

**No. 86694**

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IN THE NEVADA SUPREME COURT

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**John Seka,**

Petitioner-Appellant,

**v.**

**State of Nevada, et al.**

Respondents-Appellees.

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**Petitioner-Appellant's Appendix**  
**Volume 12 of 15**

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Dated October 4, 2023.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

*/s/ Jonathan M. Kirshbaum*

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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:

John Joseph Seka, #69025 High Desert State Prison P.O. Box 650 Indian Springs, NV 89070	
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/s/ Kaitlyn O'Hearn  
An Employee of the Federal  
Public Defender, District of  
Nevada

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
VOLUNTARY STATEMENT**

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**STATEMENT OF: JENNIFER HARRISON**

Q: Okay.

A: Army camoflaug.

Q: So you were questioning Jack about what shoes Pete had still at the Cinergi. He explained to you that he had all of shoes still there?

A: I want to say he had them all but maybe his sneakers were missing. I said well that's weird, he'd have his boots on and I think that's what the whole thing is, is that his boots were there. Plus it was just weird to me 'cause he always wore his boots.

Q: Yeah.

A: Always.

Q: That his favorite thing.

A: Always, ever since he bought them, he never wore anything else. I didn't even saw him wear his, um, \_\_\_\_\_ missing one and, um, his sneakers he never wore again and I think that's what it was, is I said something and he said his boots were there which I thought was weird.

Q: And you're thinking that it's odd if he left and he leaves his boots here.

A: Hm-hmm.

Q: And his dog?

A: Hm-hmm, oh most definitely, yup.

Q: Okay.

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A: And then if you say that, uh, I remember seeing quite a few things that if they're still there, that's odd to me. He had a folder with, um, some really bizarre script, um, for acting. I remember reading that it was really weird stuff and, uh, if that was there but mainly that, the big case with the liquor in it and the bottle of Crown and some photos, if that was there that's definitely weird.

Q: Okay.

A: And then mainly I think the number one thing is his dog, Jake, 'cause it wasn't just a dog, I'm telling ya, they were, he was always with him, I mean he was his baby, he'd treat him, I mean just, I mean, man's best friend, you know, and always brought his steak home, always had steak for him, you know, and he wouldn't do that.

Q: Okay, anything else come to mind?

A: You know I think he was from, I don't know if you knew, California, Santa Monica.

Q: That who was from there?

A: Santa Monica, Peter.

Q: He'd talk about being from there?

A: Somewhere, I want to say it was Santa Monica, wherever the peer was, I've only been there twice, California. I want to say it's Santa Monica though.

Q: Okay.

A: Is that near Silicone Valley?

Q: Silicone Valley.

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A: Something was mentioned about Silicone or Silicone Valley.

Q: What did he say about that?

A: Is that where he had a business. See what he told me is that he had an air conditioning business and then some things went wrong and he wants to take CInergi, you know, big International and go into all the big cities and this and that so, that's funny, you know honestly I just, I knew he was a bull shitter and I just, uh, yeah, and, you know, in one ear and out the other kind of and nothing ever added up and especially when someone has no family, you know, I just, no family, doesn't- no friends, none. I even asked him like where are all your friends, he has, he had no friends, no names, no nothing, nothing.

Q: So when you guys would go out it would be just the two of you and...

A: He never met any of my friends. He would never, and we got invited many times, you know, many times and I, I love to go out with a bunch of people, you know, and, uh, never. He was very controlling. Peter was very controlling.

Q: Did he ever talk about or show you any false ID's?

A: Uh-uh (negative). False- one California, the only license that he had that I saw was a California license. (Beeper going off).

Q: Okay. Was there ever any friction between Jack and Peter involving you?

A: Yes. This one night that \_\_\_\_\_, we went to Palace Station and I had on this Calvin Klein, um, a shirt like that kind of but with, uh, I can't remember the exact

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make of it but I had on that and a pair of jeans and we were eating at the, the Oyster Bar 'cause we ate there a lot and, um, Jack was getting drunk and I remember he dropped his beer. Peter and I were standing in line and we were playing the poker mach— or the, um, the Double Diamonds machine right there and Jack was holding our spot in line and I remember Jack was getting drunk and he dropped his beer and, uh, he just kept, you know he was getting drunk and kind of looking at me and I was just ignoring him.

Q: When you say he was looking at you, what do you mean exactly.

A: Just kind of looking at me up and down and just like this but drunk and kind of smiling, and just acting cutesy which I knew.

Q: What, what was he thinking do you think. What was it implying to you that he was thinking.

A: Well he was giving me that look like, uh, you know, screw me type look, that kind of look and, uh, I know, and I could look at Peter and tell that he saw it and he just gave him that look like, you know, don't even, 'cause Peter was mean, I mean he had that look, that crazy look in his eye, you know and, uh, then that was dropped, he just gave him that look and nothing was said and then we had dinner at the, um, Oyster Bar and when we left, Peter, um, we went outside and Jack was had still been drinking and he was letting him drive. I was like, you're gonna let him drive, and he was like, he goes, yeah let him drive, Peter did. Well, then, and that was

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after, when we went outside to the valet, we were sitting on the bench and, uh, Jack was just sitting there and he was smiling at me and he goes, oh, he called me babe, that's right. He says, hey babe and then, and, uh, Peter said, "Motherfucker, you better shut the fuck up, who the fuck are you disrespecting", da-na-da-na and all this and, uh, um, Jack, that's when Jack got in the car and said whatever and went like this and he just walked, he just threw his hands up, got in the truck and I was like are you all right to drive, he goes I'm fine, I knew he wasn't but, well I— you know I really couldn't do anything with, uh, Peter so anyway though and then Peter said, he said, uh, "I will straighten him out if he ever looks at you again like he wants to give you that okay, he wants to fuck you look and disrespect me."

Q: He didn't feel so much like he was disrespecting you, but disrespecting him?

A: Hm-hmm, 'cause I think it was the whole idea like I referred earlier about, you know, Jack just, you know kissing Peter's ass, which, you know, he did. I was shocked, he did a lot of things I'd never do. I mean just jumped, I mean if he told him to jump, he jumped. I mean he'd tell him to go get coffee, he goes okay, okay, I'm going, I'm going. You know, just, uh, and Jack never had any money. He always had to ask Peter for money, always, he had him on an allowance.

Q: So he was always kind of beholdng to Peter if he needed to do something, he had to ask first if he could do it.

A: Yes, oh yeah.

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Q: Were you ever around the two of them when they were working in the business or anything, if something went wrong, you were talking about something getting spilled.

A: Oh, and one time, yeah, they were, um, fixing up the, uh, same building but turning it into the cigar shop and they were, Jack had been in there painting and stuff and Jack didn't put the lid on the purple paint and he spilled it and Peter, I mean, flew off the handle and just totally degraded Jack and I was like geez, he goes you have to just learn to blow him off, you know, he has, oh yeah, and he did say that he goes that's just the tip of it and he said that's just a little piece of it. Underneath that body, inside that body is an iceberg just waiting to explode. He did exactly say that one time.

Q: That's what who said?

A: Jack said about Peter.

Q: Okay.

A: That he has a temper and that's just the tip of it, inside-- underneath \_\_\_\_\_ is an iceberg ready to explode and sometimes it comes out and he knows I let him vent, you know, let it go and I was like screw that have anyone disrespect me by \_\_\_\_\_ that way, 'cause he was, he was very cruel to Jack.

Q: Did, uh, did Pete drink very much or use drugs?

A: No.

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Q: Once again.

A: Uh-uh.

Q: No.

A: Uh-uh.

Q: Did he drink at all?

A: He drank occasionally, yeah he drank occasionally.

Q: Okay.

A: He drank martini's I remember the first night and then beer.

Q: Okay, but what about Jack?

A: Jack smoked dope everyday, I mean not everyday but every time I saw Jack, he was smoking pot and drink a lot of beer.

Q: Do you know if he did anything besides pot?

A: Not that I'm aware of. Nope, not that I'm aware of.

Q: Were there any other times that you were around Jack that he seemed like he was trying to show interest towards you that you had to be cautious of about upsetting Peter.

A: There was a few times that Jack, whenever he got drinking and buzzed, you know, he would just give me that look and I just, and I can't, just that friendly look and I don't know if he was doing it to get back at Peter maybe or, I don't know but he never touched me, he never ever touched me and he never said anything nasty to

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me. He called me babe, um, when was that, one time, I remember this one, one time and I want to say it was in the Palace Station, but we used to eat there a few times a week at the, um, Oyster Bar and, uh, he referred to me as babe a few times and then Peter said, "Why do you keep calling her babe?" He says it's just a habit and in my mind I thought that's not a habit he always calls me dear, he calls everybody dear and he was calling, he said yeah come, that's all right babe, come on, I love that shirt, he may have said I love the way you dress, just saying things like that, that I just knew that Peter was gonna have a fit about and the way, and I think it was a game between the two of them. I do, I think, uh, Peter was like the king and Jack was his little servant and then Jack would get drunk and wake up and be sick of it and I'll show you.

Q: Okay, anything else?

A: No.

Q: That will be the end of the statement, the same persons are present, the time is now 1340. That's all, thank you. The tape's turned back on, the time is 1342. You were just saying that you thought of something else about when Jack first called you the night that he was interviewed by the police.

A: Yes.

Q: Tell me what it is that he said now.

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A: He, uh, called to tell me that, uh, he doesn't know what's going on, he just got called in for questioning for this murder that took place and, uh, he wanted, um, to let me know that they're probably gonna be calling me. He goes 'cause I told them, you know, I don't know what's going on with Peter, he had been acting weird, even his girlfriend said that he had been acting strange so you know Jen, the police asked me who the girlfriend was, I gave them your name, and your phone number, told them that you worked at the Frontier Directory, 'cause I couldn't lie about, and I was like no, I understand.

Q: Okay.

A: I understand, have them call me.

Q: Anything else you can think of that might be important?

A: Um, no.

Q: Okay, that will be the end of the statement now, the time is 1345. Tape is back on the time is 1355. Jennifer you were just telling me something else that you recalled about a conversation that you had (beeper going off)...

A: Excuse me.

Q: ....a conversation that you had with, uh, Jack and when do you think this conversation took place?

A: It took place on a Thursday afternoon or Friday, November 5 or 6.

Q: Okay.

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A: November 5 or 6, um, I was talking to Jack, have you heard from Peter or anything. He goes no, he's probably, you know, I don't know if he said he was out running around doing stuff and I said, um, I said well who did he go with. He goes he left with somebody 'cause this morning around 8 o'clock he was up bright and early. I thought maybe you got his ass on a track that's what he said something like that. I thought maybe you gave him a good kick in the ass and he's out motivated getting the work done. He goes 'cause I couldn't believe that I heard him up 8 o'clock showering and I was laying in bed and, oh man I know he's gonna wake me up and get me going and the next thing you know, I heard him leave, somebody picked him up. I said who, he goes I don't know. I said who could it be, he doesn't know anybody and I said who could it be and he says I don't know who it was and did he take his truck, he said no. So he left with— all the vehicles there and Jack said that he heard him, he said— Jack, I said Jack, you can— 'cause this is what I was thinking that maybe, you know, he had another girlfriend or something. I said you didn't tell me, did he not come home last night. He says no, he came home, I said aren't you gonna stay at Jen's and he said no. So he came in, he went to bed, we stayed up for awhile, we both went to bed, he stayed the night there. He was there Wednesday night and then Thursday morning I heard him get up, get in the shower, I couldn't believe he was up so early and I waited for him to come in and wake me up and he didn't.

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STATEMENT OF: JENNIFER HARRISON

Q: This is what Jack is saying to you.

A: Told me, this is what Jack told me that sometime between that Thursday, Friday, Saturday, Sunday sometime in there.

Q: Knowing Jack and knowing Pete, would you expect that Peter would get Jack up from things that he told you? Did he ever complain about Jack sleeping?

A: Yeah, always, Jack was always sleeping and Peter used to get really pissed off because he wouldn't even get up and answer the phone for business and when Jack, um, when Peter stayed at my house a few times, not even that often, he maybe stayed at my house, I don't know, five times and, uh, I remember not every time but at least two or three times, um, Peter waking up and calling the office to test Jack.

Q: To see if he'd answer the phone?

A: To see, and he wouldn't and he would just fly off, he would go, man he wants to keep this business running, can't even depend on him. Here he had no life in New Jersey, I'm giving him a life now, you know, he has more now than he's ever had and all this stuff.

Q: Okay.

A: You know, and then that was, and that's when Jack said was the last time he saw Peter was that night, he said he stayed there, he got up in the morning and he was, said that was, that Thursday, the fifth was the last day that Jack heard from Peter.

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STATEMENT OF: JENNIFER HARRISON

that morning he just left, he said he left with somebody. I said who, he says I don't know, said who, who could it have been.

Q: And what did he say.

A: He goes, I don't know.

Q: That's all he would offer.

A: That's it.

Q: Did he ever change his story about that or offer anything different?

A: Nothing.

Q: Okay.

A: No.

Q: Anything else?

A: No.

Q: Okay, that will be the end of the statement, the time is 1400. The tape is back on, the time is 1412. Jennifer after we turned the tape off, you were telling me that you were kind of concerned, worried this might be a, some sort of a Mafia thing and your life might be in danger and we tried to explain to you, or I tried to explain to you with everything we know about the case, there's nothing like that involved here it appears, um, and after learning that you've told me some more information, would you repeat that information again for me please.

A: Yes. Um, Thursday morning when I got to work at 8 o'clock...

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

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EVENT #: 981116-0443

STATEMENT OF: JENNIFER HARRISON

Q: This is November 5?

A: This is November 5.

Q: Okay.

A: November 5, Thursday morning, I got to work at 7:30 and I tried to call Peter at 8 o'clock which is kind of funny I did that 'cause I wouldn't expect him to be up at 8 o'clock but he was excited the night before about new things going on with business. So I tried calling Peter and his phone immediately went to voice mail so it didn't even ring so therefore I knew it was turned off and then I tried to radio Peter and it didn't go through so I didn't let that go, I called Jack. I radioed Jack and you know the radio shows that it's me calling.

Q: Okay, what kind of phone is it that you're talking about here.

A: A Nextell.

Q: And this is the phone that you just showed me?

A: Yeah, yeah, it's Nextell.

Q: And where did you get his phone from originally?

A: From Peter. Peter gave it to me..

Q: What phone number is it that you have for this phone?

A: It's a new number now.

Q: Okay what number is it now?

A: Now?

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STATEMENT OF: JENNIFER HARRISON

Q: Uh-huh.

A: [REDACTED] 5373.

Q: And what number was it when he first gave it to you?

A: It was, uh, [REDACTED] it was, uh, [REDACTED] 9242.

Q: Okay, and this phone will work as a telephone plus it will also work as two-way radio with other phones that are programmed with it, is that correct?

A: Correct, yeah.

Q: So after trying to call on the phone and not working, you said you tried to call who on the radio?

A: I called Jack on the radio and the messages said page sent successfully and next thing you know it went through and then it was turned off.

Q: And this is the same sort of Motorola phone that we have here in Homicide and so if the phone works exactly the same as mine, when we go to the person mode, it will give you the name of the person that you want to send a message to or contact.

A: Right, right.

Q: And then you can alert, push the alert button.

A: Right, alert them.

Q: And when you push the send button, it will tell you if the phone is on, that it's been successfully sent.

A: Right.

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STATEMENT OF: JENNIFER HARRISON

Q: Is that correct?

A: That's correct.

Q: And that would mean that they would receive it and it would show who's calling them.

A: That's correct.

Q: And what happened after the person received the call?

A: He must have turned the phone off.

Q: Okay.

A: Because then it didn't go through.

Q: What happened next?

A: Well then I got angry of course and I called Jack on his cellular and he, of course, didn't know it was me calling, so.

Q: He didn't have any caller ID on that phone.

A: He did not, he did not have caller ID so I called Jack and he answered the phone and I said...

Q: What time is it now?

A: I'd say, the best of my knowledge, I would say 8:30.

Q: In the morning.

A: In the morning, 8:30, 9 o'clock a.m., Thursday morning, and, uh, I called Jack and he answered the phone and, uh, he told me what I had said earlier that Jack-- that

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STATEMENT OF: JENNIFER HARRISON

he couldn't believe Peter was up and out and about early, and I go oh, he's out and about already. He goes yeah and he's got me running errands. I've got a list of things to do. I heard him get up this morning, shower, and leave, and I said oh, is he in the truck? He goes no I'm in the truck. I said what's Peter driving? He says somebody picked him up. He said I don't know who he's with but somebody came and got him this morning. I was like well who's he with and now, I mean I'm curious because he didn't know anybody, and, uh, Jack said I don't know, he must have got his ass, you know, on, on track, he's up and going and this and that and I said Jack, I said, God, I said, you sound wasted, 'cause he sounded just out of it totally. I said you're driving. He goes, I'm fine, he goes, I'm just so depressed. He goes you think Peter's acting weird here, 'cause I told, I was like, you know, Peter's been acting kind of strange, you know, and he said, um, when he, you think things are bad here, when I went home, you don't even know, you don't even know what happened in New Jersey, 'cause it's a good thing I came back or I'd be, um, probably under the jail, 'cause I took everything I could not to kill her, 'cause he walked in and caught his girlfriend in bed with someone else.

Q: This is Jack \_\_\_\_\_.

A: Jack is telling me all of this.

Q: On the telephone?

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STATEMENT OF: JENNIFER HARRISON

A: On the phone, right. Then he, and the only other thing come up about Peter, is that Peter was out and about, running errands, that he's been going since, you know, 6 o'clock this morning, or so, some time early in the morning, he heard Peter leave, he left him-- he goes, you know Peter, he left me a list of shit to do, which I believed cause Peter would always do that. And Jack said he's out running the errands. I says okay, well I'm gonna call now and see if he wants to go to lunch and he said okay, and then, uh, we got disconnected, we cut out so I went to call Jack back and I got his voice mail, he wouldn't answer his phone.

Q: Okay.

A: And then he never, I kept calling and calling, then I kept calling Peter and Peter's phone wasn't on, then I knew something was up 'cause Peter never left without his phone, never, and never would just drive around without it turned on, never, ever, never.

Q: What number did Peter have on his telephone that you would call?

A: Uh, [REDACTED]-7, [REDACTED]-7411, and Jack's is [REDACTED] 5957.

Q: Okay.

A: And, uh, so we got disconnected and I didn't talk to Jack anymore and around 11:15 I remember it was 10 o'clock, that's right, it was 10 o'clock the last time I left Peter another voice mail, hey let's go to lunch, \_\_\_\_\_ and I can't believe you're out.

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STATEMENT OF: JENNIFER HARRISON

Q: This is the morning still?

A: Still in the morning yeah.

Q: Okay.

A: Well I had gotten called into a meeting with my boss and then after the meeting I looked at the clock and it was 11:15 and I remember that 'cause it had been, um, no it was 10:30, it had been forty-five minutes, I was like forty-five minutes and he hasn't called back, that's just strange. So I had gotten like something, well I got— can only just tell you this, my instinct, for some reason I dropped everything at my desk. I left everything the way it was and I said I'll be back and I just left and I got in my car and I was already kind of just, just feeling uneasy, just, you know, just intuition and I got to the office and the truck was there and I don't remember how many vans, I'll say two vans were out front and the truck.

Q: Do you know what the vans looked like?

A: Cinergi and a plain white one.

Q: Okay.

A: And then the small truck. So...

Q: Were they all parked in the front or were they parked on the side, or the back, or where were they?

A: The Toyota truck was parked in the back, 'cause that's what I did, when I got there, that's right, 'cause when I got there, I said, uh, you know, yeah, I can't remember,

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STATEMENT OF: JENNIFER HARRISON

I want to say now I think about this, I think Jack said he was in a van and Peter was driving the truck.

Q: When you talked to him earlier you mean?

A: You know what, he did say that. He said he left with somebody but he was in the truck. Pete- Jack said that he was with somebody, he left, he heard him leave with somebody in the truck.

Q: Okay.

A: In the truck, that's right.

Q: This is what he said when you talked to him at 8 o'clock in the morning?

A: In the morning, yes. On the phone, yes. He said he was in the truck with somebody, 'cause he heard somebody come over and pick him up and they left together. I said I wonder who it is, I don't know. I don't know. So anyway, uh, I said what are you driving, he says I'm driving the van. This is what Jack said. So that was early like 8:30 maybe in the morning.

Q: Okay.

A: So I kept leaving Peter messages. He didn't call back. So that's when I got in my car and I went to the office and I looked around back and there was the Toyota truck parked in the back.

Q: How often would the truck be in the back?

A: A lot.

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STATEMENT OF: JENNIFER HARRISON

Q: It would.

A: Yeah, he parked there a lot, either out front or in the back but equal amounts...

Q: Okay.

A: So the truck was in the back and I, this is me, I kind of checked it out, windows were rolled down and there wasn't anything different in the truck.

Q: Okay.

A: Just the windows were rolled down and that's it. So I, uh, went to the front door and I was knocking and no one answered the door and I thought well I wonder what's-- and I just knew something was not right so I used my key, 'cause I had a key to the office and I went in. When I went in, Jake was there, Jake, came running out.

Q: Jake's the dog.

A: Jake's the dog. Jake came running out was fine, you know, and he was just fine and when I went to go into the office, the door was locked and it was shut but not shut all the way.

Q: Did you come in from the back or the front?

A: Front door.

Q: Okay.

A: So when I came in the front door, there was another door that goes into the office area and that was locked and pulled shut and right then I went oh my God, what am

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STATEMENT OF: JENNIFER HARRISON

I going to walk into and I, I just knew it, 'cause that never, it's never, never, never locked, never, it's hardly ever shut.

Q: What were thinking you were probably gonna walk into?

A: What I was thinking I was gonna walk into is who knows, him passed out with women or sleeping with a woman, something like that.

Q: Okay.

A: That's what I was thinking, so I opened the door and there was Jack on the floor just out cold, I mean just out cold and there was a dancer on the couch \_\_\_\_\_ and Jake was on the floor snuggled up with Jack, he went back to him and, uh...

Q: Was Jack on a, a bed or anything or just on the floor?

A: On the floor, on the floor. He was on the floor wiped out, just wiped out. So then I went back, I just started walking through and when I saw the dancer there and I saw Jack I just knew I was gonna walk in \_\_\_\_\_ that's fine 'cause then I'd just end it and let it go 'cause I was already thinking at this time it was getting crazy, this is weird. So I went to open the door and it was locked and that's when I knew...

Q: This is the back bedroom door?

A: The back bedroom door was locked that's never, never locked either. So that was locked and that's when I just knew, so I tried to break the door down and once I hit it once then I realized this is craziness and I stopped. Meanwhile this dancer came in, she goes, hi, hi what are you doing, and, uh, she goes there's nobody in there

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and I was like bull shit. I said Peter's in there and she goes Peter, she said no Jack said Peter's dead, he hasn't seen him in weeks. Said Peter-- I was with him last night and I just blew it, I didn't think anything about that at the time. I mean, I think it was kind of-- I thought it was kind of weird that she would even say that Peter-- but I was just so mad.

Q: And do you remember the exact words that she used?

A: That Jack said Peter's dead-- oh is Peter Jack's friend, and I said yes, she goes no he's dead. Jack said that he thought Peter was dead, you know, he said he thought Peter was dead.

Q: And were you thinking that Peter was actually dead or were you thinking still Peter's with a girl someplace.

A: Yeah I was thinking that Peter was that or he just packed up and took off somewhere which wouldn't surprise me and I can't-- I don't have any evidence of why it wouldn't surprise me it's just, I just-- just gut instinct you know, wouldn't surprise me.

Q: Did you try to wake Jack up at that point?

A: Yes. So I opened the door and like I say, I saw Peter's sneakers were there, his boots were there, his one shoe was there and, uh, his pants were there that could have been the ones he had on Wednesday night.

Q: When you last saw him?

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STATEMENT OF: JENNIFER HARRISON

A: Yes, with a belt, they still had the belt on the pants.

Q: Do you remember what kind of belt it was?

A: It's a brown belt with a bunch of double holes like a hole-hole, hole-hole all the way around, all the way around.

Q: Instead of having just one hole, it has two holes?

A: It has double holes but the holes go all the way around the whole belt.

Q: Okay.

A: It's not just one and it's not just like five holes.

Q: It goes all the way around the whole belt.

A: All the way around doubled, yeah.

Q: Okay.

A: And, uh, so anyway I opened the door and saw all that in there and there was nothing unusual but all his stuff looked like it was there. Matter of fact I'll tell you there was a pair of pants that I had bought him were there and a nice sweater and I grabbed them and took them with me and then I took them back and got my money back but they were still there which I think was kind of, you know, weird too. Well anyway, I went back out and, uh, this girl said she hadn't...

Q: Before going out, you mentioned earlier that you saw some money there?

A: That's back out in the office area.

Q: Okay, okay.

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STATEMENT OF: JENNIFER HARRISON

A: Yeah, this is back in the bedroom I'm talking about...

Q: Okay.

A: ...and that's when I saw the bullet. That's when I saw the little skinny bullet was on the floor and, uh, that's the only thing I saw that was unusual. You know I saw just the one little bullet and \_\_\_\_\_.

Q: Had you been in that back bedroom prior to that?

A: Yes.

Q: Had you ever spent the night there in that room?

A: I never spent a night there, I was there for many hours but I never stayed the whole night.

Q: Okay, when you were there had you ever seen...

A: Actually I stayed the night but not in the back bedroom. I saw-- we watched movies one night and brought the comforter out there and watched T.V. and stuff.

Q: Okay, when you were in the back bedroom or in the rest of the place, did you ever see bullets before?

A: No. I've only seen just the one.

Q: Just that morning.

A: That's that morning, I saw one.

Q: So it's not something just always laying around there.

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**STATEMENT OF: JENNIFER HARRISON**

A: Well, if you saw his room, it's just trashed and that morning I was looking for stuff and that's how I found the bullet. I wasn't going through anything, wasn't like in the boxes, just on the carpet.

Q: Okay.

A: But I was kicking things around, throwing things around looking and I saw the bullet. So it could have been there forever, I mean I don't know.

Q: And you just might not have noticed.

A: Yeah, 'cause I was never back there looking like I was that day.

Q: Okay.

A: Okay.

Q: So what happened next?

A: So then, uh, like I said that dancer was there and said, I'm trying to think of everything she said. She just said that she was walking home from Cheetah's, she had gotten off at 5 or 6 in the morning and Jack picked her up, and they had a cocktail somewhere, it might have been at a bar, I don't remember where and they went and had cocktails and then they went and got a six-pack and they came back, 'cause he said you want to go have a beer. She said sure so they went and got a six-pack and she didn't say what vehicle she was in with him but, uh, did she say in the truck, maybe she said she was in the truck and then Jack told me Peter was in the truck, maybe she said he was driving the truck and picked him up— picked

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STATEMENT OF: JENNIFER HARRISON

her up. I'm thinking that's what she did say that he drove by and I even asked so was he in the truck. She said yeah, I was like, I says what a lying idiot, you know, and that's the only thing I thought of. So anyway then she goes then we just came back here and there was no one here and I said there was no one here and she goes no.

Q: Did she say how they got in the conversation about Peter being dead?

A: No and I didn't even ask anything about it.

Q: And how come you didn't ask that at that point?

A: I don't know, I just didn't think anything about it.

Q: Did you think it was real at that point?

A: No. No, honestly what I thought, is I thought that, uh, like I say Peter was-- had this sneaky look, you know, he was always, he told me a lot of honest things like about his tickets, you know, and he can't get a license. He's got his California license. He was able to get that before his name went into this, the circuit that, whatever, and, uh, you know told me all about, a lot about his family, his brother, you know, told me a lot of stuff and, uh, I just thought that, you know, maybe he's just a con, business is bad, he's packing up and he's going to Tahoe.

Q: Okay, let's, let's go back to when you're inside the business there and you said you saw some money somewhere laying around.

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STATEMENT OF: JENNIFER HARRISON

A: Yeah, when I went, so as I walked back out of the bedroom, so there's nothing there and I just kind of looked around to see and there was nothing unusual but the bullet and his pants which I thought was weird and his shoes were all there which is...

Q: All of his shoes that he owns.

A: All of his shoes that I ever saw were in there, were there, so I went back out and I kicked... (TAPE ENDS)

Q: The second tape is on now, the time is 1430, you were just explaining that all of Peter's shoes were in Cinergi and then you came walking out and you kicked someone?

A: Yeah, I kicked Jack and Jack was still just knocked out cold and I said, "Jack, wake the hell up" and he was just, he was out, I mean he wasn't even, I, I mean I kicked him and he was out cold so then, uh, I noticed there was a bunch of money on the table. I don't know exactly how much over a hundred, two hundred dollars maybe which was a lot for Jack, 'cause Jack never had money, Jack...

Q: Would he ever have that much money?

A: No.

Q: Never?

A: He just got back from New Jersey, so, you know, but, uh, he, he had all that money \_\_\_\_\_ so then, and there was a bunch of pot and there was pot everywhere.

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STATEMENT OF: JENNIFER HARRISON

There was a little bag of pot here, a bag of pot there, a lot of pot around and some beer and, um...

Q: And which room is all this in?

A: This is like in the office area where the desks are.

Q: Okay.

A: Where the desks, where the computers, okay, so anyway, uh...

Q: And where is the money, that's on the desk or?

A: On Jack's desk.

Q: On Jack's desk.

A: It was on Jack's desk.

Q: When you first walk in from the front door, is Jack's the desk ahead of you or to the left?

A: To the left.

Q: Okay.

A: When you walk right in, that was Peter's desk and then Jack's is to the left.

Q: Okay.

A: Yup. So, uh, this girl, I never got her name, she said well should I wake him up, I was suppose to wake him up to go have cocktails, I was like no, we'll let him sleep and I was just-- so anyway, uh, I gave her, she goes well can you give me a ride, I said sure. So I gave her a ride down the road and dropped her off at a little bar

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STATEMENT OF: JENNIFER HARRISON

on the corner of Western and Oakley \_\_\_\_\_ Plaza, dropped her off there and she said okay well thanks and I said yeah see ya later and then I was like God what's going on. So I went back to the office.

Q: Stop for a second. Did this, uh, dancer ever tell you what her name was?

A: No.

Q: Can you describe her for me?

A: She was in her thirties.

Q: White or black?

A: White girl, black hair, shoulder length, um, probably a 150 pounds.

Q: How tall?

A: Oh, 5'6".

Q: And how would you describe her build?

A: Medium build, medium build, um, yeah about 5'5", 5'6".

Q: Is she attractive or average or?

A: No, she was just not attractive.

Q: Not very attractive.

A: Not attractive, no she was not attractive.

Q: How was she dressed?

A: She had just like a halter top on and glitter and shorts and that's it.

Q: And did she say that she'd just gotten off work earlier.

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A: She didn't have any shoes, yup, she said she had gotten off \_\_\_\_\_. I said so you're telling me you haven't seen another guy well who, how'd you get here, is what I asked her and she said she had gotten off work from Cheetah's and she was walking down the road going to that bar and Jack drove by and said, "Hey, you want to go have a beer" and she was like, you know, sure, I was like sure I'll go have a beer. So she jumps in the truck with Jack and they went and got-- I don't know, I think she said they went and got cocktails first, and then they went and got some beer and went back to Cinergi. She goes and that's what happened, he passed out and there was still beer there, a full six pack, maybe five beers.

Q: Okay.

A: Was there.

Q: Do you remember what kind of beer it was?

A: No, but Jack used to drink Miller Lite. Jack drank Miller Lite. I don't know what kind of beer it was, probably Miller Lite, I don't remember.

Q: Okay.

A: And, uh, let's see, so I gave her a ride, dropped her off, went back and snooped all around and, uh, didn't find anything and Jack was still just knocked out cold.

Q: When you were snooping around, didn't you notice any, any blood or anything anywhere?

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STATEMENT OF: JENNIFER HARRISON

A: No, no. If I had, no, I would have definitely have done something at the time but no I didn't see anything and Jack had on a white shirt and blue jeans and a belt so he wasn't like dirtied up or anything.

Q: Okay.

A: No I could honestly, I could tell from the way that Jack used to dress like this, he was definitely had been dressed like he had been out and then when he finally woke up, that's when I kept calling him and calling him and I was getting just ill 'cause he wasn't answering the phone 'cause he's still knocked out and I can't remember if I talked to him Thursday afternoon, that same day late in the day, or if I didn't talk to him until Friday.

Q: Okay.

A: And that's when he said he just didn't make any sense, he said, uh, I said Jack I was there, I came over there and you had some dancer there passed out and you were practically dead and, uh, um, what did he say, he says yeah you wouldn't have believed the time I had in Jersey. He kept going back to that never again said, you know, um, remember the conversation that him and I had had that morning. Didn't even bring anything about it, nothing. I said I had talked to you, he says oh man I was just, had such a bad time in Jersey. That's all he said, he never even— and I just kind of blew it off didn't want hear it, you know, 'cause I never even questioned him like wait a minute you told me this now you're telling me this. I never did any

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STATEMENT OF: JENNIFER HARRISON

of that and he said that he, uh, uh, Peter came home Wednesday night, that's what he told me, he goes he came home Wednesday night, he stayed here. I heard him get up in the morning, get a shower and now I know it's all bull shit 'cause when I got there he had obviously been out all night. So he wasn't even there at 8 o'clock in the morning, probably, probably not, and I don't know 'cause I didn't get there until, I got there probably around 11:30. Yeah, 11:15, something like that, yeah, and, and that's, that's that.

Q: And so...

A: He's never.

Q: When, when you talked to him again the following day or five days after that...

A: I just thought it was strange, 'cause Jack was just not thinking anything about it. No, don't worry. I said well where do you think he went. He goes I don't know, he said he thought maybe he went to Tahoe. But when that girl Peggy called me that's when I knew that he's not in Tahoe.

Q: So when did he tell you that he thought maybe he had gone to Tahoe?

A: He said that the few days later.

Q: A few days later.

A: Before, um, all this questioning, before, it was before he had gotten questioned.

Q: Okay, by the police.

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A: And that's, and you know what, honestly I wasn't thinking a whole lot about it. I thought he was just some con. He packed up and now he's and he probably went off to Tahoe. He probably knew that I wasn't playing a game because I confronted Peter a few times on just what I thought was true which could have been, you know. I was like you know you say things and sometimes I think to myself your name isn't even Peter Lamonte, it's too nice of a name, it's like a perfect Peter Lamonte. It's a good name, it's probably not even your name and you're probably just one of these types that you go around trying to take women and just take them which you're not getting nothing, and I was laughing about it, you're not gonna get a penny from me and, uh, you know you're no good. That's how I see him, he probably goes city to city, you know, starting up lies and this and that and he never denied it and he never agreed, he just laughed and said well sometimes you know don't challenge it just accept it and Peter many times talked to me about going into business with him.

Q: Like he wanted you to invest with him?

A: Hm-hmm, that we could do, 'cause I have a degree in accounting and he's in air conditioning and heating and we could move anywhere and work for ourselves, meanwhile thinking no way with this guy, I mean I couldn't imagine \_\_\_\_\_ I don't know anybody you know stuck with him and you know what, he did say, I'm trying to think of what it was when Jack was in New Jersey, um, 'cause a few times I had

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said to Peter, you know, why do you even put up with Jack, 'cause I could never really understand why he kept him around, because he was a bum, he really was, um.

Q: What did he say?

A: He just said he's serving my purpose, that's what he said. He's, he's, um, he's serving my purpose. He said he's serving my purpose and then one time he did tell me, where do you want to go, let's you and I go and leave Jack behind. Just you and I let's go, right, you, me, and Jack- uh, you, me, and Jake and that's, that's why it doesn't make sense leaving Jake 'cause he always said, he always referred to a girlfriend as his camel, my camel, man can't survive without his dog or without his camel. So the three of us, we'll be our own family and he was \_\_\_\_\_ he was very, you know, affectionate, loving person, he was but not all there, I mean just missing a lot from childhood and family and all this and, but he, he many times said that. He wants the three of us to pack up, go to Tahoe and leave Jack behind, don't leave Jack, he goes I need to get rid of him anyway.

Q: So he was talking about maybe getting rid of Jack and not talking care of Jack.

A: Well and I agreed, I was like why do you do that? All you're doing is enabling him, you know, you enable him. He's a, he's a stoner, he doesn't do anything. He loses business, you can't count on him. He's like I know. So therefore maybe Jack knew that, maybe Peter said something, maybe Peter went home that night and said I'm

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sending you back to Jersey, knowing Peter-- Jack knowing he'd go back to New Jersey, who knows, I mean I'm sure you know, I don't know all the facts but I know that he got in trouble in New Jersey maybe he can't go to New Jersey and here Peter's threatening him, who knows.

Q: When we were talking earlier, you were saying that when Peter was at your house on Wednesday night, that he was kind of excited about how things were gonna be with the business or something?

A: Yeah, and that he was just, uh, I forget, I can't remember what it was but he was excited just that things were gonna turn around. He's gonna make things happen, things are gonna get back on track, 'cause he was doing well.

Q: Did he seem like he had some sort of a change in mind somehow?

A: Yeah something.

Q: But didn't really go into it?

A: Uh-uh (negative).

Q: When was the last time that he talked about you going to Tahoe with him and starting a business \_\_\_\_\_.

A: He used to ask me that all the time, more than five times. Said would you come to Tahoe with me, I said Peter, I don't know, today, no. You know what he did say, and he said this like Tuesday prior to the-- the Tuesday prior, we were sitting in his office and Jack was not back yet and it was probably the day Jack was coming

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back-- or it was Monday, and, uh, he said something about leaving and I was like you know what, I love-- this is when I was finally opening my eyes saying, you know, I could just feel I was in something I didn't want to be in and I was like, you know I love Las Vegas, I'm staying. He said well then apparently we won't be together 'cause I'm not staying in Vegas, and I was like well. He goes oh you would let me, you would, you're not gonna go with me? And I said, today, no, I like Las Vegas, and I clearly remember that's exactly what he said. He said well then I guess we won't be together 'cause I'm not staying in Vegas and I went well and maybe that's why part of me thinks that maybe he just took off. I mean I, I don't know, I don't know and it definitely could go either way 'cause the more I think about that, Peter didn't want to stay in Vegas. He was here only for the money, you know to get the business going and he always talked with very good intentions of building the business, you know, and, uh, I was with him a few times when he got calls and it seemed to me, you know, doing bus-- you know doing a lot of business.

Q: They seemed to be doing business from what he would tell you. You also mentioned I think earlier didn't you, that he never paid his bill to Frontier Directory.

A: That's correct.

Q: How much did he owe them?

A: Well he, his first payment was due in September and he never made September's payment.

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Q: Do you know approximately how much that would have been?

A: Uh, 541.

Q: 540?

A: Hm-hmm.

Q: And it was suppose to be every month from that point on?

A: Hm-hmm.

Q: Okay, but the thing you know for certain is since you last saw him on the fourth...

A: Right.

Q: He's never called you, he's never answered any of your phone calls.

A: Peter's never called, nothing. I even tried E-malling him on his phone and his phone never turned back on. His phone never came on, nothing.

Q: Was his phone always on prior to that?

A: Always.

Q: Nighttime and daytime?

A: Yeah, always.

Q: He just wouldn't turn it off?

A: No, he left it on, yeah.

Q: And then at what day was it that you realized his phone was turned off?

A: That was Thursday morning. Thursday morning, um, the fifth, I called him first thing in the morning and his phone, I was, still it was turned off because it went straight

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to voice mail and if it's not turned off, if he's not answering it, and he had caller ID, um, if he's not answering it, it would ring a few times and then go to voice mail...

Q: And then go, sure.

A: Yeah. And it didn't, and then his radio didn't go through and that's when I knew it was turned off and that's why I said Jack well are you sure, I know he has his phone, I didn't even say that, I said I know he has his phone, I wonder why he's not answering. Well maybe he doesn't \_\_\_\_\_.

Q: What did his phone look like?

A: We all had the same phone.

Q: Exactly like this?

A: Oh, you know what, wait a minute, he had just gotten a new phone, him and Jack both got these little mini-phones, the different kind Nextell. They had just gotten them, that's right.

Q: Do you know if his was already turned on and working or he was carrying it?

A: Yeah they were both working, oh yeah, yup \_\_\_\_\_.

Q: Okay, anything else that you can think of?

A: No, well you know what Jack did say and you're talking about these people that were part, um, owners or the owners of CInergi, Jack did say one, since, one of the times I had talked to him since Peter's been missing, and he said well you know he owed, uh, these guys, Japanese guys, a lot of money and I was like so what are you

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saying, you think they came after him for something. He goes I don't know. So then I see that, you know, in my head well that's how Jack...

Q: He's putting it in your head that perhaps the Japanese guys did something.

A: Right, yeah.

Q: 'Cause of all the money that's owed to them.

A: Right and I just thought about that 'cause you had said that you were gonna talk to some people, yup, and that's what Jack said, maybe Jack did something but he's trying to make it look like that it was somebody else and yeah but he did say that.

Q: Anything else come to mind?

A: 'Cause yeah, he said that Peter got him this boy, he just took him, he took him and then I said one— I think it was, uh, this last time I talked to Jack, just last week it was nothing, it was very short. I just said where are you, he said he's in Arizona, and he goes I heard, and I was like Jack you won't believe what's going on, Peter's face is all over the news. He goes that's what I had heard, I was calling to confirm that and I was like yeah. Said are you doing okay, he goes yeah I'm doing okay just, uh, stressing man, just stressing...

Q: Did he say what...

A: Now I wonder what he's stressing about.

Q: Did he say what he's doing for money or work?

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A: No, no I didn't ask, 'cause it's, I'm at the point like it is now, that I don't even ask any questions. I had just, I didn't talk to Jack for about two to three weeks, nothing and that's when I thought oh man, I have to just let this go, lesson learned, you know, and then he called out of the blue, and, uh, you know, called to find out what was going on told me he was in Arizona. And I wanted to say what are— but I didn't think anything I just kept my mouth shut.

Q: Okay.

A: But what was it I was gonna tell you though that he did say, uh, um, it was one of the times after Peter had been missing but before, or was it right after, it was the same day maybe he told me about all the questioning and I said, I said Jack just tell me now, tell me now, was Peter a con? And he said he was one of the biggest cons, he goes the biggest con I've ever met and I said was Peter Lamonte his real name. He said oh yeah, that is his birth name. I was like wow, I said you know me I was always joking about that, I was always wondering and he said, uh, oh what did he say, he said, um, you know Peter's, you know the biggest con, he goes and you know I'll never forget the day that I met you, and I thought man she doesn't even know what she's getting into. That's what he said. And I was like, yup, I should have known. He goes you know I met you and I thought, cause he— that's what he told me, he goes 'cause you know he took his ex-wife and I said he made it sound like she took him, which I should have known, and, 'cause I remember asking him

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like where's all your pots and pans, silverware, well his wife cleaned him out so he says and then Jack said well you know some girl named Mona, and Mona wasn't his ex-wife, Mona was some other girl from New Jersey or somebody, her name was Mona. He said you know he took Mona for, he took her bad and I was like really. Well that's the only good thing, thank God I didn't fall into that, you know, pair of pants and a sweater, I took it back, you see Jack doesn't even know that 'cause I did all that when Jack was knocked out.

Q: And you took that from the Cinergi office.

A: Office, yes.

Q: And returned it, where did you return it to?

A: Ross, 'cause I had just bought that Tuesday.

Q: And so you're thinking that he's cheating on you with some other woman so you're gonna sell those clothes?

A: No actually, no, well I wasn't-- that, that probably lasted for a minute and then I thought, you know what, he's just a con and he picked up and took off. Something's going on that I don't know about, something and like they say he loves Jake but you know what, he'll get another dog. 'Cause you know, if you gotta go and with no evidence and he left everything, so something, maybe something big was going on. You know, and that's when I think that maybe it was, though Jack says Japanese people, which I don't know, but, he goes some Japanese people.

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Q: Okay.

A: So, and what else. I guess, I know I asked Jack, I said Jack listen do you think he's dead and he says no, \_\_\_\_\_ I think he's out on, he's out on the run and I kind of laughed about it in the beginning, you know, like just laughing about it, just another, just one of the weirdest adventures I've ever been on 'cause it was pretty, you know, it was a lot of the fine dining and wining and, the best of everything and Peter used to always say, only the best, only the best of everything, you know, and that's what it was, he was just living big with somebody else's money apparently and not paying anything else. You know what, he did mention a guy, he came in and took, uh, the refrigerator one day. He said somebody came into town.

Q: Who said this?

A: Peter, 'cause things were going bad with business and, uh.

Q: Like repo'd something maybe.

A: I don't know, \_\_\_\_\_ the refrigerator, there was a big ice machine. He went to California, got a big ice, Italian ice maker, it should have been there at Cinergi, 'cause he went and picked that up from somebody I don't know in California.

Q: Okay.

A: And that's about it.

Q: Okay, that will be the end of the statement, the same persons are present, the time is now 1450 thank you. The tape is back on again, the time is 1515 hours you were

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talking with me for a little bit longer and you were remembering some other information about when Jack called you the night that he was questioned by the police. You remembered something that he asked you, what was that?

A: He had called to, um, ask me if he could use my car, where-- he called me and he goes where are you, I said I'm going to the gym. He said, he said dear I have to borrow your car real quick, the cops are all over the office. They are gonna look out for my van and I can't drive the van. I said Jack if you're innocent, don't worry about it. He goes, you don't understand. So he asked to borrow my car and I said no Jack, you cannot borrow my car.

Q: Okay.

A: And he just, he didn't even argue with me he said, he said I understand and I said just go back there or wait until they leave and then go or park around the corner and walk up there, I don't know, you know, and I was kind of giving him ideas and he said no. You don't even know, um, you know, they see, they got a look out for my van and that was it.

Q: So you never did let him use your car.

A: No, no, never.

Q: You were mentioning a few other things in our conversation after we turned the tape off, um, just to highlight a couple of things that seemed important. You mentioned that a few different times when you'd be driving in a car with Peter and Jack,

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someone would comment about it being a big desert out there, something to that effect, what was that?

A: Well it happened maybe twice just that I can't remember what it brought it up to it but, uh, Peter would laugh and when he'd say, say, you know, it's a big desert out there and then one time when he said that we were back in the office with Jack and Peter and Peter and Jack were laughing at each other about Watergate, that's right the Watergate, there was gonna be a big Watergate and, uh, he said there's gonna be a big Watergate and then they said, uh, said something and, uh, Peter said oh yeah Jack, Jennifer doesn't want us talking about putting her in the desert anymore and I said that's not funny and I laughed it off, you know, I laughed it off and they, uh, said okay we won't joke about the desert anymore and then I remember, I can just remember Peter just smiling at Jack when they said that and that was.

Q: And you felt like they were pretty much joking at that point right?

A: Yes.

Q: Do you think that when Peter had mentioned that to you before he was maybe trying to intimidate you a little bit about not cheating on him...

A: I think so.

Q: ...or seeing other men or something?

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A: Yeah, oh yeah, he was very controlling. He always wanted to know where I was, what time, what I'm doing if I haven't called, that's why he gave me a phone with a radio, he \_\_\_\_\_ a lot.

Q: So he could get you wherever he wanted to.

A: Exactly, and, uh, I think that's the way he felt that, uh, you know, trying to manipulate me by, you know, threatening this and that which finally he, he, Peter always had to have the upper hand. We were in Tahoe one time and some guy looked at me and, uh, he had gotten off to my right, and he made a huge scene at this Sushi Bar, a huge, huge scene and I just walked away and he was like don't you walk, I was like oh God I gotta get away from him, right then I should have gotten on a plane but I wanted to get on a plane and I didn't and, uh, he was very, um, just a big ego, you know, real big ego and, uh, wouldn't tolerate anyone in the slightest way even things that he would see that weren't even there as, as being disrespectful toward him. He wouldn't, wouldn't tolerate with anyone.

Q: Okay, anything else that you wanted to bring up?

A: No.

Q: Okay.

A: That's all.

Q: That will be the end of the statement, same persons are present, the time is 1518, that's all, thank you.

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STATEMENT OF: JENNIFER HARRISON

**I HAVE READ THIS STATEMENT CONSISTING OF 74 PAGES AND AFFIRM TO THE, THE TRUTH AND ACCURACY OF THE, THE FACTS CONTAINED HEREIN. THIS VOLUNTARY STATEMENT WAS COMPLETED AT LVMPD HOMICIDE OFFICE ON THE, THE 7th DAY OF DECEMBER, 1998 AT 1518 HOURS.**

WITNESS: \_\_\_\_\_

WITNESS: \_\_\_\_\_

\_\_\_\_\_  
JENNIFER HARRISON

TT/dlk  
98v1013

SEKA000495

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# EXHIBIT 40

SEKA000496

APP2371



Metropolitan Police

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

## OFFICER'S REPORT

981116-0443

EVENT #: 981117-0730

Records Distribution

Date: 11-17-98

Dissemination is restricted to Criminal

Agencies is PROHIBITED.

Rel to: Det. Buczek / HomicideDate: 12-10-98

Las Vegas Metropolitan Police Department

By: [Signature]

## HOMICIDE CRIME SCENE

SUBJECT

DIVISION REPORTING:

PATROL

DIVISION OF OCCURRENCE:

PATROL DT21

DATE AND TIME OCCURRED:

11-17-98/1007

LOCATION OF OCCURRENCE:

1929 WESTERN LVN  
89102

## LIST OF PERTINENT SUBJECTS:

OFFICER R. NOGUES, P#5622

OFFICER R. KROLL, P#4850

DETECTIVE J. BUCZEK

DETECTIVE T. THOWSEN

ID SPECIALIST D. RUFFINO, P#1502

## POSSIBLE SUSPECT:

NAME: SECA, JOHN JOSEPH

DOB:

SSN:

The Use and Dissemination of this  
Record is Regulated by Law. Secondary  
Dissemination of any kind is Prohibited  
and could subject the offender to Criminal  
and Civil Liability.

This Information Released To:

By: [Signature] Date: 11-21-98

Las Vegas Metro Police Dept.

## VICTIM/MISSING PERSON:

NAME:

BUS. ADDRESS: 1933 WESTERN AVE, LVN 89102

## PERSON REPORTING:

NAME: RICK FERGUSON (MANAGER/OWNER OF R&amp;M TROPHIES)

BUS. ADDRESS: 1937 WESTERN AVE LVN, 89102

(This report is all reference to a Homicide a day earlier, the event #981116-0443.)

## DETAILS:

On 11-17-98 at approximately 1007 hours, I, Officer R. Nogues, P#5622, acting as 2C34, and Officer R. Kroll, P#4850, were dispatched to 1929 Western Ave, Las Vegas, NV 89102. In reference to a glass window that had been broken out at the front of the vacant business that had blood spread all around the glass area, broken glass inside and outside of the front door area, blood splattering on the front sidewalk and pools of blood inside the business. As well as what appeared to be a dragging of a heavy object, possibly a body.

Also inside the business we found slugs from a weapon, a jacket, a hat, and a bracelet that were all located on the inside of the broken window. Rick Ferguson of R & M Trophies, explained to me that there was a gentleman who walked by his place of business, which is at 1937 Western, two businesses down south. He told him that there was a glass

C and Time of

12-05-98/1133

Officer:

R. NOGUS

P#: 5622

Approved

Officer:

R. KROLL

P#: 4850

LVMPD 82 (REV. 1-91) AUTOMATED

SIGNATURE: \_\_\_\_\_

SEKA000497

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## CONTINUATION REPORT

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window that had been broken out with a lot of blood around it. At that time, Mr. Ferguson called the Police Department.

Officer Kroll and I arrived and attempted to look around the area, to clear the vacant business and to see if there were any possible injured or possibly deceased persons inside of the vacant business. The area showed clear. At that point, we began an investigation of the surrounding areas, to try to see if there was anyone hanging out around the area that might be able to help out, or might have heard any noises, or could give us any information about the crime scene.

Officer Kroll stayed at the front of the business and I walked around the back of what I believed was a four business complex, to see if I could find anything behind the building. While searching the area around the rear of the building, I ran into a gentleman who explained that he was aware of several parties that occurred at the business at 1933 Western on a nightly basis but had not heard anything unusual over the last couple of days. The gentleman appeared to be a manager of an enclosed area that had a chain link fence around it.

While looking around the back of the business at 1929 and 1933 Western, I noticed a dumpster that was just to the rear. Concerned that there might be somebody or something in the dumpster, I checked the dumpster and it was explained to me by Mr. Ferguson from the trophy business, that the dumpster had already been emptied. As I looked into the dumpster I could see some miscellaneous papers and trash stuck to the bottom only amounting to, possibly, not even one layer of items. I could see the bottom of the dumpster at many locations inside of the dumpster.

We called Sergeant A. Bechyne, P#1794, and he responded to the scene. After discussing with him, we attempted, through dispatch and through AMR and FD to find out if they had been, anytime in the last 24 hours, alerted of a call of a suspicious situation or any kind of shooting or loud disturbance that might have happened anywhere in the 1900 block of Western. After a brief investigation, none of the three entities could come up with any calls that had taken place in that area.

Because we had no victim at the time and could not determine how it all happened with the damage to the window, we called ID to process the scene. We did a report for the business owner, the landlord of the property for the damage to the window and left the scene of the bloodshed to the ID tech, Ruffino, P#1502.

As we were getting ready to clear the call, a gentleman pulled up at the business at 1933 Western a, Seca, John Joseph, in a small brown pickup. Officer Kroll made contact with Seca to see if he had heard or would know of any problems that might have happened in

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## CONTINUATION REPORT

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the business next to his. Seca seemed to be cooperative but was very nervous throughout the conversation that we had which probably lasted anywhere from 15 to 30 minutes.

We asked Seca if he minded us looking around the areas of his business to make sure that everyone was okay and he said, "Sure." After not finding any sick or injured persons at that business, we decided to clear the call.

Approximately one hour and fifteen minutes later, after clearing our lunch period, we received a phone call from homicide detectives to return to the scene. Upon arrival, we made contact with the detectives who asked me if I was the officer who had looked in the dumpster area prior to them arriving. I explained to them that I was and we went back to the dumpster area again. They wanted to know if I saw anything unusual in the dumpster that had not been there before.

Because the dumpster had already been emptied, either that morning or the night before, I didn't expect to see any more than what I had seen in there in the morning, which was very little. Upon arriving at the dumpster, I saw a few pieces of clothing, a tennis shoe, and probably approximately six inches of papers and other debris, there were keys and some of the clothing items looked as if they had been burned and a lot of the paperwork looked as though they might have been burned as well. We found an ID card laying in the bottom of the dumpster that belonged to \_\_\_\_\_, who was one of the manager/business owners there at 1933 Western.

The ID tech continued his investigation into impounding a lot of the materials that were in the dumpster. Officer Kroll and I secured the crime scene area for Detective Buczek and Detective Thowsen, making sure that nobody else entered the crime scene besides the ID techs and the detectives, until we were cleared to leave the crime scene at the end of our shift which was at approximately 1600 hours.

RN/aa(04)

Job# 65222

Dict: 120598/1133

Tran: 121098/0947

cc: R. Nogues, P#5622/DT21  
Detective Buczek/Homicide

SEKA000499

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# EXHIBIT 41

SEKA000500

APP2375

COPY

CASE NO. 159915  
DEPARTMENT NO. 5

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP  
COUNTY OF CLARK, STATE OF NEVADA

THE STATE OF NEVADA,

VS.

JOHN SEKA,

DEFENDANT.

)  
)  
) 99F03542X  
)  
)  
)  
)

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REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING  
BEFORE THE HONORABLE JUDGE WILLIAM D. JANSEN  
JUSTICE OF THE PEACE  
MONDAY, JUNE 28, 1999

APPEARANCES:

FOR THE STATE: E. KANE, ESQ.  
DEPUTY DISTRICT ATTORNEY

FOR THE DEFENDANT: K. KENNEDY, ESQ. ✓

REPORTED BY: KRIS REMAKEL  
CSR NO. 85, RPR/702-636-5399

SEKA000501

APP2376

1 FIND A VICTIM. AT THAT POINT WE DIDN'T KNOW  
2 WHAT WAS GOING ON, EVEN IF IT WAS A HUMAN BEING  
3 OR NOT THAT HAD BEEN INJURED THERE.

4 Q AT THAT TIME, DID YOU FIND  
5 ANYTHING SIGNIFICANT IN THE DUMPSTERS?

6 A NO. THE PR, WHICH IS OUR  
7 PERSON REPORTING, THAT WAS IN BUSINESS NUMBER 4  
8 THERE WAS A TROPHY SHOP THERE, I BELIEVE IT WAS  
9 1937. I CAN'T REMEMBER THE ADDRESS.

10 HE CAME OUT AND TOLD ME THAT  
11 THE DUMPSTERS HAD JUST BEEN EMPTIED RECENTLY  
12 AND THAT -- AS I WAS WALKING UP TO THE DUMPSTER  
13 HE SAID THAT I IT HAD JUST BEEN EMPTIED  
14 RECENTLY, I WOULDN'T FIND ANYTHING IN THERE.  
15 BUT I LOOKED ANYWAYS.

16 AT THE BOTTOM OF THE DUMPSTER I  
17 COULD SEE JUST SOME MISCELLANEOUS PIECES OF  
18 PAPER STUCK TO THE BOTTOM. AND I COULD ALSO  
19 SEE THE BOTTOM OF THE DUMPSTER IN MANY PLACES  
20 AS IF IT HAD JUST BEEN EMPTIED AND SOME THINGS  
21 WERE STUCK TO THE BOTTOM.

22 Q DID YOU MAKE CONTACT WITH ANY  
23 OTHER PERSONS AT ANY BUSINESSES?

24 A YES, SIR. THERE WAS A, TO THE  
25 REAR, I GUESS IT WOULD BE NORTHEAST OF THE

1 VEHICLES, WE HAD A CALL TO COME BACK TO THE  
2 CRIME SCENE.

3 Q WHO CALLED YOU BACK?

4 A WE WERE CALLED BACK BY HOMICIDE  
5 DETECTIVES.

6 Q WHAT DID YOU DO WHEN YOU GOT  
7 BACK THERE?

8 Q ONE OF THE DETECTIVES ASKED ME,  
9 SPECIFICALLY, ASKED MYSELF AND OFFICER KROLL  
10 SPECIFICALLY IF -- ABOUT --

11 MR. KENNEDY: OBJECTION;  
12 HEARSAY.

13 MR. KANE: IT'S NOT OFFERED FOR  
14 THE TRUTH BUT TO SHOW WHY HE DID WHAT HE DID.

15 THE COURT: JUST FOR THAT  
16 PURPOSE ONLY, NOT TO ESTABLISH THE TRUTH OF THE  
17 ANY OF THE ISSUES. GO AHEAD.

18 THE WITNESS: HE ASKED ME,  
19 SPECIFICALLY, ABOUT SOME TRASH OR ABOUT A  
20 DUMPSTER TO THE REAR OF THE BUSINESS, AND ASKED  
21 ME IF THERE WAS ANYTHING IN IT OR UNUSUAL THAT  
22 HAD NOT BEEN THERE EARLIER WHEN I WAS ON THE  
23 SCENE EARLIER IN THE DAY.

24 BY MR. KANE:

25 Q DID YOU GO BACK AND LOOK IN THE

1 SAME DUMPSTER THAT YOU HAD LOOKED IN BEFORE?

2 A YES, SIR.

3 Q WAS THERE ANYTHING THERE AN  
4 HOUR AND FIFTEEN, AND HOUR AND TEN TO FIFTEEN  
5 MINUTES LATER THAT HADN'T BEEN THERE BEFORE?

6 A YES, THERE WAS.

7 Q WHAT?

8 A THERE WAS NOW, APPROXIMATELY, I  
9 WOULD SAY FOUR TO SIX INCHES OF DEBRIS, PAPERS,  
10 TRASH, MISCELLANEOUS PAPERWORK. THERE WAS  
11 ALSO, IF I REMEMBER CORRECTLY, A SHOE, MAYBE A  
12 PAIR OF PANTS, JUST SOME MISCELLANEOUS  
13 CLOTHING. AND IT LOOKED LIKE SOME OF THE STUFF  
14 HAD BEEN BURNT. THERE WAS SOME BURNED  
15 MARKINGS. IT LOOKED LIKE A FIRE, SMALL FIRE,  
16 THAT KIND OF THING.

17 Q DID YOU FIND ANY ITEMS OF  
18 IDENTIFICATION?

19 A YES, SIR, DOWN AT THE BOTTOM OF  
20 THE DUMPSTER.

21 Q WHAT?

22 A WE FOUND AN ID FOR ONE OF THE  
23 GENTLEMEN THAT SUPPOSEDLY WORKED OR WAS A PART  
24 OF BUSINESS NUMBER 3, WHICH IS NEXT TO HIS.

25 Q AND HIS NAME?



1 MR. KANE: CALL TOM CRAMER,  
2 YOUR HONOR.

3 THE BAILIFF: TOM CRAMER.

4 THE CLERK: PLEASE BE SEATED.  
5 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

6 THE WITNESS: MY NAME IS THOMAS  
7 CRAMER, C-R-A-M-E-R.

8

9 \*\*\*

10

11 THOMAS CRAMER#

12 WAS CALLED AS A WITNESS BY THE STATE, AND AFTER  
13 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND  
14 DID TESTIFY, AS FOLLOWS:

15

16 \*\*\*

17

18 DIRECT EXAMINATION

19 BY MR. KANE:

20 Q SIR, IN WHAT CITY AND STATE DO  
21 YOU RESIDE?

22 A FLOWERTOWN, PENNSYLVANIA.

23 Q THAT'S FLOWERTOWN, LIKE FLOWER  
24 AND TOWN?

25 A YES.

SEKA000505

APP2380

1 Q DO YOU KNOW JOHN SEKA?  
2 A YES.  
3 Q HOW LONG HAVE YOU KNOWN HIM?  
4 A ABOUT TEN YEARS.  
5 Q WHEN AND WHERE DID YOU FIRST  
6 MEET HIM?  
7 A DRUG REHAB.  
8 Q WHERE?  
9 A SELF-HELP, IN PHILADELPHIA, ON  
10 SOUTH HAMPTON BOULEVARD.  
11 Q DID YOU DEVELOP A CLOSE  
12 FRIENDSHIP WITH HIM?  
13 A YES, I DID.  
14 Q AND AT SOME POINT, DID THAT  
15 CHANGE TO THE EFFECT WHERE YOU WERE NO LONGER  
16 CLOSE FRIENDS?  
17 A YES, IT DID.  
18 Q WERE YOU AWARE THAT HE HAD COME  
19 OUT HERE TO LAS VEGAS IN 1998?  
20 A YES, HE WAS OUT HERE FOR, I  
21 DON'T KNOW HOW LONG BEFORE I GOT A PHONE CALL  
22 THAT HE WAS OUT HERE, A COUPLE WEEKS, A MONTH.  
23 Q SOMETIME AROUND NOVEMBER OF  
24 1998, DID YOU GET A CALL NOT FROM MR. SEKA BUT  
25 ABOUT MR. SEKA FROM A GENTLEMAN NAMED LEE

SEKA000506

APP2381

1 POLSKI?

2 A YES, I DID.

3 Q WHO IS LEE POLSKI?

4 A HE'S A CAR DEALER IN NEW  
5 JERSEY.

6 MR. KANE: AND YOUR HONOR, I'M  
7 NOT ASKING THIS FOR THE TRUTH OF WHAT WAS SAID  
8 HEREIN, BUT JUST THAT IT WAS SAID.

9 BY MR. KANE:

10 Q WHAT DID MR. POLSKI TELL YOU HE  
11 WAS CALLING YOU ABOUT?

12 A "DID YOU HEAR THIS BULLSHIT  
13 ABOUT JACK KILLING PETE LAMANNI?"

14 Q IN DECEMBER OF 1998, DID YOU  
15 GET A PHONE CALL FROM JOHN SEKA? ✓

16 A I DON'T REMEMBER. I PROBABLY  
17 DID.

18 Q DO YOU REMEMBER GETTING A PHONE  
19 CALL FROM JOHN SEKA SOMETIME IN LATE 1998,  
20 AFTER YOU TALKED WITH LEE POLSKI?

21 A YES, I DID.

22 Q AND AS FAR AS YOU KNOW, WAS  
23 THERE ANYBODY ON THE TELEPHONE, EXCEPT FOR YOU  
24 AND MR. SEKA?

25 A AS FAR AS I KNOW, NO.

SEKA000507

APP2382

1 Q DID YOU ASK HIM ABOUT THIS PETE  
2 LAMANNI GUY?

3 A LET ME THINK FOR A SECOND. I  
4 DON'T REMEMBER. I PROBABLY DID.

5 Q DID MR. SEKA AT SOME POINT THEN  
6 COME BACK TO THE FLOWERTOWN, PENNSYLVANIA, AREA  
7 AFTER YOU HAD THIS PHONE CALL?

8 A YES, HE DID.

9 Q AND HE WAS ARRESTED IN MARCH OF  
10 1999; AM I CORRECT?

11 A YES.

12 Q AND YOU PROVIDED THE  
13 INFORMATION ABOUT HIS LOCATION TO THE POLICE  
14 THAT GOT HIM ARRESTED, CORRECT?

15 A YES.

16 Q HAD YOU BEEN IN CONTACT WITH  
17 HIM FROM THE TIME THAT HE RETURNED TO THE  
18 PENNSYLVANIA AREA, UP UNTIL HE GOT ARRESTED IN  
19 MARCH OF 1999?

20 A YES, I WAS.

21 Q DID YOU HAVE A CONVERSATION  
22 WITH HIM IN YOUR HOUSE THAT RESULTED IN A  
23 PRETTY VIOLENT ALTERCATION?

24 A YES, I DID.

25 Q WAS THERE ANYBODY THERE, EXCEPT

SEKA000508

APP2383

1 FOR YOU AND HIM?

2 A MY GIRLFRIEND MARGARET, AND MY  
3 GRANDMOTHER.

4 Q WERE THEY PRESENT TO HEAR THE  
5 ARGUMENT?

6 A NO, THEY WEREN'T.

7 Q WHEN YOU WERE ARGUING AND  
8 STATEMENTS WERE MADE, THERE WAS NOBODY AROUND  
9 TO HEAR THEM, EXCEPT FOR YOU AND JOHN SEKA; IS  
10 THAT CORRECT?

11 A THAT'S RIGHT.

12 Q WHAT DID MR. SEKA SAY TO YOU IN  
13 THE COURSE OF THE ARGUMENT?

14 A WELL, WE STARTED HAVING WORDS.  
15 I STARTED SAYING TO HIM HOW I FELT LIKE HE WAS  
16 USING ME FOR THE LAST FEW YEARS AND I HAD LENT  
17 HIM MONEY, GOT HIM JOBS, TESTIFIED FOR HIM ON  
18 HIS BEHALF. I WAS VERY ANGRY.

19 IT WAS GOING BACK AND FORTH,  
20 BACK AND FORTH. AND I GOT UP AND FINALLY SAID  
21 SOMETHING THAT SET ME OFF THAT I DON'T  
22 REMEMBER. AND I GOT UP IN HIS FACE IN FRONT OF  
23 THE TOP OF THE STEPS. AND HE SAID - DO YOU  
24 WANT ME TO DO TO YOU WHAT I DID TO PETE  
25 LAMANNI?

---

SEKA000509

APP2384

1 Q WHAT DID YOU DO?

2 A I GRABBED HIM BY THE NECK AND  
3 THREW HIM DOWN THE STEPS AS HARD AS I COULD.

4 Q IN FACT, YOU GOT ARRESTED AFTER  
5 THAT; IS THAT CORRECT?

6 A I GOT COMMITTED TO NORSTRAND  
7 (PHONETIC) STATE HOSPITAL.

8 Q ASIDE FROM THIS STATEMENT MADE  
9 TO YOU DURING AN ARGUMENT, DID YOU HAVE ANOTHER  
10 CONVERSATION AT YOUR HOUSE IN JANUARY OF THIS  
11 YEAR WITH MR. SEKA, SPECIFICALLY ABOUT PETE  
12 LAMANNI?

13 A YES.

14 Q AND AT THAT TIME, DID YOU  
15 SPECIFICALLY ASK HIM IF HE REALLY DID KILL MR.  
16 LAMANNI?

17 A YES.

18 Q WHAT DID HE TELL YOU?

19 A YES.

20 Q DID HE TELL YOU HOW?

21 A HE TOLD ME THAT LAMANNI CAME AT  
22 HIM WITH A GUN. AND JACK HAD LIKE WRESTLED THE  
23 GUN FROM HIM AND PLUGGED HIM, AND PROCEEDED TO  
24 PLUG HIM A FEW MORE TIMES.

25 Q DID HE SAY WHY HE PLUGGED HIM A

SEKA000510

APP2385

1 FEW MORE TIMES?

2 A WELL, I GUESS HE BELIEVED HIS  
3 LIFE WAS IN DANGER.

4 Q DO YOU REMEMBER TELLING THE  
5 POLICE THAT HE SAID HE PLUGGED HIM TO SHUT HIM  
6 UP BECAUSE HE WAS GURGLING?

7 A GURGLING, YES.

8 MR. KANE: NOTHING FURTHER,  
9 YOUR HONOR.

10 YOUR HONOR, FOR THE RECORD, I  
11 BELIEVE THAT A COPY OF THIS STATEMENT WAS  
12 PROVIDED TO THE DEFENSE BY WAY OF DISCOVERY.  
13 THE DEFENSE IN THIS CASE IS RATHER VOLUMINOUS,  
14 SO I ONLY HAVE ONE COPY IN COURT. BUT I'LL  
15 MAKE SURE AFTER COURT IS DONE, I WILL MAKE A  
16 DUPLICATE JUST IN CASE HE DIDN'T GET ONE.

17 THE COURT: THE BAILIFF WILL  
18 MAKE ONE.

19 MR. KANE: WELL, NO, HE'S GOT  
20 IT FOR CROSS-EXAMINATION.

21 MR. KENNEDY: THAT'S FINE, YOUR  
22 HONOR.

23

24

25

\*\*\*

CROSS EXAMINATIONBY MR. KENNEDY:

Q MR. CRAMER, YOU TESTIFIED YOU  
FIRST MET JOHN SEKA AT A DRUG REHAB PLACE; IS  
THAT CORRECT?

A JULY OF '89, THE MIDDLE OF JULY  
OF '89.

Q IS THIS BACK IN PENNSYLVANIA?

A YES.

Q AND YOU HAVE KNOWN HIM FOR  
ABOUT TEN YEARS?

A YES.

Q AND IN THIS TEN YEAR TIME SPAN,  
YOU'VE SUFFERED SEVERAL MENTAL CONDITIONS; IS  
THAT CORRECT?

A YES.

Q WHAT IS YOUR MENTAL CONDITION?  
IN OTHER WORDS, ARE YOU DIAGRAMED AS A MANIC  
DEPRESSIVE, SCHIZOPHRENIC? WHAT IS YOUR  
CONDITION?

A I'M CLINICALLY DEPRESSED.

Q DO YOU TAKE MEDICATION FOR  
THAT?

SEKA000512

APP2387



1 A YES.

2 Q WHEN WERE YOU DIAGNOSED AS  
3 BEING CLINICALLY DEPRESSED?

4 A WHEN I WAS IN THE HOSPITAL.

5 Q HOW LONG AGO WAS THAT?

6 A JANUARY 23RD TO -- I WAS IN  
7 THERE TEN DAYS.

8 Q OF THIS YEAR?

9 A YES.

10 Q PRIOR TO JANUARY OF 1999, HAD  
11 YOU EVER BEEN TO A MENTAL INSTITUTION BEFORE?

12 A YES, I HAVE.

13 Q WAS IT FOR DEPRESSION?

14 A BI-POLAR.

15 Q IS THAT BI-POLAR, MANIC  
16 DEPRESSION?

17 A I DON'T EVEN KNOW WHAT IT  
18 MEANS.

19 Q DO YOU HAVE A PSYCHOLOGIST OR A  
20 PSYCHIATRIST THAT TREATS YOU BACK IN  
21 PENNSYLVANIA?

22 A I HAD ONE FOR FOUR MONTHS FROM  
23 WHEN I GOT OUT OF THE HOSPITAL, THE MENTAL  
24 HOSPITAL.

25 Q OF THIS YEAR?

SEKA000513

APP2388

1 A YES.

2 Q WHAT IS THAT DOCTOR'S NAME?

3 A JOE CLARK. HE'S NOT WITH THEM

4 ANY MORE.

5 Q WHAT WAS NAME OF THAT HOSPITAL

6 YOU WERE AT?

7 A COPE.

8 Q IS THAT IN FLOWERTOWN?

9 A THAT'S IN LANSDALE.

10 Q LANSDALE.

11 IN THE PAST, PRIOR TO JANUARY

12 OF THIS YEAR, YOU HAVE BEEN INSTITUTIONALIZED

13 AT LEAST FIVE TIMES; IS THAT CORRECT?

14 A WHAT DO YOU MEAN

15 INSTITUTIONALIZED? MENTAL HOSPITAL, JAIL OR

16 WHAT?

17 Q YOU'VE BEEN TREATED BY MENTAL

18 HOSPITALS AT LEAST FIVE TIMES; IS THAT CORRECT?

19 A THREE.

20 Q THREE TIMES?

21 A YES.

22 Q AND OF THOSE TIMES, THEY WERE

23 NOT ALWAYS VOLUNTARY? IN OTHER WORDS, SOMEONE

24 FORCED YOU TO GO THERE; IS THAT CORRECT?

25 A RIGHT.

SEKA000514

APP2389

1 Q ISN'T IT TRUE THAT MR. SEKA HAD  
2 YOU INSTITUTIONALIZED AT LEAST ONE TIME?

3 A YES.

4 Q IS THAT WHAT THEY CALL A .302,  
5 IS THAT .302, UNDER PENNSYLVANIA LAW?

6 A YES.

7 Q AND, IN FACT, THERE WAS ONE  
8 POINT IN TIME WHERE MR. SEKA HAD YOU  
9 INSTITUTIONALIZED AND YOU ACCUSED HIM OF DOING  
10 THIS TO TAKE YOUR GIRLFRIEND; IS THAT CORRECT?

11 A NO.

12 Q WHEN WAS THE LAST TIME THAT YOU  
13 WERE INSTITUTIONALIZED AS A RESULT OF MR.  
14 SEKA'S ACTIONS?

15 A JANUARY 23RD.

16 Q SO YOU HAVE NEVER BEEN  
17 INSTITUTIONALIZED BEFORE INVOLUNTARILY? IN  
18 OTHER WORDS, THE AUTHORITIES MADE YOU GO?

19 A I WAS INSTITUTIONALIZED IN '85.  
20 I SIGNED MYSELF IN '89, AND THEN I WENT TO  
21 SELF-HELP, THE DRUG AND ALCOHOL COUNSELING.

22 Q DO YOU TAKE ANY -- AT THIS  
23 POINT IN TIME, ARE YOU TAKING ANY MEDICATIONS  
24 FOR YOUR DEPRESSION?

25 A I STOPPED BECAUSE IT IS NOT

SEKA000515

APP2390

1 WORKING, AND I AM GOING TO SEE ANOTHER DOCTOR  
2 THIS WEEK.

3 Q BACK IN JANUARY OF THIS YEAR,  
4 WERE YOU TAKING ANY MEDICATION?

5 A YES.

6 Q WHAT WERE YOU TAKING?

7 A PAXIL.

8 Q WERE YOU TAKING ANYTHING ELSE?

9 A ATAVAN.

10 Q ~~WHAT~~ ELSE?

11 A THAT'S IT.

12 Q WHAT IS ATAVAN FOR?

13 A IT'S TO TAKE THE TREMORS AWAY  
14 FROM THE PAXIL.

15 Q AND PAXIL?

16 A IT'S A TRANQUILIZER.

17 Q OKAY, AND PAXIL IS FOR THE  
18 DEPRESSION?

19 A YES.

20 Q DO YOU TAKE XANAX?

21 A I HAVE TAKEN XANAX.

22 Q DID YOU TAKE XANAX IN JANUARY  
23 OF THIS YEAR?

24 A YES, I WAS TAKING XANAX THEN.

25 Q WAS THIS ALL UNDER THE ORDERS

1 OF DR. JOE CLARK?

2 A NO.

3 Q THESE MEDICATIONS REQUIRE  
4 PRESCRIPTIONS TO OBTAIN.

5 DID YOU GET THEM FROM ANOTHER  
6 DOCTOR?

7 A YES.

8 Q WHAT WAS THAT DOCTOR'S NAME?

9 A DR. STAFFORD, I BELIEVE.

10 Q WERE THERE ANY OTHER DOCTORS  
11 YOU WERE SEEING TO GET THESE MEDICATIONS?

12 A YES, I WAS SEEING ALL KINDS OF  
13 DOCTORS. I WAS ON A RUN.

14 Q WHAT'S "A RUN" MEAN?

15 A "RUN" MEANS USING DRUGS.

16 Q WHAT IS YOUR DRUG OF CHOICE?

17 A ALCOHOL.

18 Q DO YOU USE ANYTHING ELSE LIKE  
19 METH AMPHETAMINE?

20 A NO.

21 Q COCAINE?

22 A NO.

23 Q SO WHEN YOU SAY YOU'RE USING  
24 DRUGS, YOU'RE BASICALLY JUST TALKING ABOUT  
25 ALCOHOL; IS THAT CORRECT?

SEKA000517

APP2392

1 A THAT'S MY DRUG OF CHOICE.

2 Q YOU HAVE TESTIFIED THAT, AT THE  
3 TIME THAT THIS ARGUMENT OCCURRED AT YOUR HOUSE  
4 IN PENNSYLVANIA WHEN YOU PICKED MR. SEKA UP BY  
5 THE NECK AND THROUGH HIM DOWN THE STAIRS, THAT  
6 YOUR GIRLFRIEND WAS THERE; IS THAT CORRECT?

7 A YES.

8 Q MARGARET?

9 A YES.

10 Q WHAT'S MARGARET'S LAST NAME?

11 A D-A-L-Y, DALY.

12 Q DO YOU STILL SEE HER?

13 A NO, I DON'T. SHE'S GOT A

14 RESTRAINING ORDER ON ME.

15 Q WHEN WAS THAT RESTRAINING ORDER

16 PUT ON YOU?

17 A WHEN I WAS IN THE NUT HOUSE.

18 Q YOU WERE IN THE NUT HOUSE?

19 A YES.

20 Q WHEN WERE YOU IN THE NUT HOUSE?

21 A I ALREADY SAID JANUARY 23RD.

22 Q SO THE RESTRAINING ORDER WAS

23 PUT ON YOU THIS YEAR?

24 A YES.

25 MR. KENNEDY: YOUR HONOR,

SEKA000518

APP2393

1 COURT'S INDULGENCE. I REALIZE YOU WANT TO BE  
2 DONE BY 11:00. DID YOU WANT TO --

3 THE COURT: WE'LL FINISH UP. I  
4 DON'T THINK YOU'LL BE THAT MUCH LONGER.

5 MR. KENNEDY: OKAY, FINE.

6 THE WITNESS: I'D LIKE TO SAY  
7 SOMETHING.

8 MR. KENNEDY: HOLD ON.

9 MR. KANE: THERE IS NO  
10 QUESTION, YOUR HONOR.

11 THE COURT: UNLESS YOU WANT  
12 SOME TIME TO GO OVER THAT REPORT, HIS  
13 STATEMENT.

14 MR. KENNEDY: I THINK I CAN  
15 FINISH UP HERE.

16 THE COURT: THAT'S UP TO YOU.  
17 ARE YOU GOING TO BE AROUND THIS AFTERNOON? ARE  
18 YOU LEAVING TODAY?

19 THE WITNESS: NO.

20 THE COURT: IF YOU WANT SOME  
21 TIME TO DO IT ON THE RECESS, WE'LL GO AHEAD AND  
22 RECESS NOW. AND THEN YOU CAN LOOK OVER AND SEE  
23 IF THERE'S ANYTHING YOU WANT IN THERE.

24 MR. KENNEDY: YES, WHY DON'T WE  
25 DO THAT, YOUR HONOR?

1 THE COURT: DO YOU HAVE ANY  
2 OBJECTION TO THAT, MR. KANE?

3 MR. KANE: NO. I WAS ONLY  
4 DOING IT BECAUSE I KNEW HE WAS OUT OF STATE.

5 THE COURT: WHEN ARE YOU GOING  
6 BACK TO PENNSYLVANIA?

7 THE WITNESS: TOMORROW.

8 THE COURT: SO IT WILL BE NO  
9 PROBLEM. WHY DON'T YOU PLAN TO BE BACK HERE AT  
10 AROUND 1:00. WE WILL RECESS UNTIL 1:15, BUT  
11 COME BACK HERE AROUND 1:00. IN CASE YOU WANT  
12 TO SPEAK TO THE PROSECUTOR HERE -- NO, IT WAS  
13 THE OTHER INDIVIDUAL WHO WANTED TO TALK. IN  
14 CASE THE PROSECUTOR WANTS TO TALK TO THE  
15 OFFICER, WE'LL BE IN RECESS UNTIL 1:15.

16

17 (LUNCH RECESS TAKEN.)

18

19

20

21

22

23

24

25

SEKA000520

APP2395



1                                    AFTERNOON SESSION

2

3

4                                    THE COURT:    LET THE RECORD

5       REFLECT THAT WE'RE BACK FROM THE NOON RECESS IN

6       THE PRELIMINARY HEARING IN THE CASE OF THE

7       STATE OF NEVADA VERSUS JOHN JOSEPH SEKA.

8                                    LET THE RECORD REFLECT THAT THE

9       DEFENDANT IS PRESENT, ALONG WITH HIS ATTORNEY

10      MR. KIRK KENNEDY AND MR. ED KANE IS FROM THE

11      DISTRICT ATTORNEYS OFFICE AND IS REPRESENTING

12      THE STATE.

13                                   WHEN WE WENT TO LUNCH, WE HAD A

14      MR. TOM CRAMER, IS THAT CORRECT?

15                                   THE WITNESS:   YES, YOUR HONOR.

16                                   THE COURT:    MR. CRAMER, WHO WAS

17      STILL UNDER CROSS-EXAMINATION BY THE DEFENSE

18      ATTORNEY.

19                                   MR. CRAMER, I AM GOING TO

20      REMIND YOU THAT YOU TOOK THE OATH EARLIER TODAY

21      AND THAT OATH STAYS WITH YOU UNTIL THIS MATTER

22      IS COMPLETELY RESOLVED.

23                                   ALSO, LET THE RECORD REFLECT

24      THAT THE WITNESSES ARE EXCLUDE FROM THE

25      COURTROOM.    THE EXCLUSIONARY RULE FOR WITNESSES

SEKA000521

APP2396

1 HAS BEEN INVOKED.

2 MR. KANE: THEY ARE OUTSIDE.

3 THE COURT: YES. MR. KENNEDY,  
4 YOU MAY CONTINUE WITH YOUR CROSS-EXAMINATION,  
5 SIR.

6 MR. KENNEDY: THANK YOU, SIR.

7 THE WITNESS: GIVE ME JUST A  
8 SECOND.

9 THE COURT: OKAY. HERE'S SOME  
10 MORE KLEENEX, IF YOU NEED IT. I'M GOING TO ASK  
11 YOU, DID YOU GET A COPY OF HIS STATEMENT?

12 MR. KENNEDY: YES, I DID, FINE,  
13 THANK YOU.

14 ARE YOU OKAY, MR. CRAMER?

15 THE WITNESS: NO. WHAT'S IT  
16 LOOK LIKE?

17 THE COURT: NOW WAIT A MINUTE.

18 THE WITNESS: USE YOUR HEAD.

19 MR. KENNEDY: MR. CRAMER, THERE  
20 IS NO REASON TO TRADE INSULTS HERE. I'M JUST  
21 ASKING YOU A QUESTION; ALL RIGHT?

22 THE WITNESS: YES, BUT IT  
23 SOUNDS STUPID TO ME.

24 THE COURT: SIR, I AM GOING TO  
25 ADMONISH YOU RIGHT NOW, YOU'RE NOT GOING TO

1 TALK TO ANY ATTORNEY LIKE THAT IN THIS  
2 COURTROOM.

3 DO YOU UNDERSTAND THAT?

4 THE WITNESS: ALL RIGHT, YOUR  
5 HONOR.

6 THE COURT: DO YOU UNDERSTAND  
7 THAT?

8 THE WITNESS: YES.

9 MR. KENNEDY: THANK YOU, YOUR  
10 HONOR.

11 THE COURT: I DON'T CARE IF  
12 IT'S THE PROSECUTION OR THE DEFENSE, YOU TREAT  
13 EVERY ATTORNEY WITH RESPECT AND DIGNITY IN THIS  
14 COURTROOM.

15 THE WITNESS: I JUST DON'T WANT  
16 TO BE ASKED A STUPID QUESTION.

17

18

19

20

21

22

23

24

25

\*\*\*

CROSS EXAMINATION CONTINUEDBY MR. KENNEDY:

Q MR. CRAMER, YOU TESTIFIED BEFORE THE BREAK, THAT PRIOR TO THE TIME -- YOU DESCRIBED AN INCIDENT WHERE YOU BASICALLY ASSAULTED MY CLIENT AND YOU GRABBED HIM BY THE NECK AND THREW HIM DOWN SOME STAIRS.

AND I BELIEVE YOU TESTIFIED YOU WERE VERY ANGRY WITH HIM AT THAT TIME; IS THAT RIGHT?

A WITH GOOD REASON.

Q YOU FELT THAT HE WAS USING YOU?

A I FELT THAT MY LIFE WAS THREATENED, AND MY GIRLFRIEND'S LIFE WAS THREATENED, AND MY GRANDMOTHER'S LIFE WAS THREATENED.

Q ARE YOU SAYING THAT MR. SEKA HAD THREATENED YOUR LIFE AT THAT TIME THAT CAUSED YOU TO --

A YES, HE DID.

Q SINCE THAT TIME, WOULD YOU DESCRIBE YOUR RELATIONSHIP WITH MR. SEKA AS NOT FRIENDLY? HOW WOULD YOU DESCRIBE IT? DO YOU

SEKA000524

APP2399

1 STILL VIEW HIM AS A FRIEND?

2 A I STILL LOVE HIM.

3 Q DO YOU STILL VIEW HIM AS A

4 FRIEND?

5 A THAT'S HARD TO SAY. I STILL

6 LOVE HIM.

7 Q IN YOUR STATEMENT --

8 A I DON'T VIEW HIM AS A FRIEND,

9 NO.

10 Q YOU DON'T?

11 A NO. BUT I STILL LOVE HIM.

12 Q OKAY.

13 A THAT'S MY PROBLEM.

14 Q MR. CRAMER, I BELIEVE IN YOUR

15 STATEMENT THAT YOU GAVE TO THE PHILADELPHIA

16 POLICE, WAS THAT INTERVIEW RECORDED?

17 A BURKE.

18 Q I'M SORRY?

19 A BURKE.

20 Q DETECTIVE BURKE?

21 A YES.

22 Q WAS THAT RECORDED? WAS THERE A

23 RECORDING DEVICE THERE AT THAT TIME, DO YOU

24 REMEMBER THAT?

25 A THEY WROTE IT ALL DOWN AND THEN

SEKA000525

APP2400

1       THEY WANTED TO TAPE IT, AND I SAID - NO.

2                   Q       SO YOU DIDN'T SEE A  
3       MICRO-CASSETTE RECORDER OR ANY KIND OF  
4       RECORDING DEVICE THERE AT THAT TIME; DID YOU?

5                   A       I WAS TOO UPSET TO REMEMBER.

6                   Q       DO YOU REMEMBER IN THAT  
7       STATEMENT THAT --

8                   A       I REMEMBER THE STATEMENT.

9                   Q       WELL, LET ME FINISH MY  
10      QUESTION.

11                           DO YOU REMEMBER IN THE  
12      STATEMENT WHERE YOU STATED THAT YOU TOLD MY  
13      CLIENT THAT LEE POLSKI WAS ASKING IF JACK HAD  
14      KILLED PETE LAMANNI, AND I BELIEVE YOU WROTE  
15      DOWN OR STATED THAT JACK TOLD YOU HE HAD  
16      NOTHING TO DO WITH THAT; IS THAT CORRECT?

17                   A       THAT'S CORRECT.

18                   Q       SO YOU INITIALLY DENIED THAT,  
19      TOO; IS THAT RIGHT?

20                   A       THAT'S RIGHT.

21                   Q       I BELIEVE HE TOLD YOU THAT THE  
22      POLICE HAD QUESTIONED HIM HERE IN LAS VEGAS AND  
23      THEY LET HIM GO?

24                   A       YES, HE DID.

25                   Q       SO IT WAS SOMETIME AFTER THIS

1 CONVERSATION, I GUESS IT WAS IN JANUARY, WHEN  
2 YOU HAD THE PHYSICAL ALTERCATION WITH MR. SEKA?

3 A YES.

4 Q AND IT WAS DURING THAT  
5 ALTERCATION THAT YOU ALLEGE HE MADE THESE  
6 STATEMENTS SAYING THAT HE KILLED PETE LAMANNI;  
7 IS THAT CORRECT?

8 A HE SAID TO ME - DO YOU WANT ME  
9 TO DO TO YOU WHAT I DID TO PETE LAMANNI?

10 Q WAS IT OUT OF THE SAME  
11 CONVERSATION THAT YOU ALLEGED THAT YOU SAID  
12 THAT HE PLUGGED HIM, THAT HE PLUGGED PETE?

13 A NO.

14 Q THAT'S A SEPARATE INCIDENT?

15 A THAT WAS WEEKS LATER.

16 Q WEEKS LATER, OKAY.

17 AND ACCORDING TO YOUR  
18 STATEMENT, JACK SAID HE DUMPED PETE'S BODY IN  
19 LAS VEGAS IN THE DESERT SOMEWHERE; THAT'S  
20 SOMETHING YOU ALLEGED HE TOLD YOU?

21 A YUP.

22 Q DO YOU KNOW WHERE PETE  
23 LAMANNI'S BODY WAS FOUND?

24 A NO. SOMEWHERE IN VEGAS.

25 Q I DON'T WANT YOU TO GUESS,

SEKA000527

APP2402

1        THAT'S FINE.    WERE YOU CONTACTED BY THE FBI IN  
2        PENNSYLVANIA?

3                    A            YES, THEY KNOCKED ON MY DOOR AT  
4        6:00 IN THE MORNING.    AND JACK TOLD ME THAT HE  
5        WASN'T STAYING AT MY GIRLFRIEND'S.    AND AS FAR  
6        AS I KNEW, FROM EVERYTHING HE TOLD ME FOR THE  
7        LAST FIVE YEARS, WAS MOSTLY LIES.    I JUST TOLD  
8        THEM WHERE MY GIRLFRIEND LIVED.

9                    AND HE TOLD -- IT GOT BACK TO  
10       ME THAT HE TOLD PEOPLE THAT I GAVE HIM UP, AND  
11       I DIDN'T.    ALL E DID WAS GIVE MY GIRLFRIEND'S  
12       ADDRESS, AND THAT WAS WHERE HE HAPPENED TO BE,  
13       WHERE HE SAID HE WASN'T.

14                   Q            SO YOU WERE UPSET THAT HE WAS  
15       AT YOUR GIRLFRIEND'S HOUSE, MARGARET'S HOUSE?

16                   A            I DIDN'T KNOW THAT.    I  
17       SUSPECTED IT, BUT HE SAID HE WASN'T.

18                                    AND I'M NOT AN ASSHOLE, EITHER.

19                   Q            SIR, I'M NOT ASKING YOU  
20       QUESTIONS LIKE THAT, OKAY?

21                                    SIR, I WANTED YOU TO CLARIFY  
22       SOME OF YOUR PRIOR PHYSICIANS.    YOU TOLD ME  
23       ABOUT A DR. STAFFFORD AND, OF COURSE, WE KNOW  
24       ABOUT DR. CLARK.

25                                    ARE THERE ANY OTHER DOCTORS



1 THAT YOU RECALL THAT YOU TREATED WITH LET'S SAY  
2 IN 1998?

3 A I DON'T EVEN KNOW THEIR NAMES.  
4 I WAS JUST TRYING TO STAY OFF OF ALCOHOL.  
5 WHOEVER.

6 WHICH WAS NEITHER HERE NOR  
7 THERE, BECAUSE THE NIGHT THAT --

8 MR. KENNEDY: SIR, I DON'T HAVE  
9 ANY QUESTIONS.

10 THE COURT: THERE'S NO QUESTION  
11 PRESENTED TO YOU, SIR.

12 BY MR. KENNEDY:

13 Q SO AT THE TIME YOU GAVE THE  
14 STATEMENT TO THE POLICE, I BELIEVE THIS WAS IN  
15 -- YOU GAVE THE STATEMENT TO THE POLICE IN  
16 APRIL OF THIS YEAR; IS THAT CORRECT?

17 A IF YOU SAY SO.

18 Q WELL, DO YOU REMEMBER IF IT WAS  
19 IN APRIL OF THIS YEAR?

20 A I DON'T REMEMBER.

21 Q DURING THAT TIME IN APRIL OF  
22 THIS YEAR, YOU WERE UNDER THE MEDICATIONS OF  
23 PAXIL AND ATAVAN AND XANAX; IS THAT CORRECT?

24 A YES.

25 Q AS YOU SIT HERE TODAY, ARE YOU

1 UNDER THE INFLUENCE OF THOSE MEDICATIONS?

2 A NOT PAXIL, XANAX.

3 Q XANAX.

4 HOW ABOUT ATAVAN?

5 A NO, NO ATAVAN.

6 Q DO YOU TAKE ANY MEDICATIONS FOR  
7 YOUR ALCOHOLISM?

8 A IT'S DEPRESSION.

9 Q ARE THERE ANY MEDICATIONS THAT  
10 YOU HAVE TAKEN FOR ALCOHOLISM?

11 A NO.

12 MR. KENNEDY: YOUR HONOR,  
13 NOTHING FURTHER, OF THIS WITNESS.

14 MR. KANE: NOTHING FURTHER.

15 THE COURT: OKAY, TOM, YOU'RE  
16 EXCUSED. THANK YOU VERY MUCH FOR COMING AND  
17 TESTIFYING. HAVE A GOOD TRIP BACK TO NEW  
18 JERSEY.

19 CALL YOUR NEXT WITNESS.

20 MR. KANE: DAVID RUFFINO.

21 THE CLERK: PLEASE BE SEATED.

22 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

23 THE WITNESS: MY NAME IS DAVID  
24 RUFFINO. THE SPELLING OF MY LAST NAME IS  
25 R-U-F-F-I-N-O.

1  
2 \*\*\*

3  
4 DAVID RUFFINO#

5 WAS CALLED AS A WITNESS BY THE STATE, AND AFTER  
6 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND  
7 DID TESTIFY, AS FOLLOWS:  
8

9 \*\*\*

10  
11 DIRECT EXAMINATION

12 BY MR. KANE:

13 Q BY WHOM ARE YOU EMPLOYED, SIR?

14 A LAS VEGAS METROPOLITAN POLICE  
15 DEPARTMENT.

16 Q HOW LONG HAVE YOU BEEN EMPLOYED  
17 BY THAT DEPARTMENT?

18 A TWENTY-ONE AND A HALF YEARS.

19 Q TO WHAT DIVISION ARE YOU  
20 CURRENTLY ASSIGNED?

21 A FOR ALL THOSE TWENTY-ONE AND A  
22 HALF YEARS, I'VE BEEN ASSIGNED TO THE  
23 CRIMINALISTICS BUREAU, FIELD SECTION.

24 Q AND IS PART OF YOUR DUTIES IN  
25 THE CRIMINALISTICS SECTION THE DRAWING OF THE

SEKA000531

APP2406

1 CRIME SCENES TO REFLECT THE SCENES THEMSELVES  
2 AND THE RECOVERY OF EVIDENCE FROM THOSE SCENES?

3 A THAT'S CORRECT.

4 Q ON NOVEMBER THE 17TH OF 1998,  
5 WERE YOU WERE YOU PRESENT AT ALL THE PRIOR  
6 SEARCHES OF 1929 SOUTH WESTERN AVENUE AND 1933  
7 SOUTH WESTERN AVENUE, HERE IN LAS VEGAS, CLARK  
8 COUNTY, NEVADA?

9 A YES, I WAS.

10 Q AND AS ITEMS OF EVIDENCE WERE  
11 COLLECTED, DID YOU NOTE THEIR LOCATION AND  
12 INSERT THOSE ON THE CRIME SCENE DIAGRAM?

13 A YES.

14 Q I AM SHOWING YOU WHAT'S BEEN  
15 MARKED FOR THE PURPOSES OF IDENTIFICATION AS  
16 STATE'S EXHIBIT 2, AND ASK IF THOSE ARE THE TWO  
17 DIAGRAMS THAT YOU ACCOMPLISHED ON THAT DATE?

18 A YES, MYSELF AND RANDY MCVALE,  
19 ALSO OF THE CRIMINALISTICS BUREAU, WE BOTH PUT  
20 THESE TOGETHER.

21 Q DO THEY ACCURATELY REFLECT, NOT  
22 TO EXACT SCALE, BUT THE LAYOUT OF THE TWO  
23 PREMISES AND THE ITEMS THAT WERE RECOVERED FROM  
24 THOSE PREMISES BY A VARIETY OF POLICE OFFICERS?

25 A YES.

1 MR. KANE: NOTHING FURTHER,  
2 YOUR HONOR.  
3

4 \*\*\*

5  
6 CROSS EXAMINATION

7 BY MR. KENNEDY:

8 Q DID YOU ACTUALLY DRAW THESE  
9 YOURSELF, RATHER THAN MR. MCVALE?

10 A ACTUALLY, WE BOTH ASSISTED EACH  
11 OTHER. I WAS SOLELY RESPONSIBLE FOR THE ROUGH  
12 DIAGRAM OF THE 1929, AND MR. MCVALE HELPED PUT  
13 TOGETHER INTO THE COMPUTER THE FINAL DRAFT.  
14 AND I ASSISTED MR. MCVALE IN ASSISTING HIM IN  
15 DIAGRAMING 1933 AND THEN HE PUT THIS INTO THE  
16 COMPUTER. AND BOTH OF THESE ARE THE FINISHED  
17 PRODUCT.

18 Q ON THE RESIDENCE AT 1929 SOUTH  
19 SOUTH WESTERN, DID YOU ACTUALLY -- WELL, NOT  
20 THE RESIDENCE, THE LOCATION -- DID YOU ACTUALLY  
21 GO INSIDE AND LOOK AROUND?

22 A YES, I DID.

23 Q DO YOU RECALL SEEING A GOLD  
24 BRACELET OR GOLD WATCH ON THE FLOOR?

25 A YES, IT WAS A GOLD BRACELET.

1 IT APPEARED TO BE NOT REAL, BUT I'M NOT SURE  
2 WHETHER IT WAS OR WAS NOT. IT WAS LYING ON THE  
3 FLOOR AT THAT LOCATION. IT WAS A NUGGET-TYPE,  
4 GOLD-COLOR BRACELET.

5 Q HOW WIDE WAS THE BRACELET?  
6 WOULD YOU SAY HALF AN INCH, QUARTER INCH, TO  
7 THE BEST OF YOUR RECOLLECTION?

8 A I DON'T RECALL AT THIS TIME  
9 EXACTLY HOW WIDE IT WAS.

10 Q LARGE ENOUGH TO SEE ON THE  
11 FLOOR, THOUGH?

12 A MOST DEFINITELY.

13 Q DID YOU PICK IT UP?

14 A YES, AND IMPOUNDED IT AS  
15 EVIDENCE.

16 Q DID IT APPEAR HEAVY, LIKE FOR A  
17 GOLD BRACELET?

18 A LIKE I SAID, IT APPEARED TO ME  
19 THAT IT COULD HAVE BEEN A FAKE PIECE OF  
20 JEWELRY. BUT I'M NOT AN EXPERT IN THE AREA OF  
21 JEWELRY.

22 Q YOU ALSO FOUND A BLUE WINTER  
23 COAT?

24 A YES.

25 Q I NOTICE HERE IN THE DIAGRAM IT

1       SAYS - WINTER COAT.

2                       WHAT MADE YOU MAKE THAT  
3       DETERMINATION THAT IT WAS A WINTER COAT? WAS  
4       IT VERY HEAVY, WAS IT DOWN-FILLED OR SOMETHING?

5               A       IT WAS A HEAVIER-TYPE COAT,  
6       THICKER-TYPE COAT. AND TO ME IT APPEARED TO BE  
7       A BLUE, SECURITY-TYPE OF WINTER-TYPE COAT.

8               Q       DID IT HAVE A LINER?

9               A       FROM WHAT I RECALL, IT HAD SOME  
10       TYPE OF LINING. IT APPEARED TO BE A  
11       WINTER-TYPE COAT.

12                   MR. KENNEDY: I HAVE NOTHING  
13       FURTHER, YOUR HONOR.

14                   MR. KANE: NOTHING FURTHER.

15                   THE COURT: YOU'RE EXCUSED.  
16       THANK YOU VERY MUCH FOR COMING AND TESTIFYING.

17                   MR. KANE: CALL TOM THOWSEN,  
18       YOUR HONOR.

19                   THE CLERK: PLEASE BE SEATED.  
20       STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

21                   THE WITNESS: THOMAS D.  
22       THOWSEN, T-H-O-W-S-E-N.

23

24

25

1 OF THE CASE -- THAT IF YOU THREATEN SOMEONE AND  
2 THEN YOU STOP AND YOU'RE NOT APPLYING THE  
3 FORCE, AND THEY LATER GIVE YOU THE MONEY  
4 BECAUSE OF THE INITIAL APPLICATION OF FORCE,  
5 THAT'S STILL ROBBERY.

6 I MEAN, THE GRAVAMEN OF ROBBERY  
7 IS THAT YOU USE FORCE TO GET SOMETHING. YOU  
8 DON'T HAVE TO USE IT RIGHT UP UNTIL YOU GET IT;  
9 YOU DON'T HAVE TO USE IT CONTEMPORANEOUSLY WITH  
10 GETTING IT, BUT WHAT YOU HAVE TO DO IS OBTAIN  
11 PROPERTY BY THE USE OF FORCE OR VIOLENCE OF  
12 PUTTING SOMEONE IN FEAR.

13 AND I THINK FOR PROBABLE CAUSE  
14 DETERMINATION PURPOSES, THAT'S WHAT WE'VE GOT.  
15 AND I WOULD SUBMIT IT.

16 MR. KENNEDY: YOUR HONOR, I  
17 WOULD JUST NOTE THAT IT SEEMS THAT THE STATE  
18 WANTS YOU TO DO A LITTLE SPECULATION, A LITTLE  
19 GUESS HERE AS TO WHETHER THE ROBBERIES HAD  
20 OCCURRED OR NOT.

21 THE EVIDENCE THAT'S BEEN  
22 PRESENTED IS NOT ENOUGH, EVEN TO GET OVER THAT  
23 SLIGHT INFERENCE FOR THE PURPOSES OF THIS  
24 HEARING, AND I WOULD ASK YOU, AT A MINIMUM, TO  
25 DISMISS THE TWO ROBBERY COUNTS.



1 WHERE THEY SHOT THEM AND THEN THEY CAME ALONG  
2 AND EMPTIED OUT THEIR POCKETS?

3 MR. KENNEDY: WHAT WE'RE  
4 MISSING HERE, THOUGH, YOUR HONOR, IS THERE'S NO  
5 EVIDENCE PRESENTED AT THIS HEARING TO SUPPORT  
6 THE TAKING OF PROPERTY, EITHER BY FORCE OR  
7 VIOLENCE.

8 THE COURT: WELL, IT WAS IN THE  
9 PRESENCE OF THE -- PUT IT THIS WAY: IT WAS IN  
10 THE PRESENCE OF AN AREA OVER WHICH THE  
11 DEFENDANT HAD CONTROL.

12 MR. KENNEDY: THE QUESTION NOW  
13 IS DID THE DEFENDANT HAVE CONTROL THERE? AND  
14 THAT'S THE BIG, OPEN QUESTION.

15 THE COURT: YOU KNOW, IT  
16 DOESN'T TAKE MUCH AT THIS HEARING. I KNOW THAT  
17 THE EVIDENCE IS NOT ALL THAT STRONG. I MEAN,  
18 YOU MAY HAVE A GOOD ARGUMENT WHEN YOU GET TO  
19 THE DISTRICT COURT.

20 BUT HE HAD THE JACKET, THERE  
21 WAS A JACKET IN THE PREMISES THERE, OVER HIS  
22 CONTROL, AND THE JACKET HAD BULLET HOLES IN IT.

23 NOW LET'S GO WITH MR. HAMILTON  
24 ABOUT WHERE HIS BODY WAS FOUND AND THEY FOUND  
25 ON TOP OF HIM LUMBER, LUMBER THAT WAS FOUND

1 FIND THAT THE STATE HAS ESTABLISHED SUFFICIENT  
2 PROBABLE CAUSE FOR THE PURPOSE OF THIS HEARING  
3 TO DETERMINE THAT CRIMES HAVE BEEN COMMITTED,  
4 AND THOSE ARE THE CRIMES OF: MURDER WITH THE  
5 USE OF A DEADLY WEAPON IN COUNT 1; BURGLARY  
6 WITH THE USE OF A DEADLY WEAPON IN COUNT 2;  
7 ROBBERY WITH THE USE OF A DEADLY WEAPON IN  
8 COUNT 3; ROBBERY WITH THE USE OF A DEADLY  
9 WEAPON IN COUNT 4.

10 AND THERE IS REASONABLE CAUSE  
11 TO BELIEVE THAT THE DEFENDANT, JOHN JOSEPH  
12 SEKA, COMMITTED THESE CRIMES, I HEREBY ORDER  
13 THE SAID DEFENDANT TO BE HELD TO ANSWER TO THE  
14 SAID CHARGES IN THE EIGHTH JUDICIAL DISTRICT  
15 COURT FOR THE STATE OF NEVADA, IN AND FOR THE  
16 COUNTY OF CLARK.

17 THE CLERK: JULY THE 13TH, 9:00  
18 A.M., DEPARTMENT 14.

19

20 MR. KENNEDY: MAY I ASK THE  
21 COURT REPORTER HOW SOON WE WILL HAVE THE  
22 PRELIMINARY HEARING TRANSCRIPT?

23 THE REPORTER: IN TWO WEEKS.

24 THE COURT: YES, IT GOES UP  
25 WITH, THE TRANSCRIPT GOES UP WITH THE BINDOVER.

SEKA000538

APP2413

# **EXHIBIT 42**

SEKA000539

APP2414

PROFESSIONAL INVESTIGATORS, INC.

Investigator: Philip B. Needham

Our File No.: 99-0321/PBN

STATEMENT OF LEE M. POLSKY

DATE: February 18, 2000

TIME:

LOCATION:

Woodbury, New Jersey

DOB:

SS#:

---

PBN: Lee, uh did you know Thomas Creamer?

LMP: Vaguely.

PBN: Vaguely, do you know anything about his reputation, what you've heard or anything?

LMP: Only what I heard, which is hearsay, which I heard that he, he had been a substance abuser maybe, yeah a substance abuser and he had straightened out for sometime..

PBN: Uh-huh

LMP: Had a good job and then I heard he went off the deep end again,  
which I know to be a fact because I spoke to his boss at the auction  
that I go to and he said that Tommy was having problems.

PBN: Did you, did you ever see Jack uh get violent?

LMP: No.

PBN: How would you describe his personality, pretty, pretty mild, pretty  
mellow.

LMP: I thought he, yeah I thought, he had worked for me for a number of  
years and had been in a lot of different situations which you can be  
when you are (inaudible) business and he was probably the best guy I  
ever had work for me in my 30 year career, as far as he could handle  
a situation and he was very mature for his age e and he was a real  
good thinker. Uh, he was real good.

PBN: Did you get a phone call from Jack at one time when he, he uh told  
you that uh that Pete was missing or...

LMP: Yes.

PBN: Can you tell me about that phone call?

LMP: He told he'd come back from Philadelphia and that Pete had picked

him up at the airport and Pete didn't have that much to say. He gave him a check for some money he owed him and they went home and I guess they went to bed and then, so the next morning woke up, I think it was the next morning, it could be two mornings later. No, maybe the next day they went to work together and everything was fine then that night they went home and went to bed. The next morning Jack woke up and Pete wasn't there and he said that he felt that maybe he went out to get coffee, like he did every morning, maybe at a Dunkin Donuts or something. And he said that he didn't come back and he called me either that night or the next day, he says, look, he says, I don't know where Pete is. He said, he hasn't come back, I thought he went out for coffee and he hasn't come back and I went to cash my check and the account was either overdrawn or closed. So he said, I called his girlfriend and the girlfriend said that Pete had been acting strange and he said that I know he wouldn't have, he said, maybe he'd come home but then again I know he wouldn't have taken off because he left his dog here. And he doesn't go anywhere without the dog. And then I recall him telling me that, I

don't know if it was back when I spoke with him another time that he must be around because some van wasn't there in the morning and it appeared there at night.

PBN: Okay, and did you at one time have a conversation with Tom Creamer where you asked him, do you recall..

LMP: I recall, I probably, most likely from my recall, called Tommy and asked him if he knew anything about Jack because I heard some rumors here that something happened and I knew that Tommy had been a real good friend of Jack's.

PBN: Okay, do you, do you know if Pete had any violent tendencies?

LMP: Yes, yeah I've seen him, he was a live wire with a real short fuse, I witness several of the (inaudible) they were, he got mad at them and beat them up pretty good. And uh he went out to his van and got a gun and was gonna, I don't know what he was gonna do with it but everybody had to stop him there and calm him down.

PBN: Okay so you know that (inaudible) seemed to be violent in the past?

LMP: I mean what is fair, is fair, yes.

PBN: Do you have anything else you would like to say?

LMP: Just that it, if I was a betting man I wouldn't bet that Jack did anything violent.

PBN: That's the end of the interview.



# **EXHIBIT 43**

SEKA000545

APP2420

# PHILADELPHIA POLICE DEPARTMENT

HOMICIDE DIVISION  
FUGITIVE SQUAD - ROOM 107



8th & Race Sts.  
Philadelphia, PA. 19106



Voice: (215) 686-3068

686-3084

Fax: (215) 925-7377

## TELEFAX COVER SHEET

TO:

Det. TOM TOWSON

FROM:

Det. DENNIS DUSAK

DATE:

4-19-99

COMMENTS:

This Message Consists of 7 Sheet(s) Following The Cover

SEKA000546

APP2421

FROM

(MON) 4.19'99 14:24/ST. 14:23/NO. 4861146194 P 2

Page 1 of 1 PARS

**Defendant:** last name **SEKA** Sex: **Male** SSN: **184-64-8812** DOB: **12/30/1988**  
first name **JOHN** middle initial **J** Race: **White** Birth Place: **Philadelphia**  
**Address:** **1418 Roselle ST Philadelphia PA 19124** **Phone #:** **215-000-0000**  
**Year:** **1999** **District:** **06** **DO#:** **99-06-021719** **Sector:** **B** **Ctrl#:** **00000**  
**PID:** **OTN:** **M8244524** **Event:** **CBN:** **116052**  
**Crime Class:** **3123** **Desc:** **Fugitive, Jurisdiction other than Pennsylvania** **Authority:** **Philadelphia Police Department**  
**DFJ:** **N**

**Arrest Name:** **DOB:** **SSN:**

**ARREST INFORMATION:**

**Date / Time:** 03/31/1999 08:00AM **District:** 06 **Inside/Outside:** I  
 1418 Roselle ST Philadelphia PA 19124-  
**Stating Date:** 03/31/1999 **Stating Time:** 12:00PM **Sum/Warr:** **Issued By (Judge or Bail Comm):**

**OCCURRENCE:**

**Date / Time:** 11/16/1998 10:00AM **Date reported:** 11/16/1998 10:00AM **Inside/Outside:** I **Codefendants?:** Y  
 00000 nostreet ST Philadelphia 00 19100-

**FACTS OF THE CASE:**

SUBJECT WILL BE CHARGED WITH TITLE 42CSA SECTION 9121 DETAINERS AND EXTRADITIONS.  
 SUBJECT ARRESTED AND CHARGED ON THE STRENGTH OF ARREST WARRANT #99F03542X ISSUED 3-05-99 SIGNED BY JUDGE  
 WILLIAM JANSEN, CHARGING TWO (2) COUNTS OF MURDER. LAS VEGAS NEVADA AUTHORITIES HAVE BEEN CONTACTED AND  
 WILL EXTRADITE.

**CHARGES:**

Code	DC Description	Grade	Counts
CC5126	FLIGHT TO AVOID PROS	F3	001

**REQUESTED HEARING DATE:**

04/01/1999 09:00

**REQUESTED HEARING LOCATION:**

803 CJC: 1301 Filbert Street

**COMPLAINANTS AND WITNESSES:****Complainant(s)**

LVPD Las Vegas PD

13 E Nostrand RT Las Vegas 00 19126-

**Age:** 68 **Phone(H):** 702-229-3521 **Phone(W):** 702-229-3521 **SSN:** - -**ARREST REPORT BY:****Assigned - payroll no:** 137872 **DUSAK DENNIS**

Badge	Dist/Unit	Platoon/Group
633	60 / 3	60

**ARREST REPORT APPROVED BY:****Supervisor - payroll no:****Approval Code:****POLICE PERSONNEL:**

Employee Name	Payroll Number	Badge	Dist/Unit	Platoon/Group	Vacation Dates	Vacation Description	Needed At Hearing Police/Sup
DUSAK DENNIS	137872	633	60 / 3	60			N / R

**ADDITIONAL INFORMATION:**

**Hits:** N **Statement?:** **Lab User Fees Requested?:** **ADA Concerns?:**

**EMPLOYER INFORMATION:****Occupation:** None**Employer:** None**Phone:** 215-000-0000

Philadelphia PA

SEKA000547

APP2422

JUVENILE

(MUN) 4.19.99 14:25/ST. 14:23/NO. 4861148194 P 3

FBI/DOJ

Defendant: JOHN J SEKA Race: White SSN: 184-54-5812 DOB: [REDACTED] 1958  
CBN: 115052 Event: Offender Location: PDU (750 Race St.) Sex: Male Birth Place: Philadelphia  
Address: [REDACTED] PA 19124- Phone Number: [REDACTED] 0000

## ARREST INFORMATION:

Year: 1999 District: 06 DC #99-06-021719 Incident D/T: 11/16/1998 10:00:00A Cit #: 00000 Section: 8 D/T: 03/31/1999 08:00:00AM  
1416 Rocala ST Philadelphia PA 19124- In/Outside: I  
Starting Date: 03/31/1999 12:00PM  
Sum/Warr: Issued By (Judge or Bail Comm):

Crime Class: 3123 Desc: Fugitive, Jurisdiction other than Pennsylvania

Authority:  
Philadelphia Police Department

## CHARGES:

Code	DC Description	Grade	Counts
CCB126	FLIGHT TO AVOID PROB	F3	001

ORIGINAL DOCUMENT

3/31/1999 2:12 PM

SEKA000548

APP2423

BIOGRAPHICAL INFORMATION REPORT								PHILADELPHIA POLICE DEPARTMENT	
<input type="checkbox"/> ARREST <input type="checkbox"/> INVESTIGATION <input type="checkbox"/> OTHER (CHECK BOXES WITH DOCUMENTATION EVIDENCE)									
DATE	TIME	LOCATION OF BIRTH			BIRTHDAY		D.B. NO.		
3-31-99	10:00	Hennepin Division			10/20/88		M		
NAME	LAST	FIRST	MIDDLE	SEX	RACE	EDUCATION			
SEKA	JOHN	JOSEPH		M	W	HS			
HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR	COMPLEXION	SCARS	GLASSES	TEETH	TOOTH MARKS	
5'10"	185	Brown	Gray	Fair	Blended	None	None	None	
ADDRESS		ALLIES			MARTIAL STATUS		SINGLE		
11 Frank		None			None		None		
RESIDENCE STREET NUMBER		CITY			STATE		ZIP		
11 Frank		Glenview Pennsylvania			PA		19134		
TYPE OF RESIDENCE		FROM BIRTH			DRIVER LICENSE		STATE		
Not Residence		With Parents			None		None		
SOCIAL SECURITY NUMBER		OCCUPATION			EMPLOYER/EMPLOYER				
None		Sales			Cinergy - Las Vegas Nevada				
PLACE OF BIRTH/CITY, STATE		GROUP AFFILIATION			ETHNIC BACKGROUND				
Phila PA		None			None				
SCARS, TATTOO, DISFIGUREMENT		CLOTHING DESCRIPTION			JEWELRY WORN				
None		White Sneakers			None				
		White Socks							
		Blue Jeans							
		Long Sleeve Blue Shirt with							
		"Logo" Cowboys - National Foot Ball							
		Leopards							
VEHICLE INFORMATION									
YEAR	MAKE	MODEL	COLOR	STATE	TAG	VIN			
1.									
2.									
OWNER—LAST NAME, FIRST			ADDRESS			CITY		STATE	
1.									
2.									
MODUS OPERANDI (METHODS, TRICKS, ETC.)					AREAS FREQUENTED				
					City of Las Vegas Nevada				
					City of Philadelphia PA				

SEKA000549

APP2424

RELATIVES					
RELATIONSHIP	LAST NAME	FIRST NAME	ADDRESS	CITY/STATE	PHONE
SPOUSE	SEKA				
MOTHER	SEKA	Madama Regina	219 Street E	Glenide PA	
FATHER	SEKA	Joseph	101 N. 1st St	Glenide PA	
BROTHER	SEKA	Thomas	Fairfax Virginia	Woods VA	
BROTHER	SEKA	SEKA	Glenide PA	Woods VA	
BROTHER	SEKA				

ASSOCIATES					
LAST NAME	FIRST NAME	ADDRESS	CITY/STATE	PHONE	
CATERANO	CHRISTINA	2 Ave	Phila. PA	215-684-1530	
BOLINDER	STACY		Phila. PA	215-687-6272	
POLSKY	LEE	621	10 Bay N.J.	609-853-7222	

EDUCATION			
SCHOOL	ADDRESS	CITY/STATE	YEARS
Bishop McDevitt	Wyncoote PA	Wyncoote PA	12th

CRIMINAL RECORD INFORMATION			
PNM	PN NUMBER	PA NUMBER	OTHER NUMBER (STATE EMERGENCY)
PARDON NUMBER	PARDON OFFICER	TELEPHONE NUMBER(S)	
PROBATION NUMBER	PROBATION OFFICER	TELEPHONE NUMBER(S)	
CHIEF CRIMINAL ACTIVITY			

INVESTIGATOR LAST NAME	BADGE	RANK	DISTRICT/UNIT/PLATOON
PERMINT	9166	DET	Honide - 5 SQUAD
PERMINT	9166	DET	Honide - 5 SQUAD

ADDITIONAL REMARKS
1418 Rosalve ST, 8AM - ARRESTED F.O.J

INVESTIGATION INTERVIEW RECORD		PHILADELPHIA POLICE DEPARTMENT HOMICIDE DIVISION		CASE NUMBER  INTERVIEWER DUSAK	
NAME Thomas CREAMER		AGE 39	RACE W/M	DOB	
ADDRESS 39 [redacted] town, PA 19030		APARTMENT NUMBER		TELEPHONE NUMBER 836-7725	
NAME OF EMPLOYMENT/SCHOOL				SOCIAL SECURITY NUMBER	
ADDRESS OF EMPLOYMENT/SCHOOL		DEPARTMENT		TELEPHONE NUMBER	
DATES OF PLANNED VACATIONS					
DATES OF PLANNED BUSINESS TRIPS					
NAME OF CLOSE RELATIVE Elyse CREAMER (Mother)					
ADDRESS 56		TELEPHONE NUMBER 535-8085			
PLACE OF INTERVIEW Police Headquarters Homicide Division ROOM 104			DATE Friday	TIME 4-09-99	AM PM
BROUGHT IN BY Self			DATE	TIME	AM PM
WE ARE QUESTIONING YOU CONCERNING John SEKA, wanted for two murders in Las Vegas, Nevada					
WARNINGS GIVEN BY			DATE	TIME	AM PM
ANSWERS					
(1)	(2)	(3)	(4)	(5)	(6)
Q. Tom, I'm Detective Dennis DUSAK of the Homicide Division of the Philadelphia Police Department. I've explained to you that I will be interviewing you and asking you questions concerning Jack SEKA, who was arrested on MURDER warrants from Nevada. Do you understand?					
A. Yes					
Q. How long have you known John SEKA, nicknamed JACK?					
A. About ten years.					
Q. Was Jack a good friend of yours?					
A. Yes. He was a very good friend, I loved him, I lent him money, I testified in court for him, I did everything for him. Eventually our relationship deteriorated. It got to the point where we were just friends.					
Q. When was the last time that you saw Jack?					
A. Well, about a year ago. Jack left for Las Vegas. He said he was going out there to					
RECORD		CHECKED BY			
<input type="checkbox"/> Yes <input type="checkbox"/> No					
REVIEWED BY					

75-883 (Rev. 7/82)

SEKA000551

APP2426

INVESTIGATION INTERVIEW RECORD CONTINUATION SHEET		CITY OF PHILADELPHIA POLICE DEPARTMENT	
NAME	PAGE	CASE NO.	
Thomas CREAMER	2		
A. get some work, if you can call it that.			
Sometime in December of 1998 Jack called me on the phone. He said he was back in Philly and he said he was at his girlfriend's house, somewhere on Frankford avenue, near Lehigh Avenue. Now, a few weeks before this, Lee POLSKI, a car dealer I know in Woodbury, New Jersey, called me and asked if I knew anything about Jack killing Pete LIMANNI out in Las Vegas. I said I haven't heard anything. So anyway, Jack called me from Philly. We were talking. I asked him about Pete LIMANNI, about what I heard. Jack told me that he didn't do it, that Pete was missing, and that he didn't know where he was. Jack said the cops questioned him for seven hours and let him go. That was it.			
The first time I saw Jack in person was around Christmastime, when he popped in my girlfriend's mother's house at 1418 Rosalie Street. He didn't talk much, he said he was preoccupied.			
Q. Tom, Jack was arrested by the FBI on March 31st at your girlfriends house at 1418 Rosalie Street. Did you give the FBI information leading to his arrest?			
A. Yes. the FBI came to my house that day early in the morning, looking for Jack. They searched the house. I told the FBI that he was probably at my girlfriend's house on Rosalie Street. So they went there and arrested him.			
Q. In any of your conversations with Jack SEKA, did he ever tell you about or admit to the murders that he is accused of in Nevada?			
A. Yes he did. One time we were arguing, in my house, and he said to me "DO YOU WANT ME TO DO TO YOU WHAT I DID TO PETE LAMANNI?" That's when I grabbed him by the neck and threw him down the steps. Jack had called the police, and the next day, they committed me to Norristown State Hospital for ten days. After I got out, I went home. My girlfriend had left and went to live with her mother on Rosalie Street.			

5-463A

SEKA000552

APP2427



FROM

(MON) 4.19'99 14:27/ST. 14:23/NO. 4861148194 P 8

INVESTIGATION INTERVIEW RECORD CONTINUATION SHEET		CITY OF PHILADELPHIA POLICE DEPARTMENT	
NAME THOMAS CREAMER	PAGE 3	CASE NO.	
Q. Did Jack SEKA say anything else about the Nevada murders?			
A. Yes. It was in my house. It was sometime in January. Jack said something to me, and I confronted him about it. I asked him if he really killed Pete LIMANNI, and he said yes, he killed him. Jack said "I PLUGGED HIM." Jack said "AFTER I PLUGGED HIM, I HAD TO PLUG HIM A FEW MORE TIMES, BECAUSE HE WAS GURGLING." or some shit. Jack said he had to plug him to shut him up, because he was gurgling. Jack also told me that he got rid of the gun he used to kill Pete. He said the gun's gone for good. Jack also said he dumped Pete's body in Las Vegas, in the desert somewhere. Jack said a transient was also killed next door to his place in Las Vegas, but in Jack's exact words, he said it "WAS A FREAK ACCIDENT." Jack said he knew nothing about the transient.			
Q. Tom, did Jack tell you anything else about the murders?			
A. No, that was it. Basically, that was it. If I remember anything else, I'll call you.			
Q. Tom, is there anything more that you can add to aid this investigation?			
A. No, that's it.			
Q. I'd like you to read this statement, make any corrections, then sign your name at the bottom of each page.			
Thomas, I am Detective Permint and I am going to read your statement back to you, Do you understand this.			
A. Yes.			
Q. If your statement is true and correct, I want you to sign each page. Do you understand this?			
A. Yes.			

E-4834

SEKA000553

APP2428

# EXHIBIT 44

SEKA000554

APP2429

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOHN JOSEPH SEKA

Petitioner,

vs.

STATE OF NEVADA,

Respondent.

CASE NO. C159915  
DEPT. 14

**DECLARATION OF MARGARET ANN MCCONNELL**

STATE OF NEVADA        )  
                                  ) ss.  
COUNTY OF CLARK        )

1. I met Thomas Creamer at a car lot where Tom was working in the 1990's. We quickly became friends, and then started a relationship.

2. I met John "Jack" Joseph Seka in the 1990's through Tom.

3. Tom and Jack originally met at drug rehabilitation center; Self Help Motivated, in Philadelphia.

4. When we first met, Tom had completed the Self Help Motivated Rehabilitation Program. He continued to live there at the rehabilitation center, and didn't appear to be struggling with any drug addiction.

5. Sometime after leaving Self Help, Tom suffered from back pain. In order to alleviate the pain he used pain medication that he received from my mother.

6. However, Tom's condition quickly deteriorated as he succumbed to his addiction.

7. Tom began taking any prescription medication he could, including: Paxil, Xanax, muscle relaxers, and any other prescription drug he could obtain.

SEKA000555

APP2430

8. Tom would see multiple doctors to obtain these prescription medications.
9. Tom's addiction progressed to the point that he would frequently lose consciousness, have frequent violent mood swings, and would often have gaps in his memory.
10. Unfortunately, Tom would also become extremely aggressive and violent. He would physically abuse me, and threatened to kill me on several occasions. I was often concerned that he was going to hurt himself, his grandmother, myself, and others around him.
11. Due to Jack's friendship with Tom, I would call Jack for help in calming Tom.
12. In December 1998 and January 1999, Tom's behavior seemed to increase in intensity.
13. During this time, I was living with Tom's grandmother in a small house located at 39 Springfield Ave, Flourtown, PA 19031.
14. Tom became increasingly paranoid. He believed that I was attempting to steal his grandmother's house, and that Jack was attempting to take me away from Tom.
15. During a particularly violent episode with Tom, I called Jack for help.
16. Jack came to the home in order to help calm Tom.
17. Jack took Tom's keys to prevent Tom from driving. Jack was worried that Tom would hurt himself or others if he was able to drive.
18. Tom was infuriated that Jack would take his keys.
19. At this time all three of us were in the upstairs portion of the home, which is where Tom had his bedroom in the small house.
20. I went downstairs while Jack attempted to calm Tom.
21. While downstairs, I could hear the entire conversation and interaction between Jack and Tom.
22. At no point during this interaction did Jack ever admit to, or reference killing Peter Limanni or Eric Hamilton or having any involvement in the crime that occurred in Las Vegas.
23. Jack left the house and was attempting to get into the car to leave because of how angry Tom had become.

SEKA000556

APP2431

24. Abruptly, Tom calmed as if nothing occurred. He told me that he wanted to walk the dog.

25. I stood in the doorway and attempted to close the door to prevent Tom from going outside. I was worried that if Tom saw Jack he would become infuriated again.

26. Despite my best efforts, Tom saw Jack outside. Tom's mood changed instantly and he became extremely angry and emotional again.

27. Tom started attacking me. I tried to stay in the doorway as long as I could.

28. Tom forced me to the floor and started hitting me on the head.

29. As soon as the doorway was open, Tom left the house and chased after Jack.

30. Once Tom left the house, I turned and locked the door. I then called my sister, Stacie Daly, and told her to call 911.

31. I wouldn't open the door until the authorities arrived.

32. When the authorities arrived, they made Tom sit in a chair and blocked him while I grabbed some things. His grandmother and I left and stayed in a hotel.

33. At some point during this incident, Jack contacted a local mental institution to have Tom "302'd" (involuntarily committed to a mental institution under Pennsylvania law).

34. During this incident, Jack went back and pretended to sleep on the sofa. Tom thought nothing of it, and eventually passed out. Jack let the mental institution workers into the house while Tom was sleeping.

35. The mental institution sent several people to the house to seize Tom. They arrived at the house around the same time that the police arrived.

36. Tom was institutionalized for several weeks due to the threat he posed to himself and others.

37. As a result of Tom's treatment towards myself and others, I immediately filed for a restraining order.

38. I have not communicated with Tom since his initial involuntary institutionalization.

39. Tom was angry at Jack because Tom believed that Jack was attempting to take me away from Tom, and because Jack involuntarily committed Tom to a mental institution.

SEKA000557

APP2432

40. Jack did not admit to having any involvement in the crimes for which Jack was convicted while at 39 Springfield Ave, Flourtown, PA 19031.

I, Margaret Ann McConnell, declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this 15<sup>th</sup> day of April 2017 at 2100 Andover Rd,  
Cinnaminson, NJ 08077.

Margaret Ann McConnell  
Margaret Ann McConnell

SEKA000558

APP2433

# EXHIBIT 45

SEKA000559

APP2434

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DISTRICT COURT		FILED IN OPEN COURT
CLARK COUNTY, NEVADA		<i>February 23, 2001</i>
		SHIRLEY B. PARRAGUIRRE, CLERK
		BY <i>Linda Skinner</i>
THE STATE OF NEVADA,	)	LINDA SKINNER DEPUTY
	)	
Plaintiff,	)	
	)	
vs.	)	No. C159915
	)	Dept No: XIV
JOHN JOSEPH SEKA,	)	
	)	
Defendant.	)	ORIGINAL

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

VOLUME I

February 22, 2001  
1:10 p.m.  
Department XIV

APPEARANCES:

For the State:

MR. EDWARD KANE  
MR. TIMOTHY FATTIG  
Deputy District Attorneys

For the Defendant:

MR. KIRK KENNEDY  
MR. PETER CHRISTIANSEN  
Attorneys-at-Law

Reported by:  
Joseph A. D'Amato  
Nevada CCR #17



1 Q. I'll be specific.

2 Was there a warrant for his arrest arising  
3 out of the investigation that you were involved in at  
4 1933 or 1925 Western prior to February 26 or 27th, 1999?

5 A. I'm not exactly sure on the date, but  
6 prior to that area, no, there was not.

7 Q. If your declaration for an arrest warrant  
8 is dated February 26, 1999 and signed by yourself, there  
9 would have been no warrant prior to that, correct?

10 A. That's correct.

11 Q. All right. So he was - - as far as you  
12 were concerned in your investigation, he was free to go  
13 anywhere he wanted in this country?

14 A. Yes, he was.

15 Q. And, in fact, in his statement Jack told  
16 you that he had been back east to see his daughter for  
17 her birthday between October 29 and November 3rd, right?

18 A. Yes.

19 Q. And he told you his parents' address back  
20 in Philadelphia, correct?

21 A. He told me a couple addresses.

22 I don't recall specifically if it was  
23 parents or who, but he did give me some addresses back  
24 there.

25 Q. He told you he was from Philadelphia; is

# **EXHIBIT 46**

SEKA000562

APP2437

## United States District Court

DISTRICT OF NEVADA

UNITED STATES OF AMERICA

v.

JOHN JOSEPH SEKA

WARRANT FOR ARREST

CASE NUMBER:

Mag 99-054-M-LRL

TO: The United States Marshal  
and any Authorized United States OfficerYOU ARE HEREBY COMMANDED to arrest JOHN JOSEPH SEKA

Name

and bring him or her forthwith to the nearest magistrate to answer a(n)

Indictment

Information

☒ Complaint

Order of court

Violation Notice

Probation Violation Petition

charging him or her with (brief description of offense) UNLAWFUL FLIGHT TO AVOID PROSECUTION

in violation of Title 18 United States Code, Section(s) 1073

Name of Issuing Officer

Title of Issuing Officer

Signature of Issuing Officer

Date and Location

b6  
b7CBail fixed at \$ \_\_\_\_\_ by \_\_\_\_\_  
Name of Judicial Officer

## RETURN

This warrant was received and executed with the arrest of the above-named defendant at \_\_\_\_\_

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

SEKA000563

APP2438

# EXHIBIT 47

SEKA000564

APP2439

JOC  
STEWART L. BELL  
DISTRICT ATTORNEY  
Nevada Bar #000477  
200 S. Third Street  
Las Vegas, Nevada 89155  
(702) 455-4711  
Attorney for Plaintiff

FILED  
MAY 9 1 44 PM '01  
Clerk

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

JOHN JOSEPH SEKA,  
#1525324

Defendant.

Case No. C159915  
Dept. No. XIV

JUDGMENT OF CONVICTION (JURY TRIAL)

The Defendant previously entered plea(s) of not guilty to the crime(s) of COUNTS I & II - MURDER WITH USE OF A DEADLY WEAPON (Felony); and COUNTS III & IV - ROBBERY WITH USE OF A DEADLY WEAPON (Felony), in violation of NRS 200.010, 200.030, 193.165, 200.380, 193.165, and the matter having been tried before a jury, and the Defendant being represented by counsel and having been found guilty of the crime(s) of COUNT I - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (Felony); COUNT II - SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (Felony); and COUNTS III & IV - ROBBERY (Felony); and thereafter on the 26th day of April, 2001, the Defendant was present in Court for sentencing with his counsel, PETER S. CHRISTIANSEN, ESQ., and KIRK T. KENNEDY, ESQ.; and good cause appearing therefor,

THE DEFENDANT HEREBY ADJUDGED guilty of the crime(s) as set forth in the jury's verdict and, in addition to the \$25.00 Administrative Assessment Fee and \$250.00 DNA

CE-02

MAY 10 2001

SEKA000565

APP2440

RECEIVED

MAY 09 2001

1 Analysis Fee, the Defendant is sentenced to the Nevada Department of Prisons as follows:  
2 COUNT I - LIFE WITHOUT THE POSSIBILITY OF PAROLE for FIRST DEGREE  
3 MURDER plus an equal and consecutive LIFE WITHOUT THE POSSIBILITY OF PAROLE  
4 for USE OF A DEADLY WEAPON and pay \$2,825 restitution;  
5 COUNT II - LIFE WITH THE POSSIBILITY OF PAROLE for SECOND DEGREE MURDER,  
6 plus an equal and consecutive LIFE WITH THE POSSIBILITY OF PAROLE for USE OF A  
7 DEADLY WEAPON and pay \$2,500 Restitution, Count II to run CONSECUTIVE to Count I;  
8 COUNT III - a MAXIMUM term of ONE HUNDRED FIFTY-SIX (156) MONTHS with a  
9 MINIMUM parole eligibility of THIRTY-FIVE (35) MONTHS for ROBBERY, Count III to run  
10 CONSECUTIVE to Count II;  
11 COUNT IV - a MAXIMUM term of ONE HUNDRED FIFTY-SIX (156) MONTHS with a  
12 MINIMUM parole eligibility of THIRTY-FIVE (35) MONTHS for ROBBERY, Count IV to  
13 run CONSECUTIVE to Count III.

14 Credit for time served is 720 days.

15 DATED this 3<sup>rd</sup> day of April, 2001.

16  
17 *Donald M. Mosley*  
18 DISTRICT JUDGE  
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# EXHIBIT 48

SEKA000567

APP2442

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
RENSIC LABORATORY REPORT OF EXAMINATION

NAME: SEKA, John J. (suspect)  
HAMILTON, Eric (victim)

CASE: 98 1116-0443  
AGENCY: LVMPD  
DATE: December 18, 1998

INCIDENT: Homicide

BOOKED BY: Ruffino/McPhail  
REQUESTED BY: Homicide/Thowsen

I, DAVID P. WELCH, do hereby declare:

DEC 28 1998

That I am a Criminalist employed by the Las Vegas Metropolitan Police Department;

That on November 23, 1977, I first qualified in the Eighth Judicial District Court of Clark County, Nevada, as an expert witness;

That I received evidence in the above case and completed an examination on the following items:

DW 1 - One sealed envelope booked by Ruffino (1502/4) containing:  
Item 9 - Two (2) glass fragments with apparent blood.

DW 2 - One sealed envelope booked by McPhail (3326/3) containing:  
Item 14 - Three (3) "Cinergi" magnetic business cards with apparent blood.

DW 3 - One sealed envelope booked by McPhail (3326/5) containing:  
Item 6 - Hairs with apparent blood.  
Item 7 - Fingernail clippings from left hand.

DW 4 - One sealed bag booked by McPhail (3326/14) containing:  
Item 37 - Swab with apparent blood.

DW 5 - One sealed envelope booked by Reed (3731/1) containing: *REAR OF TOYOTA*  
Item 1 - Swab with apparent blood.  
Item 2 - Swab with apparent blood  
Item 3 - Swab with apparent blood.

DW 6 - One sealed envelope booked by Roberts (5714/1) containing:  
Item 1 - One Marlboro brand cigarette butt  
Item 2 - One Marlboro brand cigarette butt.

DW 7 - One sealed envelope booked by Thowsen (1467/1) containing:  
Item 1 - Buccal swabs from John J. Seka.

DW 8 - Bloodstain reference card of Eric Hamilton.

CONCLUSION:

Eric Hamilton cannot be excluded as a source of the human blood on the glass fragments (DW1), the hairs (DW 3), the fingernail clippings (DW 3), swab #2 (DW 5) or swab # 3(DW 5). John J. Seka is excluded as a source of the human blood. See DNA Summary Chart.

98 1116-0443  
Page 1 of 5 by: DW

SEKA000568

APP2443



John J. Seka cannot be excluded as a source of the human blood on swab #37 (DW 4). Eric Hamilton is excluded as a source of the human blood. See DNA Summary Chart

Both Eric Hamilton and John J. Seka are excluded as the source of the human blood on the magnetic cards (DW 2). See DNA Summary Chart.

Presumptive tests on swab #1 (DW 5) were positive for the presence of blood, however, no further results were obtained.

No DNA typing results were obtained on the two (2) Marlboro brand cigarette butts (DW 6).

I returned the evidence to the vault.

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

Executed on: 12-21-98

David P. Welch, 1418  
DAVID P. WELCH, #1418  
Criminalist II

Bert Henry

Witness

98 1116-0443

Page 2 of 5 by: DW

SEKA000569

APP2444

## DNA SUMMARY CHART

Suspect		SEKA, JOHN J.		Victim		HAMILTON, ERIC		Criminalist	D. WELCH, 1418		Event Number	98 1116-0443	
Evidence Analyzed				DNA PCR Results				Serology Results		Sample			
ID#	DW 1	Lab #	Evidence Description	LDLR	GYP A	HBGG	D7S8	GC	HUMAN BLOOD		Sufficient Sample Remaining for Retest?		
Booked By										Yes			
RUFFINO										No			
Pkg #	Item #									X			
1502-4	9												
GLASS FRAGMENTS WITH APPARENT BLOOD				1 IN 1.3 MILLION				1 IN 2.8 MILLION		1 IN 1.6 MILLION			
FREQ. US CAUCASIAN POP.				FREQ. US AFRICAN AMERICAN POP.				FREQ. US HISPANIC POP.		FREQ. US HISPANIC POP.			
ID#	DW2	Lab #	Evidence Description	LDLR	GYP A	HBGG	D7S8	GC	HUMAN BLOOD		Sufficient Sample Remaining for Retest?		
Booked By										Yes			
MCPHAIL										No			
Pkg #	Item #									X			
3326-3	14												
MAGNETIC CARDS WITH APPARENT BLOOD				1 IN 1.8 MILLION				1 IN 18 MILLION		1 IN 8 MILLION			
FREQ. US CAUCASIAN POP.				FREQ. US AFRICAN AMERICAN POP.				FREQ. US HISPANIC POP.		FREQ. US HISPANIC POP.			
ID#	DW3	Lab #	Evidence Description	LDLR	GYP A	HBGG	D7S8	GC	HUMAN BLOOD		Sufficient Sample Remaining for Retest?		
Booked By										Yes			
MCPHAIL										No			
Pkg #	Item #									X			
3326-5	6												
HAIRS WITH APPARENT BLOOD				1 IN 1.3 MILLION				1 IN 2.8 MILLION		1 IN 1.6 MILLION			
FREQ. US CAUCASIAN POP.				FREQ. US AFRICAN AMERICAN POP.				FREQ. US HISPANIC POP.		FREQ. US HISPANIC POP.			
ID#	DW3	Lab #	Evidence Description	LDLR	GYP A	HBGG	D7S8	GC	HUMAN BLOOD		Sufficient Sample Remaining for Retest?		
Booked By										Yes			
MCPHAIL										No			
Pkg #	Item #									X			
3326-5	7												
FINGER NAIL CLIPPING WITH APPARENT BLOOD				1 IN 7900				1 IN 5700		1 IN 10,000			
FREQ. US CAUCASIAN POP.				FREQ. US AFRICAN AMERICAN POP.				FREQ. US HISPANIC POP.		FREQ. US HISPANIC POP.			

Denotes Significantly less Intense Color Signal Relative to Other Allele(s) NA Denotes Sample Did Not Amplify NR Denotes No Further Results Obtained

Las Vegas Metropolitan Police Department Forensic Laboratory

DNA SUMMARY CHART

Suspect		Victim		Criminalist		Event Number	
SEKA, JOHN J.		HAMILTON, ERIC		D. WELCH, 1418		98 1116-0443	
Evidence Analyzed				DNA PCR Results			
ID#	DW 4	Lab #	98044358-3	LDLR	GYP A	HBGG	D7S8
Booked By				GC			
MCPhail				B			
Pkg #	Item #	Evidence Description		AC			
3326-14	37	SWAB WITH APPARENT BLOOD		DOA1			
				1.3, 3			
Freq. US Caucasian Pop.				1 IN 17,200			
Freq. US African American Pop.				1 IN 423,000			
Freq. US Hispanic Pop.				1 IN 88,000			
Sample				Sufficient Sample Remaining for Retest?			
				Yes			
				No			
Serology Results				HUMAN BLOOD			
				Conclusion			
				INCLUDED SOURCE - JOHN J. SEKA EXCLUDED SOURCE - ERIC HAMILTON			
Freq. US Caucasian Pop.				1 IN 17,200			
Freq. US African American Pop.				1 IN 423,000			
Freq. US Hispanic Pop.				1 IN 88,000			
Sample				Sufficient Sample Remaining for Retest?			
				Yes			
				No			
Serology Results				HUMAN BLOOD			
				Conclusion			
				INCLUDED SOURCE - ERIC HAMILTON EXCLUDED SOURCE - JOHN J. SEKA			
Freq. US Caucasian Pop.				1 IN 1.3 MILLION			
Freq. US African American Pop.				1 IN 2.8 MILLION			
Freq. US Hispanic Pop.				1 IN 1.6 MILLION			
Sample				Sufficient Sample Remaining for Retest?			
				Yes			
				No			
Serology Results				HUMAN BLOOD			
				Conclusion			
				INCLUDED SOURCE - ERIC HAMILTON EXCLUDED SOURCE - JOHN J. SEKA			
Freq. US Caucasian Pop.				1 IN 7900			
Freq. US African American Pop.				1 IN 5700			
Freq. US Hispanic Pop.				1 IN 10,000			
Sample				Sufficient Sample Remaining for Retest?			
				Yes			
				No			
Serology Results				HUMAN BLOOD			
				Conclusion			
				INCLUDED SOURCE - ERIC HAMILTON EXCLUDED SOURCE - JOHN J. SEKA			
Freq. US Caucasian Pop.				1 IN 1.9 MILLION			
Freq. US African American Pop.				1 IN 84 MILLION			
Freq. US Hispanic Pop.				1 IN 17 MILLION			
Sample				Sufficient Sample Remaining for Retest?			
				Yes			
				No			
Serology Results				REFERENCE STANDARD			
				Conclusion			
				INCLUDED SOURCE - ERIC HAMILTON EXCLUDED SOURCE - JOHN J. SEKA			

Denotes Significantly less Intense Color Signal Relative to Other Allele(s) NA Denotes Sample Did Not Amplify

## DNA SUMMARY CHART

Suspect		SEKA, JOHN J.		Victim		HAMILTON, ERIC		Criminalist	D. WELCH, 1418	Event Number	98 1116-0443												
Evidence Analyzed				DNA PCR Results				Serology Results				Sample											
ID#	DW 8	Lab #	98044880-1.A	LDLR	GYP A	HBGG	D7S8	GC	Concusion REFERENCE STANDARD				Sufficient Sample Remaining for Retest?										
Evidence Description				B	A	A	A	BC					Yes	No									
Pkg #	Item #	BLOODSTAIN CARD ERIC HAMILTON		DQA1	D1S80	AMELO							X										
		1,1, 4,1	25, 31	MALE																			
Freq. US Caucasian Pop.				1 IN 1.3 MILLION				Freq. US African American Pop.				1 IN 2.8 MILLION				Freq. US Hispanic Pop.				1 IN 1.6 MILLION			
ID#	Booked By	Lab #	Evidence Description	LDLR	GYP A	HBGG	D7S8	GC	Concusion				Sufficient Sample Remaining for Retest?										
Evidence Description				DQA1	D1S80	AMELO							Yes	No									
Pkg #	Item #																						
Freq. US Caucasian Pop.								Freq. US African American Pop.				Freq. US Hispanic Pop.											
ID#	Booked By	Lab #	Evidence Description	LDLR	GYP A	HBGG	D7S8	GC	Concusion				Sufficient Sample Remaining for Retest?										
Evidence Description				DQA1	D1S80	AMELO							Yes	No									
Pkg #	Item #																						
Freq. US Caucasian Pop.								Freq. US African American Pop.				Freq. US Hispanic Pop.											
ID#	Booked By	Lab #	Evidence Description	LDLR	GYP A	HBGG	D7S8	GC	Concusion				Sufficient Sample Remaining for Retest?										
Evidence Description				DQA1	D1S80	AMELO							Yes	No									
Pkg #	Item #																						
Freq. US Caucasian Pop.								Freq. US African American Pop.				Freq. US Hispanic Pop.											

\* Denotes Significantly less Intense Color Signal Relative to Other Allele(s) NA Denotes Sample Did Not Amplify

# EXHIBIT 49

SEKA000573

APP2448

<p><b>Las Vegas Metropolitan Police Department</b>  <b>Forensic Laboratory</b></p> <p><b>Report of Examination</b></p> <p><b>Biology/DNA Forensic Casework</b></p>	<p><b>Distribution Date:</b> July 24, 2018  <b>Agency:</b> LVMPD  <b>Location:</b> Homicide &amp; Sex Crimes Bureau  <b>Primary Case #:</b> 981116-0443  <b>Incident:</b> Homicide  <b>Requester:</b> John Fattig  <b>Lab Case #:</b> 18-02167.2  <b>Supplemental 1</b></p>
<p><b>Subject(s):</b> None Listed</p>	

The following evidence was examined and results are reported below.

Lab Item #	Impound Pkg #	Impound Item #	Description	Examination Summary
Item 8	15289 - 1	1	Reference standard from John Seka	• Full male profile
*Refer to the original report issued by FS II Craig King P# 9971 dated 4/17/2018 for related information.				

#### DNA Results and Conclusions:

Item 8 was subjected to PCR amplification at the following STR genetic loci: TH01, D3S1358, vWA, D21S11, TPOX, DYS391, D1S1656, D12S391, SE33, D10S1248, D22S1045, D19S433, D8S1179, D2S1338, D2S441, D18S51, FGA, D16S539, CSF1PO, D13S317, D5S818, and D7S820. The sex-determining Amelogenin locus was also examined. Where applicable, STRmix was used for interpretation.

#### Lab Item 1\*: Marlboro cigarette butt

A DNA profile was not obtained.

#### Lab Item 2\*: Marlboro cigarette butt

Number of contributors: 1 male  
Excluded: Eric Hamilton (Item 7\*)  
John Seka (Item 8)

The DNA profile obtained is consistent with a single unknown male contributor (Male #1). The DNA profile was searched against the Local DNA Index System (CODIS) and then uploaded to the National DNA Index System (CODIS) for comparison. You will be notified if there is a match.

#### Lab Item 4\*: Right hand fingernail clippings

Number of contributors: 2 (at least one male)  
Approximate mixture proportions: 99:1  
Assumed Contributor(s): Eric Hamilton (Item 7\*)  
Excluded: John Seka (Item 8)

Assuming Eric Hamilton (Item 7\*) is a contributor, a foreign contributor was detected.

#### Lab Item 5\*: Left hand fingernail clippings

Number of contributors: 2 (at least one male)  
Approximate mixture proportions: 99:1  
Assumed Contributor(s): Eric Hamilton (Item 7\*)  
Excluded: John Seka (Item 8)

Assuming Eric Hamilton (Item 7\*) is a contributor, a foreign contributor was detected.

#### Lab Item 3.3\*: Apparent hair #2

Number of contributors: 1 male  
Individually included: Eric Hamilton (Item 7\*); LR = at least 3.24 billion (3.24x10<sup>9</sup>)  
Excluded: John Seka (Item 8)

The probability of observing this DNA profile is at least 3.24 billion (3.24x10<sup>9</sup>) times more likely if it originated from Eric Hamilton (Item 7\*) than if it originated from an unknown random contributor.

Supplemental 1

The evidence is returned to secure storage.

**Notes:**

1. The performance of the tests referenced in this report commenced the "Distribution Date" listed on page 1 of the report.
2. DNA extracts generated during the analysis of this case and/or cut testing.
3. Evidence collected directly from the body or personal items removed from the donor may be reasonably assumed to be present should the item be tested.
4. In instances in which all contributors can be assumed, no statistical analysis is performed.
5. Where applicable, likelihood ratios (LR) were calculated to assess the statistical inclusion or exclusion of individuals, as a contributor to the "individually included" reference standard is reflective of the likelihood without being considered in combination with other reference standards denoted.
6. Mixture proportions signify the approximate percentage of each contributor.
7. The likelihood ratios are based upon propositions that can explain the number of contributors present in the DNA profile and, unless otherwise stated, to the named reference standards. Since a range of propositions may be requested, prosecution and/or defense, may request an additional likelihood ratio more accurately represents their position. All requests must be submitted in writing, and must be within the capability and validated applications of the laboratory.
8. Statistical probabilities were calculated using the recommendation of the NIST database (Hill, C.R., Duwey, D.L., Kilne, M.C., Coble, M.D., autosomal STR loci. Forensic Sci. Int. Genet. 7: e82-e83 and Steffens, M. 'U.S. Population Data for 29 Autosomal STR Loci' [Forensic Sci. Int. 161: e36-e40]. The probability that has been reported is the most likely (CAU), African American (BLK), and Hispanic (HSP) population data are truncated to three significant figures.
9. For comparison purposes, please collect reference buccal swab(s) from the individual(s) had reasonable access to) this incident. When a reference buccal swab is collected, please submit a Request to complete the case.

---This report does not constitute the entire case file. The case file may be found in other documents.---

  
Craig W King, #9971  
Forensic Scientist II

- END OF REPORT

# EXHIBIT 50

SEKA000576

APP2451



**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
FORENSIC LABORATORY REPORT OF EXAMINATION**

NAME: SEKA, John Joseph (S)  
LIMANNI, Peter Paul (V)  
HAMILTON, Eric (V)  
(a.k.a. John Lumber Doe)

CASE: 98 1116-0443  
AGENCY: LVMPD  
DATE: February 17, 1999

INCIDENT: Murder

BOOKED BY: Roberts/McPhail  
REQUESTED BY: Homicide/Thowsen

I, FRED M. BOYD, do hereby declare:

**FEB 25 1999**

That I am a Latent Print Examiner employed by the Las Vegas Metropolitan Police Department;

That I have been qualified in Military Courts, State Courts of Florida, North Carolina, New York and in the Eighth Judicial District Court of Clark County, Nevada, as an expert witness to testify regarding fingerprint comparisons and identifications;

That I received evidence in the above case and that I completed an examination on the following:

FMB1 - Received from CSA Roberts (5714/6) containing item(s):

11 - Seven assorted pieces of wood (labelled A - G).

FMB2 - Sealed package booked by Roberts (5714/2) containing item(s):

3 - Skoal chewing tobacco container.

FMB3 - Sealed package booked by Roberts (5714/3) containing item(s):

4 - Empty beer bottle labelled Beck's

5 - Empty beer bottle labelled Beck's.

FMB4 - Sealed package booked by McPhail (3326/6) containing item(s):

10 - Piece of paper with wording, "Jack [REDACTED] 5957", on one side.

FMB5 - Sealed package booked by McPhail (3326/7) containing item(s):

17 - .32 caliber cartridge

18 - .32 caliber cartridge

19 - .357 caliber cartridge (R-P)

20 - .357 caliber cartridge (Winchester)

21 - .357 caliber cartridge (Nevins).

FMB6 - Sealed package received from the Firearms Detail (examiner T. Johnson, P# 4820) containing item:

1 - .357 caliber Nevins cartridge case.

SEKA000577

APP2452

Latent prints submitted by CSA Ruffino, P# 1502, from 1939 Western Ave. and the LVMPD Crime Lab dated 11-17-98 and 11-18-98.

Latent prints submitted by CSA Roberts, P# 5714, CSA Reed, P# 3731, and CSA McPhail, P# 3326, from the LVMPD Crime Lab dated 11-18-98.

Known fingerprints bearing the names of:

John Joseph Seka, DOB [REDACTED], dated 11-17-98

Peter P. Limanni, LVMPD ID# 1229386, dated 9-4-96 and autopsy prints dated 12-29-98.

Autopsy fingerprints of John "Lumber" Doe (Eric Hamilton), dated 11-17-98.

That the results of the examination are as follows:

All the above listed items of evidence were processed with identifiable latent prints developed on FMB1, item 1 (wood pieces labelled A, B, D, E and G) and FMB 3, item 4 (the Beck's beer bottle). No latents were recovered on the remaining items of evidence.

That I conducted a comparison with the listed known and autopsy fingerprints.

That I arrived at the following conclusion:

Latent prints submitted by CSA Reed from the door, windows and mirrors of a 1998 Toyota, NV license 720JMJ, were identified as having been made by Seka.

Latent prints submitted by CSA Roberts from a glass behind the driver's seat of the 1998 Toyota were identified as having been made by Seka.

Latent prints submitted by CSA McPhail from Miller Light beer bottles, found in a dumpster to the rear east side of 1933 S. Western Ave., and from a trash can in the southeast office were identified as having been made by Seka.

Latent prints submitted by McPhail from Miller Light Beer bottles found in a trash can in the southeast office of 1933 S. Western was identified as having been made by Hamilton (John Lumber Doe).

Latent prints developed on the wood pieces labelled 11A and 11E were identified as having been made by Seka.

Latent prints developed on wood pieces labelled 11G were identified as having been made by Limanni.

No further identifications were effected at this time. Latents remain unidentified. No other items were examined. FMB 1, 2, 3, and 4 were returned to the LVMPD Evidence Vault. FMB 5 and 6 were released to the LVMPD Firearms Detail.

The known fingerprints are maintained in the normal course of business by the LVMPD. Latent prints are maintained in the Forensic Laboratory secured latent file.

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

Executed on: 2-23-99

F. M. Boyd  
FRED M. BOYD, #5216  
Latent Print Examiner

Richard G. Boyd, Jr. #806  
REVIEW

98 1116-0443

Page 3 of 3 by: ES

SEKA000579

APP2454

# Las Vegas Metropolitan Police Department

## Latent Print Comparison Worksheet

Incident <u>HOMICIDE</u>		Location <u>1929 WESTERN / TRINITY LULU</u>		Agency <u>LVPD</u>	Event/case # <u>98-1116-0443</u>
Submitted by <u>RUFFINO / ROBERTS / PETER</u>		P# <u>SEE BELOW</u>	Database # <u>3422</u>	# Lift Cards <u>67</u>	Date <u>11-23-99</u>
Requested By <u>THOMSEN</u>		Latent Analysis/Comments or Notes			
Lift #	Of Value	Prints	Location Obtained		
	Yes	No	Finger	Palm	
<u>1</u>	<u>✓</u>		<u>INT FRI WEST DOOR ON GLASS</u>		
<u>2</u>	<u>✓</u>		<u>" " " " 1ST LIFT</u>		
<u>3</u>	<u>✓</u>		<u>" " " " 2d LIFT</u>		
<u>4</u>	<u>✓</u>		<u>EXT N. UPRIGHT POE FRAME FIDGE ROOM</u>		
<u>5</u>	<u>✓</u>		<u>" " " " " "</u>		
<u>6</u>	<u>✓</u>		<u>GLASS FRAMINT INSIDE OF OFFICE</u>		

Subject Known Prints Submitted for Comparison	ID #	Prints/SPC/FPC	Obtained by:		Identified		Lift #/Remarks Ref. Identification refer to L#(s) listed above
			Date	Yes	No		
<u>SERRA, JOHN JOSEPH</u>	<u>12-30-65</u>	<u>ELIM</u>	<u>RUFFINO</u>	<u>X</u>		<u>11/21/3, 15, 20, 24, 26, 27, 39, 51, 59</u>	
<u>DOE, JOHN "Lumber"</u>		<u>ACTUSY</u>	<u>11-17-98</u>	<u>X</u>		<u>FD 32, 37</u>	
<u>LIMANN, PETER P</u>	<u>1229386</u>	<u>SPE</u>	<u>09-04-96</u>	<u>X</u>		<u>FD 61-65, FB 67</u>	

Victim/Witness (Excluded)	Victim/Witness Name	ID	Taken By	Date	Lift #/Identified (see above for complete desc.)	<input type="checkbox"/> See next Page for More
<u>Yes</u>	<u>ERIC HAMILTON</u>	<u>1590973</u>	<u>Same as John Lumber Doe</u>		<u>1</u>	
<u>No</u>	<u>Liamoni, Peter</u>	<u>developed as Victim</u>				

Comments: Not - Carl House AKA of Hamilton + John Lumber Doe

# Las Vegas Metropolitan Police Department

## Latent Print Comparison Worksheet

Event/Case # 981116-0443

Lift #	Of Value		Prints		Location Obtained	Latent Analysis/Comments or Notes
	Yes	No	Finger	Palm		
20	✓		✓		B-1 RUFFINO - CRIME LAB	1988 DODGE VAN - 11-18-98
27	✓		✓		1988 DODGE EXT DRIVER DOOR ABOVE HANDLE	NI WIN
28	✓		IMP		INT REAR VIEW MIRROR	NI
29	✓		✓		EXT RIGHT FRONT PASS DOOR 1988 TOYOTA	CRIME LAB
30	✓		✓		INT LEFT FRONT PASS DOOR 1988 TOYOTA	NI
31	✓		✓		INT EDGE OF DRIVER'S DOOR	NI - NO VALUE
32	✓		✓		TOP OF EXT DRIVERS SIDE VIEW CASE	#2 (RI) #3 (RM) JOHN SEKA 11-24-98
33	✓		✓		EXT DRIVERS SIDE VIEW MIRROR CASE	#2 (RI) #3 (RM) JOHN SEKA 11-20-98
34	✓		✓		EXT DRIVERS SIDE VIEW MIRROR CASE	#15 EXT (L) JOHN SEKA 11-19-98
35	✓		✓		EXT DRIVERS SIDE VIEW MIRROR CASE	NI
36	✓		✓		TOP OF EXT DRIVERS SIDE VIEW MIRROR CASE	Therian Zone - Left Thumb - JOHN SEKA - 11-24-98
37	✓		✓		EXT DRIVER'S WINDOW	#1 Left Thumb JOHN SEKA 11-24-98
38	✓		✓		EXT DRIVER'S WINDOW	#1 Left Thumb JOHN SEKA 11-20-98
39	✓		✓		EXT DRIVER'S WINDOW	#9 (LR) JOHN SEKA 11-20-98

Additional Comments: ALL NO VALUE PRINTS SEARCHED WITH SUBJECTS - MRS.

12/1/98 - COOR W/DET THOMPSON ON 1D OF FBI 37.

LPE FMT3

APP2456

# Las Vegas Metropolitan Police Department

## Latent Print Comparison Worksheet

Event/Case # 98-1116-0443

Lift #	Of Value		Prints		Location Obtained	Latent Analysis/Comments or Notes	
	Yes	No	Finger	Palm			
B19					EXT FRONT FRAME NEAR DRIVER'S DOOR	NI	
B20	✓		✓		BEHIND DRIVER'S DOOR, EXT	#1 (RT) JOHN SERRA 11-20-92	
B21	✓		✓		EXT RIGHT FRONT DASHBOARD DOOR NEAR WIN	APIS ENTRY NI - WIN	
B22	✓		1 IMP		" " " " " "	NI	
B23	✓		✓		" " " " " " PLUMBING	NI	
B24	✓		✓		GLASS LOCATED BEHIND LEFT FRONT DASHBOARD	#3 RM 15-92R - 2-16-95	
B25	✓		✓		" " " " " " " "	#2 (RT) #3 (RM) JOHN SERRA - 11-24-92	Roller
B26	✓		✓		" " " " " " " "	#2 RI #3 RM JOHN SERRA 2-16-95	
					" " " " " " " "	#1 (RT) 3 TIMES JOHN SERRA 11-24-92	Roller
SIX TREW SUBMITTED					BY R. McPHAIL #3326	1933 S WESTERN AVE	
B27	✓		✓		MILLER LIGHT BATTLE - DUNSMITH EAST SIDE	1933 S. WESTERN # 7 (RT) JOHN SERRA	
B28	✓		✓		" " " " " " " "	NI	
B29	✓		✓		MILLER LIGHT - TRASH - SOUTH / SERRA	NI	
B30	✓		✓		" " " " " " " "	NI	
B31	✓		✓		" " " " " " " "	NI	
B32	✓		✓		MILLER LIGHT - TRASH - SE	NI	
Additional Comments: #1 (RT) CARL-GOWE #2 (RT) L-H Middle AKS: HARRISON 2/11/95							

82

LPE FMB

APP2457

# Las Vegas Metropolitan Police Department

## Latent Print Comparison Worksheet

Event/Case # 981116 - 0443

Lit #	Of Value		Prints		Location Obtained	Latent Analysis/Comments or Notes
	Yes	No	Finger	Palm		
B33	✓		✓		MILLER LIGHT BOTTLE - TRASH - SE OFC	RI
B34	✓		IMP		"	RI
B35	✓		✓		"	RI
B36	✓		✓		"	RI
B37	✓		✓		"	LEFT INDEX John "humbie" Doe
B38	✓		✓		"	RI
B39	✓		✓		"	#7 (L.I) John SEKA 11-23-98
B40	✓		✓		"	#7 L.I John SEKA 2-17-99
B41	✓		✓		"	RI
B42	✓		✓		"	RI
B43	✓		✓		PROCESSED BY BYD FMB BECK'S BEER BOTTLE	RI

SEKA000

Additional Comments:

83

LPE fmr

APP2458





[illegible]

# APP2460

<b>HOMICIDE</b>		Latent Print Processing Worksheet		Event # 981116-0443	
Subject(s)/ID#: <b>V. John Lumbert D.O.E</b>		Evidence Rec'd 11/16/98		Agency	Date
		Rec'd From Crime Scene		Lump PD	11/16/98
		Evidence Ret'd 12-2-98		Requested By:	Booked By:
		# Items Processed		BUZZER THOMSEN	ROBERTS 5714

LPE #	PKG #	ITEM #	Description	Latents Recovered		Technique
				Yes	No	
FBI		11	11/16/98 Rec'd from CSA V. John Roberts 5714.			ALS-NEG
			7 mounted pieces of wood, each marked # 11(A-G)			
			Proven initially Black Magna			
			A Black Magna - neg			
			B " "			
			C " "			
			D " "			
			(FBI) F ONE LATENT PARTIAL - PHOTOGRAPHED & L.F.T		X	
			F Black Magna - neg			
			G " "			
			11/17/98 - WOOD PROCESSED CHEMICALLY - NIN-HEX			
			Wood examined during period 11-17-98-11-25-98			
			Potential pieces noted on wood piece 11A & 11D areas photographed			

SEKA000

Other Comments:	See Next Page for more
	LPE FBI
	Page #



Latent Print Processing Worksheet

Object(s)/ID#:  <i>See pg 1</i>	Event # <i>981116-0743</i>	
	Evidence Rec'd <i>11-17-98</i>	Agency <i>LUMP</i>
	Evidence Ret'd <i>12-2-98</i>	Requested By: <i>BUZAR</i>
	# Items Processed <i>3</i>	Booked By <i>5714/3</i>

ITEM #	PKG #	ITEM #	Description	Latents Recovered		Technique
				Yes	No	
<i>2</i>	<i>2</i>	<i>3</i>	"SKOAL CHEWING TOBACCO CONTAINER, Plastic with Paper Label - Black Top Blue Container Contents removed"		<i>X</i>	<i>ALS - RY</i>
<i>3</i>	<i>3</i>	<i>4</i>	"ONE Empty BECK'S BEER BOTTLE - PAPER Label"	<i>X</i>		<i>ALS - RY</i>
		<i>5</i>	"ONE Empty BECK'S BEER BOTTLE - PAPER Label"		<i>X</i>	<i>ALS - RY</i>
			"ONE Empty BECK'S BEER BOTTLE - PAPER Label"			<i>ALS - RY</i>

Object known prints submitted for comparison	ID #	Prints SPC/FP	Obtained		Identified		Lift # / Remarks Re: Identification refer to L#(s) listed above
			By	Date	Yes	No	
<i>See pg 1</i>							
<i>See pg 1</i>							
<i>See pg 1</i>							

Comments: <i>Small contents tobacco removed from item 3. Tobacco removed for separate processing.</i>	See Next Page for more
	LPE <i>FR 12</i>
	Page #

Place Handling Labels Here

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
EVIDENCE

EMB 1

Date Prepared	11-16-99	Time Prepared	0800	Event #	981116-04-3
Check 1 Box Only	<input type="checkbox"/> Recovered	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> Found	<input type="checkbox"/> Felony <input type="checkbox"/> Gross <input type="checkbox"/> Misd.	
	<input type="checkbox"/> Safekeeping	<input type="checkbox"/> Seizure	<input type="checkbox"/> Other		
Suspect					

Charge	Homicide		
Location	Desert area approx 2.1 miles South of 146 on Las Vegas Blvd S.		
Impounding Officer's Initials/P #	VS714R	Signature	C. Roberts 5714

ITEM	IMPOUNDED ITEM DESCRIPTION
# 3	one "Skool" brand long cut spearmint chewing tobacco container
#	
#	
#	
#	
#	
#	

CO-DEFENDANT ▼	This Package # 5714/2	Total # of Packages 7
----------------	-----------------------	-----------------------

CHAIN OF CUSTODY SIGNATURE AND P # ▼	DATE	TIME
7-1-99 5714	11-16-99	11:50

LVPD 133 (REV. 6-97) EMB 2

EMB 2

Place Handling Labels Here

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
EVIDENCE

FMB3

Date Prepared	11-16-98	Time Prepared	0800	Event #	981116-0443
Check 1 Box Only	<input type="checkbox"/> Recovered	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> Found	<input type="checkbox"/> Felony <input type="checkbox"/> Gross <input type="checkbox"/> Misd.	
	<input type="checkbox"/> Safekeeping	<input type="checkbox"/> Seizure	<input type="checkbox"/> Other		

Suspect

Charge Homicide

Location Desert area approx. 2.1 miles south of 146 on Las Vegas Blvd. S.

Impounding Officer's Initials/P # V5714K

Signature J. Roberts

ITEM	IMPOUNDED ITEM DESCRIPTION
# 4	ONE empty beer bottle, "Beck's" brand label
# 5	ONE empty beer bottle, "Beck's" brand label
#	
#	
#	
#	
#	
#	
#	

CO-DEFENDANT ▼

This Package #

5714/3

Total # of Packages

7

CHAIN OF CUSTODY SIGNATURE AND P # ▼	DATE	TIME
<u>J. Smith</u> 5216	11/19/98	1400

LVMPD 113 (REV. 8-97)

FMB3

Latent Print Processing Worksheet		Event #	981116-0413
Subject(s)/ID#:  S-091	Evidence Rec'd	Agency	Date
	Rec'd From	LVMPPD	12-3-98
	Evidence Ret'd	Requested By:	Booked By
	# Items Processed	Thomson	R3326M

PE #	PKG #	ITEM #	Description	Latents Recovered		Technique
				Yes	No	
			3326-6-Sealed PKG			115
14	6	9	SOURING PADI-NA FOR PROCESSING			SP-Max-Hex
		10	GREEN PAPER (NOTE) "JACK" 4729-5957			SILVER-1017
			ON ONE SIDE - OTHER SIDE "SATURDAY"			
			WILLIE OFF 12:30AM ASKED			
			NOTE: SILVER NITRATE Deleted some writing on one			
			Side - Phone #			

Subject known prints submitted for comparison	ID #	Prints SPC/FP	Obtained		Identified		Lift # / Remarks Re: Identification refer to L#(s) listed above
			By	Date	Yes	No	

SEKA000091

See Next Page for more	Comments:	
	LPE	
	Page # 3	



LAS VEGAS METROPOLITAN POLICE DEPARTMENT

9811160443



ONE (1) PIECE COPPER SCOURING PAD &amp; PIECE OF CLOTHES HANGER

3326

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

9811160443



ONE (1) GRN PIECE OF PAPER W/ JACK 5957 ON FRONT

3326

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

## EVIDENCE

5

Fm 13 4

Date 11-17-98 Time 0900 Event # 981116-0443

Check 1 Box Only	<input type="checkbox"/> Recovered	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> Found	<input type="checkbox"/> Felony <input type="checkbox"/> Gross <input type="checkbox"/> Misd.
	<input type="checkbox"/> Safekeeping	<input type="checkbox"/> Seizure	<input type="checkbox"/> Other	

Suspect

Charge HOMICIDE

Location CCME

Impounding Officer's

Initials/P # RM 3326

Signature

*[Signature]*

ITEM	IMPOUNDED ITEM DESCRIPTION
# 9	PIECE OF COPPER COLORED SCOURING PAD
#	& PIECE OF CLOTHES HANGER
# 10	PIECE OF GREEN PAPER WITH "JACK
#	429-5957" ON FRONT.
#	
#	
#	
#	

CO-DEFENDANT ▼

This Package #

3326.6

Total # of Packages

9

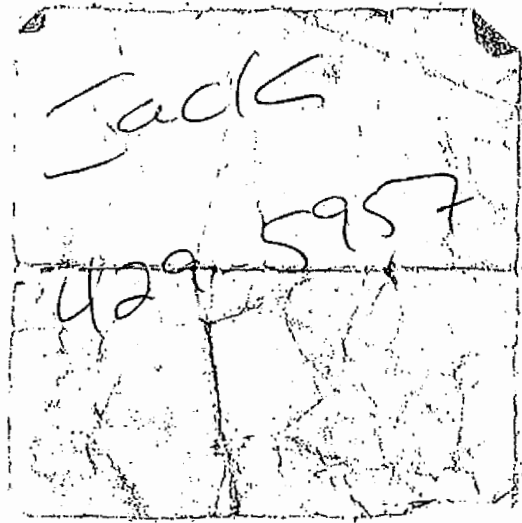
CHAIN OF CUSTODY SIGNATURE AND P # ▼	DATE	TIME

LVMPD 133 (REV. 8-97)

SEKA000592

APP2467

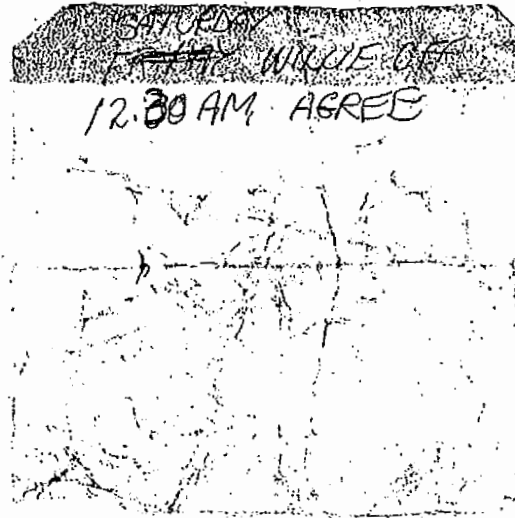




BEFORE  
PROCESSING

SEKA000593

APP2468



BEFORE  
PROCESSING

SEKA000594

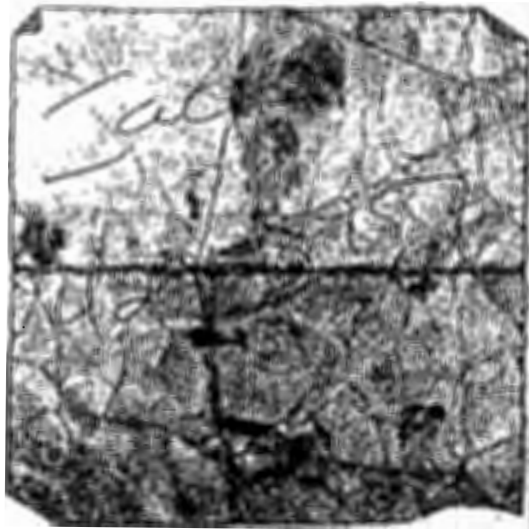
APP2469



NIW-HEX

SEKA000595

APP2470



NIN - HFX

SEKA000596

APP2471

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

9811160443

98044583



ONE (1) PIECE COPPER SCOURING PAD &amp; PIECE OF CLOTHES HANGER

3326

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

9811160443

98044583



ONE (1) GRN PIECE OF PAPER W/ JACK 429-5957 ON FRONT

3326

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

EVIDENCE

5

Date Prepared	11-17-98	Time Prepared	0900	Event #	981116-0443
Check 1 Box Only	<input type="checkbox"/> Recovered	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> Found	<input type="checkbox"/> Felony <input type="checkbox"/> Gross <input type="checkbox"/> Misd.	
	<input type="checkbox"/> Safekeeping	<input type="checkbox"/> Seizure	<input type="checkbox"/> Other		

Suspect

Charge

HOMICIDE

Location

CCME

Impounding Officer's

Initials/P #

RM 3326

Signature

*D. McPhail*

ITEM	IMPOUNDED ITEM DESCRIPTION
# 9	PIECE OF COPPER COLORED SCOURING PAD
#	& PIECE OF CLOTHES HANGER
# 10	PIECE OF GREEN PAPER WITH "JACK
#	429-5957" ON FRONT.
#	
#	
#	
#	

CO-DEFENDANT ▼

This Package #

3326.6

Total # of Packages

9

CHAIN OF CUSTODY SIGNATURE AND P # ▼	DATE	TIME
<i>J. J. [Signature]</i>	12-3-98	1130

F2K13

FMD 4

12-3-98

SEKA000597

APP2472

Latent Print Processing Worksheet		Event # 18-08-58	
Subject(s)/ID#:	1	Evidence Rec'd	12-08-58
		Rec'd From	FA-Turner, Johnson
		Evidence Ret'd	12-10-58 F&D
		# Items Processed	5
		Agency	LVPD
		Date	12-9-58
		Requested By:	HORRINE
		Booked By	

PE #	PKG #	ITEM #	Description	Latents Recovered		Technique
				Yes	No	
185	7	17	Sealed 3326-7 15			U/S-HLS
		17	Cartridge WW 32 S&W			Scrap glass
		18	Cartridge WW 32 S&W			U/S-HLS
		19	Cartridge Case (Silver) R-P 357 Magnum			Ram-neg (Pouching)
		20	Cartridge Case (Silver) 357 MAGNUM WINCHESTER			U/S no #20
		21	Cartridge Case (Brown) WEINERS 357 MAGNUM			U/S no #20
		22	BULLET - NA FOR LP PROCESSING			(Mossy)

Subject known prints submitted for comparison	ID #	Prints SPC/FP	Obtained		Identified		Lift # / Remarks Re: Identification refer to L#(s) listed above
			By	Date	Yes	No	

SEKA00008

Comments:	Note: all items in small plastic bag inside Plastic Container. (Mugshot latents)	
	See Next Page for more	
	LPE	Page #

9811160443

98044295

9811160443

98044295



COMPLETE CARTRIDGE

CARTRIDGE

3326

15

3326

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

9811160443

98044295

9811160443

98044295



COMPLETE CARTRIDGE

CARTRIDGE

3326

16

3326

18

Date 11-17-98 Time 1402 Event # 981116-0443

Prepared

Prepared

Check  
1 Box  
Only☐ Recovered  
☐ Safekeeping☒ Evidence  
☐ Seizure☐ Found  
☐ Other☒ Felony ☐ Gross ☐ Misd.

Suspect

Charge HOMICIDE

Location 1933 S. WESTERN AV.

Impounding Officer's  
Initials/P #

RM 3326

Signature

D. McPhail

ITEM	IMPOUNDED ITEM DESCRIPTION
# 17	ONE COMPLETE CARTRIDGE "W.W 32 S&W"
# 18	ONE COMPLETE CARTRIDGE "W.W 32 S&W"
# 19	ONE CARTRIDGE CASE "R-P 357 MAGNUM"
# 20	ONE CARTRIDGE CASE "WINCHESTER 357 MAG"
# 21	ONE CARTRIDGE CASE "NEVINS 357 MAG"
# 22	ONE BULLET
#	
#	

CO-DEFENDANT ▼

This Package #

3326-7

Total # of Packages

15

CHAIN OF CUSTODY SIGNATURE AND P # ▼

DATE

TIME

LVMPD 133 (REV. 6-97)

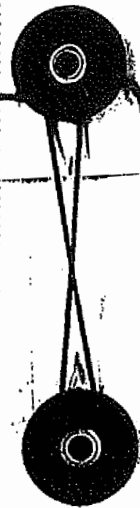
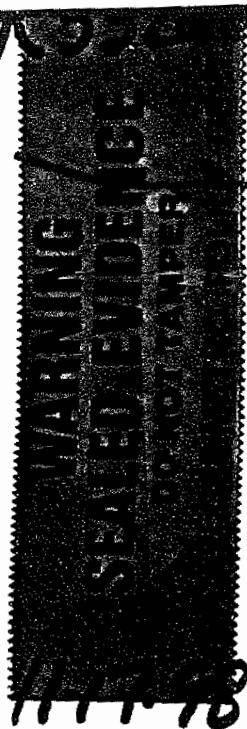
FMD 5

SEKA000599

APP2474

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

LAS VEGAS METROPOLITAN POLICE DEPARTMENT



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
9811160443

98044295



CART CASE  
3326

19

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
9811160443

98044295



BULLET  
3326

20

SEKA000600

APP2475



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
EVIDENCE VAULT

PROPERTY WITHDRAWAL RECEIPT

WITHDRAWAL RECEIPT  
PAGE 1  
DATE 12-08-98  
TIME 08:05:32

ITEM INFORMATION				DESCRIPTION	
AC# 98044295	ITEM	(20)	✓	BULLET	
CS# 98044295	QTY	1	✓	SECURITYBAG: 7/22	
EV# 9811160443	TYPE	MISC			
AC# 98044295	ITEM	(19)	✓	CART CASE	
CS# 98044295	QTY	1	✓	SECURITYBAG: 7/21	
EV# 9811160443	TYPE	MISC			
AC# 98044295	ITEM	(18)	✓	CART CASE	
CS# 98044295	QTY	1	✓	SECURITYBAG: 7/20	
EV# 9811160443	TYPE	MISC			
AC# 98044295	ITEM	(17)	✓	CART CASE	
CS# 98044295	QTY	1	✓	SECURITYBAG: 7/19	
EV# 9811160443	TYPE	MISC			
AC# 98044295	ITEM	16	✓	COMPLETE CARTRIDGE	
CS# 98044295	QTY	1	✓	SECURITYBAG: 7/18	
EV# 9811160443	TYPE	MISC			
AC# 98044295	ITEM	15	✓	COMPLETE CARTRIDGE	
CS# 98044295	QTY	1	✓	SECURITYBAG: 7/17	
EV# 9811160443	TYPE	MISC			
AC# 98044286	ITEM	1		AMMUNITION LEAD FRAG	
CS# 98044286	QTY	1		SECURITYBAG: 1/1	
EV# 9811160443	TYPE	MISC			
AC# 98044286	ITEM	2		JACKET BULLET	
CS# 98044286	QTY	1		SECURITYBAG: 1/2	
EV# 9811160443	TYPE	MISC			
AC# 98044286	ITEM	3		JACKET BULLET	
CS# 98044286	QTY	1		SECURITYBAG: 1/3	
EV# 9811160443	TYPE	MISC			

- Continued on Next Page -

RECEIVED FROM EVID CUSTODIAN : DOUGLAS GOHR, EVID 4710 CR

REASON PROPERTY IS BEING REMOVED: Requested by LVMPD Lab

OFFICER RECEIVING ITEMS

SIGNATURE:

PHOTO: [ N ] TORREY JOHNSON, CRM2 4820 CR

TURNED OVER TO COURT, CITIZEN, DIST ATTY , ETC.

- RECEIPT -

SIGNATURE:

DATE:

PRINT NAME:

RANK:

P# :

AGENCY:

STREET:

CITY:

ST:

ZIP:

INSTRUCTIONS:

Person removing item(s) will either return the item(s) or return an executed copy of the signature and identification of the individual receiving the item(s) within 24 HOURS.

APP2476

Latent Print Processing Worksheet			
Subject(s)/ID#:  Jan 13 1	Evidence Rec'd	12-14-98	Event # 981116 0443
	Rec'd From	FA DETAIL / JOHNSON	Agency LUMPD
	Evidence Ret'd	12-10-02 FA 2124	Date 12-14-98
	# Items Processed	1	Requested By: Thorne
			Booked By

[illegible]

SEKA000602

Other Comments:

See Next Page  
for more

LPE for B3

Page #

Place Handling Labels Here

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**EVIDENCE**

FMTY 6

Date Prepared	12-14-98	Time Prepared	1000	Event #	981116-0443
Check 1 Box Only	<input checked="" type="checkbox"/> Recovered	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> Found	<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Gross <input type="checkbox"/> Misd.	
	<input type="checkbox"/> Safekeeping	<input type="checkbox"/> Seizure	<input type="checkbox"/> Other		

Suspect

Charge HOMICIDE FOLLOWUP

Location 1933 WESTERN AVENUE

Impounding Officer's  
Initials/P #

8-1502R

Signature

David Ruffin

ITEM	IMPOUNDED ITEM DESCRIPTION
# 1	ONE(1) 357 CAL "NEVINS" CARTRIDGE
#	CASE
#	
#	
#	
#	
#	
#	
#	

CO-DEFENDANT ▼

This Package #

1502-1

Total # of Packages

1

CHAIN OF CUSTODY SIGNATURE AND P # ▼

DATE

TIME

J. J. [Signature]

12-14-98 1500

LVMPD 133 (REV. 8-97)

**EVIDENCE**

SEKA000603

APP2478

Place Handling Labels Here

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**EVIDENCE**

Date Prepared	12-14-98	Time Prepared	1000	Event #	981116-0443
Check 1 Box Only	<input checked="" type="checkbox"/> Recovered	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> Found	<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Gross <input type="checkbox"/> Misd.	
	<input type="checkbox"/> Safekeeping	<input type="checkbox"/> Seizure	<input type="checkbox"/> Other		

Suspect

Charge HOMICIDE FOLLOWUP

Location 1933 WESTERN AVENUE

Impounding Officer's  
Initials/P #

8-1502R

Signature

David Ruffins

ITEM	IMPOUNDED ITEM DESCRIPTION
# 1	ONE(1) 357 CAL "NEUMINS" CARTRIDGE
#	CASE
#	
#	
#	
#	
#	
#	
#	

CO-DEFENDANT ▼

This Package #

1502-1

Total # of Packages

1

CHAIN OF CUSTODY SIGNATURE AND P # ▼	DATE	TIME

LVMPD 133 (REV. 8-97)

SEKA000604

APP2479

## LAS VEGAS METROPOLITAN POLICE DEPARTMENT

## EVIDENCE IMPOUND REPORT

EVIDENCE ☒FOUND PROPERTY ☐SAFE KEEPING ☐

EVENT #

981116-0443

Incident:

HOMICIDE FOLLOWUP

Date:

12-14-98

Location:

1933 WESTERN AVENUE

Victim # 1:

JOHN "LUMBER" DOE

Victim #2:

## EVIDENCE

## LOCATION RECOVERED

PACKAGE #1502-1:

ITEM #1 - ONE(1) 357  
CAL. "NEVINS" CARTRIDGE  
CASEFLOOR, REAR NE ROOM;  
21" W. OF E. WALL  
30" S. OF N. WALL

APPROVED

P#

LD. OFFICER

David Ruffino 1502

LVMPD ISD 10 (REV. 3-95)

SEKA000605

APP2480

**Location:**

**USE SEPARATE LINE FOR EACH PACKAGE - USE SEPARATE LINE FOR EACH PACKAGE**

Event Number	Pkg #	Description	CSA P# & Initials	Date/Time	Lab Staff P# & Initials	Date/Time	Transp. Co. Location
981116-0443	1502-1	ONE(1) 357 CAL. WEVINS CART-RIDGE CASE	DISOR	12-14-98 1100	12-14-98 1120		Firing
<p>→ Released to F. Boyd for latent print processing</p> <p>Recd <u>7/11/98</u></p>							
<p>Released back to Firearm's Section - FORREY, JOHNSON FOR EXAMINATION</p> <p>X recd <u>12-16-98</u> <u>0755</u></p>							

\*AFIS\* 4002                      JOB QUEUE SCREEN                      01/22/99 07:49

NO. OF JOBS(CUR/MAX):    11 / 6000                      LINE:    1

CF	JOB NO. (KEY)	C	OPERATOR ID	T.ID	INITIATED	FNC(P)	P	PHASE	STAT	ESTMT
<input type="checkbox"/>	15-8-0075-0-0		NULUFMB	0030	01/15	10:47	LI	3	TERM	DONE 000.1
	(		)				(N)			
<input type="checkbox"/>	15-8-0075-0-1		NULUFMB	0030	01/19	10:28	LRI	3	TERM	DONE 000.1
	(NU-04-991612-01)						(N)			
<input type="checkbox"/>	21-8-0070-2-0		NULUFMB	0030	01/21	14:19	LI	3	TERM	DONE 000.1
	(		)				(N)			
<input type="checkbox"/>	21-8-0071-0-0		NULUFMB	0030	01/21	14:19	LI	3	TERM	CANC 000.1
	(		)				(N)			
<input checked="" type="checkbox"/>	21-8-0070-2-1		NULUFMB	0030	01/21	14:42	LRI	3	TERM	DONE 000.1
	(NU-04-983424-01)						(N)			
<input checked="" type="checkbox"/>	21-8-0071-0-1		NULUFMB	0030	01/21	15:12	LRI	3	TERM	NO-P 000.1
	(NU-04-983424-03)						(N)			

☐ \*\*\*\*\* BOTTOM OF TEXT \*\*\*\*\*

☐

☐

☐

F IDLE    KBX                      OPEN    0

1211110-00022





**\*AFIS\* 4002**

NO. OF JOBS(CUR/MAX):

[illegible]

15-8-0075-0-0	NULVFMFB	0030 01/15 10:47 LI	3 TERM	DONE 000.1
---------------	----------	---------------------	--------	------------

(2) ( )

15-8-0075-0-1	NVLUFMB	0030 01/19 10:28 LRI	3 TERM	DONE 000.1

(NV-04-991612-01) (N)

21-8-0070-2-0	NULVFWB	0030 01/21 14:19 LI	3 MATCH EXEC 000.1

(M)

21-8-0071-0-0	NVLJFNB	0030 01/21 14:19 LI	3 TERM	CANC 000.1
---------------	---------	---------------------	--------	------------

(b) (5) DPP, (b) (5) ACP

**BOTTOM OF TEXT**

7

7

7

7

7

SEKA000609

F	IDLE	RBX	OPEN	0
---	------	-----	------	---

21-8-0070-2-1 - Re wqwy  
21-8-0070-2  
21-8-0070-2

SEKA000610

\*AFIS\* DESCRIPTIVE INFORMATION SCREEN 01/21/99 08:21  
LI: LATENT INQUIRY CARD NO. 001051

SEX	<input type="checkbox"/> ?	YOB/RANGE	<input type="checkbox"/> ?? / <input type="checkbox"/> ?
CRIME	<input type="checkbox"/> 0001	DOA	<input type="checkbox"/> ?? <input type="checkbox"/> ?? <input type="checkbox"/> ??
STATE ID	<input type="checkbox"/> NU	MEMO	<input type="checkbox"/> NU049820003424
PATTERN TYPE	<input type="checkbox"/> R <input type="checkbox"/> W	S-REGIONS	<input type="checkbox"/> S - <input type="checkbox"/> NU <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
FINGER NO.	1 <input type="checkbox"/> X 2 <input type="checkbox"/> X 3 <input type="checkbox"/> X 4 <input type="checkbox"/> X	6 <input type="checkbox"/> X 7 <input type="checkbox"/> X 8 <input type="checkbox"/> X 9 <input type="checkbox"/> X	
ADJACENT P. T.	(LEFT) 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1 <input type="checkbox"/> -	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 (RIGHT)	<input type="checkbox"/>
SEARCH TYPE	<input type="checkbox"/> 1	PRIORITY	<input type="checkbox"/> 3
		L.O.C.	<input type="checkbox"/> 210

PRESS ADV TO CONTINUE  
PRESS CAN TO ABORT TRANSACTION

LAS VEGAS MEI HUR

EVT. #981116-0443 OFFICER 28. Road - 5131  
VICT. JOHN "LUMBER" DOE LOC. CRIME LAB  
PRINT LOC. EXTERIOR DRIVERS SIDE VIEW MIRROR  
1998 TOYOTA PICKUP, NEVADA #720 55M.



# EXHIBIT 51

SEKA000612

APP2487

<b>Las Vegas Metropolitan Police Department</b> <b>Forensic Laboratory</b>  <b>Report of Examination</b>  <b>Biology/DNA Forensic Casework</b>		<b>Distribution Date:</b> March 19, 2019 <b>Agency:</b> LVMPD <b>Location:</b> Homicide & Sex Crimes Bureau <b>Primary Case #:</b> 981116-0443 <b>Incident:</b> Homicide <b>Requester:</b> John Fattig <b>Lab Case #:</b> 18-02167.3 <b>Supplemental 2</b>
<b>Subject(s):</b>	None Listed	

The following evidence item(s) were received and examined:

Lab Item #	Impound Pkg #	Impound Item #	Description
Item 9	005714 - 2	3	(1) Skoal tobacco container w/ small amount of tobacco
Item 9.1			Skoal container
Item 9.1.1			- Swabbing of Skoal container (entire container)
Item 10	005714 - 3	4	Beck's beer bottle - Swabbing of the mouth of the bottle
Item 11		5	Beck's beer bottle - Swabbing of the mouth of the bottle
Item 12	001502 - 10	19	Brown JCPenney Construction baseball cap - Swabbing of the entire inside brim of cap
* Refer to the original report issued by FS II Craig King P# 9971 dated 4/17/2018 for related information.			
**Refer to the supplemental report issued by FS II Craig King P# 9971 dated 7/24/2018 for related information.			

#### Results, Opinions, and Interpretations:

Item 9.1.1, Item 10, Item 11, and Item 12 were subjected to PCR amplification at the following STR genetic loci: TH01, D3S1358, vWA, D21S11, TPOX, DYS391, D1S1656, D12S391, SE33, D10S1248, D22S1045, D19S433, D8S1179, D2S1338, D2S441, D18S51, FGA, D16S539, CSF1PO, D13S317, D5S818, and D7S820. The sex-determining Amelogenin locus was also examined. Where applicable, STRmix was used for interpretation.

#### Lab Item 9.1.1: Swabbing of Skoal container

Number of contributors: 2 (at least one male)  
Approximate mixture proportions: 86:14  
Excluded: Eric Hamilton (Item 7\*)  
John Seka (Item 8\*\*)

No additional conclusions can be made regarding the contributor(s) to this DNA profile at this time.

#### Lab Item 10: Beck's beer bottle

Number of contributors: 1 female  
Excluded: Eric Hamilton (Item 7\*)  
John Seka (Item 8\*\*)

No additional conclusions can be made regarding the contributor(s) to this DNA profile at this time. The DNA profile will be searched against the Local DNA Index System (CODIS) and then uploaded to the National DNA Index System (CODIS) for comparison. You will be notified of any match(es).

#### Lab Item 11: Beck's beer bottle

The DNA profile obtained is consistent with at least one contributor. Due to the limited nature of this profile, it is unsuitable for interpretation. The likely number of contributors to this profile cannot be determined.

#### Lab Item 12: Brown JCPenney Construction baseball cap

Number of contributors: 3 (at least one male)  
Approximate mixture proportions: 90:7:3  
Individually included: Eric Hamilton (Item 7\*; LR = at least 3.49 quadrillion (3.49x10<sup>15</sup>))  
Inconclusive: John Seka (Item 8\*\*)

The probability of observing the mixture DNA profile is at least 3.49 quadrillion times more likely if it originated from Eric Hamilton (Item 7\*) and two unknown random contributors than if it originated from three unknown random contributors.

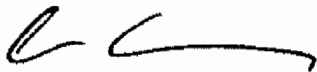
It is inconclusive whether John Seka (Item 8\*\*) is a contributor to the DNA results obtained because the likelihood ratio does not provide sufficient support for inclusion or exclusion. No additional conclusions can be made regarding the contributor(s) to this DNA profile at this time.

The following evidence item(s) were received, but not examined for the purposes of this report:

Lab Item #	Impound Pkg #	Impound Item #	Description	Results, Opinions, & Interpretations
Item 9.2	005714 - 2	3	Debris bag from Skoal container	• Received, not examined
---	001502 - 10	18	Four inch beige toothbrush	• Received, not examined
---	001502-1	1	Large lead (possible bullet) fragment	• Received, not examined
---		2	Copper jacketed bullet	• Received, not examined
---		3	Copper jacketed bullet	• Received, not examined
---		4	Lead/copper bullet fragment	• Received, not examined
---		5	Lead/copper bullet fragment	• Received, not examined
---		6	Copper jacketed (deformed) bullet	• Received, not examined

**Notes:**

1. The evidence is returned to secure storage.
2. Start date of testing: January 29, 2019
3. This report does not constitute the entire case file. The case file may be comprised of worksheets, images, analytical data and other documents.
4. DNA extracts generated during the analysis of this case and/or cuttings taken from the evidence may be available for future testing.
5. Where applicable, likelihood ratios (LR) were calculated to assess whether each submitted reference standard is statistically included or excluded, individually, as a contributor to the reported DNA profile(s). The reported LR value for an "Individually Included" reference standard is reflective of the likelihood ratio calculation associated with the listed individual, without being considered in combination with other reference standards, except where an "Assumed Contributor" is denoted.
6. Mixture proportions signify the approximate percentage of each contributor to the mixture DNA profile.
7. The likelihood ratios are based upon propositions that can explain the evidence. This includes assumptions as to the number of contributors present in the DNA profile and, unless otherwise noted, that each unknown contributor is unrelated to the named reference standards. Since a range of propositions might explain the evidence, either interested party to this case, prosecution and/or defense, may request an additional likelihood ratio that incorporates an additional proposition more accurately representing their position. All requests must be submitted in a timely manner, must be reasonable given the test results, and must be within the capability and validated application of the program used.
8. Statistical probabilities were calculated using the recommendations of the National Research Council (NRC II) utilizing the NIST database (Hill, C.R., Duwer, D.L., Kline, M.C., Coble, M.D., Butler, J.M. (2013) U.S. population data for 29 autosomal STR loci. Forensic Sci. Int. Genet. 7: e82-e83 and Steffen, C., Coble, M., Gettings, K., Vallone, P. Corrigendum to 'U.S. Population Data for 29 Autosomal STR Loci' [Forensic Sci. Int. Genet. 7 (2013) e82-83]. Forensic Sci. Int. Genet. 31 (2017) e36-e40). The probability that has been reported is the most conservative value obtained from the US Caucasian (CAU), African American (AA), and Hispanic (HSP) population databases. All likelihood ratios calculated by the LVMPD are truncated to three significant figures.
9. For comparison purposes, please collect reference buccal swab(s) from individuals believed to be involved in (or who have had reasonable access to) this incident. When a reference buccal swab is obtained, please submit a Forensic Laboratory Request to complete the case.



Craig W King, #9971  
Forensic Scientist II

- END OF REPORT -

# EXHIBIT 52

SEKA000615

APP2490

52

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DISTRICT COURT  
CLARK COUNTY, NEVADA

**ORIGINAL**

\* \* \* FILED IN OPEN COURT  
FEB 14 2001 19

SHIRLEY B. PARRAGUIRRE, CLERK  
BY Rudy Norma  
JUDY NORMA 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 Tuesday, February 13, 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 J. CHRISTIANSEN, ESQ.  
Deputy Public Defender

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

RECEIVED

CE

FEB 14 2001  
CLERK

MAUREEN SCHORN, CCR NO. 496, RPR

SEKA000616



1 1975.

2 MR. KENNEDY: Since after all these  
3 years have passed, have you ever spoken to him about his  
4 work as a military police officer?

5 PROSPECTIVE JUROR KWIATKOSKI:  
6 Occasionally he will bring -- if we're watching the  
7 history channel and something occurs he was familiar with,  
8 but he never discussed anything prior to that. If it's  
9 light, he'll tell me, but if it's not, he won't.

10 MR. KENNEDY: Do you believe if someone  
11 is convicted of first degree murder that they should  
12 forfeit their own life?

13 PROSPECTIVE JUROR KWIATKOSKI: Pardon  
14 me?

15 MR. KENNEDY: If someone is convicted  
16 of first degree murder, the charges that we have here,  
17 should their life also be taken?

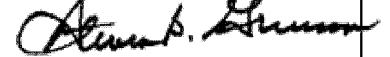
18 PROSPECTIVE JUROR KWIATKOSKI: It would  
19 depend on the circumstances.

20 MR. KENNEDY: So you're willing to look  
21 at different factors and different circumstances in making  
22 that decision?

23 PROSPECTIVE JUROR KWIATKOSKI: Yes.

24 MR. KENNEDY: Pass for cause.

25 THE COURT: Thank you. Defense



1 **RSPN**  
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4 Nevada Bar #001565  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 JOHN JOSEPH SEKA,  
13 #1525324

14 Defendant.

CASE NO: 99C159915

DEPT NO: XXV

15 **STATE'S RESPONSE TO DEFENDANT'S MOTION FOR A NEW TRIAL**

16 DATE OF HEARING: FEBRUARY 10, 2020  
17 TIME OF HEARING: 9:00AM

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
19 District Attorney, through ALEXANDER G. CHEN, Chief Deputy District Attorney, and  
20 hereby submits the attached Points and Authorities in Response to Defendant's Motion for a  
21 New Trial.

22 This Response is made and based upon all the papers and pleadings on file herein, the  
23 attached points and authorities in support hereof, and oral argument at the time of hearing, if  
24 deemed necessary by this Honorable Court.

25 //

26 //

27 //

28 //

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 30, 1999, JOHN JOSEPH SEKA (hereinafter "Defendant") was charged by  
4 way of Information with: Counts 1 & 2 – MURDER WITH USE OF A DEADLY WEAPON  
5 (Felony – NRS 200.010, 200.030, 193.165); and Counts 3 & 4 – ROBBERY WITH USE OF  
6 A DEADLY WEAPON (Felony – NRS 200.380, 193.165).

7 On July 26, 1999, the State filed Notice of Intent to Seek the Death Penalty.

8 On September 22, 1999, Defendant filed a Petition for Writ of Habeas Corpus. The  
9 State filed its Return on November 8, 1999. On November 22, 1999, the Court denied  
10 Defendant's Petition. The Court filed its Order on November 29, 1999.

11 Jury trial commenced on February 12, 2001. On March 1, 2001, the jury returned a  
12 verdict of guilty of First Degree Murder With Use of a Deadly Weapon as to Count 1, guilty  
13 of Second Degree Murder With Use of a Deadly Weapon as to Count 2, and guilty of Robbery  
14 as to Counts 3 and 4.

15 On April 26, 2001, Defendant was sentenced to the Nevada Department of Corrections  
16 as follows: as to Count 1 – Life without the possibility of parole plus an equal and consecutive  
17 sentence of life without the possibility of parole for use of a deadly weapon; as to Count 2 –  
18 Life with the possibility of parole plus an equal and consecutive term of life with the possibility  
19 of parole for use of a deadly weapon consecutive to Count 1; as to Count 3 – thirty-five (35)  
20 to one hundred fifty-six (156) months consecutive to Count 2; and as to Count 4 – thirty-five  
21 (35) to one hundred fifty-six (156) months consecutive to Count 3. The Judgment of  
22 Conviction was filed on May 9, 2001.

23 On May 15, 2001, Defendant filed a Notice of Appeal. On May 16, 2001, the Court  
24 filed an Order appointing counsel. On May 24, 2001, Defendant, through counsel, filed an  
25 Amended Notice of Appeal. On May 9, 2003, the Nevada Supreme Court filed an Order  
26 affirming Defendant's conviction and remittitur issued.

27 On February 13, 2004, Defendant filed a Petition for Writ of Habeas Corpus. The State  
28 filed its Response on April 6, 2004. On November 5, 2004, the Court denied Defendant's

1 Petition. The Court filed its Findings of Fact, Conclusions of Law and Order on January 31,  
2 2005.

3 On February 9, 2005, Defendant filed a Notice of Appeal. On July 18, 2005, the Nevada  
4 Supreme Court issued an Order affirming the Court's denial of Defendant's Petition and  
5 remittitur issued.

6 On June 19, 2017, Defendant filed a Post-Conviction Petition Requesting a Genetic  
7 Marker Analysis of Evidence Within Possession or Custody of the State of Nevada. The State  
8 filed its Response on August 15, 2017. Defendant filed his Reply on September 5, 2017. On  
9 September 13, 2017, the Court granted Defendant's Petition. The Court filed its Order granting  
10 Defendant's Petition on September 19, 2017.

11 On December 14, 2018, the Court held an evidentiary hearing regarding additional  
12 testing on the DNA evidence. On December 19, 2018, the Court granted Defendant's Petition  
13 in part and denied the Petition in part. On July 24, 2019, the Court set a briefing schedule  
14 based on the DNA testing.

15 On November 19, 2019, Defendant filed the instant Motion for a New Trial. The State  
16 responds as follows:

17 **STATEMENT OF THE FACTS**

18 The instant case involves the murders of two men, Peter Limanni and Eric Hamilton.  
19 On November 16, 1998, Jeffrey Lowery was driving a truck on Las Vegas Boulevard South  
20 where he saw a body lying on the left-hand side of the road. Recorder's Transcript of Hearing  
21 ("RT"), February 20, 2001, Vol. II p. 25-26. Lowery testified that he reported the body to the  
22 police and that he did not disturb anything at the scene while he waited for the police to arrive.  
23 Id. at 26. Homicide detectives James Buczek and Tom Thowsen, employed with Las Vegas  
24 Metropolitan Police Department (LVMPD), responded to the area of Las Vegas Boulevard  
25 South where the body was found. RT, February 14, 2001, Vol. II p. 13. Upon arrival, Detective  
26 Buczek found a body lying west of Las Vegas Boulevard South covered with a variety of  
27 pieces of lumber including cedarwood. Id. at 14. The body was a black male and was lying  
28 face down in the middle of a set of tire tracks leading to the road. Id. at 16-17. Detective

1 Buczek testified that a piece of paper with the name "Jack" and a telephone number was found  
2 in the body's front pants pocket. Id. at 17. Randall McPhail, a crime scene analyst with  
3 LVMPD, testified that he recovered a green piece of paper with the work "Jack" and a phone  
4 number on it from Hamilton's body. RT, February 20, 2001, Vol. II p. 28-29, 31. The telephone  
5 number was checked by Detective Thowsen and came back to Cinergi, a business located at  
6 1933 Western Ave. RT, February 14, 2001, Vol. II p. 18. Vincent Roberts, a crime scene  
7 analyst with LVMPD, testified that he made a cast of the tire impressions found at the scene  
8 on Las Vegas Blvd. on November 16, 1998. RT, February 20, 2001, Vol. I p. 39-40, 42.  
9 Roberts also impounded pieces of lumber that were found on top of the body of Hamilton. Id.  
10 at 47.

11 Dr. Giles Sheldon Green, a coroner with the Clark County Medical Examiner  
12 Department, testified that he performed an autopsy on the body found on Las Vegas Boulevard  
13 South which was later identified as Hamilton. RT, February 14, 2001, Vol. I p. 17, 21.  
14 According to Dr. Green, Hamilton's body had three gunshot wounds: one in the chest, one in  
15 the left hip, and one in the right thigh. Id. at 24-25. Further, Dr. Green testified that Hamilton's  
16 body had a laceration on the right wrist which could be consistent with someone tearing a  
17 bracelet from the wrist. Id. at 25. Dr. Green testified that the cause of Hamilton's death was  
18 gunshot wounds to the chest and abdomen and that the manner of death was homicide. Id. at  
19 28.

20 On November 17, 1998, Rick Ferguson, an employee at 1937 Western Ave., called the  
21 police to report broken glass with blood on it several buildings down from his work. Id. at 38-  
22 39. Officer Robert Kroll and Officer Robert Nogues, LVMPD, responded to the call regarding  
23 broken glass at 1929 Western. RT, February 20, 2001, Vol. I p. 57, 81. Upon arriving, Officer  
24 Kroll saw broken plate glass near the entrance of the property with apparent blood on it. Id. at  
25 58. Officer Kroll also observed blood inside the business on the carpet, a dark blue jacket and  
26 a baseball cap. Id. at 58. Expended bullets were also found on the floor inside the business. Id.  
27 at 59.  
28

1 While the officers were investigating the scene, Officer Kroll testified that Defendant  
2 drove up to the business in a brown Toyota truck. Id. at 60-61. When Officer Kroll asked  
3 Defendant if he knew where Limanni, the owner of the business was, Defendant told him that  
4 Limanni was in Reno/Lake Tahoe with his girlfriend. Id. at 62. Officer Kroll testified that  
5 Defendant gave his consent for them to search 1933 Western Ave. Id. at 64. Inside 1933  
6 Western Ave, Officer Kroll observed a humidor under construction and a lot of wood laying  
7 around. Id. In addition, Officer Kroll testified that he saw a bullet standing up on the desk. Id.  
8 at 64-65. Additionally, Michael Cerda, the property manager who was also at the scene,  
9 testified that he saw a bullet on top of a table inside 1933 Western. RT, February 13, 2001,  
10 Vol. II p. 37, 47-48.

11 Officer Nogues testified that he investigated behind the businesses on Western. RT,  
12 February 20, 2001, Vol. I p. 83. Officer Nogues observed a dumpster in an alcove in the rear  
13 of the businesses. Id. When he opened the dumpster, Officer Nogues saw a few papers at the  
14 bottom of the dumpster, but he could see the bottom of the dumpster. Id. at 83-84. The owner  
15 of the trophy business just down from 1929 and 1933 Western Ave. came out of his store and  
16 told Officer Nogues that the dumpster had been emptied that morning or the prior night so  
17 nothing would be in it. Id. at 84.

18 David Ruffino, a crime scene analyst with LVMPD, was assigned to process the scene  
19 at 1929 Western Ave. on November 17, 1998. RT, February 14, 2001, Vol. II p. 37, 41.  
20 According to CSA Ruffino, when he arrived he was told that he was investigating the scene  
21 for malicious destruction of private property. Id. at 42. As Ruffino observed the scene he saw  
22 glass with blood all over it, blood inside the business and bullets on the floor. Id. at 42-43.  
23 Ruffino also found a dark jacket with apparent blood and bullet holes on it. Id. at 43. After  
24 finding this evidence, Ruffino contacted the homicide unit because he thought there may be a  
25 connection with the body found on Las Vegas Boulevard South based on the phone number  
26 found on the body. Id. at 43-44. At some point after Ruffino arrived, Officer Kroll and Officer  
27 Nogues left the scene. RT, February 20, 2001, Vol. I p. 66, 86.

28

1 After Ruffino's phone call, Detective Buczek responded to the investigation at 1929  
2 Western Ave. RT, February 14, 2001, Vol. II p. 19. Detective Buczek testified that there were  
3 three bullets and three fragments of bullets inside the business. Id. In addition, a dark blue  
4 jacket with bullet holes was found. Id. The bullet holes in the jacket were later compared with  
5 the bullet holes in Hamilton's body and found to be consistent. Id.

6 Detective Buczek also searched 1933 Western after Defendant signed a consent to  
7 search card. Id. at 20-21. Inside, a humidor made with cedarwood was under construction. Id.  
8 at 21. A bullet hole was found in the couch and the bullet was recovered from the wall behind  
9 the couch. Id. at 22. Additionally, a .32 bullet was recovered from the toilet. Id. Detective  
10 Buczek found some .357 ammunition and a couple .32 cartridges in the false ceiling. Id. A  
11 wallet containing Limanni's driver's license, social security card, birth certificate and a couple  
12 credit cards was also found in the false ceiling. Id. at 22-23.

13 Officer Nogues and Officer Kroll were called back to the scene to speak with homicide  
14 detectives. RT, February 20, 2001, Vol. I p. 67, 87. When he returned to the scene, Officer  
15 Kroll went into 1933 Western Ave. and testified that the bullet was missing from the table  
16 where he had seen it. Id. at 67. Officer Kroll questioned the owner of the building, Michael  
17 Cerda and he denied moving the bullet. Id. at 68. Officer Nogues testified that upon returning  
18 to the scene, he went with homicide detectives to check the dumpster behind the businesses  
19 again. Id. at 87-88. When he looked in the dumpster, Officer Nogues saw papers, burnt  
20 clothing and shoes which filled the bottom of the dumpster. Id. at 88-89. Officer Nogues  
21 testified that none of those things had been in the dumpster previously. Id. at 90.

22 Randy McPhail, a crime scene analyst with LVMPD, also responded to the crime scene  
23 at 1933 Western on November 17, 1998. RT, February 20, 2001, Vol. II p. 34. McPhail found  
24 a .357 magnum cartridge case in the false ceiling, a .357 magnum cartridge case on the light  
25 fixture near the humidor, a bullet that traveled through the couch and lodged in the drywall  
26 behind it, and a .32 caliber complete cartridge. Id. at 39-40. McPhail testified that in the  
27 dumpster there was a green shirt that appeared to be burnt. Id. at 41. In addition, there were  
28 some playing cards from casinos, phone cards and other personal belongings in the dumpster.

1 Id. A business card holder in the false ceiling containing a birth certificate with Limanni's  
2 name on it was also found. Id. at 40-42. There were numerous blood stains or blood transfers  
3 in the business. Id. at 42. McPhail also recovered some beer bottles located in the trash can of  
4 the office at 1933 Western Ave. Id. at 65.

5 Gary Reed, crime scene analyst with LVMPD, did a vehicle examination on the brown  
6 Toyota truck driven by Defendant. RT, February 16, 2001, Vol. II p. 26-27. CSA Reed testified  
7 that the exterior of the truck appeared to be clean, but the tires and undercarriage appeared as  
8 though the truck had been driven in dirt and rocks. Id. at 29. Ferguson testified that he  
9 remembered noticing that the brown truck was very clean. RT, February 14, 2001, Vol. I p.  
10 41-42. In addition, there were stains in the bed liner which caught Reed's attention. RT,  
11 February 16, 2001, Vol. II p. 29-30. These stains were tested with phenylthalline and reflected  
12 the presence of blood. Id. at 30-31. In addition, Reed conducted a luminol test which glows in  
13 the dark when it reacts positively with blood. Id. at 31. The stains in the bed liner reacted  
14 positively with the luminol. Id. at 33.

15 Tom Thowsen, homicide detective with LVMPD, conducted an interview of Defendant  
16 on November 17, 1998 after responding to the scene at 1933 Western. RT, February 21, 2001,  
17 Vol. II p. 34-36. Detective Thowsen mirandized Defendant and then took a taped interview of  
18 Defendant. Id. at 37-38. During the interview, Defendant told Detective Thowsen that Limanni  
19 had just disappeared several weeks before. Id. at 38. Following the interview, Detective  
20 Thowsen told Defendant that the information he had given them was inconsistent and that he  
21 was a suspect for the murder of Hamilton. Id. at 42-43. At that point Defendant smiled and  
22 said, "You're really starting to scare me now. I think you'd better arrest me or take me home.  
23 Do you have enough to arrest me right now?" Id. at 43. Detective Thowsen told Defendant  
24 that he would wait until all of the forensic evidence had come back before arresting Defendant.  
25 Id. Prior to releasing Defendant, Detective Thowsen photographed injuries on Defendant's  
26 hand and took a DNA sample. Id. at 43-44.

27 After Detective Thowsen drove him to 1933 Western Ave., Defendant asked to leave  
28 the scene to go to a dinner appointment. Id. at 44. Defendant was told the brown Toyota was



1 being impounded. Id. At that point Defendant requested that he be allowed to take the white  
2 Dodge van with the Cinergi decals. Id. at 44-45. Detective Thowsen handed Defendant the  
3 keys to the all white Dodge van and commented that he wanted to take the van with the decals  
4 on it. Id. at 45-46. Detective Thowsen looked inside the van with the Cinergi decals and saw  
5 blood droplets and blood stains. Id. at 46. A presumptive test was conducted which came back  
6 positive for blood. Id. at 46-47. Defendant ended up taking the plain white van and told  
7 Detective Thowsen that he would return after his dinner appointment. Id. at 47. According to  
8 Detective Thowsen's testimony, Defendant was not seen again until May 1999 when he was  
9 arrested in Pennsylvania. Id. at 47-48.

10 In November of 1998, Defendant met Jennifer Harrison, Limanni's girlfriend, in the  
11 parking lot of 24 Hour Fitness and told her that a black guy had been killed, that police were  
12 blaming him, and that he had to get out of there. RT, February 14, 2001, Vol. I p. 51, 70-71.  
13 Defendant also told Harrison that police were going to call her in because they had pictures of  
14 her from Lake Tahoe. Id. at 70. Defendant asked Harrison if he could borrow her car because  
15 police were following him because he was called in to be prosecuted for murder. Id. at 72-73.  
16 Harrison refused to let Defendant take her vehicle. Several weeks later, Defendant called  
17 Harrison from Arizona and told her that he was going "underground". Id. at 71.

18 On December 23, 1998, Peter Borden was driving on Nipton Road on his way to work  
19 at Moycor Mine when he saw a dog chewing on a partially decomposed body on the side of  
20 the road. RT, February 14, 2001, Vol. II p. 4-6. Borden called 911 at a BLM trailer down the  
21 road. Id. at 6-7. Borden testified that he did not disturb anything at the scene where the body  
22 was found. Id. at 7. According to Borden, Nipton Road is about 5 miles from the Nevada state  
23 line and it takes roughly 45 minutes to get there from 1-15 in Las Vegas. Id. at 7-8.

24 Kenneth Wolf, a detective with the San Bernadino Sheriff's Department, responded to  
25 the location of the body on December 23, 1998. RT, February 16, 2001, Vol. II p. 106-07.  
26 According to Detective Wolf, the body was partially buried from the legs down. Id. at 111.  
27 There appeared to be tire tracks on one side of the berm where the body was found which  
28 drove away from the body in a westerly direction. Id. Further, the body was only wearing

1 boxers. Id. at 112. Jeff Smink, a forensic specialist with the Sheriff's Department of San  
2 Bernadino, testified that he obtained a fingerprint from the body by injecting a syringe full of  
3 water into the dehydrated right thumb of the body and using ink to take the fingerprint. RT,  
4 February 20, 2001, Vol. II p. 18-19, 21-22. The body found was later identified as Limanni.  
5 RT, February 16, 2001, Vol. II p. 114.

6 Steven Trenkle, a coroner for San Bernadino County, performed an autopsy on the body  
7 of Lamanni. RT, February 16, 2001, Vol. II p. 47, 49-50. The body had two gunshot wounds  
8 in the left lower back, four gunshot wounds to the head and a gunshot wound to the left  
9 shoulder. Id. at 51. In addition, the body had a tattoo of a vulture on the right upper arm, a  
10 tattoo of an eagle on the left arm and a tattoo of Italy on the right leg and a tattoo of a blue  
11 flower on the left leg. Id. at 51-52. Harrison testified that Limanni had a tattoo of Italy on his  
12 calf and a tattoo of an eagle on his arm. RT, February 14, 2001, Vol. I p. 72. Dr. Trenkle  
13 testified that the amount of decomposition was consistent with the body being dead for weeks.  
14 RT, February 16, 2001, Vol. II p. 50-51, 54. Dr. Trenkle testified that the cause of death was  
15 multiple gunshot wounds to the head and the manner of death was homicide. Id. at 55. Dr.  
16 Trenkle testified that one of the bullets was imbedded in the skull of the body which would be  
17 consistent with a defective gun or ammunition. Id. at 56-57. McPhail recovered bullet  
18 fragments from the body of Limanni during the autopsy. RT, February 20, 2001, Vol. II p. 63.

19 Fred Boyd, a fingerprint analyst employed by LVMPD, testified that he used known  
20 prints from Hamilton, Limanni, and Defendant to compare with the prints found at the crime  
21 scenes. RT, February 21, 2001, Vol. I p. 67, 71-72. Boyd testified that he found latent prints  
22 on the lumber collected where Hamilton's body was found and that the numerous pieces of  
23 wood contained the prints of Defendant and one contained the prints of Limanni. Id. at 75-78.  
24 The latent prints recovered from the Toyota pickup all belonged to Defendant. Id. at 81-84.  
25 Further, the beer bottles recovered from the trash can in 1933 Western contained the prints of  
26 Defendant and Hamilton. Id. at 84-85. Boyd also testified that the cast made of the tire tracks  
27 on Las Vegas Boulevard South matched the tread pattern on the tires on the brown Toyota  
28 pickup driven by Defendant. Id. at 86-91; RT, February 21, 2001, Vol. II p. 7-9.

1 David Welch, a forensic chemist at LVMPD, testified regarding DNA testing on  
2 evidence collected from the two bodies and the crime scenes at 1929 and 1933 Western Ave.  
3 RT, February 16, 2001, Vol. I p. 19, 36. Welch testified that he used samples from Defendant,  
4 Limanni and Hamilton as standards in his testifying. Id. at 40. Welch testified that the blood  
5 sample collected from inside the Dodge van was human blood and that Limanni could not be  
6 excluded as the source of the blood. Id. at 45. According to Welch, there was only a 1 in 1.8  
7 million chance that another person aside from Limanni was the source of the blood found in  
8 the swab taken from the Dodge van. Id. at 46. With regard to a glass fragment with blood on  
9 it collected from 1929, Welch testified that the sample was human blood and that it matched  
10 Hamilton's DNA. Id. at 47. One would have to sample 2.8 million African Americans to find  
11 another DNA match with the blood on the glass. Id. Regarding the blood found in the back of  
12 the brown Toyota pickup, Welch testified that Defendant and Limanni were excluded as a  
13 source. Id. at 50-51. Further, the blood matched the DNA of Hamilton. Id. at 50.

14 Torrey Johnson, employed by LVMPD in the forensic lab as a firearm expert, testified  
15 that the .357 magnum fragments were fired from the same firearm. RT, February 21, 2001,  
16 Vol. I p. 49, 53-54. These fragments were collected from 1933 Western avenue and one from  
17 Hamilton's body. Id. at 53. In addition, Johnson testified that he analyzed a .32 caliber bullet.  
18 Id. at 54. The bullets recovered from Limanni's body were .32 caliber and had characteristics  
19 consistent with being fired from a revolver that had a misaligned cylinder. Id. at 55, 63-64.  
20 The .32 caliber bullet recovered from 1933 Western also matched the misalignment and caliber  
21 of the bullets from Limanni's body. Id. at 63-64. According to Detective Thowsen, the .32  
22 caliber weapon was used to kill Limanni and a .357 magnum was used to kill Hamilton. RT,  
23 February 22, 2001, Vol. I p. 13.

24 Thomas Cramer, a friend of Defendant's in 1998, testified that when Defendant came  
25 to Pennsylvania after November 1998, he asked Defendant if he had killed Limanni. RT,  
26 February 20, 2001, Vol. I p. 5-6, 9-11. Defendant responded, "No. They didn't even find the  
27 body." Id. at 11. Further, Cramer testified that during a fight with Defendant on January 23,  
28 1999, Defendant said to him, "Do you want me to do to you what I did to Pete Limanni?" Id.

1 at 12-14. Cramer testified Defendant's demeanor and statement scared him so much that he  
2 threw Defendant down the stairs. Id. at 15. Cramer further testified that Defendant told Cramer  
3 that Limanni accused Defendant of stealing money, came at him with a gun and so Defendant  
4 wrestled the gun from Pete and shot him. Id. at 18-19. Defendant told Cramer that Pete was  
5 gurgling and blood was coming out of his mouth and so he just kept shooting Pete. Id. at 19.

6 Further investigation revealed that Jennifer Harrison, Limanni's girlfriend, last saw  
7 Limanni was Wednesday, November 4, 1998. RT, February 14, 2001, Vol. I p. 51, 61. After  
8 watching a movie at Harrison's house, Limanni left her house. Id. at 61. The next day,  
9 November 5, 1998, Harrison was unable to contact Limanni on his cellphone. Id. According  
10 to Harrison, Limanni's cellphone was normally turned on. Id. at 61-62. Harrison called  
11 Defendant asking where Limanni was. Id. at 62. Defendant told Harrison that Limanni had left  
12 the house early that morning. Id. During the same phone conversation, Defendant told  
13 Harrison that he was depressed because he caught his girlfriend in bed with another man. Id.  
14 at 63-64.

15 Harrison testified that she "knew something was not right" and so she went over to  
16 Cinergi. Id. at 64. When she got there, Harrison saw Defendant passed out on the floor, a  
17 young woman passed out on the couch and Limanni's dog Jake. Id. at 64-65. According to  
18 Harrison, Limanni's dog, Jake, was always with him. Id. at 60. Harrison walked to the back  
19 room which was locked. Id. at 65. Eventually, she got the door open and Peter was not there,  
20 but all of his clothes and shoes were. Id. at 65-66. She also noticed a bullet on the floor. Id. at  
21 66. The next day Harrison called Defendant and asked him about Limanni. Id. at 68-69. When  
22 she said she was going to file a missing person report, Defendant told her "No. No. He's  
23 missing because he wants to be missing." Id. at 69. According to Harrison, Limanni was  
24 disrespectful toward Defendant including calling Defendant "his nigger". Id. at 56-57.

25 Michael Cerda, employed with Nevada Properties as a property manager for 1933 and  
26 1929 Western Avenue in 1998, testified that Limanni operated a business called Cinergi air  
27 conditioning at 1933 Western Avenue. RT, February 13, 2001, Vol. II p. 37. Defendant lived  
28 with Limanni in the back of the Cinergi office on Western. RT, February 14, 2001, Vol. I p.

1 52. Cerda testified that the last time he saw Limanni was at the beginning of November. RT,  
2 February 13, 2001, Vol. II p. 39-40. According to Cerda, Limanni asked him if he could pay  
3 his rent on Monday because he was going to a cigar show. Id. at 41. Cerda testified that  
4 Limanni had a large amount of cash with him, approximately 2,000.00 to 3,000.00 dollars. Id.  
5 Cerda testified that Limanni never paid the rent. Id. at 42. However, Defendant did contact  
6 Cerda and told him that Defendant would pay the rent. Id. at 42-43. Further, Cerda testified  
7 that Defendant asked him to take care of Limanni's dog. Id. at 44.

8 Takeo Kato testified that he entered into a business arrangement with Limanni for an  
9 air conditioning business in Las Vegas. RT, February 16, 2001, Vol. II p. 81-82. Kato testified  
10 that the business started to fail in the summer of 1998 and that he and Limanni had a bad  
11 working relationship because Limanni used company money for personal use. Id. at 83-84,  
12 89-90. Kato found a written to-do list at 1933 Western Avenue after Limanni disappeared and  
13 forwarded it to the police. Id. at 85-86. Kato sent Detective Thowsen an envelope containing  
14 a to-do list dated Thursday November 12, 1998. RT, February 21, 2001, Vol. II p. 49. Further,  
15 Kato testified that he had nothing to do with Limanni's disappearance. RT, February 16, 2001,  
16 Vol. II p. 87.

17 Michele Hamilton, Eric Hamilton's sister, testified that her brother moved to Las Vegas  
18 in the beginning of November or end of October 1998. Id. at 61. Ms. Hamilton testified that  
19 Eric had about \$3,000.00 when he moved to Las Vegas. Id. at 62. According to Ms. Hamilton,  
20 the last time she talked to Eric was the first week of November. Id. Eric told Ms. Hamilton  
21 that he was working for a white man who owned a business and that he was building  
22 something. Id. at 66-67.

## 23 **ARGUMENT**

### 24 **I. DEFENDANT IS NOT ENTITLED TO A NEW TRIAL.**

#### 25 **a. Defendant's "newly discovered" DNA evidence is not favorable to the** 26 **defense.**

27 NRS 176.09187 states in relevant part:  
28

1           1. If the results of a genetic marker analysis performed pursuant to this section  
2           and NRS 176.0918 and 176.09183 are favorable to the petitioner:

3           (a) The petitioner may bring a motion for a new trial based on the ground of  
4           newly discovered evidence pursuant to NRS 176.515; and

5           (b) The restriction on the time for filing the motion set forth in subsection 3  
6           of NRS 176.515 is not applicable.

7           Here, Defendant claims that the newly tested DNA evidence is exculpatory and,  
8           therefore, favorable to the defense under 176.09187. Motion at 32-46. However, the new DNA  
9           “evidence” is not exculpatory and, thus, Defendant’s claim fails.

10           **i. Hamilton’s Fingernail Clippings**

11           First, some DNA from under one of the victim’s, Eric Hamilton’s, fingernail clippings  
12           were tested. Motion at 22. Defendant was excluded as a contributor to the DNA sample under  
13           Hamilton’s nails. Id.; see also, Defendant’s Exhibit 48. A second foreign contributor was  
14           found in the DNA sample. Id. Defendant bases his argument that he is entitled to a new trial  
15           on the fact that, although Hamilton was shot twice and there was no evidence of defensive  
16           wounds, the killer *may* have dragged Hamilton by his wrists and, thus, DNA *may* have  
17           transferred to Hamilton’s hands and fingernails. Motion at 34-35.

18           Despite Defendant’s contention, the fact that there was DNA under Hamilton’s  
19           fingernails and the fact that Defendant was excluded as a source of that DNA was presented  
20           to the jury at trial. RT, February 16, 2001, Vol. II p. 11-12. Therefore, this evidence is not  
21           newly discovered and, thus, not appropriately raised in a motion for new trial. See NRS  
22           176.515. Further, as this evidence was presented to the jury at trial, Defendant fails to  
23           demonstrate a reasonable probability that this evidence would have changed the outcome at  
24           trial. The jury heard evidence that Defendant’s DNA was not underneath Hamilton’s  
25           fingernails and that there was an unidentified contributor to the DNA sample. The jury still  
26           convicted Defendant of the murder of Hamilton based on all the other evidence presented at  
27           trial. Additionally, this evidence does not exonerate Defendant as he claims. Although there  
28           was an additional contributor to the DNA under Hamilton’s fingernails, Defendant cannot  
            definitively state when or how this DNA got under Hamilton’s fingernails. Instead, he relies  
            on speculation that the killer’s DNA may have transferred to Hamilton’s hands or nails when

1 his body was being dragged. As Defendant provides no evidence that this in fact happened  
2 and cannot even demonstrate that the DNA must belong to the killer, he cannot demonstrate  
3 that this evidence is favorable to the defense or that there is a reasonable probability this  
4 evidence would have rendered a different outcome at trial. Therefore, his claim fails.

5 **ii. Hair Under Hamilton's Fingernails**

6 Hairs found under Hamilton's nails were also tested. Motion at 22. At trial, it was stated  
7 that Hamilton could not be excluded as a source of that hair and that the probability of the hair  
8 coming from another African American individual was one in 2.8 million. RT, February 16,  
9 2001, Vol. I p. 54. The hair was identified as coming from an African American individual  
10 and Defendant is Caucasian. Therefore, Defendant was excluded as being a possible source of  
11 that hair at trial, although Defendant claims this is "newly discovered" evidence. As this  
12 evidence was presented to the jury at trial, Defendant fails to demonstrate a reasonable  
13 probability that this evidence would have changed the outcome at trial. It has since been  
14 determined that Hamilton was the source of the hair. Defense Exhibit 49. The fact that the  
15 victim's own hair was found under his fingernails is not exculpatory evidence, as it does not  
16 demonstrate a reasonable probability that the outcome at trial would have been different.  
17 Therefore, this evidence is not favorable to the defense and Defendant's claim fails.

18 **iii. Cigarette Butts, Skoal container and beer bottle**

19 There were cigarette butts collected from the construction site where Hamilton's body  
20 was found. Motion at 22-23. Both Hamilton and Defendant were excluded as contributors to  
21 the DNA samples on the cigarettes. Id. at 23. A Skoal container was also collected from the  
22 construction site where Hamilton's body was found. Id. Both Hamilton and Defendant were  
23 excluded as possible contributors to the DNA samples on the container. Id. A beer bottle was  
24 also collected from the construction site where Hamilton's body was found. Id. at 23-24.  
25 Defendant, Limanni and Hamilton were all excluded as possible sources of the latent prints on  
26 the bottle and Hamilton and Defendant were excluded as possible sources of the DNA sample  
27 on the bottle. Id. Further, the DNA sample was identified as female. Id. at 23.

1           Essentially, Defendant argues that because LVMPD, out of an abundance of caution,  
2 collected certain trash items that *could* have been relevant to the crime scene, the fact that  
3 these items did not have Defendant's DNA or fingerprints is exculpatory and demonstrates  
4 that he should receive a new trial. Motion at 35-36. However, just because there were trash  
5 items located near Hamilton's body at the site where he was found does not make them  
6 relevant to the crime scene or even definitively mean that there will be DNA or fingerprint  
7 evidence from the individual involved in the crime. Further, Defendant does not even argue  
8 that these items were related to the crime or the perpetrator. Instead, he merely states that  
9 because police collected the items and these items did not have Defendant's DNA on them,  
10 this must show that there was an alternate suspect. As Defendant provides no evidence that  
11 this evidence was not just unrelated trash discarded on the side of the road and cannot even  
12 demonstrate that any DNA must belong to the killer, he cannot demonstrate that this evidence  
13 is favorable to the defense or that there is a reasonable probability this evidence would have  
14 rendered a different outcome at trial. Therefore, his claim fails.

15                           **iv. Baseball Hat**

16           Hamilton's baseball cap was collected from the air conditioning business and not tested  
17 for DNA at the time of trial. Motion at 24. In the recent testing, Hamilton's DNA was identified  
18 as well as two unknown profiles. Id. Defendant does not even attempt to argue how other DNA  
19 evidence on Hamilton's hat creates a reasonable probability that the outcome at trial would be  
20 different. Further, Defendant cannot make such a demonstration because there is no way to  
21 tell when these DNA samples were transferred to the hat and, thus, any individual Hamilton  
22 came into contact with could have contributed to those DNA samples. Therefore, this evidence  
23 is not favorable to the defense and Defendant's claim fails.

24                           **v. Fingerprints**

25           Defendant complains that there were latent fingerprints from the Beck's beer bottle, a  
26 piece of lumber at the scene where Hamilton's body was found, a purse found in the ceiling  
27 of the business, and various doors and windows in the business were not examined. Motion at  
28 24. However, even now Defendant cannot show who these fingerprints belonged to or that a



1 latent print comparison would have shown these prints were related to the investigation. The  
2 beer bottle and the purse did not belong to either the victims or Defendant and so it is to be  
3 expected that there could be fingerprints from other sources on these items. Further,  
4 Defendant's claim that all fingerprints found near the windows and doors of Limanni's air  
5 conditioning business is meritless, as any one of their customers, vendors, employees, friends,  
6 family, etc., could have accessed the business and left a fingerprint in those areas at any time,  
7 as noted by Defendant in his motion. See Motion at 39. The fingerprint on the lumber, which  
8 came from the business, could also have come from one of these individuals and could have  
9 been transferred to the lumber at any time prior to the murders. There is no indication that any  
10 fingerprint comparison would have pointed to an alternate suspect or was in any way favorable  
11 to the defense. Therefore, Defendant cannot demonstrate that this evidence was favorable to  
12 the defense and his claim fails.

13 As Defendant points out, the State did not rely on DNA evidence in proving  
14 Defendant's guilt. Motion at 29-30. Instead, witnesses testified as to the relationship between  
15 Defendant and the victims, other physical evidence and Defendant's own inconsistent stories  
16 and behavior demonstrated that he committed the crime. Moreover, Defendant admits that the  
17 DNA does not implicate anyone else in the commission of the crime. Motion at 35. Therefore,  
18 there is not a reasonable probability that the result at trial would have been different and this  
19 evidence is not favorable to the defense. Thus, Defendant's motion for new trial must be  
20 denied.

21 **b. Because the newly tested DNA evidence is not favorable to the defense,**  
22 **Defendant is not entitled to a new trial under NRS 176.515.**

23 According to NRS 176.515, a motion for new trial may only be raised within two (2)  
24 years of the Judgment of Conviction being filed and only on the basis of new evidence. NRS  
25 176.515 reads:

- 26 1. The court may grant a new trial to a defendant if required as a matter of  
27 law or on the ground of newly discovered evidence.  
28

2. If trial was by the court without a jury, the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.

3. Except as otherwise provided in NRS 176.09187, *a motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.*

4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the court may fix during the 7-day period.

(emphasis added).

Here, because Defendant cannot raise claims that new DNA evidence is favorable to the defense, his motion for new trial is governed by NRS 176.515. Defendant's Judgment of Conviction was filed on May 9, 2001. Defendant did not file the instant motion until November 19, 2019. This is far outside the two year time frame provided under NRS 176.515. Therefore, Defendant's motion is procedurally barred and must be denied.

## CONCLUSION

For the foregoing reasons, Defendant's Motion must be denied.

DATED this 30th day of January, 2020.

Respectfully submitted,

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Clark County District Attorney  
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BY /s// ALEXANDER G. CHEN  
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CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 30th day of  
January, 2020, by electronic transmission to:

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16 *Attorneys for Petitioner John Joseph Seka*

17 **EIGHTH JUDICIAL DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 JOHN JOSEPH SEKA,  
20  
21 Petitioner,

CASE NO. 99C159915  
DEPT. XXV

22 vs.

23 STATE OF NEVADA,  
24  
25 Respondent,

26 **REPLY IN SUPPORT OF MR. SEKA'S MOTION FOR A NEW TRIAL**

27 In its response, the State of Nevada mischaracterizes many of the facts surrounding the  
28 collection and original testing of the evidence, relies on relevancy arguments that the Court has  
already decided, changes its pre-trial and trial positions on the importance of the evidence, and  
ultimately encourages this Court to apply an inapplicable statute of limitations. As shown below,  
each of the State's arguments is without merit, and if the Court finds the new DNA evidence is  
"favorable" to Mr. Seka, it should grant his Motion for a New Trial as the State has not contested  
any other issues.

## INTRODUCTION

In 2001, the State of Nevada presented the jury, tasked with deciding Mr. Seka's fate, with a wholly circumstantial case which led to five days of deliberation and a jury deadlock during the penalty hearing. *See* Defendant John Seka's Motion for a New Trial ("*Motion*") at 20. No relevant physical evidence placed Mr. Seka at the scene of the crime. No physical evidence connected Mr. Seka to Mr. Hamilton's or Mr. Limanni's death. No physical evidence placed Mr. Seka at the sites where the bodies were found. All physical evidence that was available and tested at the time of trial was inconclusive, pointed to someone other than Mr. Seka, or was taken from his residence. In short, Mr. Seka's 2001 jury did not have any definitive physical evidence presented to them in part because, at the time, DNA testing was in its infancy.

However, now with the advances in DNA science, new DNA testing has been done on the relevant physical evidence in Mr. Seka's case and more than a reasonable probability exists that a jury would now view the proceeding differently and reach a different verdict. At a minimum, a new jury would be able to consider not only the circumstantial evidence, but also that Mr. Seka is excluded from all of the physical evidence and, equally as important, that an unknown individual appears on several pieces of probative evidence. Specifically, a new jury would be able to consider the following information not available to them in 2001: 1) DNA evidence from the fingernails on both of Mr. Hamilton's hands, including blood, epithelial cells, and hair, excluding Mr. Seka and including a foreign contributor; 2) DNA evidence from the cigarette butt found next to Mr. Hamilton's body excluding Mr. Seka and including a foreign contributor; 3) DNA evidence from the Skoal container found next to Mr. Hamilton's body excluding Mr. Seka and including two foreign contributors; 4) DNA evidence from the beer bottle found next to Mr. Hamilton's body excluding Mr. Seka and including an unknown female contributor; and 5) DNA evidence from Mr. Hamilton's hat identifying two unknown contributors.<sup>1</sup>

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<sup>1</sup> Additional new evidence that a new jury would have the opportunity to consider include Ms. McConnell's 2017 signed declaration averring that Mr. Seka never confessed to Mr. Cramer. *See Motion* at 19. This newly discovered evidence would be viewed in light of other compelling

1 All of the new DNA evidence was obtained from physical evidence that police collected  
2 as part of their murder investigation, that they had fingerprinted or tested for DNA, and that the  
3 State had hoped to use in their prosecution of Mr. Seka. All of the new DNA testing was  
4 conducted with techniques that were not available at the time of trial and all of the results are  
5 fully favorable to Mr. Seka's defense. This new DNA evidence not only stands alone as the best  
6 evidence the case admits, but also casts a new light on the circumstantial evidence presented to  
7 the jury and allows a different set of inferences - inferences that show Mr. Seka had nothing to  
8 do with the murders of Mr. Hamilton and Mr. Limanni, or at the very least, create reasonable  
9 doubt. *See Motion* at 44-45. Accordingly, all requirements under Nev. Rev. Stat. 176.515<sup>2</sup> and  
10 Nev. Rev. Stat. 176.09187 are met and Mr. Seka respectfully the Court to grant his Motion for a  
11 New Trial.

## 12 ARGUMENT

### 13 **I. THE NEWLY DISCOVERED DNA EVIDENCE IS FAVORABLE TO MR. 14 SEKA AND AS A RESULT HE IS ENTITLED TO A NEW TRIAL.**

15 On November 18, 2019, Mr. Seka filed a Motion for a New Trial under Nev. Rev. Stat.  
16 176.515(1) alleging that newly discovered DNA evidence exculpates him and inculpates  
17 someone else in the murders of Peter Limanni and Eric Hamilton. In that Motion, Mr. Seka  
18 explained in depth why the new DNA evidence trumps the wholly circumstantial case that the  
19 State presented against him in 2001 and asked this Court to grant him a new trial where a jury  
20 can consider not only that circumstantial evidence but also the new DNA evidence that shows  
21 definitively that he had nothing to do with the murders as well as other new evidence tending to  
22 negate his guilt. *See Motion*; Footnote 1.

23  
24 \_\_\_\_\_ (continued)  
25 evidence discovered post-conviction including: unknown fingerprints, not belonging to Mr. Seka  
26 or Mr. Limanni, found on the lumber used to cover Mr. Hamilton's body; unknown fingerprints,  
27 not belonging to Mr. Seka, Mr. Limanni, or Mr. Hamilton, identified on Ms. Gorzoch's purse;  
28 unexamined prints collected from 1929, the scene of Mr. Hamilton's murder; and all evidence  
discovered relating to alternative suspects. *See Motion* at 4-7, 13-14, 24.

<sup>2</sup> The State does not contest that these requirements have been met. *See State's Response to Defendant's Motion for New Trial ("Response")*.

1 In a relatively shallow argument, the State implicitly admits that Mr. Seka meets all of  
2 the elements for a new trial as outlined in *Sanborn v. State*, which states that newly discovered  
3 evidence justifying a new trial must be:

4 (1) newly discovered; (2) material to the defense; (3) such that even with the exercise of  
5 reasonable diligence it could not have been discovered and produced for trial; (4) non-  
6 cumulative; (5) such as to render a different result probable upon retrial; (6) not only an  
7 attempt to contradict, impeach, or discredit a former witness, unless the witness is so  
important that a different result would be reasonable probable; (7) and the best evidence  
the case admits.

8 107 Nev. 399, 812 P.2d 1279, 1284-85 (1991); *see also Motion* at 26-45. Rather, the State simply  
9 argues, without authority, that the DNA results are not “favorable” to Mr. Seka and therefore his  
10 Motion should be denied. In contradiction to the State’s position, the new evidence is  
11 “favorable” thus warranting a new trial for Mr. Seka.

12 **A. The Newly Discovered DNA Evidence Is Both Material and Exculpatory and**  
13 **therefore Favorable Under NRS 176.09187.**

14 Under Nev. Rev. Stat. 176.09187, a defendant may move for a new trial where the results of  
15 the genetic marker analysis are “favorable.” “Favorable” is not defined in the statute, but appears  
16 to be synonymous with the material standard used regularly in criminal and post-conviction law.<sup>3</sup>  
17 Here, the physical evidence that was tested in this case is favorable, material and exculpatory to  
18 Mr. Seka’s defense, and as such, Mr. Seka should be given the opportunity to present it to a jury.

19  
20  
21 <sup>3</sup> “A prosecutor must disclose evidence favorable to an accused when that evidence is material  
22 either to guilt or to punishment.” *Roberts v. State*, 110 Nev. 1121, 1127, 881 P.2d 1, 5 (1994). In  
23 a case where the defense does not request specific evidence, evidence is material if there is a  
24 reasonable probability that the result would have been different if the evidence had been  
25 disclosed. *Id.* A reasonable probability is one sufficient to undermine confidence in the outcome.  
26 *Id.* at 1228. However, if there has been a specific request evidence is material if “there exists a  
27 reasonable possibility that the claimed evidence would have affected the judgment of the trier of  
28 fact, and thus the outcome of the trial.” *Id.* at 1132, 881 P.2d at 8. Materiality “does not require  
demonstration by a preponderance” that disclosure of the evidence would have resulted in  
acquittal. *Kyles v. Whitley*, 514 U.S. 419, (1995). Nor is it a sufficiency of the evidence test; a  
defendant need not show that “after discounting the inculpatory evidence in light of the  
undisclosed evidence, there would not have been enough left to convict.” *Id.* at 434–35, 115  
S.Ct. 1555. A reasonable probability is shown when the nondisclosure undermines confidence in  
the outcome of the trial. *Id.* at 434.

1 In his Motion, Mr. Seka argues, in detail, that the newly discovered DNA evidence is  
2 material. *Motion* at 32-41. The same argument applies to refute the State's contention that the  
3 new evidence is not favorable. In criminal cases, the absence of physical evidence can be  
4 favorable (or exculpatory) to a defendant, just as the presence of inculpatory physical evidence is  
5 favorable for prosecutors seeking conviction.<sup>4</sup> As outlined below, the physical evidence in this  
6 case is favorable (and exculpatory and material), and therefore supports Mr. Seka's Motion for a  
7 New Trial:

8 1. **Mr. Hamilton's Fingernail Clippings**

9 At the time of trial, Mr. Seka was not fully excluded as a contributor to the DNA sample  
10 under Hamilton's nails. The State's assertion otherwise is inaccurate. *Response* at 13. To clarify,  
11 at the time of trial, Dr. Welch performed PCR-RFLP testing on Mr. Hamilton's left-hand  
12 fingernail clippings. *Motion* at 22. Dr. Welch subsequently excluded Mr. Seka as a contributor of  
13 the *blood* identified under Mr. Hamilton's left-hand fingernails. *Motion* at 22. In 2018, through  
14 more advanced STR DNA testing, Mr. Seka was fully excluded as a contributor of the blood and  
15 epithelial DNA from both Mr. Hamilton's left and right fingernail clippings. *Motion* at 22.  
16 However, not only was Mr. Seka excluded, but assuming Mr. Hamilton was a contributor, a  
17 second foreign contributor was identified. *Motion* at 22. The 2018 STR DNA testing allowed Mr.  
18 Hamilton's nail clippings to not only be tested for obvious blood samples, but also epithelial or  
19 "touch" DNA evidence. *Motion* at 22. This full exclusion of Mr. Seka from the biological  
20 material identified under both sets of Mr. Hamilton's nail clippings was not presented to Mr.  
21 Seka's jury in 2001. Even more compelling, Mr. Seka's 2001 jury did not learn that a second,  
22 foreign contributor was detected nor could police, prosecutors or defense counsel investigate or  
23 identify the foreign contributor as an alternative suspect as the information was not available to  
24

25  
26 <sup>4</sup> In 151 of the 367 DNA exonerations to date, the defendant was excluded as a contributor of the  
27 DNA evidence and the actual perpetrator was not identified.  
28 <https://www.innocenceproject.org/exonerate/> (last visited February 23, 2020). In other words, in  
those exonerations, the absence of the defendant's DNA was sufficient for the Court to order a  
new trial, to vacate the conviction or to fully exonerate the defendant. *Id.*



1 them. Had the jury understood not only the full exclusion of Mr. Seka, but also the identification  
2 of another foreign contributor, their decision on Mr. Seka's guilt may have been very different.

3 **2. Hair Under Mr. Hamilton's Fingernails**

4 The State is confused when it asserts that "[h]airs found under [Mr.] Hamilton's nails  
5 were also tested" at the time of trial. *Response* at 14. At the time of trial, Dr. Welch tested the  
6 blood on the hairs but not the hairs themselves. *Motion* at 22. And although Mr. Seka was  
7 excluded as a contributor to the blood on the hairs, Dr. Welch was unable to come to any  
8 conclusion on the hairs themselves. *Id.* The possibility that this untested hair belonged either to  
9 Mr. Seka or to the actual perpetrator loomed over Mr. Seka's case. In 2018, STR DNA testing  
10 conclusively showed this hair did not belong to Mr. Seka. A full exclusion of Mr. Seka on both  
11 the hair and the blood on the hair was not presented to Mr. Seka's jury in 2001 and may well  
12 have led the jury to a different conclusion in the wholly circumstantial case against Mr. Seka.

13 **3. Cigarette Butts, Skoal Container, and Beer Bottle Found Next To Mr.  
14 Hamilton's Body**

15 The State is again confused when it claims that Mr. Hamilton's body was found at a  
16 construction site. *Response* at 14. A *construction worker* found Mr. Hamilton in a remote area,  
17 2.1 miles south of State Route 146. *Motion* at 8, 22. Thus, the value of this evidence cannot be  
18 underestimated. Indeed, the police and prosecution recognized its importance during the  
19 investigation and trial. Not only did police collect these items, but crime lab technicians  
20 processed them, and the prosecution presented the findings, or lack thereof, at trial.

21 Specifically, in 2001, Dr. Welch attempted but was unable to obtain any DNA typing  
22 results from the cigarette butt. *Motion* at 23. The 2018 STR DNA testing produced a full DNA  
23 profile which excluded Mr. Hamilton and Mr. Seka. *Motion* at 23. In 2001, the Skoal container  
24 was examined for fingerprints but no latent prints were identified. *Motion* at 23. The 2019 STR  
25 DNA testing identified two DNA profiles which excluded both Mr. Hamilton and Mr. Seka.  
26 *Motion* at 23. In 1999, the beer bottle was examined for latent prints and Mr. Seka's, Mr.  
27 Limanni's, and Mr. Hamilton's fingerprints were excluded. *Motion* at 23. The 2019 STR DNA  
28 testing fully excluded Mr. Hamilton and Mr. Seka as possible contributors. *Motion* at 23-24.

1        These items of physical evidence were treated similarly to the lumber that covered Mr.  
2 Hamilton's body which the police and the prosecution asserted were highly probative. Police did  
3 not "merely" collect these items of evidence – police believed them to be relevant and correctly  
4 utilized their resources and had the items analyzed to the extent of their scientific abilities at the  
5 time. *See Response* at 15. The recent STR DNA testing conclusively excludes Mr. Seka as a  
6 contributor and therefore this Court should grant his Motion for a New trial so that the evidence  
7 can be properly considered by a jury.

8            4.        **Mr. Hamilton's Baseball Hat**

9        DNA testing was not conducted on Mr. Hamilton's hat in 2001. *Motion* at 24. The 2019  
10 STR DNA testing identified three profiles on the hat: one belonging to Mr. Hamilton, and two  
11 unknown profiles. *Motion* at 24. Mr. Hamilton's baseball hat was left at the murder scene and a  
12 jury should be allowed to consider the DNA profiles because there are two unknown profiles that  
13 could well belong to the actual perpetrators.

14        Whether considered individually or cumulatively, each piece of physical evidence is  
15 favorable to Mr. Seka and thus meets the standard under Nev. Rev. State. 176.09187 for this  
16 Court to grant Mr. Seka's Motion for a New Trial.

17        **B. The Physical Evidence Recently Submitted to STR DNA Testing Was Relevant in**  
18        **1999 and Is Relevant Now.**

19        Despite the State's arguments to the contrary, Mr. Seka has no obligation to show  
20 definitively how the newly discovered DNA profiles found under Mr. Hamilton's fingernail  
21 clippings, on the beer bottle, Skoal container, and cigarette butt found next to Mr. Hamilton's  
22 body, and on Mr. Hamilton's baseball hat ("the physical evidence") got there. *See Response* at  
23 13-15. Rather, Mr. Seka need only show that the physical evidence is material to the  
24 determination of his guilt or innocence in the murders of Mr. Hamilton and Mr. Limanni. *See id.*  
25 Mr. Seka has shown relevance in a number of pleadings submitted to this Court, including his  
26 Motion for a New Trial which he submitted on November 19, 2019. Indeed, in his Reply to the  
27 State's Opposition to his initial request for DNA testing, Mr. Seka outlined the importance and  
28

1 relevance of the physical evidence. Reply to State’s Opposition to Petition for Post-Conviction  
2 DNA Testing at 14. This Court agreed with Mr. Seka’s argument and ordered Post-Conviction  
3 DNA testing on January 22, 2019. *See Order*. Thus, this Court has already decided the relevance  
4 of the physical evidence and now it is a jury’s job to consider the physical evidence which  
5 exonerates Mr. Seka and its impact on what was a wholly circumstantial case against him.

6 Further, in claiming that the physical evidence that has now been tested and shows that  
7 Mr. Seka had no connection to the murders of Mr. Limanni and Mr. Hamilton is not relevant, the  
8 State is conveniently changing their theory regarding the physical evidence.<sup>5</sup> In 1999, police  
9 officers collected the physical evidence, processed it for fingerprints, and requested the crime lab  
10 test it for DNA, which the crime lab did with PCR-RFLP DNA testing, the best available at the  
11 time. In so doing, the police and prosecution saw the evidentiary value of the physical evidence  
12 and when the best scientific technology available at the time produced no usable results, they  
13 went forward with their wholly circumstantial case against Mr. Seka. Now, that the same  
14 evidence the State once considered material exonerates Mr. Seka, the State calls the evidence  
15 trash items.” *See Response* at 15. The State’s position is disingenuous and wholly inaccurate, and  
16 this Court should reject it in favor of granting Mr. Seka the new trial he deserves.

17 **C. Because the Newly Discovered DNA Evidence is Favorable to Mr. Seka, the 2-Year**  
18 **Statute of Limitations in Nev. Rev. Stat. 176.515(3) is Inapplicable.**

19 In a case involving newly discovered evidence based upon DNA testing, there is no  
20 statute of limitations. Nev. Rev. Stat. 176.09187(1)(b)(waiving the two year statute of limitations  
21 for cases where the newly discovered evidence is DNA). However, in a last-ditch effort to defeat  
22 Mr. Seka’s Motion for a New Trial, the State argues that Mr. Seka’s Motion cannot be

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23 <sup>5</sup> The United States Supreme Court rejected an argument similar to the State’s argument here.  
24 *House v. Bell*, 547 U.S. 518 (2006). In *House*, the State used semen evidence found on the  
25 murder victim alleging it was consistent with Mr. House. *Id.* at 518. Post-conviction DNA testing  
26 established the semen on the victim’s clothing came from her husband, and not from Mr. House.  
27 *Id.* The State then claimed this evidence was immaterial as it did not definitively show Mr.  
28 House did not commit the murder. *Id.* The Supreme Court disagreed and found the new evidence  
“of central importance.” *Id.* at 540. The Court stated that “[p]articularly in a case like this where  
the [state’s evidence] was... circumstantial... a jury would have given this evidence great  
weight.” *Id.* at 540-41.

1 considered because more than two years have passed since his case was decided. Nev. Rev. Stat.  
2 176.515(3). This argument is merely a red herring and should be ignored.

3 **CONCLUSION**

4 For all the foregoing reasons, along with the reasons set forth in Mr. Seka's Motion for  
5 New Trial, Mr. Seka respectfully requests this Court grant his Motion and allow him the  
6 opportunity to present the new DNA evidence to a jury.

7 Dated this 4<sup>th</sup> day of March, 2020.

8 Respectfully submitted,

9 

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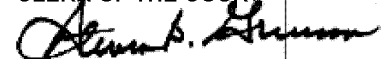
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**CERTIFICATE OF SERVICE**

The undersigned, an employee of Clark Hill PLLC hereby certifies that on the 4 day  
of March, 2020, I served a copy of **REPLY IN SUPPORT OF MR. SEKA'S MOTION FOR**  
**A NEW TRIAL**, electronic means addressed to:

Steven B. Wolfson  
Clark County District Attorney  
Alexander G. Chen, Chief Deputy District Attorney  
Clark County District Attorney – Criminal Division  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89101  
Email: alexander.chen@clarkcountyda.com

  
\_\_\_\_\_  
An employee of CLARK HILL PLLC



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6 ROCKY MOUNTAIN INNOCENCE CENTER  
JENNIFER SPRINGER  
7 Nevada Bar No. 13767  
8 E-mail: [jspringer@rminnocence.org](mailto:jspringer@rminnocence.org)  
9 358 South 700 East, B235  
Salt Lake City, Utah 84102  
Tel: (801) 355-1888

10 *Attorneys for Petitioner John Joseph Seka*

11 **EIGHTH JUDICIAL DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

13 JOHN JOSEPH SEKA,  
14  
15 Petitioner,

CASE NO. 99C159915  
DEPT. XXV

16 vs.

17 STATE OF NEVADA,  
18 Respondent,

19 **DEFENDANT JOHN SEKA'S ORDER GRANTING MOTION FOR A NEW TRIAL**

20 John Seka's Motion for New Trial having come on regularly for hearing on the 11<sup>th</sup> day of  
21 March 2020, in Department XXV, the Honorable Judge Kathleen Delaney presiding, the  
22 Defendant, John Seka being represented by Paola M. Armeni, Esq., of the law firm of Clark Hill  
23 PLC and Jennifer Springer, Esq., of the Rocky Mountain Innocence Center, the Plaintiff, State of  
24 Nevada being represented by Alexander G. Chen, Chief Deputy District Attorney, and Skyler  
25 Sullivan, Deputized Law Clerk, the issues being fully argued by counsel, the Court makes the  
26 following findings:  
27

28 1. That the evidence of the finger nail clippings of the named victim Eric Hamilton, cigarette

MAR 20 2020

1 butts, Skoal container and beer bottle that were located at the scene where Mr. Hamilton  
2 was located, as well as the baseball hat that was found at the purported crime scene was  
3 subjected to DNA testing after the Court granted in part Petitioner's Post Conviction  
4 Petition Requesting a Genetic Marker Analysis of Evidence Within the Possession, or  
5 Custody of the State of Nevada.  
6

- 7 2. That DNA profiles to unknown individuals was located on five out of the 6 items that  
8 were tested. Additionally, five out of six of the items also excluded Mr. Seka as a DNA  
9 match.
- 10 3. The multiple unknown DNA profiles are favorable evidence to Mr. Seka.
- 11 4. Since there is favorable evidence, the two-year statute of limitations in NRS 176.515(3)  
12 is inapplicable, therefore, there is no statute of limitations and Mr. Seka's Motion for  
13 New Trial is timely.
- 14 5. Mr. Seka has established a basis for new trial as the evidence is newly discovered,  
15 material to his defense, that even with the exercise of reasonable diligence it could not  
16 have been discovered or produced for trial, is non-cumulative, renders a different result  
17 probable upon retrial, and is not only an attempt to discredit a witness and this evidence  
18 is the best evidence this case admits.

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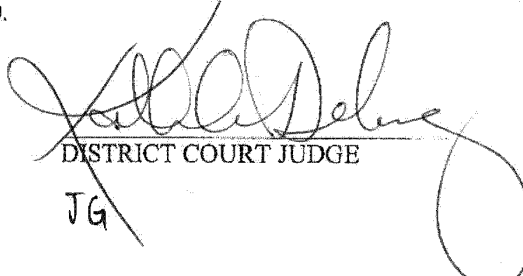
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1 The Court being fully advised in the premises and good cause appearing therefor,

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendant's Motion  
3 for New Trial is hereby Granted.

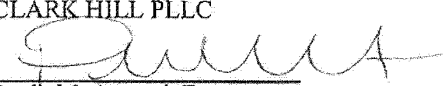
4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a Status Check for  
5 setting a new trial is set for April 15, 2020 at 9:00 a.m.

6 DATED this 24<sup>th</sup> day of March 2020.

7  
8   
DISTRICT COURT JUDGE  
9  
10 TG

Submitted By:


11 CLARK HILL PLLC

12   
Paola M. Armeni, Esq.  
13 Nevada Bar No. 8357  
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15 Jennifer Springer  
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18  
19 Approved as to form and content:

20 CLARK COUNTY DISTRICT ATTORNEY- CRIMINAL DIVISION

21   
22 Alexander G. Chen  
23 Chief Deputy District Attorney  
Skyler Sullivan  
24 Deputized District Attorney  
200 Lewis Avenue  
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*Attorneys for Plaintiff, The State of Nevada*  
26  
27  
28