IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

MARC PAUL SCHACHTER,

Plaintiff,

vs.

STATE OF NEVADA,

Defendant.

_____/

Sup. Ct. Case No. 87040
Case No. CR14-1044
Dept. 4

RECORD ON APPEAL

VOLUME 3 OF 10

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APPELLANT
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405 Grand Canyon #7
Reno, Nevada 89502

RESPONDENT
Washoe County District
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Clerk of the Court
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JUDITH ANN SCHONLAU

CCR #18

75 COURT STREET

RENO, NEVADA

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

BEFORE THE HONORABLE ONNI J. STEINHEIMER, DISTRICT JUDGE

-o0o-

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. CR14-1044
	)	DEPARTMENT NO. 6
	)	
MARC PAUL SCHACHTER,	)	
	)	
Defendant.	)	

TRANSCRIPT OF PROCEEDINGS

PRE-TRIAL MOTIONS PARTIAL TRANSCRIPT

THURSDAY, SEPTEMBER 11, 2014, 10:00 A.M.

Reno, Nevada

Reported By: JUDITH ANN SCHONLAU, CCR #18
NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
Computer-aided Transcription

A P P E A R A N C E S

FOR THE PLAINTIFF:	OFFICE OF THE DISTRICT ATTORNEY
	BY: ZELALEM BOGALE, ESQ.
	DEPUTY DISTRICT ATTORNEY
	WASHOE COUNTY COURTHOUSE
	RENO, NEVADA
FOR THE DEFENDANT:	APPEARING IN PROPER PERSON
STANDBY COUNSEL	OFFICE OF THE PUBLIC DEFENDER
	BY; JAMES LESLIE, ESQ.
	DEPUTY PUBLIC DEFENDER
	350 S. CENTER STREET
	RENO, NEVADA

I N D E X

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
ALEJANDRO MONROY	2	18	22	63
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NICK REED	24	33		
MICHELLE BAYS	40	58		

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RENO, NEVADA; THURSDAY, SEPTEMBER 11, 2014; 10:00 A.M.

-oOo-

THE COURT: This is the time set for a continued motion, and we have Mr. Schachter present with standby counsel Mr. Leslie. Thank you. And the State is represented.

Counsel we kind of put off some things, some of Mr. Schachter's motions, as well I do have some rulings to make on the State's motions. Are you ready to go forward with those motions this morning

THE DEFENDANT: I am, Your Honor.

MR. BOGALE: State is ready to proceed.

THE COURT: All right. Shall we, I think we need to talk about the video surveillance. Let's start there.

MR. BOGALE: Kay. The State has witnesses here to authenticate the original video as the Court ordered on 9-3 so I guess I'll call both of them first.

THE COURT: That's fine. Why don't you tell us the name of who you are going to be calling.

MR. BOGALE: Nick Reed.

THE COURT: Okay.

MR. BOGALE: The next is Alejandro Monroy.

THE COURT: Last name Roy?

MR. BOGALE: M-O-N-R-O-Y.

MR. BOGALE: I will start with Alejandro Monroy, Your

Honor.

THE COURT: Okay.

THE CLERK: Please raise your right hand.

ALEJANDRO MONROY

called as a witness, having been first duly sworn, took the witness stand and testified as follows:

DIRECT EXAMINATION

THE COURT: Counsel you may proceed.

MR. BOGALE: Thank you Your Honor.

BY MR. BOGALE:

Q When you get comfortable, please state your name and spell your last name for the Court Reporter?

A Alejandro Monroy, M-O-N-R-O-Y.

Q What is your occupation?

A Asset protection officer for Wal-Mart.

Q And do you work at a specific Wal-Mart?

A I now work for the Kietzke Wal-Mart store 2189.

Q Have you worked for other Wal-Marts in town?

A I have, the Seventh Street Wal-Mart, store 3254.

Q And did you work for that Seventh Street Wal-Mart on or about, excuse me, June 9th of this year?

A Yes, I did.

Q And what was your employment status there? What did you do there?

A Asset protection.

Q What is asset protection?

A Asset protection is basically walking the store looking for safety issues and any suspicious activity that customers must be displaying to catch shoplifters.

Q Do you just look with your eyes, look for video cameras, how do you keep track of this?

A Ninety-nine percent of the time it is with my eyes.

Q So you have an office in the store?

A Yes, we do.

Q And have you been trained to detect suspicious customers?

A Yes.

Q What sort of training have you undergone?

A Basically walking with an experienced asset protection officer, demonstrating what suspicious activity might look like, looking around nervously, having an empty tote in their hand, shopping erratically, things like that.

MR. LESLIE: Your Honor, I apologize for the interruption. I forgot to ask, can we have him uncuffed like we did last time?

THE COURT: Yes.

MR. LESLIE: Hank you.

BY MR. BOGALE:

Q Now you said you observe customers with your own eyes; is that correct?

A Yes.

Q Do you also have video equipment?

A Yes, we do.

Q Does Wal-Mart have video surveillance?

A Yes, they do.

Q Is it constantly recording or triggered by certain things? Explain that?

A It is recording 24 hours a day 7 days a week.

Q Now we are here because an individual named Mark Schachter has been identified, sorry, has been charged with some crimes. Let me bring your attention back to June 9th. Do you recall seeing somebody in your store that you thought was acting suspicious?

A Yes.

Q Did you eventually confront that person?

A Yes, I did.

Q Do you see that person here in the courtroom today?

A Yes, I do.

Q Could you please point at him and describe an article of clothing he's wearing?

A The defendant has a gray jumpsuit. I can't tell what it is. And orange shoes.

MR. BOGALE: May the record reflect the identification of the defendant by this witness?

THE COURT: The record will so reflect.

MR. BOGALE: Thank you. Your Honor, may I approach?

THE COURT: You may.

MR. BOGALE: I will ask the clerk to have this marked.

THE CLERK: Exhibit C marked.

(Exhibit C marked for identification.)

THE CLERK: Just so everybody remembers, A and B were marked at the end of the previous hearing which were the CD's in the custody of the defendant.

MR. BOGALE: Your Honor, may I approach this witness?

THE COURT: You may.

MR. BOGALE: Thank you.

BY MR. BOGALE:

Q Mr. Monroy, I am going to show you what has been marked as Exhibit C, okay? It is a disk. Can you-- do you-- can you tell me whose name is on there, first?

A That is Mark Schachter.

Q Who do you understand Mark Schachter to be?

A The defendant.
Q And do you know what this disk has on it?
A Yes.
Q What is on this disk?
A It is the video of my confrontation with Mark Schachter along with some video of him in the store selecting some items.
MR. BOGALE: Your Honor, may I move to admit Exhibit C in evidence?
THE COURT: Any objection?
THE DEFENDANT: How does he know what is on that disk?
THE COURT: You want to ask him a question before I admit the document?
THE DEFENDANT: Yes. How do you know what is on the disk?
THE WITNESS: I burned the disk.
THE DEFENDANT: Okay. Thank you.
THE COURT: Exhibit C is admitted.
(Exhibit C admitted in evidence.)
MR. BOGALE: Thank you, Your Honor. May I publish?
THE COURT: You may.
MR. BOGALE: We tried to set up the video so Your Honor can see it. I hope it is sufficient.

BY MR. BOGALE:

Q Mr. Monroy, there are several files on this disk. I am going to play the beginnings of them, and if you are satisfied it accurately reflects what you burned, just tell me okay?

A Okay.

THE DEFENDANT: Your Honor, I just have an objection. Where are we going with this? I thought the hearing was about the disk that was already in evidence not a new disk.

THE COURT: We may have to compare the two, I guess.

THE DEFENDANT: This is a recently burned disk he brought. He said he brought it.

THE COURT: He said he burned it. Mr. Schachter, we don't argue back and forth. So since you are in trial in two weeks, we better start figuring this out. So you don't get to sit there and debate issues. If you have a motion, make it. If you have an objection, make it. You say what the objection is. You stand up when you say it, but we don't have to do it today but in a trial, then I rule on it and you don't debate it with me, okay?

THE DEFENDANT: Sorry.

THE COURT: I am going to let the question stand. Whatever the objection was, which I am not sure I understood,

is overruled. I am going to let the question stand and the witness can answer.

BY MR. BOGALE:

Q Okay. Mr. Monroy, I am going to open this disk and play the file with you. Just look at that screen behind you. Start with a file called AA GM. Do you recognize this video?

A Yes.

Q What does it show?

A It is showing Mr. Schachter going to the front of the pharmacy and health and beauty department.

Q I don't believe we have the ability to kind of like use high technology and point and circle things. Can you at least point at Mr. Schachter in the video?

A Absolutely. Right there.

Q Is this an accurate reflection of the Wal-Mart surveillance recording at your store on Seventh Stree on June 9th?

A Yes, it is.

Q I am going to close that file out and open up another one. This one is entitled GC Portable. Those are the first two words. Okay. Have you had a chance to view that?

A Yes.

Q What is this video?

A This is a video of Mr. Schachter going up to the

register at the garden center and paying for some items.

Q And there appears to be a date and time stamp on that; is that correct?

A Yes.

Q What does that date and time stamp say?

A June 9, 2014, 11:48 a.m.

Q Is this an accurate depiction or reflection of the Wal-Mart surveillance on that date and time?

A Yes, it is.

Q Is this an accurate reflection of what you burned that day?

A Yes.

Q While we are on that, do you recall the exact date you burned this file?

A These files --

Q If you don't remember the exact date that's okay?

A I know it was within a few days of the actual incident.

Q So within what, two or three days?

A Yes.

Q Of June 9th?

A Yes.

Q Could it have been a week?

A No. It was two or three days.

Q Are these video files maintained on like a server of some kind?

A It is actually saved on a computer.

Q Do you have a certain amount of time within which you need to burn them if you want to preserve them?

A When we create an actual investigation file where we take snippets of the video and place them into an investigation, I am not 100 percent if that ever deletes unless we physically delete it.

Q Now I am going to show you a file entitled RX POX are the first two words. Do you recognize this video?

A Yes, I do.

Q What does it show?

A It is showing Mr. Schachter in the first aisle of the pharmacy looking at some items.

Q Where is Mr. Schachter? If you could point him out as to the place?

A Right in there.

Q That is pretty hard to see. How do you know that is Mr. Schachter from the video?

A Because I was actually physically surveilling him from the aisle in front.

Q So you were personally in this store surveilling him with your own eyes?

A Yes, I was.
Q You can't see it on the video, but you were somewhere to the right, I guess?
A Correct.
Q Is this a fair and accurate representation of the Wal-Mart surveillance of that location on June 9th?
A Yes, it is.
Q I am going to show you file RX-0TC. Do you recognize this video?
A Yes, I do.
Q Do you see Mr. Schachter in it?
A I do.
Q Where do you see him?
A Right there.
Q Okay. And is this video recording activities you were also observing with your own eyes?
A Yes.
Q And is this a fair and accurate representation of what you observed with your own eyes?
A Yes.
Q Okay. Just for me could you explain what he's doing here?
THE DEFENDANT: Your Honor I object. We'll let the video decide what I am doing or not doing. I don't understand

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what the question is.

THE COURT: Overruled. I will allow him to say what he observed personally. He's saying he saw this personally so I will allow that question.

THE WITNESS: It is Mr. Schachter looking at some Icy Hot items and comparing and reading the box.

BY MR. BOGALE:

Q Okay. What is Mr. Schachter doing with these item?

A He places them in the cart.

Q Okay. Is it a fair and accurate representation of the video or what you observed?

A Yes, it is.

Q Now I am going to show you a file called Stanley GC. What does this show?

A This is showing the entrance into the garden center.

Q Does it show Mr. Schachter in there?

A Yes, it does.

Q Where is he?

A Right there.

Q Okay. I will show you another file called Stanley GC. It ends in a zero. The previous one ended in 15. What is this file?

A It is the same entrance into the garden center just the angel on the other side of the door.

Q Did it show Mr. Schachter in that video?
A Yes, it did.
Q Just a couple more, Mr. Monroy. This one is entitled Park Lot Cam is the first two words. Now what is happening in this video?
A This is where I confronted Mr. Schachter.
Q I am going to pause it. Where is the confrontation happening, if you could point it out to us?
A Right there.
Q Okay. And you personally confronted Mr. Schachter?
A Yes, I did.
Q And you know where this video was recording from?
A Yes.
Q Where was it recording from?
A There is a camera on one of the lightposts.
Q And would this be a fair and accurate reflection of the confrontation?
A Yes.
Q Okay. Okay. I am now showing you a file entitled Roof Top Cam are the first two words of the file. What is happening here?
A The confrontation is continuing. Mr. Schachter is still attempting to get past me.
Q Okay. I see there are -- there is a street towards

the top of the video. What street is that?
A That is Seventh Street.
Q You are on like the north side of the parking lot?
A Correct.
Q And where is Mr. Schachter and where are you in this video?
A This is Mr. Schachter.
THE COURT: I can't see.
THE WITNESS: That is Mr. Schachter and that is me.
THE COURT: Okay. Thank you.
BY MR. BOGALE:
Q It is a long video, so I am going to ask you is this short piece a fair and accurate representation of the aftermath of the confrontation?
THE WITNESS: Yes.
Q Does anyone else have access to the video files at Wal-Mart besides asset protection?
A Upper management.
Q Is there any way that these video files could have been -- could have been edited?
A Not that I am aware of.
Q Do you know how to edit them?
A No.
Q Okay. Have you reviewed Wal-art's video files for

any video showing the defendant entering Wal-Mart?

A I did look. Unfortunately, the files delete after 60 days.

Q And so did you find one?

A No. There was no video.

Q Did you look within 60 days from June 9th?

A I do not recall.

MR. BOGALE: No further questions.

THE COURT: Mr. Schachter.

CROSS-EXAMINATION

BY THE DEFENDANT:

Q You testified that you burned these videos?

A This specific video.

Q It wasn't Ms. Young who burned them?

A That one, no.

Q All these -- these are all burned together?

A I am testifying to this one.

Q I don't even know how to put this. This is not the video that is in my discovery?

THE COURT: I don't believe so. The one you gave the clerk for safe keeping is marked A and B.

THE CLERK: That is correct.

THE COURT: So he's now showing you C. Do you want

him to look at A and B? Do you want to ask him questions about A and B?

THE DEFENDANT: No.

THE COURT: Okay.

THE DEFENDANT: I thought the hearing, this was about the discovery about what I was entitled to and whether that video was altered.

THE COURT: Mr. Schachter, it really doesn't matter if it was altered. If the State were able to produce the documents that you thought were exculpatory, then it may give you a different remedy if yo continue going to trial in two weeks, but maybe it still would be admissible. You made a motion of the fact that they had no video provided to you in the discovery that showed you walking into Wal-Mart, and you said that was exculpatory evidence because you had the backpack on when you walked in. So there are many motions here. You have discovery issues which you are claiming they aren't giving you, is it fair and accurate, whatever they did have. But you are also claiming that they did not burn the proper CDs.

THE DEFENDANT: Exactly.

THE COURT: Right?

THE DEFENDANT: Yes.

THE COURT: So the State has said what they burned.

They have got a witness here. You can ask him why he burned it, didn't burn it, do whatever you want with it. You can have him look at A and B if you want because you have lodged those with the Court.

BY THE DEFENDANT:

Q Thank you. So, again, there is no video of me available right now walking into the store?

A Correct.

Q What was the deadline for you to be able to retrieve that video?

A Whatever 60 days would have been.

Q Is that the procedure-- How did you decide which snippets to burn?

A I burned anything showing you throughout the store selecting items.

Q But nothing prior to 11:30 or 11:27 that was on that video, the first video, right?

A If that is the time, yes.

Q And did you-- that is all the video you could find of me in the store, is that what you are saying?

A Yes.

Q So it is the policy not to get all, I am sorry, all the entrance videos, right?

A I am sorry. Repeat that.

Q All the entrances and exists are on video surveillance?
A Yes, they are.
Q Is it the policy not to record when you have a suspected shoplifter, not to record him or her coming into the store?
A There is no policy.
Q It was just your decision not to keep that video, is that right, not to burn that video along with the rest of the videos?
A Yes. I did not see the relevance.
Q There is no other video that you know of of me in the store on that date?
A There could be, but I wouldn't see the relevance of recording just you walking down an aisle.
Q But in front of the video, does it show me without the backpack?
A Okay.
Q But you said in your statement that you started surveillance at 11:40 but the video, the earliest video in there is 11:30, and I have the backpack in the shopping cart?
A Okay.
Q So there is no video prior to 11:30 or any video that you brought with you today or have available that does

not show me with the backpack, correct?

A Correct.

THE DEFENDANT: That's all.

THE COURT: That's the end of your questioning?

THE DEFENDANT: Yes.

THE COURT: Counsel.

MR. BOGALE: Just a couple more questions, Your Honor.

REDIRCT EXAMINATION

BY MR. BOGLE:

Q Did you see the defendant in Wal-Mart without a backpack?

A Yes.

Q And then did you see him select a backpack?

A Yes.

Q Is it the same backpack he was holding when you confronted him outside the store after he walked out without paying for it?

A Yes.

Q Did you view the video of Mr. Schachter coming into Wal-Mart?

A I did not.

Q Okay. You don't know if there is one, correct?
A That is correct.
THE DEFENDANT: He just, excuse me, testified there was video.
THE COURT: Not a time to object.
MR. BOGALE: No further questions. Thank you.
THE COURT: Now did you have something?
THE DEFENDANT: He just testified -- excuse me.

RECROSS EXAMINATION

BY THE DEFENDANT:
Q You testified all the entrances and exits are video taped?
A Correct.
Q So at one point, there was video of me walking in the store, correct?
A Assuming you used an entrance or exit, yes.
Q Is there some other way to get in?
A You could have jumped a fence in the garden center, sure.
THE COURT: Is there anything further from the State?
MR. BOGALE: Nothing further for this witness right now.

THE COURT: You may step down.

(Witness excused.)

MR. BOGALE: The State calls Nick Reed.

THE COURT: Counsel, you may proceed.

NICK REED

called as a witness, having been first duly sworn, took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. BOGALE:

Q Good morning. Please state your name and spell your last?

A Nick Reed, R-E-E-D.

Q Nick, what is your occupation?

A I am a police officer with the Reno Police Department.

Q How long have you been there?

A About ten years.

Q Are you on a special assignment?

A I am assigned to detectives.

Q Are you part of the Repeat Offender Program?

A Yes, sir.

Q What is that?

A That is basically the career criminal unit.
Q Okay. Does that mean you track career criminals?
A Yes, sir, we do.
Q What sort of tracking do you do?
A It could vary from surveillance to checking certain programs that we have that show for instance like a pawn tracking program. We might track somebody through pawns if they are pawning a lot of items or coming up with stolen property, something like that.
Q You track their whereabouts and behavior?
A Basically, yes.
Q Are you assigned a certain amount of targets, essentially?
A Yes.
Q Is Mark Schachter one of your targets?
A Currently, yes.
Q Let me bring you back to a few months ago, June of this year.
A Yes, sir.
Q Were you involved in an investigation of an individual named Mark Schachter?
A Yes, sir.
Q What did that investigation entail?
A Mr. Schachter had been arrested June 9th, and on

June 10th I received an in-custody report from Washoe County Jail indicating he had been arrested. I read through the report, the initial report and conducted a little bit of follow up. In that follow up, I collected a surveillance video, and I spoke to asset protection officer named Anna Young both over the phone and in person. I watched the video at Wal-Mart. I completed a report based on what I had seen in the video, what I had read in Mr. Alex Monroy's statement and a little bit of about what Anna, Ms. Young, had told me, and I later booked the video.

Q You booked video into evidence?

A Yes, sir, I did.

Q Okay. I am going to show you what has been marked and admitted as Exhibit C, okay? And just tell me if you recognize these files, how you recognize them and if they comport with the original video that you booked, okay?

THE COURT: Wait a minute, is this the video he booked or a different video?

MR. BOGALE: It is the State's position it is just a copy of the same video.

THE COURT: Where is the video he booked?

THE WITNESS: Right here Your Honor.

THE COURT: Let's Mark that.

THE WITNESS: Okay.

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MR. BOGALE: Thank you.

BY MR. BOGALE:

Q Could you open this for me, please?

THE COURT: Let the record reflect the envelope is being opened by the witness.

THE WITNESS: Your Honor, I just want to indicate it is a Reno Police Department envelope. I has my name and badge number on the front, the date of June 10th. Chain of custody. Case number on the back. It is sealed. My name, Reed, my badge number 9473, case number 14-10834.

THE COURT: Is that in the same condition as you put it into evidence?

THE WITNESS: Yes, ma'am.

THE COURT: Did you retrieve it today?

THE WITNESS: I retrieved it last night.

THE COURT: From evidence?

THE WITNESS: Yes, ma'am.

THE COURT: Then you can open it. The clerk is going to mark the envelope as well as the CD.

THE CLERK: He envelope is marked 1. The CD, itself, will be marked 1-a.

(Exhibit 1 and 1-a marked for identification.)

MR. BOGALE: Your Honor, pursuant to Mr. Reed's explanation of how he booked this into evidence, where he got

it from the chain of custody, his name, badge number and case umber, I move to admit this in evidence.

THE COURT: Mr. Schachter. Any objection?

MR. LESLIE: Court's indulgence, Your Honor.

THE DEFENDANT: For the purpose of this hearing only.

THE COURT: No objection?

THE DEFENDANT: No objection.

THE COURT: Exhibit 1 and 1-a are admitted.

(Exhibits 1 and 1-a admitted in evidence.)

MR. BOGALE: May I publish the disk, Your Honor?

THE COURT: You may.

MR. BOGALE: Thank you.

THE COURT: Do you want to return C to the clerk?

MR. BOGALE: Sure.

BY MR. BOGALE:

Q Next I am going to show you what has been marked and admitted as Exhibit 1-a.

A Okay.

Q Now let me show you a couple of videos. This one is called Stanley GC. Is this a fair and accurate representation of what you burned?

A You know, I don't recall. I never watched any of these other files. I remember watching Mr. Schachter,

specifically, and it was, my focus was more on the end of the surveillance that loss prevention did with Mr. Schachter in the alleged robbery at the time. That is where I kind of focused my attention, so I don't remember the file that you showed me.

THE COURT: Just play it for the Court.

MR. BOGALE: You want me to play the last one again?

THE COURT: No. Do you have the printout of what you are playing? Have you done that?

MR. BOGALE: The printout? I am sorry.

THE COURT: Have you printed a screen shot from that so you know which file you are supposed to be looking at? The issue here is whether or not you, the D.A.'s office, or the Police Department really burned a fair and accurate copy for the defendant. It is a discovery motion as well as his motion for exculpatory evidence. So in order to compare C which you brought in with the loss prevention officer and this exhibit, it would be helpful if we knew you had a list of the files that you were going to show instead of saying, well, I am going to jump here, I am going to look at this.

MR. BOGALE: Well, I can do that.

THE COURT: Do you have a list?

MR. BOGALE: I don't have a list, but I can make up a list.

THE COURT: Maybe you should talk to your investigator.

MR. BOGALE: Do you want to do that now?

THE COURT: You can ask her now.

MR. BOGALE: After speaking with our investigator, I do have a screen shot of the file that we received from RPD.

THE COURT: Okay. Did you want to mark that?

THE CLERK: Exhibit 1-b marked, "b" as in boy.

(Exhibit 1-b marked for identification.)

THE COURT: For purposes of today's hearing as it is a pretrial hearing. Where did you get 1-b?

MR. BOGALE: From my investigator, Michelle Bays.

THE COURT: It was prepared in the course of your preparation for trial?

MR. BOGALE: Yes.

THE COURT: Have you disclosed that or is that part of your work product?

MR. BOGALE: I have not disclosed that, Your Honor.

THE COURT: You considered it part of your work product?

MR. BOGALE: That's what I figured.

THE COURT: But you think it might assist the Court in understanding the exhibits. You can go ahead and show the defendant the document.

MR. BOGALE: I think it will definitely help the Court understand the exhibits.

THE DEFENDANT: This is for the one that the officer just --

THE COURT: Yes, it is. That is my understanding.

THE DEFENDANT: Is that what it is? Is this a screen shot?

THE COURT: This doesn't have to be on the record. You can talk just like you would a lawyer.

MR. LESLIE: Your Honor, I think the colloquy should be on the record, because Mr. Schachter is facing habitual. I am sorry.

THE COURT: I didn't know how involved it was going to be.

MR. LESLIE: If it was -- I mean those colloquies occur where we say Court's indulgence and whisper at each other, but it sounds like information that probably should be recorded.

THE COURT: Okay. Mr. Schachter, you are concerned about the document. What is your question?

THE DEFENDANT: Well, the date modified is everything from six to just a couple of weeks ago to August. From June to August. I don't know how it could be from that date. I don't know which video it is from, the date modified.

THE COURT: Why don't we hold off on it then. Go ahead and take it back, Mr. Bogale. Hold on to it. We might have to have a witness to testify to whatever it is.

THE PLAINTIFF: I think Ms. Bays would be the right person to testify to it.

THE COURT: Okay.

BY MR. BOGALE:

Q Okay. So this disk that I just played a file from, you booked into evidence and never gave it to anybody else. It stayed in evidence; is that correct?

A That's correct.

Q If it had been moved, it would have been marked on the chain of custody; is that correct?

A That's correct.

Q And on this chain of custody --

MR. BOGALE: May I approach the witness?

THE COURT: You may.

BY MR. BOGALE:

Q Showing you what is marked Exhibit 1, what does the chain of custody say?

A So when I booked this in, I put it into a locker identified as 827. So the evidence people show they removed it from 827 and put it into evidence, EVD dated 6-12 of '14 and then I put on yesterday that I removed it from evidence,

from the evidence clerk, my name and badge number and the date which was 6-10-14.

Q Thank you.

MR. BOGALE: I have no further questions, Your Honor.

THE COURT: Mr. Schachter, do you have any questions?

THE DEFENDANT: I don't. I am sorry.

CROSS-EXAMINATION

BY THE DEFENDANT:

Q How does that evidence get shared with the prosecutor?

THE COURT: Would you return the evidence to the clerk, please? Make sure it all gets put back together.

MR. BOGALE: I understand.

THE WITNESS: I will answer you in a second. So what I have done, which is common for a detective in my unit, I created two packets. A packet has the evidence disk in it, the reports, the, you know, the paperwork. And in this case, the surveillance disk. So I created a packet for the defense, and I created a packet for the D.A.'s office, and that is only to expedite discovery, because often times a guy in your position will want to go to trial, so it is just to help things along.

So to answer your question, he got the disk from me. I burned it or I had Wal-Mart burn it, I don't really remember, but I created two packets, one for the defense and one for the D.A.'s office.

BY THE DEFENDANT:

Q Prior to lodging it into evidence, correct?

A Yeah, correct.

Q Do you know the date? Was that the same date that you logged it into, the 10th, on June 10th or sometime after?

A It had to have been the same date, because I booked the original in on the 10th and the 10th is when I did my follow-up at Wal-Mart. It was the day after you were arrested.

Q So you don't know how the 6-14 date that is on the other copy is on there, right?

A I don't even know what you are talking about.

Q I am sorry.

THE COURT: Did you want Exhibit A or B shown to the witness?

THE DEFENDANT: That is helpful. I am trying to do it as quickly as possible.

THE CLERK: Which one would you like first? I am handing the bailiff Exhibit A.

THE DEFENDANT: Either one of them.

THE COURT: Is there anything on the outside of that

envelope?

THE DEPUTY: Not on the outside of the envelope. They are Marked on the disk, disk 1-DA 14-1219 Schachter, marked 7-24 of '14. The initials of KB.

THE COURT: Would you hand that to the witness? We'll just do that first.

THE COURT: Is that the condition that you produced a copy of the disk for the defendant?

THE WITNESS: I didn't write that down. But I mean the disk, it looks -- I mean they all kind of look the same. It looks similar to what we would use.

THE COURT: When you prepare a packet for the defense, do you write on the disk?

THE WITNESS: Not always, but I have. Usually it is in a black sharpie. It has the case number and defendant's name on it.

THE COURT: Would you write on the sleeve?

THE WITNESS: I have done both.

THE COURT: Would you leave it completely blank?

THE WITNESS: I have done that as well.

THE COURT: Would the bailiff hand him Exhibit B. Would you put that disk back in the sleeve?

THE WITNESS: Absolutely. Yes, ma'am.

THE COURT: Is there any writing on Exhibit B?

THE WITNESS: Should I pull it out? There is writing. It is Disk 2, DA 14-12219 Schachter, Mark, 2-24-14.

THE COURT: Is that your writing?

THE WITNESS: No, ma'am.

THE COURT: Okay. Thank you.

THE WITNESS: Yes, ma'am.

THE COURT: Now did you have some questions?

BY THE DEFENDANT:

Q On those two videos, all the videos say --

THE COURT: The question is for him not me.

BY THE DEFENDANT:

Q On those two DVDs, all the videos say modified and created on June 14th. Is there some explanation for that that you know of?

A No.

Q Because you only made copies on June 10th, right, one for the D.A. and one for the defense?

A Well, there was three copies. There was the original, then there was two additional copies, but I don't remember, and I apologize, if I had Wal-Mart burn me three total copies, or if I burned two additional copies. I'm not computer, extremely computer savvy, so I tend to believe that I probably asked Wal-Mart to burn me three copies, because that is where I watched this particular incident. So -- I'm

sorry. Could you repeat the question? I didn't burn anything after June 10th.

Q Okay. In your police report it just says the one disk was booked into evidence. Are you saying it is possible that more than one was booked into evidence? Wal-Mart might have given you additional DVDs or just the one?

THE COURT: That is not what he testified to.

BY THE DEFENDANT:

Q I am sorry. You only received one DVD from Wal-Mart, correct?

A Well, I can't say that I received just one, because I may have had three total copies of the same disk. But the two additional videos, whether Wal-Mart burned them or I burned them myself, I don't remember. They were specifically for the defense and the D.A. just to expedite the discovery process. So the one disk that was booked into evidence, that should depict the same as the other two discs.

Q That would have been on June 10th, correct?

A That it was booked?

Q That it was burned?

A Yes.

Q And booked?

A Yes, burned and booked both the same day.

Q Okay.

THE DEFENDANT: That's it.
THE COURT: Thank you. Questions?
MR. BOGALE: No further questions.
THE COURT: Thank you, sir, you may step down.
(Witness Excused.)
MR. BOGALE: I want to clarify where we are going here. I wasn't here September 30th. Matt Lee covered for me. I had the pleasure of reading the Court's minutes that were filed yesterday, and they explained what happened at that hearing. We are here, please correct me if I am wrong, to make sure Mr. Schachter has all the video evidence and discovery that the State has; is that correct?
THE COURT: That's partially correct. There is also, if you read his motion, there is a motion to dismiss the charges because exculpatory evidence was destroyed. His allegation was he entered the Wal-Mart with the backpack that he is charged with stealing, and that the exculpatory evidence was on a video not produced by the State.
He's also objected to the content of video discovery stating that the video discovery that was provided to him was not complete, an accurate copy of whatever was produced and booked into evidence. So your job today was to confirm what was booked into evidence, confirm whether there was any video exculpatory evidence available, perhaps have the witness

testify it is not available and refute the exculpatory evidence Mr. Schachter is claiming you destroyed or someone who works for you destroyed.

He's also alleging the videos he's been given are not a fair and accurate depiction of what was marked into evidence or booked into evidence, so he's been alleging that. So you have got now what was booked into evidence, but you still haven't been able to compare. And then the one you did play was something that was burned by the witness not having anything to do, I don't think, with the discovery that was provided to Mr. Schachter.

So he has his Motion to Dismiss on substantive grounds and Motion to Dismiss for failure to provide discovery.

MR. BOGALE: Well, I never had a chance to view the discovery that he has. Evidently he booked that into evidence as A and B.

THE COURT: Who did view the discovery before it was provided to Mr. Schachter?

MR. BOGALE: I viewed it, but the disks he has, the physical disks he has he's claiming are different or aren't exactly what we provided him, so I would like to view those.

THE COURT: That would be fine.

MR. BOGLE: To see what the discrepancy is.

THE COURT: At the last hearing, Mr. Schachter left those disks with safekeeping in the clerk. They were marked. They have been in the clerk's control ever since. If you would like to take a short recess and review them.

MR. BOGALE: Yes, I do.

THE COURT: Any objection?

THE DEFENDANT: No, Your Honor.

THE COURT: As long as you do it with Mr. Schachter and the clerk present. We'll be in a short recess.

(Short recess taken.)

THE COURT: Thank you. Please be seated. Counsel?

MR. BOGALE: Thank you, Your Honor. Before we go ahead, I would like to call Michelle Bays as a witness, please, Your Honor.

THE COURT: Okay.

MICHELLE BAYS

Called as a witness, having been first duly sworn, took the witness stand and testified as follows:

DIRECT EXAMINATION

MR. BOGALE:

Q Good morning. Please state your name and spell your last name for the court reporter?

A Michelle Bays, B-A-Y-S.

Q What is your current occupation?

A Supervising investigator with the Washoe County District Attorney's Office.

Q Are you assigned as the investigator to a case involving Mark Schachter?

A I am.

MR. BOGALE: Your Honor, may I approach the clerk?

THE COURT: You may.

MR. BOGALE: May I approach the witness?

THE COURT: Yes, you may.

BY MR. BOGALE:

Q I am showing you what has been marked as Exhibit 1-b. Take a moment to review that and let me know when you are done?

A Okay.

Q Do you recognize that document?

A I do.

Q What is it?

A It is a screen shot of a disk that was or that is currently in our case file for the Schachter case.

Q Did you print that screen shot out?

A I did.

MR. BOGALE: Your Honor, I move to admit Exhibit 1-b.

THE DEFENDANT: For the purpose of this hearing only, I agree.

THE COURT: Exhibit 1-b is admitted.

(Exhibit 1-b admitted in evidence.)

MR. BOGALE: Thank you. Let me take that back from you.

MR. BOGALE: Your Honor, may I approach the clerk?

THE COURT: Yes.

MR. BOGALE: Thank you. May I have this marked?

THE CLERK: Exhibit D marked.

MR. LESLIE: May we see it before it is proffered?

(Exhibit D marked for identification.)

MR. BOGALE: Your Honor, may I approach the witness?

THE COURT: You may.

BY MR. BOGALE:

Q Showing you what has been marked Exhibit D, take a look at that for a moment.

A Okay.

Q Do you recognize that?

A I do.

Q What is it?

A It is a screen shot of disk two of a disk or a file in the Schachter case.

Q Did you print that screen shot?

A I did.

MR. BOGALE: Your Honor, I move to admit Exhibit D.

THE COURT: Counsel, should it be marked -- Is it the same as this?

MR. BOGALE: That's a little different, because the disks have the exact same files on them, but the date modified is a couple minutes off.

THE COURT: If I look at this, would I look at this and the document you handed the witness at the same time? Would I be comparing those two?

MR. BOGALE: You would be comparing this with a disk.

THE COURT: This meaning 1-b?

MR. BOGALE: This meaning 1-b, and you would be comparing that with a disk already in evidence as well to make sure they comport.

THE COURT: Okay. What I would like is this document that has been marked D should be marked as a subset of the disk it goes with. You can have the witness help us with that.

BY MR. BOGALE:

Q Sure. What disk is that?

A This would be disk two.

Q Okay.

THE CLERK: The only disk two that is currently

marked in evidence is marked as Exhibit B as in boy so D will be converted to B-1.

THE COURT: Do you move its admission?

MR. BOGALE: Yes, I do, Your Honor.

THE COURT: Mr. Schachter?

THE DEFENDANT: Again for the purpose of this hearing.

THE COURT: Exhibit B-1 is admitted.

(Exhibit B-1 marked and admitted in evidence.)

MR. BOGALE: Can I take that back so she can remark it?

THE CLERK: Thank you.

BY MR. BOGALE:

Q Okay. I am going to do some comparing and contrasting here. Let me give you what is marked Exhibit 1-b and Exhibit B-1. Exhibit 1-b is disk one. Exhibit B-1 is disk two, okay?

A Okay.

Q So first look at Exhibit 1-b?

THE COURT: I am sorry. I don't understand. You say Exhibit 1 is disk one?

MR. BOGALE: Disk A.

THE COURT: I don't think that is what you said. Ma'am, would you look at 1-b?

THE WITNESS: Yes, ma'am.
THE COURT: Which disk does that go with?
THE WITNESS: It goes with disk one.
THE COURT: We don't have a disk one. We have a disk A and B which says it is disk one. We marked it as A, and B says it is disk two, and we marked it as B. Those were both provided to us by Mr. Schachter. We also have a disk marked as Exhibit 1 which was the exhibit that was marked by the officer. What does 1-b go with?
THE WITNESS: Well 1-b I created today, took a screen shot of disk one, what we call disk one in our system which had previously been discovered, it is my understanding, today.
THE COURT: You took a screen shot of something you have in digital form in your office?
THE WITNESS: Yes, I did.
THE COURT: It is not here at all, not physically here at all?
THE WITNESS: No, ma'am.
THE CLERK: We do have an issue because I have C which was marked today at this hearing that has disk 1 on it. Disk B he currently or somebody currently has, what is it labeled?
MR. BOGALE: Disk A and B.

THE CLERK: Okay. Come here. Disk A that was marked from the Defendant's property also says disk 1. So I know where I got them and how I got them. I am just letting you know talking in disk 1 and disk 2 is not working.

THE COURT: We have A and B that were provided to us from Mr. Schachter and they say on the disk, disk 1 and disk 2.

THE CLERK: Correct.

THE COURT: We have Exhibit C that was marked today with Mr. Monroy, and it says on it Exhibit 1, but we do not have anything from Mr. Monroy that says disk 2. And now the witness is saying she has a screen shot marked 1-b and it relates to a digital file that she has in her office, correct?

MR. BOGALE: That's correct, Your Honor.

THE COURT: Okay.

MR. BOGALE: So what I was about to do is compare the screen shot that Ms. Bays took from our file and that screen shot has files on it, I am going to compare it to the files on Exhibit A which is disk 1 which comports with 1-b which says disk 1 on it. I want to show the Court it is a screen shot.

THE COURT: Does it matter? Does it matter what you have in your office? Mr. Schachter's objection is he wasn't given what the officer had. His objection has been he's been

given a modified version of what the officer had. So I mean I think you are missing the point here about what you need to produce.

MR. BOGALE: Okay. In that case, if you don't want me to do that.

THE COURT: I am not saying that. I would be more than glad to let you do it, do whatever you want. We are going to go to lunch first. It is noon. If that is the way you want to prove it up, great. I don't think it is what the motion is about. But I can't say -- I am not sure where you are going with it.

MR. BOGALE: Can I answer your point?

THE COURT: Uh-huh.

MR. BOGALE: Please, Your Honor. If your point is for me to prove up that Mr. Schachter didn't have, or to prove Mr. Schachter actually had the files Mr. Reed brought today, I can do that right now, because the same files Mr. Reed brought are included on disk A and disk B Mr. Schachter provided to the Court. In fact, Your Honor, during the break, Mr. Schachter and I agreed to that, he had the exact same files that Mr. Reed brought today in addition to three additional files. So there is a little discrepancy, but he got more than what Mr. Reed brought today.

THE COURT: Three additional video files?

MR. BOGALE: Just files on the CD. What Mr. Schachter has, always had, is eight video files that is reflected on disks A and B. Those are duplicates of each other, A and B. Those are duplicates. They have eight video files on them. What Mr. Reed brought today has five video files on them. All five of those video files are contained on disks A and B.

THE COURT: Where did the other three come from?

MR. BOGALE: The other three came from Mr. Monroy who burned them, so he burned those files as we heard him this morning say. I went through all eight files with him and he said that's a fair and accurate depiction of what he burned.

THE COURT: The officer -- Are you going to put on some evidence about how you ended up with three files that the officer didn't take? I mean the officer said this is what I got and you are saying that is five files, now all of a sudden you have three more but you have no evidence as to which law-enforcement officer went and collected those three files to give them to you so that you could give them to the defendant.

MR. BOGALE: I have Mr. Monroy here who burned the files himself and gave them directly to the D.A.'s office.

THE COURT: I didn't hear any testimony like that.

MR. BOGALE: I can recall him.

THE COURT: Do you think you had him testify to that?

MR. BOGALE: No. No, he did not.

THE COURT: Okay. So --

MR. BOGALE: But he's still here, and I can have him testify to that.

THE COURT: Okay. Whatever you want to do, but do you need anymore from this witness right now, from Ms. Bays?

MR. BOGALE: Not right now.

THE COURT: Okay. Thank you, ma'am.

(Witness excused.)

THE COURT: We have to figure out when we can do this. I don't know what the schedule is.

Let's come back at 1:00 and get the witness testimony done, then we can figure out when else we can do something, okay? We should be able to get through the witnesses.

MR. BOGALE: I think so, Your Honor.

THE COURT: We will be in the lunch recess.

(Whereupon the Court adjourned for the lunch recess.)

THE COURT: Go ahead and call your witness.

MR. BOGALE: The State calls Michelle Bays.

MR. LESLIE: For what it is worth, I can actually go later than 1:30.

THE COURT: I have two 1:30's. Ma'am, you are still under oath. Please retake the stand. Welcome back, Ms. Bays.

THE WITNESS: Thank you.

BY MR BOGALE:

Q When we broke, we were discussing comparing screen shots to disks and all that. Do you remember that?

A I do.

Q So I'm going to --

MR. BOGALE: Actually, Your Honor, my I approach the clerk?

THE COURT: Certainly.

THE CLERK: Exhibit D marked. That was "D" as in dog.

(Exhibit D marked for identification.)

MR. BOGALE: Your Honor, may I approach the witness?

THE COURT: Yes. Did you show Mr. Schachter?

MR. BOGALE: Yes.

BY MR. BOGALE:

Q Let me show you what has been marked Exhibit D. Take a look at that and tell me if you recognize it?

A I do.

Q What is that?

A It is a screen shot of a disk in the Schachter file that is maintained by my office.

Q Okay. What do you understand that file-- Where did that file come from?
A Are we talking about the disk, itself?
Q The actual disk you made the screen shot from, yes?
A Meaning it is maintained in our physical file for the Schachter case, and my assumption is that it came from the Reno Police Department in the course of them collecting evidence in the case which is routine.
Q And did you print that screen shot, yourself?
A I did.
Q You printed it after you put in the physical disk?
A I did.
MR. BOGALE: Your Honor, move to admit Exhibit D.
THE COURT: Do you have any objection?
THE DEFENDANT: On the assumption we don't know where it came from.
THE COURT: Sustained.
BY MR. BOGALE:
Q You know where the disk is, correct?
A Yes.
Q Where is the disk?
A The actual physical disk is maintained in the case file for the Schachter case in our office.
Q And you inserted that disk into a computer?

A Yes.

THE COURT: You are leading.

BY MR. BOGALE:

Q What did you do with that disk?

A I inserted the disk into the computer into the screen shot of all the files contained in the disk.

Q Okay.

MR. BOGALE: Based on that, Your Honor, the State moves to admit Exhibit D.

THE COURT: Where is the disk she's talking about?

MR. BOGALE: It is here.

THE COURT: Why don't you have her talk about that.

MR. BOGALE: Your Honor, may I approach the witness?

THE COURT: Yes.

MR. BOGALE: It hasn't been marked or anything. I just wanted to show her, see if it is the same disk she burned or printed the screen shot from.

THE COURT: You probably should have it marked. Just approach the clerk and she will have it marked for you.

THE CLERK: Exhibit E marked.

(Exhibit E marked for identification.)

BY MR. BOGALE:

Q Thank you. Showing you what has been marked as Exhibit E, do you recognize that?

A I do.
Q What is it?
A It is the disk in which I took the screen shot of the digital files.
Q And where was that disk?
A The disk was in our master file for the Schachter case.
MR. BOGALE: I move to admit Exhibit D, the screen shot.
THE COURT: Any objection?
THE DEFENDANT: That is a copy of the disk from officer Reed that was in evidence that was taken out of the evidence?
THE COURT: Are you asking a question of the witness, of Mr. Bogale or me?
THE DEFENDANT: The witness.
THE COURT: You may ask the witness a question on voir dire.

VOIR DIRE EXAMINATION

BY THE DEFENDANT:
Q That is a copy of the disk that officer Reed brought to court today that was in evidence?
A I believe so, yes.

Q You believe so?

A I would have, to be 100 percent sure, I would have to compare the two, but as a routine, they make copies. The police department makes a copy and forwards it to our office.

Q Who made--

THE DEFENDANT: I would object. There is no foundation where the copy came from.

THE COURT: May I see Exhibit D?

MR. BOGALE: You may.

THE COURT: D as in Dog.

THE WITNESS: Can I clarify, Your Honor?

THE COURT: Yes.

THE WITNESS: Earlier today during the recess, I apologize, I forgot, I was able to view the files that contained the copy detective Reed brought with him and they are the same as the digitals that are contained on this disk that we had in our file.

THE COURT: Okay. There is five video clips on Exhibit D and five the officer testified to on this exhibit disk that he brought, so I am going to go ahead and admit Exhibit D as it is. What it says it is.

(Exhibit D admitted in evidence.)

THE COURT: Exhibit E, no one has asked for it to be admitted yet.

MR. BOGALE: That's correct. I can take that back from you, the disk.

THE COURT: It goes to the clerk once it is marked.

THE CLERK: Are you going to talk about D still?

BY MR. BOGALE:

Q Actually I am going to give this to you. Ms. Bays, I am just going to put the files on this disk, make sure they comport with the printout?

THE COURT: You are going to play Exhibit 1-b?

MR. BOGALE: Not going to play it, just pull up the files and have her look at the files on the disk.

THE COURT: Okay.

BY MR. BOGALE:

Q Okay. Ms. Bays, do you see there on the television screen the video files on the disk admitted as Exhibit 1-b?

A I do.

Q Can you just look and compare the video files with the printout on Exhibit D and tell me if you find any discrepancies?

A Okay.

Q Expand the name of the file so you can see the entire file.

A Okay.

Q Are the same files on the disk that are printed on

that printout?

A Yes.

Q Okay. I am going to show you now what is marked as Exhibit A. I am going to have you do the same thing here and tell me if the files on that printout are included on this disk, okay?

A Okay.

Q Okay. Have you had a chance to compare them?

A I have.

Q Are the files on the printout contained on that disk?

A Yes.

Q Are there additional files on that disk that are not on the printout though?

A Yes.

Q Now I am going to show you what has been marked and admitted as Exhibit B.

THE COURT: I don't think it was admitted.

MR. BOGALE: Wasn't it at the last hearing, Your Honor? It is my understanding they were.

THE COURT: They were just marked.

THE CLERK: For safekeeping.

MR. BOGALE: I am sorry about that.

THE COURT: Did you want to move they be admitted?

MR. BOGALE: I assume there is no objection because the defendant provided them.

THE DEFENDANT: It is okay.

THE COURT: It is admitted. Do you want A and B?

MR. BOGALE: Yes.

THE COURT: A and B are admitted. No objection.

(Exhibits A and B admitted in evidence.)

BY MR. BOGALE:

Q Showing you marked and admitted as Exhibit B, can you please again take a look at Exhibit D, the printout, and see if those files on that are included on the disk marked as Exhibit B.

A Yes.

Q Okay. Again, there are three additional files on Exhibit B that aren't on the printout in D; is that correct?

A Correct.

Q Do you know if those are the same three files that were additional on Exhibit A?

A Yes, they are.

Q Thank you. So Exhibit A and Exhibit B appear to contain the exact same files; is that right?

A Yes.

Q Just to recap: The disk that has been admitted from officer Reed contains the exact same files that are on that

printout on D, right?

A Yes.

Q And the files printed out on D are also contained on Exhibits A and B, right?

A Yes.

MR. BOGALE: No further questions.

THE COURT: Any questions?

CROSS-EXAMINATION

BY THE DEFENDANT:

Q Can you tell by looking at either the screen shot or the disks themselves if anything has been removed? Have any files been deleted?

A From the screen shot?

Q Either the screen shot or the disks themselves? You said you looked at the disks themselves?

A Yes.

Q Can you tell if any files have been deleted?

A By simply looking at the disk, no. Well, I can't.

THE DEFENDANT: That's all.

MR. BOGALE: No further questions.

THE COURT: Okay. Thank you. You can step down. Counsel, do you have another witness?

MR. BOGALE: Court's indulgence for just a moment. At

this time, Your Honor, the State has no further witnesses.

THE COURT: Okay. Before lunch you said that you were going to put on the risk manager from Wal-Mart to say that he burned the new disks that had eight files on it and somehow that was given to the D.A.'s office. You told us you were going to call that witness. What happened?

MR. BOGALE: He's here, Your Honor. I thought my presentation here with Ms. Bays covered the fact that we are trying to undercover here which is the disk that officer Reed booked was allegedly never given to the defendant. We just I believe established that the files on Nick Reed's disk were contained on the file that the defendant, himself, already had.

THE COURT: Where did the other video clips come from?

MR. BOGALE: They came from --

THE COURT: You told me something, but you didn't have any testimony. When I asked you about it, you said this is what the Wal-Mart man would say, and I said, well, he didn't testify to that. You said I am going to put him on to testify to it. You told me that the disk he brought today had eight video clips on it.

MR. BOGALE: He didn't bring that today.

THE COURT: Well, you better call him. That is not

what he testified to. I am not sure when he brought it, but that was the argument here, where are all these video clips coming from, when were they prepared, who had control of them. You know this issue here is either you and the State destroyed evidence according to Mr. Schachter, or perhaps you failed to collect evidence. But in the interim, you collected three more video clips from what the officer had to what you produced. So you haven't connected that up at all.

MR. BOGALE: We produced the three additional clips to Mr. Schachter.

THE COURT: You did? Where did you get them? You haven't connected where you got them, because the officer only produced to you, supposedly, based on his testimony, five video clips. That is what he said he got from Wal-Mart.

MR. BOGALE: I understand, Your Honor.

THE COURT: So you gave Mr. Schachter eight. You told me verbally where you think the other three came from but haven't put any evidence on as to that.

MR. BOGALE: I will recall Mr. Monroy.

THE COURT: That is what you had said you wanted to call him for.

MR. BOGALE: I understand. Thank you.

THE COURT: Sir, you are still under oath. Please retake the stand. Thank you.

ALEJANDRO MONROY

Called as a witness, having been previously sworn,

Took the witness stand and testified as follows:

REDIRECT EXAMINATION

BY MR. BOGALE:

Q Welcome back Mr. Monroy. Before you testified that you had burned a disk of the video surveillance at Wal-Mart; is that correct?

A Yes.

Q Okay. Where did you get those files to burn on that disk?

A From the investigation on our computer.

Q Okay. Did you ever give them to the State? Did you ever give them to the District Attorney's office?

A I did. I handed them to you on the date of the Preliminary Hearing.

Q Was that July 1st? Does that sound about right?

A Yes.

Q So you handed me a disk that you burned on July 1st; is that correct?

A I actually burned the disk back in June.

Q But you gave me that disk?

A Correct, yes.

Q The 1st of July. Is that Exhibit C that you have previously viewed?
A Correct.
Q Just, again, why did you select those eight files that are on that disk?
A Just as shots of evidence of him being in the store.
Q Okay. Did you ever offer to give them to the Police Department?
A No.
Q Why not?
A I was unaware that they needed the file. I thought that was taken care of separately.
THE COURT: I am sorry, I couldn't hear you.
THE WITNESS: I thought that was taken care of separately with Anna.
BY MR. BOGALE:
Q You took it upon yourself to bring a copy to me, personally?
A Yes.
Q That was on July 1st?
A Correct.
MR. BOGALE: No further questions, Your Honor.
THE COURT: Mr. Schachter.
///

RECROSS-EXAMINATION

BY TH DEFENDANT:

Q The videos you burned and gave the State, Mr. Bogale, on the 1st, were those already selected by Ms. Young or did you burn new ones?

A They are the ones that were already on the computer. They had already been selected.

Q So there was nothing new. It should be the same as what was on the ones given to the detective by Ms. Young on the 10th?

A I am completely unaware what was given to the detective on the 10th.

Q You didn't burn any new. You didn't take any new video of the Wal-Mart security system that wasn't already taken by Ms. Young?

MR. BOGALE: Objection, asked and answered, Your Honor.

THE COURT: I think it was, but I will let the question stand.

THE WITNESS: Yes.

THE DEFENDANT: That's all, Your Honor.

THE COURT: In your direct this morning you said, maybe it was cross, you said that you did not select video of Mr. Schachter before he picked up the backpack because you did

not think that video was relevant.

THE WITNESS: Correct.

THE COURT: Are you the person who selected the video initially or is Anna Young the person who selected the video, initially?

THE WITNESS: It would be Anna.

THE COURT: Why did it matter whether you thought it was relevant? Did Anna collect the video of Mr. Schachter and you picked out which things you thought were more relevant?

THE WITNESS: No. Basically, I just took what the investigation -- looked at the video that was on the investigation and burned that.

THE COURT: Who made the investigation?

THE WITNESS: Anna.

THE COURT: So why did you say you didn't do it?

THE WITNESS: Well because I could have gone back and looked at more video and selected more to add to the investigation but I didn't.

THE COURT: That is what you meant by not relevant?

THE WITNESS: Yes.

THE COURT: Do my questions cause any questions for you, counsel?

MR. BOGALE: Just one question, Your Honor.

THE COURT: Go ahead.

REDIRECT EXAMINATION

BY MR. BOGALE:

Q You could have added to the video files that you gave to me; is that correct?

A At that time, yes, I could have.

Q Is that because Wal-Mart has 24 hour surveillance?

A Correct.

Q You can just pick and choose what you think is relevant and what is not?

A Correct.

Q But you also personally observed the defendant in Wal-Mart, right?

A Correct.

Q So, based on your personal observations and based on your review of the files that Ms. Young had already picked, you didn't think-- you didn't think there needed to be anything else submitted, right?

A Correct.

MR. BOGALE: No further questions, Your Honor

THE COURT: Mr. Schachter.

RE-CROSS EXAMINATION

BY THE DEFENDANT:

Q So you didn't think video tape of the defendant

without the backpack was relevant in this case?

A I did not, no.

THE DEFENDANT: Thank you.

THE COURT: Sir, you observed the video this morning that you showed, I think we played it as Exhibit 3.

THE WITNESS: Yes.

THE CLERK: C.

THE COURT: C. Third one. Exhibit C. And when the video was being shown, the different clips, you commented on when you saw Mr. Schachter and then you testified that you saw Mr. Schachter pick up the video -- or pick up the backpack?

THE WITNESS: Yes.

THE COURT: Did you miss it or did you not show it or is it not on the video clip?

THE WITNESS: There is no video shot of that specific area in the store.

THE COURT: There is no video of Mr. Schachter actually picking the backpack up?

THE WITNESS: Correct.

THE COURT: The first shot you had was when the backpack was in the shopping cart?

THE WITNESS: Correct.

THE COURT: Any other questions?

///

REDIRECT EXAMINATION

BY MR. BOGALE:

Q There is no video of him picking up the backpack because there is actually no video footage of that?

A There is no camera in the area.

Q It just isn't video you didn't just not select?

A Correct.

RECROSS-EXAMINATION

BY THE DEFENDANT:

Q So there is no video that you reviewed without me and the backpack together?

A Correct.

THE COURT: Anything else?

THE DEFENDANT: One more question.

BY THE DEFENDANT:

Q How many video cameras in the Wal-Mart?

A Seventy or so.

THE DEFENDANT: Okay. That's it.

THE COURT: Before we excuse this witness, there is also a motion with regard to the pictures and the physical evidence. Do you need any testimony from this witness in that regard?

MR. BOGALE: Yes, Your Honor.

THE COURT: I have got people here for my 1:30.

MR. BOGALE: I understand.

THE COURT: So we can put it off, but I didn't know if you were ready.

MR. BOGALE: I am ready to, but it might take longer than you have.

THE COURT: Okay. Now, Mr. Leslie, you have to be gone by 2:00 or 2:30?

MR. LESLIE: I should leave by about 2:00 is my guess. I have to be in the south end by 2:30.

THE COURT: Well we can keep Mr. Schachter here until 1:45 and see if we are finished with my 1:30's by then or ten to 2:00. That would give us about 20 minutes with this witness.

MR. LESLIE: I am at your disposal until about 2:10.

THE COURT: I think we should try to continue to get as much as we can get done while we have Mr. Schachter, and the witness is already gone from wherever he wanted to be. He's here with us. In your case we'll take a short recess and proceed with the other cases.

MR. BOGALE: Okay. Thank you Your Honor.

THE COURT: You are welcome. You can probably just move things to the edge of the table.

(Short recess taken from this matter.)

THE COURT: Thank you. Please be seated. Okay.

MR. BOGALE: State recalls Mr. Monroy.

THE COURT: Mr. Monroy, you are still under oath. Please retake the stand.

THE COURT: Go ahead.

ALEJANDRO MONROY

Called as a witness, having been previously sworn, took the witness stand and testified as follows:

REDIRECT EXAMINATION

BY MR. BOGALE:

Q Welcome back?

A Hello.

MR. BOGALE: May I approach the clerk?

THE COURT: You may.

THE CLERK: Exhibit F marked.

(Exhibit F marked for identification.)

MR. BOGALE: May I approach the witness?

THE COURT: You may.

BY MR. BOGALE:

Q Mr. Monroy, I am approaching you with what has been marked as Exhibit F in this case. Do you recognize that?

A Yes, I do.

Q What is it?
A Those are the items recovered from Mr. Schachter.
Q Recovered meaning the items --
A He attempted to steal, yes.
Q When you had your confrontation with Mr. Schachter, where were these items?
A They were on his person.
Q Were they in a backpack or in his hand?
A The backpack was over his shoulder.
Q And those items were in the backpack?
A Correct.
Q Do you know where that photo was taken?
A That was taken in our security office.
Q Were you present when that photo was taken?
A Yes, I was.
Q Did you take the photograph?
A I did.
MR. BOGALE: Your Honor, I move to admit Exhibit F.
THE COURT: Any objection?
THE DEFENDANT: What time was the picture taken?
MR. BOGALE: Objection, relevance. He said he was present when the photo was taken.
THE COURT: I will allow some voir dire.
THE WITNESS: Approximately 1:00 o'clock.

THE COURT: Anything else?

THE DEFENDANT: No, Your Honor.

THE COURT: Exhibit F is admitted. Counsel will you return that exhibit to the Clerk?

(Exhibit F admitted in evidence.)

MR. BOGALE: Yes. I will take that back from you.

BY MR. BOGALE:

Q One more clarifying question. From what we talked about earlier today as to the videos, did you ever modify, delete, destroy any video files in this case?

A No, I did not.

Q You didn't destroy any files in this case?

MR. LESLIE: Asked and answered.

THE WITNESS: I did not.

MR. BOGALE: No further questions.

THE COURT: Is standby counsel getting anxious?

MR. LESLIE: After three hours, standby counsel feels the need to intervene.

THE COURT: Mr. Schachter, do you still want to represent yourself or Mr. Leslie?

THE DEFENDANT: As much as I appreciate that, I still wish to represent myself.

THE COURT: All right. Cross-examination.

///

RECROSS-EXAMINATION

BY THE DEFENDANT:

Q Just to save the Court time to run back and forth with all the videos, can you explain why the video that officer Reed put in evidence has less video files than the video -- than the disks I received and that you gave to Mr. Bogale on July 1st at the Preliminary Hearing?

MR. BOGALE: Objection. Calls for speculation.

THE COURT: Overruled. He asked if he could explain. We'll see if it is speculation.

THE WITNESS: I couldn't tell you.

BY THE DEFENDANT:

Q But you testified earlier that you didn't make any new -- you didn't pull any new video off the store hard drive when you created the disk that you gave to Mr. Bogale before the Preliminary Hearing, correct?

A This is correct.

Q Was there any other videos that you saw that I was in the video but not that you felt was not relevant to the case? Do you know what I mean?

A No.

Q When you reviewed the video of the date of the incident?

A Yes.

Q Did you -- Was there any other video of me in the store, but that you felt wasn't relevant to the case?
A No.
Q So every bit of video with me has been given to the State; is that correct?
A Correct.
THE DEFENDANT: That's all Your Honor.
THE COURT: Okay. Are you talking about every bit of video that is on the saved computer file?
THE WITNESS: Yes.
THE COURT: You are not talking about every bit of video that might have been taken in the store?
THE WITNESS: Absolutely not, no.
THE COURT: Did you tell us it was Ms. Young who copied it off the store video cameras on to the computer?
THE WITNESS: Correct.
THE COURT: That is what you reviewed?
THE WITNESS: Yes.
THE COURT: And do I understand correctly that everything on the computer that you saved, data, Ms. Young saved it on, everything that included Mr. Schachter's image was provided to the State?
THE WITNESS: Yes, it was.
THE COURT: Based on my questions, any other

questions?

MR. BOGALE: Nothing from the State.

THE DEFENDANT: No, Your Honor.

THE COURT: Thank you. You may step down.

(Witness excused.)

THE COURT: Counsel do you have any other pictures or is this the only picture you have, Exhibit F?

MR. BOGALE: That is the only picture that I have.

(Whereupon, the proceedings were concluded.)

--o0o--

STATE OF NEVADA,)
) ss.
COUNTY OF WASHOE.)

I, Judith Ann Schonlau, Official Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, DO HEREBY CERTIFY:

That as such reporter I was present in Department No. 4 of the above-entitled court on Thursday, September 11, 2014, at the hour of 9:00 a.m. of said day and that I then and there took verbatim stenotype notes of the proceedings had in the matter of THE STATE OF NEVADA vs. MARC PAUL SCHACHTER, Case Number CR14-1044.

That the foregoing transcript, consisting of pages numbered 1- inclusive, is a full, true and correct transcription of my said stenotypy notes, so taken as aforesaid, and is a full, true and correct statement of the proceedings had and testimony given upon the trial of the above-entitled action to the best of my knowledge, skill and ability.

DATED: At Reno, Nevada this 14th day of September, 2014.

/s/ Judith Ann Schonlau
JUDITH ANN SCHONLAU CSR #18

F I L E D
Electronically
2014-09-15 11:27:03 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4606261

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-09-15 11:27:02.569.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-09-15 11:27:02.538.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-09-15 11:27:02.678.
KELLY KOSSOW, ESQ.	- Notification received on 2014-09-15 11:27:02.631.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-09-15 11:27:02.709.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-09-15 11:27:02.74.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	09-15-2014:11:26:00
Clerk Accepted:	09-15-2014:11:26:35
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	Transcript - Partial
Filed By:	Judith Schonlau

You may review this filing by clicking on the following link to take you to your cases.

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NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

FILED
Electronically
2014-09-16 08:47:56 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4607644

3370

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

vs.

MARC PAUL SCHACHTER,

Defendants.

Case No. CR14-1044

Dept. No. 4

ORDER DENYING DEFENANT'S MOTION TO DISMISS CASE ON GROUNDS THAT THE STATE HAS LOST AND/OR DESTROYED MATERIAL EXCULPATORY EVIDENCE

On August 21, 2014, Defendant Marc Paul Schachter (hereinafter "Schachter") filed his *Motion to Dismiss Case on Grounds that the State has Lost and/or Destroyed Material Exculpatory Evidence*. The State of Nevada (hereinafter "the State") filed *Omnibus Opposition to Defendant's Pretrial Motions* on August 28, 2014. On September 11, 2014, the Court heard oral arguments on the Motion and took the matter under advisement.

The Nevada Supreme Court "has consistently held that in order to establish a due process violation resulting from the state's loss or destruction of evidence, a defendant must demonstrate either (1) that the state lost or destroyed the evidence in bad faith, or (2) that the loss unduly prejudiced the defendant's case and the evidence possessed an exculpatory value that was apparent before the evidence was destroyed." Sheriff, Clark County v. Warner, 112 Nev. 1234, 1239-1240 (1996) (citing State v. Hall, 105 Nev. 7, 9 (1989)). The burden to establish that loss

of evidence was prejudicial to the defendant lies with the defendant. Id., at 1240. The burden requires "some showing that it could be reasonably anticipated that the evidence sought would be exculpatory and material to appellant's defense. It is not sufficient that the showing disclose merely a hoped-for conclusion from examination of the destroyed evidence, nor is it sufficient for the defendant to show only the examination of the evidence would be helpful in preparing his defense." Boggs v. State, 95 Nev. 911, 913 (1979). "Mere assertions by the defense counsel that an examination of the evidence will potentially reveal exculpatory evidence does not constitute a sufficient showing of prejudice." Warner, 112 Nev. 1234, 1242 (1996). Evidence must be disclosed if "it provides grounds for the defense to attack the reliability, thoroughness, and good faith of the police investigation or to impeach the credibility of the State's witnesses." Lay v. State, 116 Nev. 1185, 1194 (2000); see Kyles v. Whitney, 514 U.S. 419, 442 n. 13, 445-451 (1995).

Schachter argues the State has lost or destroyed exculpatory evidence by failing to produce the allegedly stolen backpack or any video evidence of him entering the store. According to Schachter, the backpack he is alleged to have stolen was customized by him and on his person when he entered the WalMart. Schachter argues the backpack itself and video footage of him entering the store are exculpatory evidence because it would tend to show that he entered the store with a backpack he customized and is now charged with having stolen.

The State argues there is no obligation upon the State to produce information which it does not possess or of which it is unaware. The State argues they were never in possession of the backpack or video which Schachter alleges to be exculpatory. Therefore, the State argues they have no obligation to produce such evidence. Additionally, the State argues it is Schachter's burden to produce evidence to show the State possessed or knew about material favorable to the defense and failed to disclose it. The State argues Schachter has not met this burden. Lastly, the State argues the actions of third party actors, WalMart asset protection employees, are not state action and do not constitute the State's destruction of evidence.

Although Schachter characterizes the State's inaction as a failure to preserve the evidence, his claim of error more accurately relates to the State's failure to collect the backpack and video evidence from WalMart. Schachter argues that he could have proven he had the backpack when he entered the store from the customization of the backpack and video of him entering the store with the backpack. However, the backpack was re-stocked pursuant to WalMart policy and the video evidence was not recorded by WalMart personnel.

In relying on case law involving failure to preserve evidence, Schachter fails to distinguish between collection and preservation of evidence. Had the State gathered the backpack and video evidence and then allowed it to be lost or failed to deliver it to Schachter, his argument would be more appropriate. The State's failure to preserve potentially exculpatory evidence may result in dismissal of the charges if the defendant can show "bad faith or connivance on the part of the government" or "that he was prejudiced by the loss of the evidence." Daniels v. State, 114 Nev. 261, 266-267 (1998); Howard v. State, 95 Nev. 580, 582 (1979).

In Daniels v. State the Nevada Supreme Court discussed a rule regarding the present circumstances. The Nevada Supreme Court adopted an approach used by the New Mexico Supreme Court, recognizing that "although police officers generally have no duty to collect all potential evidence from a crime scene . . . this rule is not absolute," due to the injustices that could arise from "the State's failure to gather evidence under certain circumstances." Daniels, 114 Nev. at 267. The Nevada Supreme Court developed a two-part test for circumstances where the State has failed to gather evidence. Id. First, the defense must show that the "evidence was 'material,' meaning that there is a reasonable probability that, had the evidence been available to the defense, the result of the proceedings would have been different." Id. (citation omitted). Second, if the evidence was "material" the next determination is whether the failure to gather evidence was "the result of mere negligence, gross negligence, or a bad faith attempt to prejudice the defendant's case. Id. The Court next articulated a difference in outcome depending upon the

culpability of the State. "When mere negligence is involved, no sanctions are imposed, but the defense can still examine the prosecution's witnesses about the investigative deficiencies. When gross negligence is involved, the defense is entitled to a presumption that the evidence would have been unfavorable to the State. In cases of bad faith, we conclude that dismissal of the charges may be an available remedy based upon an evaluation of the case as a whole." Id. (citations omitted).

The Nevada Supreme Court in Daniels v. State denied a defendant's appeal because he failed to establish that the blood evidence was likely to have been material to his defense of involuntary intoxication, because he failed to establish that that State's failure to gather the blood evidence was attributable to negligence, gross negligence, or bad faith. 114 Nev. at 268. The Court concluded that "whether the blood evidence would likely have prevented [the defendant's] conviction is pure speculation." Id. In Leonard v. State the Nevada Supreme Court found the standard for a failure to collect evidence does not apply when a state employee failed to make a video tape, because he was not acting for the police or prosecuting authorities when he failed to make a tape. 114 Nev. 639, 655 (1998).

First the Court will consider whether the backpack and video footage at issue were "material." "Evidence is material if there is a reasonable probability that the result would have been different if the evidence had been disclosed." Lay v. State, 116 Nev. 1185, 1194 (2000). A reasonable probability is shown when "the nondisclosure undermines confidence in the outcome of the trial." Id. Schachter argues the video footage would prove he entered the WalMart with the backpack he is alleged to have stolen. Additionally Schachter argues the backpack itself would prove the backpack was customized and as a result it could not have been stolen on the day in question. Unlike the blood evidence in Daniels, the nondisclosure of this evidence undermines the confidence in the outcome of the trial because there is a reasonable probability that these items may change the result of this trial. The Court finds that Schachter has met his burden of proving these items of evidence are material.

Next the Court will consider whether the State's failure to collect this evidence was the result of negligent, gross negligent or bad faith conduct. "The presence or absence of bad faith by the [government actor] for the purposes of the Due Process Clause must necessarily turn on the [government actor's] knowledge of the exculpatory value of the evidence at the time it was lost or destroyed." Arizona v. Youngblood, 488 U.S. 51, 56 n * (1988). The Nevada Supreme Court has found police action does not amount to bad faith when the police did not destroy evidence in an attempt to make it unavailable to the defendant. See Warner, 112 Nev. at 1240. In the instant case, the WalMart asset protection personnel did not copy the video evidence of Schachter entering the WalMart, resulting in its destruction sixty (60) days later. Additionally, the employees took only one photo of the backpack at issue before returning it to the store as merchandise. The facts of this case show no indication that the failure to collect these items was a result of any bad faith on the part of the State in an effort to make this evidence unavailable to the defense. Facts of this case indicate the WalMart employees were simply acting pursuant to store policies. However, the Court does find that actions of the State indicate negligence on behalf of the State. The Court finds the actions by the State indicate the State made no effort to collect the evidence at issue, or direct WalMart employees to collect the evidence. Therefore, the Court finds the State has negligently failed to collect potentially exculpatory evidence.

The Court finds the State has failed to collect evidence, including the backpack and video of Schachter entering the WalMart. The Court further finds that the State's failure to collect was a result of negligence on the part of the State. Therefore, the Court finds Schachter's motion to dismiss is denied. However, Schachter may examine the State's witnesses about these investigative deficiencies at trial.

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CERTIFICATE OF SERVICE

CASE NO. CR14-1044

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 16 day of September, 2014, I filed the **ORDER DENYING DEFENDANT'S MOTION TO DISMISS CASE ON GROUNDS THAT THE STATE HAS LOST AND/OR DESTROYED MATERIAL EXCULPATORY EVIDENCE** with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

_____ **Personal delivery to the following: [NONE]**

__X__ **I electronically filed with the Clerk of the Court, using the ECF which sends an immediate notice of the electronic filing to the following registered e-filers for their review of the document in the ECF system:**

NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA
KELLY KOSSOW, ESQ. for STATE OF NEVADA
JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER
JAMES LESLIE, ESQ. for MARC PAUL SCHACHTER
DIV. OF PAROLE & PROBATION
ZELALEM BOGALE, ESQ. for STATE OF NEVADA

__X__ **Deposited in the Washoe County mailing system in a sealed envelope for postage and mailing with the United States Postal Service in Reno, Nevada:**

Marc Schachter, #14-09450
c/o Washoe County Detention Center
911 Parr Blvd.
Reno, NV 89512

_____ **Placing a true copy thereof in a sealed envelope for service via:**

_____ Reno/Carson Messenger Service – **[NONE]**

_____ Federal Express or other overnight delivery service **[NONE]**

DATED this 16 day of September, 2014.

F I L E D
Electronically
2014-09-16 08:49:01 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4607647

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-09-16 08:49:00.548.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-09-16 08:49:00.502.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-09-16 08:49:00.658.
KELLY KOSSOW, ESQ.	- Notification received on 2014-09-16 08:49:00.626.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-09-16 08:49:00.704.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-09-16 08:49:00.736.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	09-16-2014:08:47:56
Clerk Accepted:	09-16-2014:08:48:31
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	Ord Denying Motion
Filed By:	Judicial Asst. AKay

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KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

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2014-09-17 01:28:32 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4611011 : shambrig

CODE 2045
WASHOE COUNTY PUBLIC DEFENDER
CARL HYLIN, #2726
P.O. Box 11130
Reno, NV 89520-0027
775-337-4800
Attorney for Defendant

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

v. Case No. CR14-1044

MARC PAUL SCHACHTER. Dept No. 4

Defendant.
_____/

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that Washoe County Chief Deputy Public Defender, CARL HYLIN, hereby enters appearance for the Washoe County Public Defender's Office in the above-entitled case.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 18th day of September, 2014.

JEREMY T. BOSLER
Washoe County Public Defender

/s/ CARL HYLIN
CARL HYLIN
Chief Deputy Public Defender

F I L E D
Electronically
2014-09-17 02:54:05 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4611470 : shambrig

CODE 2610
Richard A. Gammick
#001510
P.O. 11130
Reno, NV. 89520
(775)328-3200
Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff, Case No. CR14-1044

v. Dept. No. 4

MARC PAUL SCHACHTER,

Defendant.

_____/

NOTICE OF WITNESS PURSUANT TO NRS 174.234

COMES NOW, the State of Nevada, by and through RICHARD A. GAMMICK, District Attorney of Washoe County, and ZELALEM BOGALE, Deputy District Attorney, and hereby gives notice of the name of the witness intended to be called during the State's case-in-chief.

OFFICER ANTHONY DANIELS
Reno Police Department
455 E. 2nd St.
Reno, NV 89501

OFFICER NICHOLAS REED
Reno Police Department
455 E. 2nd St.
Reno, NV 89501

///

///

OFFICER TERRY WEST
Reno Police Department
455 E. 2nd St.
Reno, NV 89501

ALEJANDRO MONROY
3250 Plumas St., Apt. 223
Reno, NV 89509

ANNA LISA YOUNG
195 Olympic Circle
Vacaville, CA 95687

MARK GROENING
643 University Terrace
Reno, NV 89503

MATTHEW HAND
220 Brenham Way
Reno, NV 89509

CORELEE BUNKER
2157 Barberry Way
Reno, NV 89512

CUSTODIAN OF RECORDS-WASHOE COUNTY JAIL
911 E. Parr Blvd.
Reno, NV 89512

CUSTODIAN OF RECORDS-RENO POLICE DEPARTMENT
455 E. 2nd St.
Reno, NV 89501

///

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 17th day of September, 2014.

RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

By/s/ ZELALEM BOGALE
ZELALEM BOGALE
Deputy District Attorney

CERTIFICATE OF FORWARDING

I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I forwarded a true copy of the foregoing document, through the Washoe County interagency mail, addressed to:

MARC PAUL SCHACHTER #1409450
C/O WASHOE COUNTY SHERIFF
911 PARR BLVD
RENO, NV 89512

DATED this 17th day of September, 2014.

By:/s/KIM PACE
KIM PACE

F I L E D
Electronically
2014-09-17 03:13:16 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4611630

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-09-17 15:13:15.216.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-09-17 15:13:15.185.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-09-17 15:13:15.731.
KELLY KOSSOW, ESQ.	- Notification received on 2014-09-17 15:13:15.699.
CARL HYLIN, ESQ.	- Notification received on 2014-09-17 15:13:15.824.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-09-17 15:13:15.762.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-09-17 15:13:15.793.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	09-17-2014:13:28:32
Clerk Accepted:	09-17-2014:15:12:43
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	Notice of Appearance
Filed By:	Carl Hylin, Mr.

You may review this filing by clicking on the following link to take you to your cases.

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KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

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2014-09-17 03:13:56 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4611637

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-09-17 15:13:55.372.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-09-17 15:13:55.341.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-09-17 15:13:55.466.
KELLY KOSSOW, ESQ.	- Notification received on 2014-09-17 15:13:55.435.
CARL HYLIN, ESQ.	- Notification received on 2014-09-17 15:13:55.591.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-09-17 15:13:55.513.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-09-17 15:13:55.544.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	09-17-2014:14:54:05
Clerk Accepted:	09-17-2014:15:13:19
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	Notice of Witnesses
Filed By:	Zelalem Bogale

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If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

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KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

FILED
Electronically
2014-09-18 07:02:31 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4612217 : shambrig

CODE 2610
WASHOE COUNTY PUBLIC DEFENDER
CARL F. HYLIN, #2726
P.O. Box 11130
Reno, NV 89520-0027
775-337-4800
Attorney for Defendant

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

v. Case No. CR14-1044

MARC PAUL SCHACHTER. Dept No. 4

Defendant.
_____/

NOTICE OF WITNESSES PURSUANT TO NRS 174.234

COMES NOW, the defendant, above-named, by and through standby counsel, CARL F. HYLIN, ESQ., Chief Deputy Public Defender, and hereby gives notice of the names of the witnesses intended to be called during the defense case-in-chief.

1. SCOTT YODER
   Store Manager
   Walmart Mae Ann Avenue
   Reno, NV

2. ALL WITNESSES LISTED
   by the State in this mater
   Filed 9/17/14

///

///

///

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 18th day of September, 2014.

JEREMY T. BOSLER
Washoe County Public Defender

/s/ CARL HYLIN
CARL HYLIN
Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the attached document through the Washoe County interagency mail, addressed to:

MARC PAUL SCHACHTER, #1409450
C/O WASHOE COUNTY SHERIFF
911 E. PARR BLVD.
RENO, NV 89512

DATED this 18th day of September, 2014.

By/s/ DEBBIE BRUNNER
DEBBIE BRUNNER

F I L E D
Electronically
2014-09-18 08:08:52 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4612253

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-09-18 08:08:51.074.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-09-18 08:08:51.043.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-09-18 08:08:51.168.
KELLY KOSSOW, ESQ.	- Notification received on 2014-09-18 08:08:51.137.
CARL HYLIN, ESQ.	- Notification received on 2014-09-18 08:08:51.277.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-09-18 08:08:51.215.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-09-18 08:08:51.246.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	09-18-2014:07:02:31
Clerk Accepted:	09-18-2014:08:08:24
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	Notice of Witnesses
Filed By:	Carl Hylin, Mr.

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

–

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

CODE 1885

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

_____/

Case No. CR14-1044

Dept. No. D04

JURY INSTRUCTION READ TO THE JURY PRIOR TO COMMENCEMENT OF TRIAL

The defendant has decided to represent himself in this trial, rather than being represented by an attorney. He has a constitutional right to do so. His decision to proceed without an attorney has no bearing on whether he is guilty or not guilty, and you are not to draw any inference favorable or unfavorable to the defendant from the exercise of his right to represent himself.

Carl Hylin, an attorney, will be seated at the counsel table with the defendant. The defendant may at any time consult with Mr. Hylin about his defense.

Instruction No. _____

CODE
Richard A. Gammick
#001510
P.O. Box 11130
Reno, NV 89520
(775) 328-3200
Attorney for Plaintiff

FILED
SEP 22 2014
JOEY ORTIZ, CLERK
By: DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

_____/

Case No. CR14-1044

Dept. No. 4

TRIAL STATEMENT

The State of Nevada, by and through RICHARD A. GAMMICK, Washoe County District Attorney and ZELALEM BOGALE, Deputy District Attorney, hereby submits to the court this Trial Statement pursuant to the court's Pretrial Order filed on August 5, 2014.

A. PRACTICAL MATTERS

The State has no suggestions or special requests regarding the order of witnesses or evidence, or view of the premises. It is the State's understanding that audio/video equipment will be provided by the State for use by the State and Defendant.

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B. VOIR DIRE

The following is the State's proposed voir dire questions, for the court and/or counsel to ask of the jury:

1. Whether any member of the venire has a pre-planned trip out of town with non-refundable airfare during the period of time allotted for this trial?
2. Whether any member of the venire has a medical condition(s) that would preclude him or her from serving as a juror in this case?
3. Whether any member of the venire has *special* employment or family-related obligations such that jury service in this case would result in significant financial or personal hardship?
4. Whether, and if so to what degree, any member of the venire knows any of witnesses noticed in this trial, court staff, law enforcement, personnel at the Washoe County District Attorney's office, Defendant, or stand-by counsel?
5. Whether any member of the venire cannot serve as a fair and impartial juror in this case based on their answers to the juror questionnaire?
6. Whether any member of the venire would not want themselves in their current state of mind to be a juror in their own case?
7. Whether any member of the venire participates or has participated in the hiring process at their place of employment?

8. Whether any member of the venire does not understand that the State has a right to a fair trial?
9. Whether any member of the venire has trouble following the law as instructed and provided to them by the court?
    a. Whether any member of the venire believes it is not unlawful to drive 26 MPH in a 25 MPH zone?
    b. Whether any member of the venire believes it is not unlawful to take an item or items of insignificant value from a commercial establishment without paying for it?
    c. Whether any member of the venire believes a defendant who is charged with theft is less culpable because the alleged stolen property was of little monetary value?
    d. Whether any member of the venire believes significant force or fear of death or substantial bodily harm must be used to effectuate a robbery?
    e. Whether any member of the venire believes every person who happens to witness a crime must be called as a witness at trial?
    f. Whether any member of the venire believes more evidence amounts to a higher probability of guilt, or whether any member of the venire believes less evidence amounts to lesser probability of guilt?
    g. Whether any member of the venire believes physical evidence carries more evidentiary value than testimonial evidence?

h. Whether any member of the venire believes DNA evidence is required to establish identity?

i. Whether any member of the venire believes direct and circumstantial evidence carry different evidentiary values?

j. Whether any member of the venire would have trouble with definitions of legal concepts like "force" or "intent"?

k. Whether any member of the venire believes conflicts in evidence alone amount to evidence of innocence or guilt?

l. Whether any member of the venire believes a defendant in a criminal case is guilty because he is on trial?

m. Whether any member of the venire is sympathetic to a defendant in a criminal case because he is on trial?

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10. Whether, for whatever reason, any member of the venire cannot serve as a fair and impartial juror in this trial?

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 22nd day of September, 2014.

RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

By/s/ ZELALEM BOGALE
ZELALEM BOGALE
Deputy District Attorney

CODE
Richard A. Gammick
#001510
P.O. Box 11130
Reno, NV 89520
(775) 328-3200
Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

_____/

Case No. CR14-1044

Dept. No. 4

ADDENDUM TO TRIAL STATEMENT

The State of Nevada, by and through RICHARD A. GAMMICK, Washoe County District Attorney and ZELALEM BOGALE, Deputy District Attorney, hereby submits to the court this Addendum to the State's Trial Statement hand delivered to chambers yesterday.

The purpose of this Addendum is to ensure the court and the parties may ask the venire questions about Defendant's status as a pro per litigant. To that end, the State proposes the following questions:

1. Whether any member of the venire feels sympathetic towards a defendant *who has chosen* self-representation?

2. Whether any member of the venire will find a defendant guilty or not guilty because of his status as a self-representing party?

3. Whether any member of the venire will hold favorable or unfavorable views of the defendant because of his status as a self-representing party?

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 22nd day of September, 2014.

RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

By/s/ ZELALEM BOGALE
ZELALEM BOGALE
Deputy District Attorney

V3. 362

CODE 4210
MARC SCHACHTER
#1409450
911 PARK BLVD
RENO, NV 89512
IN PROPER

FILED
SEP 22 2014
JOEY HASTINGS CLERK
By: DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

PLAINTIFF,

✓

MARC PAUL SCHACHTER,

DEFENDANT.

/

CASE NO: CR-14-1044
DEPT NO: 4

TRIAL STATEMENT

1. THE DEFENSE REQUESTS THE ABILITY TO HAVE BOTH AUDIO AND VISUAL EQUIPMENT FOR THE SHOWING OF EVIDENCE CONTAINED ON A DVD AND A CD.

2. DEFENSE REQUESTS THE USE OF A DISPLAY RACK TO HOLD A ENLARGED LAYOUT OF THE WALMART STORE.

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V3. 362

VOIR DIRE QUESTIONS

WHAT IS YOUR OPINION OF SOMEONE WHO CHOOSES TO REPRESENT THEMSELVES RATHER THAN USE A PUBLIC DEFENDER?

DO YOU FEEL THE POLICE IN YOUR COMMUNITY DO A GOOD JOB?

DO YOU BELONG TO OR DO YOU VOLUNTEER AT ANY CHARITBLE GROUPS OR ORGANIZATIONS

WHY DO SOME PEOPLE DECIDE TO GO TO TRIAL?

DO YOU UNDERSTAND THAT JUST BECAUSE SOMEONE HAS BEEN ARRESTED OF A CRIME DOESN'T MEAN THEY ARE GUILTY OF THAT CRIME?

ARE YOU MORE CONCERNED WITH THE THE LOSS OF PERSONAL PRIVACY OR PROTECTION AND SAFETY FOR THE COUNTRY AS A WHOLE?

DOES ANYONE IN YOUR FAMILY WORK FOR WALMART?

HOW DO YOU FEEL ABOUT LOCAL GOVERNMENTS GIVING TAX BREAKS AND INCENTIVES TO LURE BUSINESS HERE LIKE TESLA?
- OR WOULD MONEY BE BETTER SPENT ON HIGHER EDUCATION AS A WELL EDUCATED WORK-FORCE WILL BRING BUSINESS HERE?

ARE LOW PRICES FOR EVERYDAY ITEMS MORE IMPORTANT THAN CUSTOMER SERVICE?

SHOULD THE STATE BE SPENDING MORE MONEY ON NEW PRISON CONSTRUCTION OR MORE MONEY ON REHABILITATION PROGRAMS?

IS THE RIGHT TO OWN A GUN AND TO BEAR ARMS IMPORTANT TO YOU?
- HOW DO YOU FEEL ABOUT GUN CONTROL LAWS?

WHAT PUBLICATIONS DO YOU SUBSCRIBE TO?
- FAVORITE WEBSITES?

IF YOU COULD TRAVEL TO ANY PLACE ON EARTH WHERE WOULD YOU GO? (AND WHY)

WHAT WAS THE BEST (OR LAST) NON-FICTION BOOK YOU READ? FICTION?

ANYONE IN YOUR FAMILY IN THE MILITARY?

DO POLITICS INTEREST YOU OR BORE YOU?

HOW DO FEEL ABOUT THE NEW UNIVERSAL HEALTH-CARE LAW?

AFFIRMATION PURSUANT TO
NRS 239B.030

THE UNDERSIGNED HEREBY DECLARES THAT THIS DOCUMENT DOES NOT CONTAIN ANY SOCIAL SECURITY NUMBER(S) OF ANY PERSON(S).

DATE Sept 19, 2024

x Marc Schachter
MARC SCHACHTER

CODE 1885

FILED
SEP 24 2014
JOE HASTINGS, CLERK
By
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

_____/

Case No. CR14-1044

Dept. No. D04

LADIES AND GENTLEMEN OF THE JURY:

It is my duty as judge to instruct you in the law that applies to this case, and it is your duty as jurors to follow the law as I shall state it to you, regardless of what you may think the law is or ought to be. On the other hand, it is your exclusive province to determine the facts in the case, and to consider and weigh the evidence for that purpose. The authority thus vested in you is not an arbitrary power, but must be exercised with sincere judgment, sound discretion, and in accordance with the rules of law stated to you.

Instruction No. 1

If in these instructions, any rule, direction or idea is stated in varying ways, no emphasis thereon is intended by me and none must be inferred by you. For that reason, you are not to single out any certain sentence, or any individual point or instruction, and ignore the others, but you are to consider all the instructions as a whole and to regard each in the light of all the others.

Instruction No. 2

If, during this trial, I have said or done anything which has suggested to you that I am inclined to favor the position of either party, you will not be influenced by any such suggestion.

I have not expressed, nor intended to express, nor have I intended to intimate, any opinion as to which witnesses are or are not worthy of belief, what facts are or are not established, or what inference should be drawn from the evidence. If any expression of mine has seemed to indicate an opinion relating to any of these matters, I instruct you to disregard it.

Instruction No. 3

The defendant MARC PAUL SCHACHTER in this matter, is being tried upon an Amended Information which was filed on the 14th day of July, 2014, in the Second Judicial District Court, charging the said defendant MARC PAUL SCHACHTER, with:

COUNT I. ATTEMPTED ROBBERY, a violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, in the manner following:

That the said defendant MARC PAUL SCHACHTER, on or about the 9th day of June, 2014, and before the filing of this Information, within the County of Washoe, State of Nevada, did willfully and unlawfully attempt to rob loss prevention personnel at Walmart located at 5260 West 7th Street with the use of force and violence, in that the defendant used physical force upon said persons to retain property he had just stolen from said location in order to facilitate his escape.

To the charge stated in the Amended Information, the defendant, MARC PAUL SCHACHTER, pled "NOT GUILTY".

Instruction No. 4

An Amended Information is a formal method of accusing a defendant of a crime. It is not evidence of any kind against the accused, and does not create any presumption or permit any inference of guilt.

Instruction No. 5

Every person charged with the commission of a crime shall be presumed innocent unless the contrary is proved by competent evidence beyond a reasonable doubt. The burden rests upon the prosecution to establish every element of the crime with which the defendant is charged beyond a reasonable doubt.

Instruction No. 6

In every crime there must exist a union or joint operation of act and intent.

The burden is always upon the prosecution to prove both act and intent beyond a reasonable doubt.

Instruction No. 7

A reasonable doubt is one based on reason. It is not mere possible doubt, but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable, must be actual, not mere possibility or speculation.

Instruction No. 8

There are two types of evidence from which a jury may properly arrive at a verdict. One is direct evidence, such as the testimony of an eyewitness. The other is circumstantial evidence, the proof of a chain of circumstances pointing to the commission of the offense.

The law makes no distinction between direct and circumstantial evidence, but requires that before convicting a defendant, the jury be satisfied of the defendant's guilt beyond a reasonable doubt from all the evidence in the case.

Instruction No. 9

Intent may be proved by circumstantial evidence. It rarely can be established by any other means. While witnesses may see and hear and thus be able to give direct evidence of what a defendant does or fails to do, there can be no eyewitness account of a state of mind with which the acts were done or omitted, but what a defendant does or fails to do may indicate intent or lack of intent to commit the offense charged.

In determining the issue as to intent, the jury is entitled to consider any statements made and acts done or omitted by the accused, and all facts and circumstances in evidence which may aid determination of state of mind.

Instruction No. 10

Nothing that counsel say during the trial is evidence in the case.

The evidence in a case consists of the testimony of the witnesses and all physical or documentary evidence which has been admitted.

Instruction No. 11

Neither the prosecution nor the defense is required to call as witnesses all persons who may appear to have some knowledge of the matters in question in this trial.

Instruction No. 12

It is the duty of attorneys on each side of a case to object when the other side offers testimony or other evidence which counsel believes is not admissible.

When the court has sustained an objection to a question, the jury is to disregard the question and may draw no inference from the wording of it or speculate as to what the witness would have said if permitted to answer.

Instruction No. 13

To the jury alone belongs the duty of weighing the evidence and determining the credibility of the witnesses. The degree of credit due a witness should be determined by his or her character, conduct, manner upon the stand, fears, bias, impartiality, reasonableness or unreasonableness of the statements he or she makes, and the strength or weakness of his or her recollections, viewed in the light of all the other facts in evidence.

If the jury believes that any witness has willfully sworn falsely, they may disregard the whole of the evidence of any such witness.

Instruction No. 14

Robbery is the unlawful taking of personal property from the person of another, or in his or her presence, against his or her will, by means of force or violence or fear of injury, immediate or future, to his or her person or property, at the time of the taking. A taking is by means of force or fear if force or fear is used to:

(a) Obtain or retain possession of the property;

(b) Prevent or overcome resistance to the taking; or

(c) Facilitate escape.

The degree of force used is immaterial if it is used to compel acquiescence to the taking of or escaping with the property.

Instruction No. 15

The crime of Robbery does not in any degree depend upon the amount or value of the property taken and, the other elements of the offense being present, the crime of Robbery is committed even though the property taken is of slight value.

Instruction No. 16

In the crime of robbery it is the fact of the taking of the person's property which is an essential element, it is not the distance the property was taken which is controlling. In other words, any taking of another person's property, no matter how far it was taken from the person, is sufficient to constitute the crime of robbery if such taking was committed by means of force or violence.

Instruction No. 17

A thing is in the presence of a person, in respect to robbery, which is so within his or her reach, inspection, observation or control, that he or she could, if not overcome by violence or prevented by fear, retain his or her possession of it.

Instruction No. 18

An "attempt" is an act done with intent to commit a crime, and tending but failing to accomplish it.

In an attempt to commit a crime, three elements are involved:

1. The intent to commit the crime.
2. Performance of some act toward its commission.
3. Failure to consummate its commission.

Instruction No. 19

When a person has once committed acts which constitute an attempt to commit a crime, he or she cannot avoid responsibility by not proceeding further with his or her intent to commit the crime, either by reason of voluntarily abandoning his or her purpose or because of a fact which prevented or interfered with his or her completing the crime.

Instruction No. 20

To prove that Mr. Schachter is guilty of attempting to commit Robbery, the State must prove beyond a reasonable doubt that Mr. Schachter specifically intended to commit that crime, but failed to do so.

If you find that the State has failed to prove beyond a reasonable doubt that Mr. Schachter intended to commit Robbery, you must find him not guilty.

Instruction No. 21

The offense of Attempted Robbery includes the lesser offense of larceny. You may find the defendant guilty of the lesser offense only if some of you are not convinced beyond a reasonable doubt the defendant is guilty of Attempted Robbery and all twelve of you are convinced beyond a reasonable doubt the defendant is guilty of the lesser offense.

Instruction No. 22

Larceny is committed when a person intentionally steals, takes and carries away personal goods or property owned by another person. Petit larceny is committed when a person intentionally steals, takes and carries away personal goods or property of another with a value of less than Six Hundred and Fifty Dollars ($650).

Instruction No. 23

If the defendant tried to flee immediately after the crime was committed, or after the defendant was accused of committing the crime, that conduct may show that the defendant was aware of his or her guilt. If you conclude that the defendant tried to flee, it is up to you to decide the meaning and importance of that conduct. Evidence that the defendant tried to flee, however, cannot prove guilt by itself.

Instruction No. 24

It is a constitutional right of a defendant in a criminal trial that he or she may not be compelled to testify. You must not draw any inference from the fact that he or she does not testify. Further, you must neither discuss this matter nor permit it to enter into your deliberations in any way.

Instruction No. 25

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

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

Instruction No. 26

It is your duty as jurors to consult with one another and to deliberate, with a view of reaching an agreement, if you can do so without violence to your individual judgment. You each must decide the case for yourself, but should do so only after a consideration of the case with your fellow jurors, and you should not hesitate to change an opinion when convinced that it is erroneous. However, you should not be influenced to vote in any way on any question submitted to you by the single fact that a majority of the jurors, or any of them, favor such a decision. In other words, you should not surrender your honest convictions concerning the effect or weight of evidence for the mere purpose of returning a verdict or solely because of the opinion of the other jurors.

Instruction No. 27

Upon retiring to the jury room you will select one of your number to act as foreperson, who will preside over your deliberations and who will sign a verdict to which you agree.

When all twelve (12) of you have agreed upon a verdict, the foreperson should sign and date the same and request the Bailiff to return you to court.

Connie J. Steinheimer
DISTRICT JUDGE

Instruction No. 28

CODE 4245

FILED
SEP 24 2014 @ 11:30am
JOEY HASTINGS, CLERK
By: DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

_____/

Case No. CR14-1044

Dept. No. D04

VERDICT

We, the jury in the above-entitled matter, find the defendant, MARC PAUL SCHACHTER, GUILTY of COUNT I. ATTEMPTED ROBBERY.

DATED this 24th day of September, 2014.

TOM ROICE

Tom Roice

FOREPERSON

COURT 4245

FILED

SEP 24 2014 @ 11:30 am

JOEY HASTINGS, CLERK
By: M. Stone
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

Case No. CR14-1044

Dept. No. D04

Unused VERDICT

We, the jury in the above-entitled matter, find the defendant, MARC PAUL SCHACHTER, NOT GUILTY of COUNT I. ATTEMPTED ROBBERY.

DATED this _____ day of _____, 20___.

_____

FOREPERSON

CODE 4235

FILED

SEP 24 2014 @ 11:30 a.m.

JOEY ORTIGA, CLERK

By: DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

Case No. CR14-1044

Dept. No. D04

unused

VERDICT

We, the jury in the above-entitled matter, find the defendant, MARC PAUL SCHACHTER, GUILTY of the lesser included offense of PETIT LARCENY.

DATED this _____ day of _____, 20___.

_____

FOREPERSON

CODE 4235

FILED
SEP 24 2014 @ 11:30 am
JOEY HASTINGS, CLERK
By: DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

Case No. CR14-1044

Dept. No. D04

Unused

VERDICT

We, the jury in the above-entitled matter, find the defendant, MARC PAUL SCHACHTER, NOT GUILTY of the lesser included offense of PETIT LARCENY.

DATED this _____ day of _____, 20___.

_____

FOREPERSON

F I L E D
Electronically
2014-09-29 11:15:04 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4627452

4185

JUDITH ANN SCHONLAU

CCR #18

75 COURT STREET

RENO, NEVADA

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

BEFORE THE HONORABLE BRENT ADAMS, DISTRICT JUDGE

-o0o-

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. CR14-1044
	)	DEPARTMENT NO. 4
MARC PAUL SCHACHTER,	)	
	)	
Defendant.	)	
	)	

TRANSCRIPT OF PROCEEDINGS

STATUS HEARING

TUESDAY, SEPTEMBER 23, 2014, 9:00 A.M.

Reno, Nevada

Reported By: JUDITH ANN SCHONLAU, CCR #18
NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
Computer-aided Transcription

A P P E A R A N C E S

FOR THE PLAINTIFF:	OFFICE OF THE DISTRICT ATTORNEY	
	BY: ZALALEM BOGALE, ESQ.	
	DEPUTY DISTRICT ATTORNEY	
	WASHOE COUNTY COURTHOUSE	
	RENO, NEVADA	
FOR THE DEFENDANT:	APPEARING IN PROPER PERSON	
STANDBY COUNSEL:	OFFICE OF THE PUBLIC DEFENDER	
	BY: JAMES LESLIE, ESQ.	
	DEPUTY PUBLIC DEFENDER	
	350 S. CENTER STREET	
	RENO, NEVADA	
PAROLE AND PROBATION:	MARILYN LABADIE	

RENO, NEVADA; TUESDAY, AUGUST 21, 2014 A.M.

-oOo-

THE COURT: Mark Schachter. This is the time set for a status hearing. Counsel, Wednesday pretrial motions set for August 28th. I think those need to be moved to another date.

MR. LESLIE: Your Honor, please remember I am standby counsel.

THE COURT: Yes.

MR. LESLIE: I had talked to Mr. Schachter about that, told him that might be the Court's thought process. I am here facilitating him being here for this status conference. He had some issues to bring to the Court.

THE COURT: Okay. Go ahead, Mr. Schachter.

THE DEFENDANT: My motion to file today, I don't have any copies, I didn't know if you were going to bring it back. I don't have access to a copying machine.

THE COURT: You can give them to Mr. Leslie, then he can see they get filed and served.

THE DEFENDANT: And I have the request for stipulation of discovery. I hadn't signed it.

THE COURT: The request for reciprocal discovery?

THE DEFENDANT: No the stipulation that was in the pretrial order. That is the one I am giving you.

THE COURT: Do you need a pen? We can get a pen.

MR. LESLIE: Your Honor, he's signing where it says Public Defender's office, but since he's representing himself that would be his signature.

THE COURT: Okay.

MR. LESLIE: Your Honor, I will hand that to the D.A.

THE COURT: Okay. That's correct.

THE DEFENDANT: The other issue I had was that one. My motion is the DVD surveillance video part of discovery was edited after it was in possession of the District Attorney or in possession of the State. If they are not going to stipulate that the video was edited, I am going to need a court order for the sheriff to bring the DVD's with me when we do the arguments.

THE COURT: Okay. So I think that makes sense anyway for you to bring your legal documents and any discovery you have to the hearing.

THE DEFENDANT: I would need a separate court order for the sheriff in order to get to bring the DVD's. I don't have custody of the DVD's.

THE COURT: Right. Okay. I am going to enter an order all of his legal documents and discovery held by the sheriff while he's representing himself be transported with him to his hearing, the pretrial hearing, whenever that is set. Okay. Anything else?

MR. LESLIE: Your Honor, we have got a trial date I think on the 22nd of September. I am recalling in another pro per case we had asked and the Court had granted that the State be required to produce its proposed Jury Instructions a bit earlier than usual just because of the logistics of him being in custody and trying to come up with responsive Jury Instructions of his own. So that was a discussion we had, and I believe he's requesting that in this case.

THE DEFENDANT: Or in lieu of that, access to the standard, one or the other.

THE COURT: In our district, Mr. Schachter, we don't really have a stock set of Instructions. We have a lot of Instructions we use all the time in the civil cases we do. In criminal cases, we really don't have that that is an approved book or anything like California has. So I don't know what my pretrial Order--I think my pretrial Order requires the Instructions be provided the Court by the Friday before trial. I think it does make sense, Mr. Bogale, to go ahead and give your proposed Instructions to the defendant sooner than that.

MR. BOGALE: I have no problem about that, Your Honor. How much sooner?

THE COURT: Because of the logistics, it probably would be best if you could get them to him by September 12th then he has a whole week to work with Mr. Leslie in looking at

the Instructions.

MR. BOGALE: That is fine, Your Honor. I will make sure I do that.

MR. LESLIE: If the State -- I am sure they will provide me a copy that date, and I can review them and go up and see Mr. Schachter as well.

THE COURT: Okay. Thank you.

MR. LESLIE: Your Honor, with regard to his motions, do you want to file those in now or want my office to get these filed today?

THE COURT: I think it would be better if your office filed them today and make copies so you do actually do the service.

MR. LESLIE: Okay.

THE COURT: The pretrial hearing set for the 28th is going to be vacated, and we need to set a new date.

THE CLERK: Pretrial motions will be September 3rd at 1:15.

MR. BOGALE: That is the hearing on the pretrial motions?

THE COURT: Correct. We'll see you back at that time. Is there anything else?

MR. LESLIE: Oh, Your Honor, Mr. Schachter had requested some documents. I wanted to be clear on what those

were, and I am providing those to him. If I could just take a moment, Your Honor. He had sent me a letter and asked for a variety of things some of which I had already produced. But in any event, I am now producing to him a copy of Chapter 205.060 through 205.295 inclusive. He had wanted some statutes in there. So he has got that.

He had asked for the statute and statutory suggested form for Guilty Plea Memorandum, NRS 174.063. I am providing him a copy of that.

He had asked for Second Judicial District Court Rules of Practice. He didn't specify, so I am providing him a copy of the general Second Judicial Court Rules of Legal Practice and Criminal Rules of Practice for our district.

Then he had asked for a variety of cases. I think that, suffice it to say, I am providing him all of the U.S. Supreme Court cases that he had requested on the third page of his letter dated August 4th of this year.

And then, finally, Your Honor, he had asked for a variety of supplies. I did provide him with a pad of lined paper which is probably where he put together his written motions. He had asked for a typewriter and pens. We don't provide those. We have provided everything that we provide pro per defendants when we are in standby capacity. So I just wanted to let him know we are providing that to him today.

THE COURT: Okay.

THE DEFENDANT: I just had one question. So is the deadline for any other motions going to be the 3rd or is tomorrow the deadline?

THE COURT: Tomorrow is the deadline, still the deadline.

THE DEFENDANT: Okay.

MR. LESLIE: Thank you, Your Honor.

MR. BOGALE: Just one point, Your Honor. Mr. Schachter was referring to video or materials that were edited or somehow changed. The only change the State made in the discovery was to redact the Social Security numbers from the file. Any other changes or modifications I am happy to entertain from Mr. Schachter. But I have our investigator here who actually served the discovery materials on him, and he confirmed all that was redacted was the Social Security numbers.

THE DEFENDANT: On the surveillance video?

MR. BOGALE: The Social Security numbers on the paper material.

THE DEFENDANT: I'm talking about the surveillance video was edited.

THE COURT: We'll just have to see.

THE DEFENDANT: Exactly.

MR. BOGALE: The State knows of no additions made to the video.

THE COURT: Okay. That being said, we'll see you back at your hearing.

THE DEFENDANT: Thank you, Your Honor.

THE COURT: You are welcome.

MR. BOGALE: Thank you, Your Honor.

(Whereupon, the proceedings were concluded.)

--o0o--

STATE OF NEVADA,)
) ss.
COUNTY OF WASHOE.)

I, Judith Ann Schonlau, Official Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, DO HEREBY CERTIFY:

That as such reporter I was present in Department No. 4 of the above-entitled court on Tuesday, September 23, 2014, at the hour of 9:00 a.m. of said day and that I then and there took verbatim stenotype notes of the proceedings had in the matter of THE STATE OF NEVADA vs. MARC PAUL SCHACHTER, Case Number CR14-1044.

That the foregoing transcript, consisting of pages numbered 1-14 inclusive, is a full, true and correct transcription of my said stenotypy notes, so taken as aforesaid, and is a full, true and correct statement of the proceedings had and testimony given upon the trial of the above-entitled action to the best of my knowledge, skill and ability.

DATED: At Reno, Nevada this 22nd day of September, 2014.

/s/ Judith Ann Schonlau
JUDITH ANN SCHONLAU CSR #18

F I L E D
Electronically
2014-09-29 11:16:13 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 4627454

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-09-29 11:16:12.737.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-09-29 11:16:12.706.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-09-29 11:16:12.831.
KELLY KOSSOW, ESQ.	- Notification received on 2014-09-29 11:16:12.8.
CARL HYLIN, ESQ.	- Notification received on 2014-09-29 11:16:12.924.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-09-29 11:16:12.862.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-09-29 11:16:12.893.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	09-29-2014:11:15:04
Clerk Accepted:	09-29-2014:11:15:42
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	Transcript
Filed By:	Judith Schonlau

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The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

F I L E D
Electronically
2014-10-22 02:39:22 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4664081

CASE NO. CR14-1044 **TITLE: THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

DATE, JUDGE OFFICERS OF COURT PRESENT | **PAGE ONE** | **APPEARANCES-HEARING** | **CONT'D TO**

9/22/14
HONORABLE CONNIE STEINHEIMER
DEPT. NO.4
M. Stone (Clerk)
Molezzo Reporters (Reporter)

JURY TRIAL - DAY ONE

Chief Deputy District Attorney Cheryl Wilson, Esq., and Deputy District Attorney Zelalem Bogale, Esq., represented the State. Defendant present representing himself. Chief Deputy Public Defender Carl Hylin, Esq., present as standby counsel.

9:50 a.m. Court convened outside the presence of the Jury.

Motion for Leave to File Second Amended Information by State's Counsel Bogale; presented argument; objection and argument by Defendant. **COURT ENTERED ORDER** denying Motion for Leave to File Second Amended Information.

State's Counsel Bogale advised the Court of the last offer made to the Defendant through Standby Counsel Leslie. Defendant advised the Court that he did not know of such offer.

10:00 a.m. Court recessed.

10:16 a.m. Court reconvened with Respective Counsel and Defendant present.

State's Counsel Bogale advised the Court that the offer was conveyed to the Defendant during the recess. Defendant rejected such offer.

Motion to Dismiss Count II of the Amended Information by State's Counsel Bogale; presented argument; no objection by Defendant. **COURT ENTERED ORDER** dismissing Count II of the Amended Information.

Motion to Dismiss for Reasons of Prejudicial Delay by Defendant; presented argument. **COURT ENTERED ORDER** denying Motion as delay was caused by Defendant due to his self-representation and refusing to be represented by the Washoe County Public Defender's Office.

Standby Counsel Hylin advised the Court of the Defendant's issues with receiving a redacted version of the Jury Questionnaires. **COURT ENTERED ORDER** that the Defendant will not be provided with the Jurors' addresses as requested but the Court would inquire of each Juror as to their employment.

Defendant presented further argument regarding the Jury Questionnaires.

Motion to Suppress Evidence by Defendant; presented argument; objection and argument by State's Counsel Bogale; reply by Defendant. Although the photograph is not as good as the actual evidence, the use of a photograph does not rise to the level of suppression, therefore, **COURT ENTERED ORDER** denying Motion to Suppress.

Discussion ensued regarding the packet of Jury Instructions provided to the Court. **COURT** directed the State to correct the Jury Instructions as to the charging document to reflect the dismissal of Count II of the Amended Information.

Court advised the State and the Defendant which questions would be allowed during voir dire of the Jury.

CASE NO. CR14-1044 **TITLE: THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

DATE, JUDGE OFFICERS OF COURT PRESENT	PAGE TWO APPEARANCES-HEARING	CONT'D TO
9/22/14 Molezzo Reporters (Reporter)	**JURY TRIAL - DAY ONE** Court reviewed the process of jury selection with the State and the Defendant. Based on stipulation between the State and Defendant, **COURT ENTERED ORDER** that the Defendant's also known as names listed in the Amended Information will not be presented to the Jury. 10:30 a.m. Court recessed. 10:50 a.m. Court reconvened with Respective Counsel and Defendant present. Prospective Jurors present. Court Personnel, Respective Counsel and Defendant introduced to the jury panel. Roll called; all prospective Jurors present; State's Counsel Bogale and Defendant stipulated to the prospective Jury Panel as now constituted. Panel sworn as to their qualifications to serve as trial jurors and generally examined by the Court. Twenty-Three names drawn (Moberly-Houston, Speech, Pissarro, Walden, Shawnee, Monte, Cozier, Royce, Michelson, Hurting, These, Be scup, Reis, Kelps, Ruff, Stricter, Kraemer, Hester lee, Bradfield, Weeks, Yarbrough, Argall, Setoff); seated and generally examined by Court. Upon direction of the Court, State's Counsel Bogale specifically examined the prospective jury panel; passed for cause. Upon direction of the Court, Defendant specifically examined the prospective jury panel; passed for cause. Court thanked and excused unselected Jurors. Prospective jury panel moved to another courtroom in order for the exercise of peremptory challenges. State's first peremptory challenge was of juror Cozier. Defendant's first peremptory challenge was of juror Hester lee. State's second peremptory challenge was of juror Thiessen. Defendant's second peremptory challenge was of juror Hartig. State's third peremptory challenge was of juror Stichter. Defendant's third peremptory challenge was of juror Moberly-Houston. State's fourth peremptory challenge was of juror Specht. Defendant's fourth peremptory challenge was of juror Yarbough. State's peremptory challenge of alternate jurors was of juror Weeks. Defendant's peremptory challenge of alternate jurors was of juror Saathoff. Jury returned to the Courtroom and Court Clerk called names of selected Jurors as follows:	

9/22/14 **JURY TRIAL - DAY ONE**

Molezzo Reporters

Rita Isparo	Rachel Walden	Ashvin Sawhney
Mliss Monte	Tom Roice	Stephen Mikkelson
Joy Bescup	David Reis	Amanda Klepps
Maureen Ruff	Bonnie Kraemer	Debra Bradfield

Alternate: Noel Argall

Court thanked and excused unselected Jurors.
Court advised the selected jury panel of roll during these proceedings.
12:19 p.m. Selected Jury Panel sworn to try this case.
Court Clerk read the Amended Information aloud and indicated that the Defendant previously entered a plea of not guilty to the charge set forth therein.
12:26 p.m. Jury admonished and excused; said admonishment administered prior to each recess for the duration of trial. Court recessed.
1:41 p.m. Court reconvened outside the presence of the jury with Respective Counsel and Defendant present.
State's counsel Bogale provided the Court with the Jury Instruction to be provided to the Jury prior to commencement of evidence based on the Defendant's self-representation.
Rule of Exclusion invoked.
Motion to Exclude the term "R.O.P." Detective by defendant; presented argument. **COURT ENTERED ORDER** granting Motion.
Discussion ensued regarding Exhibits 10 and 11 referencing the Defendant being in custody at the Washoe County Jail. **COURT** directed the State and Defendant that no mention of the custody status of the Defendant shall be made by any witness without a hearing outside the presence of the Jury prior.
1:48 p.m. Jury entered. State's Counsel Bogale and Defendant stipulated to the presence of the jury.
Jury Instruction regarding self-representation read aloud to the Jury.

EXHIBITS 1 – 15 previously marked.

State's Counsel Bogale presented opening statement.
Defendant presented opening statement.

Alejandro Monroy called by State's Counsel Bogale, sworn and testified.

EXHIBIT 7 offered by State's Counsel Bogale; objection by Defendant; ordered admitted into evidence over objection.

Witness Monroy further direct examined.

***Witness identified the Defendant for the record.

Witness Monroy further direct examined.

9/22/14
Molezzo
Reporters
(Reporter)

JURY TRIAL – DAY ONE

EXHIBIT 16 marked by State's Counsel Bogale.

Witness Monroy further direct examined.

EXHIBIT 16 offered by State's Counsel Bogale; objection by Defendant.

Jury admonished and excused in order for objection to be put on the record.
Defendant set forth objection to Exhibit 16. Defendant examined Witness Monroy as to contents of video. Court examined Witness Monroy.
Court directed the State to play the video for the Defendant.
Defendant advised the Court that the video is the same as the video he received through the discovery process.
Defendant further examined witness Monroy.
2:31 p.m. Jury entered. State's Counsel Bogale and Defendant stipulated to the presence of the Jury.

EXHIBIT 16 ordered admitted into evidence over objection.

Witness Monroy further direct examined.

EXHIBIT 8 offered by State's Counsel Bogale; objection by Defendant; objection sustained, admission denied.

Jury admonished and excused. Outside the presence of the Jury, the Court instructed both the State and Defendant not to argue with the Court.
Court further directed the State to review Exhibit 8 as to relevance during the recess.
2:58 p.m. Court recessed.
3:18 p.m. Court reconvened outside the presence of the Jury with Respective Counsel and Defendant present.
State's Counsel Bogale set forth offer of proof as to Exhibit 8. **COURT** advised State's Counsel Bogale that the testimony presented fails to connect the property taken to the "training receipt" and advised State's Counsel Bogale that the person who created the "training receipt" would be needed in order for Exhibit 8 to be admitted.
3:23 p.m. Jury entered. State's Counsel Bogale and Defendant stipulated to the presence of the Jury.

EXHIBIT 17 marked by the State during recess.

Court instructed the Jury to disregarding the previous testimony regarding Exhibit 8.

Witness Monroy further direct examined.

EXHIBIT 17 offered by State's Counsel Bogale; objection by Defendant;

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JURY TRIAL – DAY ONE

ordered admitted into evidence over objection.

Witness Monroy further direct examined.

EXHIBIT 18 marked by State's Counsel Bogale.

9/23/14
9:00 a.m.
Ongoing
Jury Trial

Witness Monroy further direct examined; cross-examined by Defendant.

EXHIBIT 18 offered by Defendant; no objection by State's Counsel Bogale; ordered admitted into evidence.

Witness further cross-examined; redirect examined; recross-examined; excused, subject to recall.

Matthew Hand called by State's Counsel Bogale.

*** Witness identified the Defendant for the record.

Witness Hand further direct examined.

4:58 p.m. Jury admonished and excused. Outside the presence of the Jury, Court advised State of modification to the packet of Jury Instructions as to gender neutrality made by the Court.
Court further directed the State to modify the Charging Instruction. Further the Court directed each side to remove the Instructions regarding Burglary from their packets.
State's Counsel Bogale presented objection to Exhibit 14 which is the 911 call as it has numerous calls recorded. **COURT ENTERED ORDER** that Exhibit 14 will be admitted of the limited purpose of the 911 call by Matthew Hand. The Exhibit will not be produced to the Jury during deliberations unless specifically requested at which time Court will reconvene for the limited purpose of playing the 911 call by Matthew Hand only.
State's Counsel Bogale advised the Court and Defendant of the schedule of witness for the next day.
Discussion ensued regarding the Jury Instructions. Defendant advised Court that Standby Counsel Hylin will presented the arguments regarding the Jury Instructions on behalf of the Defendant.
Defendant advised the Court that the defense will be calling 1 witness which the Washoe County Public Defender's Office is coordinating.
COURT canvassed the Defendant as to his rights against self-incrimination.
Discussion ensued regarding discovery production.
At the request of Defendant, **COURT** directed the Clerk to mark an Inmate Grievance Form by the Defendant as an exhibit.
EXHIBIT 19 marked by Defendant.
5:10 p.m. Court recessed. Defendant remanded to the custody of the Sheriff.

F I L E D
Electronically
2014-10-22 02:40:38 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4664086

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-10-22 14:40:36.782.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-10-22 14:40:36.751.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-10-22 14:40:37.063.
KELLY KOSSOW, ESQ.	- Notification received on 2014-10-22 14:40:36.844.
CARL HYLIN, ESQ.	- Notification received on 2014-10-22 14:40:37.546.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-10-22 14:40:37.297.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-10-22 14:40:37.515.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	10-22-2014:14:39:22
Clerk Accepted:	10-22-2014:14:40:04
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	***Minutes
Filed By:	Court Clerk MTrabert

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The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

F I L E D
Electronically
2014-10-23 09:45:22 AM
Cathy Hill
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Transaction # 4665356

CASE NO. CR14-1044 **TITLE: THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

DATE, JUDGE OFFICERS OF COURT PRESENT | **PAGE ONE** | **APPEARANCES-HEARING** | **CONT'D TO**

9/23/14
HONORABLE CONNIE STEINHEIMER
DEPT. NO.4
M. Stone (Clerk)
Molezzo Reporters (Reporter)

JURY TRIAL - DAY TWO

Chief Deputy District Attorney Cheryl Wilson, Esq., and Deputy District Attorney Zelalem Bogale, Esq., represented the State. Defendant present representing himself. Deputy Public Defender Carl Hylin, Esq., present as standby counsel.

9:01 a.m. Court convened outside the presence of the Jury.

COURT advised counsel that Juror Sawney recognized Det. Reed as somebody she had knowledge of. Deputy Butler set forth for the record the communication she had with Juror Sawney. State's Counsel Bogale advised the Court that the State does not intend to call Det. Reed. Defendant waived any conflict with Juror Sawney remaining on the panel.

State's Counsel Bogale presented the Court with the modification to the Jury Instructions as requested by the Court. State's Counsel Bogale further advised the Court that should the Defendant specifically request a Jury Instruction regarding his right not to testify, the State has one available.

Discussion ensued regarding the possibility of giving the Jury lessor included instructions.

Defendant set forth for the record his grievance outlined in Exhibit 19. Standby Counsel Hylin advised the Court that the Defendant has all the discovery received by the Washoe County Public Defender's Office.

9:25 a.m. Court recessed.

9:41 a.m. Court reconvened with Respective Counsel and Defendant present. State's Counsel Bogale and Defendant stipulated to the presence of the Jury.

Witness Hand, heretofore sworn, resumed stand and was further cross-examined by Defendant; redirect examined; excused.

Anna Young called by State's Counsel Bogale, sworn and testified.

***Witness identified the Defendant for the record.

Witness Young further direct examined.

EXHIBIT 8 offered by State's Counsel Bogale; no objection by Defendant; ordered admitted into evidence.

Witness Young further direct examined; cross-examined by Defendant; redirect examined; recross-examined; excused.

Coralee Bunker called by State's Counsel Bogale, sworn and testified.

10:36 a.m. Jury admonished and excused. Outside the presence of the Jury, discussion ensued regarding the chain of custody of Exhibit 6.

CASE NO. CR14-1044 **TITLE: THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

DATE, JUDGE OFFICERS OF COURT PRESENT	PAGE TWO APPEARANCES-HEARING	CONT'D TO
9/23/14 Molezzo Reporters (Reporter)	**JURY TRIAL - DAY TWO** Witness Bunker excused from Courtroom. State's Counsel Bogale presented additional offer of proof as to Exhibit 6. Defendant presented objection. 10:40 a.m. Court recessed. 10:50 a.m. Court reconvened outside the presence of the Jury with respective counsel and Defendant present. State's Bogale advised the Court that no resolution was achieved as to the chain of custody of Exhibit 6. State's Counsel Bogale requested that the items contained in Exhibit 6 be marked individually. Defendant presented objection. **COURT ENTERED ORDER** overruling objection and directed the Clerk to mark each item contained in Exhibit 6 individually. **EXHIBITS 6A, 6B, 6C and 6D** marked by State's Counsel Bogale. Witness Bunker, heretofore sworn resumed stand and was examined as to the offer of proof of Exhibit 6C. **EXHIBIT 6C** offered by State's counsel; no objection by Defendant; ordered admitted into evidence. 11:21 a.m. Jury entered. State's counsel Bogale and Defendant stipulated to the presence of the Jury. **COURT** advised the Jury that Exhibit 6C was admitted into evidence during hearing outside the presence of the Jury. Witness Bunker was further direct examined. ***Witness identified the Defendant for the record. Witness Bunker was further direct examined; cross-examined by Defendant; redirect examined; recross-examined; excused. Terry West called by State's Counsel Bogale, sworn and testified; cross-examined by Defendant. **EXHIBIT 20** marked by Defendant. Witness West further cross-examined. **EXHIBIT 20** offered by Defendant; no objection by State's Counsel Bogale; ordered admitted into evidence. Witness West further cross-examined; redirect examined.	

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Molezzo
Reporters

JURY TRIAL - DAY TWO

EXHIBIT 21 marked by State's Counsel Bogale.

Witness West further redirect examined; recross-examined; excused.

12:06 p.m. Jury admonished and excused. Outside the presence of the Jury, State's Counsel Bogale advised the Court of the schedule of witnesses. Defendant advised the Court that he does not believe he will testify.
Defendant requested clarification of the scope of testimony of Officer Keisha Ellis.
12:10 p.m. Court recessed.
1:26 p.m. Court reconvened with Respective Counsel and Defendant present.
State's Counsel Bogale and Defendant stipulated to the presence of the Jury.

Keisha Ellis called by State's Counsel Bogale, sworn and testified.

EXHIBIT 22 marked by State's Counsel Bogale.

Witness Ellis further direct examined.

EXHIBIT 22 offered by State's Counsel Bogale; no objection by Defendant; ordered admitted into evidence.

Witness Ellis further direct examined; cross-examined by Defendant; excused.

State rested.

Phillip Yoder called by Defendant, sworn and testified; cross-examined by State's Counsel Bogale; redirect examined; excused.

1:57 p.m. Jury admonished and excused. Outside the presence of the Jury, discussion ensued regarding the Jury Instructions. Defendant specifically requested the lessor included Jury Instructions and Verdict Forms.
2:00 p.m. Court recessed.
2:14 p.m. Court reconvened outside the presence of the Jury with Respective Counsel and Defendant present.
Defendant advised the Court that Officer West will not be called as a Witness on behalf of the defense. Defendant further advised the Court that he invokes his rights against self-incrimination and request a Jury Instruction be given to the Jury stating his rights.
State's Counsel Bogale advised the Court that the State has no rebuttal case to present.
2:20 p.m. Jury entered was admonished and excused for the day.
Outside the presence of the Jury, discussions ensued regarding the Jury Instructions.

9/23/14
Molezzo
Reporters
(Reporter)

JURY TRIAL – DAY TWO

Based on no objections being made, **COURT ENTERED ORDER** removing Jury Instruction 23A from packet and modifying Jury Instruction 23B to remove Grand Larceny as an option. Once modification made, that instruction will be marked Jury Instruction 23.

State's counsel presented objection to Jury Instruction 21. Standby Counsel Hylin presented argument in favor of Jury Instruction 21. The Court having reviewed Crawford in totality, finds that if the Defendant requests instruction then it must be given.

Discussion ensued regarding the forms of Verdict.

State's Counsel Bogale and Standby Counsel Hylin had no further objections to offer and no further instructions to offer. State's Counsel Bogale and Standby Counsel Hylin had no objections to the forms of Verdict.

Court advised Respective Counsel and Defendant that Jury Instructions 1-28 would be given to the Jury.

State's Counsel Bogale and Defendant stipulated to the reading of the Jury Instructions prior to arguments.

2:37 p.m. Court recessed. Defendant remanded to the custody of the Sheriff.

9/24/14
9:30 a.m.
Ongoing
Jury Trial

F I L E D
Electronically
2014-10-23 09:46:31 AM
Cathy Hill
Acting Clerk of the Court
Transaction # 4665365

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-10-23 09:46:30.444.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-10-23 09:46:30.413.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-10-23 09:46:30.537.
KELLY KOSSOW, ESQ.	- Notification received on 2014-10-23 09:46:30.506.
CARL HYLIN, ESQ.	- Notification received on 2014-10-23 09:46:30.631.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-10-23 09:46:30.569.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-10-23 09:46:30.6.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	10-23-2014:09:45:22
Clerk Accepted:	10-23-2014:09:45:59
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	***Minutes
Filed By:	Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

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The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

F I L E D
Electronically
2014-10-23 10:27:23 AM
Cathy Hill
Acting Clerk of the Court
Transaction # 4665516

CASE NO. CR14-1044 **TITLE: THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

DATE, JUDGE OFFICERS OF COURT PRESENT **PAGE ONE** **APPEARANCES-HEARING** **CONT'D TO**

9/24/14
HONORABLE CONNIE STEINHEIMER
DEPT. NO.4
M. Stone (Clerk)
Molezzo Reporters (Reporter)

JURY TRIAL - DAY THREE

Chief Deputy District Attorney Cheryl Wilson, Esq., and Deputy District Attorney Zelalem Bogale, Esq., represented the State. Defendant present representing himself. Deputy Public Defender Carl Hylin, Esq., present as standby counsel.

9:39 a.m. Court convened outside the presence of the Jury.

State's Counsel Bogale and Defendant advised the Court that they are ready to proceed and have no issues to resolve.

9:40 a.m. Jury entered. State's counsel Bogale and Defendant stipulated to the presence of the Jury.

Court read the Jury Instructions aloud.

State's Counsel Bogale presented opening argument.

Defendant presented answering argument.

State's Counsel Bogale presented closing argument.

Upon agreement of counsel, Alternate Juror Argall excused to return to normal daily activities, subject to recall.

10:28 a.m. Bailiff and Law Clerk sworn.

Outside the presence of the Jury, Court advised respective counsel and Defendant that a "clean" computer has been received from the District Attorney's Office for the Jury's use during deliberation. Defendant had no objection to such procedure.

Court further advised Respective Counsel and Defendant that Exhibit 14 would not be presented to the Jury for use in the jury room until specifically requested then Court would reconvene in order to present the Exhibit in its limited capacity.

10:31 a.m. Court recessed awaiting Jury.

11:29 a.m. Court reconvened.

Clerk called roll of the jury panel.

Jury returned the following verdict:

V E R D I C T

We, the jury in the above-entitled matter, find the defendant, MARC PAUL SCHACHTER, GUILTY of COUNT I. ATTEMPTED ROBBERY.

DATED this 24th day of September, 2014.

(sgd) Tom Roice
FOREPERSON

9/24/14
Molezzo
Reporters
(Reporter)

JURY TRIAL – DAY THREE

Court inquired of the jurors as a whole if the verdict as read was the verdict to which they agreed and there were no negative responses.

Upon request of Defendant, **COURT ORDERED** jury polled. To the Question "Is this your verdict as read?" posed to each juror individually, there were no negative responses.

Court thanked and excused the jury.

COURT ORDERED the matter referred to Probation Department for PSI and continued for entry of judgment, consideration of probation report and imposition of sentence.

Defendant advised the Court that he may withdraw his request for self-representation for the purposes of sentencing. **COURT** set a status hearing in 1 week for Defendant to decide whether or not he would like counsel appointed for sentencing purposes.

Based on the dismissal of Count II of the Amended Information, **COURT ENTERED ORDER** reducing the Defendant's bail to $20,000.00 bondable.

11:43 a.m. Court recessed. Defendant remanded to the custody of the Sheriff.

10/2/14
9:00 a.m.
Status Hearing

12/4/14
3:00 p.m.
Sentencing

F I L E D
Electronically
2014-10-23 10:27:23 AM
Cathy Hill
Acting Clerk of the Court
Transaction # 4665516

Exhibits

Title: **THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

PLTF: **THE STATE OF NEVADA** PATY: **ZELALEM BOGALE, ESQ.**
DEFT: **MARC P. SCHACHTER** DATY: **PRO PER**

Case No: **CR14-1044** Dept. No: **4** Clerk: **M. Stone** Date: **9/3/2014**

Exhibit No.	Party	Description	Marked	Offered	Admitted
A.	Defendant	CD – "Disc 1; DA 14-12219; Schachter, Marc; 7/24/14 KP"	9/3/14		
B.	Defendant	CD - "Disc 2; DA 14-12219; Schachter, Marc; 7/24/14"	9/3/14		
B1.	State	Computer PrintPage of CD File Contents (JustWare5)	9/11/14	No Objection	9/11/14
C.	State	CD- "Case #14-10834; Schachter, Marc; Disc on JW 6-26-14"	9/11/14	No Objection	9/11/14
D.	State	Computer PrintPage of CD File Content (DVD RW Drive (D:) Export Media	9/11/14	Objection Overruled	9/11/14
E.	State	CD – "14-10837 Schachter, M."	9/11/14		
F.	State	Photograph – Backpack and Contents	9/11/14	No Objection	9/11/14
1.	State	Evidence Envelope containing CD Depicting Incident at Walmart ***Admitted for 9/11/14 Pre-Trial Motions Hearing then marked for Trial purposes	9/11/14		

Exhibits

Title: **THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

PLTF: **THE STATE OF NEVADA** PATY: **ZELALEM BOGALE, ESQ.**
DEFT: **MARC P. SCHACHTER** DATY: **PRO PER**

Case No: **CR14-1044** Dept. No: **4** Clerk: **M. Stone** Date: **9/3/2014**

Exhibit No.	Party	Description	Marked	Offered	Admitted
1A.	State	CD – Depicting Incident at Walmart ***Admitted for 9/11/14 Pre-Trial Motions Hearing then marked for Trial purposes	9/11/14		
1B.	State	Computer PrintPage of CD Content (JustWareWebService) (1A) ***Admitted for 9/11/14 Pre-Trial Motions Hearing then marked for Trial purposes	9/11/14		
2.	State	Prior Conviction – Second Judicial District Court case no. CR09-1429	9/11/14		
3.	State	Prior Conviction – Ninth Judicial District Court case no. 06-CR-00052-DC	9/11/14		
4.	State	Prior Conviction – Santa Clara Municipal Court case no. E9171929	9/11/14		
5.	State	Prior Conviction – Suffolk County Court case no. CC#86-863893	9/11/14		

Exhibits

Title: **THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

PLTF: **THE STATE OF NEVADA** PATY: **ZELALEM BOGALE, ESQ.**
DEFT: **MARC P. SCHACHTER** DATY: **PRO PER**

Case No: **CR14-1044** Dept. No: **4** Clerk: **M. Stone** Date: **9/3/2014**

Exhibit No.	Party	Description	Marked	Offered	Admitted
6.	State	Clear Plastic Evidence Envelope – Contents from Property Obtained from Marc Schachter	9/22/14		
6A.	State	Box of Hair Color contained in Exhibit 6	9/23/14		
6B.	State	Solar Garden Light contained in Exhibit 6	9/23/14		
6C.	State	Original Walmart Receipt contained in Exhibit 6	9/23/14	No Objection	9/23/14
6D.	State	Receipt – Washoe County, Nevada Office of the District Attorney dated 9/19/14	9/23/14		
7.	State	Diagram of Walmart	9/22/14	Objection Overruled	9/22/14
8.	State	Walmart Receipt #00009052 – Invalid Receipt – Training	9/22/14	No Objection	9/23/14
9.	State	Copy of Receipt – 00001423 – Solar Light and Haircolor	9/22/14		
10.	State	Tiburon Print Screen – Personal Property Tab - Schachter, Marc Paul	9/22/14		
11.	State	CD – Jail Calls for Schachter, Marc	9/22/14		
12A- H.	Defendant	Photographs - Walmart	9/22/14		
13.	Defendant	Diagram – Floor Plan of Walmart	9/22/14		

Exhibits

Title: **THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

PLTF: **THE STATE OF NEVADA** PATY: **ZELALEM BOGALE, ESQ.**
DEFT: **MARC P. SCHACHTER** DATY: **PRO PER**

Case No: **CR14-1044** Dept. No: **4** Clerk: **M. Stone** Date: **9/3/2014**

Exhibit No.	Party	Description	Marked	Offered	Admitted
14.	Defendant	CD – 911 Calls	9/22/14	Objection Overruled	9/23/14 – Limited Admission
15.	Defendant	Walmart – Performance Evaluation for Anna Young	9/22/14		
16.	State	CD - "Disc 2; DA 14-12219; Schachter, Marc; 7/24/14"	9/22/14	Objection Overruled	9/22/14
17.	State	Photograph - Backpack and Contents (Same as Exhibit f)	9/22/14	Objection Overruled	9/22/14
18.	State	RPD – Statement of Alejandro Monroy case no. 14-10834	9/22/14	No Objection	9/22/14
19.	Defendant	Inmate Grievance Form dated 9/8/14 from Inmate Schachter, M	9/22/14		
20.	Defendant	Arrest Report and Declaration of Probable Cause case no. 14-10834 by T. West	9/23/14	No Objection	9/23/14
21.	State	RPD – Report dated 6/9/14 by West, Terry	9/23/14		
22.	State	Washoe County Sheriff's Office Detention Property Record Form for Schachter, Marc	9/23/14	No Objection	9/23/14

F I L E D
Electronically
2014-10-23 10:28:29 AM
Cathy Hill
Acting Clerk of the Court
Transaction # 4665518

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-10-23 10:28:29.1.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-10-23 10:28:29.069.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-10-23 10:28:29.194.
KELLY KOSSOW, ESQ.	- Notification received on 2014-10-23 10:28:29.162.
CARL HYLIN, ESQ.	- Notification received on 2014-10-23 10:28:29.287.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-10-23 10:28:29.225.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-10-23 10:28:29.256.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	10-23-2014:10:27:23
Clerk Accepted:	10-23-2014:10:27:59
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	***Minutes - **Continuation
Filed By:	Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

–

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

F I L E D
Electronically
2014-10-24 04:28:10 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4668750

CASE NO. CR14-1044 **TITLE: THE STATE OF NEVADA VS. MARC PAUL SCHACHTER**

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING	CONT'D TO
10/2/14 HONORABLE CONNIE STEINHEIMER DEPT. NO.4 M. Stone (Clerk) J. Schonlau (Reporter)	**STATUS HEARING REGARDING SELF-REPRESENTATION** Deputy District Attorney Zelalem Bogale, Esq., represented the State. Defendant present representing himself. Chief Deputy Public Defender James Leslie, Esq., present as standby counsel. Defendant requested guidance from the Court as to what his sentence would be. **COURT** advised the defendant that the Court does not make a determination of sentence until the presentence investigation report is received and all sentencing arguments are presented. Defendant advised the Court that he wishes to remain self-represented at this time. State's counsel advised the Court that there are 7 prior convictions alleged in the Habitual Criminal charge and further advised the defendant of the possible penalty. **COURT** encouraged the Defendant to have the Public Defender's Office appointed to represent him for sentencing purposes. Motion for Trial Transcripts at Public Expense provided to standby counsel for filing. **COURT** advised the defendant of his appeal rights. Defendant provided a list of legal materials needed to standby counsel. Defendant advised the Court that he has had a presentence investigation report prepared in the last 5 years and requests waiver of new report. State's counsel invoked right to a presentence investigation report. **COURT** directed standby counsel to advise the defendant of his rights during the presentence investigation interview. Sentencing to remain as previously scheduled. Defendant remanded to the custody of the Sheriff.	**11/20/14** **9:00 a.m.** **Sentencing**

F I L E D
Electronically
2014-10-24 04:29:16 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4668757

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-10-24 16:29:15.638.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-10-24 16:29:15.606.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-10-24 16:29:15.731.
KELLY KOSSOW, ESQ.	- Notification received on 2014-10-24 16:29:15.7.
CARL HYLIN, ESQ.	- Notification received on 2014-10-24 16:29:15.825.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-10-24 16:29:15.762.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-10-24 16:29:15.794.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	10-24-2014:16:28:10
Clerk Accepted:	10-24-2014:16:28:45
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	***Minutes
Filed By:	Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

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If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

F I L E D
Electronically
2014-10-28 10:00:07 AM
Cathy Hill
Acting Clerk of the Court
Transaction # 4671481 : mfernand

CODE 1250
WASHOE COUNTY PUBLIC DEFENDER
JIM LESLIE, SBN #4464
P.O. BOX 11130
RENO, NV 89520-0027
(775) 337-4800
ATTORNEY FOR: DEFENDANT

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

vs.

MARC PAUL SCHACHTER,

Defendant.

_____/

Case No. CR14-1044

Dept. No. 4

APPLICATION FOR SETTING

TYPE OF ACTION:	Criminal
MATTER TO BE HEARD:	Review / Status Hearing
DATE OF APPLICATION:	10/28/2014
COUNSEL FOR PLAINTIFF:	Kristin A. Erickson, DDA
COUNSEL FOR DEFENDANT:	Jim Leslie, DPD
CUSTODY STATUS:	In Custody

Setting at 9:00 AM, on the 13th day of November, 2014.

F I L E D
Electronically
2014-10-28 10:58:39 AM
Cathy Hill
Acting Clerk of the Court
Transaction # 4671670

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-10-28 10:58:37.88.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-10-28 10:58:37.848.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-10-28 10:58:38.348.
KELLY KOSSOW, ESQ.	- Notification received on 2014-10-28 10:58:38.316.
CARL HYLIN, ESQ.	- Notification received on 2014-10-28 10:58:38.441.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-10-28 10:58:38.379.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-10-28 10:58:38.41.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	10-28-2014:10:00:07
Clerk Accepted:	10-28-2014:10:58:04
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	Application for Setting
Filed By:	James B. Leslie

You may review this filing by clicking on the following link to take you to your cases.

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–

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The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

F I L E D
Electronically
2014-11-12 04:10:24 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4692532

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-11-12 16:10:23.645.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-11-12 16:10:23.614.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-11-12 16:10:23.801.
KELLY KOSSOW, ESQ.	- Notification received on 2014-11-12 16:10:23.77.
CARL HYLIN, ESQ.	- Notification received on 2014-11-12 16:10:23.879.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-11-12 16:10:23.833.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-11-12 16:10:23.848.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	11-12-2014:16:01:52
Clerk Accepted:	11-12-2014:16:09:53
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	PSI - Confidential
Filed By:	Div. of Parole & Probation

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

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If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

CODE 2035
MARC SCHACHTER
#1140945D
911 PARK BLVD
RENO, NV 89512
PRO PER

FILED
Electronically
2014-11-18 02:24:16 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4701171 : mcholico

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,
PLAINTIFF,

V.

MARC PAUL SCHACHTER,
DEFENDANT.

CASE NO.: CR-14-1044
DEPT. NO.: 04

MOTION FOR CLARIFICATION OF PRE-TRIAL ORDER

THE DEFENDANT, MARC SCHACHTER, IN PRO PER, COMES NOW AND MOVES THIS COURT FOR CLARIFICATION OF ORDER DENYING DEFENDANT'S MOTION TO DISMISS CASE ON GROUNDS THAT STATE HAS LOST/DESTROYED MATERIAL EXCULPATORY EVIDENCE DATED 9-16-14.

AFTER FINDING THE DEFENDANT, SCHACHTER, HAD MET HIS BURDEN OF PROVING THE LOST EVIDENCE WAS MATERIAL (SEE ORDER PAGE 4 LINE 25), THE DISTRICT COURT CONSIDERS WHETHER THE FAILURE TO COLLECT THE EVIDENCE WAS THE RESULT OF NEGLIGENT, GROSS NEGLIGENT OR BAD FAITH CONDUCT. (PAGE 5-LINE 1-2). WHILE THE COURT

MAKES A FINDING THAT THERE WAS NO INDICATION OF "BAD FAITH" (PAGE 5-LINES 11-12), THE COURT FAILS TO ELABORATE OR EXPLAIN AS TO WHY THE LOSS WAS THE RESULT OF NEGLIGENCE AND NOT GROSS NEGLIGENCE.

IN ADDITION, THE DEFENDANT DESIRES TO KNOW IF THE DISTRICT COURT'S ORDER ALLOWING DEFENDANT, SCHACHTER, TO EXAMINE STATE'S WITNESSES AT TRIAL (PAGE 5-LINE 21-22) ALLOWS THE DEFENDANT TO ASK THE COURT FOR PERMISSION TO RECONSIDER THE MOTION TO DISMISS IN LIGHT OF THE TESTIMONY OF OFFICER WEST AND ANNA YOUNG AT DEFENDANT'S TRIAL.

DATE: NOVEMBER 10, 2014

X Marc Schachter

MARC SCHACHTER, IN PROPER

AFFIRMATION PURSUANT TO NRS 239B.030

THE UNDERSIGNED AFFIRMS THAT THE PRECEDING DOCUMENT DOES NOT CONTAIN ANY SOCIAL SECURITY NUMBER(S) OF ANY PERSON(S).

DATE 11/10/14

X Marc Schachter

MARC SCHACHTER, IN PROPER

V3. 448

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada; that on this 18th day of November, 2014, I electronically filed the foregoing documents with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

ZELALEM BOGALE
DEPUTY DISTRICT ATTORNEY

/s/ DEBBIE BRUNNER
DEBBIE BRUNNER

CODE 3870
MARC SCHACHTER
#1409450
911 PARK BLVD
RENO, NV 89512
IN PRO PER

FILED
Electronically
2014-11-18 02:24:16 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4701171 : mcholico

IN THE SECOND JUDICIAL DISTRICT COURT STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
PLAINTIFFS,
V.
MARC PAUL SCHACHTER,
DEFENDANT.
/

CASE NO: CR-14-1044
DEPT. NO. 04

REQUEST FOR CASE FILE OF STAND-BY COUNSEL INCLUDING ALL WORK-PRODUCT

THE DEFENDANT IN THE ABOVE CAPTIONED CASE, MARC SCHACHTER, IN PRO PER, HEREBY RESPECTFULLY REQUESTS THE DISTRICT COURT ORDER THE WASHOE COUNTY PUBLIC DEFENDER'S OFFICE PROVIDE THE DEFENDANT WITH A COPY OF THE ENTIRE CASE FILE OF CASE NO. CR-14-1044. THIS SHALL BE INCLUSIVE OF ALL MATERIALS REFERCING THIS MATTER IN ANY FASHION SINCE THE PUBLIC DEFENDER FIRST APPEARENCE IN RENO JUSTICE COURT, DEPT. 1 BEFORE HON. JUSTICE LYNCH ON JUNE 23, 2014 AND UP TO AND THROUGH THE DATE OF THIS PLEADING. THE MATERIAL TO BE PROVIDED SHALL

//

INCLUDE BUT NOT LIMITED TO DOCUMENTARY MATERIAL FILED AND UNFILED, ENCOMPOSSING ANY AND ALL WORK PRODUCT OF ATTORNEY JAMES LESLIE, ATTORNEY CARL HYLIN, INVESTIGATOR LARRY CARLSON AND ANY OTHER EMPLOYEE OF THE WASHOE COUNTY PUBLIC DEFENDERS OFFICE.

IT SHALL INCLUDE ANY AND ALL ELECTRONIC MEDIA, E-MAILS TO AND FROM ANY PARTY, CASE NOTATIONS, PERSONAL CALENDAR NOTATIONS, MEMORANDUMS, ELECTRONIC AND PAPER CORRESPONDENCE OF ANY FORM. IT SHALL ALSO INCLUDE RESEARCH MATERIALS ENCOMPASSING ELECTRONIC SEARCH REQUESTS AND ANY MATERIALS NOTED OR GENERATED BY THOSE SEARCH REQUESTS.

THIS REQUEST SHALL BE ONGOING AND INCLUDE PAST CURRENT AND FUTURE MATERIAL INCLUDING MATERIAL DERIVATIVE OF THIS REQUEST ITSELF.

DELIVERY OF THIS MATERIAL SHALL BE ACCOMPLISHED AT THE COURT'S DISCRETION.

DATE: NOVEMBER 10, 2014

MARC SCHECTER, ESQ PER

V3. 451

AFFIRMATION PURSUANT
TO NRS 239B.030

THE UNDERSIGNED HEREBY AFFIRMS THAT THE PREceding DOCUMENT DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY PERSON.

DATE 11/10/14

MARC SCHECHTER, PRO PER

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada; that on this 18th day of November, 2014, I electronically filed the foregoing documents with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

ZELALEM BOGALE
DEPUTY DISTRICT ATTORNEY

/s/ DEBBIE BRUNNER
DEBBIE BRUNNER

CODE 2230
MARC SCHACHTER
#1109450
911 PARK BLVD
RENO, NV 89512
IN PROPER

FILED
Electronically
2014-11-18 02:24:16 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4701171 : mcholico

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
PLAINTIFF
v.
MARC PAUL SCHACHTER,
DEFENDANT.
/

CASE NO: CR14-1044
DEPT. NO: 4

MOTION FOR TRIAL TRANSCRIPTS AT PUBLIC EXPENSE

THE DEFENDANT, MARC SCHACHTER, IN PRO PER, COMES NOW AND MOVES THIS COURT TO PROVIDE THE DEFENDANT THE TRANSCRIPTS OF THE ABOVE CAPTIONED CRIMINAL CASE TRIAL THAT TOOK PLACE IN DEPARTMENT FOUR FROM SEPTEMBER 22, 2014 THRU SEPTEMBER 24, 2014.

THE DEFENDANT REMAINS INDIGENT AND WITHOUT FUNDS AND THEREBY REQUESTS THE TRANSCRIPTS BE PROVIDED AT PUBLIC EXPENSE.

THIS MOTION IS MADE PURSUANT TO THE

//

NEVADA REVISED STATUTES (NRS) AND ESTABLISHED CASE LAW. [NOTE: BECAUSE DEFENDANT LACKS ACCESS TO LAW LIBRARY HE APOLOGIZES TO THE COURT FOR THE LACK OF SPECIFIC CASE CITATION.]

AFFIRMATION PURSUANT TO NRS 239B.030

THE UNDERSIGNED AFFIRMS THAT THIS DOCUMENT DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY PERSON.

DATE: September 29, 2014

XMarc Schachter

MARC SCHACHTER

IN PRO PER

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada; that on this 18th day of November, 2014, I electronically filed the foregoing documents with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

ZELALEM BOGALE
DEPUTY DISTRICT ATTORNEY

/s/ DEBBIE BRUNNER
DEBBIE BRUNNER

CODE 3585
MARC SCHACHTER
1409450
911 PARK BLVD.
RENO, NV 89512
IN PRO PER

FILED
Electronically
2014-11-18 02:24:16 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4701171 : mcholico

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

MARC PAUL SCHACHTER,
PETITIONER,

V.

SHERIFF, WASHOE COUNTY, NV.
STATE OF NEVADA,
RESPONDENTS.

CASE NO: CR-14-1044
DEPT. 04

PETITION FOR WRIT OF HABEAS CORPUS

PETITIONER, MARC SCHACHTER, IN PRO PER, COMES NOW TO PETITION THIS COURT TO ISSUE A WRIT OF HABEAS CORPUS TO SHOW CAUSE. PETITIONER DECLARES HIS RIGHT TO SELF-REPRESENTATION GUARANTEED UNDER THE SIXTH AMENDMENT OF THE U.S. CONSTITUTION BY AND THROUGH THE FOURTEENTH AMENDMENT OF THE U.S. CONSITUTION IS BEING DENIED.

BACKGROUND: ON JUNE 9, 2014, PETITIONER WAS ARRESTED FOR ATTEMPTED ROBBERY NRS SECTION

193,330 AND 200.380. THE WASHOE COUNTY PUBLIC DEFENDER'S OFFICE WAS APPOINTED ON JUNE 23, 2014, RELIEVED ON JULY 1, 2014 AND RE-APPOINTED AS STAND-BY COUNSEL ON JULY 24, 2014. FOLLOWING A JURY TRIAL PETITIONER WAS CONVICTED OF ATTEMPTED ROBBERY ON SEPTEMBER 24, 2014. THERE ARE CURRENTLY NO HOLDS, WARRANTS OR DETAINERS KNOWN BY THE PETITIONER. SENTENCING IS SET FOR DECEMBER 4, 2014. THERE HAVE BEEN NO PREVIOUS APPEALS OR COLLATERAL ATTACKS AGAINST THE CONVICTION.

GROUND: PETITIONER IS BEING DENIED HIS RIGHT TO SELF-REPRESENTATION GUARANTEED UNDER THE U.S. CONSITUTION SIXTH AND FOURTEENTH AMENDMENTS.

SUPPORTING FACTS: ON JULY 24, 2014, FOLLOWING A SECOND CANVASS IN REGARDS TO MY RIGHT TO SELF-REPRESENTATION THE DISTRICT COURT HON. C.J. STEINHEIMER (HEREINAFTER THE "COURT") APPOINTED THE WASHOE COUNTY PUBLIC DEFENDER'S OFFICE AS STAND-BY COUNSEL. (SEE COURT-ORDER DATED 7-30-14).

ON JULY 31, 2014, PETITIONER OBJECTED TO THE APPOINTMENT OF CHIEF PUBLIC DEFENDER JAMES LESLIE AS STAND-BY COUNSEL. PETITIONER ARGUED THAT THE

V3. 458

APPOINTMENT OF A CHIEF TRIAL COUNSEL WHO WAS SCHEDULED TO BE IN A MURDER TRIAL THE SAME WEEK AS PETITIONER'S TRIAL WAS AN INAPPROPIATE SUBSITUTE FOR PETITIONER'S LACK OF ACCESS TO A LAW LIBRARY. PETITIONER ALSO VOICED HIS CONCERNS ABOUT HIS LACK OF TRUST AND FAITH IN MR. LESLIE'S ABILITIES TO REPRESENT PETITIONER COMPETENTLY, HAVING JUST FIRED HIM IN JUSTICE COURT.

DURING PRE-TRIAL PREPARATIONS, MR. LESLIE REFUSED TO FILE MOTIONS FOR PETITIONER, OFFERED UNSOLICITED INCOMPETENT ADVICE REGARDING THE BURGLARY COUNT (SEE LETTER DATED JULY 25, 2014 PAGE ONE- PARAGRAPH 3), OFFERED TO ARRANGE GUILTY PLEA NEGOTIATIONS AND RECOMMEND PETITIONER TAKE 5 YEARS IN PRISON DESPITE PETITIONER'S CONTINUED CLAIM OF INNOCENCE (SEE LETTER DATED JULY 25, 2014- PAGE 2 PARAGRAPH 1) [NOTE: DURING OUR I-NEED VISIT ON 8-12-14 MR. LESLIE ACKNOWLEDGED THESE ISSUES.]

IN A LETTER DATED AUGUST 12, 2014, MR. LESLIE ASKS PETITIONER TO WAIVE TIME TO ALLOW PETITIONER'S CASE TO BE SET ACCORDING TO MR. LESLIE'S TRIAL CALENDAR. PETITIONER'S SPEEDY TRIAL RIGHT AND DESIRE TO HAVE A SPEEDY TRIAL WERE WELL-KNOWN

TO THE COURT AND THE PUBLIC DEFENDER. (SEE LETTER DATED 8/12/14).

ON AUGUST 20, 2014, WASHOE COUNTY PUBLIC DEFENDER'S OFFICE INVESTIGATOR LARRY CARLSON CAME TO THE JAIL TO VISIT PETITIONER. PETITIONER REQUESTED THAT INVESTIGATOR OBTAIN CRIMINAL AND WORK FILES FOR MR. MONROY AND MS. YOUNG. PETITIONER ALSO ASKED FOR STATUS OF SUBPOENAS CONCERNING VIDEO EVIDENCE PREVIOUSLY REQUESTED. WITH THE EXCEPTION OF MS. YOUNG'S EMPLOYEE EVALUATION (SEE TRIAL-EXHIBIT #15), THE INVESTIGATOR FAILED TO PROVIDE PETITIONER WITH THESE PROMISED ITEMS. (SEE ALSO PRETRIAL MOTION TO DISMISS DUE TO PREJUDICIAL DELAY AS TO PENDING VIDEOS).

IN A MEMORANDUM FROM THE PUBLIC DEFENDERS OFFICE DATED 8/23/14 MR. LESLIE STATES, "I WILL SET UP AN I-WEB VISIT WITH YOU SOON TO SEE IF YOU NEED ANYTHING ELSE." (THAT VISIT NEVER HAPPENED). HE THEN GO ON TO STATE, "ALSO PLEASE FEEL FREE TO COMMUNICATE ANY SUCH NEEDS TO MR. CARLSON WHEN HE DELIVERS THIS MEMORANDUM AND ATTACHMENTS TO YOU, BUT PLEASE UNDERSTAND HE'S NOT IN A POSITION TO PROVIDE ANSWERS, BUT TO RELAY YOUR QUESTIONS/REQUESTS TO ME." (SEE MEMORANDUM DATED 8/23/14).

WHEN INVESTIGATOR LARRY CARLSON DELIVERED ABOVE REFERENCED MEMORANDUM ON 8/25/14, PETITIONER REQUESTED MR. CARLSON OBTAIN A DUPLICATE BACKPACK (AS THE ONE THE STATE ALLEGED PETITIONER STOLE) FOR USE AT THE SEPTEMBER 3, 2014 EVIDENTARY HEARING. THE BACKPACK WAS NEVER PROVIDED TO THE PETITIONER.

DURING THE PRE-TRIAL EVIDENTARY HEARING ON SEPTEMBER 11, 2014, THE COURT QUESTIONED MR. LESLIE ABOUT THE RETURN DATES OF THE ISSUED SUBPOENAS. MR. LESLIE TOLD THE COURT HE COULD NOT LOCATE THE SUBPOENAS IN THE FILE. ON 10/2/14, PETITIONER REQUESTED COPIES OF ALL SUBPOENAS FILED ON PETITIONER'S BEHALF (SEE REQUEST FOR LEGAL MATERIALS AND SUPPLIES DATED 9/28/14) IN A LETTER DATED 10/8/14, THE PUBLIC DEFENDER AGAIN FAILS TO LOCATE THE SUBPOENAS (SEE LETTER DATED 10/8/14 PAGE 2.)

CHIEF PUBLIC DEFENDER CARL HYLIN (WHO WAS PETITIONER'S STAND-BY COUNSEL AT TRIAL) TOOK UNSOLICITED PHOTOGRAPHS OF THE WALMART. THESE PHOTOS WERE OF THE WRONG ENTRANCE AND THE WRONG SECTION INSIDE THE STORE AS WELL. (SEE TRIAL EXHIBIT 12-A-H).

IN A LETTER DATED 10/8/14, MR. LESLIE STATES, "WE CANNOT PROVIDE ANYTHING MORE THAN WHAT THE JAIL PROVIDES." (SEE LETTER DATED 10/8/14 PAGE 1 PARAGRAPH 8) THE PUBLIC DEFENDER OFFERS THE SERVICE OF A MITIGATION SPECIALIST, HOWEVER PETITIONER REQUIRES DIRECT ACCESS (THROUGH PHONE AND MAIL) TO FAMILY AND FRIENDS PRIOR TO ANY OUTSIDE SPECIALIST FOR APPROVAL. (SEE 10/8/14 LETTER PAGE 1 PARAGRAPH 8)

ADDITIONALL, PETITIONER HAS ON NUMEROUS OCCASIONS TRIED TO CONTACT MR LESLIE AND MR CARLSON BY PHONE WITHOUT SUCCESS. PETITIONER REQUIRES NUMEROUS CASES AND SUPPLIES FOR UPCOMMING SENTENCING AND THE PUBLIC DEFENDER'S OFFICE HAS FAILED TO RESPOND.

ON OCTOBER 2, 2014, THE COURT DIRECTED MR LESLIE TO DISCUSS THE PRE-SENTENCE INVESTIGATION PROCESS WITH THE PETITIONER. MR LESLIE FAILED TO DISCUSS THE MATTER WITH PETITIONER AND PRE-SENTENCE INTERVIEW WAS CONDUCTED ON 10/23/14.

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POINTS/AUTHORITIES:

THE UNITED STATES SUPREME COURT HELD THAT AN ACCUSED HAS A SIXTH AMENDMENT RIGHT TO CONDUCT HIS OWN DEFENSE (FARETTA V. CALIFORNIA, 422 U.S 806) "UNDER THAT ADMENDMENT IT IS THE ACCUSED, NOT COUNSEL WHO HAS THE RIGHT TO CONFRONT WITNESSES, AND WHO MUST BE ACCORDED COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR. THE COUNSEL CLAUSE ITSELF, WHICH PERMITS THE ACCUSED TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE, IMPLIES A RIGHT IN THE DEFENDANT TO CONDUCT HIS OWN DEFENSE WITH ASSISTANCE AT WHAT, AFTER ALL, IS HIS, NOT COUNSEL'S TRIAL." (MCKASKLE V. WIGGINS, 465 US 168 (1984))." IN DETERMING WHETHER A DEFENDANTS FARETTA RIGHTS HAVE BEEN RESPECTED, THE PRIMARY FOCUS MUST BE ON WHETHER THE DEFENDANT HAD A FAIR CHANCE TO PRESENT HIS CASE IN HIS OWN WAY." (SUPRA). "THE PRO SE DEFENDANT IS ENTITLED TO PRESERVE ACTUAL CONTROL OVER THE CASE HE CHOOSES TO PRESENT TO THE JURY" (SUPRA AT 951) "THIS IS THE CORE OF THE FARETTA RIGHT. IF STAND-BY COUNSEL'S PARTICIPATION OVER THE DEFENDANTS OBJECTION EFFECTIVELY ALLOWS COUNSEL TO MAKE OR SUBSTANIALLY INTERFERE WITH ANY SIGNIFICANT TACTICAL DECISIONS, OR TO CONTROL THE QUESTIONING

OF WITNESSES, OR TO SPEAK INSTEAD OF THE DEFENDANT ON ANY MATTER OF IMPORTANCE, THE FARETTA RIGHT IS ERODED." (SEE SUPRA.)

A TRIAL JUDGE WHO RECEIVES A DEFENDANT'S FARETTA REQUEST AND SUPERVISES THE PROTECTION OF THE RIGHT THROUGHOUT THE TRIAL, MUST BE CAPABLE OF DIFFERENTIATING THE CLAIMS PRESENTED BY A PRO SE DEFENDANT FROM THOSE PRESENTED BY STAND-BY COUNSEL. DISAGREEMENTS BETWEEN COUNSEL AND THE PRO SE DEFENDANT ARE TO BE RESOLVED IN THE DEFENDANT'S FAVOR WHENEVER THE MATTER IS ONE THAT WOULD NORMALLY BE LEFT TO THE DISCRETION OF COUNSEL." EQUALLY IMPORTANT, ALL CONFLICTS BETWEEN WIGGINS AND COUNSEL WERE RESOLVED IN WIGGINS' FAVOR." (SUPRA AT 952).

WRITING FOR THE DISSENT IN MCKASKLE, JUSTICE WHITE WROTE," WE OF COURSE HAVE NO WAY OF KNOWING THE EXTENT TO WHICH WIGGINS' DEFENSE WAS SUBTLY UNDERMINED OR ADVERSELY AFFECTED BY COUNSEL'S EXTENSIVE UNSOLICITED PARTICIPATION. THE COURT OF APPEALS HAD LITTLE TROUBLE CONCLUDING THAT COUNSEL'S CONDUCT, EXPRESSLY AND TACITLY APPROVED BY THE TRIAL COURT, PREVENTED WIGGINS FROM CONDUCTING HIS OWN DEFENSE." (SUPRA AT 958

JUSTICE WHITE WENT ON TO WRITE, "BUT MANY DISAGREEMENTS WILL NOT PRODUCE DIRECT CONFLICTS REQUIRING A TRIAL COURT TO CHOOSE ONE POSITION OVER ANOTHER." (SUPRA AT 959.)

"A DEFENDANT HAS THE MORAL RIGHT TO STAND ALONE IN HIS HOUR OF TRIAL AND TO EMBRACE THE CONSEQUENCES OF THAT COURSE OF ACTION." CHAPMAN V. U.S., 553 F.2d 886, 891 (CA5 1977), AS IS THE CASE WHEN THE TRIAL COURT COMPLETELY DENIES A DEFENDANT'S RIGHT OF SELF-REPRESENTATION, APPLICATION OF THE RESULT-ORIENTED HARMLESS-ERROR STANDARD TO CASES LIKE THIS ONE, WHERE THE DEFENDANT WAS ALLOWED TO PROCEED PRO SE BUT THE CONDUCT OF HIS APPOINTED STAND-BY COUNSEL INHIBITED HIS ABILITY TO DO SO, WOULD RESULT THE DENIGRATION OF THE RIGHT." (MCKASKLE V. WIGGINS, 465 U.S. 168 (1984) AT DISSENT FOOTNOTE #6), "THE RIGHT IS EITHER RESPECTED OR DENIED; ITS DEPRIVATION CANNOT BE HARMLESS." (SUPRA AT DISSENT FOOTNOTE #8)

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DECLARATION: THE UNDERSIGNED HEREBY DECLARES THAT THE FOREGOING FACTS AND STATEMENTS CONTAINED IN THIS PETITION FOR WRIT OF HABEAS CORPUS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF NEVADA.

DATED: NOVEMBER 10, 2014 X Marc Schachter

MARC SCHACHTER, PROPER

AFFIRMATION PURSUANT TO NRS 239B.030

THE UNDERSIGNED DOES HEREBY AFFIRM THAT THE PRECEDING DOCUMENT DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY PERSON.

DATE 11/10/14 X Marc Schachter

MARC SCHACHTER, PROPER

INDEX OF EXHIBITS

MOTIONS AND EXHIBITS REFERENCED IN PETITION ARE ALREADY ON FILE IN DISTRICT COURT.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada; that on this 18th day of November, 2014, I electronically filed the foregoing documents with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

ZELALEM BOGALE
DEPUTY DISTRICT ATTORNEY

/s/ DEBBIE BRUNNER
DEBBIE BRUNNER

V3. 468

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Electronically
2014-11-18 02:24:16 PM
Cathy Hill
Acting Clerk of the Court
Transaction # 4701171 : mcholico

EXHIBIT 1

EXHIBIT 1

Washoe County Public Defender
Jeremy T. Bosler / Public Defender
Standard of Excellence Since 1969
Attorneys at Law

July 25, 2014

MARC PAUL SCHACHTER
WASHOE COUNTY JAIL
911 E. PARR BLVD.
RENO, NV 89512

Re: CR14-1044

Dear Mr. Schachter:

As you know, pursuant to order of Judge Steinheimer, our office has been appointed as Stand By Counsel in your case CR14-1044. Since I was the assigned public defender before Judge Lynch relieved us pursuant to your request for self-representation, I am sending you the statutes we discussed earlier. Thus, enclosed please find the Habitual Criminal Statutes, consisting of NRS 207.010 to 207.016. Also enclosed is a copy of the Amended Information, which alleges felony charges of Attempted Robbery, Burglary, and Being an Habitual Criminal.

The Attempted Robbery charge is a felony. I am enclosing NRS 200.380, defining Robbery and its classification and punishment range, along with NRS 193.330, which covers punishments for attempts. Under the two statutes, Attempted Robbery is a Category B felony punishable by 1-10 years in prison.

Regarding Burglary, I am enclosing NRS 200.060, which defines burglary and includes what is called an enhancement, whereby under subsection (2) a person with a prior burglary conviction is not allowed probation or suspended sentence. Note that the language states: "A person who is convicted of burglary and who has previously been convicted of burglary or another crime involving the forcible entry or invasion of a dwelling must not be released on probation or granted a suspension of sentence." In Count II of the Amended Information, you are alleged to have a prior conviction for Grand Larceny. You might have an issue for a motion against the enhancement if the prior Grand Larceny does not involve "forcible entry or invasion of a dwelling". Additionally, the allegations of prior convictions under the Habitual Criminal Count do not appear to reflect a prior Burglary. Assuming that you do not have a prior Burglary or "another crime involving the forcible entry or invasion of a dwelling", there's a chance we could get the enhancement stricken. It's not quite that simple but it's an issue to look at.

Finally, regarding Count III, on Habitual Criminal, they are alleging six prior felonies and one misdemeanor. Please review the Chapter 207 statutes I am enclosing, which reflect a potential sentence up to 10 years to life or even life without parole based on the allegation of three or more prior felonies. Obviously, that is a serious allegation and you should consider that before continuing to reject possible plea bargain settlement. I'm not sure what the State has offered you since I was relieved from the case, but I believe you mentioned in Court, before our office was

[illegible] ENHANCEMENT –
STATE ALLEGES PRIOR [illegible] PER 207.060 3(b)
– "NO SHOPLIFT" (RETAIL STORE) UNLESS PRIOR FELONY

HP – Defendant may not want to strike prior because 207.016(2) – no prior used in underlying primary charge can be used for Habitual. (Trial use)

NOT [illegible] PREVENTING "SUSPENDED" SENT/PROB

EVEN IF I'M NOT GUILTY?

appointed as Stand By Counsel, that they had offered to settle all the charges for one felony carrying 1-5 years in prison. You should seriously consider that offer and I frankly recommend you take it.

There are several motions you should consider filing, including without limitation, motion to strike enhancement in Count II, motion for disclosure of and exclusion of alleged prior bad acts, motion to restrict your prior convictions as impeachment during the jury trial, motions regarding jury selection, motion to restrict State from referring to alleged victims as "victims" during trial, motion to compel discovery, motion to strike misdemeanor conviction from Habitual Criminal allegations. There are probably other motions worth looking into but these are the ones that come to mind.

Please understand that as Stand By Counsel I'm not in a position to file motions for you. I happen to agree with the Court that representing yourself or having only Stand By Counsel is not a wise way to proceed, especially given the grave consequences if you are convicted and subjected to Habitual Criminal Adjudication, which appears to be entirely possible and probably based on your alleged criminal record. I am not trying to get more cases, I have enough; however, your best course is to allow the Public Defender to represent you and to cooperate with a view toward either settling the case for a reasonable settlement that protects you from long incarceration, or, if you choose, preparing a good defense. While I recommend you seriously consider accepting the 1-5 year settlement, based on what I know about the case at this point in time, if you turn that offer down after being reasonably informed and after consultation with counsel, I would do my best for you at trial. My policy is to try to get the best settlement offer I can, make sure the client understands it, and if the client understands the risk and still wants to go to trial I do my best.

Finally, please understand, as I'm sure you do, that waiver of the 60 day trial would be best if you decide to go to trial with counsel, since we would want to take the time to thoroughly investigate the case and prepare any motions that might reasonably help your case. But I would do my best even without the additional time.

I will attend the next hearing, which is scheduled for 7/31/14.

Sincerely,

JAMES LESLIE
CHIEF DEPUTY PUBLIC DEFENDER

JL/db
Encl

P#2

THE GRAND LARCENY CONVICTION ALLEGED IN THE BURGLARY COUNT (CT #2) IS NOT AN ENHANCEMENT (PER 205.060(2)) IT IS AN ALLEGATION PURSUANT TO 205.060(5)(b) - NOT A BURGLARY "IN AN OPEN COMMERCIAL ESTABLISHMENT DURING BUSINESS HRS. W/ INTENT TO COMMIT PETIT LARCENY UNLESS..." "PERSON HAS BEEN CONVICTED OF A FELONY."

BUT

EVEN IF MISTOOK IT FOR AN ENHANCEMENT AS MR LESLIE DOES - A COMPETENT ATTORNEY WOULD NEVER MOVE TO STRIKE THAT PRIOR WHEN THE ALLEGATION OF THAT PRIOR FOR THE BURGLARY COUNT, PREVENTS THE STATE FROM USING THE GRAND LARCENY CONVICTION ON THE HABITUAL COUNT (#3) PURSUANT TO 207.016(2) - "NO CONVICTION MAY BE ALLUDED TO ON TRIAL OF PRIMARY OFFENSE." (DUAL USE)

KEEPING IN MIND, OF ALL THE ASPECTS OF MY CASE - MR LESLIE CHOOSE THAT ONE ISSUE SPECIFICALLY - TO OFFER HIS UNSOLICITED LEGAL OPINION AND IS WHOLLY INCOMPETENT IN THAT OPINION.

WOODFORD V. COLLINS, 898 F.2d. 1027 (5TH CIR. 1990)

(OR WHEN LAWYER ADVISES CLIENT TO PLEA-BARGAIN TO AN OFFENSE, WHICH ATTY. HAS NOT INVESTIGATED ARGUES UNREASONABLE

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Cathy Hill
Acting Clerk of the Court
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EXHIBIT 2

EXHIBIT 2

Washoe County Public Defender
Jeremy T. Bosler / Public Defender
Standard of Excellence Since 1969
Attorneys at Law

August 12, 2014

Marc Paul Schachter
Washoe County Jail
911 E. Parr Blvd.
Reno, NV 89512

Re: CR14-1044

Dear Mr. Schachter:

Per our I-Web discussion on 8/12/14, enclosed please find several items, all per your request:

First, a pad of yellow lined paper, without the cardboard backing, so you can write motions. Second, a copy of the Big Pond case, 128 Nev. Adv. Op. 10, which summarizes "prior bad act" evidence. Third, a form copy of a "prior bad act" motion I recently did in another case. Fourth, a copy of the Table of Contents of Chapter 205 of NRS. Please understand that the form motion is provided as a sample and that as self-representing you will exercise final judgment in whether to file that motion or any other motions.

Also, as we discussed, I have a murder trial beginning in another courtroom on 9/22/14, and so I am unavailable for your trial date. I will raise this issue at the status conference I set up at your request. As we discussed, you should give consideration to waiving the 60 day trial right, which would allow your case to be set for trial on my calendar. You also raised the possibility of doing the trial without Stand By Counsel. If you sincerely wish to proceed in that fashion, you can advise the judge of that as well, but that is your choice.

Thank you.

JAMES LESLIE
CHIEF DEPUTY PUBLIC DEFENDER

JL/db
Encl.

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EXHIBIT 3

EXHIBIT 3

MEMORANDUM

To: Marc Schachter
CR14-1044
PD 159529
From: Jim Leslie
Chief Dep. Public Defender
Re: Transmittal/Return of Documents
Date: 8/23/14

Dear Mr. Schachter:

By delivery hereof by my investigator Larry Carlson, we are returning to you the handwritten documents/motions which you had at our last court appearance asked to be able to file into the record. Please recall the Court had our office do the filing and asked us to return your originals to you. By this transmittal we do so.

We are also hereby transmitting a copy of the stipulate and order for discovery which you signed in court at our last appearance. Please note that I notated your signature to reflect that if was the Defendant Pro Per signing, since someone not knowing your signature might mistake the signature for that of an attorney in our office. Please also note that the original of that document was transmitted back to the DA's office per customary practice, and that we are hereby returning to you a copy of the original.

Finally, we are also hereby transmitting file-stamped copies of your various documents/motions which were filed at your request, reflecting filing date of 8/22/14 and also containing certificates of service to opposing counsel.

Logistically, please recall that the court ordered that the state produce their proposed jury instructions earlier than usually required. Please let me know as soon as you receive your packet, and per my request the State should also serve me a copy of them, so I can come up and answer any questions you have about jury instructions.

I will set up an iweb visit with you soon to see if you need anything else. Also, please feel free to communicate any such needs to Mr. Carlson when he delivers this memorandum and attachments to you, but please understand he's not in a position to provide answers but to relay your questions/requests to me. I'll make a point of getting back to you. Please also recall I am going into a two week trial as of 9/22/14. I may also be busy with pretrial hearings the week before that. I again suggest you consider waiving your 60 day speedy trial, especially given that you are facing possible habitual adjudication. The additional time would give you more opportunity to prepare, to assess what additional motions you might wish to file, and to consider having our office represent you (I would certainly work with you to put your theory of the case forward at trial). However, please understand that you do not have to waive the 60 days, rather it is your option regardless of my advice.

Thank you,

for Jim Leslie

Jim Leslie

Date Delivered to Client at Jail: 8/25, 2014, by Larry Carlson.

REQUESTED BACKPACK BE BROUGHT TO HEARING? OTHER ITEMS ON T.R.

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Transaction # 4701171 : mcholico

EXHIBIT 4

EXHIBIT 4

9/28/14

MARC SCHAEFFER CASE # CR-14-1044

PRO PER DEPT. NO. 4

REQUEST FOR LEGAL MATERIALS AND SUPPLIES

√ 1. NRS 207.010 - 207.016 (HABITUAL FELON) WITH "NOTES TO DECISIONS, OPINIONS AND RESEARCH REFERENCES."

√ 2. NRS 174.063 - NOTES TO DECISIONS ONLY - LOOKING FOR CASE REGARDING PLAIN LANGUAGE DOCTRINE IN NON-GENERIC PLEA AGREEMENTS.

√ 3. COMPLETE CHAPTER OF NRS PERTAINING TO SENTENCING OF FELONS.

√ 4. 94 A.L.R. 3d. 824; 94 A.L.R. 3d. 357; 7 A.L.R. 3d. 8 (EVIDENCE)

√ 5. DANIELS V. STATE, 114 NEV. 261 (1998)
LAY V. STATE, 116 NEV. 1185 (2000)
[redacted] V. SHERIFF, CLARK COUNTY V. WARNER, 112 NEV. 1234 (1996)

ADDITIONALLY DEFENDANT REQUESTS POSTAGE AND ACCESS TO TELEPHONE IN ORDER TO CONTACT FAMILY IN OTHER STATES AND IN MILITARY ALONG WITH OTHER MITIGATING FACTORS.

LEGAL PADS / PAPER

COPIES OF ALL SERVED SUBPEONAS

SUBMITTED,

X

MARC SCHACHTEL

PRO PER

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Cathy Hill
Acting Clerk of the Court
Transaction # 4701171 : mcholico

EXHIBIT 5

EXHIBIT 5

Washoe County Public Defender
Jeremy T. Bosler / Public Defender
Standard of Excellence Since 1969
Attorneys at Law

October 8, 2014

Marc Paul Schachter
Washoe County Jail
911 E. Parr Blvd.
Reno, NV 89512

Re: CR14-1044

Dear Mr. Schachter:

In response to your two page handwritten Request for Legal Materials and Supplies dated 9/28/14, we provide and response as follows:

As to item 1, NRS 207 regarding Habitual Felon, we have already provided those materials under our cover letter to you dated July 25, 2014. However, an additional copy of the statutes along with the notes of decisions is enclosed herewith.

As to item 2, NRS 174.063, enclosed herewith please find a copy of that status and the notes of decisions.

174/175?

As to item 3, which reads "Complete chapter of NRS pertaining to sentencing of felons", please understand that your request is so broad and undefined that I'll need a more specific request in order to try to meet your request. Several chapters of the NRS pertain to the sentencing of felons. If you could try to be more specific, I can try to meet the request.

As to item 4, requesting three A.L.R. articles, I have enclosed herewith those specified articles.

As to item 5, you requested the Daniels, Lay, and Warner cases (all Nevada cases), and I enclose herewith copies of each of them.

On page two of your request, you request various supplies. We provide herewith what we are able: another pad of legal yellow lined paper.

You also request telephone and postage access to be able to contact family for mitigation purposes. We cannot provide anything more than what the jail provides. However, as has been discussed, we can provide a mitigation specialist who would interview you to ascertain names and contact information for possible family and other mitigation witnesses (either for live presentation at sentencing or to provide letters of support), and who can subpoena and otherwise obtain records pertaining to your schooling, military service, medical and mental health issues, and other matters which might provide mitigation to help avoid a life sentence. Please let me

know if you wish to have us utilize a mitigation specialist in this case, but please understand that the more you delay in requesting such assistance, the less able we are to provide timely and effective assistance in that area.

You have also requested copies of subpoenas, which I believe we have already provided, or at least reported on to the Court. However, I will, again, go through the file and pull those when I have additional time next week.

Please recall that your sentencing is 12/4/14. The state is seeking the "large habitual" which carries a possible maximum sentence of life in prison with either no parole or parole after at least ten years is served. Your representation to the Court and counsel at the 9/22/14 status hearing is that notwithstanding the lack of success you had at trial you wish to represent yourself at the sentencing. The Court cautioned against doing so, but you insisted on doing so. If you change your mind, please let me know as soon as possible so I can devote time to working up your case to avoid a life sentence if possible.

Thank you.

James Leslie
Chief Deputy Public Defender

JL/db
Enc.

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Cathy Hill
Acting Clerk of the Court
Transaction # 4701538

Return Of NEF

Recipients

JAMES LESLIE, ESQ.	- Notification received on 2014-11-18 15:52:53.317.
ZELALEM BOGALE, ESQ.	- Notification received on 2014-11-18 15:52:53.285.
JOSEPH GOODNIGHT, ESQ.	- Notification received on 2014-11-18 15:52:53.41.
KELLY KOSSOW, ESQ.	- Notification received on 2014-11-18 15:52:53.379.
CARL HYLIN, ESQ.	- Notification received on 2014-11-18 15:52:53.504.
DIV. OF PAROLE & PROBATION	- Notification received on 2014-11-18 15:52:53.441.
NICKOLAS GRAHAM, ESQ.	- Notification received on 2014-11-18 15:52:53.473.

****** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

–

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:	11-18-2014:14:24:16
Clerk Accepted:	11-18-2014:15:52:18
Court:	Second Judicial District Court - State of Nevada Criminal
Case Title:	STATE VS. MARC PAUL SCHACHTER (D4)
Document(s) Submitted:	Mtn Clarification of Ord Request Motion Pet Writ Habeas Corpus - **Continuation - **Continuation - **Continuation - **Continuation - **Continuation
Filed By:	James B. Leslie

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

–

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):