the fuck up. Who

1 the hell does he think he is.

2 Q Referring to Jack?

3 A Referring to Jack.

4 Q Did Mr. Creamer tell you at that time that
5 Jack Seka had threatened him in some way?

6 A Not at all.

7 Q That Jack Seka said he would harm him in
8 some way?

9 A No. He just was furious that Jack was
10 disrespectful to him.

11 Q And it was later on that night that you
12 started this process to get him committed; is that
13 correct, or shortly thereafter?

14 A Well, it ended up being that I told Jack to
15 go. Jack didn't go. Tom tried to get him -- to be
16 aggressive with him, but Jack wouldn't. He just sat in
17 the chair and said: I don't want to do this, I don't want
18 to do this. And they went back upstairs and Tom was
19 completely calm like nothing had ever happened.

20 And next thing I know, Jack is down the
21 stairs again, and I'm up the stairs pushing Tommy up, and
22 he locked us in there and he left. Then Tom calmed down
23 again. And when we got downstairs out the door he was,
24 like: Okay, baby, now I'm going to walk the dog. I think
25 the dog has to go to the bathroom, like nothing

1 happened, like completely normal.

2 And I opened the door and noticed that Jack
3 was trying to get into the car, our car to go to get out of
4 there because Thomas was upset. And I stood in the door,
5 and then he kept saying: What's wrong? What's wrong?
6 What's wrong?

7 And I said nothing, and I tried to close the
8 door and acted like nothing was going on, and he saw Jack
9 standing outside. And he just lost his mind and he
10 started attacking me. And I put myself in the doorway and
11 held on as long as I could until he got me -- physically
12 forced me to the floor and started hitting me in the head
13 until I couldn't hold on.

14 Q And you were able to get yourself free of
15 him?

16 A And then he took off out the door with the
17 dog and was chasing after Jack. And I turned around and
18 locked the door, called my sister and told her to call
19 911. I told her I couldn't talk about it right now, just
20 do it. And I went back and I used my body to brace the
21 door shut.

22 Q So the authorities did come and that's what
23 started it?

24 A The authorities did come, and I wouldn't let
25 him in until they arrived.

1 Q Ms. Caterino, where are you from?
2 A Philadelphia.
3 Q And do you know Jack Seka?
4 A Yes.
5 Q And how long have you known him?
6 A About five years.
7 Q And do you have any sort of special
8 relationship with Mr. Seka?
9 A He's the father of my daughter.
10 Q And what's your daughter's name?
11 A K [REDACTED] S [REDACTED]
12 Q And when did you and Jack have this child?
13 A On [REDACTED] 1997.
14 Q Are you married to Mr. Seka?
15 A No.
16 Q Since 1997, has Mr. Seka helped support
17 K [REDACTED]
18 A Yes.
19 Q Financially?
20 A Uh-huh.
21 Q Is that a yes for the court reporter?
22 A Yes, sorry.
23 Q Were you aware that in 1998 Jack came out to
24 Las Vegas to do some work?
25 A Yes.

1 Q Did he explain to you, did Jack tell you he
2 was going to Las Vegas for some particular purpose?

3 A Yes.

4 Q Did he say who he was going to Las Vegas
5 with to do this work?

6 A He was going out there to work, and he was
7 going to stay with Pete Limanni.

8 Q Did you know Peter Limanni?

9 A I didn't know him. I had heard of him,
10 heard Jack talk about him, but I didn't actually meet him
11 until I came out here.

12 Q So you came out here on a visit?

13 A Yes.

14 Q What month was that in 1998?

15 A September.

16 Q And where did you stay when you came out in
17 September of '98?

18 A I stayed for two or three nights at the shop
19 where they worked and lived in the back of. And then I
20 stayed another seven days at Bally's.

21 Q Do you remember the address of that shop?

22 A No. I don't remember the address.

23 Q Had you been to Las Vegas before?

24 A No.

25 Q And so you stayed at the shop for three days

1 A No.

2 Q On one of those conversations, or perhaps a
3 subsequent one, did he mention to you where he was living?
4 You said that he got a five-day notice to evict from the
5 office where they were living in the back. Did he tell
6 you that he was living somewhere else?

7 A He said that he was staying at a place. I
8 don't remember the name of it. He was staying with
9 friends that he had met while he was out there, someone
10 that he knew while he was there, that he was staying there
11 because he didn't have any place else to go, that he had
12 to be out the shop and he only had five days.

13 Q Do you remember Jack telling you that he was
14 staying at a home in Spanish Trails?

15 A That was it, yes.

16 Q Did he tell you who lived at that home?

17 A I don't remember names.

18 Q After those first couple of conversations
19 when he got back, did you have later conversations with
20 him on the phone, regular contact?

21 A Yeah, we always talked. I mean, ever since
22 we got out there we always kept in touch.

23 Q And, of course, he did come back to
24 Philadelphia later on in '98?

25 A Right. He came back and he was there for

1 Thanksgiving and Christmas.

2 Q And did he spend some time with you around
3 Thanksgiving?

4 A Yes. He stayed at my parents' house with me
5 while he was there. He was kind of back and forth. He
6 stayed with me at my parents house, and he stayed some
7 with Margaret and Tommy.

8 Q Did you know Tommy Creamer?

9 A Yes.

10 Q Do you know him very well?

11 A No. I didn't know him very well. I met him
12 a few times, like, in Atlantic City, and just because him
13 and Jack were good friends.

14 MR. KENNEDY: Pass the witness, Your
15 Honor.

16 THE COURT: Cross-examination?

17

18 CROSS-EXAMINATION

19 BY MR. KANE:

20 Q Mr. Seka helps with your daughter's support?

21 A Well, he did up until the last two years.

22 Q When did that stop?

23 MR. CHRISTIANSEN: Objection, Your
24 Honor. May we approach?

25 THE COURT: You may.

1 A Yeah. I think it was a few days later.

2 Q More than three?

3 A I don't recall. It could have been, but it
4 could have been right in that area.

5 Q Okay. Do you remember what Jack told you on
6 that first phone call?

7 A Yeah. We were talking and he said that he
8 didn't know where Pete was. And I said, "What do you mean
9 you don't know where he is?" He said, "I don't know where
10 he is." And I said, "Maybe he left while you were away."
11 And he said, "No. He picked me up at the airport."

12 Q Peter picked him up at the airport and
13 brought him back?

14 A Brought him back. And I'm just trying to
15 recall the sequence. He picked him up at the airport and
16 maybe they went home and went to sleep. Maybe they went
17 to work the next day. They worked the next day together,
18 and then the next morning Jack woke up and Pete wasn't
19 there.

20 And he said, "I thought he went out for
21 coffee," because he always goes out for coffee in the
22 morning.

23 Q Jack told you that?

24 A Yes. And he says, "He's not back and I've
25 been trying to reach him." And I said, "Maybe he took off

1 and went on vacation. Who knows what Pete would do."
2 And he said, "No, he wouldn't go anywhere because his dog
3 is here. He wouldn't go anywhere without his dog, and the
4 dog is here."

5 Q And, obviously, this was a phone
6 conversation. You've had phone conversations with Jack
7 before; is that right?

8 A Yeah, sure.

9 Q How did he sound on the phone? Did he sound
10 worried or concerned?

11 A I wouldn't say that he sounded worried. I
12 would say that he sounded like -- he sounded like he
13 couldn't believe it, that he couldn't believe Pete wasn't
14 there. The dog was there but he wasn't, and he couldn't
15 believe that he couldn't get a hold of him.

16 Q After this conversation, did you have any
17 other further phone conversations with Jack Seka in
18 November of '98? Did he call you again?

19 A Yeah. He called me. I don't know if it was
20 a week or two weeks afterwards. I really don't remember.

21 Q What did he tell you?

22 A I said, "How did you do with Pete?" And he
23 said, "He's not around. I don't know what happened to
24 him." He said, "The police picked me up and they
25 questioned me for seven or eight hours."

1 I said, "About what?" And I think he said
2 about a guy who worked close to them, a guy who worked
3 close to them. And I said, "What did they question you
4 for?" And he said, "They just questioned me and I don't
5 know what's going on."

6 And I said, "What about Pete?" And he said,
7 I don't know." I said, "You haven't heard from him?" And
8 he said no.

9 And I think he even said that he checked
10 Lake Tahoe, because they were going to -- or they, or Pete
11 was going to open up a business there, and he thought he
12 might have went there. And he even checked there and
13 there was no Pete.

14 Q Did you have any other conversations with
15 Jack after that one on the phone in November of '98?

16 A Not that I recall; no, I don't think so.

17 Q Did there come a point in time in either
18 November or early December of '98 that you called Tom
19 Creamer?

20 A Yes.

21 Q And why did you do that?

22 A I had heard around town -- I live in a small
23 town. I know everybody. I was born and raised there.
24 And I am in the automobile business, for the most part,
25 along with some real estate. But be that as it may, in

1 our town there's different car dealers and we all know
2 each other.

3 And a friend of mine who owns a car
4 dealership which was catty-corner from mine called me and
5 he said, "Hey, did you hear that Jack killed Pete
6 Limanni?" And I said, "What are you talking about?" And
7 he said, "Well, I was talking to Pete's brother, Steve."

8 Q Do you know Peter's brother?

9 A Sure. This fellow -- well, I was talking to
10 Pete's brother, and Pete's brother said the detective
11 called and said that they know that his brother is dead,
12 but they can't find him and that Jack shot him, or did
13 something to him. I don't know.

14 Q And that's what you heard from an auto
15 dealer where Steve Limanni works; is that correct?

16 A Not where Steve Limanni works, he's friends
17 with him. Steve Limanni is in the fuel oil business, and
18 this guy is a car dealer.

19 Q Did you also hear amongst the scuttlebutt in
20 the town that Jack was dead?

21 A Yes.

22 Q You heard that too?

23 A Uh-huh. That's, I think, I had called Tommy
24 Creamer because I knew that Creamer and him were friends.
25 And I figured if anybody would have heard, Creamer would

1 hear, or Jack's girlfriend. And I guess that was a circle
2 there, they all knew each other.

3 Q So when you called Tommy Creamer, you were
4 just trying find out where Jack was?

5 A Yes.

6 Q Did you call Tommy Creamer and tell him that
7 Jack had killed Peter Limanni?

8 A No, I would never do -- no, I would never
9 do that.

10 Q In other words, you didn't know what
11 happened to Pete Limanni, did you, at that time?

12 A No, no.

13 Q Did you see Jack when he did come back in
14 December of '98? November, December of '98, did you see
15 him when he came back after he came back to Las Vegas?

16 A Yeah. I think I did see him.

17 Q Did you have a chance to meet with him, or
18 just see him on the street and say hi or something?

19 A I saw him. I think I had coffee with him.

20 Q Did you see him on more than one occasion
21 in, say, December of '98?

22 A I don't think so.

23 Q The conversation you had with Tommy Creamer,
24 did you have another conversation, or was that the only
25 one?

EXHIBIT 3

SEKA000034

APP1909

53

1

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

FEB 14 2001 19

THE STATE OF NEVADA,

SHIRLEY B. PARRAGUIRRE, CLERK

Plaintiff,

BY JUDY NORMAN

vs.

JUDY NORMAN DEPUTY

JOHN JOSEPH SEKA,

No. C159915

Dept No: XIV

Defendant.

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DONALD M. MOSLEY

VOLUME II

February 13, 2001

2:45 p.m.

Department XIV

APPEARANCES:

For the State:

MR. EDWARD KANE

MR. TIM FATTIG

Deputy District Attorneys

For the Defendant:

MR. KIRK KENNEDY

MR. PETER CHRISTIANSEN

Attorneys-at-Law

Deputy Public Defender

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FEB 14 2001

COMM. FILE

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Joseph A. D'Amato

Nevada CCR #17

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Las Vegas (702) 388-2973

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Certified Court Reporter

Las Vegas (702) 455-3452

SEKA000035

S

APP1910

1 The homicide detectives came out and they
2 started doing their processing of the crime scene which
3 is a little more intensive than what's done by the patrol
4 officers.

5 Before the homicide detectives arrived in
6 1929 Western Mr. Ruffino had found a lot of what appeared
7 to be blood. Some of it looked like something had been
8 dragged through it.

9 He found a cap, found a cheap bracelet
10 that had just been thrown off to one side and found a
11 jacket with three bullet holes in it.

12 That was significant to him, because the
13 body of John Lumber Doe recovered the day before had
14 three bullet wounds in it.

15 So when the homicide detectives get there
16 and with all this information in their possession they
17 commence their investigation and one of the first things
18 they want to do is talk to Mr. Seka, which they do, and
19 one of the other things that they want to do is to
20 re-check the scene, so they called the same patrol
21 officers, Nogues and Kroll, back to the scene and they
22 interview them about what they did in terms of
23 investigating the scene and Nogues and Kroll tell them
24 they checked the dumpster out back and it's empty.

25 The homicide detectives say "Go check it again"

1 and they do. And the dumpster which had been empty an
2 hour or two before is now about six inches deep with
3 stuff and the stuff, after they search, turns out to be
4 clothing with Peter Limanni's name in it, personal
5 effects and correspondence with Peter Limanni's name on
6 them, and a scientific testing willing later bear out
7 cards and items of identification with Peter Limanni's
8 blood on them.

9 At this point the police know that they
10 are really dealing with something and they want to take a
11 more formal statement from the Defendant, Mr. Seka.

12 They take him down to headquarters and
13 although he is not under arrest, and they tell him that,
14 they advise him of his Miranda Rights and they take a
15 taped statement from him and you'll have a chance to hear
16 that during the course overs trial.

17 In the course of that statement the
18 Defendant says several things. One of the things that he
19 says is that the phone number [REDACTED] 5957 found in John
20 Lumber Doe's pocket is his phone number.

21 In fact, he's got the cellphone on him and
22 he shows it to the officers and they look and it's his
23 phone number. He says he has no idea who John Lumber Doe
24 is or what happened to him.

25 John Lumber Doe happens to be a black man

1 so the police asked Mr. Seka are there any black people
2 employed at Sinergi or who are around Sinergi doing
3 business?

4 He says "The only person that I've seen
5 like that is a guy called Seymour - - that's what I call
6 him, kind of a homeless guy. He's done some work around
7 here in the past, but I haven't seen him for about a
8 month."

9 In processing the crime scene detectives
10 recover from a waste basket in 1933 Western, in the
11 offices of Sinergi, a couple of beer bottles. One of
12 them has the Defendant's fingerprints on it; one of them
13 has John Lumber Doe, who is later identified as Eric
14 Hamilton.

15 Eric Hamilton's fingerprints are on it.

16 So the person that hadn't been there for a
17 month or so left his fingerprints on a beer bottle found
18 in a trash can on November 17th.

19 The police make a few more recoveries of
20 items of evidence while they are talking to Mr. Seka,
21 down at headquarters. They are starting to find the
22 stuff that was out in the dumpster.

23 In 1933 Sinergi they find a bullet hole in
24 a couch. They move the couch. The bullet went all the
25 way through the couch and lodged in the hall and there is

1 several diamonds on its face.

2 I'm sure you'll see a photograph of that.
3 That was found upon his body.

4 You'll also hear testimony that at the
5 murder site, the site where his body was believed to have
6 been found, 1929 Western, next door a gold bracelet was
7 found on the ground.

8 There may be some testimony and indeed
9 questions whether or not that bracelet was his. That's
10 certainly something to think about in relation to the
11 robbery with use of deadly weapon charge.

12 We believe that Eric Hamilton may have
13 been an individual known as Seymour who came around the
14 property of 1933 Western in the latter part of 1998.

15 He was an African/American individual who
16 was hired by Mr. Limanni to do some clean up work, a
17 homeless individual who came there looking for some side
18 jobs. You'll hear testimony he did some clean up work
19 around the property.

20 There's another element to this case and
21 it will become clear as the witnesses progress over the
22 next several days that there was what we call a darker
23 side to Peter Limanni.

24 Darker side in the sense that some things
25 were going on in his own life that called into question

1 that he could get a false ID and obtain a new line of
2 credit, assume a new identity.

3 That's a factor to consider.

4 You'll also hear that in October '98 Mr.
5 Kato came to Las Vegas. Sinergi had three vans and one
6 Toyota pickup that were leased by the Japanese - - that
7 were owned by the company, but were leased by Mr. Kato.

8 He was very upset on the trip and he will
9 state that. He told that to the police as well. All he
10 could do to salvage something was to drive one of those
11 vans back in late October '98.

12 He took one of the vans back and wasn't
13 able to return to pick up any other vehicles before
14 everything happened. This is late October 1998.

15 Mr. Limanni disappears the first week of
16 November 1998, so we're talking about a week or two time
17 span.

18 Certainly you will hear evidence that
19 there are a lot of people that were either upset with Mr.
20 Limanni or that he owed money to. And he disappears on
21 the 6th.

22 This case - - and it will require your
23 attention, because I know it's not a simple case. We're
24 going to be here possibly for a couple weeks. It will be
25 easy to at times get distracted and think about things

1 A. Michael Cerda, C-e-r-d-a.

2 Q. By whom are you employed?

3 A. Nevada Properties.

4 Q. How long have you worked for them?

5 A. Approximately three years.

6 Q. I want to talk to you about 1998.

7 Were you managing certain properties for
8 Nevada Properties during that year?

9 A. Yes.

10 I just started working for them as a
11 manager, property manager.

12 Q. And included among those properties were
13 there locations at 1933 and 1929 Western Avenue here in
14 Las Vegas, Clark County, Nevada?

15 A. Yes. It's part of a large complex there.

16 Q. How many properties - - separate offices
17 were you administering at that complex?

18 A. Five and a yard in the back.

19 Q. Do you remember the addresses of them?

20 A. Yes, 1921, 1925, 1929 and 1935 and 37.

21 Q. Is there also a 1933?

22 A. And 1933.

23 Did I forget that one?

24 Q. Yes.

25 What was 1933 during the year of 1998?

1 A. It originally started as Sinergi, Sinergi
2 Air Conditioning.

3 Q. Who operated that business?

4 A. There was two partners, it was Takeo Kato
5 and Peter Limanni.

6 Q. And when was the Sinergi air conditioning
7 business opened?

8 A. May 6 of '98.

9 Q. And was there a lease?

10 A. Yes.

11 Q. For what term?

12 A. Two years.

13 Q. What were the monthly payments?

14 A. Eight twenty-five.

15 Q. Did they vary at all with income or
16 anything else or was that a fixed amount?

17 A. No. It was a statutory 825.

18 Q. How were they at making that monthly rent?

19 A. At first they were fine and then towards
20 the latter part of - - it was just before October they
21 started getting a little late, but it wasn't real late.

22 They were past the five-day due.

23 Q. Was there anybody working at Sinergi from
24 May through November of 1998 besides Takeo Kato and Peter
25 Limanni?

1 A. They had some other employees there. I
2 didn't know them all, but they had other employees there,
3 yes.

4 Q. Did you know a man named John Seka?

5 A. Yes.

6 Q. What did he do at Sinergi?

7 A. I wasn't sure if he was employed on a
8 full-time basis, but I knew he was a friend of Peter
9 Limanni's.

10 Q. On how many occasions did you see Mr.
11 Seka?

12 A. Four or five.

13 Q. Is he present in Court?

14 A. Yes.

15 Q. Point to him and tell me what he's
16 wearing.

17 A. He's sitting in front of me with a
18 sweater, brown and grey sweater.

19 MR. KANE: May the record reflect
20 identification of the Defendant, Your Honor?

21 THE COURT: It may.

22 BY MR. KANE:

23 Q. I want to talk to you specifically about
24 the last time you ever saw Peter Limanni.

25 Do you recall the date?

1 A. The exact date I'm not quite sure, but it
2 was towards the first part of the month, after the 5th,
3 because they were still late on the rent and I had talked
4 to him regarding it.

5 He said to come on down and pick it up.
6 He was going to have it for me.

7 Q. Do you recall the day of the week?

8 A. It seemed to me it was on Friday.

9 Q. If I tell you that November 6th was a
10 Friday, you have no reason to quarrel with that?

11 A. No.

12 Q. Where did this conversation take place
13 between you and Mr. Limanni?

14 A. In front of the unit that he occupies,
15 1933.

16 Q. About what time of the day was it?

17 A. It must have been around - - I'm really
18 not sure. It was around noon, close to noon, maybe
19 10:30.

20 Q. Was there anyone else present at any time
21 during the conversation except for you and Mr. Limanni?

22 A. I saw a girl come out of the building.
23 Peter had said Hi to her and she was leaving.

24 Q. Did she participate at all in your
25 conversation?

1 A. No, she didn't.

2 Q. Would you relate to the jury the
3 conversation that you had with Mr. Limanni?

4 A. He asked me that if it was possible to
5 delay making the monthly payment, because he was going to
6 be involved in a show at Cashman Field, a cigar show.

7 I told him he was already late. He was
8 going to have to pay the late fee.

9 I told him if he'd pay it on Monday that
10 would be fine.

11 Q. Was Mr. Limanni, as far as you know, in
12 possession of any money while you were talking to him?

13 A. He displayed some money that he could pay
14 the rent with right now. I was going to write a receipt.
15 He had cash.

16 He had to have had over the amount of the
17 rent which was 825 and it looked like a large sum of
18 money. I would say it had several hundreds rolled up and
19 I would say between two and \$3,000.

20 Q. And yet he asked you if he could wait to
21 pay until Monday?

22 A. Yes.

23 Q. What was the reason again?

24 A. He wanted to use the cash for a show he
25 was involved in at Cashman Field. He wanted to use it

1 for purchasing, I guess, retail items to sell.

2 Q. Did you receive the money on Monday?

3 A. No, I didn't.

4 Q. Did you you ever see Mr. Limanni again?

5 A. No.

6 Q. Did you attempt to contact Mr. Limanni to
7 collect that money?

8 A. Yes.

9 Q. What did you do?

10 A. I called him on Monday morning. When I
11 had no response I went to the shop and issued a five-day
12 notice, posted it on the door, because there was no
13 response.

14 I knocked on the door. The dog, Jake, was
15 barking. I saw the dog and I walked around the back and
16 saw a truck in the back.

17 I thought he was there, but apparently he
18 wasn't so I just posted it.

19 Q. After you posted the five-day notice did
20 you have any conversation with the Defendant, Mr. Seka?

21 A. Later in the afternoon I got a call from
22 John Seka.

23 Q. And was there anyone else on the phone, at
24 least as far as you know, except for Mr. Seka and
25 yourself?

1 Q. I want to be clear.

2 You were looking to Mr. Kato for the
3 guarantee of this lease payment and never to Mr. Limanni?

4 A. No.

5 Q. At this time in late 1998, October,
6 November, December, 1998, there was another building
7 within this complex or another room within this complex
8 being rented out as a boiler room or telemarketing room,
9 correct?

10 A. I wasn't sure exactly what it was, but it
11 was telemarketing.

12 Q. Do you know whether any individuals that
13 worked there were indicted in the federal system?

14 A. No.

15 Q. Was it closed down at some point?

16 A. Yes.

17 Q. In fact they rented that office and paid a
18 bunch of money up front and then closed down sometime
19 within the time frame that they had paid in advance?

20 A. Yes.

21 We had a lease agreement with an attorney
22 in New York and because of his distance we requested more
23 money up front.

24 Q. When is rent due or under the lease
25 agreements between yourself and Sinergi when was rent due

1 month, maybe month and a half he was there full-time.

2 Q. Between the end of July and the events
3 we've been talking about and the end of November 1998 did
4 you ever see Mr. Kato at the business?

5 A. I think once.

6 Q. And when was that in relation to what
7 we're talking about, that first or second week of
8 November?

9 A. It was - - he had come down to talk to
10 Pete about something and he come in the office and asked
11 me - - he said he was unhappy with the arrangement. He
12 wanted to try and make arrangements to get out.

13 I told him at that time I couldn't do it.

14 Q. What I'm trying to get clear on is when
15 was that in relation to these events in November?

16 A. I would say in August.

17 Q. A couple of months before?

18 A. Yes.

19 Q. That was the last time you saw Mr. Kato at
20 the premises at 1933 Western?

21 A. I saw him afterwards when he came back up
22 after.

23 Q. Right. I mean between - -

24 A. No.

25 Q. - - that date and the date the police were

EXHIBIT 4

SEKA000049

APP1924

163

ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

FEB 15 2001

19

* * * *

SHIRLEY B. PARRAGUIRRE, CLERK

BY *Linda Skinner*
LINDA SKINNER, DEPUTY

STATE OF NEVADA,

Plaintiff,

vs.

JOHN JOSEPH SEKA,

Defendant.

Case No. C159915

Dept. XIV

VOLUME I

REPORTER'S TRANSCRIPT
OF
JURY TRIAL

BEFORE THE HONORABLE DONALD M. MOSLEY

DISTRICT JUDGE

Taken on Wednesday, February 14, 2001

At 1:00 p.m.

APPEARANCES:

For the State:

EDWARD KANE, ESQ.

TIM FATTIG, ESQ.

Deputy District Attorneys

For the Defendant:

KIRK T. KENNEDY, ESQ.

PETER S. CHRISTIANSEN, ESQ.

Reported by: Maureen Schorn, CCR No. 496, RPR

MAUREEN SCHORN, CCR NO. 496, RPR

SEKA000050

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APP1925

1 evidence in this case.

2 It becomes quite important, Your Honor, if
3 you just sort of breeze over the reports done by these
4 purported experts. In every DNA test I've looked at in
5 trials I've done the results are, if they're a positive
6 result, astronomical numbers.

7 In other words, they say the chance of it
8 not being a certain individual's blood or DNA is one in
9 some-odd billion or trillion, numbers that are very
10 amazing and impress a jury, surely.

11 However, if the Court just briefly glances
12 through Mr. Welch's reports, he has such numbers as one in
13 17,200, and one in 88,000, which I can tell the Court
14 seems no more DNA evidence -- no more beneficial than the
15 old-fashioned blood typing, and far less scientific than
16 DNA evidence.

17 So there is definitely fruit and fodder to
18 be had with Mr. Welch, who expectedly is going to come in
19 here and stand up and say: I know the blood found in the
20 back of the truck was Peter Limanni's -- or Eric
21 Hamilton's, and I know the blood found in the back of the
22 van was Peter Limanni's.

23 We are put at a severe downside and having
24 our hands tied, and being expected to review a CV of a
25 purported expert in a day, or a week for that matter, when

1 was -- it must have been the 17th, because that's the date
2 of the autopsy. But he was found on the 16th, and we
3 didn't know then who he was.

4 Q Understood. And does this fairly and
5 accurately depict the way he looked on November 17th of
6 1998?

7 A Yes. May I make one comment here? In the
8 picture there is a rectangular piece of heavy paper which
9 we prepare for identification purposes for the
10 photographers. And this one says John Doe, but it also
11 says John, quote, "Lumber" Doe.

12 The reason for that is, that when he was
13 found there was some pieces of fresh-thrown lumber either
14 on or near the body.

15 MR. KANE: Offer State's Exhibit 1,
16 Judge.

17 MR. KENNEDY: No. Objection.

18 THE COURT: It is received. Thank you.

19 Q (By Mr. Kane) Would you briefly outline the
20 procedure that you employed in performing this autopsy for
21 the benefit of the ladies and gentlemen of the jury?

22 A The procedure is quite standard and quite
23 routine. We first review all of the information that is
24 available about a particular case. We have our own
25 investigators who go to the scene of death, collect as

1 removed and they are examined by the pathologist, in this
2 case myself, weighed, measured, findings dictated. And
3 when you finally get through with all this, hopefully we
4 have a good idea of what happened to this person, some
5 idea of who he is or she is. And we know more about the
6 circumstances of death than we did when we started.

7 Now, this is just a basic routine. We may
8 go on to do other things. We often will do toxicologic
9 studies. We, our own department, does not do them. These
10 are performed by Associated Pathologist Laboratories here
11 in town. They have undoubtedly the best toxicology
12 laboratory between Los Angeles and Salt Lake.

13 Particularly in cases where there may be
14 evidence or suggestion of violence, we like to have the
15 toxicology studies. We want to know if the person was
16 intoxicated, did he have drugs, legal or illegal in his
17 system. This may have a bearing down the line somewhere
18 on our findings.

19 Q Doctor, would you tell the jury, please,
20 what were your significant observations during your
21 external examination of the body of the person we've been
22 referring to as John Lumber Doe?

23 A The most significant findings consisted of
24 three gunshot wounds. One bullet struck the back about
25 midchest area, a couple inches to the left of the midline

1 of the back. We found that this had gone through and had
2 exited the right upper chest just below the collar bone,
3 and right next to the breastbone.

4 A second bullet had struck the left flank
5 area just above the hip bone going from left to right, a
6 little bit back, and exiting out the right buttock.

7 And the third had gone through the back side
8 of the right thigh. This was a fairly short flesh wound,
9 did not strike any vital organs.

10 Minor findings which may or may not have any
11 great significance, there was a little laceration of the
12 skin of the right wrist, actually just above the wrist
13 joint an inch or so; a little abrasion or scraping injury
14 on the ball of the thumb.

15 We had a few little nicks on the left-hand,
16 and some little areas where the skin looked like it had
17 been blistered, like on the left elbow. What had caused
18 that, I have no idea. They were quite small, but it
19 looked like an area that you get if you burn yourself with
20 blisters, and the top layer of skin comes off.

21 Q Doctor, as to the minor wound on the wrist,
22 if I told you that there was a bracelet found at the crime
23 scene, would that wound be consistent with somebody
24 tearing a bracelet from the wrist?

25 A Possibly.

1 Q Would you next describe for the ladies and
2 gentlemen of the jury the significant observations you
3 made during your internal examination of John Lumber Doe's
4 body?

5 A Okay. The significant internal findings
6 were related to a gunshot wound hitting the back and
7 coming out of the front of the chest. And the one that
8 hits the left flank goes on through to exit the right
9 buttock.

10 The one hitting the back, obviously back to
11 front, drifting in a left-to-right direction so that it
12 actually crossed the centerline of the chest. It came up
13 through the midline structures of the chest, did not
14 actually enter either side of the chest, either space
15 occupied by the lung.

16 But in doing this, it hit and chipped the
17 sixth thoracic vertebra; then lacerated the descending
18 aorta, the major artery that carries blood from the heart
19 to the rest of the body; hit, I think, the left main stem
20 bronchus; and, finally, came through and came out next to
21 the breastbone.

22 The injury to the aorta and also to the
23 pulmonary artery, this is a lethal nonrepairable lesion.
24 There simply isn't time to get a person to the hospital.

25 The wound in the flank had gone into the

1 abdomen coming left to right, very slightly downward, and
2 a little bit front toward back. It perforated about four
3 loops of intestine, going posteriorly hit the left femoral
4 iliac artery just below where it branches out to the aorta
5 that supplies the banks.

6 And that's a good sized vessel too. It's, I
7 would say, about the diameter of my pen would be very
8 close to it. So it's a big artery.

9 MR. KANE: May the record reflect the
10 doctor was holding up what appeared to be a fairly
11 standard-sized ballpoint pen. Go ahead, Doctor.

12 THE WITNESS: Following that it crossed
13 the pelvic soft tissues and went through the right pelvic
14 bone and on out. This also was a potentially lethal
15 lesion, because an artery that size the person is going to
16 bleed internally, bleed rapidly, which he did.

17 We had at least a liter, perhaps a little
18 more than a quart of blood in the abdominal cavity. So he
19 had bled very profusely from that injury, as well as
20 internally from the injury of the chest.

21 The wound to the right thigh, not a major
22 injury.

23 Q Doctor, was there any way for you to tell
24 from your examination the order in which these wounds were
25 inflicted?

1 A I don't think we can. The fact that the
2 wound going through and hitting the artery down on the
3 pelvis had done a lot of bleeding, suggests that it
4 probably came before the shot to the chest. Because the
5 shot to the chest disrupted the aorta which supplies blood
6 on down. And it would seem reasonable that he could not
7 have bled as much from the lower wound as he did if that
8 came after the wound to the chest.

9 Now, this makes good sense. I would admit
10 there's a little bit of speculation here, but I think it's
11 reasonable.

12 Q Doctor, as a result of your external and
13 internal examination of this body, did you arrive at an
14 opinion as to the cause of death?

15 A Yes.

16 Q What is that opinion?

17 A Death was a result of the gunshot wound to
18 the chest and abdomen.

19 Q Did you arrive at an opinion as to manner of
20 death?

21 A I did.

22 Q What is that opinion?

23 A My conclusion was that this was a homicidal
24 injury.

25 Q Were the injuries consistent, in your

1 opinion, with death by natural causes?

2 A No.

3 Q Were the injuries consistent, in your
4 opinion, with self-inflicted injuries?

5 A There was no evidence of self-inflicted
6 injury at all.

7 Q Doctor, did you also have this body
8 subjected to the toxicological testing that you were
9 describing earlier?

10 A Yes.

11 Q And what were the results of it?

12 A There was small amount of alcohol in the
13 bloodstream, a .02 percent. He had some cocaine, most of
14 which had been metabolized into its by-product. I don't
15 think he had anything else. Let me check to be certain of
16 that. No, that was it. We found the cocaine in the
17 bloodstream also present in his urine.

18 Q And when you say that most of it had
19 metabolized, could you just explain that to the jury?

20 A Well, the drug, as most drugs do, breaks
21 down and little pieces of it are removed from the molecule
22 by various actions of the body. And the product of that
23 process is called a metabolite. The unaltered drug is
24 what we call apparent drug.

25 In this case, he had maybe ten percent

1 apparent drug, and 90 percent or more of the metabolite.

2 Q And what, if anything, are you able to
3 conclude from that?

4 A Considering that he was found, as I recall,
5 at about 6:00 o'clock in the morning of the 16th, the
6 amount of change in the drug would suggest a period of
7 hours prior to his death, probably sometime on the
8 preceding day.

9 Q That he had actually ingested the cocaine?

10 A Yes.

11 MR. KANE: Nothing further. Pass the
12 witness, Your Honor.

13 THE COURT: Cross-examination?

14 MR. CHRISTIANSEN: Thank you, Judge.

15

16 CROSS-EXAMINATION

17 BY MR. CHRISTIANSEN

18 Q Good afternoon, Dr. Green.

19 A Good afternoon.

20 Q Dr. Green, you told the jury about three
21 gunshot wounds that you examined on John Lumber Doe, who
22 was later identified to be Eric Hamilton; is that
23 accurate?

24 A Correct.

25 Q Now, all three of those were

1 through-and-through wounds, entrance and exit wounds?

2 A That is correct.

3 Q So what that means is, that the bullet came
4 in, one in the back, one in your hip area, and one in the
5 thigh, and then exited as various points?

6 A That is correct. There was no bullet left
7 in the body.

8 Q And, Doctor, I've questioned you in a number
9 of cases, and you have somewhat of an interest in bullets
10 and guns, if I recall?

11 A I have some working knowledge there.

12 Q Would a bullet exiting the leg of the injury
13 you saw of Mr. Hamilton have enough force to go through a
14 glass and possibly break the glass window?

15 A It certainly could.

16 Q You talked about this wrist injury, and that
17 was -- I forgot which wrist you told us.

18 A A little nick on the right wrist.

19 Q When you say nick, there was no, like, rope
20 burn or rub burn?

21 A No, no. This was a very superficial linear
22 injury, whether it was made by a cutting instrument, or
23 just something with a relatively sharp corner. And it's
24 maybe an inch long. It doesn't even go through the full
25 thickness of the skin.

1 MR. CHRISTIANSEN: Pass the witness.

2 Thank you, Dr. Green.

3 THE COURT: Redirect?

4 MR. KANE: No, Your Honor.

5 THE COURT: Dr. Green, thank you very
6 much, sir. Next witness, please.

7 MR. KANE: Rick Ferguson, Your Honor.

8

9 Whereupon,

10 RICK FERGUSON,

11 was called as a witness by the State, and having been
12 first duly sworn, was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. KANE:

16 Q Sir, would you state your name and spell
17 your last name for the record.

18 A Richard Ferguson, F-e-r-g-u-s-o-n.

19 Q And where do you work, sir?

20 A I work at R & M Trophies.

21 Q And where is that located?

22 A 1937 Western.

23 Q How long have you been there?

24 A Nine years.

25 Q I want to talk to you about November of

1 1998; specifically, November the 17th. And whether you
2 remember the date or not, was there a day in November when
3 you called the police because of something that happened
4 in a neighboring business?

5 A Yes, there was.

6 Q And what time of the day was it when you
7 called them?

8 A To my best recollection, it was probably
9 around 8:00 o'clock; 8:00, 8:30.

10 Q And what was it you were reporting?

11 A I was reporting broken glass with blood and
12 everything else that was two buildings down from where I
13 was at.

14 Q And do you recall what the number was?

15 A No, I don't recall.

16 Q But it's whatever one was two down from you?

17 A Yes; two down.

18 Q And did the police respond to the scene?

19 A Yes, they did.

20 Q About how long was it between the time you
21 called and the time they got there?

22 A Well, I really can't answer that question,
23 because I don't recall how long it was.

24 Q Did they eventually respond to the scene?

25 A Yes, they did.

1 seen it that it was clean?

2 A Yes.

3 Q And it was significant enough you remember
4 it now a couple of years later?

5 A Yes. It was just one of those eye-catching
6 things that I noticed. When he came up it was nice and
7 clean.

8 Q And did you mention that to the police
9 officers; if you recall?

10 A I don't recall if it was the police officer
11 or Mark, the landlord, was standing there. But I did make
12 that comment, yes.

13 Q Now, did you ever go inside 1929, or did you
14 ever go inside the business premises that you called about
15 with the broken glass, or did you just let the police go
16 in there and do that?

17 A No. I did not go in there. The police went
18 in there.

19 MR. KANE: Nothing further, Your Honor.
20 Pass the witness.

21 THE COURT: Cross-examination?

22

23 CROSS-EXAMINATION

24 MR. CHRISTIANSEN:

25 Q Good afternoon, Mr. Ferguson. My name is

1 Pete Christiansen, and I represent Jack Seka. You have
2 spoken to my investigator, the bald guy here, right?

3 A Yes.

4 Q And then you subsequently spoke to an
5 investigator, Mr. Maldonado, who works for the District
6 Attorney's Office?

7 A Correct.

8 Q And you relayed very similar versions of
9 events to both of these gentlemen that you just gave the
10 jury here today?

11 A Correct.

12 Q Back in November of 1998, this was a Tuesday
13 morning that you were at work; do you recall?

14 A I believe it was Tuesday morning. I don't
15 recall, exactly.

16 Q Did you work Mondays back then?

17 A Yes.

18 Q Your business was open on a Monday?

19 A Monday through Friday.

20 Q And you didn't notice this broken glass
21 yourself. Somebody else told you about it, correct?

22 A Correct.

23 Q And that was some type of homeless person
24 that was wondering through the area mentioned to you that
25 there was broken glass and blood two doors up from you?

1 MR. FATTIG: Thank you.

2 Q (By Mr. Fattig) How often were you around
3 Peter and/or Jack at the business?

4 A Daily, usually.

5 Q So you saw Peter pretty much every day?

6 A I'd see him pretty much every day.

7 Q Did Peter often come over to your house?

8 A Just a few times.

9 Q Did you also have a lot of telephone contact
10 with Peter?

11 A Yes.

12 Q And how would that occur?

13 A Well, he gave me phone that was linked in
14 with the business, with Cinergi, with one of the phones
15 there, radio and telephone, and we would radio back and
16 forth and he could type messages on the computer to me.

17 Q Was it easy for you to contact Peter?

18 A Yeah, oh yeah.

19 Q Did he have a cell phone?

20 A Yeah. He had a phone just like mine.

21 Q Was his cell phone normally turned on and
22 was accessible?

23 A Most definitely, yes.

24 Q Do you know where Jack Seka, the defendant
25 in this case, where he lived?

1 A He lived there also.

2 Q At the business?

3 A At the business.

4 Q Where did they stay in the business?

5 A They stayed in the back part. There was a
6 separate door from the office area. And then there was
7 another room behind that, a kitchen and so forth, and
8 there was a door back there that went into another room
9 where they had beds.

10 Q And how big was that room, approximately?

11 A Say 14 by 14, 14 feet by 14 feet.

12 Q And both of them stayed in the same room?

13 A Yes, uh-huh.

14 Q Were you familiar with any vehicles that
15 were associated with the business?

16 A Yes.

17 Q What vehicles did you see?

18 A Peter often drove a Toyota truck, a brown
19 Toyota truck. And then there were three or four white
20 vans.

21 Q And did some of these vans have markings?

22 A Cinergi on them with the phone number.

23 Q Were you familiar in August when you first
24 got to know Peter, did you become aware of how the
25 business was going?

1 A He was controlling. He controlled the money
2 and he pretty much -- I don't want to say managed the
3 friendship, but Jack pretty much did what Peter said to
4 do.

5 Q So you wouldn't describe them as equal
6 partners with the business?

7 A No, huh-uh.

8 Q What sort of things would Peter make Jack
9 do?

10 A He did a lot of the errands and just running
11 around picking up supplies, going for coffee, staying in
12 the office doing a lot of the phone work.

13 Q Did you see Jack give Peter any orders or
14 directions to do things?

15 A No.

16 Q Was it always the other way around?

17 A Yes.

18 Q Did you ever see Peter be disrespectful to
19 Jack?

20 A Yes.

21 Q Could you describe that? What did you see?

22 A One time I remember when they were
23 building -- this was when they were going to start a cigar
24 shop there at Cinergi, I remember Jack spilled some purple
25 paint. And Peter just was livid about that, and calling

1 our luggage, just do, get our luggage now." So Jack got
2 our luggage out and put it up, and that was it.

3 Q Was Jack going on the trip with you?

4 A No.

5 Q He was dropping you two off?

6 A He dropped us off at the airport.

7 Q Did you see Jack with money during this time
8 period?

9 A Not often, no. I don't think I ever saw him
10 with money.

11 Q Did Peter have money?

12 A Yes.

13 Q Did you ever see -- how would Jack get his
14 money?

15 A From Peter. Peter would give him some
16 money.

17 Q And that was part of his salary, or do you
18 know?

19 A I don't know if it was his salary. I never
20 saw him get a check. He would just give him cash. Jack
21 would say: Hey, give me a few bucks.

22 Q And Peter would do that?

23 A And Peter would give him some money.

24 Q Did Peter have a dog?

25 A Yes.

1 Q He couldn't take you on trips?
2 A No.
3 Q He didn't have much money left to spend?
4 A I don't know about that.
5 Q He didn't spend it on you, did he?
6 A Not like that.
7 Q In fact, Peter had contemplated and had even
8 taken you with him to Lake Tahoe about setting up a new
9 business up in Lake Tahoe, heating, air conditioning,
10 slash, cigar store?
11 A Yes.
12 Q And you later came to find out he signed a
13 lease in Lake Tahoe?
14 A Yes.
15 Q And on that lease he put you as a reference,
16 did he not?
17 A I saw that he did.
18 Q He put that he had known you for two years,
19 right?
20 A That's what you showed me.
21 Q And that's not true, was it, back in
22 November of '98?
23 A No.
24 Q You knew Peter and Jack had taken one of the
25 vans up to Lake Tahoe?

1 A Yes.

2 Q And that was one of the vans that you were
3 under the impression Peter Limanni owned, correct?

4 A Yes.

5 Q And so if I told you those vans weren't
6 owned by him, but were owned by a gentleman name Takeo
7 Kato, that was not the impression Peter gave you?

8 A Well, I recognize that name.

9 Q Were you ever told he was the money behind
10 Peter's business?

11 A I don't remember.

12 Q You were, after Peter disappeared, called by
13 a lady named Peggy Eichorn, who is a real estate agent up
14 in South Lake Tahoe, correct?

15 A Yes.

16 Q And she asked you if you had heard from him,
17 and you said you had not, correct?

18 A Correct.

19 Q And that was sometime in the middle or late
20 November of 1998, to the best of your recollection?

21 A I don't remember.

22 Q It was after the 5th when you went over to
23 1933 and Peter wasn't there?

24 A Yes.

25 Q And it was before the 7th of December when

1 November the 5th, '98?

2 A No.

3 Q In terms of people that had access to the
4 vans and the trucks, Peter and Jack drove interchangeably,
5 correct?

6 A Yes.

7 Q In fact, there was a period of time when
8 your car was broken down that you drove the truck for a
9 while?

10 A The Toyota, yes.

11 Q The little brown Toyota pickup?

12 A Uh-huh.

13 Q The business went into a down turn, the
14 heating business from -- you met Peter in August, so
15 August, September and the fall of 1998. At some point
16 Peter got the idea to start a cigar shop there at that
17 address on Western, correct?

18 A Yes.

19 Q I keep pointing to that map. I'm sorry.

20 A That's okay.

21 Q And Peter and Jack worked frequently in this
22 business sawing boards, and putting up this humidior, and
23 things of this nature?

24 A Yes.

25 Q And it was physical hand work, carpentry,

EXHIBIT 5

SEKA000072

APP1947

59

1

DISTRICT COURT

CLARK COUNTY, NEVADA

FILED IN OPEN COURT

FEB 20 2001

19

THE STATE OF NEVADA,

Plaintiff,

vs.

JOHN JOSEPH SEKA,

Defendant.

SHIRLEY B. PARRAGUIRRE, CLERK
BY *Linda Skinner*

DEPUTY

LINDA SKINNER

No. C159915

Dept No: XIV

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DONALD M. MOSLEY

VOLUME II

February 16, 2001

2:15 p.m.

Department XIV

APPEARANCES:

For the State:

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MR. TIMOTHY FATTIG

Deputy District Attorneys

For the Defendant:

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MR. PETER CHRISTIANSEN

Attorneys-at-Law

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Certified Court Reporter

Las Vegas (702) 455-3452



SEKA000073

APP1948

1 So you're correct. Today it's pretty
2 common that we would not consume all of the sample.

3 Q. Now, on the test you performed, December
4 18, 1998, would you look at that?

5 A. Yeah, um-hum.

6 Q. The first item which was a swab from, with
7 apparent blood that included - -

8 A. Could I ask you what report date you're
9 looking at?

10 Q. December 18 - - I'm sorry - - 1998.

11 A. December 18.

12 Q. Do you have that?

13 A. Yes, I do. Just a moment, please.

14 Q. I might be able to find it on here.

15 A. I've got it, sorry.

16 Q. I think it is - - those charts were cut
17 and pasted to make these exhibits, correct?

18 A. Yes, they were. Sorry.

19 Q. I think the very first sample is this one,
20 number 37, so the jury can see the swab with apparent
21 blood and I think Mr. Fattig said that was found at 1933
22 Western, correct?

23 A. Right.

24 Q. And that swab included Mr. Seka, correct?

25 A. Yes, it did, um-hum.

1 much less of the sample, so it changes things
2 dramatically.

3 Q. One of the tests you performed on - - I'm
4 looking on December 18, 1998 - - and this appears to me
5 to be the last test on your chart and that was the
6 fingernail clippings with apparent blood?

7 A. Yes.

8 Q. There were - - I don't know if you had
9 that blown up here - -

10 A. I don't think it's blown up.

11 Q. It's not blown up in the Court exhibits,
12 but you did some testing of a fingernail clipping with
13 apparent blood and one of the sites or locations that you
14 drew up there you were unable to give numbers or letters
15 on, correct?

16 A. Excuse me, let me find that, please.

17 Okay, I have it.

18 Q. Is that correct?

19 A. Yes, on D1S80.

20 Q. Amlagene is the male/femal one and D1S80
21 was one of the sites you related to the jury.

22 You were unable to locate that site or
23 unable to determine male or female?

24 A. Right.

25 Q. Why didn't you just re-test it?

1 It says you had sufficient sample for
2 re-test.

3 Why didn't you re-test it?

4 A. Um, I can't answer the question. I'm not
5 really sure.

6 I'd have to really look through my notes
7 in detail to answer that question for you.

8 Q. You typically keep accurate - - these
9 charts are typically accurate, correct?

10 A. Yes.

11 Q. So if it said there was sufficient sample
12 for re-test and you had a result that was not all of the
13 boxes, so to speak, all of the locations on your PCR
14 chart, you could have re-tested it, right?

15 If your - -

16 A. Yes, and again as far as the details,
17 there may have been some other circumstances that I'd
18 have to go back and really delve into to see why I didn't
19 do that.

20 Q. Tell me when the Las Vegas Metropolitan
21 Police Department started doing DNA testing in-house, in
22 other words, in the department, instead of shipping it
23 out to Cellmark or somebody like that.

24 A. I think it's been about - - I think we
25 started in 1996. It's been about five years, but I can't

1 Q. So if you sent all this - - if you'd
2 retained the items that we've discussed that you used all
3 of back in '98 and '99 and had send sent it all off to
4 Cellmark, for example, isn't it quite probable that their
5 numbers would have differed from your numbers in terms of
6 probabilities?

7 Instead of one in 1.3 million, it might
8 say one in 88,000?

9 A. I don't think it would be that radical.

10 There would probably be some variation,
11 but if you're using that as an example of one in 1.3
12 billion or million, I'm sorry, I would suspect that yes,
13 you might get numbers of one in 1.2 billion or million or
14 one in 1.35 million, maybe, but you'd never get numbers
15 that radically different.

16 Q. That difference is because this test, this
17 PCR is a test of elimination, not a test of
18 identification, correct?

19 A. Well, at this time, yeah, yes.

20 Q. You eliminate who can be part or who can
21 be the donor of a given sample. You don't identify who
22 is the donor of a given sample, using this type of PCR
23 testing?

24 A. With this technology with the numbers that
25 were generated we looked at it more of as an elimination

1 type test.

2 Q. Okay.

3 A. Or as we stated, we couldn't exclude. We
4 can't exclude this person.

5 Today it's evolved to much more.

6 Q. Right. Today it's more sophisticated,
7 correct?

8 A. Today we do identity statements at the
9 laboratory.

10 Q. Nobody ever asked you to do an identity
11 statement in any of the tests in this case, correct?

12 A. No.

13 Q. Look for me if you would, on December 18,
14 1998, on that chart, those, the two defendants tests that
15 were swabs with apparent blood where you excluded Mr.
16 Seka as being the donor and included Mr. Hamilton.

17 Judge, can I approach?

18 THE COURT: Yes.

19 THE WITNESS: Sorry.

20 BY MR. CHRISTIANSEN:

21 Q. I'll show you my chart. I'm talking about
22 the first three.

23 On all three of those, those were the
24 swabs from the Toyota pickup, I believe, was the
25 testimony; is that correct?

1 A. I don't remember exactly, because I deal
2 with lots of these samples.

3 MR. CHRISTIANSEN: I'll pass the witness.
4 Thank you.

5 THE COURT: Re-direct?
6
7

8 RE-EXAMINATION

9 BY MR. FATTIG:

10 Q. You testified on cross-examination
11 regarding the Marlboro cigarette butt?

12 A. Yes.

13 Q. Were you able to find any DNA on the
14 cigarette butt at all?

15 A. Excuse me for just a moment, please.

16 Q. Certainly. Take your time.

17 A. Okay. My result on the cigarette butt
18 were no DNA typing results. No DNA typing results were
19 obtained on the two Marlboro brand cigarette butts.

20 What that indicates to me is that I
21 attempted to do DNA typing. No DNA results were
22 obtained.

23 I might have proceeded with a process to a
24 certain point and then found out that there wasn't enough
25 DNA to proceed to do any typing. I might have carried

1 A. Vince Roberts, another crime scene
2 analyst, assisted me with that.

3 I did impound evidence and prepare the
4 report for this case, but I was assisted by Vince Roberts
5 and another crime scene analyst supervisor, Joe McVeigh.

6 Q. Would you proceed?

7 And if it's you doing something, say so,
8 and if it's somebody doing something in your presence,
9 indicate that as well.

10 A. Okay. The vehicle was examined on the
11 exterior to look for anything that may tie the vehicle to
12 another scene that was worked.

13 We looked at the tires, the undercarriage.
14 We looked at the bed of the vehicle, the exterior
15 condition of the vehicle and also at the interior of the
16 vehicle.

17 The vehicle was photographed to document
18 the condition that it was in at the time we observed it.

19 The vehicle was processed for fingerprints
20 inside and out. We examined for the presence of blood in
21 the bed of the pickup.

22 We also collected - - or there again, I
23 did all the impound, so anything, blood, hairs and fibers
24 that were located, I personally did the impound on.

25 Q. Let me start with the exterior condition

1 of the vehicle.

2 Did anything about its exterior condition
3 immediately attract your attention?

4 A. Yes.

5 Q. What?

6 A. A couple of things.

7 One, the body of the vehicle itself, the
8 exterior body was clean. It looked as though it had been
9 washed, but the tires on the sidewall of the tires had
10 markings on the sidewall that appeared as though it had
11 been driven in the dirt and had rocks up on the side of
12 the tires, and also on the undercarriage of the vehicle
13 there were scrape markings in the oil pan area,
14 indicating that it had driven over some kind of brush.

15 Q. Are you saying there's was a contrast
16 between the undercarriage and tires and exterior of the
17 vehicle?

18 A. Yes.

19 Q. Was that sufficiently out of the ordinary
20 for you to note it in your report?

21 A. Yes, it was.

22 I noted that the vehicle was clean. There
23 again in the bedliner of the pickup were some stains that
24 drew our attention in that the exterior of the vehicle
25 was clean, but there were stains in the bedliner of the

1 pickup.

2 Q. We'll consider the bedliner of the pickup
3 is still part of the exterior.

4 Would you tell the jury what you observed
5 in the examination of the bedliner of the truck?

6 First of all, what do you mean by a
7 bedliner?

8 A. The bed of the pickup had one of those
9 plastic liners - - I'm not sure exactly what they call
10 those - - the plastic protective liners to protect the
11 bed from any damage.

12 Each of the four corners of the pickup
13 where the tie areas were had twine or some sort of a tie
14 attached to it and there again in the bedliner, the
15 plastic bedliner there were some areas that were noted
16 that had a stain on it, in contrast to the black liner.

17 Q. Now, when you - - in the course of
18 examining this vehicle when you come across something
19 like that that attracts your attention is there a
20 presumptive test that you do to determine whether or not
21 it may be blood?

22 A. Yes.

23 Q. What is that test called?

24 A. There are actually a couple of tests that
25 we can do and in this case we used both of them, one, an

1 Did you perform an autopsy on that date on
2 a person identified to you initially as a John Doe and
3 eventually as a Peter Limanni?

4 A. Yes, I did.

5 Q. Would you describe for the Ladies and
6 Gentlemen of the Jury the significant observations that
7 you made during your external examination of this body?

8 A. The major findings in the external
9 examination were that this body was partially decomposed
10 and it had evidence that animals such as dogs or coyotes
11 had had access to the body.

12 The body was clothed only in a pair of
13 undershorts and it had been discovered partially buried
14 and partially uncovered, so there was a large amount of
15 adherent to dirt and gravel to the body when I first saw
16 it.

17 After I washed all that dirt away and
18 cleaned the body, basically the soft tissues, the skin of
19 the skull, the face, the upper part of the shoulders, the
20 upper part of the chest and portions of the sides had
21 been removed by animal activity.

22 The remaining portions of the body had
23 varying degrees of decomposition and mummification where
24 the tissue sort of dries out, consistent with having been
25 outdoors partially buried for a considerable period of

1 time, perhaps weeks.

2 The injuries - - once I had done that, I
3 also noted several tatoos on the body. The significant
4 injuries were two gunshot wounds in the left lower back,
5 two wounds right next to each other, they fractured the
6 8th and 9th ribs, two holes through and through the heart
7 associated with those.

8 Then there were several gunshot wounds of
9 the skull. The skin, again, was gone. It was not
10 present, but when examining the skull there were two
11 gunshot wounds in the very back of the skull, one of
12 which the bullet was actually imbedded in the skull
13 itself.

14 there were two gunshot wounds on the left
15 side of the head. There were two what appeared to be
16 gunshot wounds on the top of the head, but it appeared
17 that they were consistent with a bullet striking the
18 skull causing a fracture, but not penetrating through the
19 skull.

20 There was a gunshot would on the right
21 side of the head just above the level of the ear. In
22 addition, there was another gunshot wound on the top of
23 the left shoulder and there may have been another wound
24 in a shoulder area that where the skin had been removed
25 so that the wound was actually not visible.

1 like attacking flying eagle figure. On the right lower
2 extremity was a tatoo of what appeared to be a map of
3 Italy. It was a boot-shaped object with the word Italy
4 tatoo'd across it, so it would be consistent with a tatoo
5 of the outline of the country Italy.

6 On the left lower extremity was a tatoo of
7 a blue colored flower, like fur.

8 Q. Would you next describe for the Ladies and
9 Gentlemen of the Jury your significant observations
10 during your internal examination of this body?

11 A. Um, much of the internal organs were - -
12 had evidence of decomposition. The upper portion of the
13 chest, the skin and tissue had been removed and both of
14 the bones had been removed, typical for animal activity.

15 The heart was still present, however, and
16 the heart had two gunshot wounds in the front part of the
17 heart and the back part of the heart that were consistent
18 with the two wounds in the back of the chest.

19 Inside the skull cavity I recovered
20 several bullets, only one of the bullets could I be
21 definite about which wound it came from.

22 The wound in the right side of the skull,
23 that bullet was imbedded in the base of the skull just an
24 inch or so from where it entered.

25 The other wounds that were in the back and

1 the left side and sort of the left top of the head, I
2 recovered bullets from the decomposed brain, but I
3 couldn't determine which bullet went with which hole.

4 Q. Were one or more of the wounds that you
5 observed potentially fatal?

6 A. Well, both of the wounds, the entrance
7 wounds in the back that went through the heart, either
8 one of those would be fatal. Together they were fatal.

9 And the gunshot wounds to the brain, even
10 with treatment they may have been fatal. Again, because
11 the brain was decomposed, I couldn't see which portion of
12 the brain was affected by the bullet, so some gunshot
13 wounds to the brain can be survived, but all of the
14 gunshot wounds to the head were potentially fatal.

15 Q. Was there anything about your examination
16 that indicated to you the order in which these wounds may
17 have been inflicted?

18 A. No.

19 Q. Was there anything in your examination
20 that indicated to you how long that body may have
21 possibly been in the desert?

22 A. Um, well, the degree of decomposition and
23 the post-mortem changes would not have occurred within a
24 day or two and would be more consistent with weeks.

25 Being, as long as the body is covered by

1 THE COURT: Next witness, please.

2 MR. KANE: Michele Hamilton.

3

4

MICHELE HAMILTON,

5 called as a witness herein, was sworn by the clerk of the

6 court, was examined and testified as follows:

7

8

9

EXAMINATION

10 BY MR. KANE:

11 Q. Ma'am would you please state your name and
12 spell your last name for us?

13 A. Michele Hamilton, H-a-m-i-l-t-o-n.

14 Q. Ms. Hamilton, who was Eric Hamilton?

15 A. My brother.

16 Q. In November of 1998, do you know where
17 Eric was living?

18 A. Yes, with me.

19 Q. And did he come to Las Vegas at some
20 point?

21 A. Yes, he did.

22 Q. When was that?

23 A. Beginning of November, end of October,
24 something like that.

25 Q. And what did he bring with him when he

1 came here?

2 A. Just himself, what he had on his back and
3 money.

4 Q. Do you know how much money?

5 A. He had a lot of money.

6 Q. A lot could mean anything, do you know?

7 A. Maybe 3,000.

8 Q. And was he coming here to stay, do you
9 know?

10 A. He was coming here for work, yes.

11 MR. KANE: May I approach, Your Honor?

12 THE COURT: You may.

13 BY MR. KANE:

14 Q. I want to show you what's already in
15 evidence as State's proposed exhibit 1, Ms. Hamilton.

16 Is that Eric?

17 A. Yes.

18 Q. When was the last time you talked to Eric,
19 Michele?

20 A. About maybe the first week in November.

21 Q. Was that in person or on the telephone?

22 A. Telephone.

23 Q. You were back in California?

24 A. Yes.

25 Q. Was there anyone else on the phone besides

1 the two of you?

2 A. No.

3 Q. And without asking what you discussed, did
4 you ever talk to him after that?

5 A. Yes. He called me twice a week.

6 Q. But after this last telephone conversation
7 did you ever see or talk to him again?

8 A. Oh, no.

9 MR. KANE: Nothing further. Tender the
10 witness.

11 THE COURT: Cross-examination.

12

13

14 EXAMINATION

15 BY MR. KENNEDY:

16 Q. Ms. Hamilton, do you remember giving a
17 statement to the police back in November or December of
18 1998 to a Detective Thowsen?

19 A. Yes.

20 Q. Did you meet with him in person or did he
21 talk with you on the phone?

22 A. Phone.

23 Q. And do you remember telling him that the
24 last time you spoke with your brother was on November 13,
25 1998?

1 A. Yeah, probably that.

2 Q. Did you call him or did he call you?

3 A. He called me.

4 Q. Did he tell you where he was staying at
5 that time?

6 A. Yes.

7 Q. Was it at the local hotel?

8 A. Yes.

9 Q. Do you remember the name of the hotel?

10 A. Yes.

11 Q. What was it?

12 A. Downtown.

13 Q. The Downtown Hotel.

14 Did he tell you he was staying in that
15 hotel alone or with someone else?

16 A. He didn't say, but he was registered
17 there.

18 Q. All right. What kind of work was he doing
19 in Las Vegas in November 1998?

20 A. Construction.

21 Q. Construction.

22 Did he tell you that on his last phone
23 conversation with you, that he had a job and was working?

24 A. Yeah, he told me of that maybe on the
25 second phone call.

1 Q. Earl earlier in November?

2 A. Right.

3 Q. I noted from your statement you gave to
4 Detective Thowsen that your brother had stayed at a
5 halfway house in Long Beach; is that correct?

6 A. Yes.

7 Q. Is that a half halfway house because he
8 had some substance abuse problems?

9 A. Yes.

10 Q. Did he have a cocaine addiction?

11 A. Yes.

12 Q. Do you know how long he had that problem?

13 A. No.

14 Q. Were you aware in early November as to
15 whether or not he was spending any time in the local jail
16 for any type of charge?

17 A. In November?

18 Q. Yes, in early November?

19 A. No.

20 Q. He never called you from jail and told you
21 he was in jail for any problem?

22 A. No.

23 Q. In the last phone conversation on November
24 13, did he ask you for any money, telling you he was
25 running short of cash or anything of that type?

1 A. No.

2 I still had a lot of his money in our
3 safe. He had a lot of money. He had a Versatell account
4 which came to my house, statements, and he still had
5 money.

6 Q. So there was still money in the account
7 after his body was discovered, I take it?

8 A. Um-hum.

9 Q. Is that a yes, for the record?

10 A. Yes.

11 Q. Nor the Court reporter.

12 MR. KENNEDY: Pass the witness. Thank
13 you.

14 THE COURT: Re-direct?

15

16

17 EXAMINATION

18 BY MR. KANE:

19 Q. In addition to telling he was working here
20 did he tell you who he was working for?

21 A. No. He didn't say the name, but he told
22 me - - he described them.

23 Q. Did he tell you the type of work he was
24 doing?

25 A. Yeah, he said building some type of - - I

1 can't recall what it was he was building, but - -

2 Q. How did he describe the person?

3 A. Very nice white man that owned a business
4 and he hired him to put up - - make something next door.

5 They were building something.

6 MR. KANE: Nothing further, Your Honor.

7 THE COURT: Anything further?

8 MR. KENNEDY: No, Your Honor.

9 THE COURT: Thank you. You're excused.

10 MR. KANE: For the record, counsel has
11 been kind enough to stipulate this witness may be
12 excepted from the Exclusionary Rule and may remain in the
13 courtroom following her testimony.

14 MR. KENNEDY: That is correct.

15 MR. CHRISTIANSEN: Correct.

16 THE COURT: You may remain, if you so
17 desire.

18 Counsel approach the bench, please.

19 (Discussion off the record.)

20 THE COURT: Ladies and Gentlemen we will
21 take our typical afternoon recess.

22 (Whereupon the Court admonished the jury.)

23 (Brief recess taken.).

24 THE COURT: The continuation of C159915,
25 State versus John Joseph Seka. Let the record reflect

EXAMINATION

BY MR. KANE:

Q. Sir, please state your name and spell your first and last name for the record.

A. The first name is Takeo, last name is Kato, K-a-t-o.

Q. Mr. Kato, I want to talk to you about 1998.

At that time did you know a person named Peter Limanni?

A. Yes.

Q. How and where did you first meet Mr. Limanni?

A. He was my - - he had office right next to my office.

Q. Where was that, sir?

A. It was in Santa Monica, in California.

Q. Eventually did you enter into a business arrangement with Mr. Limanni here in Las Vegas?

A. Yes, I did.

Q. When was that?

A. It was, I would say, '98.

Q. And what type of business was it?

A. It was air conditioning replacement or

1 some kind of - - the air conditioning business actually.

2 Q. And roughly were you 50/50 partners or was
3 there some other arrangement?

4 A. Are you talking moneywise?

5 Q. Yes.

6 In terms of the money that the business
7 would make would you both share 50/50 or was there some
8 other kind of arrangement?

9 A. In the beginning, it was 50/50 and we
10 changed it later.

11 Q. In terms of the money that was put into
12 the business did you put in equal shares?

13 Did you put in more?

14 Did he put in more?

15 A. It was 50/50. Actually, it was 51 and
16 that was him and 49 is mine.

17 Q. And how much money did you yourself put
18 into that business from the time you got started until
19 the time it ceased operation?

20 A. Are you talking about cash?

21 Q. Yes, cash money that you had to put into
22 the business.

23 A. It was about 35 to 40.

24 Q. How much if you know did Mr. Limanni put
25 in?

1 MR. KANE: Nothing further. Tender the
2 witness.

3 THE COURT: Cross-examination.
4
5

6 EXAMINATION

7 BY MR. KENNEDY:

8 Q. Mr. Kato, do you remember having a
9 conversation on the telephone with Detective Thowsen in
10 December 1998?

11 A. Yes, I did. Yes, I do, but I don't know.
12 I don't recall the conversation, but he
13 did call me.

14 Q. I'll ask you a few details.
15 Do you remember telling Detective Thowsen
16 that you had another partner named K-a-z T-o-e ?

17 A. Yes.

18 Q. And that you and Mr. Toe had invested a
19 hundred thousand dollars in Mr. Limanni's air
20 conditioning business?

21 A. A hundred thousand - - don't know - - I
22 don't know if it was a hundred thousand, but total could
23 be, yes.

24 Q. You told us you invested approximately up
25 to \$40,000 in cash; is that right?

1 A. Yes.

2 Q. And you also leased several vans and a
3 truck; is that correct?

4 A. Yes, the Toyota, yes.

5 Q. Was there any equipment that you purchased
6 or leased as well?

7 A. Yes, we did.

8 Q. So the hundred thousand dollar total
9 investment sounds about right?

10 A. Yes. More than a hundred thousand.

11 Q. So you and Mr. Toe invested all this money
12 and gave it to Mr. Limanni to start this business here in
13 Las Vegas; is that correct?

14 A. Um, yes. In the beginning it wasn't a
15 hundred thousand, but the overall, yes.

16 Q. Overall investment?

17 A. Yes.

18 Q. Now, you told us on direct examination
19 that the business - - I want to make sure I understood
20 you correctly - - the business started to fail in the
21 summer of '98; was that right?

22 A. No.

23 Actually, the business - - right after we
24 started I stayed there for about three months, stayed
25 with Peter Limanni.

1 I felt it's not for my business type, so I
2 just - - even before start summer I just left, because we
3 had kind of bad relationship.

4 Q. You and Mr. Limanni had a bad
5 relationship?

6 A. I would say he - - I found out he is using
7 companies money using for personally, so I didn't like
8 it. It's a company, so I didn't like it.

9 So I told him.

10 Q. He was using company money for personal
11 reasons?

12 A. Exactly, for personal uses. I told him
13 couple times, but he didn't fix it. And also he felt
14 something for me, I think.

15 Q. You feel he didn't like you as well?

16 A. Kind of, I guess.

17 Q. Was your partner Kaz Toe, was he here in
18 Las Vegas with you?

19 A. He was here, but he just left because he
20 got to go back to L. A..

21 Q. Back to L. A.?

22 A. He was going to come, but couldn't make
23 it.

24 Q. Do you remember in October '98 that you
25 had a meeting with Mr. Limanni where you told him you

1 wanted your money back?

2 A. I'm sorry, when?

3 Q. In October '98 that you had a meeting with
4 Mr. Limanni, you told him you wanted your investment
5 back, you wanted to be paid back all the money and effort
6 you put into this?

7 A. Yes, that was right before I left. So
8 it's October already. I didn't have a contract, but that
9 was like three months after I agree, both of us.

10 Q. So I'm clear, it was October that you had
11 a conversation with Mr. Limanni and you told him that you
12 wanted your investment back, that you wanted to get out
13 of this business; is that correct?

14 A. I think - - it's not October, no. It was
15 before the summer.

16 I don't recall the month, but before the
17 summer.

18 Q. Okay.

19 A. October, I wanted the money back by
20 October.

21 Q. Do you remember coming to Las Vegas in
22 October and maybe the end of October and taking back one
23 of the vans, one of the vans that you had leased back to
24 California?

25 A. Yes. I don't recall the date, but I did

1 do that.

2 Q. Why did take that van back?

3 A. Because that was under - - everything
4 under my name, so he didn't pay the lease, so I found
5 out, and also the insurance is under my name, so I kind
6 of, you know, worry about it, so I just took it.

7 Q. Did you have intentions of coming back to
8 Las Vegas to take the other vehicles back to California?

9 A. No, I didn't, actually.

10 Q. You were just going to take one back?

11 A. Just one, because he needed two more, you
12 know, keep doing the business, so I left the two, but I
13 kept the one.

14 Q. Now, there were three vans and one truck;
15 is that correct?

16 A. Three van, yes.

17 Q. You were the one who leased all four
18 vehicles; is that correct?

19 A. Actually, yes.

20 Q. Did you have your own set of keys for all
21 four of those vehicles?

22 A. No, I don't.

23 Q. They were all here with Sinergi here in
24 Las Vegas?

25 A. Yes.

1 Q. Do you remember Mr. Limanni trying to get
2 you to become involved in his cigar business?

3 He wanted to open up a cigar shop?

4 A. Yes, I remember. Actually he came to - -
5 I met him - - both of them. I met him in Santa Monica.

6 Q. And did you decide that you would invest
7 in the cigar business or you didn't want anything to do
8 with it?

9 A. No. I didn't say no, but I didn't think
10 so.

11 Q. Do you recall telling - - that you told
12 the police that Mr. Limanni boasted or told how he could
13 get new identification and become a new person with false
14 ID?

15 Do you remember telling the police that?

16 A. Yes.

17 Q. Mr. Limanni told you that, that he could
18 become a new person?

19 A. Like he can get - - because I am from
20 Japan I do need Green Card. He knows about those things
21 and he actually told me about that.

22 Q. Okay. Did he tell you as well that you
23 could become a new person and obtain new credit, new
24 credit with banks?

25 A. Yes, he did. Can I ask you something?

1 A. Yes.

2 Q. And did you also put in this letter that
3 you felt that you had been misled or betrayed by Peter
4 Limanni?

5 A. I don't know.

6 Q. Just read the second paragraph to
7 yourself.

8 A. What was the question?

9 Q. The question is did you feel that you had
10 been misled or betrayed by Peter Limanni?

11 A. Well, um, that time, yes, I did, but now I
12 feel it was a business thing so, now you feel like 50/50.

13 Q. You feel like 50/50 what?

14 A. Like it was my fault also.

15 Q. All right. But it was your money and your
16 investment in this business; is that correct?

17 A. Yes.

18 Q. In fact, you were one of the guarantors on
19 1933 Western; is that right?

20 In other words, you guaranteed the lease?

21 A. Yes.

22 Q. Is it true, Mr. Kato, that in January 1999
23 you had to file a Chapter 7 bankruptcy?

24 A. Yes, I did.

25 MR. KENNEDY: If I may approach the

1 Q. When you - - could you describe where
2 exactly the scene is at?

3 A. Yes.

4 The scene or the gravesite which was
5 reported is approximately a mile east of interstate 15
6 off of Nipton Road.

7 The gravesite is approximately 21 feet
8 south of the south edge of the roadway in a dirt area.
9 In this dirt area there are two berms and the body was
10 found between these two berms facing down in a partial
11 grave.

12 Q. How close is Nipton Road to the Nevada
13 border?

14 A. I would say between six and 10 miles, I
15 believe.

16 Q. When you got on the scene what was going
17 on?

18 A. When I got on scene a patrol deputy from
19 the Baker station was on scene. He had secured the
20 scene.

21 He informed myself and other detectives
22 and forensic specialists, Jeffrey Smink who is from our
23 crime lab, informed us of the person who found the body.

24 Q. What did you do after you got that
25 information?

1 of how the body was in the gravesite?

2 A. Yes.

3 The victim was face down.

4 He was partially buried - - from the
5 bottom of the legs down was buried. His left arm was
6 extended out, away from his body, as I indicated,
7 pointing in a northerly direction.

8 His right arm was down to his side. His
9 right hand was partially buried.

10 On the other side of the berm there was
11 what appeared to be two tire marks or two tire
12 impressions, not in detail, that we could find detail
13 tire tread marks, but it appeared as if a vehicle had
14 driven away from the body in a westerly direction.

15 Q. What was the general condition of those
16 tire tracks?

17 A. Very poor. There was no detail to the
18 tire treads. All you could do is measure wheel base and
19 you could just indicate that there was a vehicle there.

20 Q. Could you generally describe the condition
21 of the body you saw?

22 A. The body was badly decomposed with animal
23 activity to the head and to the torso area.

24 Q. Could you describe the general location,
25 what it looked like out there?

1 or anything on it?

2 A. I did not note any.

3 However, I did not attend the autopsy, but
4 from the prima facia I could not determine that the
5 victim was wearing earrings, rings, jewelry.

6 Q. Was there any ID on the body at all?

7 A. There was no identification on the body or
8 around the body.

9 Q. Was identification of, eventually obtained
10 on the body?

11 A. The only identifiable item or things that
12 I could tell the body had was two tatoos, one on the
13 right arm and the other on the other arm. There was a
14 tatoo of vulture on one arm, I believe it was the right,
15 and there was another tatoo on his left arm of an eagle.

16 The fingerprints that forensic specialist
17 Jeffrey Smink was able to obtain was I believe from the
18 right hand. We submitted those latent fingerprints to
19 the sheriff's crime lab.

20 Q. Did you eventually get word back as to who
21 those linked up to?

22 A. Yes.

23 Q. After you got that what did you do?

24 A. The fingerprints were submitted on the
25 23rd, on that same day, to our lab and on the 24th I got

1 a phone call from our sheriff's crime lab indicating they
2 had made a positive identification.

3 Q. And what did you do after you received
4 that information?

5 A. I forwarded the information to the agency
6 where the victim was - - our victim who we had listed as
7 a John Doe 33 - 98, we had him identified as Peter Paul
8 Limanni out of the Las Vegas area.

9 Q. At a certain point in time did you contact
10 the Las Vegas Metropolitan Police Department?

11 A. Yes, I did.

12 Q. When did you do that?

13 A. That was on December 28.

14 I called the Las Vegas Metro Homicide and
15 spoke to Detectives Jim Buczek and Tom Thowsen and I told
16 them that their fingerprint showed a match on their case
17 Number 98111600443.

18 MR. FATTIG: May I approach the witness?

19 THE COURT: You may.

20 BY MR. FATTIG:

21 Q. Directing your attention to Exhibit 65,
22 can you describe specifically what that photo shows?

23 A. This one shows the dirt berm next to the
24 gravesite.

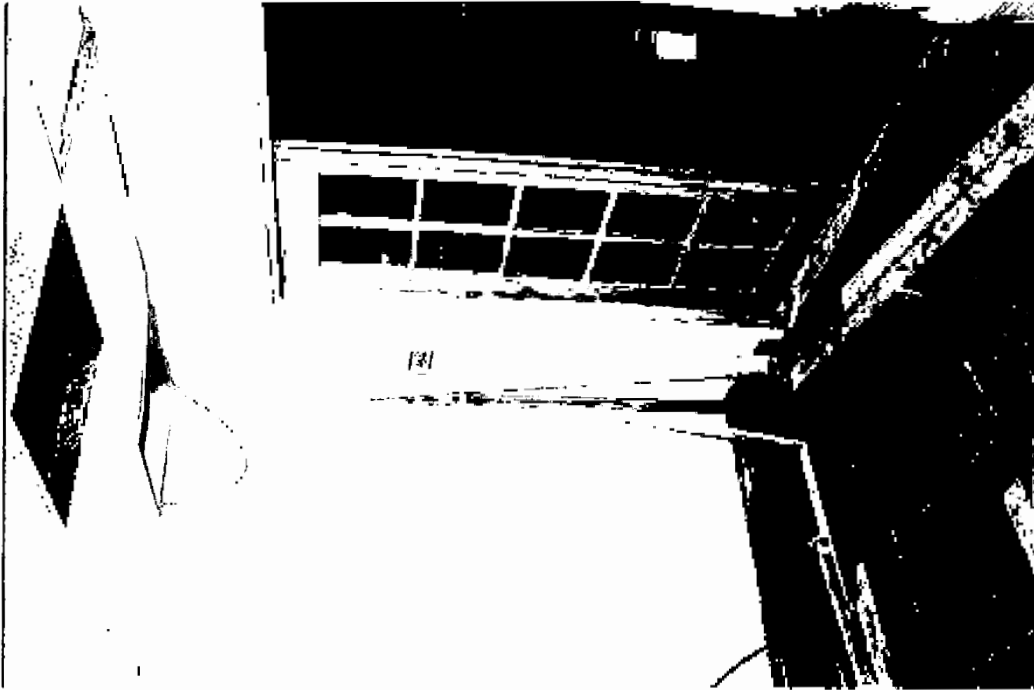
25 Q. And is the body visible in that

EXHIBIT 6

SEKA000107

APP1982

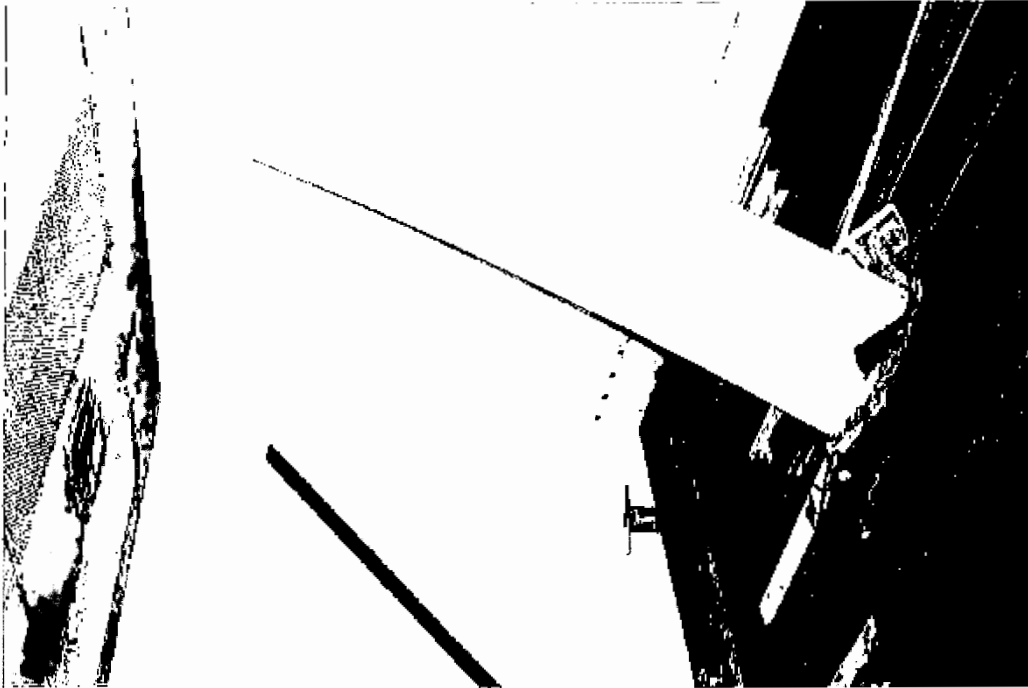
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SEKA000108

APP1983

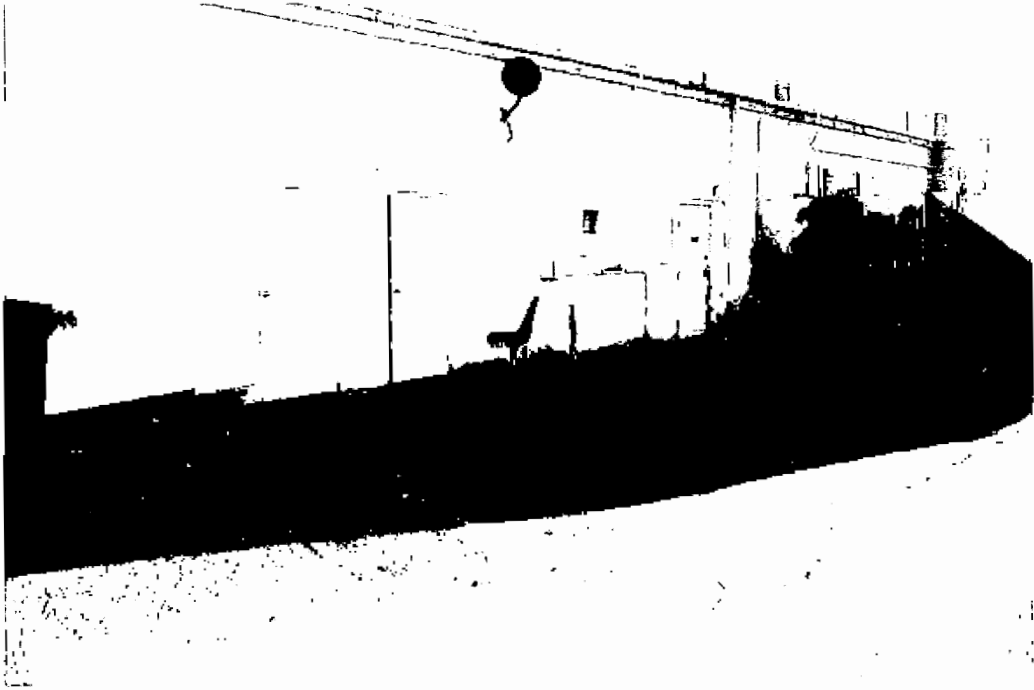
41690046.jpg (1545x1024x24b jpeg)



SEKA000109

APP1984

41690111.jpg (1545x1024x24b jpeg)



SEKA000110

APP1985

EXHIBIT 7

SEKA000111

APP1986

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 1

EVENT: 981116-0443

DATE: 11/17/98

TIME: 1525

PLACE: LVMPD DETECTIVE BUREAU

I, JOHN JOSEPH "JACK" SEKA, am 29 years of age, and my address is 1933 WESTERN AVE., LAS VEGAS, NV. 89102..

WARNING: *Before you are asked any questions, you must understand your rights.*

I am DETECTIVE THOMAS THOWSEN of the Las Vegas Metropolitan Police Department and inform you that:

1. You have the right to remain silent.
2. If you give up that right to remain silent, anything you say can and may be used against you in a court of law.
3. You have the right to speak to an attorney before answering any questions, and to have an attorney present with you while you answer any questions.
4. If you cannot afford an attorney, an attorney will be appointed for you by the court at no cost to you, and you need not answer any questions until that attorney has been appointed for you.
5. If you decide to answer questions now, you may stop at any time and ask to talk to an attorney before any questioning continues.
6. If you decide to stop answering questions once you have begun, all questioning will stop.

WAIVER: *I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and waive these rights. I do not want a lawyer present with me during the making of this statement. I know that I may revoke this waiver at any time during the questioning and ask that an attorney be present. No promises or threats have been made to me, and no pressure or coercion of any kind has been used against me.*

JOHN JOSEPH "JACK" SEKA
WMA, DOB: 11/17/69
SS#:
BUS. PHONE: 678-5993 (TURNED OFF)
CELL: 100 7000

The following is the transcription of a tape-recorded interview conducted by DETECTIVE T. THOWSEN, P# 1467, LVMPD HOMICIDE Detail.

Q: First off, Jack, you're aware that this statement is being tape recorded? And when we first came over here, I explained to you that you're not under arrest, we're just trying to find out what, what happened here and I had you read a Rights of Person Arrested out loud, is that correct?

SEKA000112

APP1987

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 2

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

A: Yes you did.

Q: Even though I explained that you weren't under arrest?

A: Right.

Q: And you understood that and have been cooperative and willing to speak with me,
is that correct?

A: Yes sir.

Q: And you were telling me that, uh, you came to that business because a person
named Peter Lamenti owned it, is that correct?

A: Limanni.

Q: Limanni.

A: Is partner's in it, yes.

Q: Okay. How do you spell Peter's last name?

A: L-I-M-A-N-N-I.

Q: And, is Peter white, black?

A: White.

Q: How old is he?

A: 35, 34.

Q: And you said that his...sometimes he stays in the, in the business in the past?

A: Right. He has keys. Yeah.

SEKA000113

APP1988

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 3

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

Q: Okay. Where does he have his actual residence, is it in other states?

A: It's in Los...it's in L.A.

Q: Do you know the address?

A: It's Santa Monica. It's...I don't know it. I have it somewhere. I don't have it off the top of my head.

Q: And you mentioned that there's two other people that are partners in the business that put up the money?

A: Silent partners that both live in L.A....Tak Kato and Kaz Toe.

Q: That's Tak Kato, T-A-K K-A-T-O. And Kaz, K-A-Z Toe, T-O-E.

A: The first name I believe is...the spelling of the first one's correct but I'm not sure how to spell Kaz. I know his last name is Toe. I'm pretty sure it's T-O-E.

Q: A few minutes ago, you gave me a number for Tak. And that was 310-582-1277, is that correct?

A: 582-1277. Yes.

Q: Okay. And you said that both of them live in L.A.?

A: Yes.

Q: Have they been down here lately?

SEKA000114

APP1989

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 4

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

A: Two...right before I went to back East, about a month ago, Tak, uh, Tak was out. Actually they were both out. Actually they were both out to speak with Peter about a month ago.

Q: Okay.

A: Five weeks.

Q: And so they've been gone for at least a month?

A: Yeah.

Q: Um, you mentioned that you went back East for awhile?

A: Yeah. I went back for my daughter's birthday from the 29th to the 3rd of this month.

Q: From the 29th of October to the 3rd of November?

A: Of November, yeah.

Q: Okay. And where did you go to back East?

A: To the address that I gave you.

Q: That would be, uh...

A: _____ Road.

Q: _____ Road?

A: Right. _____

Q: And that's E-R-D-E-N-H-E-I-M, Pennsylvania 19031.

A: 1-9-0-3-1, yes.

SEKA000115

APP1990

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 5

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

- Q: And since you came back, uh, did you see Peter when you came back?
- A: He picked me up at the airport the night that I came back. Um, spent the following day with him. The next morning, he got up and left on his own, didn't wake me.
- Q: Have you seen him since?
- A: No.
- Q: Who else, uh, is actually running things at the, the business there?
- A: Nobody. He was. And it's actually, since he's disappeared, that's what I mean, I've been in like a limbo since he left so..
- Q: Okay. And what kind of business is it that he has here?
- A: Air, home and air conditioning. Heating, air conditioning, ventilation and was starting to open up a cigar shop. Cigar and smoke shop is what he wanted to open up.
- Q: Okay. And that's what all the construction going on is for the cigar shop?
- A: Exactly.
- Q: And what kind of construction have you been doing there?
- A: We've put up walls, we've put up plaster board, we've put in a humidor and we're putting lights, painted, rug..
- Q: When did the rug go in?

SEKA000116

APP1991

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 6

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

A: Rug's been down...the rug's been out for a while...it's just been cut, um, Christ, I don't know. Like right, right....(mumbling to self). It was laid out, I think, right before I went to Philly and then I've just been cutting it and trying to stretch it the past couple of weeks.

Q: Okay. And, uh, when's the last time that you were working on the carpentry aspect of the...

A: Saturday and Sunday.

Q: And what exactly did you do?

A: Just...I cleaned up, went through...threw out a bunch of wood in the back. Uh, separated the stacks of the stuff that's there. The good stuff I put back inside. A lot of bad stuff went back out into the dumpster. Separated the painted stuff and the non-painted stuff.

Q: Okay. And did you, uh, did you actually go buy the lumber yourself?

A: I did or Peter did...one of us...almost all of it. Yeah.

Q: Where was it bought from?

A: Either Home...um, both Home Depot and uh, Home Base on Rainbow.

Q: And when was it purchased?

A: It's been purchased the past...a couple of times over the past, say, month and a half. It's been many trips.

SEKA000117

APP1992

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 7

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

- Q: Is there like a business credit card that you use when you buy there?
- A: They're checks. Peter always wrote checks.
- Q: Wrote checks?
- A: Peter wrote checks.
- Q: In Peter's name or the business name?
- A: Company's name is Peter's. Peter was the only signer on the account.
- Q: And what's the company name?
- A: Cinergi, C-I-N-E-R-G-I H.V.A.C.R. Incorporated.
- Q: Okay.
- A: H.V.A.C.R.
- Q: And what does the "HVACR" mean?
- A: Heating, ventilation, air conditioning, refrigeration.
- Q: Okay. And you said that the last time that you were working on some of this construction stuff was this Saturday and Sunday?
- A: This past Saturday and Sunday.
- Q: Was anybody helping you?
- A: No.
- Q: Was anyone else staying there with you?
- A: No. Staying at the place?

SEKA000118

APP1993

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 8

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

- Q: Yes.
- A: No. No one ever stays there but me or him.
- Q: Just you or Peter?
- A: Right. That's it.
- Q: And Peter's been gone for a couple of weeks now.
- A: Um, two. Two weeks.
- Q: What kind of vehicles are there at the business?
- A: Two Dodge...two white Dodge vans and a, and a Toyota pickup.
- Q: And uh, you said normally he'll drive the pickup truck?
- A: Or the van that's lettered. I'll drive the van that's lettered. I like to advertise. X
- Q: Okay. And when did you say that the pickup truck was last washed?
- A: Friday of last week.
- Q: And where was that washed at?
- A: I believe the Terrible Herbst on, what did we say, Sahara and...
- Q: Valley View is what you're _____?
- A: Valley View I think, yeah, that's the only one I can think of that's on there. It's the one I always go to.

SEKA000119

APP1994

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 9

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

Q: Okay. And I believe somebody was asking you or earlier in the day before I got to the business and was talking with you about a, a black male, if he'd worked around there also?

A: Seymore, that was the name. Seymore.

Q: Seymore's the guy's name?

A: I told you that it was the man, Seymore. Seymore is one of the guys that was in earlier.

Q: Do you know his last name?

A: _____, I don't even know if Seymore was his real name.

Q: Would you describe him?

A: Uh, 6-2, 130 maybe 40 pounds, um, black male, scruffy, not scruffy beard but facial hair, uh short. Uh, Afro, semi-receding if I remember correctly. I remember him losing his hair a little bit. Uh, that's about it. Not, you know, fairly unremarkable, uh...

Q: Did he have any tattoos or any jewelry that stood out or any...

A: Um, not that I remember.

Q: Did he have any vehicles?

A: No.

Q: And how often had he worked for the company?

SEKA000120

APP1995

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 10

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

- A: He'd done work for us maybe three or four times, three times, four times.
- Q: And what kind of work was that that he did?
- A: Clean-up, uh, hauling wood around back, a little bit of painting, uh, sweeping...like five dollar, ten dollar help out, uh, stuff was what he did. You know, he'd come wandering through.
- Q: And when's the last time that you actually saw him and talked to him?
- A: I saw him and talked to him probably, uh, a couple...three, four days or five days, maybe. I talked to him five days before I went to back East to Philly.
- Q: So it's about a month ago?
- A: About a month ago.
- Q: And was he at the store at that point?
- A: Yeah. Then I recall because he was at the store was probably two weeks prior to that.
- Q: Okay. When he called you, was he living in a house some place where he had a phone or...
- A: No. He called me from a pay phone.
- Q: Okay. And what number did he call you at?
- A: At my cell phone number.
- Q: Okay. And uh, what was the conversation that took place?

SEKA000121

APP1996

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 11

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

A: He asked me if, you know, said "I _____, I need some money. Is there anything I can do?" I said "No, I'm getting ready, you know, to go back East. We're not working right now on _____ building. I'll be back, you know, like two weeks. Give me a call and you know what I mean, if I have something to do, 'cause we have stuff to finish, you know what I mean, I'll, you know, I'll throw you a couple of dollars" you know..._____ him.

Q: And never saw him, never heard from him again?

A: Never saw him or heard from him again, no.

Q: You mentioned that Peter had a girlfriend?

A: Uh huh.

Q: What's Peter's girlfriend's name?

A: Jennifer Harrison. Was...she's an ex-girlfriend.

Q: And where does she work?

A: Frontier Directory phone book.

Q: And how did they have a falling out?

A: I have no idea. It's _____. She just said that he became cold and distant, and pulled away from her. And then said that he didn't want...I think she said that he didn't want to see her anymore or broke it off. I can't remember if...I know that he broke it off with her if I...I'm almost positive that's what she said. But I really didn't

SEKA000122

APP1997

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 12

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

get into it with her. I, it's not my...you know. And I thought she was kind of too nice for him anyway but that's just opinion.

Q: Okay. You mentioned that Peter had a business up in Lake Tahoe?

A: Yes. We rented a place, he hadn't started it yet but he was in the process of plans of starting a business in Lake Tahoe, yes.

Q: Okay. What's the address there in Tahoe again, please?

A: 2494 Lake Tahoe Boulevard, Suite A3, South Lake Tahoe, California 96150. Uh, phone number 3 [REDACTED] 2796.

Q: When Peter was here in town, what vehicles would he use?

A: Uh, the white van, uh, the truck. Mostly the pickup truck.

Q: Okay. And since he disappeared, did any of the vehicles disappear with him?

A: No. There's one...there's a van up in South Lake Tahoe. There's four vans. Tak has one in L.A., there's two there, and there's one in South Lake Tahoe.

Q: And what kind is in Tahoe?

A: Dodge. They're all Dodges. They're all '98 Dodges.

Q: Is it registered to the business?

A: Cinergi is lettered and everything, yeah. It stands out...

Q: Do you know what year it would be?

A: '98.

SEKA000123

APP1998

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 13

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

Q: They're all brand new?

A: All brand new, yeah.

Q: And what was your, uh, expertise supposed to be for the business?

A: I did sales and ... sales and customer relations. Peter was...Peter's not...that's what it was, that was where our thing was...Peter was a technical guy but had...couldn't talk to people. He told people _____, you know what I mean, "Go..." Whereas, you know what I mean, like people would call and say well, I need this and I need that and that's why I did the sales and ...

Q: So you were more of a people person?

A: People person than Peter was. Peter's not a people person at all.

Q: Okay. And uh, how did you come to learn about the broken glass and the blood next door?

A: This morning when I came back from doing my laundry, you guys were there. And then they came over and this is where...now here we sit.

Q: Okay. And had you noticed it at all?

A: I never...no, I don't. Never noticed it. I mean I come in and out of...you can see where the truck and I mean like I come in and out from you know what I mean like, from that way, because of the way the parking lot is so that I got to pull back around and go out like...plus the guy two doors down _____jackass,

SEKA000124

APP1999

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 14

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

13
A

so I stay away from him. So I don't even...I _____ even venture from my door over
that way. I mostly go out and up the street, so...

it
t,
y

Q: So you didn't notice it at all?

A: No. And even walking Jake, I walk Jake out back because of all the cars out front,
so...

Q: Had you heard anything recently that...

A: I thought I heard some ____ Friday night. I thought...I told them, I thought I heard
something Friday night but it was like a, it was like a, uh, more like an accident type.
It was more like screeching and a bang. It wasn't a...wasn't glass breaking.

Q: Okay.

A: So...that was Friday I think.

Q: Wasn't, definitely wasn't glass breaking?

A: No. It wasn't glass breaking.

Q: I asked you about a cardboard box that was in front of your business?

A: Right.

Q: Where did you say that came from?

A: Originally it was out...originally it was outside. I don't know where it came from
originally. It was outside, it flipped up...it must have blown, I don't know, maybe
down from...down or something because the way...it was wedged under one of the

SEKA000125

APP2000

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 15

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

vans parked, the second van over, it was underneath the bumper. So I pulled it out from the bumper and just flipped it into the corner as I was leaving. Yeah, it must, must have been the night before last. When is the last...it must have been Sunday night when I pulled all the stuff inside.

Q: Okay.

A: Late Sunday night, around 10:00 Sunday night, something like that.

Q: Was, uh, anybody bleeding inside your business?

A: Um, we've all bled so I mean I've cut myself and yeah, Peter's cut himself in there. Um, so, than other than us, no. There's nev..., never been any major bleeding. Now there's somewhere, somewhere he caught...him or I caught putting in a...putting a satellite system up in the ceiling and there's blood on the wall there and...Lord knows where else. I mean I've, you know, I've banged my knuckles and stuff from...

Q: How'd you do your knuckle there?

A: That's...I just bit that off. That was a, that was a scrape. Like a, like it's an old one. I just picked the scab off. I actually saw...I'm one of those weird people, I can't...I hate scabs so I pick them off. But, uh, no major bleeding is going on in place, you know, other than, ____ a cut finger, or a nail or a screw or something during construction.

SEKA000126

APP2001

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 16

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

Q: So something would make a drop on the wall or...

A: Yeah. Like a little nick or a drop on the wall. Other than that there was no major, no major blood in the building.

Q: Nothing where you cut yourself bad enough where you had to get stitches or blood out of your clothes or anything?

A: No, maybe like, you know, like jeans for...but not, not blood that you would...blood that would be noticeable. You're talking, you're talking like masses amounts of blood.

Q: Noticeable blood?

A: No.

Q: Just like that?

A: I mean I have two pairs of jeans I think that have like, like spots on them. You know what I mean, like if this was a cotton, I went like that and sat on there, there would be like a spot...there would be a couple of spots. But nothing, I mean noticeable. If you went over with a fine tooth comb, if you looked at, but nothing, nothing that would jump out at you.

Q: And uh, I notice there's a dog there at the business, too?

A: Uh huh.

Q: What's the dog's name?

SEKA000127

APP2002

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 17

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

A: Jake.

Q: Jake. And Jake is a Jack Russell Terrier?

A: Yeah. Full-blooded.

Q: And who does he belong to?

A: He's technically, he's actually Peter's dog.

Q: But you've been taking care of him since Peter's been gone?

A: Yep.

Q: You mentioned that the phone got turned off because the bill hadn't been paid?

A: He never paid the bill, right.

Q: Um, when did it get turned off?

A: It was making outgoing calls up until like a day or two ago. Two days ago.

Q: And then it was completely turned off?

A: Right.

Q: Does Peter own any guns?

A: Peter does. Yeah.

Q: What kind?

A: I don't know. I don't know what he's got but I...he bought 'em all back in Delaware.

That's where he got the...that's where he got the _____ too. But, um, but he's...he

SEKA000128

APP2003

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 18

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

was shot when he was 19 years old and ever since he's...I mean he's got a permit...I don't know to carry. I know he never...I know he doesn't carry.

Q: Uh huh.

A: But I know, I know he owns guns.

Q: Does he have any that are in Las Vegas?

A: Not that I know of. There's none inside the building that I knew of. I always asked him because they make me nervous. I'm almost, would almost be 110 percent positive there was... I mean I know he had like, there was, he's had holsters and he's had, you know what I mean, when he's had gun magazines and there's always, you know what I mean, like he'll have...he will have little, 'cause I know he had a small caliber gun. So if it has been like in his bags, 'cause I've used his bag to travel and there'll be a bullet here and there'll be a bullet there, so... But he's always, for the last 10 years, he's always had a gun...since he's been shot.

Q: And uh, so as far as you've seen, he has never brought a gun into the...

A: I've never seen him with a gun in Las Vegas, no.

Q: Okay. Um, what about knives?

A: I have...there's like three or four laying around.

Q: Are those yours rather than his?

SEKA000129

APP2004

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 19

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

A: Um, maybe one or two of 'em are mine. One of 'em has been there...that big hatchet thing. That's been there since forever. Um, the one when it was mine was just a, a pocket knife and the two sitting on the floor...not the ____ knife, the other knife, the...

Q: Folding knife?

A: The folding one, yeah. Which is, which are always there. They're never out.

Q: Okay.

A: But basically like work, they're like work tools. I mean...

Q: Do you own any guns?

A: No. Do not. Never have.

Q: Never had a gun, never borrowed a gun?

A: Never shot a gun.

Q: Never shot a gun?

A: Never shot a gun.

Q: Did anybody ever shoot a gun inside the business there?

A: See, if they were looking at that, Peter might have, you know, I don't know. I have no idea. I mean I was never present when a gun was fired inside, that's all I can tell you. You know what I mean, they make me very nervous.

Q: Okay. Did you ever see any bullets inside your store there?

SEKA000130

APP2005

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 20

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

A: Yeah, I've seen...yeah, there's been, you know, every once in a while, he'll, you know, he'll pull one out. They said that there was one there this morning. I didn't see it this morning but, you know, they said that there was one there this morning.

Q: I heard that there's supposed to be one there right on your desk, is that right?

A: That's...sat on the desk. My desk was on this side. The other desk, yeah, that's what they said which if it's there, it should still be there, so..._____.

Q: And if it be there, it would be right there on the desk?

A: Other than the stuff, I mean I threw stuff on the desk 'cause when they were there it was messy and I picked the phone up, I picked stuff up off the floor, I threw some beer bottles out that were on that desk. Um...

Q: But you didn't pick up any bullet?

A: No.

Q: You didn't see any bullet?

A: I didn't even see it. When they said it to me, it was a surprise.

Q: Was there anybody else there that...

A: No one's been there...

Q: Besides the police and you?

A: The police, me, and his girlfriend stopped by the other day to drop off a key to the place.

SEKA000131

APP2006

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 21

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

- Q: But as far as today, today's when the police saw...
- A: Nobody else (Talking over each other.)
- Q: Said they saw the bullet, Is that right?
- A: Yeah. Nobody else was ever there.
- Q: Okay. So what do you think about that?
- A: I thought they took it to be honest with you. I mean, I didn't, I didn't go back, you know what I mean, I didn't...after they left, I went and I changed, I cleaned up a little bit and I was going to walk up to 7-11 and get a coffee. 'Cause I had somebody actually coming, the guy that called me, was coming to pick me up in an hour, so... Um, you know, was going to pretty much go about my day.
- Q: Do you know anything about what happened to Seymore?
- A: No, I do not.
- Q: Did you do anything to Seymore?
- A: No, I did not.
- Q: Do you have anything else that you want to say right at this point that would help us with this investigation?
- A: Other than, other than it's, other than it's an area that believe it or not, you guys are never in. You're never there. And there's ni..., I mean it's just a bad neighborhood at night and you guys are never there. I mean I never see a cop go through there.

SEKA000132

APP2007

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 22

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

And it's probably why there's so many people that are, you know what I mean, like _____, there's like, you know what I mean, you get, you get derelicts from Cheetah's, that come over and piss on your trucks...that walk. You know what I mean, up and from one place to the other one. And you got nine million people walk on this railroad tracks, you know what I mean.

Q: Uh huh.

A: So, I mean, it's not, you know, it's not...it's great during the day time. It's great with all neighborhood because it's...you know what I mean, there's a lot of traffic. That's why we're going to do a cigar store there. A lot of traffic...people, you know...I mean this neighbor is real nice. The other guy is kind of an asshole. But, uh, you know. I mean there were like three abandoned cars out back behind the building for three months there. I mean, just sat and sat and sat and sat. You knew that they were...I figured they had 'em, you know what I mean, like _____ this is _____, we used to say like how long are these going to be here, you know what I mean. It was like week after week after week. And finally the guy next door got tired of 'em and had 'em towed out.

Q: Anything else?

A: No. That's...sorry, I'm long winded.

SEKA000133

APP2008

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 23

EVENT: 981116-0443

STATEMENT OF: JOHN JOSEPH "JACK" SEKA

Q: That will be the end of the statement. The same persons are present. The time is 1548. That's all. Thank you.

I HAVE READ THIS STATEMENT CONSISTING OF 23 PAGES AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT 1548 HOURS ON THE 17TH DAY OF NOVEMBER, 1998.

WITNESS: _____

WITNESS: _____

JOHN JOSEPH "JACK" SEKA

/kb
98v0988

SEKA000134

APP2009

EXHIBIT 8

SEKA000135

APP2010

DECLARATION OF ED HEDDY

I Ed Heddy, declare as follows:

I declare that I was assigned to assist Debra Bookout, Assistant Federal Public Defender, in preparation of the case entitled John Joseph Seka vs. E. K. McDANIEL, et al., 3:05-cv-0409-HDM-VPC. That the investigation included locating and interviewing a potential witness by the name of Justin Nguyen.

I declare that I attempted to locate Justin Nguyen on a couple of occasions and Mr. Nguyen called me leaving me his telephone number.

I declare that I telephoned Mr. Nguyen and conducted a telephonic interview on July 9, 2008.

I declare that Justin Nguyen told me that he had first met Peter Limanni in 1998, month unknown, at Mr. Limanni's place of business, Cinergi HVAC, and then met Jack Seka a few weeks later. Mr. Nguyen said Mr. Limanni had introduced him to his business partner, describing him as a Korean or Japanese guy but didn't recall his name. Furthermore, Mr. Nguyen told me that he was hired by Mr. Limanni and worked for Cinergi's HVAC for three or four months when he left for vacation to California. He said that he had taken Cinergi's van and keys along with his tools and gave them to Peter Limanni before leaving. Upon his return from vacation, he was told that the police were looking for him, so a family member drove him to the Las Vegas Metropolitan Police Department to inquire as to why they were looking for him. He said at that

SEKA000136

APP2011

time two police officers arrested him. Mr. Nguyen further explained that he had been arrested and was in the Clark County Detention Center from September 23, 1998 through April 1999 when the charges were subsequently dismissed against him.

...

...

I declare that Justin Nguyen told me that during his employment at Cinergi's Mr. Limanni had purchased four white vans for the business. He said Mr. Limanni gave one of the vans to him which he kept and drove during his employment. According to Mr. Nguyen, he was the "main guy, ran all the calls" because he was the only one who had his own tools. He said Mr. Limanni had employed two other people (names unknown) but they only worked for a short period of time.

I declare that Justin Nguyen described Peter Limanni as treating Jack Seka "like his own brother". He also said that whenever they were all together he noticed that Mr. Limanni was always paying for Jack Seka's way.

That Peter Limanni was training Jack Seka on how to run the air conditioning business. They always appeared to get along and never argued. Justin said he never saw or heard Mr. Limanni call Seka names or mistreat him in anyway. Mr. Limanni would say that he and Seka were like brothers.

Furthermore, I declare that Justin Nguyen had never been contacted and interviewed by the prosecution or defense attorneys and that if they had he would have testified to the above

SEKA000137

APP2012

information.

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

Executed on this _____ day of July, 2008

Ed Heddy, Investigator

SEKA000138

APP2013

EXHIBIT 9

SEKA000139

APP2014

JIM THOMAS & ASSOCIATES

Investigations & Process Service

601 South Tenth Street, Suite 104

Las Vegas, NV 89101

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March 7, 2006

Debra Bookout, Esq.

Law Offices of the Federal Public Defender

411 E. Bonneville Ave., #250

Las Vegas, NV 89101

RE: JOHN JOSEPH SEKA

Our File No. 05-I-150

Interview with Kazutoshi Toe

The following is a tape recorded interview between Jim Thomas (JT) and Kazutoshi Toe (KT). The date is March 7, 2006 and the time is 1:57 PM. The interview is taking place via telephone number [REDACTED] 8939.

JT: Sir, do you understand this interview is being tape recorded?

KT: Mm-hmm (affirmative).

JT: Do I have your permission to do that?

KT: Yes, sir.

JT: Is it true I'm speaking to you at a telephone number of [REDACTED] 8939?

KT: That's correct.

JT: And I believe that's your cellular telephone number?

KT: Yes.

JT: And can I get your home address and home telephone number, please?

SEKA000140

APP2015

KT: Okay. My, I have hang up to, um, get to my home phone number because it's in my cell phone and I don't remember and, yeah.

JT: But your home address is...?

KT: Oh, okay. The new address is, new address, um, that I have to get it because I don't remember my home address either.

JT: Okay.

KT: So, um, yeah, if you can give me, um, like three minutes just to call my wife and get my home address and phone number.

JT: Okay, uh –

KT: Because, yeah, I just, I'm not trying to remember my information so, uh –

JT: Okay, well let's, we can do that later, okay? I'll do the interview and then I'll give you a little bit of time and I'll call you back on our cell, okay?

KT: Okay.

JT: Are you acquainted with Mr. Kato?

KT: Yes.

JT: And how do you know Mr. Kato?

KT: Uh, he's my school buddy.

JT: Okay, he's a school buddy. Do you also do business together?

KT: Yes, sir.

JT: And at some point in the past did you do business with a man named Peter Limanni?

KT: Mm-hmm (affirmative).

JT: Would you explain to me what that business was and how it came to be that you and Mr. Kato went into business with Mr. Limanni?

KT: Okay. He was our neighbor in Santa Monica, like next door from our office back then and he approached Mr. Kato that he has all connections to go to Las Vegas to do air conditioning work and he needed investors. And he explained the situation and since I was business partner of Kato, I was just involved, and, uh, so we went to Las Vegas with Peter Limanni and, uh, later on we found out that he was trying to screw us and, um, pretty much that he screwed us with the money and we were dumped. And we ended up leaving Las Vegas, so we did and after that we heard few things through, you know, people in Las Vegas and that was it.

JT: Now, when you opened this air conditioning business in Las Vegas –

KT: Yes, sir.

JT: I understand through Mr. Kato that you and he and Limanni and Mr. Seka all lived together in the back of the business, is that true?

KT: Who's Seko?

JT: John Seka, do you know him? Jack Seka?

KT: Jack, yes I know him.

JT: Okay.

KT: Yes, but he was the person who came in, like, afterwards.

JT: Okay.

KT: Uh, yeah, Peter, I think he called him in and, uh, he started involving, I think he was from Philadelphia.

JT: Correct.

KT: And, uh, yeah, um, but after he came in, um, he didn't last and, you know, right after we left so we don't know much about him.

JT: Okay, but you did live in the back room with Mr. Limanni, is that true?

KT: Yes, yes, that's true.

JT: Okay.

KT: Few weeks.

JT: And during the time that you lived with Mr. Limanni, did you ever see a gun or any evidence of a gun, bullets or anything else, in the back room?

KT: Um, I have to refresh my memory because it's quite some time ago and, uh, I think I saw box of bullets. He showed me.

JT: Okay.

KT: But, um, gun, I don't think I saw it.

JT: Okay, but you did see bullets so it's, you know, at least you had some idea that maybe there was a gun laying around somewhere?

KT: Uh, yeah, I didn't think that deep but, yeah, because, you know, the bullets there themselves, it's kind of weird.

JT: Now, during the time you were there with Mr. Limanni, I understand that he did the physical labor and that Mr. Kato and you took the phone calls and did the office work, correct?

KT: Yeah, for the operation, um, pretty much we took care of those paper. There was a dispatcher. Her name was, don't remember her name, um, anyway we had, like, two dispatchers and then they did all the phone

work, but we pretty much did, like, advertisement, artwork and, you know, and delivery here and there kind of job because we didn't know what the air conditioning business. And, uh, Peter was going, like, hey, we need somebody speaks English for here because you guys are not going to get any jobs.

JT: Okay.

KT: So, um, yeah.

JT: So you did have two dispatchers and you don't recall either one's name?

KT: One of them is Betty. I don't know her last name.

JT: Eddie?

KT: No, not Eddie. Um, Betty.

JT: Betty, okay.

KT: B-E-T-T, uh-huh (affirmative).

JT: Okay.

KT: And she, well she's very experienced A.C., uh, in the A.C. dispatching industry I think.

JT: Okay.

KT: Peter just her on board.

JT: Okay, was she from Las Vegas, do you know?

KT: Las Vegas, yes.

JT: During the time that you lived with Limanni, did you ever meet a lady named Jennifer Harrison who was Limanni's girlfriend?

KT: Never. He showed me a picture a once or twice and he was saying that he was ex-girlfriend.

JT: Okay.

KT: But I don't know, I don't remember the name of her. I think she was from east coast.

JT: Now, you said after several weeks or so you found out that Limanni was screwing you, is that correct?

KT: Mm-hmm (affirmative).

JT: And how was he screwing you?

KT: Well, as soon as financial part was taken care of, you know, he tried to just, he was saying we are just useless and, uh, he said he wants to take over the business and then we like wait a minute. We financed everything and, uh, you know, everything was under Mr. Kato's name and it was, you know, agreement that we had back in Santa Monica. Then he seemed like he didn't care anything anymore but he wanted to, um, pursue this business either with alone or somebody else like, you know, his friend or, I don't know.

JT: Okay. Now, during the time that you were in business with him, did you sign the lease on several vans for the business?

KT: For a guaranty?

JT: Yes, were several vehicles leased?

KT: Yes.

JT: Okay and who took care of the leases?

KT: Oh, that was Mr. Kato.

JT: Okay.

KT: Everything was under his name.

JT: And were you an equal partner with Mr. Kato?

KT: Right now?

JT: No, then, in that business?

KT: Well, um, -

JT: As an investor?

KT: We are, like, friends for a long time and, um, it's not like business relationship so, um, you know, since we are in business and, uh, we never talked about, okay this is a percentage, you know, my percentage of this business and that business, but I was pretty much fine with anything.

JT: Do you recall how much money you and Mr. Kato put into this business?

KT: Um, the cash or just through credit and -

JT: Total money that you invested and lost.

KT: Probably, uh, I believe everything close to \$1 million.

JT: That's a lot of money.

KT: Oh, yes, it was a lot of money and we lost so much money on this.

JT: Did Limanni ever try paying you any of that money back?

KT: That was the, issue that he, you know, it was on the contract that he was going to pay, you know, certain amount every month but he never paid and by saying the sales were short here, the business was bad, but, uh, he didn't pay nothing. But, uh, I heard that he was sending money to east

coast for, sending to bank account someplace oversea which there's no interest was involved, I don't know these things.

JT: Okay, so you were believing that he was sending money out of the country to some offshore bank?

KT: Yeah, that's what I heard. I don't know for sure, but, uh, he was just talking with the, um, his friend, um, Jake –

JT: Jack?

KT: - Jack about it.

JT: Did you actually ever meet Jack?

KT: Yes.

JT: Okay, so Jack came out here and went to work before you and Mr. Kato left?

KT: Yes.

JT: Approximately how long was Jack here before you and Mr. Kato left Las Vegas?

KT: I think it was a matter of a week or so and then we left after that and I think he was back in Philadelphia for, um, five days or ten days, I don't remember exactly.

JT: This is Jack we're talking about?

KT: Uh...

JT: Was it Jack that was back in Philadelphia?

KT: Yes, he said that he was, he said that he was going to Philadelphia for one week or so and then when we talked to Peter Limanni, he told us on the

phone that Jack was in Philadelphia coming back, like, you know, a week later or so.

JT: Okay. What was the relationship like between Peter Limanni and Jack Seka? Did you observe them interact together?

KT: Yeah, well, I think they friends from a lot, from east coast for long time and, um, I think they're relationship was, you know, like good friendship, but this Peter Limanni, he never trusted no one. You know, I don't know, it's just probably him, so, my, what I think about Jack for Peter, Pete and Jack was his friend but, um, they didn't trust each other kind of relationship.

JT: Okay and did Limanni trust you or Mr. Kato?

KT: Probably, um, probably, yes. I hope he did.

JT: And obviously you trusted Limanni at first because you gave him so much money?

KT: Yes.

JT: But then did you come to feel that that trust had been betrayed?

KT: Yes, exactly right.

JT: Okay. Now, when was the last time you saw Mr. Limanni?

KT: Um, when we left, when we left Las Vegas with Kato, so, um, you want to know exactly? Because I don't –

JT: Well, I know that it's a number of years ago, but is that what you're saying is that the last time you saw Limanni was when you and Mr. Kato pulled out of Las Vegas?

KT: Yes.

JT: Were you aware or did you see Mr. Limanni when he came to Santa Barbara? Because I know he came down there and met with Mr. Kato.

KT: Santa Barbara?

JT: Well, maybe not Santa Barbara.

KT: Lake Tahoe?

JT: Oh, Lake Tahoe? Did you see him in Lake Tahoe?

KT: No, um, I heard Lake Tahoe, he had all the equipment, I think... This is what I heard, I don't remember who from, but I heard that he was having self storage or something and tried to hide, like, the tools and everything from us so that, uh, we could not take what he's got, uh, you know?

JT: Okay. I believe it was Santa Monica that Mr. Kato told me that Limanni had come down to see him and talk to him about the business.

KT: Oh, okay. That probably, I don't know if I was there, but I remember that Kato was asking, like, you know, he came over to Santa Monica after a month or so and he was having a little financial problem and, uh, he was asking Mr. Kato to see if we would invest, you know, more money into the business.

JT: Okay.

KT: And then, I still remember that I said no way.

JT: At what point did you find out that Mr. Limanni was a missing person or that they had found him dead? Do you recall how you found that out?

KT: I think I heard from Mr. Kato and, uh, hmm... Let me think, because back then somebody told me and I think it was on TV too, it was on the news. Um, land lord because the office was under Mr. Kato's name.

JT: Okay. There was also a black man who had worked for the company sporadically who was found murdered. Do you know who he was?

KT: No, I don't.

JT: Okay.

KT: He worked for the company?

JT: Yes.

KT: Oh, no, I never met.

JT: Mr. Kato was interviewed by the police during their original investigation but you were not, is that correct?

KT: That's correct.

JT: Do you know why that was?

KT: I don't know.

JT: Were you out of the country for a period of time at that time?

KT: Um, yes, on and off because after that, I had financial problem because I, you know, I had to, yeah.

JT: I would anybody who had lost \$1 million in a business would have financial problems.

KT: Okay. And I have kids too so I had to feed my family, so I think I went back to my country for a couple months with Mr. Kato.

JT: Is that Japan?

KT: Mm-hmm (affirmative).

JT: Now, after being taken for all this money, how did you feel about Limanni?

KT: Right now or right after...?

JT: Back then.

KT: Back then?

JT: Yeah, what were your feelings towards Limanni at the point when you had to leave Las Vegas and go back without all your money?

KT: Well, the money's gone for sure because he had no intention to paying back, so, um, we knew that the money was not coming back, but we tried to get at least, like, those cars back because all the automobiles were under Mr. Kato's name, but Mr. Limanni, he refused to let them go. So we tried to save whatever he had, we got the refrigerator back from him because that's what we bought too, but that was pretty much it.

JT: Okay.

KT: And, uh, we thought, you know, okay, everybody makes mistakes and this is huge mistake that we made and, uh, it expensive lesson but it's gone and let's move on. That's what we talked about.

JT: After you and Mr. Kato left Las Vegas, I know that Mr. Kato came back to Las Vegas on at least one occasion to see Limanni. Did you ever come back?

KT: Probably. Back then I was with Mr. Kato that trip I think and the reason was to just talk to him and see if we can get at least a few, some money

back or probably at least we can get some kind of equipment that we can make cash, and we ended up getting one refrigerator.

JT: Okay.

KT: And we tried to get automobile that trip but he refused to give us keys and, uh, we had to leave without automobiles.

JT: After Limanni became missing, did Mr. Seka, Jack Seka, did he ever contact you to tell you that Limanni was missing?

KT: Mm, no, not that I know of.

JT: Okay. Did you, at the time that you were with Mr. Limanni, ever come into contact with a man named Amir Mohamed?

KT: Mm, not that I know of.

JT: Would it help your memory if I told you that Amir Mohamed was the person that Mr. Limanni was planning on going into the cigar business with?

KT: I knew that he was going to cigar business, that's, I heard about it, but, I don't know. Okay, now I just start remember things that, yes, I don't know who he was going to business with, but he was opening up a cigar shop and he spend so much money to, um, improve the shop, so much money for improvement for cigar shop. So we knew that he had money, you know, but he never tried to pay us back.

JT: Okay. It was probably your money that he was opening the cigar shop with, do you think?

KT: Probably, so he was hiding money somewhere, but, you know, you never know.

JT: Mr. Kato also advised me that he became aware that Limanni was buying jewelry and stuff with your money. Were you aware of that?

KT: I think I heard about a watch that, he was buying expensive watch somewhere in Las Vegas, but he was also complaining that business was doing bad and, uh, it didn't really make sense to us and, you know, yeah.

JT: Okay. Did you do anything to try to recover your money other than just wait for him to pay you?

KT: We tried to talk to, we went to talk to lawyers and it was pretty much all verbal agreement and they said they can't do anything about it. And there was also a person, um, his name was, um, there was one guy from Santa Monica too. He was general contractor but he came to Las Vegas for one week or so. Um...

JT: Was he going to try to get your money back?

KT: Yeah, he helped us try to get the money back by introducing, like, lawyers or explain of, like, what's going on and, you know.

JT: Do you remember that man's name?

KT: Uh, his last name was Paquette.

JT: Paquette?

KT: Uh-huh.

JT: P-A-Q-U-E-T-T-E?

KT: I don't remember how to spell it, but it sounds like Paquette.

JT: Okay and you don't recall his first name?

KT: Um, let me think. From Massachusetts.

JT: He was from Massachusetts?

KT: Mm-hmm (affirmative). Um, no, I can't recall his first name.

JT: Was he an investigator or lawyer himself or, how did you get involved with him?

KT: No, no, he was general contractor and he came to business with us.

JT: What kind of contractor?

KT: General contractor.

JT: A general contractor, okay.

KT: And he was also supposed to get a percentage of the company and, um, I don't remember if he put the money in it, but he put time and labor in it. But he was another person that, uh, kind of was screwed up.

JT: So he was another investor with Limanni?

KT: I don't know about the money portion, but he was --

JT: But labor and probably materials?

KT: Yeah, promised to get percentage of the company.

JT: Is there anything else that I haven't asked you about this situation that you feel would be important to my investigation?

KT: Not that I can think of.

JT: Do you personally have any feelings or ideas as to who may have killed Peter Limanni?

KT: I have no idea, but it's like, I don't know. That guy's kind of like the first human being that, uh, I don't know how to explain it. Like, you know, I think he has so many enemies and, I don't know. It's kind of difficult to explain his character but, you know. It's really, I don't know what to say.

JT: Okay.

KT: Yeah.

JT: The last information I found for you as far as a home address was 203 Harbor Blvd., #B1, do you --

KT: That was my old one.

JT: That's an old address?

KT: Yes.

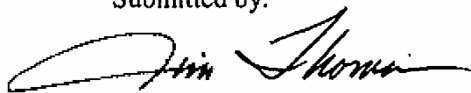
JT: So I'm going to close this interview and ask you to call home and get your address and phone number and I will call you back in five minutes. Is that fair?

KT: Yeah, that's fair.

JT: Okay. We're ending the interview at this time. It's now 2:25 PM and I want to thank you very much.

KT: Oh, my pleasure. Any time.

Submitted by:



Jim Thomas

JT:lt

EXHIBIT 10

SEKA000156

APP2031

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February 28, 2006

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Las Vegas, NV 89101

RE: JOHN JOSEPH SEKA
Our File No. 05-I-150
Interview with Takeo Kato

The following is a tape recorded interview between Jim Thomas (JT) and Takeo Kato (TK). The date is February 27, 2006 and the time is 10:16 AM. The interview is taking place via telephone number [REDACTED] 1277.

JT: Mr. Kato, do you understand this interview is being tape recorded?

TK: Yes, sir.

JT: Do I have your permission to do so?

TK: Yes.

JT: Is it true I'm speaking to you at a telephone number of [REDACTED] 1277?

TK: Yes.

JT: And is that a home telephone number?

TK: Yes it is.

JT: Can I get your home address, sir?

TK: [REDACTED] Santa Monica, 90404.

SEKA000157

APP2032

JT: Okay and is that apartment number 7?

TK: That's right.

JT: Sir, were you acquainted with a man named Peter Lamanni?

TK: Yes I did.

JT: And do you recall how you met Mr. Lamanni?

TK: Yes I did. Oh, how, to who, I'm sorry?

JT: How did you meet him to begin with?

TK: Oh the uh, Peter. Uh, he was my neighbor for my office. He moved in my next door of my office.

JT: Now, was that here in Las Vegas or somewhere else?

TK: No, it's in Santa Monica.

JT: In Santa Monica, okay. And you were also acquainted with a man named Kaz Toe, is that correct?

TK: Yes, that's my partner.

JT: Okay and after meeting Mr. Lamanni, did he ask to make a loan from you or invest in a company he was trying to start?

TK: That's right.

JT: And would you tell me about that, sir?

TK: Uh, yes. Well actually he was, he, well he asked me about investing the company, uh, in Vegas, he explained about the opportunity in Vegas and everything, so we decided to do that.

JT: Okay and this was an air conditioning, heating business?

TK: Yes it was.

JT: And how much did he borrow from you?

TK: Uh, um, well for the capital or all together?

JT: All together, sir.

TK: All together, uh, I would say about \$300.

JT: \$300,000?

TK: Including lease and everything, lease car, automo-, you know, the vans and everything.

JT: Okay. They were, what, like four different vans or something that were leased?

TK: No, it could be, I think it was, like, five.

JT: Five of them?

TK: Right.

JT: Okay and was he also trying to expand this business into Lake Tahoe?

TK: No, that's after, this is what happened, uh, we didn't know anything about that. Um, we guess he was involved into some kind of different business which is I think, I believe he was, tried to, cigar business in Vegas in my office. What happened is after three months, we opened office, um, there's some kind of different business, uh, because it was just totally different from what he told me about the beginning. So we decided to leave the business, um, so we left Vegas after three months but I told him, he promised us to pay back everything what he owed me in, like, four months, six months.

JT: Okay.

TK: And then after that we, you know, since it was maybe one or two weeks to go back to Vegas and talk to him, you know, how he do, how he does, and on the phone also pretty much, like, every week. And then, uh, I didn't know anything about, uh, the note, uh, and also he, probably after we left maybe two, three months later, he built cigar business in office.

JT: Okay.

TK: And, um, um, we asked him about it and he said because it's going to be winter so business is going to be slow so he have to, he took something to pay me back. So I didn't leave with anything but I don't know how he got money, but he never pay me back at all.

JT: Well, he never actually got into the cigar business either. They were in the process of putting up some walls or something in that office, but nothing was ever done. Did you or your partner make several trips to Las Vegas to-

TK: I mean, when? After or...? We use to live in Vegas.

JT: Okay, so you were living in Vegas in at the time he had this business going?

TK: Which is, the refrigerant business, yes.

JT: So when he came to Vegas to open his business, you and your partner also moved here?

TK: Exactly, we moved together.

JT: Okay. You moved together? Did you actually live with him?

TK: Yes I did. I share in the back of the office because it was a 24-hour operation, uh, supposed to be. So we decided to have, make some room in the back, uh, so we live over there in the back.

JT: Okay and at that same time did you become acquainted with an employee of his, Jack Seka?

TK: Uh, yes, but I don't recall, well, I never hire him. He supposed to be helping us so we never have an interview or anything at all, but yes, he was working for us.

JT: And what was his position?

TK: Uh, helper.

JT: Okay. Did –

TK: Actually, I was doing the business side and Peter was actually doing the actual work. So I don't know what, you know, what he does with Peter.

JT: Okay, so you and your partner were handling the business, getting contracts and that type of thing>

TK: Kind of, yes.

JT: And it was up to him to do the actual maintenance with, you and your partner, were you the ones that handled the office then and took the phone calls from people?

TK: Kind of, yes.

JT: Okay and was, Seka, was he just going out on jobs with Limanni? How did that work?

TK: Yes, I believe so.

JT: Okay. What was the relationship like between Seka and Limanni?

TK: I think they grown up together or at least they came from same city, which is I think they told Brooklyn or in New York somewhere. Uh, they came, I think both of them came from the same city. I don't know if they born over there, but just they, I guess they're buddy.

JT: And did they seem to get along okay?

TK: Uh, yes. It's almost like, almost like Peter was his older brother.

JT: Okay, so it was like a brother relationship?

TK: Kind of. That's what I felt too.

JT: Okay.

TK: Because both of them trust, I just known him like maybe, I just knew him like maybe four or five months most, but probably their relationship is much stronger than I used to have.

JT: Okay. Now, as a businessman I know it's tough to start a new business and it seems like it would be extremely hard coming from an area that –

TK: Exactly.

JT: - is different from where you're starting the business at and not knowing anybody here.

TK: Exactly, and also we used to do, because this is the situation, we used to have export business and then the export wasn't making money so much, so we kind of looking for the new business, new venture. So that's this, but that was totally new, so we didn't know anything about what's going on. That was a problem with us so we decided to leave because, um,

sometimes Peter is kind of, you know, using the company money as a personal stuff which is, we mentioned to him, we talk him, you know, he not going to do it but he did it again. So we decided to leave.

JT: What was he buying with the company money?

TK: Uh, like watches and, you know, pretty personal stuff, and also the money was using, well because Jack, he didn't have the money to come by, to come to the Vegas, I remember that. So he tried to help Jack to come over too, which was fine but I didn't know him pretty well.

JT: Okay.

TK: I wasn't sure he was a friend or he's going to help me, you know, I didn't know that.

JT: So what was Limanni's reaction when you called him on the carpet about spending the company money on personal items?

TK: Uh, you know, he said, well he just, you know, he just saying that all the excuses and everything. Well, in the beginning, well, we used to live together, I didn't know, I didn't see he was kind of hiding but we kind of noticed it, so we mentioned about it, so I didn't see actual watches and anything. But I know he was spending money for personal stuff so I mentioned about it, he was kind of, you know, explaining what, wasn't personal whatever. And then after we left, you know, he start buying watches and the personal things, so that time we, you know...

JT: Okay. When you started the business here, did you form a corporation?

TK: In Vegas, yes.

JT: In Nevada, did you form a corporation?

TK: Yes I did.

JT: And who were the officers in that corporation?

TK: Uh, it's me.

JT: Just you?

TK: Uh-huh (affirmative).

JT: And --

TK: No, you know, it was, I'm sorry, it wasn't the corporation, it was a solo which is my name.

JT: I'm sorry, it was sort of a what?

TK: It was a solo, uh, ownership which is my name.

JT: Okay.

TK: It wasn't the corporation.

JT: Okay, so it was not a corporation?

TK: No.

JT: Was Limanni then considered a partner or an employee or what was...?

TK: He was a partner.

JT: But --

TK: Well, actually, I'm sorry, because I have three companies and it was corporation I think. It was such a long time ago, because we had meetings and everything so I think pretty much he was one of the officer.

JT: Okay, so it was a corporation and who would have been president then?

TK: I would, me.

JT: And the treasurer?

TK: Yes. It was my partner, Kaz.

JT: And Limanni, what position would he have been?

TK: Uh, he was, um, I don't recall. I don't recall at all. Hello?

JT: Yes, I'm here. I'm listening.

TK: I don't recall.

JT: You don't recall, okay. So when you and your partner decide to pull out and you go back to California, what's Limanni's attitude?

TK: Uh, no, he wanted to do actually because he wanted to have the 100 percent control. I felt like it. So he was kind of, he said okay, I could be the silent partner. So he say he was going to take everything, every business and then pay me back and that's it. Because all I wanted is the money we invest. All the profit, he can keep it, I told him.

JT: Were there any harsh words or anything like that?

TK: Between me and him?

JT: Between you or your partner and him, yes.

TK: Uh, no, I don't think so.

JT: Okay and did he sign a note for the \$300,000?

TK: No.

JT: Okay, so everything was just on a handshake?

TK: Yes.

JT: And did you actually ever receive any of the money back?

TK: No, at all.

JT: Okay, so it was a complete write-off?

TK: Uh, kind of, and also we, the end I have to do, I have to file a bunch of (unintelligible -- dog barking) myself.

JT: Okay. Now, how did you find out that Limanni had been murdered?

TK: Uh, well actually he, some, I think police officer from Vegas called me to my house about the murder in the next door, which is next door of my office.

JT: Of the black man?

TK: Exactly, but he ask about, so I drove same day to the Vegas, see what's going to happen. So I went to the police department and went to the landowners and then at that time Peter was just missing. We didn't know anything about he got killed, anything. So he was missing and he supposedly took one of the vans. So I didn't know anything about it and after six months later, uh, we heard from I think Peter's relative or something that the police find the body.

JT: Had you known anything about the black man? Did you know who he even was?

TK: I never met, I never met.

JT: Okay. Did you know that he was sometimes doing work for the business?

TK: No, I don't, well between, uh, meaning when I was living in the Vegas with Peter?

JT: Yes.

TK: Uh, no, he wasn't, I never seen him in offices or I never, you know, Peter is hiring somebody. Because I think we hired couple people out of office to come work, but I don't recall at all.

JT: When was the last time you saw Peter alive?

TK: Uh, Peter alive was after three months, after four months or three months, the day he promised us to pay back because we have to go over there and talk to him. I went visit him to the office, uh, but that was like, because I didn't want to call him before I go, maybe he's going to...

JT: Yeah, so you wanted to surprise him?

TK: Surprise him, and he got really mad.

JT: He got mad at you?

TK: Yes, because, you know, he's like, because he didn't call me to come and, but, you know, so he was very, very upset.

JT: Was he threatening?

TK: Kind of.

JT: What did he say?

TK: Uh, I don't remember, but he was very upset. But I didn't want him to disappear, everything. I didn't know, you know, if he could just disappear and leave everything on me. So I didn't want him to upset, I want him to do the business continue and then pay me back. So I talk to him and said this is what I want and that I give you more time to pay me back and he agree and was, he mentioned about the one thing about new business because winter's coming.

JT: Okay. How long –

TK: Oh, no, I'm sorry. After that, after that he came to Santa Monica to see me.

JT: Okay.

TK: He called, he said he's on the way to the north.

JT: He's on his way to what?

TK: To the north.

JT: Oh, to the north?

TK: To the north.

JT: Okay.

TK: He came to me and he ask me if I can, if, he said use the credit card maxed up and do the bankruptcy and he said, basically he's asking me to borrow more money using the credit card.

JT: Okay.

TK: And I told him okay, let me think about it because I didn't want him to disappear. Of course I didn't think so, but that's the last time I saw him.

JT: Okay. Did you or your partner come to Las Vegas while he was still alive and take any of the vans back or anything like that?

TK: I'm sorry?

JT: Did either you or your partner come to Las Vegas to recover the vans?

TK: Uh, yes we did, I think.

JT: And was that before or after his disappearance?

TK: Uh, after.

JT: Okay.

TK: Because everything is under my name so it's kind of worry about it.

JT: Was there a van up in Lake Tahoe too that you had to recover? Did you know anything about that?

TK: I don't know anything about it.

JT: Did you get all of the vans back that you had leased?

TK: Uh, the company, the automobile company did, I think.

JT: Okay.

TK: But I didn't do it.

JT: Did you have any conversations with Seka after?

TK: I'm sorry?

JT: Did you have any conversations with John, or Jack Seka after Peter disappeared?

TK: Yes I did, actually. I went to the office after the Las Vegas Police Department called me, so I was there and then of course Peter is gone already. I spoke to Jack. He was saying his name is Jack so I talk to him and he said he didn't know anything about it. That's what he said.

JT: Did he tell you when he had last seen Peter?

TK: Uh, yes, he make, I think he showed me his note, um, about to do list and then I think he, I don't recall, but he was kind of looking for Peter also to decide all the business matter.

JT: Okay. Did he talk to you at all about Peter having cleaned out the bank accounts? Did he say anything along those lines?

TK: Uh-uh (negative).

JT: Okay.

TK: He didn't.

JT: Did, was the dog still around when you talked to him?

TK: Uh, yes. He, when I got there, Jack and a dog was there. But they, see the dog was very strong dog. But he was very, very nervous.

JT: Okay.

TK: So I'm telling you something wrong with this.

JT: When you lived in the back, did all four of you live in the back?

TK: Yes. Uh, uh, including Jack, yes.

JT: Did you see any guns around?

TK: No.

JT: So when you were there, there were no guns?

TK: Um, no. I, I saw one. I saw one, um, I saw one and also I saw bullet.

JT: Okay and that was while you were still living there?

TK: Uh, no, when I visit Jack.

JT: Okay, so when you came back and visited, you saw a gun?

TK: Um, no, um, you know what? I remember I saw the gun but I don't know when, but I know I saw, when I got to the Vegas I saw bullet in office.

JT: Did that concern you, did that upset you?

TK: A little bit.

JT: Make you worried?

TK: Yes, you know, because I don't want the guns.

JT: Okay, make you worried about who you were dealing with?

TK: Kind of.

JT: Do you have any ideas at all as to what might have happened?

TK: Well I'm very, I have no idea, but seems like, in my opinion, uh, dealing with cigar guy was kind of, sometimes cigar guy came and I was kind of suspicious what's going on and so I don't know because of that or, um, I don't know.

JT: Did you actually meet the cigar guy?

TK: Uh, I don't think so, I don't think so.

JT: Okay, his name was Amir Mohamed.

TK: Oh, you know what? He mentioned about it because, I remember because he was Arabic name.

JT: Okay, but you never actually met that man?

TK: I don't think so.

JT: Do you recall who drew up your corporate papers?

TK: Uh, I'm sorry?

JT: Who drew up the corporate papers when you incorporated?

TK: Um, I think it was office, I forgot the name, but we have the lawyer.

JT: Okay. Do you know the name Marilyn Mignone?

TK: What is he?

JT: Marilyn is a paralegal. We had heard that maybe she drew up the papers.

TK: Could be.

JT: But she denies that and I'm just trying to get to the bottom of this.

TK: Um, you know, I don't recall. I don't recall at all.

JT: Okay. The relationship between Seka and Limanni you thought was pretty good?

TK: Uh, you mean Jack?

JT: Yes.

TK: Uh, yes. Um, Jack like a brother.

JT: Did you ever see them argue?

TK: No, actually, because he, Jack is like a younger brother, so always he listen to.

JT: Okay.

TK: I think anything that Peter said he does.

JT: Did Limanni treat Jack good, do you think?

TK: I think so.

JT: Did he yell at him or call him names?

TK: No.

JT: Okay.

TK: I mean in front of me, I don't know.

JT: Did you actually give a statement to the police when they were doing the investigation?

TK: Yes I did.

JT: When I read through this it said that one person gave a statement and the other one was in Japan at the time, so was it your partner that was in Japan?

TK: Both of us in Japan.

JT: Oh, both of you were in Japan, okay. I'm also wanting to interview your partner. Do you know how I can get a hold of him?

TK: Uh, yes, yes, but, uh...

JT: Or would you ask him to call me?

TK: Uh, sure. I don't know if he want to do it but I can ask.

JT: I'd appreciate it. We're just trying to get to the bottom of this. Jack says he didn't do it, the court says he did, and if he didn't do it then he shouldn't be in prison. If he did, he should be, right?

TK: Um, so you protecting him, Jack?

JT: I'm doing an investigation for his appeal, okay? I wouldn't say that I'm protecting him. I'm just trying to investigate the facts.

TK: This is the thing, this is the thing, I mean can I say my personal opinion?

JT: Sure.

TK: Um, if he did kill Peter, um, he grown up together and then when I got to the office Peter was already gone with. Supposedly he killed already. And he stayed there more than week, same room, maybe he killed in the room, I don't know. Maybe killed outside, but he could have disappear after he kill Peter, but he stayed weeks. And also he showed me the paperwork that says what to do, to go to the bank and go to pickup the dog food and whatever. It's a normal to do list. I mean if he's not like a really crazy guy, you know, I wouldn't be, like, calm like this in the weeks, same room, same daily routine.

JT: So you thought Jack was acting normally?

TK: Very normal. He was concerned about the dog food. I mean, you know, it's just, I don't understand.

JT: Okay.

TK: That's my opinion. I don't know, maybe he's very cold, but I don't know. He was very normal, but he was kind of worried about Peter was, he can't contact Peter.

JT: So he did show concern over Peter?

TK: Yes he did.

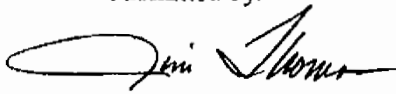
JT: Is there anything else I haven't asked you about that you feel would be important to my investigation?

TK: Uh, no, I don't think so.

JT: Okay. With that we'll go ahead and end the interview at this time. It's now 10:43 AM and I want to thank you very much.

TK: No problem.

Submitted by:

A handwritten signature in black ink, appearing to read "Jim Thomas", with a large, stylized initial "J" and "T".

Jim Thomas

JT:lt

EXHIBIT 11

SEKA000175

APP2050

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
OFFICER'S REPORT.

EVENT #: 981116-0443

MURDER WITH DEADLY WEAPON
SUBJECT

DIVISION REPORTING: ISD DIVISION OF OCCURRENCE: PD

SCENE #1: LAS VEGAS
BLVD. SOUTH APPROX. 2
MILES SOUTH OF STATE
ROUTE 146
SCENE #2: 1929 WESTERN
AVE., LAS VEGAS, NV. 89102
SCENE #3: 1933 WESTERN
AVE., LAS VEGAS, NV. 89102

DATE AND TIME OCCURRED: 11/16/98 0617 HOURS LOCATION OF OCCURRENCE:

DICTATING OFFICER: DET. T. THOWSEN, P# 1467
HOMICIDE SECTION

VICTIM #1: HAMILTON, ERIC
BMA, DOB: [REDACTED] 64
SS#: [REDACTED]
LVMPD ID# 1590973
LAST KNOWN ADDRESS:
DOWNTOWNER MOTEL, RM. 171
FROM 10/25/98 THROUGH 11/01/98

POSSIBLE VICTIM #2: MISSING PERSON REPORT
981120-0699
LIMANNI, PETER PAUL
WMA, DOB: [REDACTED] 64
SS#: [REDACTED]
LVMPD ID# 1229366
HOME ADDRESS: 1933 WESTERN AVE.,
LAS VEGAS, NV. 89102
BUSINESS ADDRESS:
CINERGI HVACR INCORPORATED
1933 WESTERN AVE.,
LAS VEGAS, NV. 89102

Date and Time of Report: 12/10/98 2120 hours Officer: DET. T. THOWSEN P#: 1467
Approved: Sgt. K. Hefner Officer: P#:
LVMPD 82 (REV. 1-91) - AUTOMATED SIGNATURE: J. Thowson SEKA000176

APP2051

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPC. 1

ID/Event Number: 981116-0443

Page 2 of 2

SUSPECT:

SEKA, JOHN JOSEPH
AKA: JACK
WMA, DOB: - - - - -
SS#:
FBI#: 118012KA6
HOME ADDRESS: 1933 WESTERN AVE.,
LAS VEGAS, NV. 89102
CELL PHONE: [REDACTED] 5957
BUSINESS ADDRESS:
CINERGI HVACR INCORPORATED
1933 WESTERN AVE.,
LAS VEGAS, NV. 89102

WEAPON USED:

MEDIUM CALIBER HANDGUN
NFD

VEHICLES RECOVERED
AND PROCESSED:

#1 1998 TOYOTA PICKUP TRUCK,
BROWN IN COLOR,
NEVADA LICENSE 720JJM
VIN# 4TANL42N1WZ148638
REGISTERED OWNER:
CINERGI HVACR INCORPORATED
1933 WESTERN AVENUE,
LAS VEGAS, NV. 89102

#2 1998 DODGE VAN, WHITE IN COLOR,
WITH CINERGI LOGOS ON SIDE PANELS
NEVADA LICENSE 514JME
VIN# 2B7JB21Z6WK102143
REGISTERED OWNER:
KATO, TAKEO
1933 WESTERN AVENUE,
LAS VEGAS, NV. 89102

VEHICLE TAKEN BY SUSPECT:

1998 DODGE VAN, WHITE IN COLOR
UNLICENSED
VIN# 2B7JB21Y0WK161695
LEASED BY:
KATO, TAKEO

SEKA000177

APP2052

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 3 of 2

I. SYNOPSIS:

On 11/16/98 at approximately 0600 hours, the body of a black male later identified as Eric Hamilton was discovered in the desert adjacent to Las Vegas Boulevard South approximately two miles south of State Route 146. Hamilton had three through and through gunshot wounds and one grazing gunshot wound. At the scene, numerous items of new lumber were recovered from the top of Hamilton's body. They included both pine boards and cedar. Tire impressions were observed and documented at the scene indicating that Hamilton's body was dumped from a narrow wheel-based vehicle with narrow tires. A handwritten note was located in Hamilton's pants pocket containing the name Jack and the phone number [REDACTED] 5957. Investigation revealed that the phone was issued to Jack Seka at Cinergi HVACR Incorporated at 1933 Western Avenue in Las Vegas.

On 11/17/98 at approximately 1132 hours, Crime Scene Analyst D. Ruffino, arrived the scene of a Malicious Destruction of Property at 1929 Western Avenue reported under Event 981117-0730. C.S.A. Ruffino noted that there was an area containing a large amount of apparent blood, a large broken glass entry into the business, several items of clothing and three spent bullets inside the building. C.S.A. Ruffino contacted the Homicide Section and it was determined that the business at 1929 Western Avenue was located directly next to Cinergi HVACR Incorporated at 1933 Western.

As a result of the investigation that followed, a Consent to Search and later, search warrants were obtained for 1933 Western Avenue as well as a 1998 Toyota pickup truck and a 1998 Dodge van that were parked in front of 1933 Western and were operated by Cinergi Incorporated. Blood was discovered in both vehicles as well as the interior of 1933 Western. John Joseph Seka AKA: Jack was located inside 1933 Western and was transported to the LVMPD Detective Bureau where he gave a voluntary taped statement. Seka submitted to being photographed, gave a sample of his fingerprints and his DNA through a Buccal swab kit. Following his interview, Seka left the scene in the above listed white 1998 Dodge van and has not been located since.

Information given by Seka and other persons contacted indicate that the owner of Cinergi HVACR Incorporated was identified as Peter Limanni. Limanni has not been seen since approximately November 5th or 6th, 1998. A Jack Russell Terrier named Jake identified as Peter Limanni's dog was located at the 1933 Western address. In addition, a wallet containing identification and credit cards in the name Peter Limanni were located in the attic area of 1933 Western Avenue. Based on physical evidence and interviews, it appears that Peter Limanni may be a second homicide victim.

SEKA000178

APP2053

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 4 of 2

Upon contacting Limanni's family in New Jersey, a missing person's report was filed with the LVMPD.

II. WITNESSES INTERVIEWED:

1. STANISH, MICHAEL FELIX
WMA, DOB: [REDACTED] 55
SS#: [REDACTED] 4127
Home Address: [REDACTED] Las Vegas, Nevada 89117
Home Phone: [REDACTED] 4053
Business Address: Ace Equipment, 6120 W. Tropicana, Ste. A16,
Las Vegas, Nevada 89103
2. LOWERY, JEFFREY WAYNE
WMA, DOB: [REDACTED] 71
SS#: [REDACTED] 3144
Home Address: [REDACTED] Las Vegas, Nevada 89103
Home Phone: [REDACTED] 0802 or [REDACTED] 0497
Business Address: C&N Transport for Mandalay Bay,
Las Vegas, Nevada 89103
Business Phone (Cell): [REDACTED] 0001
3. BANKS, KEVIN
BMA, DOB: [REDACTED] 61
SS#: [REDACTED] 3750
Home Address: [REDACTED] Las Vegas, Nevada 89102
Home Phone: [REDACTED] 4268
Business Address: Gold Strike located in Jean, Nevada
4. CERDA, MICHAEL KIRK
WMA, DOB: [REDACTED] 43
SS#: [REDACTED] 7543
Home Address: [REDACTED]
Las Vegas, Nevada 89108
Home Phone: [REDACTED] 8319
Business Address: Nevada Properties,
630 Las Vegas Blvd. South, Las Vegas, Nevada 89101
Business Phone: 382-6022

SEKA000179

APP2054

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981118-0443

Page 5 of 21

5. HARRISON, JENNIFER
WFA, DOB: [REDACTED]/65
SS#: [REDACTED] 3122
LVMPD ID# 1289225
Home Address: [REDACTED] Las Vegas, Nevada 89108
Home Phone: [REDACTED] 6535
Business Address: Frontier Directory,
6455 S. Industrial Rd., Las Vegas, Nevada
Business Phone: 897-4442
Pager: 696-2348

III. PERSONS CONTACTED:

1. KATO, TAKEO
AMA, DOB: [REDACTED] 64
SS#: [REDACTED] 6499
Home Address: [REDACTED] Santa Monica, California 90404
Home Phone: [REDACTED] 2343
Business Address: International Trading, 1526 14th Street, Suite 104,
Santa Monica, California 90404
Business Phone: 310-578-1277
2. HAMILTON, MICHELLE
Home Phone: [REDACTED] 1497
Refused to provide any information as to home address, social security
number or date of birth.
(Sister of Eric Hamilton)
3. KEKUA, ELLSWORTH
Business Address: 129 N. 8th Street, Las Vegas, Nevada 89101
Business Phone: 384-1441
(Desk clerk for Downtowner Motel)
4. BRIZZI, JOSEPH RICHARD
WMA, DOB: [REDACTED] 37
SS#: [REDACTED] 3761
LVMPD ID# 249924
Home Address: [REDACTED], Henderson, Nevada 89014
Home Phone: [REDACTED] 0702
Business Address: Horseshoe Hotel
(Peter Limanni's former father-in-law)

SEKA000180

APP2055

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 6 of 21

5. LIMANNI, STEVEN
WMA, DOB: [REDACTED]/57
SS#: [REDACTED]-0649
Home Address: [REDACTED] Mickelton, New Jersey 08056
Home Phone: [REDACTED] 2766
(Brother of Peter Limanni)
6. TOMASEVICH, DIANE
WFA, DOB: [REDACTED]/51
SS#: [REDACTED] 3962
Home Address: [REDACTED], Mantura, New Jersey 08051
Home Phone: [REDACTED] 1475
(Sister of Peter Limanni)
7. BELL, CARL
BMA, DOB: [REDACTED]/60
SS#: [REDACTED] 7042
Home Address: [REDACTED] Los Angeles, California 90047
Home Phone: [REDACTED] 4273
(Cousin of Eric Hamilton)
8. MIGNONE, MARILYN MARIE
WFA, DOB: [REDACTED] 44
SS#: [REDACTED] 0084
LVMPD ID#1059145
Home Address: [REDACTED] Las Vegas, Nevada
Home Phone: [REDACTED] 4526
9. JONES, MARY
Business Address: 2233 69th Street, Long Beach, California 90805
(Monitor at Volunteers of America (VOA) Work Furlough)
10. EICHHORN, PEGGY
Business Address: Coldwell Banker-McKinney and Associates, Inc.
2196 Lake Tahoe Blvd., Suite 1, South Lake Tahoe, California 96150
Business Phone: 530-542-5521
11. RECOM TELEPHONE COMPANY
KRAJESKI, CARY
Business Phone: 714-412-8000
12. PRAY, JIM
Business Phone: 303-721-3739

SEKA000181

APP2056

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 7 of 2

IV. OTHER JURISDICTIONS CONTACTED:

1. SOUTH LAKE TAHOE POLICE DEPARTMENT
SGT. ALEX SCHUMACHER
Business Phone: 530-542-6100

V. INTERVIEW OF WITNESSES FROM SCENE #1:

1. MICHAEL FELIX STANISH
(Taped statement by Detective T. Thowsen)

Stanish is a truck driver working on the Mandalay Bay project. He said he was driving his truck on Las Vegas Boulevard South at approximately 6 A.M. when he saw what appeared to be a body on the side of the road. When he arrived at his job site at the Circus Circus stockpile (located approximately a mile from the body), he borrowed a cell phone from another driver to call 9-1-1. He went back to the scene of the body with the other driver (Jeffrey Lowery) and waited for police.

For further details, see the transcribed taped statement and written statement of Michael Felix Stanish.

2. JEFFREY WAYNE LOWERY
(Taped statement by Detective T. Thowsen)

Lowery is a truck driver working on the Mandalay Bay project. He said that at approximately 6:15 or 6:30, he was dumping at his work site located on Las Vegas Boulevard when a water truck driver named Mike told him he had seen a body of a black male lying near Las Vegas Boulevard. Lowery said Mike phoned the police, called his boss, Dan O'Donnell, then drove back to the location of the dead body and waited for the police to arrive.

For further details, see the transcribed taped statement or written statement of Jeffrey Wayne Lowery.

3. KEVIN BANKS
(Written statement witnessed by Detective E. Landino at the Southwest Substation on 11/18/98)

According to his statement, Mr. Banks indicates he was driving north on the old Las Vegas Highway when he saw a brown van stop at the side of the road and observed a man 5-9 to 6 foot tall walking to the van. He described

SEKA000182

APP2057

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 8 of 2

the van as brown in color and said that it was five or eight miles from where he works at the Gold Strike Hotel and Casino. He indicated that he observed the vehicle at approximately 1:20 A.M.

For further details, see the written statement of Kevin Banks.

VI. INTERVIEW OF SUSPECT

JOHN JOSEPH SEKA

(Taped statement by Detective T. Thowsen on 11/17/98 at approximately 1525 hours)

I responded to 1933 Western on 11/17/98 at approximately 1430 hours. I had been contacted by Sgt. Hefner and apprised of a Malicious Destruction of Private Property call at the adjacent business of 1929 Western Avenue. Sgt. Hefner explained that blood and evidence of a shooting were discovered inside the building. I told Sgt. Hefner that the cell phone information concerning the note found in the victim's pocket returned to a cellular telephone from Cinergi HVACR, Inc. at 1933 Western Avenue.

Upon arriving at 1933 Western Avenue, I spoke briefly with Sgt. Hefner and Detective Buczek. Sgt. Hefner explained that John Joseph Seka, also known as Jack, was identified as the only employee working inside 1933 Western. Sgt. Hefner told me that Seka had provided a Consent to Search for 1933 Western.

As a result of the search that was underway, Sgt. Hefner pointed out that several locations had been discovered with apparent droplets of blood on the interior walls of the business. In a back office area, Sgt. Hefner pointed out a couch that had an apparent gunshot hole from the front through the back with stuffing protruding from the rear of the couch and a bullet hole through one piece of drywall and a bullet recovered in a second piece of drywall directly behind the couch and in line with the apparent bullet hole.

I learned that Patrol officers that had contacted Seka prior to the notification of the homicide observed a cartridge on Seka's desk inside the business. When the Homicide detectives began their search, they noticed the cartridge was missing. When Seka had been asked about it, he gave conflicting answers.

Sgt. Hefner gave information that the Patrol officers upon initially checking the area after arriving the scene at 1929 Western, checked the rear dumpster area and noted nothing of interest. After the arrival of Homicide, several items of clothing

SEKA000183

APP2058

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 9 of 21

and checks in the name Peter Limanni were found partially burned in the dumpster area.

I asked Seka if he would voluntarily accompany me to the Detective Bureau so that I could speak with him about the damage to the next-door business and the blood that had been found in that business and in his business. Seka agreed and accompanied me to the LVMPD Detective Bureau. At approximately 1450 hours, I explained to Seka that he was not under arrest but I wished him to read a Rights of Person Arrested card aloud so that he might be apprised of the rights due to the nature of the crime being investigated. Seka read the card aloud, signed it, indicated that he was wanting to cooperate and speak with me without an attorney being present. He signed and returned the card.

During my conversation with Seka, he explained that the business at 1933 Western is owned by a man that is a friend of his named Peter Limanni. According to Seka, there were two men that were business partners in the Cinergi business that put up the money. He described them as silent partners and said they both live in L.A. He identified them as Tak Kato and Kaz Toe. Seka said that the two men had not been in Las Vegas for approximately a month to five weeks. Seka said he left town to go to Philadelphia for his daughter's birthday leaving on the 29th of October and returning to Las Vegas on the 3rd of November. He said Limanni picked him up at the airport the night he came back and spent the following day with him and the next morning, Limanni got up and left on his own and did not wake him. Seka said he had not seen or heard from Peter Limanni since. There was a white Jack Russell Terrier named Jake that was at the Cinergi office. Seka said that the dog belonged to Peter Limanni.

Seka explained that the business had two white Dodge vans and a Toyota pickup truck that they utilized. He said that there was an additional Dodge van that Peter Limanni had taken to Lake Tahoe for a business that he was going to start there. Seka said the Las Vegas business had a telephone number of [REDACTED] 5993, however, it had been turned off and he was currently using his cell phone which has the number [REDACTED] 5957. Seka was wearing the cell phone at the time of the interview.

Seka was asked if he was familiar with a black male that may have been around the business. He explained that other officers had told him that there was a black male homicide victim that had his name and phone number. Seka said that the black male was named Seymore and that in the past he had done some odd jobs for the construction company. He said he last saw Seymore about a month ago and told him to call in about a month to see if there was work.

I mentioned to Seka that a cardboard box was observed in front of 1933 Western with a drop of apparent blood on it. He explained that he was walking Jake when

SEKA000184

APP2059

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 10 of 21

he found the box under one of the vans parked in front. He said he pulled the box out from underneath the bumper and flipped it onto the corner before he was leaving. When asked about the blood inside the business at 1933 Western, Seka explained that he had cut himself and Peter had cut himself there at different times when they were working. He pointed out that he had banged his knuckles. In speaking with Seka, I noticed that he had some cuts and scrapes on his hands. When I asked about a particular knuckle that was cut, he explained that he just bit it off (referring to the scab), that there was a scrape and he had picked off the scab because he's one of those kind of people that hate scabs.

Seka explained that Peter Limanni owns guns, however, he had never seen any in Las Vegas. Seka claimed that he did not own any guns and had not ever fired a gun. I asked Seka about the cartridge in question that had been seen by officers on his desk earlier in the day. Seka denied any knowledge of the bullet and claimed that he did not pick it up. In my conversation and in the taped statement that I took from Seka from approximately 1525 through 1548 hours, he explained that he was the only person that had been at the 1933 Western address in the last few weeks and claimed that he did not know what happened to the black male whom he called Seymore and said that he did not do anything to Seymore.

Upon documenting the taped statement of Seka, I left him in the interview room and contacted Sgt. Hefner via telephone. Sgt. Hefner was in the process of securing a search warrant for 1933 Western and was speaking with Deputy D.A. Dave Wall. I explained my conversation with Seka and asked Sgt. Hefner to review the evidence in the case to Deputy D.A. Wall and determine if he would approve of a P.C. arrest of Seka for the homicide of John "Lumber" Doe. (Eric Hamilton had not been identified at that point.) Sgt. Hefner explained that per Deputy D.A. Wall, we were to wait until additional evidence from processing the scene confirmed a connection between John "Lumber" Doe and the two scenes located at 1929 Western and 1933 Western.

Upon finishing my phone call with Sgt. Hefner, I returned to the interview room and explained to Seka that the evidence did not support his statement. I explained that I believed he killed the black male that had been dumped, that the blood and bullet evidence linked the victim, that the lumber in his business was similar to the lumber found at the scene where the body was located, and that his story was inconsistent. Seka sat back in his chair and smiled. He said, "You're really starting to scare me now. I think you better arrest me or take me home. Do you have enough to arrest me at this point?" I explained to Seka that I would not arrest him until all of the processing and forensic testing could be done. Seka asked to be returned to his home located inside 1933 Western. I drove him back to the Western location and requested that he wait outside until the scene was finished being processed. I asked Seka if he would give consent to have his photographs and fingerprints taken. Seka agreed and said he was wanting to cooperate. I asked if he would

SEKA000185

APP2060

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 11 of 21

give consent to having a Buccal swab sample taken in order that we could test his DNA. Seka once again agreed. At approximately 1615 hours on 11/17/98, Seka read then signed a Consent to Search card for his DNA and fingerprints. In the parking lot of 1933 Western, photographs were taken of Seka showing his overall appearance as well as close-ups of several cuts and scrapes on his hands. Seka explained that he had a dinner engagement and that if he was not under arrest, he would like to leave in one of his vehicles and would return in a few hours.

I told Seka that we were going to impound the brown Toyota pickup truck to have it processed for evidence. While Seka was present at the scene, Crime Scene Analysts discovered apparent blood spots in and around the bed of the truck that tested positive for blood with presumptive testing. Seka reached into his pocket and removed the key for the Toyota truck. He explained that he wanted to take one of the vans and asked if he could go inside the business himself to get the keys. I explained that he needed to wait outside and I returned with two sets of Dodge keys. I handed Seka one set of keys. He remarked that the keys I gave him were for the unmarked white van. He seemed perplexed as though he was expecting or wanting to leave in the second van that was marked with large Cinergi decals.

I told Seka that it might be better for him to drive the van with the Cinergi decals thinking the vehicle would be easier to locate if he fled the area. I asked Seka if he minded if I looked in the vans before he drove one of them from the area. Seka agreed. He unlocked the marked van having Nevada license 514JME. Upon looking inside, I observed that it had a driver and passenger seat and that the back of the van was completely empty with no seats. Upon looking at the floor and the wall area, I noted several areas of what appeared to be blood or blood that had been partially washed out. I requested the Crime Scene Analyst conduct a presumptive test for blood. The test was completed with positive results. I then checked the plain white van bearing no license plates (VIN listed above) and could not observe anything that appeared to be of evidentiary value.

Prior to releasing the vehicle to Seka, I went to the Toyota pickup truck and with the use of a flashlight, observed with the Crime Scene Analysts the front undercarriage area looking for any evidence of off-road use and/or possible vegetation that could have been deposited there when the body of the victim was dumped in the desert. In viewing the front undercarriage area, several areas were identified as being consistent with being in contact with brush or similar shaped or designed objects that would cause scratches in the dust and oil areas. No vegetation was observed or collected. The undercarriage was photographed prior to the vehicle being towed to the Crime Lab for processing.

Detective Buczek and I consulted with Sgt. Hefner concerning the additional evidence discovered at the scene. However, it was determined that we would still

SEKA000186

APP2061

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 12 of 21

allow Seka to leave the scene as we had samples of his fingerprints, photographs and DNA for later identification and location.

Seka drove from the scene in the unmarked vehicle and failed to return as he had promised to secure the business. The business and dog were later turned over to the property manager, Michael Cerda, upon completion of all processing.

For further details, see the transcribed taped statement of John Joseph Seka.

VII. FOLLOW-UP:

On 11/17/98, I spoke with Michael Cerda, the property manager for 1933 Western Avenue. Cerda gave a taped statement and explained that Peter Limanni had a lease for 1933 Western and had originally been doing business as a heating and air conditioning repair service. Cerda said that the business started off well but had died off and that Limanni had been in the process of converting a portion of the business into a smoke shop with a cigar humidor. Cerda said that the business had been occupied for approximately six months and that Tak Kato, a California businessman, was also on the lease. Cerda said that Kato had not been at the business for more than a month. He said Peter Limanni had been staying at the business along with his friend or partner named Jack. Cerda had been allowed to view photographs that were taken from the business and identified one of the photographs as Peter Limanni and another photograph as Peter Limanni and Jack standing together.

According to Cerda, he believed he last saw Peter Limanni in the late afternoon on Friday, the 6th of November, in front of 1933 Western. They discussed the rent and Limanni showed Cerda approximately \$2000.00 or \$3000.00 in cash and was going to be participating in a show at Cashman Field. Limanni said he would pay the rent on the following Monday. Cerda said he called on Monday and did not get a response and came to the site throughout the week. He said no one answered the door but Jake, the dog, was inside. He said on Wednesday, the 11th or 12th, he posted a five day notice on one of the vehicles for the business which he described as the Toyota. Cerda said Jack called the day he posted the five day notice and told him that he had just come back to town and he was going to pay the rent. According to Cerda, Jack said he did not know where Peter was.

Cerda said that on today's date he was asked to come down by the tenant in the trophy business when he saw that there was a break-in with broken glass and blood on the front door of unit 1929 Western. Cerda said 1929 had been vacant for approximately a month and a half.

SEKA000187

APP2062

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 13 of 20

Cerda explained that earlier in the day when the police officers were at the scene, they asked if they could go inside 1933 to see if there was any damage inside of that building. He said when they all went inside, the officer was with Jack in the foyer area. He said while in the office, the officer was looking around the room and found an open knife on the table and saw a shell (cartridge) on the top of the table. Cerda said it looked like the size of a .38 or a .357 magnum. He described it as a complete cartridge and said it looked like it was a full metal jacket with a brass case. Cerda said when the officer saw the cartridge and knife, he temporarily handcuffed Cerda for safety reasons. According to Cerda, when the officers asked Jack if he had a weapon, Jack answered "no." When they questioned what the bullet was doing here, Cerda thought Jack answered "I think Peter has a weapon and he has a permit for it."

For further details, see the transcribed taped statement of Michael Kirk Cerda.

On 11/18/98 I made telephone contact with Lydia Gorzoch. A purse had been recovered in the attic at 1933 Western having I.D. in Gorzoch's name. Investigation revealed that the purse had been taken out of her vehicle when it was parked near the Crazy Horse Too on Industrial after someone fired a bullet through the window to gain entry. The report was taken on 11/06/98 at 0952 hours reported under Event 981106-0539. Gorzoch said she did not know Limanni or Jack Seka. It should be noted that a bullet was recovered from her vehicle and is being submitted for comparison to the bullets recovered in the homicide investigation.

On 11/24/98 at approximately 1040 hours, I received a telephone call from Michelle Hamilton. Hamilton explained that she is the sister of the victim, Eric Hamilton. (Identified via the Coroner's Office through fingerprint identification.) Hamilton refused to give any of her personal information as to her date of birth, social security number or home address. She gave the home phone number of area code [REDACTED] 1497. She explained that her brother Eric had been treated in the past for paranoid schizophrenia. She said that her cousin, Carl Bell, drove Eric from Los Angeles to Las Vegas on the date that she believed was October 11, 1998. She said she last spoke with Eric on 11/13/98 and said at one point, he had been staying in room 171 at an unknown hotel with a phone number of area code 702-384-1441. She said Eric commonly smoked Marlboro cigarettes and that he had been at a half-way house in Long Beach and provided the phone number [REDACTED] 1033. She said she thought the name of the half-way house was the American Flag. Hamilton provided a phone number for Carl Bell of [REDACTED] 4273.

At approximately 1600 hours that same date, I responded to the Downtowner Motel after learning that the phone number 384-1441 returned to their address. I spoke with Desk Clerk Ellsworth Kekua and explained that I was attempting to locate the room of a homicide victim identified as Eric Hamilton. Kekua checked his files and

SEKA000188

APP2063

CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 14 of 21

could find no record under the name Eric Hamilton. In looking for records on room 171, Kekua determined that an individual named Thelya Wilson was currently in the room and had moved in on 11/02/98. I later spoke with Thelya Wilson, black male, DOB: [REDACTED] 73, SS#: [REDACTED] 5541 and learned that he had no knowledge of Eric Hamilton.

On 11/30/98 at approximately 1000 hours, I contacted the LVMPD Pawn Detail and requested a gun registration check for Eric Hamilton, John Seka and Peter Limanni. The results were negative, however, the Pawn Detail determined a .40 caliber Sig Sauer handgun registered to a Tiffany Limanni with a date of birth of [REDACTED] 68 and an address of [REDACTED]. In checking phone records for the Osborne address, I ultimately made contact with Joseph Brizzi. Brizzi explained that he was Tiffany Limanni's father. He said Tiffany had been separated from Peter Limanni for more than a year and had moved to an unknown location in California.

A check of pawn tickets revealed that John Seka using social security number [REDACTED] 5812 and date of birth: [REDACTED] 68 had three entries beginning on 11/07/98. The first entry dated 11/07/98 was for a wire feed welder. The second entry dated 11/10/98 was for a Milwaukee metal saw and the third entry dated 11/10/98 was for a Hitachi disk grinder and sander. These are items that are commonly associated with construction companies and it should be noted that while Seka is purported to be an employee of Cinergi Incorporated, it is also apparent from the investigation that he has no known ownership of the company or equipment.

On 11/30/98 at approximately 1400 hours, I made telephone contact with Steven Limanni, the brother of Peter Limanni. In speaking with Steven, I learned that he last spoke with Peter three years ago. He explained that he was not close with his brother, however, his brother would stay in touch with their mother. Steven said that Peter had a white dog named Jake and took the dog everywhere with him. He did not feel that Limanni would leave the dog under any circumstances.

On 12/01/98 at approximately 1000 hours, I spoke with Diane Tomasevich, the sister of Peter Limanni. She said she had a telephone call on October 4th from Peter and in the beginning portion of November, she had attempted to phone Peter and spoke with Jack. She said Jack told her Peter was in Reno with his girlfriend, Jennifer. Tomasevich said that her mother, Sylvia Cappella had not spoken with Peter since the first part of November. She explained that her mother was in poor health and requested that I not contact her to question her about her brother indicating that she and her brother Steven would speak with her about it further. Tomasevich said that Peter was extremely close with his dog and took the dog everywhere with him. She said he would even try to sneak it into restaurants at times and that if he went out of town, he would take the dog with him. I explained my concerns to Tomasevich that the evidence and information at hand indicated there was a strong likelihood that her brother Peter may have become the victim of

SEKA000189

APP2064

1 LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Event Number: 981116-0443

Page 15 of 20

a homicide since he had not been seen since the early portion of November, approximately November 5th or 6th and that his dog had been abandoned at the business and his wallet with personal papers and credit cards was discovered hidden in the attic of his business as well as the link to the homicide of Eric Hamilton to Peter's friend, Jack Seka. Having this information, Tomasevich contacted the LVMPD at my request and completed a Missing Persons report.

On 12/01/98 I spoke via telephone with Carl Bell, the cousin of Eric Hamilton. Bell said that his cousin had been under house arrest and wanted to leave Los Angeles for a fresh start in Las Vegas. He said he knew that his cousin was determined and if he did not drive him to Las Vegas, he would find some other way to come here. Bell said he drove Eric Hamilton to Las Vegas on 10/25/98 and got a room at the Downtowner Motel in his name (Carl Bell). Bell confirmed that Hamilton had a dark navy blue jacket, a black brimmed hat and an unknown logo'd dark baseball cap as part of his belongings when he came to Las Vegas. It was believed that Hamilton had approximately a thousand dollars or more with him when he arrived in town. It should be noted that inside the scene at 1929 Western, a dark blue jacket with apparent bullet holes was recovered as well as a black baseball cap. Bell said that Hamilton wanted to get a job in Las Vegas where he could be paid under the table. Bell said Hamilton was a known drug user and would use crack cocaine.

On 12/02/98, Tomasevich telephoned my office and explained that they had been contacting people that knew Jack and her brother Steven had been in contact with a Mr. Polsky from a business called Motor Works in New Jersey with a business phone of 609-251-0050. She claimed Polsky said that he was to pick Jack up from the airport in October when he was coming back home. According to Polsky, Jack was not on the plane but showed up the next day. He said the following day, Jack returned to Las Vegas. After returning to Las Vegas, Polsky received a phone call from Jack claiming that Pete had vanished and had taken all the money from three accounts.

On 12/02/98 I telephoned the South Lake Tahoe, California Police Department and left a message on the voice mail of Detective Brian Williams requesting a check for the Cinergi van as well as the business that Limanni had been in the process of opening in South Lake Tahoe.

On 12/02/98 I received a telephone call from a woman identifying herself as Marilyn Mignone. She explained that she was a paralegal that had been involved in a business with a man named Amir Shabant Mohamed. She provided his social security number as [REDACTED] 7875. She said that Mohamed was to be a supplier of cigars for Limanni and she was trying to contact Limanni at his business and attempt to locate Amir Shabant Mohamed because Mohamed had absconded with owing bad checks in the amount of approximately \$50,000.00. Mignone explained that Mohamed had previously been staying at [REDACTED] in

SEKA000190

APP2065

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 16 of 21

Spanish Trails and approximately two weeks ago, an individual in a white van was seen by security as assisting Mohamed moving items from his residence. Mignone went on to explain that she was owed money by Mohamed and was involved in civil litigation with him and was attempting to locate him.

X On 12/07/98 at approximately 0900 hours, I telephoned Takeo Kato. Mr. Kato explained that he was the investor in Peter Limanni's business along with his business partner named Kaz Toe. Kato said he and Toe owned a company in California called International Trading. Kato said Limanni's Las Vegas business was started in the end of April or beginning of May, 1998. They invested approximately \$100,000.00 in the business. According to Kato, the air conditioning business was failing and on October 15th, he was supposed to get the money he invested returned as well as the four vans and Toyota pickup truck that he had leased for the business. On October 13th, Limanni went to California and met with Kato and attempted to get Kato to invest in the cigar business.

Kato said on October 26th, he came to Las Vegas and told Limanni that he decided he would not invest in the business. He said Limanni explained that if there was a problem with bad credit, he knew how they could get false identification to access a fresh credit line. Kato said Limanni showed false ID with Limanni's photograph and said that he could become another person. Kato refused to become involved in the business deal and took one of the Dodge vans from Cinergi and drove it back to California leaving three vans and one pickup truck in the custody of Limanni. Kato said that on October 27th, he talked briefly on the phone to Limanni. On November 5th or 6th, he called to speak with Limanni and spoke with Jack. Jack said that he had not seen Peter. Kato later learned that Peter Limanni's cell phone of [REDACTED]-7433 was turned off as of November 17th. Kato said Limanni had one of the Dodge vans at a business he was starting in Tahoe. He said the VIN number to the Tahoe van was 2B7JB21Z8WK134379. The only further information Kato could offer was that Limanni mentioned having a business on an island south of Florida in which he could purchase cigars for the cigar business. I have not been able to substantiate the existence of this business with any of the friends or family members of Peter Limanni.

Kato said he recovered a note pad from the property left inside the 1933 Western address. The top page was a list dated 11/12/98. Number 14 on the list was a notation to find a home for Jake (Limanni's dog). I asked Kato to mail the pad and note prior to leaving on his month long trip to Japan. I told him I would need to take a statement from him upon his return to the U.S.A.

On 12/07/98 at approximately 1230 hours, I met with Jennifer Harrison at the LVMPD Homicide Office. Harrison provided a taped statement in which she explained that she was the current girlfriend of Peter Limanni. She said they met July 31, 1998 and she last saw him at her home on November 4, 1998. She

SEKA000191

APP2066

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 17 of 2

explained that their relationship had been on a downturn because Limanni was wanting to move his business to Tahoe and she wanted to remain in Las Vegas. According to Harrison, in September or the first part of October, Peter Limanni and Jack, his friend, drove one of the Cinergi vans to Tahoe to leave it at the business and returned to Las Vegas in a second van. She said the business had a total of four vans and one small truck.

Harrison said on the morning of November 5th, she attempted to call Peter Limanni on his cell phone and could get no response. She thought this was unusual because his cell phone was always turned on. She then utilized the radio portion of her Nextel telephone and alerted the telephone of Jack Seka. She said the alert was successfully sent indicating that his phone would have been turned on. She said his phone then was turned off. Harrison called Jack Seka's cell phone number knowing that he did not have Caller ID. When he answered the phone, she questioned him as to the whereabouts of Limanni. Jack told her that Limanni had spent the night at the Western address and had gotten up early in the morning, showered and had left in the pickup truck and he had no idea where he could be located.

Harrison said she left her work around noon and went to the 1933 Western address in an attempt to locate Peter Limanni. When she arrived, she noticed the pickup truck was parked near the back door. She knocked at the door with no response and felt that Limanni was inside with another woman. She said she utilized her key to open the front door and found the door leading to the back office was locked. She said that door was never locked and she again felt that Limanni was with another woman. Upon opening this door, she observed a white female sleeping on the couch and Jack Seka passed out in the middle of the floor. She went to the back bedroom that was utilized by Limanni and Seka and found that door to be locked. Feeling that Limanni was inside with another woman, she began beating on the door. She said the female that had been sleeping on the couch woke up and asked her what she was doing. Harrison said that she knew Peter was inside with another woman and she was going to get inside. The woman remarked "Peter? Jack told me Peter's dead." Harrison said she blew it off thinking that they were trying to cover for Limanni in stopping her from seeing him with another woman. She said she ultimately opened the door and discovered that no one was inside the bedroom. She searched through the bedroom and found a cartridge on the floor. Harrison remarked that she saw all of the shoes that Peter owned as well as a pair of pants with a belt that she believed he was wearing when she last saw him at the residence. She said she kicked at Jack trying to wake him up to find out where Peter was, however, he was so intoxicated or high on drugs that he would not wake up. She noticed that on a table, there was approximately \$200.00 in cash as well as some marijuana. Harrison said she gave the female a ride to a nearby bar at Western and Oakey and learned that the woman was a dancer that had gotten off work at Cheetah's at 5:00 in the morning and was walking down the road when Jack

SEKA000192

APP2067

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 18 of 20

Seka drove up in the pickup truck and asked her if she wanted to have a drink. The woman claimed that they had bought a six pack and returned to the business at 1933 Western when Seka passed out on the floor and she went to sleep on the couch. Harrison said she could not recall the woman's name although she could provide a description as listed in her statement.

Throughout her statement, Harrison stopped and started several times and ultimately asked if I thought the murder was mob connected and if her life was in danger. I explained that there was no mob connection that was apparent to the police and I did not believe her life to be in danger. She explained that Jack had called her after being interviewed by the police and told her about the interview. Harrison said he asked her if he could use her car because the police were watching for the van he was driving. He claimed that he wanted to go back to the business to pick up some items. Harrison said she refused and later received other phone calls from Jack in which he attempted to persuade her that Peter owed money to the Japanese businessman and they were perhaps the one's that had killed him. Jack told her that he was wanted for other crimes from his home state and was hiding out because he would be arrested for charges unrelated to the homicide investigation. It should be noted that a check through NCIC revealed no warrants for John Joseph Seka although it does list a criminal record that includes Robbery.

Jennifer Harrison said Limanni had bank accounts with Wells Fargo, Nevada State Bank and Silver State Bank. She believed there was an additional Nevada State Bank account strictly for the Rabbit's Smoke Shop.

According to Harrison, Jack never had any money. Any money he got, he had to ask Peter Limanni for. She said Peter Limanni would constantly degrade Seka and referred to him as "his nigger." Harrison said that when Jack would get drunk, he would get very friendly with her and it would make Limanni take notice and inform Seka that he should not look at her like he wants to "fuck her."

Harrison said she was told by Seka that when he went home for his daughter's birthday, he walked in and found his girlfriend in bed with another man. She said he was extremely upset because of this.

For further details, see the transcribed taped statement of Jennifer Hamilton.

On 12/08/98 at approximately 0900 hours, I once again telephoned the South Lake Tahoe Police Department. I explained that I had received no call back from my first request to check the Lake Tahoe location of Limanni's business. I made contact with Detective Sgt. Alex Schumacher and I was advised that a check of the location would be made and I would be re-contacted.

SEKA000193

APP2068

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 19 of 21

On 12/09/98 I received a voice mailbox message from Sgt. Schumacher indicating that the business was vacant and locked and that the van in question bearing Nevada license 113JME was parked at the business location.

On 12/09/98 I made contact via telephone with Peggy Eichhorn, a realtor with Coldwell Banker-McKinney and Associates, Incorporated in South Lake Tahoe, California. She explained that she is the realtor that had arranged for Peter Limanni to rent his office space for his business in South Lake Tahoe. She said Limanni was in her office on September 22, 1998 to sign the lease for 2494 Lake Tahoe Blvd. and the check bounced. She said he returned on October 5th with another check. On that date he was with a young looking male whom she did not know. She said Limanni had paid for three months on the lease. When the rent became overdue, she sent a three day notice to pay the rent as well as registered letters asking him to move his van. She said the letters were all returned to her unopened.

Eichhorn said she had been in contact with Limanni's mother, his girlfriend Jennifer, a real estate broker in Santa Monica and his bank and that they had not heard from Limanni. Eichhorn faxed a brief statement indicating what she had told me as well as the rental agreement signed by Peter Limanni and a credit report.

In a telephone conversation with South Lake Tahoe Police Department Sgt. Schumacher, I was advised that his department would conduct a welfare check of the interior of the business and contact me with any pertinent information. At the time of this report on 12/10/98, there has been no further contact from the South Lake Tahoe Police Department.

VIII. FORENSIC LABORATORY EXAMINATION:

On 11/17/98, a request was submitted for the latent print processing of a Skoal Tobacco container, two Beck's empty beer bottles and seven pieces of lumber that were recovered from the Las Vegas Boulevard South scene. Two Marlboro cigarette butts from the scene were submitted for DNA analysis. As a result of the initial latent print processing request, latent prints found on lumber at the Las Vegas Boulevard South scene have been matched to Jack Seka and Peter Limanni.

On 11/23/98, a DNA request was submitted for samples recovered at the Las Vegas Boulevard South scene, the 1929 Western Avenue scene and the 1933 Western Avenue scene as well as the above listed Dodge van and Toyota pickup truck.

Forensic requests have been submitted on the firearms evidence to determine if possible what type of weapon they may have been fired from and if they were fired

SEKA000194

APP2069

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 981116-0443

Page 20 of 21

from the same weapon. A request has been submitted to determine if hairs found on the clothing of victim Hamilton are consistent with hair recovered from the dog inside 1933 Western. A request has been submitted for a comparison with the tire impressions recovered from the Toyota pickup truck with cast impressions recovered at the scene on Las Vegas Boulevard.

At the time of this report, the DNA results, firearms results and tire impression results have not been completed.

IX. CONCLUSION:

John Joseph (Jack) Seka remains at large. Records from Nextel Communications via indicate that the cell phone was turned off on 11/30/98. Peter Limanni remains a missing person and it is believed that blood evidence recovered in the investigation will support the assertion that Peter Limanni was killed by Jack Seka and transported in one of the vehicles, possibly the Dodge van containing the recovered blood samples.

For further information, please refer to any and all reports under Event numbers 981116-0443, 981106-0539, 981120-0699 and 981117-0730.

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SEKA000195

APP2070

EXHIBIT 12

SEKA000196

APP2071

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7
8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA
10

11 JOHN JOSEPH SEKA,) 3:05-cv-0409-HDM-(VPC)
12 Petitioner,)
13 vs.)
14 E. K. McDANIEL, et al.,)
15 Respondents.)

16 **DECLARATION OF ED HEDDY**
17

18 I, ED HEDDY, declare as follows:

19 1. I am an investigator in the office of the Federal Public Defender, District of Nevada
20 and have been so employed since August of 1995. I am currently assigned to the non-death
21 habeas unit investigating federal habeas petitions. From July of 1987 until August of 1995, I was
22 employed as an investigator with the Nevada State Public Defender's Office, Carson City,
23 Nevada. Prior to that I was a fully commissioned Sergeant of the Carson City Sheriff's
24 Department, beginning December of 1973 and continuing until July of 1987. During this time I
25 was assigned to a variety of investigative tasks including but not limited to Homicide
26 investigations. As a defense investigator I am assigned to reinvestigate the case and give an
27 opinion as to what should have been done as a defense investigator.
28 ...

1 2. I have been assigned to assist Debra A. Bookout, Assistant Federal Public Defender,
2 in the preparation of the case entitled JOHN JOSEPH SEKA vs. E. K. McDANIEL, et al., 3:05-
3 cv-0409-HDM-(VPC). The investigation entailed reading and reviewing the discovery provided
4 in the above entitled case, locating and interviewing potential defense witnesses. After having
5 reviewed the discovery material it is clear that a great deal of traditional investigative effort was
6 never undertaken by the trial counsel.

7 3. As stated in GROUND 11 C. of the Federal Petition. Trial counsel was ineffective in
8 failing to adequately investigate and interview witnesses.

9 1. *Justin Nguyen*

10 2. *Marilyn Mignone*

11 3. *Amir Mohammed*

12 4. *Ken Bates*

13 4. After having reviewed trial counsels' files which also contained investigative files of
14 Phil Needham, Investigator, Professional Investigators, Inc., I saw no reports or notes indicating
15 that an attempt was made to locate and interview the above named defense witnesses. Nor was
16 there any indication that even a simple background check was made on the witnesses.

17 5. On February 9, 2007, I made contact with Ken Bates in Las Vegas, Nevada. After
18 having shown Mr. Bates a photograph of John Seka, he said he recognized him as having helped
19 Amir Mohammed move from Spanish Trails located on West Tropicana to a townhouse
20 belonging to Ben Boykin located on Laguna Del Sol Dr., Las Vegas, Nevada. Furthermore, after
21 a short period of time Mr. Bates recalled Mr. Seka helping Amir Mohammed move from the
22 Laguna Del Sol address to Tucson, Arizona.

23 6. On March 1, 2007, after conducting a background check on Ben Boykin and Sam
24 Akkad and having determined that Mr. Boykin was living in Tucson and Mr. Akkad living in
25 Phoenix, I flew to Phoenix and made contact with Mr. Akkad. He remembered Mr. Seka after
26 having viewed his photograph. Mr. Akkad recalled having been in a joint business venture with
27 Amir Mohammed where they had owned and operated an Italian clothing store, Panorama Italy,
28 in Las Vegas in 1998 and that Amir Mohammed owned Royal Diamonds, Inc. located on South

1 Valley View Blvd. Furthermore, Mr. Akkad recalled that sometime late November or early
2 December 1998 he was in Tucson with Amir Mohammed and Ben Boykin. Mr. Akkad recalls
3 seeing Mr. Seka in Tucson explaining that Mr. Seka had driven a U-Haul truck from Las Vegas
4 to Tucson with Mr. Mohammed's belongings. After staying a week or two in Tucson, Mr. Akkad
5 remembered getting ready to drive back to Las Vegas when Mr. Seka asked if he could ride back
6 to Las Vegas with him. Mr. Akkad recalled giving Mr. Seka a ride back to Las Vegas but didn't
7 remember exactly where he dropped him off. During the ride back to Las Vegas, Mr. Akkad
8 recalled Mr. Seka asking him for a job and asking him to help him find a job. He also recalled
9 Mr. Seka saying numerous times "I want to be just like you when I grow up".

10 7. On December 2, 1998, Detective Thowsen interviewed Marilyn Mignone. Detective
11 Thowsen wrote in his report that Ms. Mignone told him, she was a paralegal involved in a
12 business with Amir Mohammed and that Mr. Mohammed was a cigar supplier for Peter Limanni.
13 She told Detective Thowsen that she was looking for Mr. Mohammed because he had taken off
14 with fifty thousand dollars. She also told him that a white van was seen in Spanish Trails
15 assisting Mr. Mohammed in moving. Further investigation revealed that Ms. Mignone was also
16 the office manager for Panorama Italy and Royal Diamonds Inc.

17 8. On March 1, 2007, I drove down to Tucson, Arizona and met with Ben and Sammie
18 Boykin. I was informed that Mr. Boykin was in poor health from having open heart surgeries and
19 having dementia causing him to lose his memory. After showing Mr. Seka's photograph to Mr.
20 Boykin, he said he thought he looked familiar but he was not sure. However, Mrs. Boykin
21 recognized Mr. Seka. According to Mrs. Boykin, they were attempting to purchase a townhouse
22 in Las Vegas off of Laguna Del Sol Dr. when Mr. Boykin had to go into the hospital to have
23 open heart surgery. After Mr. Boykin was released from the hospital they moved down to
24 Tucson. She recalled Amir Mohammed having stayed at the townhouse for a short period of time
25 then moved to Tucson where they helped him get a place of his own. She further recalled that
26 Mr. Seka showed up sometime around Thanksgiving of 1998 in a U-Haul truck. Mr. Seka had
27 brought Mr. Mohammed's belongings to him. She also remembered that Mr. Seka had ridden
28 back to Las Vegas with Mr. Akkad. Mrs. Boykin further relayed that Amir Mohammed had taken

1 them for about fifty thousand dollars and they have not seen him for about five years.

2 9. After conducting an extensive background check and attempting to locate the
3 whereabouts of Amir Mohammed all leads have been unsuccessful in locating him. It is my
4 belief that Mr. Mohammed has gone into hiding or has gone back to Syria, his home country.

5 10. It is my belief that if trial counsel had expended the same efforts in attempting to
6 locate Ken Bates, Amir Mohammed and Marilyn Mignone before the trial commencing on
7 February 12, 2001 they would have easily located them. Furthermore, every investigative tool
8 that I utilized in locating the witnesses was available to Investigator Phil Needham.

9 11. It is my belief that if an adequate investigation was conducted prior to trial, counsel
10 would have obtained the same information and possibly more details that may have been lost
11 from witnesses memory due to lapse of time. By locating and interviewing Ken Bates I was led to
12 Sam Akkad and Ben Boykin.

13 12. The minimal number of hours of investigation that occurred in this case is woefully
14 inadequate to properly prepare a death penalty charged double murder case. There should have
15 been at least an attempt to verify Mr. Seka's whereabouts from November 17, 1998 to April
16 1999. An area absent from the defense investigation was an experienced interest in and review of
17 potential defense witnesses. Investigation into potential defense witnesses from the material that I
18 received appears not to have been considered. A competent investigative review, had it been
19 done, would have possibly drawn serious question into the State's claim that Mr. Seka left the
20 jurisdiction to avoid prosecution, and would have at least met the defense's responsibility of
21 investigating Mr. Seka's claim thoroughly. Admittedly an investigator would have no way of
22 knowing in advance that such efforts would have produced desired results; however the potential
23 of success did exist and based on my reviewing the discovery material, no attempt as such was
24 ever made by the defense. Alternatively, if such efforts were made it is not mentioned in any of
25 the discovery material.

26 ...

27 ...

28 ...