

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEMARENE COLEMAN,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Aug 25 2023 11:00 AM
Elizabeth A. Brown
Clerk of Supreme Court

Case No: 05C215295-1
Related Case A-23-868466-W
Docket No: 86923

RECORD ON APPEAL VOLUME 1

ATTORNEY FOR APPELLANT
DEMARENE COLEMAN # 1007335,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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CLERK

INFO

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
SANDRA K. DIGIACOMO
Deputy District Attorney
Nevada Bar #006204
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

I.A. 10/04/05

8:30 A.M.

SPD / BLOOMFIELD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEMARENE COLEMAN #1963947,
MONTELLE RENNE MOTLEY, aka,
Montelle Renee Motley, #1581681

Defendant.

Case No: C215295

Dept No: V

I N F O R M A T I O N

STATE OF NEVADA)
COUNTY OF CLARK) ss.

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That DEMARENE COLEMAN and MONTELLE RENNE MOTLEY, aka, Montelle Renee Motley, the Defendant(s) above named, having committed the crimes of **MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.330, 193.165);** and **ACCESSORY TO MURDER (Felony - NRS 200.010, 200.030, 195.030, 195.040),** on or about the 10th day of July, 2005, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

///

1 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

2 Defendant DEMARENE COLEMAN did then and there wilfully, feloniously,
3 without authority of law, and with premeditation and deliberation, and with malice
4 aforethought, kill TANZIE AUSTIN, a human being, by shooting at and into the body of the
5 said TANZIE AUSTIN, with a deadly weapon, to-wit: a firearm.

6 COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

7 Defendant DEMARENE COLEMAN did then and there, without authority of law,
8 and malice aforethought, willfully and feloniously attempt to kill MONICA RAMSEY or the
9 defendant having the intent to kill TANZIE AUSTIN, the intent to kill being transferred to
10 MONICA RAMSEY, a human being, by shooting at and into the body of the said MONICA
11 RAMSEY, with a deadly weapon, to-wit: a firearm.

12 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

13 Defendant DEMARENE COLEMAN did then and there, without authority of law,
14 and malice aforethought, willfully and feloniously attempt to kill ANDREA COOPER or the
15 defendant having the intent to kill TANZIE AUSTIN, the intent to kill being transferred to
16 ANDREA COOPER, a human being, by shooting at and into the body of the said ANDREA
17 COOPER, with a deadly weapon, to-wit: a firearm.

18 COUNT 4 - ACCESSORY TO MURDER

19 Defendant MONTELLE RENNE MOTLEY, aka Montelle Renee Motley did then
20 and there wilfully, unlawfully and feloniously harbor, conceal, or aid DEMARENE
21 COLEMAN, with the intent that the said DEMARENE COLEMAN might avoid or escape
22 from arrest, trial, conviction, or punishment, having knowledge that the said DEMARENE

23 ///

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1 COLEMAN had committed a felony, to-wit: murder, and was liable to arrest therefore by
2 the said Defendant aiding in obtaining a place for DEMARENE COLEMAN to reside and
3 by providing transportation for him.
4
5
6

7 BY 

8 DAVID ROGER
9 DISTRICT ATTORNEY
10 Nevada Bar #002781
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26 DA#05F15000A-B/sam
27 LVMPD EV#0507100530
28 MWDW; ATT MWDW;
ACC'Y MURDER - F
(TK4)

THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
4 - 57
WILL FOLLOW VIA
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FILED

OCT 7 11 02 AM '05

Shirley B. Langston
CLERK

MOT
DEAN Y. KAJIOKA, ESQ.,
Nevada Bar No. 005030
KAJIOKA & ASSOCIATES
810 South Casino Center Blvd.,
Las Vegas, Nevada 89101
(702) 366-1528
Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

MONTELLE RENNE MOTLEY
Montelle Renee Motley
1581681,

Defendant.

Case No. C215295

Dept. No. V

EX PARTE MOTION FOR APPOINTMENT OF INVESTIGATOR

COMES NOW, Defendant MONTELLE RENNE MOTLEY, (hereinafter referred to as "MOTLEY"), by and through her attorney of record, DEAN Y. KAJIOKA, ESQ., of the law firm of KAJIOKA & ASSOCIATES and hereby requests this Honorable Court to issue an Order, pursuant to Nevada Revised Statute 7.135, appointing professional investigator KEITH KLUM and/or other investigators of CHARAK INVESTIGATIONS, to investigate, represent and prepare the above-captioned case. Defendant also requests that the Order authorize payment to the investigator not to exceed Two Thousand, Five Hundred Dollars (\$2,500.00).

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SHIRLEY B. LANGSTON

OCT 7 2005

RECEIVED

1 This Motion is made and based on the attached Points and Authorities.

2 DATED this 6 day of October, 2005.

3
4 **KAJIOKA & ASSOCIATES**

5 
6 _____
7 BRIAN BLOOMFIELD, ESQ.,
8 Nevada Bar No. 008379
9 810 South Casino Center Blvd.,
10 Las Vegas, Nevada 89101
11 Attorney for Defendant

12 **POINTS AND AUTHORITIES**

13 Defendant is being charged with the crimes of MURDER WITH USE OF A DEADLY
14 WEAPON (Felony – NRS – 200.010, 200.030, 193.165); ACCESSORY TO MURDER (Felony –
15 NRS- 200.010, 200.030, 195.030, 195.040). It would be more efficient for a trained investigator to
16 perform some of the investigation rather than counsel, Dean Y. Kajioka, Esq. Furthermore, there are
17 numerous state witnesses and other individuals involved with the instant case who must be interviewed.

18 Dean Y. Kajioka, Esq., has contacted Private Investigators of CHARAK INVESTIGATIONS,
19 and they have agreed to have one of their professional investigators assist and perform the necessary
20 investigative services at an hourly rate of \$30.00, not to exceed a total of Two Thousand, Five Hundred
21 Dollars (\$2,500.00), an entirely reasonable amount considering the issues of this case and the numerous
22 potential defense witnesses who have to be interviewed or whose backgrounds must be investigated.

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1 Based on the unusual character of this prosecution, its scope, and magnitude, it is respectfully
2 requested that this Court order the appointment of the offices of CHARAK INVESTIGATIONS., as the
3 investigator to work with defense counsel on this case.
4

5 Here, an investigation is necessary in order to properly prepare an adequate defense in this case.
6 NRS 7.135 empowers this Honorable Court to appointment of investigators when such services are
7 necessary for an adequate defense of a criminal case. NRS 7.135 specifically states:

8 The attorney or attorneys appointed by a magistrate or district court to
9 represent a defendant are entitled, in addition to the fee provided by law for
10 their services, to be reimbursed for expenses reasonably incurred by him
11 or them in representing the defendant and may employ, subject to prior
12 approval of the magistrate or the district court, in an ex parte application,
13 such investigation, expert or other services as may be necessary for an
14 adequate defense.
15
16

17 In the case at bar, Dean Y. Kajioka, Esq., was appointed by this Honorable Court to act as
18 counsel for Defendant MOTLEY. The number of investigatory tasks that must be completed in
19 preparation for trial establishes that the investigator who will be completing the task will expend
20 numerous hours on the case at bar. Their efforts will clearly require payment not to exceed Two
21 Thousand, Five Hundred Dollars (\$2,500.00), a reasonable amount considering the complexity of this
22 case and the numerous potential State and defense witnesses who have to be interviewed or whose
23 backgrounds must be investigated. She is financially unable to obtain the requested investigative
24 services.
25

26 ////

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1 Based on the foregoing, Defendant respectfully requests this Honorable Court to:

- 2 1. Order the appointment of the Charak Investigations as the investigators in the case at
3 bar;
4
5 2. Authorize payment to the investigator not to exceed Two Thousand Five Hundred
6 Dollars (\$2,500.00);

7 DATED this 6 day of October, 2005.

8 **KAJIOKA & ASSOCIATES**

9
10 

11 BRIAN BLOOMFIELD, ESQ.,
12 Nevada Bar No. 008379
13 810 South Casino Center Blvd,
14 Las Vegas, Nevada 89101
15 Attorney for Defendant
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FILED

2005 OCT 13 P 2:57

Shirley Thompson
CLERK

ORD

DEAN Y. KAJIOKA, ESQ.
Nevada Bar No. 005030
KAJIOKA & ASSOCIATES
810 South Casino Center Blvd.,
Las Vegas, Nevada 89101
(702) 366-1528
Attorney for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

v.

MONTELLE RENNE MOTLEY
Montelle Renee Motley
1581681

Defendant.

Case No. C215295
Dept. No. V

ORDER

Based upon the Ex Parte Motion for Appointment of Investigator filed by Dean Y. Kajioka, Esq., on behalf of Defendant, MONTELLE RENNE MOTLEY, and good cause appearing therefore;

IT IS HEREBY ORDERED that Defendant MONTELLE RENNE MOTLEY 'S Ex Parte Motion for Appointment of Investigator is granted;

IT IS FURTHER ORDERED CHARAK INVESTIGATIONS, as Private Investigators are hereby appointed as the investigators for Defendant MONTELLE RENNE MOTLEY.

IT IS FURTHER ORDERED that investigative services shall not exceed Two Thousand, Five Hundred Dollars (\$2,500.00), which will be billed at Thirty Dollars (\$30.00) per hour.

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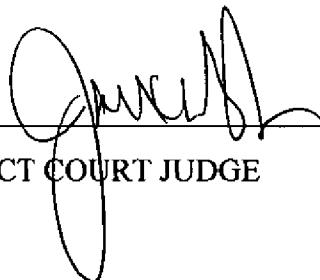
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1 **IT IS FURTHER ORDERED** that private investigator KEITH KLUM and/or private
2 investigator of CHARAK INVESTIGATIONS be allowed contact visits with Defendant MONTELLE
3 RENNE MOTLEY at the Clark County Detention Center.

4 DATED this 2 day of October, 2005.

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DISTRICT COURT JUDGE

Respectfully submitted by:
KAJIOKA & ASSOCIATES

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BRIAN BLOOMFIELD, ESQ.,
Nevada Bar No. 008379
810 South Casino Center Blvd.,
Las Vegas, Nevada 89101
Attorney for Defendant


CLERK

NOTC
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
SANDRA K. DIGIACOMO
Deputy District Attorney
Nevada Bar #006204
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEMARENE COLEMAN, #1963947
MONTELLE RENNE MOTLEY, aka
Montelle Renee Motley, #1581681

Defendants.

CASE NO: C215295

DEPT NO: V

NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

TO: DEMARENE COLEMAN, Defendant; and

TO: THOMAS GIBSON, Special Public Defender, Counsel of Record:

and

TO: MONTELLE RENNE MOTLEY, aka Montelle Renee Motley, Defendant; and

TO: BRIAN BLOOMFIELD, ESQ., Counsel of Record:

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

- 1) DR. LARRY SIMMS or designee: A medical doctor employed by the
Clark County Coroner Medical Examiner. He is an expert in the area of
forensic pathology and will give scientific opinions related thereto. He is
expected to testify regarding the cause and manner of death of Tanzie
Austin.

- 1 2) DAN FORD, LVMPD P#4244: A crime scene analyst with the Las Vegas
2 Metropolitan Police Department. He is an expert in the area of the
3 identification, documentation, collection and preservation of evidence and
4 will give opinions related thereto. He is expected to testify regarding the
5 identification, documentation, collection and preservation of evidence in
6 this case.
- 7 3) YOLANDA McCLARY, LVMPD P#2923: A crime scene analyst with the
8 Las Vegas Metropolitan Police Department. She is an expert in the area of
9 the identification, documentation, collection and preservation of evidence
10 and will give opinions related thereto. She is expected to testify regarding
11 the identification, documentation, collection and preservation of evidence
12 in this case.
- 13 4) GARY REED, LVMPD P#3731: A crime scene analyst with the Las
14 Vegas Metropolitan Police Department. He is an expert in the area of the
15 identification, documentation, collection and preservation of evidence and
16 will give opinions related thereto. He is expected to testify regarding the
17 identification, documentation, collection and preservation of evidence in
18 this case.
- 19 5) LOUISE RENHARD, LVMPD P#5223: A crime scene analyst with the
20 Las Vegas Metropolitan Police Department. She is an expert in the area of
21 the identification, documentation, collection and preservation of evidence
22 and will give opinions related thereto. She is expected to testify regarding
23 the identification, documentation, collection and preservation of evidence
24 in this case.
- 25 6) JEFFREY SMITH, LVMPD P#8177: A crime scene analyst with the Las
26 Vegas Metropolitan Police Department. He is an expert in the area of the
27 identification, documentation, collection and preservation of evidence and
28 will give opinions related thereto. He is expected to testify regarding the

1 identification, documentation, collection and preservation of evidence in
2 this case.

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

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

7
8 BY 
9 DAVID ROGER
10 DISTRICT ATTORNEY
11 Nevada Bar #002781

12 CERTIFICATE OF FACSIMILE TRANSMISSION

13
14 I hereby certify that service of Notice of Expert Witnesses, was made this 24th
15 day of October, 2005, by facsimile transmission to:

16 THOMAS GIBSON, Special Public Defender
17 FAX #455-6273

18 BRIAN BLOOMFIELD, ESQ.
19 FAX #366-1653

20 /s/S. Munoz
21 Secretary for the District Attorney's Office

22
23
24
25
26
27
28 sam

LARRY A. SIMMS, D.O., M.P.H.

1122 SOUTH CIRCLE AVENUE, APARTMENT 1

FOREST PARK, ILLINOIS 60130

Telephone: 708-771-5411

e-mail: MEDXMNR@aol.com

Marital Status: Married (June Elizabeth Clee Simms)

PRESENT POSITION

Office of the Medical Examiner of Cook County

Stein Institute of Forensic Medicine

2121 West Harrison Street

Chicago, Illinois 60612-3705

312-666-0500

POSITION: Deputy Medical Examiner

PREVIOUS WORK EXPERIENCE

Perry Memorial Hospital

Perry, Oklahoma

July 1979 to September 1981

POSITION: Private solo office and hospital practice in family medicine including obstetrics (approximately 75 deliveries); 2000 hours of Emergency Department coverage; total patient contacts for period: 6,000.

Rock County Hospital and Clinic

Bassett, Nebraska

September 1981 to July 1982

POSITION: Private solo office and hospital practice in family medicine and obstetrics (approximately 10 deliveries); 2500 hours of Emergency Department coverage; total patient contacts for period: 1,200.

Park Medical Centers

2255 Fort Street

Lincoln Park, Michigan 48146

313-385-7505

August 1982 to June 1986

POSITION: Member of 20+ physician group that renders primary care in the Detroit and suburban area; hospital privileges at 250 bed acute care hospital, total patient contacts for period: 30,000.

Taylor Physicians-Van Born Clinic, P.C.
21711 Van Born Road
Taylor, Michigan
313-562-6040

June 1986 to January 1987

POSITION: Member of four physician group that renders primary care in the suburban Detroit area and trains family practice residents at Botsford General Hospital; hospital privileges at a 250 bed acute care hospital and a 125 bed acute care hospital; total patient contacts for period: 4500.

Michigan Health Care Center – Park Medical Centers, Inc.
2255 Fort Street
Lincoln Park, Michigan 48146
313-385-7505

January 1987 to June 1989

POSITION: Member of 60+ physician group that renders primary care in the Detroit and suburban area; hospital privileges at 250 bed acute care hospital; total patient contacts for period: 18,000.

Blodgett Memorial Medical Center
1840 Wealthy, S.E.
East Grand Rapids, Michigan 49506
616-774-7722

July 1, 1991 to January 30, 1993

POSITION: Independent contractor for autopsy services for in-house autopsies and Kent County Medical Examiner autopsies; completed approximately one hundred autopsies on a fee-for-service basis.

Cook County Office of the Medical Examiner
Stein Institute of Forensic Medicine
2121 West Harrison Street
Chicago, Illinois 60612-3705
312-666-0500

July 1, 1994 to Present

POSITION: Deputy Medical Examiner performing approximately 500-600 medico-legal investigations per year.

BOARD STATUS

Board Certified in Anatomic Pathology and Clinical Pathology in 1993 by the American Board of Pathology.

Board Certified in Forensic Pathology in 1994 by the American Board of Pathology.

LICENSES

Diplomate of the National Board of Osteopathic Medical Examiners (1979).

Active license in Illinois.

Inactive licenses in Nebraska, Michigan, Ohio and Oklahoma.

EDUCATION

Oklahoma State University

Stillwater, Oklahoma

1970-71

Completed freshman year and transferred to University of Tulsa.

University of Tulsa

Tulsa, Oklahoma

1971-74

MAJOR: Philosophy

G.P.A.: 3.34

DEGREE: Bachelor of Science (B.S.)

Oklahoma State University College of Osteopathic Medicine and Surgery

(formerly Oklahoma College of Osteopathic Medicine and Surgery)

1111 West 17th Street

Tulsa, Oklahoma

1974-78

DEGREE: Doctor of Osteopathy (D.O.)

Dallas Memorial Hospital (formerly Dallas Osteopathic Hospital)

5003 Ross Avenue

Dallas, Texas

One year rotating internship with elective time in anesthesiology

1978-79

Grand Rapids Medical Education Center/Michigan State University

200 Cherry Street

Grand Rapids, Michigan

Four Year Anatomic and Clinical Pathology Residency

1989-1993

Office of the Medical Examiner of Cook County
Stein Institute of Forensic Medicine
2121 West Harrison Street
Chicago, Illinois 60612-3705
312-666-0500
Fellowship in Forensic Medicine
July 1, 1993 to June 30, 1994

University of Illinois at Chicago
Office of the Dean [MC 922]
School of Public Health
2121 West Taylor Street
Chicago, Illinois 60612-7260
312-966-3832
MAJOR: Health Policy Administration and Health Information Management
G.P.A.: 4.56 (5 point grading system)
DEGREE: Master of Public Health (M.P.H.)

ASSOCIATION MEMBERSHIPS

National Association of Medical Examiners

Illinois Association of Osteopathic Physicians and Surgeons

PRESENTATIONS, LECTURES AND ACADEMIC CONTRIBUTIONS

Ectopic Thyroid Gland in Neck: Report of a Case (clinical staff presentation 1983)

Simultaneous Intrauterine and Extra-uterine Pregnancies: Report of a Case (clinical staff presentation 1984)

Heterozygous 21-OH Deficiency in the Father of a Neonate with Congenital Adrenal Hyperplasia: Report of a Case (clinical staff presentation 1985)

Hyperprolactinemia in an Ambulatory Clinic: Incidence, Diagnosis and Management (1985 unpublished manuscript)

Use of Plasmid Fingerprinting in the Diagnosis of Coagulase Negative Staphylococcal Septicemia (Grand Rapids Research Day presentation 1992)

Forensic Aspects of DNA (1993 Office of the Medical Examiner staff lecture series presentation)

Case Report: Lethal Morphine Doses Administered by Family Member in an Elderly

Patient Admitted to a Nursing Home (1994 unpublished manuscript)

Forensic Sciences and the Medical Examiner (1994 Office of the Medical Examiner staff lecture series presentation)

Case Report: Sudden Death in A 60 Day Old Male Infant with Hypoplastic Right Coronary Artery (1995 unpublished manuscript)

Modern Death Investigation (Illinois Histology Society Annual Meeting presentation 1995)

Database Information System for Tracking Unknown Bodies in a Medical Examiner System (1996 Office of the Medical Examiner staff lecture series presentation)

Modern Death Investigation (University of Illinois at Chicago Criminal Justice Department presentation 1996)

Case Report: Sudden Death in a 6 Day Old Male Infant with Thymic Hypoplasia and Congenital Heart Disease (1996 unpublished manuscript)

Case Report: Sudden Death and Right Ventricular Cardiomyopathy in an Adolescent Male (1996 unpublished manuscript)

Medical Examiner Information Management System: Experience of a Practicing Forensic Pathologist (1996 unpublished manuscript)

Case Report: Sudden Death in a Neonate with Congenital Aneurysm of the Right Ventricle (in preparation)

Case Report: Sudden Death Due to Group A Streptococcal Necrotizing Fascitis in an HIV-Positive Adult (in preparation)

Modern Death Investigation (University of Illinois at Chicago Criminal Justice Department presentation 1997)

Modern Death Investigation (Midwestern University Faculty Guest Lecture Series presentation 1997)

Modern Death Investigation (Clinical Staff Cook County Department of Corrections and Cermack Hospital presentation 1997)

Suicide and Illinois Law (1997 Office of the Medical Examiner staff lecture series presentation)

Total Quality management in a Medical Examiner System (1997 Master of Public Health program)

Lymphoid Activation in Sudden Infant Death Syndrome: Histology of the Lymph Nodes and Spleen in SIDS Deaths in Chicago 1995-97 (grant application in preparation)

ACADEMIC APPOINTMENTS, AWARDS AND ACTIVITIES

Office of the Medical Examiner Liaison for the University of Illinois at Chicago
Department of Criminal Justice (1996 to present)

Medical Consultant to the Industrial Commission of the Illinois State Attorney General's Office

Grand Rapids Area Medical Education Council Research Foundation Award (1992) for Clinical Research of Bacterial Plasmids

Chief Resident, Grand Rapids Area Medical Education Center/Michigan State University Pathology Program (1991-1992)

Clinical Instructor, Michigan State University, Colleges of Human and Osteopathic Medicine (1990-1992)

Clinical Instructor to clinical clerks from the College of Osteopathic Medicine in Des Moines, Iowa (1985 to 1989)

Clinical Instructor to Family Practice Residents at Botsford General Hospital and Michigan Osteopathic Medical Center, Detroit, Michigan (1986-1989)

Advanced Trauma Life Support Certified, 1984

Advanced Cardiac Life Support Certified, 1983

Clinical Instructor to Emergency Medical Services, Rock County, Nebraska (1981)

Chief of Staff, Perry Memorial Hospital in Perry, Oklahoma (1980-81)

Chief Physician, Noble County Planned Parenthood Clinic (1980-81)

Clinical Instructor, Emergency Medical Services, Noble County, Oklahoma (1980)

Intern of the Year, Dallas Memorial Hospital, 1979

University of Tulsa President's Honor Roll (4.0 GPA) in 1973 and 1974

Published in the University of Tulsa Poetry Review for two consecutive years (1973-74)

**LAS VEGAS CRIMINALISTICS BUREAU
STATEMENT OF QUALIFICATIONS**

NAME: DANIEL P. FORD

P#4244

DATE: OCTOBER 24, 1997

CURRENT CLASSIFICATION			
	<i>CLASSIFICATION</i>	<i>MINIMUM QUALIFICATIONS</i>	
	CRIME SCENE ANALYST I	AA DEGREE WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD, INCLUDING SPECIALIZED TRAINING IN CRIME SCENE INVESTIGATION	
	CRIME SCENE ANALYST II	18 MONTHS - 2 YEARS CONTINUOUS SERVICE WITH LVMPD AS A CRIME SCENE ANALYST I	
X	SENIOR CRIME SCENE ANALYST	2 YEARS AS A CRIME SCENE ANALYST II TO QUALIFY FOR THE PROMOTIONAL TEST FOR SENIOR CRIME SCENE ANALYST	
	CRIME SCENE ANALYST SUPERVISOR	4 YEARS CONTINUOUS SERVICE WITH LVMPD AND COMPLETION OF PROBATION AS A SENIOR CRIME SCENE ANALYST. MUST HAVE THE EQUIVALENT OF A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD.	
FORMAL EDUCATION			
	<i>Institution</i>	<i>Major</i>	<i>Degree/ Date</i>
	RIVERSIDE COMMUNITY COLLEGE	ADMIN OF JUSTICE	AS 1989
TESTIMONY			
	<i>Yes</i>	<i>No</i>	
X			Eighth Judicial District, Clark County Nevada
X			Justice Courts of Las Vegas Township
EMPLOYMENT HISTORY			
	<i>Employer</i>	<i>Title</i>	<i>Date</i>
	LAS VEGAS METROPOLITAN POLICE DEPARTMENT	CRIME SCENE ANALYST	9/91 present
PROFESSIONAL AFFILIATIONS			
	<i>Organization</i>	<i>Date(s)</i>	
	INTERNATIONAL ASSOCIATION OF IDENTIFICATION	88-present	

**LAS VEGAS CRIMINALISTICS BUREAU
STATEMENT OF QUALIFICATIONS**

NAME: YOLANDA MCCLARY

P# 2923

DATE OCTOBER 24, 1997

CURRENT CLASSIFICATION			
	<i>CLASSIFICATION</i>	<i>MINIMUM QUALIFICATIONS</i>	
	CRIME SCENE ANALYST I	AA DEGREE WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD, INCLUDING SPECIALIZED TRAINING IN CRIME SCENE INVESTIGATION	
X	CRIME SCENE ANALYST II	18 MONTHS - 2 YEARS CONTINUOUS SERVICE WITH LVMPD AS A CRIME SCENE ANALYST I	
	SENIOR CRIME SCENE ANALYST	2 YEARS AS A CRIME SCENE ANALYST II TO QUALIFY FOR THE PROMOTIONAL TEST FOR SENIOR CRIME SCENE ANALYST	
	CRIME SCENE ANALYST SUPERVISOR	4 YEARS CONTINUOUS SERVICE WITH LVMPD AND COMPLETION OF PROBATION AS A SENIOR CRIME SCENE ANALYST. MUST HAVE THE EQUIVALENT OF A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD.	
FORMAL EDUCATION			
	<i>Institution</i>	<i>Major</i>	<i>Degree/ Date</i>
	CCSN	CRIMINAL JUSTICE	AA 12/93
TESTIMONY			
	<i>Yes</i>	<i>No</i>	
X			Eighth Judicial District, Clark County Nevada
X			Justice Courts of Las Vegas Township
EMPLOYMENT HISTORY			
	<i>Employer</i>	<i>Title</i>	<i>Date</i>
	LAS VEGAS METROPOLITAN POLICE	CRIME SCENE ANALYST	3/95 present
	LAS VEGAS METROPOLITAN POLICE	SR. OFFICE ASSISTANT	4/85-3/95
PROFESSIONAL AFFILIATIONS			
	<i>Organization</i>	<i>Date(s)</i>	
	INTERNATIONAL ASSOCIATION FOR IDENTIFICATION	1996-present	

**LAS VEGAS CRIMINALISTICS BUREAU
STATEMENT OF QUALIFICATIONS**

Name: GARY REED

P# 3731

Date: October 24, 1997

CURRENT CLASSIFICATION		
	<i>CLASSIFICATION</i>	<i>MINIMUM QUALIFICATIONS</i>
	CRIME SCENE ANALYST I	AA DEGREE WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD, INCLUDING SPECIALIZED TRAINING IN CRIME SCENE INVESTIGATION
	CRIME SCENE ANALYST II	18 MONTHS - 2 YEARS CONTINUOUS SERVICE WITH LVMPD AS A CRIME SCENE ANALYST I
	SENIOR CRIME SCENE ANALYST	2 YEARS AS A CRIME SCENE ANALYST II TO QUALIFY FOR THE PROMOTIONAL TEST FOR SENIOR CRIME SCENE ANALYST
X	CRIME SCENE ANALYST SUPERVISOR	4 YEARS CONTINUOUS SERVICE WITH LVMPD AND COMPLETION OF PROBATION AS A SENIOR CRIME SCENE ANALYST. MUST HAVE THE EQUIVALENT OF A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD.
FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/ Date</i>
WEBER STATE COLLEGE	CRIMINAL JUSTICE/LAW ENFORCEMENT	BS/86
TESTIMONY		
<i>Yes</i>	<i>No</i>	
X		Eighth Judicial District, Clark County Nevada
X		Justice Courts of Las Vegas Township
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LAS VEGAS METROPOLITAN POLICE DEPARTMENT	CRIME SCENE ANALYST	5/89 present
UTAH COUNTY SHERIFF'S DEPARTMENT	DEPUTY/DETECTIVE	10/83-4/89
FEDERAL BUREAU OF INVESTIGATION	FINGERPRINT EXAMINER	8/77-4/78
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>	<i>Date(s)</i>	
CALIFORNIA STATE DIVISION OF IAI	1983	
INTERNATIONAL ASSOCIATION FOR IDENTIFICATION	1995	

**LAS VEGAS CRIMINALISTICS BUREAU
STATEMENT OF QUALIFICATIONS**

Name: LOUISE RENHARD

P# 5223

Date: October 24, 1997

CURRENT CLASSIFICATION		
	<i>CLASSIFICATION</i>	<i>MINIMUM QUALIFICATIONS</i>
X	CRIME SCENE ANALYST I	AA DEGREE WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD, INCLUDING SPECIALIZED TRAINING IN CRIME SCENE INVESTIGATION
	CRIME SCENE ANALYST II	18 MONTHS - 2 YEARS CONTINUOUS SERVICE WITH LVMPD AS A CRIME SCENE ANALYST I
	SENIOR CRIME SCENE ANALYST	2 YEARS AS A CRIME SCENE ANALYST II TO QUALIFY FOR THE PROMOTIONAL TEST FOR SENIOR CRIME SCENE ANALYST
	CRIME SCENE ANALYST SUPERVISOR	4 YEARS CONTINUOUS SERVICE WITH LVMPD AND COMPLETION OF PROBATION AS A SENIOR CRIME SCENE ANALYST. MUST HAVE THE EQUIVALENT OF A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY WITH MAJOR COURSE WORK IN CRIMINAL JUSTICE, FORENSIC SCIENCE, PHYSICAL SCIENCE OR RELATED FIELD.
FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/ Date</i>
UNIVERSITY OF ALASKA	POLICE ADMIN.	AA 12/76
TESTIMONY		
<i>Yes</i>	<i>No</i>	
X		Eighth Judicial District, Clark County Nevada
	X	Justice Courts of Las Vegas Township
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LAS VEGAS METROPOLITAN POLICE DEPARTMENT	CRIME SCENE ANALYST	7/97 present
STATE OF NV GAMING CONTROL BOARD	AGENT	9/93-1/95
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>	<i>Date(s)</i>	

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
STATEMENT OF QUALIFICATIONS**

Date: August 15, 1997

Name: Jimmy W. Smith P#: 4927 Classification: Document Examiner

Current Discipline of Assignment: Questioned Documents

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Blood Alcohol	
Toolmarks		Breath Alcohol	
Trace Evidence		Arson Analysis	
Toxicology		Firearms	
Latent Prints		Crime Scene Investigations	
Serology		Clandestine Laboratory Response Team	
Document Examination	X	DNA Analysis	
EDUCATION			
<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
University of Science & Arts of Oklahoma	1978 - 1984	B.S. Accounting B.S. Sociology - Law Enforcement	Yes
ADDITIONAL TRAINING / SEMINARS			
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>	
Two year internship in Questioned Documents	Oklahoma county D.A.'s Office	1992 - 1994	
United States Secret Service Questioned Document Course	Glynco, GA	3/92	
Southwestern Association of Forensic Document Examiners, Fall Training Seminar	Denver, CO	10/92	
In-Service Training, U.S. Postal Service Western Region Crime Laboratory	San Bruno, CA	4/93	
Southwestern Association of Forensic Document Examiners, Spring Training Seminar	San Francisco, CA	4/93	
In-Service Training, Bexar County Texas Regional Crime Laboratory	San Antonio, TX	12/93	
American Academy of Forensic Sciences, Annual Training Seminar	San Antonio, TX	2/93	

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
FBI Questioned Document Course	Quantico, VA	7/93
Southwestern Association of Forensic Document Examiners, Fall Training Seminar	Albuquerque, NM	10/93
Southwestern Association of Forensic Document Examiners, Spring Training Seminar	Catalina Island, CA	4/94
Southwestern Association of Forensic Document Examiners, Fall Training Seminar	Honolulu, HI	10/94
Southwestern Association of Forensic Document Examiners, Spring Training Seminar	San Diego, CA	4/95
Southwestern Association of Forensic Document Examiners, Fall Training Seminar	Las Vegas, NV	10/95
Southwestern Association of Forensic Document Examiners, Spring Training Seminar	Reno, NV	4/96
Southwestern Association of forensic Document Examiners, Fall Training Seminar	Tucson, AZ	10/96
American Academy of Forensic Sciences, Annual Training Seminar	New York City, NY	2/97
FBI Digital Imaging Seminar for Law Enforcement	Las Vegas, NV	5/97
American Society of Questioned Document Examiners, Annual Training Seminar	Scottsdale, AZ	8/97
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
Oklahoma State Courts, District	Questioned Documents	4
Clark County Justice Court	Questioned Documents	2
Clark County Grand Jury	Questioned Documents	1
Nye County District Court	Questioned Documents	1
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Chickasha Oklahoma Police Department	Detective Lieutenant	1970 - 1985
State of Oklahoma Office of Inspector General	Investigator / Document Examiner	1985 - 1995
Las Vegas Metropolitan Police Department	Document Examiner	1995 - present

PROFESSIONAL AFFILIATIONS	
<i>Organization</i>	<i>Date(s)</i>
Southwestern Association of Forensic Document Examiners / Board of Director / Newsletter Editor	1993 - present
American Academy of Forensic Sciences	1992 - present
American Board of Forensic Document Examiners	1996 - present

PUBLICATIONS / PRESENTATIONS:
"The Reproduction and Alteration of Food Stamp I.D. Cards for Fraud" presented to SWAFDE, San Francisco, CA 1993
"The Examination and Photography of Microfilm" presented to SWAFDE, Albuquerque, NM 1993
"A Review of Modern Day Check Production" presented to the American Academy of Forensic Sciences, San Antonio, TX 1994

OTHER QUALIFICATIONS:
Certified Document Examiner - ABFDE
Certified Fraud Examiner - ACFE


CLERK

NOTC
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
SANDRA K. DIGIACOMO
Deputy District Attorney
Nevada Bar #006204
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEMARENE COLEMAN, #1963947,
MONTELLE RENNE MOTLEY, aka
Montelle Renee Motley, #1581681

Defendant.

CASE NO: C215295

DEPT NO: V

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

TO: DEMARENE COLEMAN, Defendant; and

TO: THOMAS GIBSON, Special Public Defender, Counsel of Record:

and

TO: MONTELLE RENNE MOTLEY, aka Montelle Renee Motley, Defendant; and

TO: BRIAN BLOOMFIELD, ESQ., Counsel of Record:, Defendant; and

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

NAME

ADDRESS

ALBY, ROCKY

LVMPD P#1810

ARCHER, M

CC CORONER - INV

AUSTIN, TANZIE

Deceased

AUSTIN, VICTORIA

2731 Frangipani Ct, NLVN

1	BELCHER, K	AMR AMBULANCE (Unit 5937)
2	BUTLER, JOVANNE	2861 Walnut Rd, LVN
3	BUXTON, EDDIE	385 Maydelle Pl, LVN
4	CINTRON, HECTOR	LVMPD P#7550
5	COOPER, ANDREA	9352 Red Rose Ave, LVN
6	CUSTODIAN OF RECORDS	Apartments @ 424 Pioche
7	CUSTODIAN OF RECORDS	AMR
8	CUSTODIAN OF RECORDS	CCDC
9	CUSTODIAN OF RECORDS	LVMPD Communications
10	CUSTODIAN OF RECORDS	LVMPD RECORDS
11	CUSTODIAN OF RECORDS	Mobile Gas Station
12	CUSTODIAN OF RECORDS	Sprint
13	CUSTODIAN OF RECORDS	UMC
14	DETWEILER, WALTER	LVMPD P#5460
15	ELDRIDGE, R	LV FD PARAMEDIC (Rescue 8)
16	FORD, DANIEL	LVMPD P#4244
17	GEIGER, GEORGE	5312 Striking Pt Ct, LVN
18	GILLIS, MATTHEW	LVMPD P#6432
19	GORDON, M	LV FD PARAMEDIC (Rescue 8)
20	HARDY, KENNETH	LVMPD P#3031
21	HENDERSON, TARENCIA	2697 Ursine St, LVN
22	HINES, D	Bunker Funeral Home
23	JOHANSSON, JASON	LVMPD P#8282
24	JOHNSON, PORSCHA	2617 Mesquite Ave #1, LVN
25	JOHNSON, ROBERT	LVMPD P#4395
26	JONES, E	LV FD PARAMEDIC (Rescue 8)
27	LEBLANC, CHRISTOPHER	LVMPD P#7525
28	LEE, LINDA	1616 Shiloh, LVN

1	LYMAN, CHAD	LVMPD P#8262
2	McCLARY, YOLANDA	LVMPD P#2923
3	MOGG, CLIFFORD	LVMPD P#5096
4	MOTLEY, MONTELLE	424 Pioche St, LVN
5	NAPIER, LOREN	LVMPD P#5706
6	NEWTON, DAVID	LVMPD P#5278
7	NORDSTROM, JAYME	LVMPD P#8254
8	NUNEZ, DANIEL	LVMPD P#8258
9	O'KELLEY, DEAN	LVMPD P#4209
10	OLIVERI, FREDERICK	LVMPD P#8272
11	PARENT or GUARDIAN of ASIA PARKS	5059 Shadow Boxer, LVN
12	PARKS, ASIA	5059 Shadow Boxer, LVN
13	PATTON, JOSEPH	LVMPD P#8289
14	POON, DR	UMC - Trauma
15	RAMSEY, MEISHA	412 Delmue Cir, LVN
16	RAMSEY, MONICA	412 Delmue Cir, LVN
17	REED, GARY	LVMPD P#3731
18	RENHARD, LOUISE	LVMPD P#5223
19	SHIELDS, S	Bunker Funeral Home
20	SIEFKER, NANCY	LVMPD P#3057
21	SIMMS, DR. LARY	ME #0002
22	SMITH, D	AMR AMBULANCE (Unit 5937)
23	SMITH, JEFFREY	LVMPD P#8177
24	STEWART, THOMAS	2617 Mesquite Ave, LVN
25	TODD, TYLER	LVMPD P#8411
26	TREMEL, DONALD	LVMPD P#2038
27	WILSON, ROBERT	LVMPD P#3836
28	WOMACK, SHANE	LVMPD P#4953

1 WONG, KEVIN

LVMPD P#8290

2 YOUNG, DAMON

LVMPD P#8252

3 These witnesses are in addition to those witnesses endorsed on the Information and
4 any other witness for which a separate Notice has been filed.

7
8 BY



9 DAVID ROGER
10 DISTRICT ATTORNEY
11 Nevada Bar #002781

12
13
14
15
16 CERTIFICATE OF FACSIMILE TRANSMISSION

17
18 I hereby certify that service of Notice of Witnesses, was made this 24th day of
19 October, 2005, by facsimile transmission to:

20 THOMAS GIBSON, Special Public Defender
21 FAX #455-6273

22 BRIAN BLOOMFIELD, ESQ.
23 FAX #366-1653

24 /s/S. Munoz

25 Secretary for the District Attorney's Office

26
27
28 sam

0042
DAVID M. SCHIECK
Special Public Defender
Nevada Bar No. 00824
THOMAS J. GIBSON
Nevada Bar No. 3995
333 S. Third Street
Las Vegas, NV 89155
(702) 455-6265
Attorney for Defendant

FILED

2005 OCT 25 P 3:37

Shirley B. Harrison
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

DEMARENE COLEMAN, #1963947,
MONTELLE RENNE MOTLEY, aka
Montelle Renee Motley, #1581681,

Defendant.

CASE NO. C215295
DEPT. NO. V

DATE OF HEARING:
TIME OF HEARING:

MOTION TO WITHDRAW AS COUNSEL

COMES NOW, DAVID M. SCHIECK, Special Public Defender and THOMAS J. GIBSON, Deputy Special Public Defender, pursuant to EDCR 7.40, and moves this Honorable Court for an Order permitting the undersigned to withdraw as attorneys-of-record for Defendant herein.

This Motion is made and based upon all papers and pleadings on file herein, the

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RECEIVED

OCT 25 2005

COUNTY CLERK

1 Points and Authorities attached hereto, the attached Affidavit of Thomas J. Gibson, and
2 such further evidence and argument as may be adduced at the hearing of this Motion.

3 DATED this 25 day of October, 2005.

4
5 

6 THOMAS J. GIBSON
7 DEPUTY SPECIAL PUBLIC DEFENDER
8 Nevada Bar No. 3995
9 333 S. Third Street, 2nd Floor
10 Las Vegas, Nevada 89155
11 (702) 455-6265
12 Attorneys for Defendant

13 **NOTICE OF MOTION**

14 TO: STATE OF NEVADA, Plaintiff; and

15 TO: DAVID ROGER, District Attorney, Attorney of Plaintiff

16 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above and
17 foregoing **MOTION TO WITHDRAW AS COUNSEL** on the 8 day of November, 2005,
18 at the hour of 8³⁰ a.m. in Department No. V of the above-entitled Court, or as soon
19 thereafter as counsel may be heard.

20 DATED this ____ day of October, 2005.

21 

22 THOMAS J. GIBSON
23 DEPUTY SPECIAL PUBLIC DEFENDER
24 Nevada Bar No. 3995
25 333 S. Third Street, 2nd Floor
26 Las Vegas, Nevada 89155
27 (702) 455-6265
28 Attorneys for Defendant

1 **POINTS AND AUTHORITIES**

2 EDCR 7.40 proves as follows:

3 (a) When a party has appeared by represented by counsel, the
4 party cannot thereafter appear on the parties own behalf in the case
5 without the consent of the Court. Counsel who has appeared for any
6 party must represent that party in the case and shall be recognized
by the Court and by all parties as having control of the case. The
Court in its discretion may hear a party in open court although the
party is represented by counsel.

7 (b) Counsel in any case may be changed only:

8 (1) When a new attorney is to be substituted in place of the
9 attorney withdrawing, by the written consent of both attorneys and
the client, which must be filed with the Court and served upon all
parties or their attorneys who have appeared in the action, or

10 (2) When no attorney has been retained to replace the
11 attorney withdrawing, by Order of the Court, granted upon written
Motion, and

12 (i) If the application is made by the attorney, the
13 attorney must include in an Affidavit the address, or last known
14 address at which the client may be served with notice of further
15 proceedings taken in the case in the event the application for
withdrawal is granted, and the attorney must serve a copy of the
application upon the client and all other parties to the action or their
attorneys, or

16 (ii) If the application is made by the client, the client
17 must state in the application the address at which the client may be
18 served with notice of all further proceedings in the case in the event
the application is granted, and must serve a copy of the application
upon the client's attorney and all other parties to the action or their
attorneys.

19 (3) No application for withdrawal or substitution may be
20 granted if the delay of the trial or of the hearing of any other matter
21 in the case result.

22 As is set forth in the Affidavit of Thomas J. Gibson, a conflict of interest exists as

23 ...

24 ...

25 ...

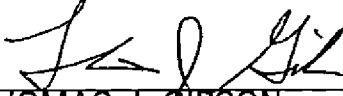
26 ...

27 ...

28 ...

1 the Office of the Special Public Defender represents the Co-Defendant, MONTELLE
2 RENNE MOTLEY, in Family Court Case No. D336636, Termination of Parental Rights.

3 DATED this 25 day of October, 2005.

4
5 
6 THOMAS J. GIBSON
7 DEPUTY SPECIAL PUBLIC DEFENDER
8 Nevada Bar No. 3995
9 333 S. Third Street, 2nd Floor
10 Las Vegas, Nevada 89155
11 (702) 455-6265
12 Attorneys for Defendant
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AFFIDAVIT OF THOMAS J. GIBSON

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

THOMAS J. GIBSON, being first duly sworn according to law, deposes and states as follows:

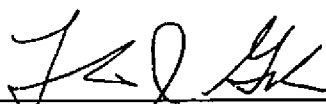
1. I am an attorney duly licensed to practice law in the State of Nevada and am a Deputy Special Public Defender with the Office of the Special Public Defender. I make this Affidavit based upon my own knowledge except as to those matters stated upon information and belief, and as to those matters I believe them to be true.

2. That the Office of the Special Public Defender represents the Co-Defendant in this matter, MONTELLE RENNE MOTLEY, Case No. D336636, Termination of Parental Rights.

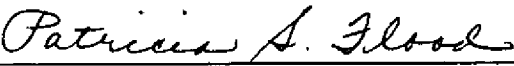
3. That due to this representation, a conflict of interest exists and therefore we request that our office be allowed to withdraw as attorney of record for Demarene Coleman.

4. That the last known address of the Defendant, Demarene Coleman, is the Clark County Detention Center, 330 S, Casino Center Blvd., Las Vegas, NV 89101.

Further Affiant sayeth naught.


THOMAS J. GIBSON

SUBSCRIBED AND SWORN to before me this 7th day of October, 2005.


NOTARY PUBLIC, In and for the County of Clark, State of Nevada



PATRICIA S. FLOOD
NOTARY PUBLIC
STATE OF NEVADA
MY COMM. EXP. 03-27-07
NO. 92-3783-1

ORIGINAL

FILED¹⁹

Nov 1 3 01 PM '05

Shirley B. Pennington
CLERK

1 **ROC**
2 DAVID M. SCHIECK
3 Special Public Defender
4 Nevada Bar No. 00824
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6 Nevada Bar No. 3995
7 333 S. Third Street
8 Las Vegas, NV 89155
9 (702) 455-6265
10 Attorney for Defendant

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 STATE OF NEVADA,

14 Plaintiff,

15 vs.

16 DEMARENE COLEMAN, #1963947,
17 MONTELLE RENNE MOTLEY, aka
18 Montelle Renee Motley, #1581681,

19 Defendant.

CASE NO. C215295
DEPT. NO. V

DATE OF HEARING:
TIME OF HEARING:

20 **RECEIPT OF COPY**

21 RECEIPT OF COPY of the foregoing **MOTION TO WITHDRAW AS COUNSEL** is
22 hereby acknowledged this 25th day of October, 2005.

23 *Dianna Regguiti*
24 DAVID ROGER
25 District Attorney
26 200 S. Third Street
27 Las Vegas, NV 89155
28 Attorney for Plaintiff

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CLARK COUNTY

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2005 NOV -8 A 9:30

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EXPT
DAVID ROGER
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Nevada Bar #002781
SANDRA K. DIGIACOMO
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200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEMARENE COLEMAN, #1963947,
MONTELLE RENNE MOTLEY, aka
Montelle Renee Motley, #1581681

Defendants.

Case No. C215295

Dept No. V

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through SANDRA K. DIGIACOMO, Deputy District Attorney, and moves this Honorable Court for an Order Releasing evidence being held by UNIVERSITY MEDICAL CENTER consisting of medical records for patient: MONICA RAMSEY, DOB: 1/18/1971, admitted on 07/10/2005, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case. Movant represents that the information sought is relevant and material to a legitimate law enforcement inquiry; that the

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NOV 8 2005

COUNTY CLERK

1 request is specific and limited in scope to the extent reasonably practicable in light of the
2 purpose for which the information is sought; and that de-identified information could not
3 reasonably be used.

4 DATED this 3rd day of November, 2005.

5 DAVID ROGER
6 Clark County District Attorney
7 Nevada Bar #002781

8 BY

9 SANDRA K. DIGIACOMO
10 Deputy District Attorney
11 Nevada Bar #006204

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1 EXPT

2 DAVID ROGER
Clark County District Attorney
Nevada Bar #002781

2005 NOV -8 A 9:30

3 SANDRA K. DIGIACOMO
4 Deputy District Attorney
Nevada Bar #006204
200 Lewis Avenue
5 Las Vegas, Nevada 89155-2212
(702) 671-2500
6 Attorney for Plaintiff

[Signature]
CLERK

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,)

10 Plaintiff,)

Case No. C215295

11 -vs-)

Dept No. V

12 DEMARENE COLEMAN, #1963947,
13 MONTELLE RENNE MOTLEY, aka
14 Montelle Renee Motley, #1581681

15 Defendants.)

16 EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

17 COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through
18 SANDRA K. DIGIACOMO, Deputy District Attorney, and moves this Honorable Court for
19 an Order Releasing evidence being held by UNIVERSITY MEDICAL CENTER consisting
20 of medical records for patient: ANDREA COOPER, DOB: 10/31/1982, admitted on
21 07/10/2005, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for
the purpose of prosecuting the above referenced case. Movant represents that the
information sought is relevant and material to a legitimate law enforcement inquiry; that the

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1 request is specific and limited in scope to the extent reasonably practicable in light of the
2 purpose for which the information is sought; and that de-identified information could not
3 reasonably be used.

4 DATED this 30 day of November, 2005.

5 DAVID ROGER
6 Clark County District Attorney
7 Nevada Bar #002781

8 BY

9 SANDRA K. DIGIACOMO
10 Deputy District Attorney
11 Nevada Bar #006204

CASE NO. C215295

DEPT. NO. 4

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Nov 10 12 28 PM '05

ORIGINAL

Linda B. Ruggione
CLERK

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

THE STATE OF NEVADA,)

Plaintiff,)

Case No. 05F15000A
05F15000B

-vs-)

DAMARENE COLEMAN and MONTELLE RENNE)
MOTLEY,)

Defendants.)

REPORTER'S TRANSCRIPT
OF
PRELIMINARY HEARING
(Coleman)

BEFORE THE HONORABLE JAMES BIXLER
JUSTICE OF THE PEACE

Friday, September 16, 2005, 9:00 a.m.

APPEARANCES:

For the State:

SANDRA DIGIACOMO, ESQ.
Deputy District Attorney

For Defendant Coleman:

THOMAS GIBSON, ESQ.
Deputy Special Public Defender

For Defendant Motley:

BRIAN BLOOMFIELD, ESQ.
Attorney at Law (Kajioka)

Reported by: RENEE SILVAGGIO, C.C.R. NO. 122

COUNTY CLERK

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* * * * *

Las Vegas, Nevada, Friday, September 16, 2005, 9:00 a.m.

THE COURT: Okay. Let's get going on the Coleman matter.

MS. DIGIACOMO: Your Honor, could we approach?

THE COURT: Sure.

(Unreported discussion at the bench.)

MR. GIBSON: Judge, we're invoking the exclusionary rule, but there is going to be one exception.

MS. DIGIACOMO: The victim's mother is in court, as well as the sister. If they were recalled at trial, it would not be for facts of the case. It would be related only to identification of the victim.

THE COURT: Okay. All right. Do you have any problem with that then?

MR. GIBSON: No.

MS. DIGIACOMO: And also for the record, the defendant's father is also in court and the State anticipates he won't be a witness either.

THE COURT: Okay. That's fine.

All right. The exclusionary rule is being invoked, so any witnesses or potential witnesses involved in this case of the State of Nevada versus Damarlene Coleman, please wait in the hallway, with the exception of the immediate family or the -- the victim -- is it Tanzie Austin?

I would admonish all the witnesses or potential witnesses to not discuss any testimony while you wait outside.

The State's first witness is who?

MS. DIGIACOMO: Porscha Johnson.

THE COURT: Porscha. All right.

No one else that's here left in the courtroom is a potential witness; is that right? Okay.

Please remain standing; raise your right hand. The clerk beside me will swear you in.

(Witness sworn.)

THE CLERK: Please be seated. State your name and spell your last name for the record.

THE WITNESS: Porscha Johnson; J-o-h-n-s-o-n.

PORSCHA JOHNSON

called as a witness on behalf of the State,
having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. DIGIACOMO:

Q Miss Johnson, do you know a person by the name of Tanzie Austin?

A Yes, I do.

Q How did you know him?

A That was my fiancée for the last five years.

Q Okay. I want to direct your attention to July 10th, 2005, approximately three a.m.

Do you recall where you were?

A Yes.

Q Where were you?

A At the Mobil.

Q Now, where were you before the Mobil?

A Oh, at home.

Q And where did you live?

A 278 -- 2617 Mesquite Avenue.

Q Is that an apartment?

A Yes, ma'am.

Q Who did you live with?

A Tanzie. Me and Tanzie lived together.

Q Anyone else stay at that apartment with you?

A Yeah. We had an adopted child that we was raising and my friend at the moment was staying with us.

Q Okay. Who was your friend?

A Andrea Cooper.

Q Anyone else staying with her?

A Her children and Thomas, her babies' father.

Q She's taking down everything we say, so we need to not talk at the same time. So wait for me to ask the question before

you give your response.

A Okay.

Q So Andrea Cooper and who else?

A Andrea Cooper and Thomas.

Q Thomas what?

A I don't know -- I'm not sure about the last name.

Q Okay. So at approximately three a.m., you go to the Mobil station?

A Yeah, about three something.

Q Who did you go with?

A Andrea Cooper.

Q And what means of transportation did you use to get there?

A The SUV that Tanzie was renting or co-signed. He got a truck, an Explorer.

Q Do you recall what color that was?

A Red.

Q What happened when you went to the Mobil station?

A I went to the Mobil and, at this time, when I pulled in, I guess the -- Montelle and her friends, all the girls that was

with her, I guess they seen my truck and they came up to the

Mobil. And when we was in the Mobil, I looked back and she was like: There go that bitch there. Excuse my language. And then

she's like: Well, come outside.

You know what I'm saying? I'm like I ain't even trying

to fight you.

1 Q I'm going to stop you for a second.
 2 You pointed to somebody when you said Montelle.
 3 A Montelle.
 4 Q Can you tell me who you are pointing to?
 12:15PM 5 A Yeah. Montelle.
 6 Q Okay. What is she wearing?
 7 A A blue jump suit, with the braids.
 8 MS. DIGIACOMO: Your Honor, would the record reflect
 9 she's identified the co-defendant.
 12:15PM 10 THE COURT: That's true.
 11 MS. DIGIACOMO: Thank you.
 12 BY MS. DIGIACOMO:
 13 Q Go ahead. What happened?
 14 A So she walked outside and I'm still purchasing my things
 12:15PM 15 that I was going to the store for.
 16 Well, before she walked out, she was on the phone. I
 17 guess she called the defendant -- I mean, the co-defendant, him.
 18 MR. GIBSON: Objection.
 19 MS. DIGIACOMO: Wait. Wait.
 12:15PM 20 THE COURT: Don't guess.
 21 THE WITNESS: Well, she did. It was no guess. She did.
 22 THE COURT: Wait. Wait. Just tell us what you actually
 23 know.
 24 BY MS. DIGIACOMO:
 12:15PM 25 Q Yeah, tell us what you heard.

1 A I was right there when she was on the phone having a
 2 conversation and she said: Can you come up --
 3 THE COURT: Okay. Slow down. She's got to -- she can't
 4 go too fast. Okay. So relax for a second.
 12:15PM 5 BY MS. DIGIACOMO:
 6 Q Okay. You heard her on the phone?
 7 A Yeah.
 8 Q Where -- where was she when you heard her on the phone?
 9 A Behind me.
 12:15PM 10 Q All right. What did you hear her say?
 11 A She said: Can you come up here and bring that thing?
 12 Q Okay. When she said bring that thing, did you know what
 13 she was talking about?
 14 A Yes.
 12:15PM 15 Q What was she talking about?
 16 A Indication of a firearm.
 17 MR. GIBSON: Your Honor, I'm going to object.
 18 THE COURT: Firearm. What did you say originally? She
 19 said: Bring me that --
 12:15PM 20 THE WITNESS: Thing.
 21 THE COURT: Thing. Okay.
 22 BY MS. DIGIACOMO:
 23 Q When you heard her say bring that thing, how did you
 24 feel?
 12:15PM 25 A I turned around and I said: What did you say?

1 And she said: You heard me.
 2 Q Okay. So she indicated to you that you knew what she was
 3 talking about?
 4 A Yes.
 12:15PM 5 Q Okay. And at this point, what did you believe?
 6 A I think that's when I tried to get in my truck. Then
 7 that's when she walked outside. I purchased my things and then I
 8 was trying to get in the truck first because she was in the
 9 street, the street area, and I'm like: Man, whatever. I'm not
 12:15PM 10 even going to fight over nothing.
 11 The next thing you know, I'm trying to get in my truck
 12 and she rushed me, so I had to do what I had to do. I had to
 13 defend myself.
 14 Q And you said she rushed you.
 12:15PM 15 Can you explain in more detail what --
 16 A Her hand was balled up and she was coming towards me.
 17 Q She was what?
 18 A Her hand was balled up and she was coming towards me.
 19 Q Her hand was balled, you mean like a fist?
 12:15PM 20 A Yes.
 21 Q Did you believe she was going to hit you?
 22 A She was going to hit me. She did strike, but she missed
 23 and I hit her.
 24 Q So, at this point, you engage in a physical fight?
 12:15PM 25 A Yes, we did.

1 Q Who else was with her?
 2 A Neisha, Tarencia and two other girls. I'm not sure of
 3 the names.
 4 Q All right. Now, do you see any of those girls here in
 12:15PM 5 court today?
 6 A Yes.
 7 Q Okay. Which girls do you see in court today?
 8 A Tarencia Henderson and Neisha. I'm not sure of her last
 9 name.
 12:15PM 10 Q Okay.
 11 A And Mon --
 12 Q Go ahead.
 13 A And Monica also pulled up on the bike moments later.
 14 Q All right. Did you see Monica today?
 12:15PM 15 A Yes, I did.
 16 Q Are Monica and Neisha related?
 17 A Yes, ma'am.
 18 Q And how are they related?
 19 A Mother and daughter.
 12:15PM 20 Q All right. Monica is the mother?
 21 A Yes.
 22 Q You and the co-defendant get in this physical altercation
 23 at the Mobil.
 24 How does it break up?
 12:15PM 25 A Damarene -- I believe that's the name -- he broke it up.

1 Q You are pointing at someone, just calling him a name --

2 A I'm not sure. What is his name?

3 Q Just tell me who you are pointing to; describe what he's

4 wearing.

12:15PM 5 A He was wearing a red shirt, I believe.

6 THE COURT: No, what is he wearing right now? Who are

7 you referring to?

8 THE WITNESS: County blues. He's sitting at the

9 defendant's table.

12:15PM 10 MS. DIGIACOMO: All right. Would the record reflect

11 identification of the defendant.

12 THE COURT: Yes.

13 BY MS. DIGIACOMO:

14 Q At the time that this incident happened at the Mobil, did

12:15PM 15 you know the defendant?

16 A No.

17 Q Okay. Did you know his name?

18 A No. They -- the guy was D.

19 Q You knew him as D?

12:15PM 20 A That's what I heard, yeah.

21 Q Okay. So you are at the Mobil station; you are still

22 fighting with Montelle?

23 A Yes.

24 Q And D comes up?

12:15PM 25 A And he breaks -- he pulls in. He says if you -- because

1 I was swinging and he was standing there saying: If you hit me,

2 I'm going to hit you back.

3 And that's what made me stop, because I didn't want to

4 get hit by a guy.

12:15PM 5 Q But you were actually trying to swing at Montelle, not

6 the defendant?

7 A Yes.

8 Q So he says this to you; you stop swinging.

9 What happens then?

12:15PM 10 A And Montelle hit me one last time. I jumped in my truck

11 and drove off. And I looked in the rear view mirror and they were

12 following me.

13 Q Okay. Now, let's back up a little bit.

14 How far is this Mobil station from where your apartment

12:15PM 15 is?

16 A Like right across the street almost.

17 Q All right.

18 A You go through one apartment and I'm in behind the

19 apartments.

12:15PM 20 Q So it's fairly close?

21 A Yes.

22 Q You go to drive home?

23 A Yes.

24 Q What direction -- or what route do you take to get home?

12:15PM 25 A I go outside this Mobil and make a -- a right and then

1 makes a quick left on -- on an alley and it goes directly to

2 Mesquite.

3 Q All right. So this alley goes by where Mesquite runs

4 into --

12:15PM 5 A Mesquite is like a dead end in the alley, the circle.

6 Q Okay. Now, where is your apartment in relation to this

7 alley and circle at the end of Mesquite?

8 A Once you get out the alley, my apartment is right here,

9 the first apartment in the circle.

12:15PM 10 Q Okay. But right off the alley?

11 A Yes, ma'am.

12 Q As you are driving down to -- from the Mobil to your

13 apartment, where was it that you noticed that there was a car

14 following you?

12:15PM 15 A I noticed it from -- when I pulled out, I'm thinking --

16 because they also -- they're on Cedar, which is a street that I

17 got to cross over to get to the alley. So that's why I'm thinking

18 that they was going to make a right on there because that's where

19 Montelle lived.

12:15PM 20 I looked in the rear view mirror again. They were behind

21 me in the alley.

22 Q So for Montelle to go home, she should not have turned

23 into that alley?

24 A No. She should have made a right and kept straight.

12:15PM 25 Q How did you know it was Montelle in this vehicle behind

1 you?

2 A Because he pulled her over and he got in the car and

3 there was another gentleman in the car, and I'm not sure what that

4 gentleman's name was or who he is.

12:15PM 5 Q Let me make back you up a little.

6 This other gentleman in the car, was he driving?

7 A No.

8 Q Okay. Who was driving?

9 A Damarene was driving.

12:15PM 10 Q What did this vehicle look like?

11 A It was a tan or brown Oldsmobile or something. I'm not

12 sure what name it was, but it was a light brown.

13 Q Do you know how many doors the car had?

14 A I believe four.

12:15PM 15 Q So as you are leaving the Mobil station, you see D pull

16 Montelle into the vehicle?

17 A Yeah, he -- he also raised his voice and said: Get your

18 ass in the car. Get your ass in the car.

19 Q To her?

12:15PM 20 A Yes.

21 Q You leave and see this car pull out also?

22 A Yes. Well, I pulled out first.

23 Q Okay. And you saw this car also pull out behind you?

24 A Yes. And like I say, we both had to go the same route

12:15PM 25 because she lives on the right, so that's what I'm thinking, but

1 when I'm down the alley, they're behind me.

2 Q So when you turned down the alley, you see this car also

3 turn.

4 What do you do at this point?

12:15PM 5 A I pulled up by my apartment. Andrea Cooper jumps out.

6 So I went around my apartment again to see if they was still down

7 in the alley or if they had left. And when I hit the corner, they

8 were still there and that's when I parked my car and tried to jump

9 out and go in the house. And by that time, then Tanzie and Andrea

12:15PM 10 was walking out.

11 Q Let's slow down a little bit.

12 You pull up the car in the alley by your apartment?

13 A Yeah.

14 Q And Andrea jumps out?

12:15PM 15 A Yeah.

16 Q And you say you circle the apartment again.

17 Do you do this in your vehicle or do you do this --

18 A In the vehicle.

19 Q Okay. So when she jumps out, do you keep driving down

12:15PM 20 the alley?

21 A Well, she didn't jump out. I stopped, kind of seeing if

22 they was behind me.

23 Q Okay.

24 A And I guess, at this time, she was probably frightened or

12:15PM 25 something. She got out the car. But I'm knowing that she's going

1 to go get Tanzie.

2 Q So she gets out of the car and you keep driving?

3 A Yes.

4 Q Down the alley?

12:15PM 5 A No. Around my apartment complex. It's like the alley is

6 right here and then here is my apartment. So I go around the

7 apartment and I came back. You could still look at the alley when

8 you come from behind my apartment. You could look down the alley.

9 Q Okay. So you drive around.

12:15PM 10 And what does the car that you think is following you do?

11 A It's back in the alley with its lights out, with the

12 lights out.

13 Q So it's parked in the alley?

14 A Yes.

12:15PM 15 Q Turned the lights out?

16 A Yes.

17 Q So when you came back around to your apartment, it was

18 still there?

19 A Yes.

12:15PM 20 Q What did you do at this point?

21 A I parked the car and jumped out and I was walking towards

22 the house. Tanzie and Andrea was walking up and that's when

23 Damarene, the defendant, whatever, he walked up. And that's when

24 I said: What is the problem? This should have been resolved.

12:15PM 25 Q Okay. Wait. Let me slow you down a little bit.

1 A Okay.

2 Q You meet, if I've got this correctly, Tanzie and Andrea

3 coming out of the apartments?

4 A Yes.

12:15PM 5 Q You see D, this person you know as D, the defendant?

6 A Yes.

7 Q Where is he coming from?

8 A The alley.

9 Q Is he alone?

12:15PM 10 A Yeah; at the time, yes.

11 Q Okay. He's walking towards you?

12 A Yeah. He walked towards the middle of the -- of the

13 circle that I was telling you, on Mesquite.

14 Q When you see him walking towards the middle of the

12:15PM 15 circle, what did you do?

16 A I said: What is the problem? Why is we still going

17 through this or whatever? This is over. We done already fought,

18 so it should be squashed.

19 Q And what did he say?

12:15PM 20 A He didn't say nothing.

21 Q What happened at this point?

22 A At this point, that's when I seen Montelle and her

23 friends and everybody walking towards me. I had on house shoes,

24 so I thought I have to go get on my tennis shoes, because I may

12:15PM 25 have to fight her and all the other girls she came up with.

1 Q So you leave?

2 A To go put on my tennis shoes.

3 Q What did Andrea and Tanzie do?

4 A When I was leaving, Monica was making a suggestion with

12:15PM 5 Tanzie, like he told Monica: This is irrelevant. This has got to

6 be because you --

7 Q You need to slow down. Take a breath; slow down.

8 A He said: This is irrelevant. This all started because

9 of you or whatever.

12:15PM 10 MR. GIBSON: Objection; hearsay.

11 THE WITNESS: No, I heard that. Actually, I heard that

12 part.

13 THE COURT: That's what hearsay is.

14 Hearsay is when somebody else is saying something out of

12:15PM 15 court.

16 The statement was being made by who?

17 MS. DIGIACOMO: The victim.

18 THE COURT: Okay.

19 MS. DIGIACOMO: To another witness.

12:15PM 20 THE COURT: Okay. All right. But what's the --

21 MS. DIGIACOMO: That's fine, Your Honor. It's not needed

22 for cause. I'll just move on.

23 THE COURT: Go ahead.

24 BY MS. DIGIACOMO:

12:15PM 25 Q Okay. Tell me what Tanzie and Andrea did, not what they

1 said.

2 A Okay. Tanzie was just standing there and that's when I

3 ran in the house and got my tennis shoes and my shirt.

4 Q Now, when you ran into the house, was Monica outside?

12:15PM 5 A Yes, all them was outside.

6 Q All of them.

7 Now, was Tanzie having a conversation with anyone outside

8 when you went in the house?

9 A That's what I was trying to get at.

12:15PM 10 Q Right. Just don't tell me what was said. Tell me

11 what --

12 A Yeah, he was in a conversation with Monica.

13 Q Okay. And this conversation that you had, were they

14 talking like we are or were they yelling?

12:15PM 15 A No. They were kind of -- not yelling, but a loud tone of

16 voice, yeah.

17 Q Okay. So they weren't happy with each other?

18 A No. He was -- no.

19 Q Okay. You run into the house at this point?

12:15PM 20 A Yeah.

21 Q Okay. When was it that you came back outside?

22 A When I heard the gunshots.

23 Q Okay. How many gunshots did you hear while you were in

24 your apartment?

12:15PM 25 A Oh, a lot. I'm not -- I didn't count, but they say he

1 got shot eight times.

2 MR. GIBSON: Objection.

3 THE COURT: Okay. You can't say what they say.

4 You heard some gunshots?

12:15PM 5 THE WITNESS: Yeah.

6 THE COURT: And you came outside?

7 THE WITNESS: Yeah. I ran outside bare footed.

8 BY MS. DIGIACOMO:

9 Q Before you heard the gun shots, did you hear anything

12:15PM 10 else, yelling or anything?

11 A No.

12 Q Okay. Just heard the gun shots; you ran outside.

13 What did you see?

14 A Tanzie laying on the ground.

12:15PM 15 Q Okay. Could you describe what he looked like laying on

16 the ground? I mean, was he face down or face up?

17 A He was face down.

18 Q Okay. Did you talk to him?

19 A Yes.

12:15PM 20 Q Okay. Was he able to talk back to you?

21 A No.

22 Q Okay. So you were --

23 A He was just looking at me.

24 Q Okay. What were you saying to him?

12:15PM 25 A Hold on. Hold on.

1 Q Was he bleeding at this point?

2 A I really wasn't looking at no blood. I was looking more

3 at my man on the floor.

4 Q Okay. Had something happened to him at this point?

12:15PM 5 A Yes.

6 Q What happened?

7 A He was there and I seen a bullet hole in his arm.

8 Q Okay. And he was just looking at you?

9 A Yeah, like he wanted to say something, but he couldn't.

12:15PM 10 Q Okay. Did you do anything else at this point?

11 A Called 911.

12 Q And what phone did you use?

13 A Cell phone.

14 Q Was it your cell phone or his?

12:15PM 15 A It was -- well, I had both of them, so I'm not actually

16 sure which one I was on with the police, but I had both of them.

17 Q Okay. Did the police or an ambulance eventually respond?

18 A After a while, yeah.

19 Q Okay. Now, when you came outside and you saw Tanzie on

12:15PM 20 the ground, did you notice if anyone else was still around?

21 A No. Everybody was gone at this moment.

22 Q Okay. So you didn't see anyone else?

23 A Nobody.

24 Q Okay. Where was Andrea?

12:15PM 25 A She ran in the house.

1 Q All right.

2 A And when she ran in, I ran out.

3 Q Okay. What about Thomas, did you see him?

4 A He ran out -- he walked out with me after the fact.

12:15PM 5 Q Okay. So he was in the apartment during this?

6 A Yeah -- no. I guess he was walking outside the door. He

7 heard shots and came and as I ran outside, him and Andrea ran in.

8 Q When you got outside and Tanzie was on the ground, did

9 you see Monica anywhere?

12:15PM 10 A Monica was on the ground next to him.

11 Q All right. What about Montelle?

12 A Montelle was nowhere to be seen.

13 Q What about the person you knew as D, the defendant?

14 A He was nowhere to be seen.

12:15PM 15 Q What about the car that they had come in?

16 A The car was down the alley, so I intended to go down

17 there and look. I was concerned about him on the ground.

18 Q Well, so from where you were, you couldn't see the car?

19 A No.

12:15PM 20 Q Was -- let me finish. You couldn't see if the car was

21 still there?

22 A No, ma'am.

23 Q Okay. What about Neisha or Tarencia, anybody else around

24 that you could see?

12:15PM 25 A After the fact, after -- I guess after the gun shots,

1 everybody did come back.
 2 Q Okay. So everyone kind of scattered and came back?
 3 A Yeah.
 4 Q Now, this apartment complex where you live and where this
 12:15PM 5 happened, is that in Clark County, Nevada?
 6 A Yes, ma'am.
 7 MS. DIGIACOMO: Pass the witness.
 8 THE COURT: Cross-examination.
 9 MR. GIBSON: I haven't any questions for cross today.
 12:15PM 10 THE COURT: Okay. Thank you for your testimony. I
 11 appreciate it.
 12 Now, I want you to wait, but don't discuss your testimony
 13 with anybody outside. Okay? You need to go outside in the
 14 hallway. All right?
 12:15PM 15 THE WITNESS: All right.
 16 THE COURT: Who are you going to call next?
 17 MS. DIGIACOMO: Tarencia Henderson.
 18 THE COURT: If you will step around, please, on the other
 19 side of the witness chair. Remain standing and raise your right
 12:15PM 20 hand. My clerk will swear you in.
 21 (Witness sworn.)
 22 THE CLERK: State your name and spell your last name for
 23 the record.
 24 THE WITNESS: My name is Tarencia Henderson;
 12:15PM 25 H-e-n-d-e-r-s-o-n.

1 THE COURT: Spell your first name.
 2 THE WITNESS: T-a-r-e-n-c-i-a.
 3 THE COURT: Very good.
 4
 5 TARENCEIA HENDERSON
 6 called as a witness on behalf of the State,
 7 having been first duly sworn,
 8 was examined and testified as follows:
 9
 10 DIRECT EXAMINATION
 11 BY MS. DIGIACOMO:
 12 Q Tarencia, I want to direct your attention to the night of
 13 July 10th, 2005, at approximately three in the morning.
 14 Do you recall where you were?
 12:15PM 15 A Yes. I was at Monica's house.
 16 Q Okay. Now, who were you at your uncle's house with?
 17 A Monica's.
 18 Q Oh, you were at Monica's house. I'm sorry.
 19 Is that Monica that's outside, Ramsey?
 12:15PM 20 A Right.
 21 Q Who else was there?
 22 A Her daughter and her cousin.
 23 Q What are their names?
 24 A Neisha and Asia.
 12:15PM 25 Q Did you come into contact with another female around that

1 time that you see in the courtroom here today?
 2 A Yes.
 3 Q Okay. Would you point to the person you are looking at
 4 and tell me what she's wearing.
 12:15PM 5 A She's wearing a blue jump suit.
 6 MS. DIGIACOMO: Your Honor, would the record reflect
 7 Identification of the co-defendant.
 8 THE COURT: That's correct.
 9 MS. DIGIACOMO: Thank you.
 12:15PM 10 BY MS. DIGIACOMO:
 11 Q When did you come into contact with Montelle?
 12 A When we were on the way to the store.
 13 Q So you and Neisha and Asia were going to the store?
 14 A Right.
 12:15PM 15 Q Was that the Mobil station?
 16 A Yes.
 17 Q What were you going to the store for?
 18 A Actually, they asked if I would go with them because they
 19 were going with Montelle to the store.
 12:15PM 20 Q Okay. Okay. So they were meeting Montelle to go to the
 21 store?
 22 A Uh-huh.
 23 Q Was this to go get something to drink or --
 24 A I don't know. I didn't have any money, so I wasn't going
 12:15PM 25 to buy anything.

1 Q So you were just along for the ride?
 2 A Uh-huh.
 3 Q Is that a yes, for the record?
 4 A Yes.
 12:15PM 5 Q Okay. Where did you meet up with Montelle?
 6 A As far as --
 7 Q When you were going to the Mobil station.
 8 A Oh, at her house.
 9 Q So you went to her house and then you walk to the Mobil
 12:15PM 10 station?
 11 A Yes; right.
 12 Q What happened when you got to the Mobil station?
 13 A When we got to the Mobil Station, I heard Montelle say
 14 that she saw Porscha --
 12:15PM 15 MR. GIBSON: Objection.
 16 THE COURT: All right. And sounds like probably there
 17 was a conversation. Without telling us what was said, what
 18 happened after the conversation?
 19 THE WITNESS: I'm sorry. I didn't understand.
 12:15PM 20 THE COURT: Without repeating what was actually said,
 21 there was a conversation between Montelle and who?
 22 THE WITNESS: And Porscha.
 23 THE COURT: Okay. Without telling us what was said,
 24 there was a conversation and then what happened?
 12:15PM 25 THE WITNESS: And then they stepped out of the store.

1 BY MS. DIGIACOMO:
 2 Q So you heard Montelle say something to Porscha and
 3 Porscha say something back?
 4 A **No, I didn't hear anything because I stood on the outside**
 12:15PM 5 **of the store.**
 6 Q You didn't go in the store?
 7 A **No.**
 8 Q Okay. So did you see this conversation then or did you
 9 just hear about it?
 12:15PM 10 A **I saw it.**
 11 Q Okay. So you saw them talk and they come outside the
 12 store?
 13 A **Right.**
 14 Q What happens when they get outside the store?
 12:15PM 15 A **Porscha tried walking to the car and she was approached**
 16 **by Montelle and they fought.**
 17 Q Okay. Did Montelle take a swing at her?
 18 A **Yes.**
 19 Q So then Porscha took a swing back?
 12:15PM 20 A **Yes.**
 21 Q And did a physical altercation occur between the two of
 22 them?
 23 A **Yes.**
 24 Q What happened towards the end of the fight?
 12:15PM 25 A **Towards the end of the fight, Neisha called Damarene.**

1 Q Who are you referring to? Do you see the person?
 2 A **Montelle's boyfriend.**
 3 Q Do you see Montelle's boyfriend in the courtroom?
 4 A **Yes.**
 12:15PM 5 Q Would you please point to him and describe an article of
 6 clothing he's wearing.
 7 A **He's wearing the blue jump suit with the orange shoes.**
 8 MS. DIGIACOMO: Your Honor, would the record reflect the
 9 identification of the defendant.
 12:15PM 10 THE COURT: The record will so show.
 11 BY MS. DIGIACOMO:
 12 Q Now, how do you know the defendant? What name do you
 13 call him?
 14 A **I didn't know his name at the time.**
 12:15PM 15 Q Just knew him as Montelle's boyfriend?
 16 A **Yes.**
 17 Q So you see Montelle's boyfriend come to the Mobil
 18 station?
 19 A **Yes.**
 12:15PM 20 Q Okay. What happens then?
 21 A **They then -- he broke up the fight. Him and Monica**
 22 **arrived at the same time.**
 23 Q And Monica is Neisha's mom?
 24 A **Yes. They break up the fight.**
 12:15PM 25 Q After -- go ahead.

1 A **Okay. He gets into his car and Porscha gets into her car**
 2 **and they left. Porscha drove off first and I see their car**
 3 **following Porscha's.**
 4 Q And when you say their car, you are referring to?
 12:15PM 5 A **Montelle and her boyfriend.**
 6 Q Okay. So does Montelle get in her car with her
 7 boyfriend?
 8 A **Yes.**
 9 Q And they followed Porscha's vehicle?
 12:15PM 10 A **Yes.**
 11 Q What do you do at this point?
 12 A **I ran from the Mobil over to Tanzie's house.**
 13 Q Now, as you are running from the Mobil to Tanzie's
 14 house -- is that where Porscha lives as well?
 12:15PM 15 A **Yes.**
 16 Q Could you see these two vehicles, Porscha's vehicle and
 17 the vehicle that Montelle and her boyfriend were in?
 18 A **I saw them turn into the alley, where they were directed,**
 19 **you know, towards the house.**
 12:15PM 20 Q And you saw both vehicles turn?
 21 A **Right.**
 22 Q How far was the -- the second vehicle from Porscha's
 23 vehicle, right behind it?
 24 A **Right behind it.**
 12:15PM 25 Q Okay. You run over to the apartment.

1 What is the scene you see when you get over there?
 2 A **I see Tanzie and Damarene talking.**
 3 Q And when you say Damarene, you mean the defendant?
 4 A **Yes.**
 12:15PM 5 Q And when you say you see them talking, where were they?
 6 A **In front of the apartment.**
 7 Q Okay. And when you saw them talking, can you describe
 8 what kind of -- not what they said, but what kind of conversation
 9 they were having?
 12:15PM 10 A **It was most -- basically, a confused conversation.**
 11 **Neither one of -- neither one of them knew what was really going**
 12 **on.**
 13 Q Okay. Were they talking about the fight that their
 14 girlfriends had just gotten into?
 12:15PM 15 A **Yes.**
 16 Q Did you hear anything that Damarene said to Tanzie?
 17 A **The only thing I heard him say was: What about my**
 18 **girlfriend? And he was telling Tanzie that he knew who his**
 19 **girlfriend was. I didn't really hear too much what he was saying.**
 12:15PM 20 Q Okay. But there wasn't a heated argument between the two
 21 of them?
 22 A **Like I said, it was confusing.**
 23 Q Were they just trying to figure out why their girlfriends
 24 were fighting?
 12:15PM 25 A **Right.**

1 Q But they weren't fighting themselves?

2 A No.

3 Q Okay. So you see the two of them talking.

4 Is anyone else around at this time?

12:15PM 5 A Yes.

6 Q Who else was around?

7 A At that time, it's myself, Tanzie, Damarene, Andrea,

8 Neisha and Asia; and Porscha was there.

9 Q Now, you said Neisha and Asia were there.

12:15PM 10 How did they get from the Mobil station over to Tanzie's

11 apartment?

12 A They walked. They came behind me.

13 Q Okay. Did they follow you or --

14 A Yes.

12:15PM 15 Q So they weren't running with you?

16 A No.

17 Q What happens at this point, after you see the defendant

18 and Tanzie talking?

19 A Well, after they discussed -- Monica pulls up on the bike

12:15PM 20 and she's kind of like irritated and screaming at Tanzie for -- I

21 don't know what reason.

22 Q Okay. What happens at that point?

23 A Tanzie tells her -- tells her to go home. And she gets

24 off the bike and jumps in his face and they started fighting.

12:15PM 25 Q All right. You said she jumps in his face.

1 Is she yelling at him at this time?

2 A Yes.

3 Q Did they have any physical contact between them?

4 A Yes, they did.

12:15PM 5 Q Who made the first physical contact?

6 A As far as touching, period?

7 Q Yeah.

8 A Monica.

9 Q Okay. What did she do to --

12:15PM 10 A It was kind of like a poke in the head.

11 Q So she kind of --

12 MR. GIBSON: Excuse me, Your Honor.

13 May the record reflect a finger going off the forehead?

14 THE COURT: That's correct.

12:15PM 15 BY MS. DIGIACOMO:

16 Q So she got into his face and poked him in the forehead?

17 A Right.

18 Q What did Tanzie do in response to that?

19 A He pushed her face and told her to go home.

12:15PM 20 Q What did she do at that point?

21 A She then grabbed -- choked him up against the back of a

22 truck, a van; and from there, they fought.

23 Q All right. So he -- excuse me -- she chokes him, puts

24 her hands around his neck?

12:15PM 25 A Right.

1 Q And pushes him back towards a car?

2 A Right.

3 Q And at this point, does he try to fight back or what does

4 he do?

12:15PM 5 A Yeah. They're -- they both were fighting at this time

6 and he picks her up and slams her and holds her down; and then her

7 daughter tried to jump in.

8 Q Okay. Now, when you say he slams her, slams her to the

9 ground?

12:15PM 10 A Right.

11 Q And he's holding her?

12 A Right.

13 Q Is he holding her -- I mean, is it so that she'll stop

14 fighting with him?

12:15PM 15 A Right; right.

16 Q So he's not trying to fight with her; he's trying to stop

17 it?

18 A Yeah.

19 MR. GIBSON: Your Honor, I object to the form of the

12:15PM 20 question she's asking the witness. Well, it's leading, but it's

21 also speculative.

22 THE COURT: Well, you are probably correct.

23 What made you -- what made you think that? I mean,

24 why -- why would you say that he was holding her down rather than

12:15PM 25 fighting with her?

1 THE WITNESS: Because if he was fighting her, he would be

2 hitting her --

3 THE COURT: So he wasn't --

4 THE WITNESS: -- instead of just holding her.

12:15PM 5 THE COURT: He wasn't swinging on her or hitting her?

6 THE WITNESS: After he slammed her, he held her down.

7 THE COURT: And that's it?

8 THE WITNESS: After that, they got back up and started

9 fighting again.

12:15PM 10 THE COURT: Okay. So he held her down for a while --

11 THE WITNESS: Yeah. And her daughter came and she hit

12 him, so he got up and went after her, but, you know, everybody

13 stopped that because that was a minor.

14 And at this time, Monica strikes him again and they

12:15PM 15 fought this time. He hit her back.

16 THE COURT: Okay.

17 THE WITNESS: And he --

18 THE COURT: Okay. I don't want -- I didn't mean to get

19 in the middle.

12:15PM 20 MS. DIGIACOMO: No, that's fine.

21 BY MS. DIGIACOMO:

22 Q So it was your impression that, at first, Monica was

23 going after him; he was trying not to fight her, but then later,

24 he did end up fighting?

12:15PM 25 A Right.

1 Q But that was after she hit him?

2 A Yeah.

3 Q Multiple times throughout the course of that?

4 A Yeah.

12:15PM 5 Q So how does the fight between Monica and Tanzie stop?

6 A Well, the second time he -- he picked her up and slammed

7 her --

8 Q To the ground?

9 A Yeah.

12:15PM 10 At that time, the defendant came and pointed the gun into

11 his back.

12 Q Okay. When -- when Tanzie slammed her to the ground,

13 Monica to the ground, what was he doing at that time? Was he

14 trying to hold her down again?

12:15PM 15 A He was holding her, holding her.

16 Q So he puts her on the ground.

17 He's not trying to hit her?

18 A No. He was like holding her down.

19 Q All right. When this fight is going on, did you see what

12:15PM 20 the defendant or Damarene was doing?

21 A He was just kind of pacing back and forth.

22 Q Okay. Was he yelling anything?

23 A No, not really.

24 Q Was he trying to stop the fight? Did he jump in the

12:15PM 25 middle like Nelsha did?

1 A No, he didn't.

2 Q Was he participating at all in this fight?

3 A No.

4 Q All right. When you see him get involved, you said he

12:15PM 5 had a gun.

6 A Yes.

7 Q Did you see where he came from when he approached Tanzie?

8 A He never left. He -- he never left. He stood there and

9 watched the whole scene.

12:15PM 10 Q And then, at some point, he went from where he was

11 standing to where Tanzie was?

12 A Right.

13 Q When was it that you first saw the gun?

14 A When he pulled it out.

12:15PM 15 Q Where was it when he pulled it out? Was it where he was

16 standing or when he was by Tanzie or as he was walking towards

17 him?

18 A I didn't see when he pulled it -- I just saw when he had

19 it -- when he was behind Tanzie.

12:15PM 20 Q All right. Where did he have it, in his hand, in his

21 pocket?

22 A In his hand, as far as my knowledge.

23 Q Do you know what the gun looked like? Do you recall what

24 it looked like?

12:15PM 25 A I think it was silver. I think it -- I'm not sure.

1 Q Do you know the difference between a revolver and a semi

2 automatic?

3 A I think it was an automatic.

4 Q Okay. So it didn't have a round cylinder?

12:15PM 5 A No.

6 Q When you see the defendant with the gun, can you describe

7 exactly what Tanzie is doing? Is he still holding Monica down on

8 the ground?

9 A At that time, when he pointed the gun, he threw his hands

12:15PM 10 in the air.

11 Q Okay. So when the defendant pulled the gun, was he --

12 was Tanzie facing the defendant? Did he see the gun or --

13 A No, he didn't see the gun.

14 Q Okay. So when the defendant got the gun by Tanzie, where

12:15PM 15 is Tanzie facing?

16 A He's facing Monica. He's on his knees and he's facing

17 Monica.

18 Q Okay.

19 A The defendant walked around behind him.

12:15PM 20 Q Okay. So how close is the defendant behind him with the

21 gun?

22 A Probably two inches.

23 Q And at this time, is the defendant aiming the gun?

24 A Yes.

12:15PM 25 Q Where is he aiming it?

1 A In his back.

2 Q In Tanzie's back?

3 A Yes.

4 Q And then you said, at this point, Tanzie turns around

12:15PM 5 and --

6 A Yes.

7 Q Okay. Had his gun -- go ahead.

8 A I'm sorry.

9 Q No. Go ahead. Tell me what happened.

12:15PM 10 A Okay. Before he turned around, he just threw his hands

11 up like, you know, I'm not going to do anything. I'm trying to

12 stop her. And he didn't turn around until he got shot --

13 Q Okay.

14 A -- the first time.

12:15PM 15 Q So Tanzie, when you say he throws his hands up, it's in

16 response to like: I'm not going to touch Monica; don't shoot me.

17 A Right, right, right.

18 Q Okay. He throws his hands up.

19 What does the defendant do?

12:15PM 20 A Then he just stood there with the gun and then he fired.

21 Q Okay. Where did he fire?

22 A In his back.

23 Q In Tanzie's back?

24 A Yes.

12:15PM 25 Q Do you know how many times he fired in his back?

1 A **Maybe two or three times.**

2 Q Okay. At this point, after he's fired at Tanzie's back,
3 did he actually hit Tanzie with the bullets?

4 A **Yes.**

12:15PM 5 Q What does Tanzie do?

6 A **He then turns around and -- he turns around and he's**
7 **like: Okay. Okay. And -- and he asked him not to shoot any**
8 **more.**

9 Q What did the defendant do?

12:15PM 10 A **He shot him. He killed him.**

11 Q Do you know how many more times he shot at him?

12 A **Five, six. I don't know.**

13 Q Numerous times.

14 Now, during this time when the defendant walks over to

12:15PM 15 Tanzie with the gun, fires at him, does the defendant ever say
16 anything?

17 A **I didn't hear him say anything.**

18 Q After he shot Tanzie the second time -- well, no. Strike
19 that.

12:15PM 20 When Tanzie was shot the second time, where was he?

21 You said the first time he was shot, he was on his knees.

22 A **The second time he was shot he was sitting on the ground.**

23 Q He was sitting on the ground.

24 After the defendant finished shooting at Tanzie, what did

12:15PM 25 the defendant do?

1 A **They ran.**

2 Q He ran.

3 Did you see what direction he ran in.

4 A **He ran towards Cedar.**

12:15PM 5 Q So through the alley --

6 A **Uh-huh.**

7 Q -- towards Cedar?

8 A **Uh-huh.**

9 Q Is that a yes, for the record?

12:15PM 10 A **Yes.**

11 Q And you said just a minute ago, they ran.

12 Did he run away with anyone else?

13 A **With Montelle.**

14 Q Okay. Did you see anyone else with them during the

12:15PM 15 course of this?

16 A **Yes.**

17 Q Who else?

18 A **I don't know the guy. He was there. I don't know who he**
19 **was.**

12:15PM 20 Q When you say he was there, was he involved in where this
21 altercation was going on between Monica and Tanzie or was he back
22 by the car that they came in?

23 A **He was actually in both places.**

24 Q Okay. What did you see Tanzie do after the defendant ran

12:15PM 25 away?

1 A **He laid there.**

2 Q Did he try and say anything?

3 A **Besides, God, please don't let me die, I didn't hear him**
4 **say anything.**

12:15PM 5 Q All right. At this point, who is around?

6 A **After the defendant ran?**

7 Q Yes.

8 A **There is Andrea. Porscha had went into the house.**

9 Q So she wasn't there when the shooting occurred?

12:15PM 10 A **No.**

11 Q Okay.

12 A **Andrea -- Thomas, a friend, he came, and myself,**
13 **Monica -- I can't really remember right now.**

14 Q Okay. When the defendant shot the firearm, did he aim
12:15PM 15 the gun at anyone else --

16 A **No.**

17 Q -- but Tanzie?

18 A **No.**

19 Q Do you know, did anyone else get hit by a bullet?

12:15PM 20 A **Yes.**

21 Q Who else got hit?

22 A **Andrea was hit and Monica was hit.**

23 Q Do you recall where Andrea was hit?

24 A **In the thigh.**

12:15PM 25 Q What about Monica?

1 A **I'm not sure where she got --**

2 Q Do you know where Andrea was standing in relation to
3 Tanzie when the gunfire occurred?

4 A **She was -- they were in the middle of the street and she**
12:15PM 5 **was to the right on the sidewalk.**

6 Q Was she near Tanzie or not?

7 A **No.**

8 Q What about Monica, how close was she to Tanzie when --

9 A **She was real -- she was -- they were close.**

12:15PM 10 Q She was still on the ground?

11 A **Right.**

12 MS. DIGIACOMO: Court's indulgence.

13 THE COURT: Certainly.

14 BY MS. DIGIACOMO:

12:15PM 15 Q Were you there when Porscha came back outside the
16 apartment?

17 A **Yes.**

18 Q Okay. What happened after the shooting? Was 911 called?

19 A **Yes.**

12:15PM 20 Q Who did that?

21 A **I know I called. I don't know if somebody else called,**
22 **but I know I did.**

23 Q And did the police and ambulance respond?

24 A **Yes.**

12:15PM 25 Q Was Tanzie taken away in the ambulance?

1 A No.

2 Q Why not?

3 A It was too late for him to be taken away in the

4 ambulance.

12:15PM 5 Q So there was nothing, treatment wise, that could be done

6 for him?

7 A No, no.

8 MS. DIGIACOMO: Nothing further.

9 THE COURT: Cross.

12:15PM 10

11 CROSS-EXAMINATION

12 BY MR. GIBSON:

13 Q You testified that Andrea was hit with gunfire?

14 A Yes.

12:15PM 15 Q Did you see her shot? Did you -- when did you see --

16 when did you notice that she was shot?

17 A When they took her away in the ambulance.

18 Q So you didn't see like a gunshot and her respond to a

19 gunshot?

12:15PM 20 A No.

21 Q Okay. So you don't know whether or not she was actually

22 shot then from your own personal knowledge?

23 A I know she was shot, after the fact.

24 Q Okay. But from what -- from hearing from other people,

12:15PM 25 but I'm talking about from what you saw.

1 A No.

2 Q No, you didn't see her shot?

3 A No.

4 Q Okay. And that's the same with Monica, too?

12:15PM 5 A I saw Monica get shot.

6 Q You saw Monica shot?

7 A Yes.

8 Q And where were you positioned in relation to Monica when

9 you say you saw her shot?

12:15PM 10 A Yes. It was -- I was probably about four inches away

11 from her and Tanzie because they were right next to each other.

12 Q Okay. Who were you looking at?

13 I mean, it sounds like you were close to both of them; is

14 that correct?

12:15PM 15 A Uh-huh; yes.

16 Q Okay. So how -- where were you positioned as far as --

17 you said you were next to both of them.

18 Where was the person you identified as the defendant?

19 A He was on the side of me.

12:15PM 20 Q Which side, right or your left?

21 A Right.

22 Q To your right side?

23 A Yes.

24 Q Behind you or right alongside you?

12:15PM 25 A Ah, a little in front of me.

1 Q And at the time you said that he was firing the weapon,

2 were you still in the same position?

3 A Yes.

4 Q Was he still just off to your right?

12:15PM 5 A Yes.

6 Q And you didn't think to try to stop him?

7 A No.

8 Q You testified that, at one point, Tanzie was on his knees

9 on top of Monica -- or facing Monica.

12:15PM 10 Was he sitting on top of her?

11 A Yes.

12 Q Okay. So Tanzie was sitting on top of Monica -- I'm

13 sorry -- yes, Monica?

14 A Yes.

12:15PM 15 Q Okay. And her back was to the ground?

16 A Yes.

17 Q And you said that before he was shot, the first shot,

18 Tanzie threw his arms up?

19 A Yes.

12:15PM 20 Q Okay. And you also testified though that Tanzie was not

21 facing the person who shot him?

22 A No.

23 Q He was not?

24 A No.

12:15PM 25 Q Okay. Do you have any idea how it was that he knew to

1 throw his hands in the air?

2 A He put the gun in his back.

3 Q I'm sorry.

4 A At that time, when he threw his hands up, the gun was

12:15PM 5 pointed in his back.

6 Q So you are saying that the person you identified as the

7 shooter put the gun and -- touched Tanzie in the back with it?

8 A Right.

9 Q Have you any idea or reason to believe that Tanzie knew

12:15PM 10 that that was a gun in his back?

11 A As far as it being still, I would think it was a gun too,

12 regardless to what it was.

13 Q Okay. Now, you didn't hear anyone slide the -- if it was

14 an automatic slide the weapon to cock the --

12:15PM 15 A No, I didn't hear it.

16 Q -- mechanism?

17 Okay. And you said that the person you identified as the

18 shooter never made any statements; didn't say anything?

19 A Not that I can recall.

12:15PM 20 Q So all of a sudden, there is -- you say he points the gun

21 at Tanzie's back and -- or touches his back and Tanzie throws his

22 arm up?

23 A Yes.

24 Q Without saying anything?

12:15PM 25 A I didn't hear him say anything.

1 Q Going back to the fight between Tanzie and Monica, you
 2 saw -- Monica instigated the fight between her and Tanzie?
 3 A Yes.
 4 Q And by, basically, thumping him in the forehead with her
 5 finger?
 6 A Yes.
 7 Q And that he responded by pushing her in the face with his
 8 open hand?
 9 A Yes.
 10 Q And then a fight broke out between them?
 11 A Yes.
 12 Q And Monica grabbed Tanzie by the neck and tried to choke
 13 him?
 14 A Yes.
 15 Q And then he body slammed her to the ground?
 16 A Yes.
 17 Q And he held her up pretty high, didn't he?
 18 A Yes.
 19 Q About shoulder height?
 20 A Yes.
 21 Q Okay. And he threw her straight to the ground?
 22 A Yes.
 23 Q Okay. Now, the ground we're talking about, was that
 24 grass or was that cement?
 25 A Cement.

1 Q Onto cement?
 2 A Yes.
 3 Q And you were close enough to hear her body hit?
 4 A Yes.
 5 Q What did it sound like?
 6 A I really can't explain the noise. It was just a thump on
 7 the ground.
 8 Q Was it obvious to people around though that a person had
 9 been slammed into concrete?
 10 A It wasn't that loud.
 11 Q Okay. But if anyone was standing around and watched it,
 12 they would have seen Monica thrown to the ground?
 13 A Yes.
 14 Q And, actually -- I'm sorry. I don't mean to say to the
 15 ground.
 16 To the concrete?
 17 A Yes.
 18 Q And if they were close, they also would have heard that
 19 noise that that made, right?
 20 A Right.
 21 Q And then Tanzie body slammed Monica a second time?
 22 A Yes.
 23 Q About how much time passed between the two body slams?
 24 A Two minutes probably.
 25 Q Two minutes?

1 A Yeah.
 2 Q And all the same persons that were there that you have
 3 described were still there during the entire fight between --
 4 A Yes.
 5 Q -- Tanzie and Monica?
 6 A Yes.
 7 Q And the second time that Tanzie (sic) was body slammed,
 8 was that the same shoulder height again down to the concrete?
 9 A Yes.
 10 Q What was she saying at the time she was being body
 11 slammed, after she got body slammed the first time?
 12 A I wasn't paying attention.
 13 MS. DIGIACOMO: Objection; hearsay.
 14 MR. GIBSON: Excited utterance or present sense
 15 impression.
 16 THE COURT: It might be.
 17 But you didn't hear anything?
 18 THE WITNESS: No.
 19 THE COURT: All right. It doesn't make any difference.
 20 BY MR. GIBSON:
 21 Q What was the noise level between Tanzie and Monica at the
 22 time they were arguing and fighting, from the time the fight
 23 started until it ended between the two of them?
 24 A It was loud, pretty loud.
 25 Q Screaming and yelling?

1 A Yes.
 2 Q How about other people, were they joining in the
 3 hollering?
 4 A As far as trying to stop the fight, yeah.
 5 Q Who all was trying to stop the fight, if anyone?
 6 A Everybody that was there.
 7 Q Okay. So Andrea tried to stop the fight?
 8 A Yes.
 9 Q Thomas tried to stop the fight?
 10 A Yes.
 11 Q Monica's daughter tried to stop the fight?
 12 A Yes.
 13 Q My client, did he try to stop the fight?
 14 A Yes.
 15 Q And how was he trying to stop the fight?
 16 A He was saying: No, this can't happen like this.
 17 That's all I can remember him saying.
 18 Q He said what now?
 19 A It can't happen like this..
 20 Q It can't happen like this?
 21 A Right.
 22 Q And that's what my client said?
 23 A Yes.
 24 Q Earlier, you said you didn't hear him say anything.
 25 So you obviously heard him say that.

1 A As far as the shooting, I didn't hear him say anything.

2 Before the shooting, I heard him say that.

3 Q Okay. And did my client appear visibly upset to you at
4 the time that Monica was fighting with Tanzie?

12:15PM 5 A No.

6 Q Okay. Is that -- would it be fair to say that your
7 attention was more drawn toward the fighting though than the other
8 people around?

9 A Yes.

12:15PM 10 Q So you were basically focused on Tanzie and --

11 A Right.

12 Q -- and Monica?

13 A Right.

12:15PM 14 Q Now, you were asked earlier to describe the gun and you
15 really couldn't recall what it looked like?

16 A No, no.

17 Q So you are not sure if it was a revolver or a -- or a
18 semi automatic, are you?

19 A Not really.

12:15PM 20 Q And, quite frankly, you didn't get a good look at it, did
21 you?

22 A I got -- I looked at it. I saw the gun. But I don't
23 know what kind of gun it was.

24 Q And you say you thought it was a shiny color?

12:15PM 25 A Yes.

1 Q When you say shiny, like chrome or --

2 A Yes.

3 Q Do you recall which hand that Damarene had the weapon in?

4 A The right hand.

12:15PM 5 Q The right hand.

6 You were with -- I'm sorry -- Porscha earlier in the
7 evening, correct?

8 I mean, not -- at the Mobil station?

9 A Right.

12:15PM 10 Q And you are friends with Porscha?

11 A Yes.

12 Q And you are friends with Tanzie?

13 A Yes.

14 Q And this was at three in the morning, correct?

12:15PM 15 A Yes.

16 Q And do you know what night of the week it was?

17 A Saturday.

18 Q Had you or any -- or any of the people you were with at
19 the Mobil station been drinking alcohol that night?

12:16PM 20 A No.

21 Q Any type of marijuana or --

22 A No.

23 Q -- or anything else?

24 A No.

12:16PM 25 Q Nobody was high or drunk or --

1 A No.

2 Q You were just up real late?

3 A Yeah.

4 Q Okay. The very first fight at the Mobil Station, between

12:16PM 5 Porscha and -- I'm sorry -- Montelle, it's your testimony that my
6 client showed up at the Mobil Station?

7 A Yes.

8 Q And he stopped the fight between Porscha and Montelle?

9 A Yes.

12:16PM 10 Q And he tried to stop the fight between -- between Monica
11 and Tanzie?

12 A Somewhat, yes.

13 Q Like everybody else did?

14 A Right.

12:16PM 15 MR. GIBSON: Thank you. No further questions.

16 THE COURT: Any redirect?

17 MS. DIGIACOMO: Yes, Your Honor.

18

19 REDIRECT EXAMINATION

12:16PM 20 BY MS. DIGIACOMO:

21 Q You said that the defendant tried to break up the fight
22 between Monica and Tanzie.

23 How did he try and break it up?

24 A He didn't physically try to break it up. He was just

12:16PM 25 saying don't hit her to Tanzie.

1 Q Okay. And this is what everyone else was doing, they
2 were just yelling?

3 A Right.

4 Q Now, with regard to this fight between Monica and Tanzie,

12:16PM 5 you said that Monica initiated it by poking him; he pushed her;

6 then she tried to choke him out; and it was at that point, after

7 she tried to choke him that he body slammed her to the ground.

8 A Yes.

9 Q Okay. Is that fair?

12:16PM 10 Then you -- you testified that as she's on the ground, he
11 was just trying to hold her down.

12 A Right.

13 Q At this point, he's not trying to hit her?

14 A No.

12:16PM 15 Q Okay. Why does he have to try and hold her down on the
16 ground? What is she doing?

17 A She's fighting.

18 Q Okay. She's still trying to hit him?

19 A Right.

12:16PM 20 Q Okay. So he's just trying to stop her from hitting him?

21 A Right.

22 Q Eventually, he lets go.

23 Do you know how he let's go of her?

24 A Her daughter came and hit Tanzie.

12:16PM 25 Q Okay. So his direction is now turned towards Nelisha?

1 A Right.

2 Q Now, what does he do in response to Neisha hitting him?

3 A He didn't know who it was that hit him. When he got up,

4 he looked around and he went towards her, but everybody stopped

12:16PM 5 it, because, like I said, she's a minor.

6 Q So he didn't go after her?

7 A No.

8 Q Didn't ever try to swing at Neisha?

9 A No.

12:16PM 10 Q Now, as he is trying to figure out who had hit him, what

11 does Monica do?

12 A She strikes him again.

13 Q So she initiates the fight again?

14 A Right.

12:16PM 15 Q What does Tanzie do in response to her hitting him?

16 A The second time he fought her back.

17 Q So he tried to swing at her?

18 A Right.

19 Q And is she still trying to swing at him?

12:16PM 20 A Yes.

21 Q You said, at some point, he body slams her again?

22 A Yes.

23 Q Okay. When he body slams her this time, you said that he

24 had his, I guess, knees on each side of her, spread across her

12:16PM 25 body, holding down her hands?

1 Q Yes.

2 A Is that fair?

3 A Yes.

4 Q So, at this time, he body slams her the second time, is

12:16PM 5 he hitting her at all?

6 A Not that I can recall. I don't remember.

7 Q Is he just -- what is she doing that he has to hold her

8 down?

9 A Trying to get up.

12:16PM 10 Q Is she still trying to fight with him?

11 A Right.

12 Q Okay. But he's just holding her.

13 And it's at this point that he's holding her that he --

14 that something is put in his back, the gun?

12:16PM 15 A Yes.

16 Q And that's when he raises his hands up?

17 A Yes.

18 Q Okay. Now, when the defendant puts the gun to Tanzie's

19 back and then also when he shoots at him, what is his demeanor?

12:16PM 20 A As far as?

21 Q I mean, is he calm; is he yelling stuff; is he agitated?

22 A He's calm as day.

23 Q Okay. So just normal?

24 A Yeah.

12:16PM 25 Q Okay. Not visibly upset?

1 A No.

2 Q Now, you testified that you actually saw Monica get hit

3 with the bullet?

4 A Yeah.

12:16PM 5 Q But you didn't actually see Andrea get hit with the

6 bullet?

7 A No.

8 Q Did you see Andrea before the shooting?

9 A Yes.

12:16PM 10 Q Okay. Did she have any bullet wounds or bleeding or

11 anything?

12 A No.

13 Q Okay. Did you see her after the shooting?

14 A Yes.

12:16PM 15 Q Did you see the wound?

16 A Yes.

17 Q Okay. And what did the wound look like? I mean, did it

18 look -- you said she was shot on the thigh?

19 A Right above the knee, yes.

12:16PM 20 Q Okay. And you believe that to be a gun wound?

21 A Yeah.

22 Q And why is that? What did it look like?

23 A It looked like a gunshot.

24 Q Okay. Was it just a round --

12:16PM 25 A Yes.

1 Q -- injury?

2 Was it bleeding?

3 A Yes.

4 MS. DIGIACOMO: Nothing further.

12:16PM 5 MR. GIBSON: Just a couple follow-up questions.

6

7 RECROSS-EXAMINATION

8 BY MR. GIBSON:

9 Q I believe you stated that the people that were there at

12:16PM 10 the scene were able to stop Tanzie from hitting Neisha; is that

11 correct?

12 A Yes.

13 Q And Tanzie was on top of Monica; Neisha did something to

14 Tanzie, hit him or grabbed him, did something to distract him; is

12:16PM 15 that correct?

16 A Correct.

17 Q What did she exactly do to him?

18 A She socked him in the head.

19 Q With her fist?

12:16PM 20 A Yes.

21 Q And then Tanzie got up and turned around and went after

22 Neisha?

23 A Right.

24 Q But everyone was able to stop him?

12:16PM 25 A Yes.

1 Q When you say everyone, who is everyone?

2 A **Everyone that was on the scene that I named.**

3 Q Okay. And how did they stop him?

4 A **They just -- we didn't have to touch him or physically**

12:16PM 5 **tell him not to hit her. We just, you know, said: That's a**

6 **minor. Don't put your hand on her.**

7 Q So he stopped and turned his attention back on Monica?

8 A **Yes. Well, before he had turned his attention to her,**

9 **she had hit him again.**

12:16PM 10 Q Okay. So then, in other words, the group of people --

11 you were able to stop Tanzie from hurting Neisha, but you couldn't

12 stop him from fighting with Monica?

13 A **No.**

14 Q Is that correct?

12:16PM 15 A **Yes.**

16 MR. GIBSON: Thank you. No further questions.

17 MS. DIGIACOMO: I just have one.

18

19 FURTHER REDIRECT EXAMINATION

12:16PM 20 BY MS. DIGIACOMO:

21 Q The way defense counsel and we've been talking about this

22 is about anyone trying to stop Tanzie from fighting with Monica.

23 But did anyone try and stop Monica from going after

24 Tanzie?

12:16PM 25 A **Yes.**

1 Q Okay. So, I mean, when there is people yelling about

2 this fight going on, they're not just yelling at him to stop.

3 Are they yelling at her to stop as well?

4 A **Yes. It was both of them.**

12:16PM 5 Q Just both of you quit it?

6 A **Right.**

7 MS. DIGIACOMO: Nothing further.

8 THE COURT: Is that it?

9 MR. GIBSON: Yes.

12:16PM 10 THE COURT: Thanks. I appreciate it.

11 Why don't you wait in the hallway, but don't discuss any

12 testimony while you wait outside. Okay?

13 THE WITNESS: Okay.

14 THE COURT: Do you rest?

12:16PM 15 What -- there was some stipulation with regards to --

16 MS. DIGIACOMO: Right, Your Honor.

17 The defense counsel, because we're having -- you know,

18 our coroner's office is a little short handed -- he's agreed

19 today, for preliminary hearing purposes only, to stipulate that

12:16PM 20 Dr. Simms performed an autopsy on the person of Tanzie Austin and

21 determined the cause of death to be gunshot wounds in the manner

22 to be homicide.

23 MR. GIBSON: That's correct.

24 THE COURT: All right. All right. With those

12:16PM 25 representations on the record, we don't need to have the autopsy

1 report.

2 MS. DIGIACOMO: All right. Thanks.

3 THE COURT: Okay. All right. Are you going to rest

4 then?

12:16PM 5 MS. DIGIACOMO: Yes, Your Honor.

6 THE COURT: Okay. The State is going to rest.

7 MR. GIBSON: Yes, Judge, we're going to rest.

8 I informed my client of his right to testify and call

9 witnesses on his behalf.

12:16PM 10 We decline to do that at this time. It doesn't do any

11 good at preliminary hearing.

12 THE COURT: All right. Mr. Coleman, do you understand

13 what counsel just indicated?

14 You are going to give up or waive your opportunity to

12:16PM 15 testify and make a statement at this proceeding because of his

16 advice; is that correct?

17 THE DEFENDANT: No, I don't.

18 THE COURT: You don't want to say anything, do you?

19 THE DEFENDANT: Yeah; yeah.

12:16PM 20 THE COURT: We're getting crossed wires.

21 Do you want to say anything at this proceeding?

22 THE DEFENDANT: No, not right now.

23 THE COURT: Okay. All right. Arguments.

24 MS. DIGIACOMO: I'll reserve for rebuttal.

12:16PM 25 MR. GIBSON: We'll just submit, Judge.

1 THE COURT: For the purposes of the preliminary hearing,

2 there is certainly sufficient evidence to bind the defendant over

3 on these charges; and it appears to the Court, from the complaint

4 on file and the evidence adduced at this preliminary hearing, that

12:16PM 5 crimes are committed, to-wit:

6 Count I, murder with use with a deadly weapon; Counts II

7 and III, attempt murder with the use of a deadly weapon.

8 There is sufficient cause to believe that the defendant

9 named herein, Damarene Coleman, committed these offenses and I

12:16PM 10 hereby order that the defendant be held to answer to those charges

11 in the District Court, Department V.

12 THE CLERK: October 4th, 8:30, District Court V.

13 MS. DIGIACOMO: Is that the same day as the other one?

14 THE COURT: Yeah. Was that the same day?

12:16PM 15 MS. DIGIACOMO: Yeah. We're done.

16 Thank you, Your Honor.

17 THE COURT: All right. Ladies and gentlemen, thank you

18 very much. I appreciate it.

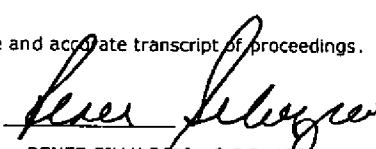
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22 ATTEST: Full, true and accurate transcript of proceedings.

23

24 

25 RENEE SILVAGGIO, C.C.R. 122
Official Court Reporter

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Shirley B. Sanchez
CLERK

1 **ORDR**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SANDRA K. DIGIACOMO
6 Deputy District Attorney
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,)
13)
14 Plaintiff,)

Case No. C215295

Dept No. V

15 -vs-

16 DEMARENE COLEMAN,
17 #1963947,
18 MONTELLE RENNE MOTLEY, aka
19 Montelle Renee Motley, #1581681
20 Defendants.
21

ORDER RELEASING MEDICAL RECORDS

22 Upon the ex parte application and representation of DAVID ROGER, Clark County
23 District Attorney, by and through SANDRA K. DIGIACOMO, Deputy District Attorney,
24 that certain evidence in Case No.C215295, held in the custody of UNIVERSITY MEDICAL
CENTER needs to be released to a representative of the DISTRICT ATTORNEY'S OFFICE
for the purpose of prosecuting the above referenced case.

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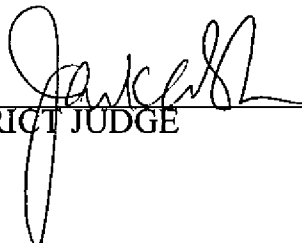
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NOV 15 2005

COUNTY CLERK

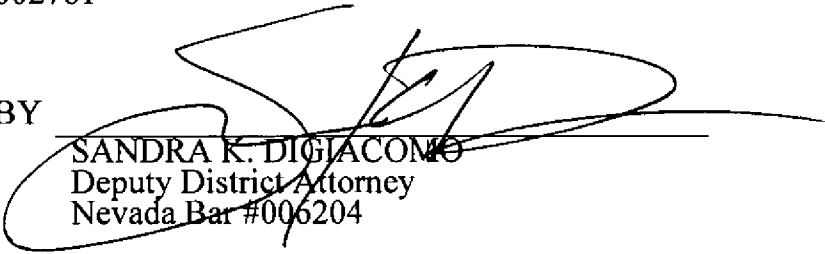
1 IT IS HEREBY ORDERED that the evidence in the custody of the UNIVERSITY
2 MEDICAL CENTER, consisting of medical records for patient: ANDREA COOPER, DOB:
3 10/31/1982, admitted on or about 07/10/2005 be released to a representative of the
4 DISTRICT ATTORNEY'S OFFICE.

5 DATED this 15 day of November, 2005.

6 
7 DISTRICT JUDGE
8

9 DAVID ROGER
10 DISTRICT ATTORNEY
11 002781

12 BY

13 
14 SANDRA K. DIGIACOMO
15 Deputy District Attorney
16 Nevada Bar #006204
17
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ORIGINAL

1 **ORDR**

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SANDRA K. DIGIACOMO
6 Deputy District Attorney
7 Nevada Bar #006204
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED

Nov 18 4 01 PM '05

Shirley E. Longoria
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12
13 DEMARENE COLEMAN,
14 #1963947,
15 MONTELLE RENNE MOTLEY, aka
16 Montelle Renee Motley, #1581681

Defendants.

Case No. C215295

Dept No. V

ORDER RELEASING MEDICAL RECORDS

17 Upon the ex parte application and representation of DAVID ROGER, Clark County
18 District Attorney, by and through SANDRA K. DIGIACOMO, Deputy District Attorney,
19 that certain evidence in Case No.C215295, held in the custody of UNIVERSITY MEDICAL
20 CENTER needs to be released to a representative of the DISTRICT ATTORNEY'S OFFICE
21 for the purpose of prosecuting the above referenced case.

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COUNTY CLERK

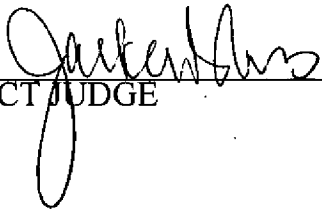
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1 IT IS HEREBY ORDERED that the evidence in the custody of the UNIVERSITY
2 MEDICAL CENTER, consisting of medical records for patient: MONICA RAMSEY, DOB:
3 1/18/1971, admitted on or about 07/10/2005 be released to a representative of the DISTRICT
4 ATTORNEY'S OFFICE.

5 DATED this 10 day of November, 2005.

6
7 
8 DISTRICT JUDGE 

9 DAVID ROGER
10 DISTRICT ATTORNEY
11 002781

12 BY


13 SANDRA K. DIGIACOMO
14 Deputy District Attorney
15 Nevada Bar #006204
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FILED
Nov 30 10 48 AM '05
Stacy C. Rungius
CLERK

THE STATE OF NEVADA,
Plaintiff,
vs.
DEMARENE COLEMAN,
Defendant.

CASE NO. C 215295
DEPT NO. V

The Court having reviewed the file in the above-entitled matter and good cause appearing,
IT IS HEREBY ORDERED that Carmine J. Colucci, Esq., of the law firm of CARMINE J. COLUCCI, CHTD., is hereby appointed as counsel of record to represent the defendant, DEMARENE COLEMAN, in the above-entitled matter.


DISTRICT COURT JUDGE

CARMINE J. COLUCCI, ESQ.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101

NOV 30 2005

120.

1 POINTS AND AUTHORITIES

2 Defendant is being charged with the crimes of MURDER WITH USE OF A DEADLY
3 WEAPON (Felony - NRS - 200.010, 200.030, 193.165); 2 Counts of ATTEMPTED MURDER
4 WITH USE OF A DEADLY WEAPON (Felony - NRS - 200.030, 200.010, 193.330, 193.165). It
5 would be more efficient for a trained investigator to perform some of the investigation rather than
6 counsel, Carmine J. Colucci Esq. Furthermore, there are numerous state witnesses and other
7 individuals involved with the instant case who must be interviewed.

8 Carmine J. Colucci Esq. has contacted Private Investigators of AGR DETECTIVE
9 SERVICES, and they have agreed to have one of their professional investigators assist and perform
10 the necessary investigative services at an hourly rate of \$30.00, not to exceed a total of Two
11 Thousand, Five Hundred Dollars (\$2500), an entirely reasonable amount considering the issues of
12 this case and the numerous potential defense witnesses who have to be interviewed or whose
13 backgrounds must be investigated.

14 Based on the unusual character of this prosecution, its scope and magnitude, it is respectfully
15 requested that this Court order the appointment of the offices of AGR DETECTIVE SERVICES as
16 the investigator to work with defense counsel on this case.

17 Here, an investigation is necessary in order to properly prepare an adequate defense in this
18 case. NRS 7.135 empowers this Honorable Court to appointment of investigators when such services
19 are necessary for an adequate defense of a criminal case. NRS 7.135 specifically states:

20 The attorney or attorneys appointed by a magistrate or district court to represent a defendant
21 are entitled, in addition to the fee provided by law for their services, to be reimbursed for expenses
22 reasonably incurred by him or them in representing the defendant and may employ, subject to prior
23 approval of the magistrate or the district court, in an ex parte application, such investigation, expert
24 or other services as may be necessary for an adequate defense.

25 In the case at bar, Carmine J. Colucci Esq., was appointed by this Honorable Court to act as
26 counsel for Defendant COLEMAN. The number of investigatory tasks that must be completed in
27 preparation for trial establishes that the investigator who will be completing the task will expend
28

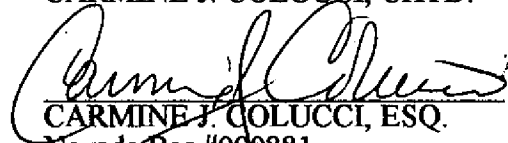
1 numerous hours on the case at bar. Their efforts will clearly require payment not to exceed Two
2 Thousand, Five Hundred Dollars (\$2500), a reasonable amount considering the complexity of this
3 case and the numerous potential State and defense witnesses who have to be interviewed or whose
4 backgrounds must be investigated. He is financially unable to obtain the requested investigative
5 services.

6 Base on the foregoing, Defendant respectfully requests this Honorable Court to:

- 7 1. Order the appointment of AGR Detective Services as the investigators in the case at bar;
8 2. Authorize payment to the investigator not to exceed Two Thousand Five Hundred Dollars
9 (\$2500).

10 DATED this 6th day of December, 2005.

11 CARMINE J. COLUCCI, CHTD.

12 
13 CARMINE J. COLUCCI, ESQ.

14 Nevada Bar #000881

15 629 South Sixth Street

16 Las Vegas, Nevada 89101

17 Attorney for Defendant

12 19 PM '0
Lilly C. Langrine
CLERK

Defendant.

IT IS FURTHER ORDERED that investigative services shall not exceed Two Thousand, Five Hundred Dollars (\$2500.00), which will be billed at Thirty Dollars (\$30.00) per hour.

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IT IS FURTHER ORDERED that private investigator EDDIE LARUE and/or private investigator of AGR DETECTIVE SERVICES be allowed contact visits with Defendant DEMARENE COLEMAN at the Clark County Detention Center.

DATED this 1 day of December, 2005.

DISTRICT COURT JUDGE

Respectfully submitted by:
CARMINE J. COLUCCI, CHTD.

CARMINE J. COLUCCI, ESQ.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101

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Shirley Stangor
CLERK

0014
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI, CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	CASE NO. C 215295
	)	DEPT NO. V
Plaintiff,	)	
	)	
vs.	)	
	)	
DEMARENE COLEMAN,	)	
	)	
Defendant.	)	

PETITION FOR WRIT OF HABEAS CORPUS

TO: The Honorable Jackie Glass, Judge of the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark

The Petition of DEMARENE COLEMAN, submitted by CARMINE J. COLUCCI, ESQ., of the law firm of CARMINE J. COLUCCI, CHTD., attorney for the above-captioned individual, respectfully shows:

1. That Carmine J. Colucci is a duly qualified, practicing and licensed attorney in the City of Las Vegas, County of Clark, State of Nevada;
2. That Petitioner makes this application for a Writ of Habeas Corpus.
3. That the place where the Petitioner is imprisoned and restrained of his liberty is the Clark County Detention Center, and the office by whom he is imprisoned and restrained, is Bill Young, Sheriff, Las Vegas Metropolitan Police Department, Las Vegas, Clark County, Nevada.
3. That the custody and restraint of Petitioner for the offenses of Count III of the Information Attempted Murder with Use of a Deadly Weapon (felony NRS

1 201.010, 200.030, 193.330, 193.165) is unlawful for the following reasons: the
2 State failed to present sufficient evidence of probable cause to believe that
3 petitioner committed the above crime with which he is charged.

4 4. That Petitioner waives the 60-day limitation for being brought to trial.

5 5. That Petitioner consents that if the Petition is not decided within 15 days
6 before the date set for trial, March 20, 2006, the Court may, without notice of
7 hearing, continue the trial indefinitely to a date designated by the Court.

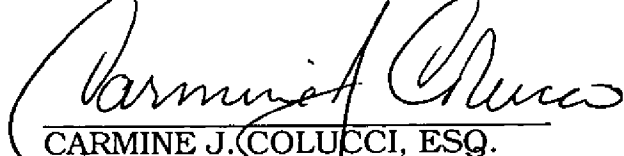
8 6. That no other petition for a Writ of Habeas Corpus has heretofore been
9 filed on behalf of Petitioner.

10 7. That this Petition is based upon the grounds herein above set forth, the
11 records and pleadings on file herein, the Memorandum of Points and Authorities
12 attached hereto, and upon such other grounds and evidence as may be adduced
13 at a hearing on this writ.

14 WHEREFORE, CARMINE J. COLUCCI, ESQ., prays that this Honorable
15 Court enter an Order directing the County Clerk to issue a Writ of Habeas Corpus
16 directed to Sheriff Bill Young, Sheriff of Clark County, Nevada, commanding
17 Petitioner to appear before your honor, and return the cause of his restraint.

18 DATED this 19th day of December, 2005.

19 CARMINE J. COLUCCI, CHTD.

20 

21 CARMINE J. COLUCCI, ESQ.

22 Nevada Bar No. 000881
23 629 South Sixth Street
24 Las Vegas, Nevada 89101
25 Attorney for Petitioner
26
27
28

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1 except as to those matters therein stated on information and belief and as to those
2 matters, he believes them to be true.

3
4 
5 CARMINE J. COLUCCI

6 SUBSCRIBED and SWORN to before
7 me this ____ day of December, 2005.

8
9 NOTARY PUBLIC in and for said
County and State

10
11 MEMORANDUM OF POINTS AND AUTHORITIES SUPPORTING
PETITION FOR WRIT OF HABEAS CORPUS

12 I.

13 STATEMENT OF FACTS

14 Petitioner, DEMARENE COLEMAN, is charged by way of Information with
15 1 Count of Murder with Use of a Deadly Weapon (NRS 200.010, 200.030, 193.165),
16 2 Counts of Attempt Murder with Use of Deadly Weapon (NRS 200.010, 200.030,
17 193.330, 193.165). A preliminary hearing was conducted in Justice Court on
18 September 16, 2005. Petitioner was bound over on all three charges.

19 II.

20 ARGUMENT

21 A.

22 THERE IS INSUFFICIENT EVIDENCE TO HOLD PETITIONER ON THE
23 CHARGE OF COUNT III, ATTEMPT MURDER WITH A DEADLY WEAPON.

24 The issue presented for determination by this court is whether the state
25 presented sufficient evidence to the Court to establish probable cause that
26 Petitioner has committed the crime of Attempt Murder with Use of a Deadly
27 Weapon as alleged in Count III. A reading of the transcript of that proceeding
28

1 shows that the state did not.

2 NRS 34.500 provides in pertinent part as follows:

3 **34.500 Grounds for discharge in certain cases.**

4 If it appears on the return of the writ of habeas corpus that the
5 petitioner is in custody by virtue of process from any court of this
6 state, or judge or officer thereof, the petitioner may be discharged
7 in any one of the following cases:

8 ...

9 7. Where the petitioner has been committed or indicted on a
10 criminal charge, including a misdemeanor, except misdemeanor
11 violations of chapter 484 of NRS or any ordinance adopted by a city
12 or county to regulate traffic, without reasonable or probable cause.

13 Where the evidence presented to the Court is legally insufficient to establish
14 probable cause to hold the defendant for trial the writ should issue and the
15 Petitioner should be discharged. State v. Plas, 80 Nev. 251, 391 P. 2d 867 (1964).

16 The function of the Court, on a challenge to sufficiency of the evidence
17 presented in order to bind the defendant over to District Court to answer the
18 charges, is to determine whether all of the evidence received establishes probable
19 cause to believe that an offense has been committed and that the defendant has
20 committed it. Thedford v. Sheriff, Clark County, 86 Nev. 741, 476 P.2d 25 (1970).
21 The finding of probable cause may be based on slight, even "marginal" evidence.
22 Sheriff v. Badillo, 95 Nev. 593, 600 P.2d 221 (1979). The State need not produce
23 the quantum of proof required to establish the guilt of the accused beyond a
24 reasonable doubt, but there must be enough evidence to support a reasonable
25 inference that the accused committed the offenses charged. Kinsey v. State, 87
26 Nev. 361, 487 P.2d 340 (1971).

27 Petitioner is charged in Count III of Attempt Murder With Use of a Deadly
28 Weapon. Murder is defined in NRS 200.010:

29 **200.010. "Murder" Defined.**

30 Murder is the unlawful killing of a human being, with malice

1 aforethought, either express or implied, or caused by a controlled
2 substance which was sold, given, traded or otherwise made
3 available to a person in violation of chapter 453 of NRS. The
 unlawful killing may be effected by any of the various means by
 which death may be occasioned.

4 Attempt is defined in NRS 193.330:

5 **193.330 Punishment for Attempts.**

6 1. An act done with the intent to commit a crime, and tending but
7 failing to accomplish it, is an attempt to commit that crime. ..

8 Specifically, the Nevada Supreme Court has defined attempted murder
9 as "the performance of an act or acts which tend, but fail, to kill a human
10 being, when such acts are done with express malice, namely, with the
11 deliberate intention unlawfully to kill." Keys v. State, 104 Nev. 736, 766 P.2d
12 270 (1988).

13 The evidence presented during the preliminary hearing did not establish
14 the necessary elements of Attempt Murder with Use of Deadly Weapon that are
15 required under NRS 200.010 and 193.330 with respect to Petitioner,
16 DEMARENE COLEMAN. No evidence was ever presented to show that
17 DEMARENE COLEMAN engaged in any of the actions towards Andrea Cooper
18 that are required under NRS 200.010 and 193.330.

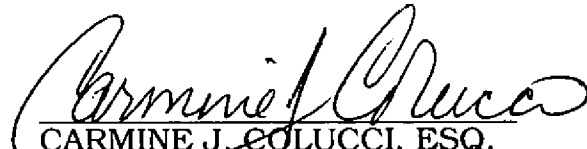
19 The only two witnesses presented at the preliminary hearing were
20 Tarencia Henderson and Porscha Johnson. Tarencia Henderson testified at
21 the preliminary hearing that she did not see Andrea Cooper get shot.
22 (Preliminary Hearing Transcript, pp. 43-44). Porscha Johnson testified that
23 she was inside the apartment and that she ran outside after she heard
24 gunshots (Preliminary Hearing Transcript, pp. 19-20). Thus, at the time of the
25 shooting she was inside the apartment and could not see what was going on
26 outside. Neither witness saw Petitioner shoot Andrea Cooper. The State was
27 unable to present any evidence to show that Petitioner fired the shot which
28

1 allegedly injured Andrea Cooper. No other evidence was presented during the
2 preliminary hearing which connected the shooting of Andrea Cooper to any
3 actions of the Petitioner. Andrea Cooper did not testify at the preliminary
4 hearing. The state did not present any testimony or other evidence to show
5 that the bullet which struck Andrea Cooper was fired from the gun allegedly
6 used by Petitioner during Commission of acts alleged in Count III of the
7 complaint.

8 Therefore, since insufficient evidence was presented to establish
9 probable cause, Count III must be dismissed.

10 DATED this 19th day of December, 2005.

11 CARMINE J. COLUCCI, CHTD.

12 
13 CARMINE J. COLUCCI, ESQ.
14 Nevada Bar #000881
15 629 South Sixth Street
16 Las Vegas, NV 89101
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ORIGINAL

CERT
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner
DEMARENE COLEMAN

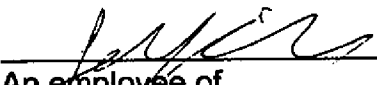
DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,) CASE NO. C215295
Plaintiff,) DEPT NO. V
vs.)
DEMARENE COLEMAN,)
Defendant.)

CERTIFICATE OF SERVICE

Date of Hearing: 1-5-06
Time of Hearing: 8:30 a.m.

I hereby certify that service of the **Petition for Writ of Habeas Corpus** was made
on the 20th day of December, 2005, via facsimile transmission pursuant to EDCR 7.26 to
Sandra Digiacomo, Esq., Deputy District Attorney at (702) 477-2923.


An employee of
CARMINE J. COLUCCI, CHTD.

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COUNTY CLERK

Transaction Report

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0014
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI, CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner

FILED

7805 DEC 20 A 9:30

9. OFFER

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA.

Plaintiff.

vs.

DEMARENE COLEMAN.

Defendant.

CASE NO. C 215295

DEPT NO. V

PETITION FOR WRIT OF HABEAS CORPUS

TO: The Honorable Jackie Glass, Judge of the Eighth Judicial District Court of
the State of Nevada, in and for the County of Clark

The Petition of DEMARENE COLEMAN, submitted by CARMINE J. COLUCCI, ESQ., of the law firm of CARMINE J. COLUCCI, CHTD., attorney for the above-captioned individual, respectfully shows:

1. That Carmine J. Colucci is a duly qualified, practicing and licensed attorney in the City of Las Vegas, County of Clark, State of Nevada;

2. That Petitioner makes this application for a Writ of Habeas Corpus.

3. That the place where the Petitioner is imprisoned and restrained of his liberty is the Clark County Detention Center, and the officer by whom he is imprisoned and restrained is Bill Young, Sheriff, Lee Vegas, Matamoros, B. C.

ORIGINAL

FILED

DEC 21 12 53 PM '05

Shirley A. Ruggins
CLERK

1 CARMINE J. COLUCCI, ESQ.
2 CARMINE J. COLUCCI CHTD.
3 Nevada Bar #000881
4 629 South Sixth Street
5 Las Vegas, Nevada 89101
6 (702) 384-1274
7 Attorney for Defendant,
8 DEMARENE COLEMAN

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,
12 Plaintiff,
13 vs.
14 DEMARENE COLEMAN,
15 Defendant,

CASE NO. C215295
DEPT NO. V

16 STIPULATION AND ORDER FOR EXTENSION OF TIME TO
17 FILE PETITION FOR WRIT OF HABEAS CORPUS

18 IT IS HEREBY STIPULATED AND AGREED by and between the respective
19 undersigned counsel for the parties hereto that the Defendant, DEMARENE COLEMAN, shall
20 have up to and including December 22, 2005, in which to file a Petition for Writ of Habeas
21 Corpus in the above-entitled matter.

22 DATED: December 21, 2005.

DATED: December 21, 2005.

23 CARMINE J. COLUCCI CHTD.

DAVID ROGER
DISTRICT ATTORNEY

24 BY *Carmine J. Colucci*

BY *Sandra DiGiacomo*

25 CARMINE J. COLUCCI, ESQ.
26 Nevada Bar #000881
27 629 South Sixth Street
28 Las Vegas, Nevada 89101
Attorney for Defendant

SANDRA DIGIACOMO, ESQ.
Deputy District Attorney
Nevada Bar #006204
200 Lewis Ave.
Las Vegas, Nevada 89101
Attorney for Plaintiff

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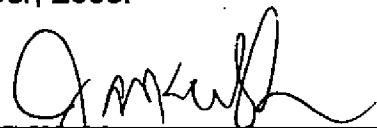
DEC 21 2005

COUNTY CLERK

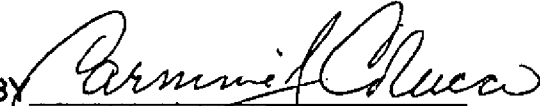
ORDER

IT IS HEREBY ORDERED that the Defendant, DEMARENE COLEMAN, shall have to and including December 22, 2005, in which to file a Petition for Writ of Habeas Corpus.

DATED this 28 day of December, 2005.


DISTRICT JUDGE

CARMINE J. COLUCCI CHTD.

BY 

CARMINE J. COLUCCI, ESQ.

Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
Attorney for Defendant

ORIGINAL

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DEC 21 5 00 PM '05

Shirley S. Rungius
CLERK

CERT
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner
DEMARENE COLEMAN

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	) CASE NO. C215295
	) DEPT NO. V
Plaintiff,	)
	)
vs.	)
	)
DEMARENE COLEMAN,	)
	)
Defendant.	)

CERTIFICATE OF SERVICE

Date of Hearing: 1-5-06
Time of Hearing: 8:30 a.m.

I hereby certify that service of the **Petition for Writ of Habeas Corpus** was made on the 21ST day of December, 2005, via facsimile transmission pursuant to EDCR 7.26 to Brian Bloomfield, Esq., at (702) 366-1653.

[Signature]
An employee of
CARMINE J. COLUCCI, CHTD.

RECEIVED

DEC 21 2005

CLERK

Transaction Report

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Transaction(s) completed

No.	TX Date/Time	Destination	Duration	P.#	Result	Mode
666	DEC-21 12:35	Kajioka & Associates	0'00"	59' 008	OK	N ECM

0014
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI, CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner

FILED

2005 DEC 20 A 9:30

Henry H. Morgan
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA.

Plaintiff,

VS.

DEMARENE COLEMAN.

Defendant.

CASE NO. C 215295
DEPT NO. V

PETITION FOR WRIT OF HABEAS CORPUS

TO: The Honorable Jackie Glass, Judge of the Eighth Judicial District Court of
the State of Nevada, in and for the County of Clark

The Petition of DEMARENE COLEMAN, submitted by CARMINE J. COLUCCI, ESQ., of the law firm of CARMINE J. COLUCCI, CHTD., attorney for the above-captioned individual, respectfully shows;

1. That Carmine J. Colucci is a duly qualified, practicing and licensed attorney in the City of Las Vegas, County of Clark, State of Nevada;

2. That Petitioner makes this application for a Writ of Habeas Corpus.

3. That the place where the Petitioner is imprisoned and restrained of his liberty is the Clark County Detention Center, and the office by whom he is imprisoned and restrained, is Bill Young, Sheriff, Las Vegas Metropolitan Police

ORIGINAL

2

1 ORDR
2 CARMINE J. COLUCCI, ESQ.
3 CARMINE J. COLUCCI CHTD.
4 Nevada Bar #000881
5 629 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 384-1274
8 Attorney for Petitioner
9 DEMARENE COLEMAN

FILED

2005 DEC 23 11:34

Shirley Parraguire
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,) CASE NO. C215295
11) DEPT NO. V
12 Plaintiff,)
13 vs.)
14 DEMARENE COLEMAN,)
15 Defendant.)

ORDER

Date of Hearing: 1/5/06
Time of Hearing: 8:30 AM

The petition of DEMARENE COLEMAN, by and through his attorney, CARMINE J. COLUCCI, ESQ., of the law firm of CARMINE J. COLUCCI CHTD., having been filed in the above-entitled matter,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that you, SHIRLEY PARRAGUIRE, Clerk of the Eighth Judicial District Court of the State of Nevada, in and

/

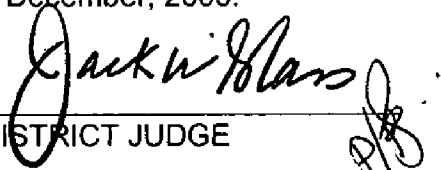
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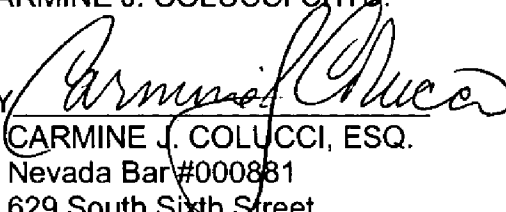
DEC 23 2005

1 for the County of Clark, issue a Writ of Habeas Corpus in the above-captioned matter.

2 DATED and DONE this ____ day of December, 2005.

3
4 
5 DISTRICT JUDGE

6 CARMINE J. COLUCCI CHTD.

7 BY 
8

9 CARMINE J. COLUCCI, ESQ.

10 Nevada Bar #000881

11 629 South Sixth Street

12 Las Vegas, Nevada 89101

13 Attorney for Petitioner
14
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FILED

2005 DEC 23 IP 2: 56

E. Kelly Thompson
CLERK

1 WRIT
2 CARMINE J. COLUCCI CHTD.
3 CARMINE J. COLUCCI, ESQ.
4 Nevada Bar #000881
5 629 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 384-1274
8 Attorney for Petitioner
9 DEMARENE COLEMAN

DISTRICT COURT

CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,) CASE NO. C215295
10) DEPT NO. V
11 Plaintiff,)
12)
13 vs.)
14)
15 DEMARENE COLEMAN,)
16)
17 Respondent.)

WRIT OF HABEAS CORPUS

TO: BILL YOUNG, Clark County Sheriff, Clark County, Nevada

GREETINGS:

19 We command you to produce the body of the above captioned person, by you
20 imprisoned and detained, as it is alleged, together with the time and cause of such
21 imprisonment and detention, by whatever name said above-captioned person shall be
22 called or charged, before the Honorable Jackie Glass, District Judge, at her Chambers or
23 her Courtroom in the County Courthouse Building in the City of Las Vegas, County of
24 Clark, State of Nevada, on the 5th day of January, 2006, at the hour of 8:30 a.m., to do
25 /
26 /
27 /
28 /

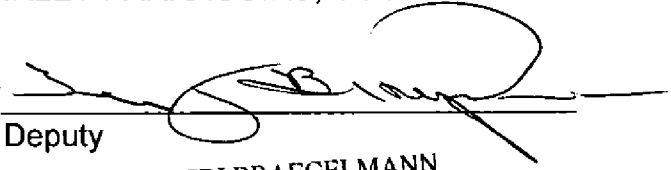
REC-11-V-D

DEC 23 2005

1 and receive that which shall then and there be considered concerning the said above-
2 captioned person; and have you then and there this Writ.

3 DATED and DONE this 23 day of December, 2005.

4 SHIRLEY PARRAGUIRE, COUNTY CLERK

6 BY 

7 Deputy

TERI BRAEGELMANN
DEPUTY

8 CARMINE J. COLUCCI CHTD.

10 BY 

11 CARMINE J. COLUCCI, ESQ.

12 Nevada Bar #000881

13 629 South Sixth Street

14 Las Vegas, Nevada 89101

15 Attorney for Petitioner,

16 DEMARENE COLEMAN

ORIGINAL

2

1 ROC
2 CARMINE J. COLUCCI, ESQ.
3 CARMINE J. COLUCCI CHTD.
4 Nevada Bar #000881
5 629 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 384-1274
8 Attorney for Petitioner
9 DEMARENE COLEMAN

FILED

2005 DEC 23 IP 2:50

[Signature]
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,) CASE NO. C215295
11) DEPT NO. V
12 Plaintiff,)
13 vs.)
14 DEMARENE COLEMAN,)
15 Defendant.)

RECEIPT OF COPY

Date of Hearing: 1/5/05
Time of Hearing: 8:30 a.m.

RECEIPT OF A COPY of ORDER and WRIT OF HABEAS CORPUS in the
above-entitled matter is hereby acknowledged this 23 day of December, 2005.

DISTRICT ATTORNEY

BY *[Signature]*
Deputy District Attorney
200 South Third Street
Las Vegas, Nevada 89155
Attorney for Plaintiff

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DEC 23 2005

COUNTY CLERK

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FILED

2005 DEC 23 P 2: 56

[Signature]
CLERK

CERT
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner
DEMARENE COLEMAN

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	) CASE NO. C215295
	) DEPT NO. V
Plaintiff,	)
	)
vs.	)
	)
DEMARENE COLEMAN,	)
	)
Defendant.	)

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 23 day of December 2005, I deposited in the United States Mail at Las Vegas, Nevada, a true and correct copy of Petition for Writ of Habeas Corpus, Points and Authorities in Support of Petition for Writ of Habeas Corpus, Order and Writ of Habeas enclosed in a sealed envelope upon which first class postage has been fully prepaid, addressed to:

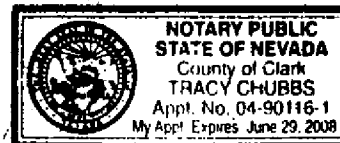
Bill Young
Clark County Sheriff
400 East Stewart
Las Vegas, NV 89101

[Signature]
an employee of
CARMINE J. COLUCCI, CHTD.

1 except as to those matters therein stated on information and belief and as to those matters, he believes
2 them to be true.

3 
4 CARMINE J. COLUCCI

5 SUBSCRIBED and SWORN to before
6 me this 29 day of December, 2005.



9 NOTARY PUBLIC in and for said
10 County and State
11
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Shirley W. Mangione
CLERK

CERT
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner
DEMARENE COLEMAN

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	) CASE NO. C215295
	) DEPT NO. V
Plaintiff,	)
	)
vs.	)
	)
DEMARENE COLEMAN,	)
	)
Defendant.	)

CERTIFICATE OF SERVICE

Date of Hearing: 1-5-06
Time of Hearing: 8:30 a.m.

I hereby certify that service of the **Amended Affidavit of Carmine J. Colucci In Support of Petition for Writ of Habeas Corpus** was made on the 29th day of December, 2005, via facsimile transmission pursuant to EDCR 7.26 to Sandra Digiacomo, Esq., Deputy District Attorney at (702) 477-2923.

[Signature]
An employee of
CARMINE J. COLUCCI, CHTD.

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DEC 29 2005

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Transaction Report

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No.	TX	Date/Time	Destination	Duration	P. #	Result	Mode
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1 AFF
 2 CARMINE J. COLUCCI, ESQ.
 3 CARMINE J. COLUCCI CHTD.
 4 Nevada Bar #000881
 5 629 South Sixth Street
 6 Las Vegas, Nevada 89101
 7 (702) 384-1274
 8 Attorney for Petitioner
 9 DEMARENE COLEMAN

DISTRICT COURT

CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,) CASE NO. C215295
 11) DEPT NO. V
 12 Plaintiff,)
 13 vs.)
 14 DEMARENE COLEMAN,)
 15 Defendant.)
 16)

17 AMENDED AFFIDAVIT OF CARMINE J. COLUCCI
 18 IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

19 STATE OF NEVADA)
 20) ss:
 21 COUNTY OF CLARK)

22 CARMINE J. COLUCCI, being first duly sworn, according to law, hereby deposes and says:

23 1. That Affiant is an attorney duly licensed to practice law in the State of Nevada and in such
 24 capacity represents Petitioner, DEMARENE COLEMAN.

ORIGINAL

FILED

JAN 20 11 16 AM '06

Shirley E. Rungtana
CLERK

RWHC
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
SANDRA K. DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006204
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of Application,
of
DEMARENE COLEMAN,
#1963947
for a Writ of Habeas Corpus.

Case No. C215295

Dept No. V

RETURN TO WRIT OF HABEAS CORPUS

DATE OF HEARING: 01/24/06

TIME OF HEARING: 8:30 A.M.

COMES NOW, BILL YOUNG, Sheriff of Clark County, Nevada, Respondent,
through his counsel, DAVID ROGER, District Attorney, through SANDRA K.
DIGIACOMO, Chief Deputy District Attorney, in obedience to a writ of habeas corpus
issued out of and under the seal of the above-entitled Court on the 5th day of January, 2006,
and made returnable on the 24th day of January, 2006, at the hour of 8:30 o'clock A.M.,
before the above-entitled Court, and states as follows:

1. Respondent admits the allegations of Paragraph(s) 3(a) and 6 of the Petitioner's
Petition for Writ of Habeas Corpus.
2. Respondent denies the allegations of Paragraph(s) 3(b) of the Petitioner's Petition

RECEIVED
JAN 20 2006
CLARK COUNTY CLERK

1 for Writ of Habeas Corpus.

2 3. Paragraph(s) 1, 2, 4, 5, and 7 do not require admission or denial.

3 4. The Petitioner is in the actual custody of BILL YOUNG, Clark County Sheriff,
4 Respondent herein, pursuant to a Criminal Information, a copy of which is attached hereto as
5 Exhibit 1 and incorporated by reference herein.

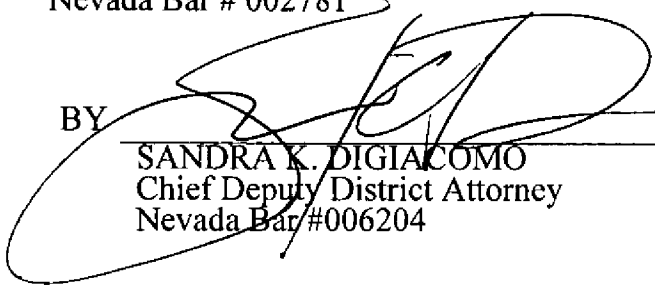
6 Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the
7 Petition be dismissed.

8 DATED this 20th day of January, 2006.

9 Respectfully submitted,

10 DAVID ROGER
11 Clark County District Attorney
12 Nevada Bar # 002781

13 BY

14 
15 SANDRA K. DIGIACOMO
16 Chief Deputy District Attorney
17 Nevada Bar #006204

18 **POINTS AND AUTHORITIES**

19 **STATEMENT OF THE CASE**

20 On or about July 22, 2005, Demarene Coleman, hereinafter Defendant, was charged
21 by way of criminal complaint with one (1) count of Murder With Use of a Deadly Weapon
22 and two (2) counts of Attempt Murder With Use of a Deadly Weapon. A preliminary
23 hearing was scheduled for August 8, 2005. On July 29, 2005, the preliminary hearing was
24 reset for September 16, 2005.

25 On September 16, 2005, a preliminary hearing was held; at its conclusion, Defendant
26 was held to answer in district court on all three (3) charges. On October 4, 2005, Defendant
27 was arraigned in this Court; he pleaded not guilty and invoked his right to a speedy trial. A
28 trial date was scheduled for November 14, 2005.

On November 8, 2005, the Special Public Defender's office was allowed to withdraw

1 due to a conflict. On November 17, 2005, current counsel was appointed and the matter was
2 continued for him to receive the discovery. On November 29, 2005, a trial date was
3 scheduled for March 20, 2006.

4 On December 21, 2005, a stipulation signed by the State and defense was filed with
5 this Court thereby extending the time for defense counsel to file a Petition for Writ of
6 Habeas Corpus. On January 5, 2006, the State was granted an extension of time in order to
7 respond to the petition. A hearing is currently scheduled for January 24, 2006.

8 STATEMENT OF FACTS

9 On July 10, 2005, Porscha Johnson and her friend, Andrea Cooper, went to a Mobile
10 station by her house. (Preliminary Hearing Transcript (PHT), pp. 4-5). There, she got into a
11 verbal and physical altercation with the co-defendant, Montelle Motley. (PHT, pp. 6-10, 27-
12 28). Defendant, the co-defendant's boyfriend, arrived at the Mobile and helped break up the
13 fight. (PHT, pp. 10-12, 27-28). At this point, Ms. Johnson jumped into her truck and drove
14 home, by way of an alley that leads to her apartment; she was followed by Defendant and the
15 co-defendant. (PHT, pp. 12-15, 29). When Ms. Johnson got close to her apartment, Ms.
16 Cooper jumped out of the vehicle. (PHT, pp. 15). When Ms. Johnson finally parked her car
17 and got out, Ms. Cooper and her boyfriend (the victim), Tanzie Austin, were walking out of
18 the apartment. (PHT, pp. 15-16). Defendant's vehicle was parked just down the alley from
19 her apartment with the lights out. (PHT, pp. 16).

20 As Ms. Johnson was walking up to the apartment, Mr. Austin and Ms. Cooper both
21 were walking out; Defendant got out of his vehicle and walked towards them. (PHT, pp. 16-
22 17). Defendant and Mr. Austin discussed the fight their girlfriends had just incurred. (PHT,
23 p. 30). Present at the time were four (4) other people; Defendant and Mr. Austin did not
24 fight during the conversation. (PHT, p. 31). At this point, Monica Ramsey rides up on her
25 bicycle and Mr. Austin tells her to go home. (PHT, p. 31). Ms. Ramsey got off of her
26 bicycle and got into Mr. Austin's face, poking him in the forehead. (PHT, pp. 31-32). Mr.
27 Austin pushed her face away and told her to go home. (PHT, p. 32). Ms. Ramsey then
28 grabbed Mr. Austin and began choking him. (PHT, p. 32). Mr. Austin picked her up and

1 slammed her to the ground; he held her down trying to get her to stop fighting with and
2 hitting him. (PHT, p. 33-34, 54). Ms. Ramsey's daughter then hit Mr. Austin and he got up
3 to go after her, not knowing who it was that hit him; Ms. Ramsey then starts hitting Mr.
4 Austin again. (PHT, pp. 34, 55). At this point, Mr. Austin begins to fight back with Ms.
5 Ramsey and actually swings at her. (PHT, pp. 34-35, 55). Mr. Austin slammed Ms. Ramsey
6 to the ground a second time and held her down as she still continued to try and fight with
7 him. (PHT, pp. 35, 56).

8 During the fight, Defendant paced back and forth but he did not try to stop the fight or
9 participate in the fight at all except he was heard to say "this can't happen like this." (PHT,
10 pp. 35-36, 50, 53). Defendant then pulled a gun and put it to Mr. Austin's back; Defendant
11 was "calm as day." (PHT, pp. 35, 37-38, 56). Mr. Austin was on his knees facing away
12 from Defendant and immediately threw his hands up in the air indicating that he was not
13 doing anything wrong, just trying to stop Ms. Ramsey. (PHT, pp. 37-39, 45). Defendant
14 then shot two (2) to three (3) times into Mr. Austin's back. (PHT, pp. 38-39). Mr. Austin
15 then turned around, sitting on the ground, and asked Defendant not to shoot anymore;
16 instead, Defendant fired five (5) or six (6) more times at Mr. Austin. (PHT, pp. 38-39).
17 Defendant then ran away through the alley with the co-defendant. (PHT, pp. 39-40).
18 Defendant never said a word as he shot Mr. Austin. (PHT, pp. 39, 50-51).

19 During the shooting, Defendant never aimed the gun at any other person; however,
20 Ms. Cooper and Ms. Ramsey were both hit by the gunfire. (PHT, p. 41). At the time of the
21 shooting, Ms. Ramsey was on the ground close to Mr. Austin and Ms. Cooper was to the
22 right of them on the sidewalk. (PHT, p. 42). Ms. Cooper was taken away by ambulance for
23 her gunshot wound. (PHT, p. 43).

24 Tarencia Henderson, the witness who testified regarding the shooting, stated that she
25 saw Ms. Ramsey get hit with a bullet but did not actually see a bullet hit Ms. Cooper. (PHT,
26 pp. 43-44). However, Ms. Henderson did testify that before the shooting, Ms. Cooper did
27 not have a bullet wound but that after the shooting she did have a wound right above her
28 knee. (PHT, p. 57).

1 ARUMENT

2 **THE STATE PRESENTED SUFFICIENT EVIDENCE AT THE PRELIMINARY**
3 **HEARING TO SUPPORT THE ATTEMPT MURDER WITH A DEADLY WEAPON**
4 **CHARGE FOR VICTIM ANDREA COOPER**
5

6 In his petition, Defendant argues that there was not sufficient evidence presented at
7 the preliminary hearing to hold him to answer to the charge in Count III, Attempt Murder
8 With Use of a Deadly Weapon, because neither witness who testified at the preliminary
9 hearing actually saw Ms. Cooper get shot. Defendant's argument is without merit.

10 NRS 171.206 states, in pertinent part:

11 If from the evidence it appears to the magistrate that there is probable cause to
12 believe that an offense has been committed and that the defendant has
13 committed it, the magistrate shall forthwith hold him to answer in the district
14 court; otherwise the magistrate shall discharge him.

14 The magistrate may order an accused to answer the charges filed against him upon a finding
15 that a public offense has been committed, and slight or marginal evidence that the defendant
16 committed the crime. *See, Sheriff v. Hodes*, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980);
17 *Beasley v. Lamb*, 79 Nev. 78, 80, 378 P.2d 524, 525 (1963); *State v. Fuchs*, 78 Nev. 63, 65,
18 368 P.2d 869, 869 (1962).

19 The State only has to present enough evidence to support a reasonable inference that
20 the accused committed the crime and does not need to negate all possible inferences as to
21 doubt. *See Abbot v. Sheriff, Carson City*, 87 Nev. 397, 400, 487 P.2d 1067, 1068-1069
22 (1971); *Lamb v. Holsten*, 85 Nev. 566, 568, 459 P.2d 771, 772 (1969); *Johnson v. State*, 82
23 Nev. 338, 341, 418 P.2d 495, 496 (1966). Further, the State may present a case based solely
24 on circumstantial evidence. *See, Howard v. Sheriff*, 93 Nev. 30, 31, 559 P.2d 827, 827
25 (1977). The Nevada Supreme Court has explicitly held that a preliminary examination is
26 "not a substitute for trial," and that the "full and complete exploration of all facets of the
27 case" should be reserved for trial. *Marcum v. Sheriff*, 85 Nev. 175, 178, 451 P.2d 845, 847
28 (1969); *see also, Robertson v. Sheriff*, 85 Nev. 681, 683, 462 P.2d 528, 529 (1969).

1 In the instant case, the State presented evidence that Defendant shot and killed Mr.
2 Austin. Defendant fired the gun at Mr. Austin approximately seven (7) to eight (8) times and
3 did so even after Mr. Austin asked Defendant not to shoot him. Defendant never aimed the
4 gun at anyone else present for this incident. However, two (2) other persons present were hit
5 by Defendant's gunfire. Even though no one actually saw the bullet go into Ms. Cooper's
6 leg, evidence was presented that Ms. Cooper did not have such a wound before Defendant
7 fired his gun, only afterwards. The burden of proof at preliminary hearing is slight, marginal
8 evidence. Certainly, under the doctrine of transferred intent, the State met its burden with
9 respect to Ms. Cooper or Count III.

10 **CONCLUSION**

11 Based upon the foregoing, this Court should deny Defendant's Petition for Writ of
12 Habeas Corpus.

13 DATED this 20th day of January, 2006.

14 Respectfully submitted,

15 DAVID ROGER
16 Clark County District Attorney
17 Nevada Bar # 002781

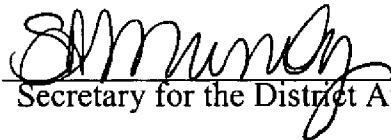
18 BY

19 
20 SANDRA K. DIGIACOMO
21 Chief Deputy District Attorney
22 Nevada Bar #006204
23
24
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1 CERTIFICATE OF FACSIMILE TRANSMISSION

2
3 I hereby certify that service of RETURN TO WRIT OF HABEAS
4 CORPUS, was made this 20th day of January, 2006, by facsimile transmission
5 to:

6 CARMINE COLUCCI, ESQ.
7 FAX #384-4453

8 
9 Secretary for the District Attorney's Office

Shirley Blanton
CLERK

1 **INFO**

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 SANDRA K. DIGIACOMO
6 Deputy District Attorney
7 Nevada Bar #006204
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

7 I.A. 10/04/05
8 8:30 A.M.
9 SPD / BLOOMFIELD
DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,)

10 Plaintiff,)

11 -vs-)

12 DEMARENE COLEMAN #1963947,
13 MONTELLE RENNE MOTLEY, aka,
14 Montelle Renee Motley, #1581681)

15 Defendant.)

Case No: C215295
Dept No: V

INFORMATION

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

18 DAVID ROGER, District Attorney within and for the County of Clark, State of
19 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

20 That DEMARENE COLEMAN and MONTELLE RENNE MOTLEY, aka, Montelle
21 Renee Motley, the Defendant(s) above named, having committed the crimes of **MURDER**
22 **WITH USE OF A DEADLY WEAPON** (Felony - NRS 200.010, 200.030, 193.165);
23 **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON** (Felony - NRS 200.010,
24 200.030, 193.330, 193.165); and **ACCESSORY TO MURDER** (Felony - NRS 200.010,
25 200.030, 195.030, 195.040), on or about the 10th day of July, 2005, within the County of
26 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
27 and provided, and against the peace and dignity of the State of Nevada,

28 ///

1 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

2 Defendant DEMARENE COLEMAN did then and there wilfully, feloniously,
3 without authority of law, and with premeditation and deliberation, and with malice
4 aforethought, kill TANZIE AUSTIN, a human being, by shooting at and into the body of the
5 said TANZIE AUSTIN, with a deadly weapon, to-wit: a firearm.

6 COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

7 Defendant DEMARENE COLEMAN did then and there, without authority of law,
8 and malice aforethought, willfully and feloniously attempt to kill MONICA RAMSEY or the
9 defendant having the intent to kill TANZIE AUSTIN, the intent to kill being transferred to
10 MONICA RAMSEY, a human being, by shooting at and into the body of the said MONICA
11 RAMSEY, with a deadly weapon, to-wit: a firearm.

12 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

13 Defendant DEMARENE COLEMAN did then and there, without authority of law,
14 and malice aforethought, willfully and feloniously attempt to kill ANDREA COOPER or the
15 defendant having the intent to kill TANZIE AUSTIN, the intent to kill being transferred to
16 ANDREA COOPER, a human being, by shooting at and into the body of the said ANDREA
17 COOPER, with a deadly weapon, to-wit: a firearm.

18 COUNT 4 - ACCESSORY TO MURDER

19 Defendant MONTELLE RENNE MOTLEY, aka Montelle Renee Motley did then
20 and there wilfully, unlawfully and feloniously harbor, conceal, or aid DEMARENE
21 COLEMAN, with the intent that the said DEMARENE COLEMAN might avoid or escape
22 from arrest, trial, conviction, or punishment, having knowledge that the said DEMARENE

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 COLEMAN had committed a felony, to-wit: murder, and was liable to arrest therefore by
2 the said Defendant aiding in obtaining a place for DEMARENE COLEMAN to reside and
3 by providing transportation for him.
4
5
6

7 BY



8 DAVID ROGER
9 DISTRICT ATTORNEY
10 Nevada Bar #002781
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26 DA#05F15000A-B/sam
27 LVMPD EV#0507100530
28 MWDW; ATT MWDW;
ACC'Y MURDER - F
(TK4)

ORIGINAL

CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI, CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner

FILED

JAN 23 3 01 PM '06

Shirley B. Rangel
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	CASE NO. C 215295
	)	DEPT NO. V
Plaintiff,	)	
	)	Date of Hearing: 1/24/06
vs.	)	Time of Hearing: 8:30 a.m.
	)	
DEMARENE COLEMAN,	)	
	)	
Defendant.	)	

REPLY TO STATE'S RETURN TO DEFENDANT'S WRIT OF HABEAS CORPUS

COMES NOW, Petitioner, DEMARENE COLEMAN, by and through his counsel, CARMINE J. COLUCCI ESQ, of the law firm of CARMINE J. COLUCCI CHTD. and brings forth this Reply to State's Return to Defendant's Writ of Habeas Corpus. This Reply is made and based upon the following points and authorities and pleadings and papers on file.

DATED this 23rd day of January, 2006.

CARMINE J. COLUCCI, CHTD.

Carmine J. Colucci
CARMINE J. COLUCCI, ESQ.
Nevada Bar No. 000881
629 South Sixth Street
Las Vegas, Nevada 89101
Attorney for Petitioner

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JAN 23 2006
CLARK COUNTY CLERK

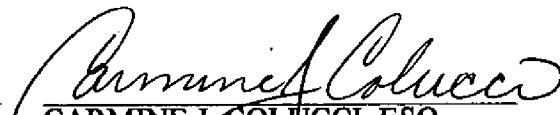
1 ARGUMENT

2 In order to bind a defendant over to District Court for trial in a matter, the state must present
3 enough evidence at the preliminary hearing to support a reasonable inference that the accused
4 committed the offense. *Johnson v. State*, 82 Nev. 338, 418 P.2d 495 (1966). The state did not
5 present any evidence that Mr. Coleman shot Andrea Cooper. Neither one of the witnesses who
6 testified at the preliminary hearing saw the defendant shoot her. There was not any evidence
7 indicating the bullet used in shooting Ms. Cooper was the same type of bullet used in the gun
8 allegedly used by Mr. Coleman.

9 While there does not have to be overwhelming evidence of guilt to bind a defendant over for
10 trial on a criminal complaint, there must be some evidence to support the inference that he committed
11 the crime. The state has not presented any evidence that Mr. Coleman shot Andrea Cooper. Thus,
12 there is insufficient evidence to hold Petitioner on the charge of Count III, Attempt Murder with a
13 Deadly Weapon.

14 DATED this 23rd day of January, 2006.

15 CARMINE J. COLUCCI, CHTD.

16 
17 CARMINE J. COLUCCI, ESQ.
18 Nevada Bar #000881
19 629 South Sixth Street
20 Las Vegas, NV 89101
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Sandra Digiacoimo Esq.
Deputy District Attorney
Fax # 702-477-2923

An employee of Carmine J. Colucci CHTD.

Transaction Report

Send

Transaction(s) completed

No.	TX	Date/Time	Destination	Duration	P. #	Result	Mode
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1 CARMINE J. COLUCCI, ESQ.
2 CARMINE J. COLUCCI, CHTD.
3 Nevada Bar #000881
4 629 South Sixth Street
5 Las Vegas, Nevada 89101
6 (702) 384-1274
7 Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 DEMARENE COLEMAN,

13 Defendant.

) CASE NO. C 215295

) DEPT NO. V

) Date of Hearing: 1/24/06

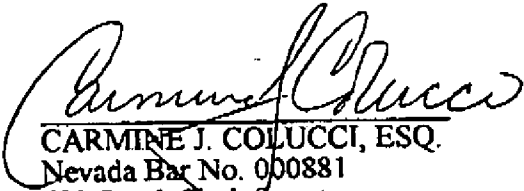
) Time of Hearing: 8:30 a.m.

14 REPLY TO STATE'S RETURN TO DEFENDANT'S WRIT OF HABEAS CORPUS

15 COMES NOW, Petitioner, DEMARENE COLEMAN, by and through his counsel,
16 CARMINE J. COLUCCI ESQ, of the law firm of CARMINE J. COLUCCI CHTD. and brings forth
17 this Reply to State's Return to Defendant's Writ of Habeas Corpus. This Reply is made and based
18 upon the following points and authorities and pleadings and papers on file.

19 DATED this ^{23rd} day of January, 2006.

20 CARMINE J. COLUCCI, CHTD.

21 
22 CARMINE J. COLUCCI, ESQ.

23 Nevada Bar No. 000881

24 629 South Sixth Street

162 Las Vegas, Nevada 89101

Attorney for Petitioner

ORIGINAL

ORDR

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
SANDRA K. DIGIACOMO
Deputy District Attorney
Nevada Bar #006204
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED

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Shirley B. Pungine
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEMARENE COLEMAN,
#1963947

Defendant.

Case No. C215295
Dept No. V

ORDER DENYING DEFENDANT'S WRIT OF HABEAS CORPUS

DATE OF HEARING: 01/23/06
TIME OF HEARING: 8:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 23rd day of January, 2006, the Defendant being present, SARAH GASKILL, ESQ., the Plaintiff being represented by DAVID ROGER, District Attorney, through SANDRA K. DIGIACOMO, Deputy District Attorney, and the Court having heard the arguments of counsel and good cause appearing therefor,

///

///

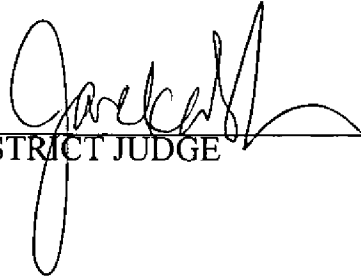
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COUNTY CLERK

1 IT IS HEREBY ORDERED that the Defendant's Writ of Habeas Corpus, shall be, and
2 it is DENIED.

3 DATED this 21 day of January, 2006.

4
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6 
DISTRICT JUDGE e

7
8 DAVID ROGER
9 DISTRICT ATTORNEY
Nevada Bar #002781

10 
11 SANDRA K. DIGIACOMO
12 Deputy District Attorney
13 Nevada Bar #006204
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Shirley E. Sanchez
CLERK

0071
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI, CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Petitioner

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DEMARENE COLEMAN,

Defendant.

CASE NO. C 215295
DEPT NO. V

MOTION IN LIMINE

COMES NOW the Defendant, DEMARENE COLEMAN, by and through his attorney CARMINE J. COLUCCI, ESQ., of the law firm of CARMINE J. COLUCCI, CHTD., and moves this court pursuant to EDCR 3.28 for an order precluding the State from introducing the Defendant's non-felony prior criminal record, limiting the State's introduction of autopsy photographs and photographs from the scene of the alleged homicide and an order precluding the State from referring to the decedent as the "victim," the incident as "murder" and the scene as the "crime scene" during the trial of this case.

This motion is based upon the points and authorities submitted herein

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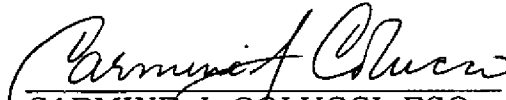
FEB 27 2006

COUNTY CLERK

1 together with the arguments of counsel for the respective parties hereto.

2 DATED this 27th day of February, 2006.

3 CARMINE J. COLUCCI, CHTD.

4 
5 CARMINE J. COLUCCI, ESQ.
6 Nevada Bar No.000881
7 629 South Sixth Street
8 Las Vegas, Nevada 89101
9 Attorney for Defendant

10 **NOTICE OF MOTION**

11 TO: THE STATE OF NEVADA; Plaintiff; and

12 TO: DAVID ROGER, DISTRICT ATTORNEY, its Attorney.

13 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned
14 will bring the foregoing Motion on for hearing before this Court at the Courtroom
15 of the above-entitled Court on the 14 day of March, 2006, at the hour
16 of 8:30 a.m. of said day, or as soon thereafter as Counsel may be heard.

17 DATED this 27th day of February, 2006:

18 CARMINE J. COLUCCI, CHTD.

19 
20 CARMINE J. COLUCCI, ESQ.
21 Nevada Bar #000881
22 629 South Sixth Street
23 Las Vegas, Nevada 89101
24 Attorney for Defendant

25 **POINTS AND AUTHORITIES**

26 **I.**

27 **FACTS**

28 Porscha Johnson (hereinafter Johnson) and Montelle Motley (hereinafter
Motley) got into a fight at a gas station in the early morning hours of July 10,
2005. Defendant, DEMARENE COLEMAN (hereinafter COLEMAN), (Motley's

1 boyfriend and co-defendant) arrived and broke up the fight. Johnson then drove
2 home. COLEMAN and Motley allegedly followed her there by car.

3 Andrea Cooper (hereinafter Cooper), who was with Johnson at the gas
4 station, got out of Johnson's car close to her apartment. When Johnson parked
5 her car, she was approached by Cooper and by her boyfriend Tanzie Austin
6 (hereinafter Austin). COLEMAN who had parked nearby then approached them
7 as well.

8 Monica Ramsey (hereinafter Ramsey) then rode up to this group on her
9 bicycle. She got off of her bicycle and proceeded to get into a fight with Austin.
10 He pushed her on the ground and continued to hold her down. At this point,
11 COLEMAN allegedly approached Austin from behind and fired his gun hitting
12 Austin, Cooper and Ramsey. Austin was fatally wounded.

13 II.

14 ARGUMENT

15 The issue before this court is whether certain evidence should be admitted
16 at time of trial and whether the State should be precluded from using certain
17 inflammatory and improper words in framing their questions and making their
18 objections or responses thereto during trial. For the reasons set forth below,
19 Defendant asserts that this motion should be granted.

20 A. CRIMINAL RECORD

21 The Defendant does not have a felony conviction. Therefore, pursuant to
22 NRS 50.095, any reference to any other conviction would not be proper in an
23 attempt to impeach the Defendant should he decide to testify at trial.

24 NRS 50.095 states in pertinent part as follows:

25 **50.095. Impeachment by evidence of conviction of crime.**

26 1. For the purpose of attacking the credibility of a witness, evidence
27 that he has been convicted of a crime is admissible but only if the
28 crime was punishable by death or imprisonment for more than 1 year

1 under the law under which he was convicted.

2 2. Evidence of a conviction is inadmissible under this section if a
3 period of more than 10 years has elapsed since:

4 (a) The date of the release of the witness from confinement; or

5 (b) The expiration of the period of his parole, probation or
6 sentence, whichever is the later date.

7 3. Evidence of a conviction is inadmissible under this section if the
8 conviction has been the subject of a pardon.

9 4. Evidence of juvenile adjudications is inadmissible under this section.

10 5. The pendency of an appeal therefrom does not render evidence of
11 a conviction inadmissible. Evidence of the pendency of an appeal is
12 admissible.

13 6. A certified copy of a conviction is prima facie evidence of the conviction.

14 Further, under NRS 48.035 or 48.045, the facts and circumstances of his
15 convictions would not be admissible under any of the exceptions allowed under
16 this statute.

17 NRS 48.045 states as follows:

18 48.045. Evidence of character inadmissible to prove conduct
19 exceptions; other crimes.

20 1. Evidence of a person's character or a trait of his character is not
21 admissible for the purpose of proving that he acted in conformity
22 therewith on a particular occasion, except:

23 (a) Evidence of his character or a trait of his character offered by
24 an accused, and similar evidence offered by the prosecution to rebut
25 such evidence;

26 (b) Evidence of the character or a trait of character of the victim of
27 the crime offered by an accused, subject to the procedural
28 requirements of NRS 48.069 where applicable, and similar evidence
offered by the prosecution to rebut such evidence; and

(c) Unless excluded by NRS 50.090, evidence of the character of
a witness, offered to attack or support his credibility, within the limits
provided by NRS 50.085.

2. Evidence of other crimes, wrongs or acts is not admissible to prove

1 the character of a person in order to show that he acted in conformity
2 therewith. It may, however, be admissible for other purposes, such as
3 proof of motive, opportunity, intent, preparation, plan, knowledge,
identity, or absence of mistake or accident.

4 Additionally under NRS 48.045, character evidence is not admissible to show
5 the likelihood that the Defendant acted in conformity therewith in the instant
6 case. Character evidence is only admissible when the Defendant puts his
7 character at issue.
8

9 **B. PHOTOGRAPHS AND CLOTHING**

10 With respect to the autopsy photographs and photographs taken of the location
11 of the incident which the State intends to introduce at trial, the Defendant seeks
12 an in-camera review of the photographs that the State intends to introduce. It is
13 anticipated that the coroner will testify as to the cause of death. The coroner
14 undoubtedly also will testify as to the location of each of the bullet entry and exit
15 wounds. There will be testimony that Austin was dead at the location where the
16 shooting occurred and that he was dead when the police arrived. It is anticipated
17 that there will be testimony that Ramsey and Cooper were shot in their legs.
18 Showing photographs of the laid out bleeding dead body of Austin or photographs
19 of Ramsey and Cooper who were also shot, will serve no purpose other than to
20 inflame the jury. The prejudicial impact of these photographs substantially
21 outweighs their probative value.
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25 The State may also intend to offer certain items of clothing removed from the
26 decedent's body or from Ramsey and Cooper who were also shot, most of which
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28

1 are blood stained. Again, the prejudicial impact of the introduction of these
2 clothes or even pictures of them, substantially outweighs their probative value and
3 provides no additional pertinent information that the jury won't receive from other
4 sources.
5

6 While the admission of photographs lies within the sound discretion of the
7 district court, Dominguez v. State, 112 Nev. 683, 695, 917 P.2d 1364 (1996), NRS
8 48.035(1) precludes the admission of evidence even when it is otherwise
9 admissible for the above stated reasons.
10

11 **48.035. Exclusion of relevant evidence on grounds of prejudice,
12 confusion or waste of time.**

13 1. Although relevant, evidence is not admissible if its probative value
14 is substantially outweighed by the danger of unfair prejudice, of
15 confusion of the issues or of misleading the jury.

16 ...

17 Simply depicting the location of the wounds inflicted during this incident by
18 way of diagram(s) or by testimonial description will suffice to give the jury an
19 accurate perception of the location of each wound. This should be sufficient for
20 the State's purposes. This case is not complicated nor does it require extensive
21 expert medical testimony in order for the State to show the manner and cause of
22 death and the infliction of the other wounds on the decedent or on Ramsey and
23 Cooper. Therefore, the admission of the aforementioned photographs and articles
24 of clothing must be limited.
25

26 / / / / /
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1 **C. INFLAMMATORY LANGUAGE**

2 The defense also seeks an order precluding the State or their witnesses from
3 using the words "murder," "victim" or "crime scene," during the trial in this case.
4
5 The Defendant asserts that the continued use of these words by the State would
6 allow them to formulate and base their opening statement, trial questions,
7 objections, witness testimony and arguments on facts not yet in evidence. By
8 allowing the State to use these words, the prosecutor would be permitted to
9 improperly characterize various aspects of the incident and to improperly
10 characterize the participants in this case as "victims" before the jurors have had
11 an opportunity to decide whether that is an accurate assessment when they have
12 the case submitted to them.
13

14 If the State is allowed to use these words, then the accuracy of their
15 characterization of the evidence will be conveyed to the jurors for their
16 consideration with the State's backing. This would constitute improper argument,
17 vouching and characterization of facts not yet in evidence which would amount
18 to allowing the State to use words which will deprive the Defendant of a fair trial
19 and due process of law in violation of his constitutional rights as guaranteed
20 under the Fifth and Fourteenth Amendments of the Constitution of the United
21 States.
22
23

24 **III.**

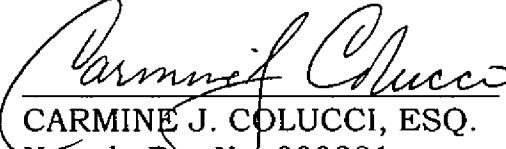
25 **CONCLUSION**

26 For the above stated reasons, the Defendant asserts that this motion should
27
28

1 be granted and an order entered consistent with the Defendant's requests stated
2 above.

3 DATED this 27th day of February, 2006.
4

5 CARMINE J. COLUCCI, CHTD.

6
7 
8 CARMINE J. COLUCCI, ESQ.
9 Nevada Bar No. 000881
10 629 South Sixth Street
11 Las Vegas, Nevada 89101
12 Attorney for Defendant
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ORIGINAL

3

1 ROC
2 CARMINE J. COLUCCI, ESQ.
3 CARMINE J. COLUCCI, CHTD.
4 Nevada Bar #000881
5 629 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 384-1274
8 Attorney for Defendant

FILED

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Shirley S. Rungius
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,) CASE NO. C 215295
12) DEPT NO. V
13 Plaintiff,)
14 vs.)
15 DEMARENE COLEMAN,)
16 Defendant.)

RECEIPT OF COPY

19 RECEIPT OF A COPY of MOTION IN LIMINE is hereby acknowledged this
20 27 day of February, 2006.

21 DAVID ROGER
22 DISTRICT ATTORNEY

23 *David Miller*
24 Deputy District Attorney
25 200 Lewis Avenue, 3rd Floor
26 Las Vegas, Nevada 89155
27 Attorney for Plaintiff
28

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FEB 27 2006

COUNTY CLERK

ORIGINAL

Shirley B. Rosenberg

19

1 **ORDR**

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 CHRISTOPHER J. LALLI
6 Assistant District Attorney
7 Nevada Bar #005398
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff
12 THE STATE OF NEVADA

AUG 28 9 28 AM '06

FILED

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 DEMARENE COLEMAN,
14 #1963947

15 Defendant.

Case No: C215295

Dept No: IV

16 **ORDER OF COMMITMENT**

17 THIS MATTER came before the Court on the 22nd day of August, 2006, when doubt
18 arose as to competence of the Defendant, the Defendant being present with counsel,
19 CARMINE COLUCCI, ESQ, the State being represented by DAVID ROGER, District
20 Attorney, through JAMES SWEETIN, his Deputy, and the Court having considered the
21 reports of Dr. Gregory Brown, Dr. Daniel Sussman, and Dr. Mark Chambers, licensed and
22 practicing psychologists and/or psychiatrists in the State of Nevada, finds the Defendant
23 incompetent, and that he is dangerous to himself and to society and that commitment is
24 required for a determination of his ability to receive treatment to competency and to attain
25 competence, and good cause appearing, it is hereby

26 ORDERED that, pursuant to NRS 178.425(1), the Sheriff shall convey the Defendant
27 forthwith, together with a copy of the complaint, the commitment and the physicians'
28 certificate, if any, into the custody of the Administrator of the Division of Mental Health and

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AUG 28 2006

COUNTY CLERK

1 Developmental Services of the Department of Human Resources or his designee for
2 detention and treatment at a secure facility operated by that Division; and, it is

3 FURTHER ORDERED that, pursuant to NRS 433A.165, before the defendant may be
4 transported to a public or private mental health facility he must:

5 (a) First be examined by a licensed physician or physician assistant or an
6 advanced practitioner of nursing to determine whether the person has a medical problem,
7 other than a psychiatric problem, which requires immediate treatment; and

8 (b) If such treatment is required, be admitted to a hospital for the appropriate
9 medical care; and, it is

10 FURTHER ORDERED that the Defendant is required to submit to said medical
11 examination; and, it is

12 FURTHER ORDERED that the cost of the examination must be paid by Clark
13 County, unless the cost is voluntarily paid by the Defendant or on his behalf, by his insurer
14 or by a state or federal program of medical assistance; and, it is

15 FURTHER ORDERED that, pursuant to NRS 178.425(2), the Defendant must be
16 held in such custody until a court orders his release or until he is returned for trial or
17 judgment as provided in NRS 178.450, 178.455 and 178.460; and, it is

18 FURTHER ORDERED that, pursuant to NRS 178.425(4), these proceedings against
19 the Defendant are suspended until the Administrator or his designee finds him capable of
20 standing trial as provided in NRS 178.400; and, it is

21 FURTHER ORDERED that, pursuant to NRS 178.435, the expenses of the
22 examination and of the transportation of the Defendant to and from the custody of the
23 Administrator of the Division of Mental Health and Developmental Services of the
24 Department of Human Resources or his designee are chargeable to Clark County; and, it is

25 FURTHER ORDERED that the Administrator of the Division of Mental Health and
26 Developmental Services of the Department of Human Resources or his designee shall keep
27 the Defendant under observation and evaluated periodically; and, it is

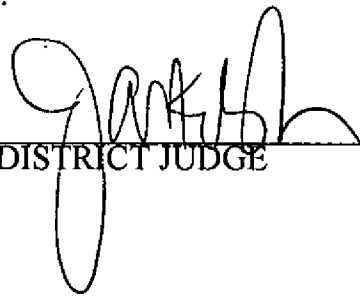
28 FURTHER ORDERED that the Administrator or his designee shall report in writing

1 to this Court and the Clark County District Attorney whether, in his opinion, upon medical
2 consultation, the Defendant is of sufficient mentality to be able to understand the nature of
3 the criminal charge against him and, by reason thereof, is able to aid and assist his counsel in
4 the defense interposed upon the trial or against the pronouncement of the judgment
5 thereafter. The administrator or his designee shall submit such a report within 6 months after
6 this order and at 6 month intervals thereafter. If the opinion of the Administrator or his
7 designee about the Defendant is that he is not of sufficient mentality to understand the nature
8 of the charge against him and assist his own defense, the Administrator or his designee shall
9 also include in the report his opinion whether:

10 (a) there is a substantial probability that the Defendant can receive treatment to
11 competency and will attain competency to stand trial or receive pronouncement of judgment
12 in the foreseeable future; and

13 (b) the Defendant is at that time a danger to himself or to society.

14 DATED this 23 day of August, 2006.

15
16 
17 DISTRICT JUDGE

18 DAVID ROGER
19 District Attorney
20 Nevada Bar # 002781

21 BY 
22 CHRISTOPHER J. LALLI
23 Assistant District Attorney
24 Nevada Bar #00005398
25
26
27
28

tgd

RAO

ORIGINAL

RECEIVED IN
EXPRESS BOX
Eighth Judicial District Court
Clark County, Nevada

2000 OCT 13 P 12:20

FILED AFTER HOURS
OCT 13 2000State of Nevada) Shirley B. Panagiotis
) Case No.: 05C215295

Plaintiff,

) Dept No.: 5

vs.

Montelle Motley
Demarene Coleman
Defendant) MEDIA REQUEST AND ORDER FOR CAMERA
) ACCESS TO COURT PROCEEDINGSGlenn Puit of RJ, requests permission
to broadcast, record, photograph or televise proceedings in the above-entitled
case in the courtroom of Dept. No. 5, the Honorable Judge Glass,
commencing on the 21st day of November, 2000.

I certify that I am familiar with the contents of Nevada Supreme Court
Rules 229-249, inclusive, and understand this form MUST be submitted to the
Court at least SEVENTY-TWO (72) hours before the proceedings commence, unless
good cause can be shown. IT IS FURTHER UNDERSTOOD that approved media must
arrange camera pooling prior to any hearing, without asking this Court to
mediate disputes.

DATED this 28 day of Sept, 2006
Media Representative

The Court determines camera access to proceedings, in compliance with the
court's policy, ☐ WOULD ☒ WOULD NOT distract participants, impair the
dignity of the court or otherwise materially interfere with the achievement of
a fair trial or hearing herein;

Therefore, the Court hereby ☐ DENIES ☒ GRANTS permission for camera
access to _____ of _____,
as requested for each and every hearing on the above-entitled case, at the
discretion of the judge, and unless otherwise notified. This Order is in
accordance with Nevada Supreme Court Rules 229-249, inclusive, and is subject
to reconsideration upon motion of any party to the action.

IT IS FURTHER ORDERED that this entry shall be made a part of the record
of the proceedings in this case.

DATED this 11 day of OCT, 2006

ORIGINAL

Eighth Judicial District Court
Clark County, Nevada

STATE OF NEVADA

Plaintiff,

vs.

MOTLEY, M/COLEMAN, D

Defendant

Case No.: 05C215295

Dept No.: 5

NOTIFICATION OF
MEDIA REQUEST

TO: COUNSEL OF RECORD IN THE ABOVE-CAPTIONED CASE:

You are hereby notified pursuant to Nevada Supreme Court Rules 229-249, inclusive, that media representatives have requested to obtain permission to broadcast, televise, record or take photographs of all hearings in this case. Any objection should be filed at least 24 hours prior to the subject hearing.

DATED this 29th day of September, 2006.

McAlister

Eighth Judicial District Court

CERTIFICATE OF SERVICE BY FACSIMILE TRANSMISSION

I hereby certify that on the 29th day of September, 2006, service of the foregoing was made by facsimile transmission only, pursuant to Nevada Supreme Court Rules 229-249, inclusive, this date by faxing a true and correct copy of the same to each Attorney of Record addressed as follows:

Plaintiff

DISTRICT ATTORNEY

455-2294

Defendant

CARMINE J COLUCCI

384-4453

McAlister

Eighth Judicial District Court

ORIGINAL

1 **ORDR**

2 JUDGE JACKIE GLASS

3 District Court Judge

4 Department V

5 200 Lewis Avenue

6 Las Vegas, Nevada 89155-2212

7 (702) 671-4360

FILED

2005 DEC 11 P 1:37

J. S. Hargis
CLERK

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 Demarene Coleman,

14 Defendant.

) Case No: C215295

) Dept No: V

15 ORDER

16 TO TRANSPORT DEFENDANT FROM LAKE'S CROSSING

17 TO: Bill Young, Sherriff, Clark County, Nevada:

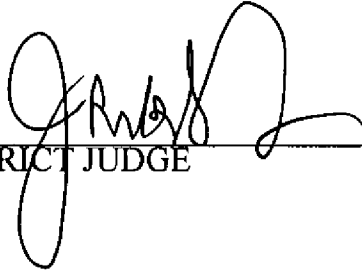
18 WHEREAS, on the **28th day of August, 2006** pursuant to Order of the above-
19 entitled Court, you were directed to transport the above-named Defendant to the custody of
20 the division of mental health and developmental services of the department of human
21 resources or his designee, for necessary care and treatment; and

22 WHEREAS, the Defendant having been examined by **Drs. Henson, Hiller and**
23 **Neighbors** pursuant to NRS 178.455 with the reports of that examination being forwarded to
24 the Court for its review thereof;

25 IT IS ORDERED that you, the Sheriff of Clark County, Nevada are hereby ordered to
26 transport the Defendant from the Lake's Crossing Center, Washoe County, Nevada, to the
27 Clark County Jail, Las Vegas, Nevada by **Tuesday, December 12, 2006 at 9:30 a.m.** when
28 further proceedings have been scheduled by the Court in this matter.

1 IT IS FURTHER ORDERED that you, the Sheriff of Clark County, Nevada, shall
2 accept and retain custody of said Defendant in the Clark County Detention Center, pending
3 completion of proceedings in the above-captioned matter, or until the further Order of this
4 Court, and that you continue the course of treatment of the Defendant as prescribed by the
5 Administrator of the Division of Mental Health and Developmental Services of the
6 Department of Human Resources or his designee.

7 DATED this 7th day December, 2006.

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10 
11 DISTRICT JUDGE
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FILED

DEC 29 11 33 AM '06

Shirley S. Rungius
CLERK

1 **FFCL**
2 **DAVID ROGER**
3 **Clark County District Attorney**
4 **Nevada Bar #002781**
5 **CHRISTOPHER J. LALLI**
6 **Assistant District Attorney**
7 **Nevada Bar #005398**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**
12 **THE STATE OF NEVADA**

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 DEMARENE COLEMAN,
14 #1963947

15 Defendant.

Case No: C215295

Dept No: V

FINDINGS OF COMPETENCY

18 THIS MATTER having come on for hearing before the above-entitled Court on the
19 22nd day of August, 2006, and it appearing to the Court that, pursuant to NRS 178.425(1),
20 the Sheriff was ordered to convey the Defendant forthwith, together with a copy of the
21 complaint, the commitment and the physicians' certificate, if any, into the custody of the
22 Administrator of the Division of Mental Health and Developmental Services of the
23 Department of Human Resources or his designee for detention or treatment at a secure
24 facility operated by that Division or his designee; and, it appearing that, upon medical
25 consultation, the Administrator or his designee has reported to the Court in writing his
26 specific findings and opinion that the Defendant is of sufficient mentality to be able to
27 understand the nature of the criminal charge against him and, by reason thereof, is able to
28 assist his counsel in the defense interposed upon the trial or against the pronouncement of

COUNTY CLERK
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DEC 29 2006

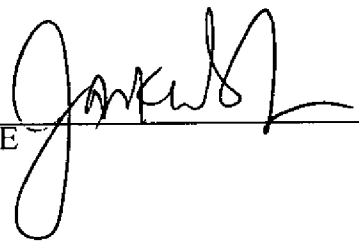
1 the judgment thereafter; now, therefore,

2 THE COURT FINDS, pursuant to NRS 178.460, that the said Defendant is competent
3 to stand trial in the above-entitled matter; and,

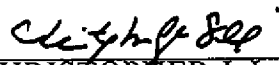
4 IT IS HEREBY ORDERED that you, the Administrator of the Division of Mental
5 Health and Developmental Services of the Department of Human Resources or your
6 designee, shall provide forthwith to the Director of Mental Health of the Clark County
7 Detention Center, true and complete copies of the Defendant's psychological evaluations,
8 hospital course of treatment and discharge summary; and,

9 IT IS FURTHER ORDERED that you, the Sheriff of Clark County, Nevada, shall
10 accept and retain custody of said Defendant in the Clark County Detention Center pending
11 completion of proceedings in the above-captioned matter, or until the further Order of this
12 Court.

13 DATED this 27 day of December, 2006.

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JUDGE 

DAVID ROGER
District Attorney
Nevada Bar # 002781

BY 

CHRISTOPHER J. LALLI
Assistant District Attorney
Nevada Bar #005398

kjk

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FILED

19

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CR. [Signature]
CLERK OF THE COURT

1 NOTC
2 CARMINE J. COLUCCI, ESQ.
3 CARMINE J. COLUCCI, CHTD.
4 Nevada Bar No. 000881
5 629 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 384-1274
8 Attorney for Defendant
9 Demarene Coleman

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,
12 vs.
13 DEMARENE COLEMAN,
14 Defendant.

CASE NO. C215295
DEPT. NO. V

NOTICE OF WITNESSES PURSUANT TO NRS 174.234

16 TO: STATE OF NEVADA, Plaintiff; and

17 TO: DAVID ROGER, District Attorney

18 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the DEFENDANT,
19 DEMARENE COLEMAN, intends to call the following witness in his case- in-chief:

20 Rocky Alba
21 LVMPD P#1810

22 M. Archer
23 Clark County Coroner

24 K. Belcher
25 AMR Ambulance (Unit 5937)

26 Jovanne Butler
27 2861 Walnut
28 Las Vegas, NV

Eddie Buxton
385 Maydelle Place
Las Vegas, NV 89101

RECEIVED

MAY 25 2007

CLERK OF THE COURT

1 Hector Cintron
LVMPD P#7550
2
3 Alfredo Coleman
401 Holland Ave.
Las Vegas, NV 89106
4
5 Billy Coleman
401 Holland Ave.
Las Vegas, NV 89106
6
7 Andrea Cooper
9352 Red Rose Ave
Las Vegas, NV 89123
8
9 Custodian of Records
Apartments at 424 Pioche
10
11 Custodian of Records
AMR
12
13 Custodian of Records
CCDC
14
15 Custodian of Records
LVMPD Communications
16
17 Custodian of Records
LVMPD Records
18
19 Custodian of Records
Mobile Gas Station
20
21 Custodian of Records
Sprint
22
23 Custodian of Records
UMC
24
25 Walter Detweiler
LVMPD P#5460
26
27 R. Eldridge
LV FD Paramedic (Rescue 8)
28
Daniel Ford
LVMPD P#4244
George Geiger
5312 Striking Point Ct.
Las Vegas, NV 89130
/ / / / /

1 Matthew Gillis
LVMPD P#6432
2
3 M. Gordon
LV FD Paramedic (Rescue 8)
4 Kenneth Hardy
LVMPD P#3031
5
6 Tarencia Henderson
2697 Ursine St.
Las Vegas, NV 89101
7
8 D. Hines
Bunker Funeral Home
9 Aaron Howard
1936 H. Street
10 Las Vegas, NV 89106
11 Jason Johansson
LVMPD P#8282
12
13 Porscha Johnson
5945 Hudson Woods Ave
Las Vegas, NV
14
15 Robert Johnson
LVMPD P#4395
16 E Jones
LV FD Paramedic (Rescue 8)
17
18 Christopher Leblanc
LVMPD P#7525
19 Linda Lee
1616 Shiloh
20 Las Vegas, NV
21 Chad Lyman
LVMPD P#8262
22
23 Yolanda McClary
LVMPD P#2923
24 Clifford Mogg
LVMPD P#5096

25 / / / / /

26 / / / / /

27

28

1 Montelle Motley
c/o Brian Bloomfield, Esq.
2 810 S. Casino Center Blvd.
Las Vegas, NV 89101
3
4 Loren Napier
LVMPD P#5706
5 David Newton
LVMPD P#5278
6
7 Jayme Nordstrom
LVMPD P#8254
8 Daniel Nunez
LVMPD P#8258
9 Dean O'Kelley
LVMPD P#4209
10
11 Frederick Oliveri
LVMPD P#8272
12 Parent or Guardian of Asia Parks
5059 Shadow Boxer
13 Las Vegas, NV
14 Asia Parks
5059 Shadow Boxer
15 Las Vegas, NV
16 Joseph Patton
LVMPD P#8289
17
18 Dr. Poon
UMC Trauma
19 Meisha Ramsey
2617 E. Mesquite
20 Las Vegas, NV
21 Monica Ramsey
2617 E. Mesquite
22 Las Vegas, NV
23 Gary Reed
LVMPD P#3731
24
25 Louise Renhard
LVMPD P#5223
26 S. Shields
Bunker Funeral Home
27
28

1 Nancy Siefker
LVMPD P#3057
2
3 Dr. Larry Sims
4 D. Smith
AMR Ambulance (Unit 5937)
5 Jeffrey Smith
LVMPD P#8177
6
7 Angela Stevenson
401 Holland Ave.
Las Vegas, NV 89106
8
9 Thomas Stewart
2617 Mesquite Ave, Apt. 1
Las Vegas, NV 89101
10
11 Arthur Tolover
401 Holland Ave.
Las Vegas, NV 89106
12
13 Tyler Todd
LVMPD P#8411
14
15 Donald Tremel
LVMPD P#2038
16
17 Robert Wilson
LVMPD P#3836
18
19 Shane Womack
LVMPD P#4935
20
21 Kevin Wong
LVMPD P#8290
22
23 Damon Young
LVMPD P#8252
24
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These witness are in addition to those witnesses endorsed on the Indictment

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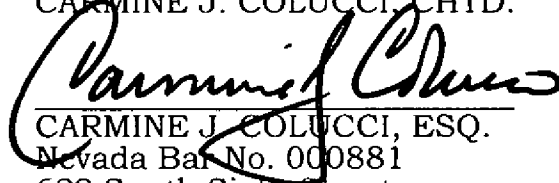
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/////

1 and any witness for which a separate Notice has been filed.

2 DATED this 21st day of May, 2007.

3 CARMINE J. COLUCCI, CHTD.

4 

5 CARMINE J. COLUCCI, ESQ.

6 Nevada Bar No. 000881

7 629 South Sixth Street

8 Las Vegas, Nevada 89101

9 Attorney for Defendant

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David Roger
District Attorney
Jim Sweetin, Esq.
Chief Deputy District Attorney
facsimile #477-2975

Joe McGough
An employee of
CARMINE J. COLUCCI, CHTD

Transaction Report

Send

Transaction(s) completed

No.	TX	Date/Time	Destination	Duration	P. #	Result	Mode
911	MAY-21	15:54	4772975	0' 01' 31"	007	OK	N ECM

1 NOTC
 2 CARMINE J. COLUCCI, ESQ.
 3 CARMINE J. COLUCCI, CHTD.
 4 Nevada Bar No. 000881
 5 629 South Sixth Street
 6 Las Vegas, Nevada 89101
 7 (702) 384-1274
 8 Attorney for Defendant
 9 Demarene Coleman

DISTRICT COURT
 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,)
 11 Plaintiff,)
 12 vs.)
 13 DEMARENE COLEMAN,)
 14 Defendant.)

CASE NO. C215295
 DEPT. NO. V

NOTICE OF WITNESSES PURSUANT TO NRS 174.234

16 TO: STATE OF NEVADA, Plaintiff; and

17 TO: DAVID ROGER, District Attorney

18 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the DEFENDANT,
 19 DEMARENE COLEMAN, intends to call the following witness in his case- in-chief:

20 Rocky Alba
 21 LVMPD P#1810

22 M. Archer
 23 Clark County Coroner

24 K. Belcher
 25 AMR Ambulance (Unit 5937)

Jovanne Butler


CLERK OF THE COURT

AINF
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEMARENE COLEMAN #1963947,

Defendant.

Case No: C215295

Dept No: V

A M E N D E D
I N F O R M A T I O N

STATE OF NEVADA }
COUNTY OF CLARK } ss.

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That DEMARENE COLEMAN, the Defendant(s) above named, having committed the crimes of **MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165)** and **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165)**, on or about the 10th day of July, 2005, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

///

///

1 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

2 did then and there wilfully, feloniously, without authority of law, and with
3 premeditation and deliberation, and with malice aforethought, kill TANZIE AUSTIN, a
4 human being, by shooting at and into the body of the said TANZIE AUSTIN, with a deadly
5 weapon, to-wit: a firearm.

6 COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

7 did then and there, without authority of law, and malice aforethought, willfully and
8 feloniously attempt to kill MONICA RAMSEY or the defendant having the intent to kill
9 TANZIE AUSTIN, the intent to kill being transferred to MONICA RAMSEY, a human
10 being, by shooting at and into the body of the said MONICA RAMSEY, with a deadly
11 weapon, to-wit: a firearm.

12 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

13 did then and there, without authority of law, and malice aforethought, willfully and
14 feloniously attempt to kill ANDREA COOPER or the defendant having the intent to kill
15 TANZIE AUSTIN, the intent to kill being transferred to ANDREA COOPER, a human
16 being, by shooting at and into the body of the said ANDREA COOPER, with a deadly
17 weapon, to-wit: a firearm.

21 BY



22 DAVID ROGER
23 DISTRICT ATTORNEY
24 Nevada Bar #002781

26 DA#05F15000A/sam
27 LVMPD EV#0507100530
28 MWDW; ATT MWDW - F
(TK4)

ORIGINAL

FILED IN OPEN COURT

MAY 29 2007 20

CLARK COUNTY DISTRICT COURT
CLERK OF THE COURT

PV

SANDRA JETER DEPUT

1 AINF
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

14 THE STATE OF NEVADA,
15 Plaintiff,

16 -vs-

17 DEMARENE COLEMAN,
18 #1963947
19 Defendant.

Case No. C215295
Dept No. V

20 SECOND AMENDED
21 INFORMATION

22 STATE OF NEVADA }
23 COUNTY OF CLARK } ss:

24 DAVID ROGER, District Attorney within and for the County of Clark, State of
25 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

26 That DEMARENE COLEMAN, the Defendant(s) above named, having committed
27 the crimes of **FIRST DEGREE MURDER (Category A Felony - NRS 200.010, 200.030)**
28 and **BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS**
29 **200.481)**, on or about the 10th day of July, 2005, within the County of Clark, State of
30 Nevada, contrary to the form, force and effect of statutes in such cases made and provided,
31 and against the peace and dignity of the State of Nevada,

32 COUNT 1 – FIRST DEGREE MURDER

33 did then and there wilfully, feloniously, without authority of law, and with
34 premeditation and deliberation, and with malice aforethought, kill TANZIE AUSTIN, a

1 human being, by defendant shooting at and into the body of the said TANZIE AUSTIN.

2 COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON

3 did then and there wilfully, unlawfully, and feloniously use force or violence upon the
4 person of another, to-wit: MONICA RAMSEY and/or ANDREA COOPER, with use of a
5 deadly weapon, to-wit: defendant shooting at and into the body of the said MONICA
6 RAMSEY and/or ANDREA COOPER.

7
8 DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

9
10
11 BY 

12 JAMES R. SWEETIN
13 Chief Deputy District Attorney
Nevada Bar #005144
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26 DA#05F15000A/sam
27 LVMPD EV#0507100530
28 MURD;BWDW - F
(TK4)

AMENDED BY ORDER OF THE COURT
CHARLES J. SHORT, CLERK OF THE COURT
BY MAY 29 2007
DEPUTY

SANDRA JETER

ORIGINAL

FILED IN OPEN COURT

MAY 29 2007 20

CHARLES J. SHORT
CLERK OF THE COURT

BY

SANDRA JETER DEPUTY

GMEM

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO:

C215295

DEPT NO:

V

-vs-

DEMARENE COLEMAN,
#1963947

Defendant.

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **COUNT 1 - FIRST DEGREE MURDER**
(Category A Felony - NRS 200.010, 200.030) and **COUNT 2 - BATTERY WITH USE**
OF A DEADLY WEAPON (Category B Felony - NRS 200.481), as more fully alleged in
the charging document attached hereto as Exhibit "1".

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

Both Parties agree to recommend twenty (20) to fifty (50) years in the Nevada
Department of Corrections. The State will not oppose concurrent time between the counts.

CONSEQUENCES OF THE PLEA

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

As to **Count 1**, I understand that as a consequence of my plea of guilty the Court
must sentence me to imprisonment in the Nevada Department of Corrections for life without

Life without the possibility of parole
the possibility of parole OR a definite term of fifty (50) years with eligibility for parole beginning at twenty ~~30~~ years ~~plus an equal and consecutive term for use of a deadly weapon enhancement.~~ I understand that the law requires me to pay an Administrative Assessment Fee.

As to Count 1, I understand that I am not eligible for probation for the offense to which I am pleading guilty.

As to Count 2, I understand that as a consequence of my plea of guilty the Court must sentence me to imprisonment in the Nevada Department of Corrections for a minimum term of not less than TWO (2) years and a maximum term of not more than TEN (10) years. The minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I understand that I may also be fined up to \$10,000.00. I understand that the law requires me to pay an Administrative Assessment Fee.

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

I understand that I am eligible for probation for the offense(s) to which I am pleading guilty. I understand that, except as otherwise provided by statute, the question of whether I receive probation is in the discretion of the sentencing judge.

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

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

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

I understand that if my attorney or the State of Nevada or both recommend any

1 specific punishment to the Court, the Court is not obligated to accept the recommendation.

2 I understand that if the State of Nevada has agreed to recommend or stipulate a
3 particular sentence or has agreed not to present argument regarding the sentence, or agreed
4 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor
5 when the offense could have been treated as a felony, such agreement is contingent upon my
6 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing
7 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
8 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
9 right to argue for any lawful sentence.

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

13 I understand that as a consequence of my plea of guilty, if I am not a citizen of the
14 United States, I may, in addition to other consequences provided for by federal law, be
15 removed, deported, excluded from entry into the United States or denied naturalization.

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

23 WAIVER OF RIGHTS

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

26 1. The constitutional privilege against self-incrimination, including the right to refuse
27 to testify at trial, in which event the prosecution would not be allowed to comment to the
28 jury about my refusal to testify.

1 2. The constitutional right to a speedy and public trial by an impartial jury, free of
2 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
3 assistance of an attorney, either appointed or retained. At trial the State would bear the
4 burden of proving beyond a reasonable doubt each element of the offense charged.

5 3. The constitutional right to confront and cross-examine any witnesses who would
6 testify against me.

7 4. The constitutional right to subpoena witnesses to testify on my behalf.

8 5. The constitutional right to testify in my own defense.

9 6. The right to appeal the conviction, with the assistance of an attorney, either
10 appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional
11 or other grounds that challenge the legality of the proceedings and except as otherwise
12 provided in subsection 3 of NRS 174.035.

13 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

27 I am not now under the influence of any intoxicating liquor, a controlled substance or
28 other drug which would in any manner impair my ability to comprehend or understand this

1 agreement or the proceedings surrounding my entry of this plea.

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

5 DATED this 29 day of May, 2007.

6 
7 DEMARENE COLEMAN
8 Defendant

9 AGREED TO BY:

10  
11 JAMES R. SWEETIN
12 Chief Deputy District Attorney
13 Nevada Bar #005144
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1 CERTIFICATE OF COUNSEL:

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

4 1. I have fully explained to the Defendant the allegations contained in the charge(s)
5 to which guilty pleas are being entered.

6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.

8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are
9 consistent with the facts known to me and are made with my advice to the Defendant.

10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs
17 1 and 2 above.

18 Dated: This 29th day of May, 2007.

19 
20 ATTORNEY FOR DEFENDANT
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22
23
24
25
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27
28

sam

1 AINF
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

Case No. C215295
Dept No. V

12 -vs-

13 DEMARENE COLEMAN,
14 #1963947
15 Defendant.

SECOND AMENDED
INFORMATION

16 STATE OF NEVADA }
17 COUNTY OF CLARK } ss:

18 DAVID ROGER, District Attorney within and for the County of Clark, State of
19 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

20 That DEMARENE COLEMAN, the Defendant(s) above named, having committed
21 the crimes of **FIRST DEGREE MURDER (Category A Felony - NRS 200.010, 200.030)**
22 and **BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS**
23 **200.481)**, on or about the 10th day of July, 2005, within the County of Clark, State of
24 Nevada, contrary to the form, force and effect of statutes in such cases made and provided,
25 and against the peace and dignity of the State of Nevada,

26 COUNT 1 – FIRST DEGREE MURDER

27 did then and there wilfully, feloniously, without authority of law, and with
28 premeditation and deliberation, and with malice aforethought, kill TANZIE AUSTIN, a

EXHIBIT "1"

1 human being, by defendant shooting at and into the body of the said TANZIE AUSTIN.

2 COUNT 2 - BATTERY WITH USE OF A DEADLY WEAPON

3 did then and there wilfully, unlawfully, and feloniously use force or violence upon the
4 person of another, to-wit: MONICA RAMSEY and/or ANDREA COOPER, with use of a
5 deadly weapon, to-wit: defendant shooting at and into the body of the said MONICA
6 RAMSEY and/or ANDREA COOPER.

7
8 DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781
9

10
11 BY


12 JAMES R. SWEETIN
13 Chief Deputy District Attorney
14 Nevada Bar #005144
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26 DA#05F15000A/sam
27 LVMPD EV#0507100530
28 MURD;BWDW - F
(TK4)


CLERK OF THE COURT

1 **AINF**
2 **DAVID ROGER**
3 Clark County District Attorney
4 Nevada Bar #002781
5 **JAMES R. SWEETIN**
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,)

10 Plaintiff,)

11 -vs-)

12 MONTELLE RENNE MOTLEY, aka)
13 Montelle Renee Motley, #1581681)

14 Defendant.)

Case No: C215295

Dept No: V

AMENDED
INFORMATION

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

17 DAVID ROGER, District Attorney within and for the County of Clark, State of
18 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That MONTELLE RENNE MOTLEY, aka Montelle Renee Motley, the Defendant(s)
20 above named, having committed the crime of **CONSPIRACY TO COMMIT BATTERY**
21 **WITH USE OF A DEADLY WEAPON (Gross Misdemeanor - NRS 199.480, 200.481),**
22 on or about the 10th day of July, 2005, within the County of Clark, State of Nevada, contrary
23 to the form, force and effect of statutes in such cases made and provided, and against the
24 peace and dignity of the State of Nevada, Defendant and DEMARENE COLEMAN, did
25 then and there meet with each other and between themselves, and each of them with the
26 other, wilfully and unlawfully conspire and agree to commit a crime, to-wit: battery, and in

27 ///

28 ///

1 furtherance of said conspiracy, the Defendant did then and there wilfully, unlawfully, and
2 feloniously use force or violence upon the person of another, to-wit: TANZIE AUSTIN
3 and/or ANDREA COOPER and/or MONICA RAMSEY, with use of a deadly weapon, to-
4 wit: a firearm.

5
6
7 BY 

8 DAVID ROGER
9 DISTRICT ATTORNEY
Nevada Bar #002781

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26 DA#05F15000B/sam
27 LVMPD EV#0507100530
28 CONSP BWDW - F
(TK4)

ORIGINAL

FILED IN OPEN COURT

JUN 07 2007 20

CHARLES J. SHORT
CLERK OF THE COURT

[Signature]
SANDRA JETER DEPUTY

1 **GMEM**
2 **DAVID ROGER**
3 **DISTRICT ATTORNEY**
4 Nevada Bar #002781
5 **JAMES R. SWEETIN**
6 **Chief Deputy District Attorney**
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

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

9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **-vs-**

12 **MONTELLE RENNE MOTLEY, aka**
13 **Montelle Renee Motley, #1581681**

14 **Defendant.**

CASE NO: C215295
DEPT NO: V

15 **GUILTY PLEA AGREEMENT**

16 I hereby agree to plead guilty to: **CONSPIRACY TO COMMIT BATTERY WITH**
17 **USE OF A DEADLY WEAPON (Gross Misdemeanor - NRS 199.480, 200.481),** as more
18 fully alleged in the charging document attached hereto as Exhibit "1".

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

21 If the defendant has no prior felony or gross misdemeanor convictions, the State will
22 have no opposition to probation. If the defendant does have prior felony or gross
23 misdemeanor convictions, the State will retain the full right to argue at rendition of sentence.

24 **CONSEQUENCES OF THE PLEA**

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

27 I understand that as a consequence of my plea of guilty I may be imprisoned in the
28 Clark County Detention Center for a period of not more than one (1) year and that I may be

1 fined up to \$2,000.00. I understand that the law requires me to pay an Administrative
2 Assessment Fee.

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

7 I understand that I am eligible for probation for the offense(s) to which I am pleading
8 guilty. I understand that, except as otherwise provided by statute, the question of whether I
9 receive probation is in the discretion of the sentencing judge.

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

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

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

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

20 I understand that if the State of Nevada has agreed to recommend or stipulate a
21 particular sentence or has agreed not to present argument regarding the sentence, or agreed
22 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor
23 when the offense could have been treated as a felony, such agreement is contingent upon my
24 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing
25 is continued). I understand that if I fail to appear for the scheduled sentencing date or I
26 commit a new criminal offense prior to sentencing the State of Nevada would regain the full
27 right to argue for any lawful sentence.

28 I understand if the offense(s) to which I am pleading guilty to was committed while I

1 was incarcerated on another charge or while I was on probation or parole that I am not
2 eligible for credit for time served toward the instant offense(s).

3 I understand that as a consequence of my plea of guilty, if I am not a citizen of the
4 United States, I may, in addition to other consequences provided for by federal law, be
5 removed, deported, excluded from entry into the United States or denied naturalization.

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

13 WAIVER OF RIGHTS

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

16 1. The constitutional privilege against self-incrimination, including the right to refuse
17 to testify at trial, in which event the prosecution would not be allowed to comment to the
18 jury about my refusal to testify.

19 2. The constitutional right to a speedy and public trial by an impartial jury, free of
20 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
21 assistance of an attorney, either appointed or retained. At trial the State would bear the
22 burden of proving beyond a reasonable doubt each element of the offense charged.

23 3. The constitutional right to confront and cross-examine any witnesses who would
24 testify against me.

25 4. The constitutional right to subpoena witnesses to testify on my behalf.

26 5. The constitutional right to testify in my own defense.

27 6. The right to appeal the conviction, with the assistance of an attorney, either
28 appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional

1 or other grounds that challenge the legality of the proceedings and except as otherwise
2 provided in subsection 3 of NRS 174.035.

3 VOLUNTARINESS OF PLEA

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

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

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

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

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

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

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

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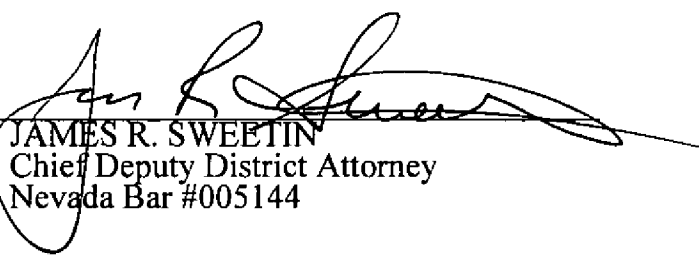
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1 My attorney has answered all my questions regarding this guilty plea agreement and
2 its consequences to my satisfaction and I am satisfied with the services provided by my
3 attorney.

4 DATED this 7 day of ^{June}~~May~~, 2007.

5 
6 MONTELLE RENNE MOTLEY, aka
7 Montelle Renee Motley
8 Defendant

9 AGREED TO BY:

10 
11 JAMES R. SWEETIN
12 Chief Deputy District Attorney
13 Nevada Bar #005144
14
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1 CERTIFICATE OF COUNSEL:

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

4 1. I have fully explained to the Defendant the allegations contained in the charge(s)
5 to which guilty pleas are being entered.

6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.

8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are
9 consistent with the facts known to me and are made with my advice to the Defendant.

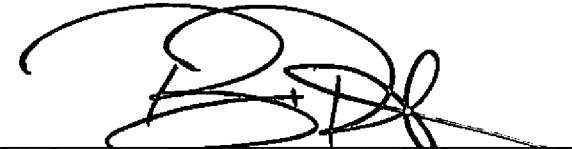
10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs
17 1 and 2 above.

18 Dated: This 7 day of ^{June} May, 2007.

19 
20 ATTORNEY FOR DEFENDANT
21
22
23
24
25
26
27
28

sam


CLERK OF THE COURT

1 AINF
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 MONTELLE RENNE MOTLEY, aka
13 Montelle Renee Motley, #1581681
14 Defendant.

Case No: C215295
Dept No: V

AMENDED
INFORMATION

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

17 DAVID ROGER, District Attorney within and for the County of Clark, State of
18 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That MONTELLE RENNE MOTLEY, aka Montelle Renee Motley, the Defendant(s)
20 above named, having committed the crime of **CONSPIRACY TO COMMIT BATTERY**
21 **WITH USE OF A DEADLY WEAPON (Gross Misdemeanor - NRS 199.480, 200.481)**,
22 on or about the 10th day of July, 2005, within the County of Clark, State of Nevada, contrary
23 to the form, force and effect of statutes in such cases made and provided, and against the
24 peace and dignity of the State of Nevada, Defendant and DEMARENE COLEMAN, did
25 then and there meet with each other and between themselves, and each of them with the
26 other, wilfully and unlawfully conspire and agree to commit a crime, to-wit: battery, and in

27 ///

28 ///

1 furtherance of said conspiracy, the Defendant did then and there wilfully, unlawfully, and
2 feloniously use force or violence upon the person of another, to-wit: TANZIE AUSTIN
3 and/or ANDREA COOPER and/or MONICA RAMSEY, with use of a deadly weapon, to-
4 wit: a firearm.

5
6
7 BY


DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

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28 CONSP BWDW - F
(TK4)

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213 - 219
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CLERK OF THE COURT

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FILED

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DEMARENE COLEMAN,

Defendant.

CASE NO. C215295

DEPT. V

BEFORE THE HONORABLE JACKIE GLASS, DISTRICT COURT JUDGE
MAY 29, 2007

**RECORDER'S TRANSCRIPT OF HEARING RE:
ENTRY OF PLEA**

APPEARANCES:

For the State:

JAMES R. SWEETIN, ESQ.
DANIELLE K. PIEPER, ESQ.
Deputy District Attorneys

For the Defendant:

CARMINE J. COLUCCI, ESQ.

RECORDED BY: RACHELLE HAMILTON, COURT RECORDER

CLERK OF THE COURT

JUL 24 2007

RECEIVED

1 TUESDAY, MAY 29, 2007

2
3 THE COURT: All right, we're on the record in State of Nevada against
4 Demarene Coleman. Mr. Coleman who is present with Mr. Colucci, and we
5 have Mr. Sweetin and Ms. Pieper for the State; and it's my understanding the
6 matter is negotiated.

7 Mr. Coleman, is Demarene Coleman your true name?

8 THE DEFENDANT: Demarene Coleman, Your Honor.

9 THE COURT: Well, okay, sorry. Demarene Coleman, is that your true
10 name?

11 THE DEFENDANT: Yes.

12 THE COURT: How old are you?

13 THE DEFENDANT: Twenty-one.

14 THE COURT: Okay, I need you to just speak up. Let's move the
15 microphone over a little bit.

16 All right, Mr. Coleman, how old are you?

17 THE DEFENDANT: Twenty-one.

18 THE COURT: How far have you gone in school?

19 THE DEFENDANT: Eleventh grade.

20 THE COURT: Do you read, write, and understand the English language?

21 THE DEFENDANT: Yes.

22 THE COURT: I have a copy of an amended information -- thank you --
23 that contains the charges of first degree murder and battery with use of a
24 deadly weapon. Did you receive this document?

25 THE DEFENDANT: Yes.

1 THE COURT: Have you read it over?

2 THE DEFENDANT: [Indiscernible]

3 THE COURT: I need you to just to speak up a little more.

4 THE DEFENDANT: Yes.

5 THE COURT: And do you understand both of those charges?

6 THE DEFENDANT: Yes.

7 THE COURT: All right, as to Count 1, first-degree murder, how do you

8 plead?

9 THE DEFENDANT: Guilty.

10 THE COURT: And as to Count 2, battery with use of a deadly weapon,

11 how do you plead?

12 THE DEFENDANT: Guilty.

13 THE COURT: The negotiation is as follows: both parties agree to

14 recommend 20 to 50 years in the Nevada Department of Corrections and the

15 State will not oppose -- and that would be on the murder count.

16 MR. COLUCCI: Right.

17 THE COURT: And the State will not oppose concurrent time between

18 the counts. Is that your complete understanding of what the negotiations are?

19 THE DEFENDANT: Yes.

20 THE COURT: Is anybody forcing you to plead guilty?

21 THE DEFENDANT: [Indiscernible]

22 THE COURT: I need you just to speak up a little --

23 THE DEFENDANT: No.

24 THE COURT: You're pleading guilty freely and voluntarily?

25 THE DEFENDANT: Yes.

1 THE COURT: All right, I have a guilty plea agreement here and on page
2 five there's a signature line with a signature above your name. Did you sign
3 this?

4 THE DEFENDANT: Yes.

5 THE COURT: Before you signed it did you read it over?

6 THE DEFENDANT: Yes.

7 THE COURT: Did you understand everything in it?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that as a result of your plea you're
10 giving up certain valuable constitutional rights; those rights were listed for you
11 in your guilty plea agreement?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you also understand as to Count 1 that you face a --
14 these are the following options that you face: life without the possibility of
15 parole, or a definite term of 50 years with eligibility for parole beginning at 20
16 years. There's no use of a deadly weapon?

17 MS. PIEPER: No.

18 MR. COLUCCI: No use.

19 THE COURT: Okay, so this is messed up. All right, so if you look on
20 page two of the guilty plea agreement it says on line two: plus and equal and
21 consecutive term for use of a deadly weapon. I'm going to take that out, right?

22 MR. COLUCCI: Yes.

23 MS. PIEPER: Yes.

24 THE COURT: So wouldn't there be, as to Count 1, life with, life
25 without, and a term of years, and that's not all in here.

1 MR. SWEETIN: That's true, Judge. There would be -- it would either
2 be life without the possibility of parole --

3 THE COURT: Which we have in here, or a definite term of 50 years
4 with parole eligibility beginning at 20 years, or life with the possibility of parole
5 with parole eligibility being at 20 years.

6 MR. SWEETIN: Twenty years.

7 MS. PIEPER: Twenty years.

8 THE COURT: So I'm going to write that in here and -- afterwards, but I
9 want to ask you if you understand. I know the deal is to recommend to me the
10 term of 50 years with parole eligibility beginning at 20, but I need for you to
11 understand that there are three possibilities here. One is life with parole
12 eligibility at 20 years, one with life with no parole, or the term of years which is
13 the 20 to 50; do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that all of those possible punishments
16 there is no option for any probation, that on a charge of murder you must be
17 sentenced to prison; do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay, and do you also understand that I am going to
20 write in the third option into this guilty plea agreement and I'm going to put my
21 initials by it so that you -- and this record will also indicate that you've been
22 advised of all the possible punishments that face you. Do you understand?

23 THE DEFENDANT: Yes. Yes.

24 THE COURT: I really need you to speak up.

25 On the other, Count 2, which is the battery with use of a deadly

1 weapon you face a minimum term of two years, not less than two years, and a
2 maximum term of not more than 10 years in the Nevada Department of
3 Corrections, and a possible fine of up to \$10,000; do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that sentencing is completely up to
6 the Court?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay, so even if though they're recommending something
9 to me, sentencing is always completely up to the Court; do you understand
10 that?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. All right, before you signed this document, Mr.
13 Coleman, did you talk about your case with your attorney --

14 THE DEFENDANT: Yes.

15 THE COURT: -- Mr. Colucci?

16 THE DEFENDANT: Yes.

17 THE COURT: Did he answer all your questions?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay, are you pleading guilty because on or about July
20 10th, 2005, in Clark County, state of Nevada, you did willfully, feloniously
21 without authority of law, and with premeditation and deliberation with malice
22 aforethought kill Tanzie Austin, a human being, by you shooting at or into the
23 body of Tanzie Austin; is that what you did?

24 THE DEFENDANT: Yes.

25 THE COURT: And in Count 2, also on that date in Clark County, state

1 of Nevada, did you also willfully, unlawfully, and feloniously use force or
2 violence upon the person of another, Monica Ramsey and/or Andrea Cooper,
3 with use of a deadly weapon, you shooting at or into the body of Monica
4 Ramsey and/or Andrea Cooper?

5 THE DEFENDANT: Yes.

6 THE COURT: The Court finds Defendant's pleas are freely and
7 voluntarily given. He understands the nature and consequence of his pleas and
8 therefore accepts his plea. We'll set this over for sentencing on --

9 THE CLERK: It'll be July 24th at 8:30.

10 THE COURT: Thank you very much, Mr. Coleman and Mr. Colucci, and

11 --

12 MR. COLUCCI: Your Honor, before we adjourn may I approach with the
13 State?

14 THE COURT: Yes.

15 MR. COLUCCI: Thank you.

16 THE COURT: Do you need Mister -- have a seat Mr. Coleman.

17 [Bench conference]

18 THE COURT: All right, and then so -- did we get a sentencing date?

19 THE CLERK: Yeah, July 24th.

20 THE COURT: All right.

21 THE COURT: And thank you all very much for your work.

22 MR. COLUCCI: Judge, just for the record, in talking to Mr. Coleman
23 because he's now not understanding the possibilities here, I just wanted to put
24 on the record, if that's okay with the Court, that generally the Court will follow
25 the recommendation of the State and the defense unless there is some --

1 something drastic --

2 THE COURT: Extraordinary reason, but I mean this is something that
3 the two of you have agreed to. I will ordinarily follow what you've agreed to. I
4 understand that this is what made this negotiation go forward. I can't say
5 100%, but in all likelihood it's what I'm going to do. So I just need you to
6 initial that so that you understand what all of the possible punishments are.
7 That doesn't mean I'm going to do it, it just means that I need for you to
8 understand it's possible.

9 All right, so let's file that and let's make sure that gets filed with
10 Sandra, and thank you all very much. Thank you Mr. Colucci.

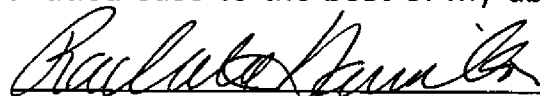
11 MR. COLUCCI: Thank you, Your Honor, for your patience.

12 THE COURT: No problem; and there you go Sandra, and we're all set.

13 Thank you, we'll see you at sentencing.
14
15

16 [Proceeding concluded]
17
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19

20 ATTEST: I do hereby certify that I have truly and correctly transcribed the
21 audio/video recording in the above-entitled case to the best of my ability.

22 

23 RACHELLE HAMILTON
24 Recorder/Transcriber
25

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FILED

2007 AUG -1 P 3:08

Chaf
CLERK OF THE COURT

MOT
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI, CHTD.
Nevada Bar #000881
629 South Sixth Street
Las Vegas, Nevada 89101-6919
(702) 384-1274
Attorney for Defendant
DEMARENE COLEMAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

VS.

DEMARENE COLEMAN,

Defendant.

CASE NO.: C 215295
DEPT. NO.: V

HEARING DATE:
HEARING TIME:

MOTION TO WITHDRAW GUILTY PLEA

COMES NOW, the Defendant DEMARENE COLEMAN, by and through his attorney
CARMINE J. COLUCCI, ESQ., of the law firm of CARMINE J. COLUCCI, CHTD., and
moves this Court for its Order allowing him to withdraw his guilty plea to Count 1, First
Degree Murder (NRS 200.010, 200.030) and Count 2, Battery With Use of a Deadly Weapon
(NRS 200.481) for the reasons set forth in the Points and Authorities submitted herewith and
the affidavit of Defendant DEMARENE COLEMAN attached hereto.

DATED this August 7th, 2007.

CARMINE J. COLUCCI, CHTD.

Carmine J. Colucci
CARMINE J. COLUCCI, ESQ.
Nevada Bar No. 000881
629 S. Sixth Street
Las Vegas, Nevada 89101-6919
Attorney for Defendant
DEMARENE COLEMAN

RECEIVED
AUG 07 2007
CLERK OF THE COURT

1 NOTICE OF MOTION

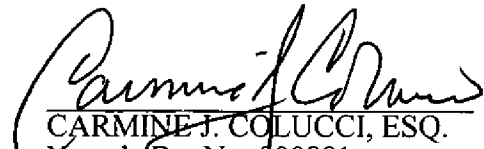
2 TO: THE STATE OF NEVADA, Plaintiff: and

3 TO: DAVID ROGER, DISTRICT ATTORNEY, its Attorney:

4 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned
5 will bring the foregoing Motion To Withdraw Guilty Plea on for hearing before this Court at
6 the Courtroom of the above-entitled Court on the 14 day of August 2007, at the hour
7 of 8:30 a.m. of said day, or as soon thereafter as Counsel can be heard.

8 DATED this August 7th, 2007.

9 CARMINE J. COLUCCI, CHTD.

10 
11 CARMINE J. COLUCCI, ESQ.
12 Nevada Bar No. 000881
13 629 S. Sixth Street
14 Las Vegas, Nevada 89101-6919
15 (702) 384-1274
16 Attorney for Defendant
17 DEMARENE COLEMAN

16 POINTS AND AUTHORITIES

17 On May 29, 2007, Defendant DEMARENE COLEMAN, plead guilty to Count 1, First
18 Degree Murder (NRS 200.010, 200.030) and Count 2, Battery With Use of a Deadly Weapon
19 (NRS 200.4810 before the Honorable Jackie Glass in the Eighth Judicial District Court. For
20 the reasons set forth below, Defendant now seeks an Order from this Court allowing him to
21 withdraw his guilty plea.

22 The Defendant asserts that he has a minimal education and was under the influence of
23 medication that precluded his ability to fully comprehend and appreciate the consequences of
24 pleading guilty to the charges of First Degree Murder and Battery With Use of a Deadly
25 Weapon. The Defendant's lack of comprehension and failure to understand of the
26 consequences of his pleading guilty are based on his minimal education and medicated state at
27 the time of the plea precludes Defendant having entered a knowing and voluntarily plea of
28 guilty.

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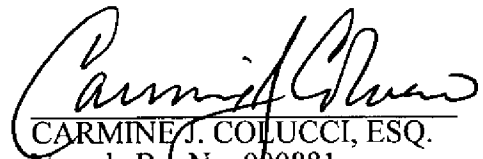
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1 knowingly and voluntarily entered. He should therefore be allowed to withdraw his plea and
2 proceed to trial on the original charges.

3 DATED this August 7th 2007.

4 CARMINE J. COLUCCI, CHTD.

5 
6 CARMINE J. COLUCCI, ESQ.

7 Nevada Bar No. 000881
8 629 S. Sixth Street
9 Las Vegas, Nevada 89101-6919
10 Attorney for Defendant
11 DEMARENE COLEMAN
12
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STATE OF NEVADA)
COUNTY OF CLARK) ss:

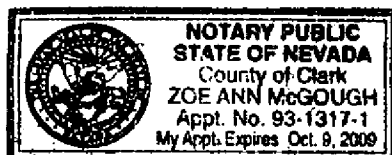
1. That I am the defendant in the case and have personal knowledge of all matters set forth herein except for those stated upon information and belief and am competent to testify thereon.

3. That I only signed and agreed to the terms of the plea agreement because I was going to go to trial if I didn't sign even though I didn't understand the plea agreement.

5. That for these reasons I want to withdraw my plea and go to trial as I feel that I did not freely, voluntarily and knowingly accept this plea.

Demarene Coleman
DEMARENE COLEMAN

Zoo Ann McGough
Notary Public



ORIGINAL

19

ROC
CARMINE J. COLUCCI, ESQ.
CARMINE J. COLUCCI, CHTD.
Nevada Bar No. 000881
629 South Sixth Street
Las Vegas, Nevada 89101
(702) 384-1274
Attorney for Defendant,
DEMARENE COLEMAN

Chaf
CLERK OF THE COURT

AUG 7 3 13 PM '07

FILED

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,	)	CASE NO. C215295
	)	DEPT NO. V
Plaintiff,	)	
	)	
vs.	)	
	)	
DEMARENE COLEMAN,	)	
	)	
Defendant.	)	

RECEIPT OF COPY

RECEIPT OF A COPY of MOTION TO WITHDRAW GUILTY PLEA is hereby
acknowledged this 7 day of August, 2007.

DAVID ROGER
DISTRICT ATTORNEY

Jody Olney
Deputy District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155
Attorney for Plaintiff

RECEIVED

AUG 7 2007

CLERK OF THE COURT


CLERK OF THE COURT

OPPS

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

DEMARENE COLEMAN,
#1963947
Defendant.

CASE NO: C215295

DEPT NO: V

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA

DATE OF HEARING: 08/14/07
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Withdraw Guilty Plea.

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

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1 **POINTS AND AUTHORITIES**

2 **FACTUAL BACKGROUND**

3 Demarene Coleman (hereinafter "Defendant") was charged by way of criminal
4 Information with the crimes of Murder with Use of a Deadly Weapon and two counts of
5 Attempt Murder with Use of a Deadly Weapon. On or about May 29, 2007, Defendant
6 entered a plea of guilty, pursuant to negotiations, to the crimes of First Degree Murder and
7 Battery with Use of a Deadly Weapon. A thorough canvass, to ensure Defendant voluntarily
8 entered such plea, was conducted by this Court. A transcript of such canvass is attached
9 hereto and incorporated herein as "Exhibit 1".

10 Defendant now files the subject Motion to Withdraw Guilty Plea. The State opposes
11 such Motion.

12 **ARGUMENT**

13 **DEFENDANT SHOULD NOT BE ALLOWED TO WITHDRAW HIS GUILTY PLEA**

14 The law in Nevada clearly establishes that a plea of guilty is presumptively valid and
15 the burden is on the defense to show that the plea was not voluntarily entered. Wingfield v.
16 State, 91 Nev. 336 (1975). It is clear from this court's canvass at the time of entry of plea
17 that Defendant discussed his guilty plea with his attorney in some detail. The case of Patton
18 v. Warden, 91 Nev. 1 (1975) suggests that the presence and advice of counsel is a significant
19 factor in determining the voluntariness of a plea of guilty. Furthermore, the Nevada
20 Supreme Court makes it clear in the case of Heffley v. Warden, 89 Nev. 573 (1973) that the
21 guidelines for voluntariness of pleas of guilty "do not require the articulation of talismanic
22 phrases." It required only that the record must affirmatively disclose that a defendant who
23 pled guilty entered his plea understandingly and voluntarily. Brady v. United States, 397
24 U.S. 742 (1970)."

25 In Higby v. Sheriff, 86 Nev. 774, 476 P.2d 959 (1970), the Nevada Supreme Court
26 concluded that certain minimum requirements must be met when a judge canvasses a
27 defendant regarding the voluntariness of a guilty plea. We held that the record must
28 affirmatively show the following: 1) the defendant knowingly waived his privilege against

1 self-incrimination, the right to trial by jury, and the right to confront his accusers; 2) the plea
2 was voluntary, was not coerced, and was not the result of a promise of leniency; 3) the
3 defendant understood the consequences of his plea and the range of punishment; and 4) the
4 defendant understood the nature of the charge, i.e., the elements of the crime. Id. at 781, 476
5 P.2d at 963. As to this last requirement, we subsequently held that in order for the record to
6 show an understanding of the nature of the charge it is necessary that there be either a
7 showing that the defendant himself understood the elements of the offense to which the plea
8 was entered or a showing that the defendant, himself, has made factual statements to the
9 court which constitute an admission to the pleaded offense. Hanley v. State, 97 Nev 130,
10 135, 624, P.2d 1287, 1290 (1981). The Court reviewing the validity of a guilty plea may
11 look at the entire record in order to determine whether a plea was entered knowingly and
12 intelligently in light of all the circumstances. The Court may determine that the guilty plea
13 is valid by reason of the plea canvass itself or under a 'totality of the circumstances
14 approach'. Bryan v. State, 102 Nev. 268 (1986).

15 A reading of the entire record including a transcript of the guilty plea establishes that
16 the plea was made freely, voluntarily and knowingly. The choice of pleading guilty or
17 proceeding with a trial was clearly presented to Defendant both by his attorney and by the
18 court. The State at all times indicated its willingness and desire to proceed with the trial.
19 Defendant clearly knew what he was doing. His plea was knowing and voluntary.

20 In support of the subject motion, Defendant apparently contends his plea was not
21 voluntarily entered because he was a bad student in school and he might have been under the
22 influence of some drugs administered while in custody awaiting trial which might have
23 influenced his decision. It is noted that Defendant's trial was set to commence at the time he
24 entered his plea. Any sort of inability to understand the proceeding or assist his counsel at
25 trial was clearly not apparent to Defendant's counsel, this Court or the prosecution. Such
26 contentions are nothing more than bald unsupported allegations which are clearly refuted by
27 the record.

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CONCLUSION

Based upon the above, the State respectfully requests that this Court deny Defendant's Motion to Withdraw Guilty Plea.

DATED this 13th day of August, 2007.

Respectfully submitted,

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781

BY /s/JAMES SWEETIN

JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of State's Opposition to Defendant's Motion To Withdraw Guilty Plea, was made this 13th day of August, 2007, by facsimile transmission to:

CARMINE COLUCCI, ESQ.
FAX #384-4453

/s/S. Munoz

Secretary for the District Attorney's Office

JRS/sam

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CLERK OF THE COURT

JUL 24 3 05 PM '07

FILED

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DEMARENE COLEMAN,

Defendant.

CASE NO. C215295

DEPT. V

BEFORE THE HONORABLE JACKIE GLASS, DISTRICT COURT JUDGE
MAY 29, 2007

**RECORDER'S TRANSCRIPT OF HEARING RE:
ENTRY OF PLEA**

APPEARANCES:

For the State:

JAMES R. SWEETIN, ESQ.
DANIELLE K. PIEPER, ESQ.
Deputy District Attorneys

For the Defendant:

CARMINE J. COLUCCI, ESQ.

RECORDED BY: RACHELLE HAMILTON, COURT RECORDER

CLERK OF THE COURT

JUL 24 2007

RECEIVED

1 TUESDAY, MAY 29, 2007

2
3 THE COURT: All right, we're on the record in State of Nevada against
4 Demarene Coleman. Mr. Coleman who is present with Mr. Colucci, and we
5 have Mr. Sweetin and Ms. Pieper for the State; and it's my understanding the
6 matter is negotiated.

7 Mr. Coleman, is Demarene Coleman your true name?

8 THE DEFENDANT: Demarene Coleman, Your Honor.

9 THE COURT: Well, okay, sorry. Demarene Coleman, is that your true
10 name?

11 THE DEFENDANT: Yes.

12 THE COURT: How old are you?

13 THE DEFENDANT: Twenty-one.

14 THE COURT: Okay, I need you to just speak up. Let's move the
15 microphone over a little bit.

16 All right, Mr. Coleman, how old are you?

17 THE DEFENDANT: Twenty-one.

18 THE COURT: How far have you gone in school?

19 THE DEFENDANT: Eleventh grade.

20 THE COURT: Do you read, write, and understand the English language?

21 THE DEFENDANT: Yes.

22 THE COURT: I have a copy of an amended information -- thank you --
23 that contains the charges of first degree murder and battery with use of a
24 deadly weapon. Did you receive this document?

25 THE DEFENDANT: Yes.

1 THE COURT: Have you read it over?

2 THE DEFENDANT: [Indiscernible]

3 THE COURT: I need you to just to speak up a little more.

4 THE DEFENDANT: Yes.

5 THE COURT: And do you understand both of those charges?

6 THE DEFENDANT: Yes.

7 THE COURT: All right, as to Count 1, first-degree murder, how do you

8 plead?

9 THE DEFENDANT: Guilty.

10 THE COURT: And as to Count 2, battery with use of a deadly weapon,

11 how do you plead?

12 THE DEFENDANT: Guilty.

13 THE COURT: The negotiation is as follows: both parties agree to

14 recommend 20 to 50 years in the Nevada Department of Corrections and the

15 State will not oppose -- and that would be on the murder count.

16 MR. COLUCCI: Right.

17 THE COURT: And the State will not oppose concurrent time between

18 the counts. Is that your complete understanding of what the negotiations are?

19 THE DEFENDANT: Yes.

20 THE COURT: Is anybody forcing you to plead guilty?

21 THE DEFENDANT: [Indiscernible]

22 THE COURT: I need you just to speak up a little --

23 THE DEFENDANT: No.

24 THE COURT: You're pleading guilty freely and voluntarily?

25 THE DEFENDANT: Yes.

1 THE COURT: All right, I have a guilty plea agreement here and on page
2 five there's a signature line with a signature above your name. Did you sign
3 this?

4 THE DEFENDANT: Yes.

5 THE COURT: Before you signed it did you read it over?

6 THE DEFENDANT: Yes.

7 THE COURT: Did you understand everything in it?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that as a result of your plea you're
10 giving up certain valuable constitutional rights; those rights were listed for you
11 in your guilty plea agreement?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you also understand as to Count 1 that you face a --
14 these are the following options that you face: life without the possibility of
15 parole, or a definite term of 50 years with eligibility for parole beginning at 20
16 years. There's no use of a deadly weapon?

17 MS. PIEPER: No.

18 MR. COLUCCI: No use.

19 THE COURT: Okay, so this is messed up. All right, so if you look on
20 page two of the guilty plea agreement it says on line two: plus and equal and
21 consecutive term for use of a deadly weapon. I'm going to take that out, right?

22 MR. COLUCCI: Yes.

23 MS. PIEPER: Yes.

24 THE COURT: So wouldn't there be, as to Count 1, life with, life
25 without, and a term of years, and that's not all in here.

1 MR. SWEETIN: That's true, Judge. There would be -- it would either
2 be life without the possibility of parole --

3 THE COURT: Which we have in here, or a definite term of 50 years
4 with parole eligibility beginning at 20 years, or life with the possibility of parole
5 with parole eligibility being at 20 years.

6 MR. SWEETIN: Twenty years.

7 MS. PIEPER: Twenty years.

8 THE COURT: So I'm going to write that in here and -- afterwards, but I
9 want to ask you if you understand. I know the deal is to recommend to me the
10 term of 50 years with parole eligibility beginning at 20, but I need for you to
11 understand that there are three possibilities here. One is life with parole
12 eligibility at 20 years, one with life with no parole, or the term of years which is
13 the 20 to 50; do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that all of those possible punishments
16 there is no option for any probation, that on a charge of murder you must be
17 sentenced to prison; do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay, and do you also understand that I am going to
20 write in the third option into this guilty plea agreement and I'm going to put my
21 initials by it so that you -- and this record will also indicate that you've been
22 advised of all the possible punishments that face you. Do you understand?

23 THE DEFENDANT: Yes. Yes.

24 THE COURT: I really need you to speak up.

25 On the other, Count 2, which is the battery with use of a deadly

**PLEADING
CONTINUES
IN NEXT
VOLUME**