

1 he killed my mom and --

2 Q But I'm asking: Are you afraid that maybe
3 you have to help -- you have to help Grandma out by what you
4 say here today?

5 A No, not that much.

6 Q Not that much?

7 A No.

8 Q Outside in the hallway, when you
9 testified -- or you came out for lunch, when you came out,
10 everybody gave you high fives for testifying, right?

11 A Yes.

12 Q You are trying to help Grandma with what you
13 say today though, aren't you?

14 MR. LAURENT: Objection; asked and answered,
15 Judge.

16 THE COURT: Sustained.

17 MR. BLOOM: Quito, I said a couple minutes
18 and I'm all done.

19 Thank you.

20 I'm all finished.

21 Thank you, Your Honor.

22 THE COURT: Mr. Laurent, do you have some
23 additional questions?

24 MR. LAURENT: Briefly, Judge.

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1 A Did.

2 Q You did.

3 But you didn't tell that to the police on
4 any occasion and you didn't tell it to me back in October;
5 is that true?

6 A Yes.

7 Q But no one -- anyone tell you to say that?

8 A No.

9 Q When you talked about -- one of the
10 questions that was asked is: How come you didn't tell the
11 police everything on the Burger King day?

12 And I think your response was: Because they
13 didn't ask me.

14 On that day, were you trying to answer the
15 questions they asked?

16 A Yes.

17 Q Were you scared that day?

18 A Yes.

19 Q Were you scared the day that Detective
20 Thowson asked you questions?

21 A Detective who?

22 Q The detective who came to your home in San
23 Diego.

24 A Yeah.

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REDIRECT EXAMINATION

2 BY MR. LAURENT:

3 Q Hi, Quito.

4 I get to ask you some questions again, okay?

5 A Okay.

6 Q Speak loud, because I'm farther away from
7 you right now.

8 Did your grandmother or Lisa ever tell to
9 you come in here and lie about what happened?

10 A No.

11 Q What did they tell you to do?

12 A Told me to tell the truth.

13 Q Have you tried to tell the truth?

14 A Yes.

15 Q Have there been things that you have told us
16 that were lies? Did you lie to us today?

17 A No.

18 Q When you were asked if you saw Chip with a
19 gun on that day, did you see Chip with a gun or didn't you
20 see Chip with a gun?

21 A I did.

22 Q You did or didn't?

23 A I did.

24 Q Is that did not? I'm sorry.

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1 Q Were you a little bit scared of me when I
2 came and asked you questions in California?

3 A Yes.

4 Q Are you scared right now?

5 A Yes.

6 Q Are you trying your best to tell us the
7 truth?

8 A Yes.

9 MR. LAURENT: I have no additional
10 questions, Judge.

11 THE COURT: Mr. Bloom.

RECROSS-EXAMINATION

12 BY MR. BLOOM:

13 Q When I was asking you questions just a
14 couple minutes ago, before Mr. Laurent did, I asked you if
15 it was a lie or the truth if you saw Chip with a gun that
16 day.

17 And first you said you saw him; and then you
18 told us that your grandma talked to you about it; and then
19 you told us you didn't see him with the gun that day and
20 that was the truth.

21 That was just a couple minutes ago.

22 MR. LAURENT: That's what he just testified
23
24

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1 to, isn't it?

2 THE COURT: No.

3 MR. LAURENT: Oh. I can't hear from here.

4 THE COURT: I -- I thought he said he didn't
5 see the gun and then, on redirect, he did see the gun.
6 So I would like to get that clarified.

7 MR. LAURENT: I apologize. I couldn't --

8 BY MR. BLOOM:

9 Q So when I asked you -- when I asked you
10 first, you said you saw the gun in Chip's hand on Burger
11 King day.

12 And then I said: Did you talk to Grandma
13 about it? And asked you some questions about it.

14 And you said, yes, you talked to Grandma
15 and -- and that you were underneath and you didn't tell the
16 other policeman and so forth.

17 And then you told us -- you told me, you --
18 you didn't see the gun.

19 And just a second ago, Mr. Laurent asked you
20 again: Did you see the gun?

21 You said you did see the gun.

22 A Yes, I did, yeah.

23 Q You said you did.

24 A (Nods head affirmatively.)

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1 MR. BLOOM: But you told me you didn't just
2 a couple minutes before that.

3 MR. LAURENT: Is there a question?

4 BY MR. BLOOM:

5 Q Do you remember saying that? Do you
6 remember telling me that just a couple minutes ago?

7 A (Shakes head no.)

8 MR. LAURENT: Is that a no?

9 THE COURT: He said no.

10 Well, let's -- Quito, look at me here.

11 Okay. Remember, now, the Bur- -- the day
12 you went to Burger King and Chip gave you money, the \$5 to
13 go to Burger King --

14 THE WITNESS: Yes.

15 THE COURT: -- now that day, when you saw
16 Chip and your mom fighting and you hid under the bed, do you
17 remember that?

18 THE WITNESS: Yes.

19 THE COURT: Did you ever see a gun that day?

20 THE WITNESS: Yes.

21 THE COURT: Okay. Who had the gun?

22 THE WITNESS: Chip.

23 THE COURT: And you saw the gun before you
24 went under the bed?

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1 Tell me when you saw the gun.

2 THE WITNESS: Before.

3 THE COURT: Before you went under the bed?

4 THE WITNESS: Yes.

5 THE COURT: And the gun -- what did the gun
6 look like?

7 THE WITNESS: Um, would you --

8 THE COURT: How did you know it was a gun,
9 what you saw? Are you sure it was a gun?

10 THE WITNESS: Yeah.

11 THE COURT: And tell me why you -- you are
12 sure it was a gun.

13 THE WITNESS: Because of the shape and
14 everything.

15 THE COURT: The shape of it?

16 THE WITNESS: Yes.

17 THE COURT: And what color was it?

18 THE WITNESS: Black.

19 THE COURT: Okay. And you are positive of
20 this: You saw the gun that day you went to Burger King
21 then?

22 THE WITNESS: Yes.

23 THE COURT: And so, as you think back now
24 and you remember back to that day, can you picture seeing

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1 the gun there?

2 THE WITNESS: No.

3 THE COURT: You can't.

4 THE WITNESS: I can't picture it --

5 THE COURT: You can't picture it, but you
6 have a recollection -- you are sure you saw a gun that day?

7 THE WITNESS: Yes.

8 THE COURT: Okay. Mr. Bloom.

9 BY MR. BLOOM:

10 Q What was Chip doing with the gun, Quito?

11 A He was trying to shoot my mom.

12 Q He was?

13 How did you see him? What was he doing with
14 it?

15 A He was firing it.

16 Q And what was he doing with it? What
17 actually was he doing with the gun?

18 Let's pretend. You have -- do you have a
19 pen in your hand? Okay.

20 It's a black pen.

21 Show us what you saw Chip doing with it,
22 pretending, say that -- that pen is the gun.

23 A I wasn't sure, but --

24 Q Say it again.

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1 A I just saw a gun. I didn't know what he was
2 doing.
3 Q You -- where did you see the gun?
4 A In his hand.
5 Q And how was he holding it?
6 A Like a regular gun someone holds.
7 Q Which -- which hand was it?
8 A I don't know.
9 Q And when you say holding it like a regular
10 gun, what do you mean?
11 A Holding it.
12 Q Holding it?
13 A By the handle.
14 Q Where was the gun?
15 I know it was in his hand, but where was it?
16 Where -- you know, how was it being held?
17 A I don't know.
18 Q You don't know because you don't remember?
19 A I don't remember it.
20 Q How do you know he was trying to shoot your
21 mom with it?
22 A That's what my grandma told me.
23 Q That's what your grandma told you?
24 A Because my mommy told my grandma and my

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1 grandma told me.
2 Q Mommy told your Grandma and then your
3 Grandma told you?
4 A Yes. How come you told Mr. Laurent, when he
5 came to your house in San Diego, that you never saw Chip
6 with a gun in his hand that day? Why did you tell him that?
7 A Because I mess up sometimes, forget.
8 Q Well, why did you tell the policeman, when
9 he came to your house in San Diego, that you never saw a gun
10 that Burger King morning?
11 A He didn't ask.
12 Q You don't remember --
13 A He did.
14 Q He did ask and you told him: No, I didn't
15 see a gun, didn't you?
16 A No -- or, yeah, I did.
17 Q Okay. So why did you tell him you didn't
18 see a gun?
19 A I forget.
20 Q You forgot.
21 That's why you say your memory is getting
22 better now?
23 A Yes.
24 Q When your grandma told you what your momma

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1 told her -- no. I'm sorry.
2 Your momma told your grandma and your
3 grandma told you?
4 A Yes.
5 Q When did your grandma tell you that?
6 A That -- it was at Las Vegas at Rio Casino.
7 Q It was at Las Vegas at Rio Casino.
8 Your grandma goes there a lot to -- comes to
9 Las Vegas and goes to the Rio Casino, right?
10 MR. LAURENT: Objection; relevancy as to
11 'goes there a lot'.
12 THE COURT: Overruled.
13 It's cross-examination.
14 BY MR. BLOOM:
15 Q When -- when was it that she told you at the
16 Rio Casino?
17 A It was, like, um, September.
18 Q September or October, you say?
19 A Yeah.
20 Q It was after you talked to Mr. Laurent,
21 right?
22 A No, it was a long time before that.
23 Q It was before that?
24 A Because she wasn't dead yet when -- because

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1 I was with her at that time in October 2000 -- or 1999 -- I
2 forget -- but it was over a year --
3 Q So when your grandma told -- when your momma
4 told your grandma and your grandma told you, that was before
5 your momma had been shot?
6 A Yes; yes.
7 MR. BLOOM: All right. Thank you, Quito.
8 No further questions, Your Honor.
9 THE COURT: Mr. Laurent, did you have
10 anything else?
11 (Whereupon, a sotto voce at this time.)
12 MR. LAURENT: No, Judge. Thank you.
13 THE COURT: Can the witness step down then?
14 MR. LAURENT: Yes, Judge.
15 THE COURT: Why don't you go ahead and help
16 Quito out to --
17 MR. LAURENT: Now, just remember, guys, you
18 are not allowed to talk about this with anyone. Okay?
19 MR. THORBURN: Yeah.
20 THE COURT: Miss Goettsch, are you ready to
21 call your next witness?
22 MS. GOETTSCH: At this point, we would like
23 to have this marked as State's proposed Exhibit Number 2.
24 What this is is a limited part of the Grand

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Jury transcript from Officer McGregor, as to what he testified to at the Grand Jury.

I believe everyone has a copy of that.

And based on Quito's statement as the foundation for hearsay statements, and also what -- what could potentially be hearsay statements, and also what Mr. McGregor testified to at the Grand Jury, we would ask for a ruling as to whether or not her statements to the police on December 5th are also admissible, which we believe they are, as an exception to the hearsay rule --

(Whereupon, a sotto voce at this time.)

MS. GOETTSCHE: -- Miss Centofanti's statement that day: Chip held a gun on her; tried to pull a trigger, but it didn't fire.

Same things as what Quito testified to today.

THE COURT: How much time elapsed between the time of the incident until she made the statement to the police?

MS. GOETTSCHE: I believe Mr. McGregor testified to that. I just read that. He said:

I don't know exactly. I think about 15 minutes, 10 minutes.

And he also laid the foundation of:

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That's what he would testify to.

And I think we have proven, for purposes of the Petrocelli hearing, through what Francisco Sanchez has testified to regarding the battery/DV incident, but if we also want to deal with these potential hearsay statements, we would be offering them at this point.

I think there is an exception there and that's the excited utterance that didn't come in to the Grand Jury level, and was, I believe, litigated on a writ as well, but they were deemed, at that time, to be appropriate exceptions to the hearsay statement.

THE COURT: Mr. Bloom.

MR. BLOOM: Well, there is several issues that I have.

The Grand Jury testimony is not properly before this Court for the purposes of this or any other hearing. That's not contested examination.

That person, that officer, was not subject to cross-examination, so this Court shouldn't consider it for any purpose.

It's not a prior recorded testimony, in the sense of what the statute requires, that that prior recorded testimony be under the circumstances where both parties have an interest; the issue here, the defense, of course, had no

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When he first made contact with her, she was holding her child, the infant, and she looked like she had been crying, although she wasn't crying at that time. She looked upset and there was a smell of alcohol on her breath.

Question: About how much time took place between the time of the 911 call and the time that you arrived at her house?

Answer: I think about 15 minutes, 10 minutes. I don't know exactly.

Question: Did she appear to be fearful to you?

Answer: Slightly.

Question: Was she injured at all?

Answer: I didn't see any injuries on her. Oh, actually, yeah, she had a fat lip, I believe.

Then with that question: What statements did you make -- did she make to you at that time?

And that's when she goes into the statement about her husband Alfred had gotten angry at her because she had been out all night; that he got the gun, put it to her head, pulled the trigger and since there was no round in the chamber, obviously, it didn't fire.

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opportunity to examine the witness in any respect.

THE COURT: Well, for the purposes of the trial, I would agree. I mean, it's hearsay.

But for the purposes of the Petrocelli hearing, isn't it similar to an affidavit being presented by a declaration by a witness and the Court could just weigh it accordingly?

MS. GOETTSCHE: And, certainly, we would call him at the trial and -- and he'd have a full chance to cross-examine on that.

MR. BLOOM: I don't object that he could come in and testify about that and that this could be a foundation for it, but I haven't had a chance to cross-examine him.

I was told he was going to be here today, so I didn't cause him to be subpoenaed for the purposes of this hearing.

I certainly would have done so, flesh this out, because this is not a cross-examination foundation for any purpose.

What is the hearsay exception for -- to allow this to -- to come in?

The standard of proof that the Court has to rely upon is a standard of clear and convincing evidence, as

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1 opposed to beyond a reasonable doubt, but that -- that's the
2 standard.

3 That doesn't change the obligation of the --
4 of this Court to give the defense the opportunity to -- to
5 challenge that.

6 So that's a very -- that's a primary thing
7 about it. So this shouldn't come in for that purpose
8 anyway.

9 Because then, if he was here, we perhaps
10 would know something -- which seems to just jump out at me
11 from this -- is that we don't know the time period between
12 when the incident happened, according to the decedent, and
13 when she's making the statement 15 minutes -- 10 to 15
14 minutes later.

15 We know -- actually, let me back that up.

16 We don't even know if the statement is made
17 10 to 15 minutes later.

18 We know his arrival -- according to this --
19 which is unchallenged as I've said; we haven't had
20 cross-examination on it -- he arrived at the scene 10 to 15
21 minutes after a 911 call.

22 That doesn't necessary -- that doesn't tell
23 us the duration of time between when the incident happened
24 and when she made the statement.

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1 foundational determination of whether that statement can
2 come in.

3 THE COURT: Miss Goettsch.

4 MS. GOETTSCH: The -- the officer would come
5 in and testify very similarly to what he testified to at the
6 Grand Jury.

7 If we want to reserve a ruling on the
8 hearsay statement, we can do that. He's not available to
9 testify this afternoon. I was just going to clear up that
10 issue.

11 THE COURT: I'm kind of inclined to agree
12 with Mr. Bloom, in the sense I think he has to be in here,
13 because the -- and I'll kind of go through the issues, what
14 I see them here, but I do think Mr. Bloom has a right to
15 cross-examine him.

16 And, again, the State has the burden of
17 proof by clear and convincing evidence at this stage.

18 So if he comes in, I could probably get the
19 rulings made on the hearsay issues as well for the purposes
20 of the trial --

21 MS. GOETTSCH: Right.

22 THE COURT: -- and get that out of the way
23 in advance and -- and then -- so he's just not available
24 today?

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1 The Court properly hones in on the exact
2 issue. For this to be an excited utterance, she still has
3 to be in the umbrella under the aura, the cloud, the shadow
4 of the incident itself to the point where she is not calmed
5 down.

6 That calming down is the aspect which
7 focuses on the reliability of it, because the exception to
8 the hearsay rule is we figure that if somebody is going to
9 yell, oh, my God, he's jumping from the building, right at
10 that moment, people aren't going to have time to think about
11 stuff to get -- to -- to cover themselves, where they might
12 get in trouble or something like that.

13 Here you have a situation where she knows
14 police are coming; she has plenty of time to calm down; even
15 from this, she had plenty of time to reflect on that police
16 are coming and she's going to have to make a -- a statement
17 about this.

18 THE COURT: Okay.

19 MR. BLOOM: So -- so my objection is
20 two-fold: I don't -- not for any purpose should this come
21 in without us having the chance to at least cross-examine
22 the officer, though I totally agree the officer could come
23 in and testify about it, but only then would the officer --
24 would this Court have the opportunity to really make the

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1 MS. GOETTSCH: Right. And our position
2 is -- is that based on Quito's testimony, we have put forth
3 clear and convincing evidence that there was an altercation
4 on December 5th, a battery/domestic violence. That's the
5 clear and convincing evidence.

6 Now, we may also call other witnesses at the
7 trial that would supplement that, but for the purposes of
8 the Petrocelli --

9 THE COURT: Do you have anybody else today?

10 MS. GOETTSCH: No.

11 THE COURT: Okay. Well, why don't we do
12 this: Again, is that gentleman -- do you know if he would
13 be available on the 27th then like that?

14 MS. GOETTSCH: I have no idea. I haven't --

15 THE COURT: Well, here's how I kind of see
16 it right now -- and then -- because I know neither side has
17 argued it in this regard:

18 The -- Quito, I think was trying to be
19 honest and to the best of his recollection here, but there
20 was some confusion on this gun issue back and forth.

21 And I think the defense did develop that
22 perhaps his aunt and grandmother put this in his mind that
23 Mr. Centofanti is trying to shoot his mother on this day,
24 you know like that.

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1 It doesn't appear to me that he came to his
2 own conclusion on that, so I have some -- I have some
3 concerns about that.

4 It certainly appears it was a violent
5 episode. I don't think there is much -- much doubt about
6 that.

7 As far as the statements made by Mrs.
8 Centofanti to the -- to the police officer, I think they --
9 they potentially could be admissible under N.R.S. 51.075,
10 the general hearings exception, 51.085, present impression,
11 51.095, excited utterance, and possibly -- and I don't know
12 the context of 51.105 -- on the mental -- existing mental,
13 emotional or physical condition of the declarant.

14 Again, I don't know any -- if any of those
15 four are applicable. I think until I hear from the officer
16 and the context it was made, her demeanor and so and so
17 forth -- and I do believe Mr. Bloom would have a right to
18 cross-examine the officer on those.

19 So what I'm saying, Miss Goettsch, I don't
20 think we're quite there yet. We may be, but I really think
21 we need to have that officer in here to tie up those loose
22 ends.

23 MS. GOETTSCH: So you would be --

24 THE COURT: So what I'm inclined to do is

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1 reserve ruling, bring the officer in here; let him be
2 cross-examined by Mr. Bloom; and then make a ruling on -- on
3 the motion.

4 MS. GOETTSCH: On the battery/domestic
5 violence --

6 THE COURT: Yes.

7 MS. GOETTSCH: -- whether that comes in or
8 not?

9 THE COURT: Yes.

10 MS. GOETTSCH: Okay.

11 THE COURT: I'm not saying that you haven't
12 presented a sufficient case today. I'm not ruling that way.

13 It's just that I would like to get the
14 officer in here. It's just this gun testimony concerns me,
15 and I would just like to hear what the officer has to say
16 about -- about everything.

17 MR. BLOOM: The officer --

18 THE COURT: And a logical time would be to
19 do it Thursday morning when we're going to deal with these
20 other matters as well and we'll all be here for that.

21 MR. LAURENT: Judge, just so you are
22 aware -- and I'm sorry, Mr. Bloom -- there is a Robert
23 Smith, who is a social worker that was contacted on the 5th
24 of December, and he has heard statements similar. He's my

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1 actual one who called 911.

2 We're in the process of getting him here.
3 He's from New York. He won't be here for Thursday or even
4 the beginning of trial probably.

5 MS. GOETTSCH: And there are plenty -- there
6 are other officers besides him.

7 THE COURT: What about this other issue
8 though, maybe we can deal with today, on the gun, you know,
9 like that, with the -- with the Metro and the -- the --

10 Mr. Bloom, did you want to present any
11 evidence on the -- on that issue?

12 MR. BLOOM: What issue is that, Judge?

13 THE COURT: The one about the gun, this --

14 MS. GOETTSCH: And the TPO.

15 THE COURT: The issue of the no gun
16 registration and all of that, because that's a secondary
17 issue.

18 MR. BLOOM: Yes.

19 THE COURT: And I think the State has
20 presented their case on that.

21 You do have an opportunity to present
22 contrary evidence on that point.

23 MR. BLOOM: Can I finish something and go
24 back to it? Would you mind, Judge, if I go back to the

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1 other issue --

2 THE COURT: Sure.

3 MR. BLOOM: -- the question of the testimony
4 of -- of the -- of Quito and the testimony of the hearsay
5 foundation of Virginia Centofanti, the Grand Jury thing?

6 THE COURT: Okay.

7 MR. BLOOM: First of all, the Grand Jury:
8 This is the testimony of an Officer McGregor.

9 There were two officers there. Both --
10 there were several officers there, but two of them were the
11 primary ones; and the other's name is Lourenco,
12 L-o-u-r-e-n-c-o.

13 And both Lourenco and McGregor testified at
14 the Grand Jury and both of them wrote reports; both of them
15 had a taped statement obtained from them; both of them gave
16 their opinion with regards to the calmness or demeanor of
17 Miss Centofanti on December 5th; and both of them said that
18 day: She appeared calm.

19 If we're going to have the testimony of
20 McGregor, who is this Grand Jury expert -- expert person, it
21 would be my request that we also bring Officer Lourenco,
22 because he was a percipient witness to that same thing.

23 I can do it by my subpoena or -- or request
24 the -- the State to bring in Officer Lourenco.

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1 I will subpoena him if necessary.
 2 But he testified at the Grand Jury; he also
 3 made a statement recorded, just as McGregor did.
 4 They both test- -- both made statements
 5 regarding this precise issue of excited utterance or not
 6 excited utterance.
 7 So when we come in on the 27th, I'm -- I'd
 8 like to have both of them here.
 9 So the question is --
 10 THE COURT: Okay.
 11 MS. GOETTSCH: Well, first of all, Lourenco
 12 did not testify at the Grand Jury.
 13 And the word 'calm', that she was calm, was
 14 never mentioned in this Grand Jury transcript, (indicating),
 15 so I don't know where that came from.
 16 MR. BLOOM: But they made statements --
 17 outside the Grand Jury, that's true.
 18 I wasn't trying to misrepresent -- actually,
 19 I think both officers did testify at the Grand Jury, but
 20 maybe I'm mistaken about that.
 21 MS. GOETTSCH: You are mistaken.
 22 MR. BLOOM: But I wasn't trying to say that
 23 McGregor -- that there is some manipulation of this Grand
 24 Jury transcript.

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1 And the Court, again, wants these officers
 2 in here for another purpose, namely, to see what he said on
 3 those -- on the day of December 5th as well.
 4 So I think it's entirely proper the Court
 5 reserve ruling on that, but, at this stage, I -- I will tell
 6 the Court that I think that there has not been a showing
 7 that there has been a foundation sufficient to allow him to
 8 testify about the gun.
 9 THE COURT: Why is that?
 10 MR. BLOOM: Because he hasn't shown -- this,
 11 I don't think, goes to mere admissibility. I think this
 12 goes to the foundational issue of his competence to testify.
 13 It's so clear, as it relates to that
 14 subject, that it's a function of the planted memory or
 15 recollection that he -- he has developed because he's been
 16 told it, as opposed to what he can see.
 17 As the Court asked him -- well, the Court
 18 has asked him; he doesn't have it in mind; he can't recall
 19 it. He can't talk about what happened with the gun.
 20 He's made, I think, four statements
 21 before -- let me count them.
 22 At least three statements before, which have
 23 been the subject of -- of reports; two of the statements Mr.
 24 Laurent -- that I received today -- I'm sorry -- Mr.

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1 I'm just saying that I read this statement,
 2 Lourenco's statement, that was tape recorded; and both --
 3 THE COURT: Mr. Bloom, why don't we do this:
 4 Why don't you issue a subpoena for Lourenco and I will
 5 direct the State to have the other one present.
 6 MR. BLOOM: Thank you.
 7 With regard to the question of -- of the
 8 foundation for Quito testifying, not as to the overall thing
 9 as -- as to whether or not he should -- has shown sufficient
 10 competence to testify at all, frankly, I'm going to submit
 11 to the Court and feel that with regard to much of his
 12 recollections, that as -- that the People have laid
 13 sufficient foundation to allow him to testify about several
 14 different things.
 15 Now, if I cross-examine him, it goes to
 16 weight, not admissibility, at that point.
 17 But, again, as the Court has honed in on,
 18 with regard to the specific thing of this -- of this
 19 testimony regarding the gun, which he says today that he saw
 20 Mr. Centofanti with the gun, I'll represent to the Court
 21 that that's the first time he's told anyone that, is what
 22 the Court heard today, and then he turned around and said it
 23 wasn't true, and he goes back and forth, as the Court has
 24 talked about -- already mentioned today.

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1 Laurent's statement, which I received today, which is an
 2 October 27th of this year's statement, tape recorded; and --
 3 and we can present that to the Court, the tape recording --
 4 I don't have it yet, but I assume they have it.
 5 But the Court will hear what he said; that
 6 he was specifically asked: Did Chip have a gun? Did Mr.
 7 Centofanti have a gun that day?
 8 No was his answer.
 9 The September statement that he made to the
 10 officer, when the officer went to San Diego, was recorded;
 11 his own words were recorded. That same question was put to
 12 him and he said no, he didn't have the gun.
 13 And the statement that he made on Burger
 14 King day was not recorded. His statement wasn't recorded,
 15 but the officer -- it's -- I can't remember which one it
 16 was, Lourenco or -- I can't recall, Your Honor -- but either
 17 Lourenco -- yeah, it was Lourenco who took Quito's statement
 18 and asked him about seeing anything else.
 19 He said no, he didn't see anything else.
 20 So you have -- and then today, how he --
 21 his -- his recollection is so very, very suspect --
 22 THE COURT: Well -- but the gun is one issue
 23 though. I mean, he testified as to the -- the whole
 24 incident, the gun just being one component.

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1 MR. BLOOM: Yes. My -- my argument right
2 now is that I think this Court has -- there has not been a
3 showing he can testify about the gun.

4 THE COURT: So you are not objecting to his
5 testimony in total; it's just about the gun -- alleged gun
6 incident then.

7 MR. BLOOM: I'm going to ask to reserve our
8 objection with regards to him as to the total, but to be
9 perfectly frank: How do I step out of being the role of
10 wearing suspenders and belts, being that advocate, and
11 saying I want you to do that and then turn to the Court and
12 say what I really think?

13 I'm going to reserve and submit on the
14 question of our objection about him testifying in general.

15 THE COURT: Okay.

16 MR. BLOOM: But, specifically about the gun,
17 I think it's absolutely clear that, on that point, that this
18 Court should find that there is not sufficient foundation of
19 competence and credibility to allow that testimony to come
20 before the jury in any form.

21 THE COURT: Okay. Miss Goettsch, if you can
22 address that.

23 MS. GOETTSCH: Well, my response to that is
24 competency goes as to whether a child understands right from

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1 MR. BLOOM: With regard to that point, Your
2 Honor, I would say the People are -- happen to be inaccurate
3 with regards to whether or not a witness can be competent
4 about one thing and not another.

5 It happens all the time that a witness has a
6 foundation or understanding of the ability to make a
7 statement, to give the truth about a particular thing, about
8 a particular part, some observations, where it's really in
9 his mind, he can really see it, and other things that he's
10 not sure about.

11 And that's exactly what Petrocelli is
12 supposed to do: Balance how certain we are about it, what
13 the prejudicial value could be about it.

14 And about that presence of seeing a gun
15 in -- in his hand is -- you know, there's an enormous
16 prejudicial aspect to it, but with -- I think, quite
17 frankly, what the Court would have to conclude, listening to
18 this witness, is he said -- it's been proven that he does
19 not have a recollection, let alone proof that he does have a
20 recollection, about a particular -- about this aspect.

21 So, most definitely, this Court has the
22 authority, and on a regular basis, the courts make the
23 decision as to: Is there a foundation for the entirety of
24 the testimony?

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1 wrong, truth from a lie, that basic understanding of the
2 procedures.

3 We have established that clearly.

4 Does he have a father for cross-examination?
5 Certainly.

6 But everything he has mentioned about, well,
7 he didn't mention this to the police; Grandma told you this,
8 isn't that right, that's all cross-examination issues, not a
9 basic competency of: I understand the proceedings here. I
10 understand why I'm here. I understand right from wrong.

11 That's been established and that's what
12 competency to testify is about.

13 So he's competent to testify about the gun
14 issue.

15 And I -- in fact, I'm not sure, but I don't
16 know if -- if a witness can be competent to testify about
17 some things and not another.

18 They're either competent to testify, because
19 they understand right from wrong, they understand the oath,
20 they understand what the proceedings are, or they don't.

21 I think what he's getting at is more of a
22 cross-examination issue, but not competence.

23 THE COURT: Okay. Mr. Bloom, anything else
24 you want to add on that?

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1 THE COURT: Okay. Well, what I'm going to
2 do is this: The Court finds that the witness is competent.
3 He understands the difference between the truth and a lie,
4 and I think that was clearly established by the questions of
5 both sides.

6 As far as the gun issue, his testimony was
7 inconsistent; however, I believe he can testify as to the
8 the gun issue.

9 And I'm not ruling it's even coming in yet,
10 Mr. Bloom. I'm just talking about this witness: That he
11 can testify, subject to cross-examination and impeachment.

12 In fact, you will now have this testimony
13 under oath that you can use for impeachment purposes if --
14 depending on what he says at the trial, assuming I allow him
15 to testify at all.

16 As far as, though, on the Petrocelli
17 standard, I'm not convinced on the clear and convincing part
18 yet, and I think we need to get the officer in here and see
19 what he has to say and cross-examine him, and I'll reserve
20 ruling on the hearsay issues until we get the officer in
21 here as well.

22 So I think for -- for today's hearing, we
23 just need to go -- move it over to next Thursday. I will
24 ask the State to bring in that one officer; the defense can

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1 subpoena the other officer to call up that morning as well,
2 and we'll hear what that other officer has to say about it.

3 MR. BLOOM: Thank you, Your Honor.

4 Now, I'll turn to what the Court asked me to
5 do before I interrupted the Court ten minutes ago, and go to
6 the question of the TPO.

7 THE COURT: Go ahead.

8 (Whereupon, a sotto voce at this time.)

9 MR. LAURENT: Is that something that we need
10 right there or -- okay.

11 (Whereupon, a sotto voce at this time.)

12 THE COURT: Mr. Bloom, you may proceed.

13 MR. BLOOM: Thank you, Your Honor.

14 The Court has received an exhibit that the
15 Court has called Exhibit 1. It hasn't been moved into
16 evidence yet. There hasn't been a motion to move it into
17 evidence.

18 THE COURT: Exhibit 1 was admitted for the
19 purposes of today's hearing only.

20 MR. BLOOM: Okay.

21 MS. GOETTSCH: Yes, it was. I moved for it.

22 MR. BLOOM: Okay. Well, Your Honor, let me
23 back up a bit then, because I misunderstood when I say -- if
24 that's the case, then I -- I want to withdraw -- if it's

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1 THE COURT: So you don't think it's part of
2 the TPO file?

3 MS. GOETTSCH: That was part of the TPO
4 application. That's the whole thing right there, and I
5 included in this exhibit also the service to Miss Centofanti
6 of the TPO.

7 THE COURT: Okay. You disagree with that,
8 Mr. Bloom?

9 MR. BLOOM: Most definitely.

10 I think the evidence will show that the
11 documents of 1 through 16 are xeroxed copies of -- of
12 original things that my client signed and that he never
13 attached page 17 or 18 to this.

14 THE COURT: Well, I'll order the file and
15 get it over here and we'll take a look at it.

16 MR. BLOOM: And how -- and how that file --
17 how 17 and 18 are attached to it, I believe that they were
18 attached by jail or court personnel, as opposed to Mr.
19 Centofanti.

20 My point is: There is no evidence at all to
21 establish that these two documents are somehow attributable
22 to his conduct.

23 You have another issue of: Where is the
24 light anyway?

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1 something I said okay to, I -- I -- I didn't understand
2 exactly what we're doing here with this exhibit.

3 I don't -- I don't stipulate to this
4 document coming in. (Indicating)

5 THE COURT: Well, what's the basis of your
6 objection to it?

7 For -- I mean, again, it's for this hearing
8 only; it's not for the trial.

9 MR. BLOOM: This exhibit has a certain
10 number of pages, the last two of which are --

11 THE COURT: Could I see --

12 MR. BLOOM: -- copies of the gun
13 registration cards.

14 Now, I don't dispute that -- in the upper
15 right-hand corner, I see there is page numbers, so there is
16 18 pages. This is, apparently, a faxed document from
17 somebody to somebody else because we get the fax information
18 in the upper corner.

19 And on page 17 is two cards from Virginia
20 Centofanti; page 18 are two cards from Virginia Centofanti;
21 and they're attached here.

22 There is absolutely no evidence at all as to
23 how those pages are properly attached in this faxed document
24 to the TPO that's here.

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1 Because she was the owner -- or, apparently,
2 the co-owner of the weapon, so I don't really know what the
3 issue is about how it shows any light whatsoever anyway,
4 because Miss Zwick does finally testify that there was a
5 co-registration, so there wouldn't be --

6 THE COURT: Well, if you have some doubt as
7 to -- if these other documents, you feel, were tagged onto
8 it after the fact and weren't part of the original
9 application, we need to find that out; and that shouldn't be
10 very hard, because we'll just pull the file -- the TPO file
11 from Family Court, get it over here.

12 I will have it here on Thursday and you all
13 can look at it and see exactly what's in there.

14 MS. GOETTSCH: That was my understanding
15 when I got the TPO, that it was attached.

16 If it's not, well, yeah, that's a whole --
17 that changes everything, if that wasn't attached, but that's
18 how we received it.

19 THE COURT: Okay. Well, that -- that's easy
20 enough to establish one way or the other.

21 MR. BLOOM: Can I have just one second, Your
22 Honor?

23 THE COURT: Yes.

24 Mr. Bloom, go ahead.

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MR. BLOOM: The Court can see, in pages one through seven in this, there is a fax cover sheet; there is a cover sheet to -- to Ed Canen.

There is a temporary order --
(Whereupon, a sotto voce at this time.)

MR. BLOOM: There is a temporary order, and then it goes -- that order is part of page four, five, six and seven; that whole document, that temporary -- all of those pages, up to page seven, are not prepared by my client.

Those are prepared by a -- by a court clerk or an -- and then the judge signs on it.

My client completes the application and, apparently, the first pages, one through seven, are attached to it in some fashion, but my client doesn't do that attachment and doesn't do anything with that.

He fills out eight through -- through 16.

And then I have no idea about 17 and 18, about where they come from.

You will notice that there is nothing in pages eight through 16, the part he fills out --

THE COURT: Well, if pages 17 and 18 are in the TPO file, they had to be produced by your client, because that's the only way it could have got there.

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THE COURT: Okay.

MR. BLOOM: So, like I say --

THE COURT: I'll take responsibility of getting the file over here.

Both sides will have a chance to take a look at it on Thursday morning before the hearing, to review it and see what issues need to be raised, and then we'll take a look at it and go from there.

Anything else we need to do today?

If not, I'm going to go through things with the court clerk, to make sure everybody agrees what we did today and what we haven't done and what's remaining to be dealt with, then like that.

Anybody else -- Miss Navarro, do you have something?

MS. NAVARRO: Yes, Judge, we have one more matter.

There was a stipulation to get some evidentiary tests that I had requested from Miss Becky Goettsch, and she had agreed to stipulate to it.

However, I did have a conversation with Mr. Christopher Laurent, that they may not be stipulating to it after all.

I did have both stipulations and orders

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I mean, nobody just placed them there. We can just tell by the microfilming and dating of the -- of the pleadings when it came in.

It should be very easy to establish one way or the other.

MR. BLOOM: No question the pleadings came in on December -- or they're file stamped on December 6th, I think.

THE COURT: Well, why don't we just get the file and we'll look at it and see -- see what's in it.

I'll get an order -- I'll call over there this afternoon and get it ordered, so we make sure we have it available.

(Whereupon, a sotto voce at this time.)

MR. BLOOM: Okay.

THE COURT: Okay? Why don't I just get it and we can -- each side can take a look at it and we can see what it means.

MR. BLOOM: All right. My question is -- I don't want how this -- how this Exhibit 1 exactly was put together. I don't know what's going to be in that file.

And we're going to get that and we may have some questions about how that document is -- how -- how it's put together and created.

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drafted for today, and I just wanted to know whether I'm --

MR. BLOOM: We'll submit them --

MS. NAVARRO: -- what is going to happen with them.

THE COURT: What is this evidence, what evidence?

MR. BLOOM: This is trying to get the -- this relates to the retesting of the samples that were tested by a laboratory of Virginia Centofanti.

This relates to this in two parts: One is to get the actual lab packet that --

(Whereupon, a sotto voce at this time.)

MR. BLOOM: -- the American Toxicology Institute of Sunrise Avenue is the lab that did the examination.

THE COURT: For what, the State?

MR. BLOOM: For the -- for the State.

MR. LAURENT: Coroner.

THE COURT: For the coroner. Okay.

MR. BLOOM: For the coroner.

THE COURT: And you want to do your own independent testing?

MR. BLOOM: Yes.

THE COURT: Okay.

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MR. BLOOM: And American Toxicology has their -- their lab work of what they did actually in it.

We have a single page from them that is a printout, which is the end product, but they have -- they have confirmed with us that, as I guess every lab does, they have it in regular course, they have a lab packet and that what -- they will provide that to us, but we need an order from the Court saying that they need to provide that lab packet.

THE COURT: Okay.

MR. BLOOM: That's one thing and that's one part of our request or stipulation; or if they don't want to stipulate, then the Court order it.

And I'm not trying to say they wouldn't stipulate. I'm just -- that's one thing.

THE COURT: Okay. Next issue.

MR. BLOOM: Next -- next thing is we want to do a retesting of the -- of samples.

And towards that end, we need, of course, to have a Court -- we -- we've contacted Dan Berkible of -- (Whereupon, a sotto voce at this time.)

MR. LAURENT: You've got those things messed up, I think.

(Whereupon, a sotto voce at this time.)

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MS. NAVARRO: Judge, actually, on the stipulation, it does say that all this information that we're getting from APL/AML is to be provided to both parties, so that way we don't have to worry about --

THE COURT: But the State wants information, I guess, by your -- by your experts as well and --

MR. LAURENT: Right. What they relied on, the materials they were given, all those things.

THE COURT: Well, I'll approve the -- the -- are you going to stipulate to this, Mr. Laurent?

Because I'm going to order it.

MR. LAURENT: Yes, Your Honor.

THE COURT: Okay. I'll order -- enter the order to -- to allow the testing by the independent laboratories; likewise, on -- Mr. Bloom, for anything they want that you have done -- and I'm not sure what the specifics are, but it goes both ways.

Both sides need to cooperate to produce them for each other and so the independent testing can be verified.

MR. BLOOM: All right. So just so I can clarify: I know with regard to the lab people that we want all their work product --

THE COURT: You can have all their work

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MR. BLOOM: Okay. I got the lab names wrong.

THE COURT: Okay.

MR. BLOOM: APL, which is now AML, is the one who did it for the State.

THE COURT: Yeah. Okay.

MR. BLOOM: And that's -- we want their lab packet.

American Toxicology is the one that -- that's Dan Berkible's lab --

THE COURT: You want them to do it?

MR. BLOOM: And we want them to do the retesting and so we want to have the samples released from wherever they are.

THE COURT: Mr. Laurent, does the State have any objection to that?

MR. LAURENT: My only objection, Judge, is that we've been asking for the same thing that they're asking for.

We want the materials that they relied on and their packets.

But we have no objection because we understand that they get this, but we would like the same courtesy from them.

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product.

MR. BLOOM: -- and that we're going to give them all of whatever work product Mr. Berkible has. I understand that.

THE COURT: Absolutely.

MR. BLOOM: Now, for other experts, because every court -- not every court, but many courts do it slightly differently -- for the other experts -- I'm not talking about lab people.

They're talking about Dr. Frazier, Dr. Eisel, any of the others, Richard Fox, the ones I have -- I have talked to you --

THE COURT: Well, we have a statute on it, so --

MR. BLOOM: Well, the statute doesn't cover this point.

The statute says: All reports. The statute says all -- and there is -- and their CV. That's all that the statute says.

But I don't object to -- I think the People would -- I think we should do it ahead of time, because if we didn't do it ahead of time anyway, the Court could order, under discovery power, to say: Wait a second. They have a right to find out what the experts are relying on, and we

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1 would have to stop the proceedings, in the middle, just to
2 do that.

3 So I don't mind giving them to him. I just
4 want to know exactly what I'm supposed to, because it's not
5 spelled out in the statute.

6 If the experts don't prepare a report, then
7 I will tell Mr. -- I will tell Mr. Laurent, Miss Goettsch,
8 the items that they relied upon; and, basically, I think
9 it's their own pages of discovery, but there might be other
10 items, and I will refer to it that way.

11 And I will get any notes that they have --
12 just like the work product notes or something like that, I
13 will get any notes that they've made with regards to it.

14 THE COURT: Okay.

15 MR. BLOOM: That's what I understand.

16 THE COURT: Well, my position is what I do
17 in civil cases, I'm going to do here, and that is the
18 underlying data, work product, notes, et cetera, done by the
19 experts in their analyses to come up with their opinions for
20 both sides is discoverable and I'll order copies of it made
21 by -- for each side's experts to give to the other, because
22 that's part of the critiquing process the experts have to
23 take a look at.

24 MR. BLOOM: That's fine.

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1 just so -- I'm just throwing it out there. I know it's not
2 ready yet --

3 MR. BLOOM: Well, that's subject to, I
4 think -- I think that's -- requires the People to make a --
5 a showing that they have a right to have the evaluation done
6 and the testing and have access to my client.

7 That's -- that's different than --

8 THE COURT: Well, don't they have it if --
9 if you are going to have psychological testimony about your
10 client and present that, doesn't the State have a right to
11 do likewise though; and don't they have a right to prepare
12 for that?

13 MR. BLOOM: They absolutely have a right to
14 prepare. I don't have any of those reports done and I don't
15 have any of the -- I don't have any of the notes.

16 And there has only been one day of what I
17 believe are two days of testing, so I don't have any of
18 those yet from Dr. Lipscomb.

19 And they absolutely have a right to that
20 whether -- I mean, if I call Dr. Lipscomb as a witness.

21 The question of whether or not they have the
22 right to -- to do and what -- and which psychological
23 testing they have a right to do of my client is, I think,
24 subject to a review by the Court.

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1 To my knowledge right now, every expert that
2 I have relied only on materials that the People have given
3 me.

4 MR. LAURENT: I know, but we still need to
5 know what they relied on.

6 MR. BLOOM: Okay. I will get the numbers.

7 But, to my knowledge, I don't think there
8 has been any independent testing by Mr. Fox. I don't think
9 there has been an examination by Dr. Eisel.

10 THE COURT: Whatever it is, the underlying
11 data that they relied on is to be furnished and disclosed.

12 MR. LAURENT: And their notes.

13 THE COURT: And their notes.

14 MR. LAURENT: And --

15 THE COURT: And it can be subject -- it's
16 subject to cross-examination when they testify at the trial.

17 MR. LAURENT: There is another issue that
18 will come down in the future, Judge: They haven't decided
19 whether they're going to call a psychological expert.

20 I imagine they will. They've put one on
21 their witness list. But we're also going to need access to
22 the defendant to have him tested as well.

23 And prior to doing that, of course, we're
24 going to want to have the notes relied upon by that expert,

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1 THE COURT: Okay. Let's do this: You --
2 you got a lot to do in a couple of days here, but let's --
3 when we come in here on Thursday, you let me know what you
4 are going to do -- okay? -- and then we'll figure it out
5 from -- from a psychological standpoint with your client.

6 I'm concerned about Fifth Amendment issues.
7 I -- I don't know -- we need to flesh that all out on how to
8 deal with it.

9 But, basically, it's -- it's kind of -- if
10 you are not going to do that, then it's irrelevant.

11 If you are going to do it, then let me know
12 what you intend to do and then we'll figure out what's
13 permitted under the law and the Constitution for the State
14 to -- to prepare for this testimony.

15 And I would like to do some -- I'm going to
16 do some research myself, because I'm not sure. I haven't
17 had that issue come up before. But I'll take a look and see
18 what the law is on that.

19 MR. BLOOM: Thank you, Your Honor.

20 THE COURT: Okay. Anything else we need to
21 do from either counsel?

22 If not, I want to, again, kind of summarize
23 where we're at today to make sure we're on -- we all agree
24 what we have to do and what --

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(Whereupon, a sotto voce at this time.)

MR. BLOOM: There was -- I believe there was a third point that I spoke to -- the third point in the Petrocelli motion that had to -- that I spoke to Miss Goettsch about earlier today, the third point, which was presented to the Court, had to do with statements of my client to -- I don't know -- I think, the particular statements from decedent to others that my client was trying to hurt her; not that these people heard my client say, but that my client -- that this -- Virginia Centofanti reportedly said to -- to these witnesses.

That's part of our --

THE COURT: I thought we dealt with that earlier.

MR. BLOOM: Only dealt with -- did we?

MS. GOETTSCH: I'm not pursuing that. I'm not, as a --

THE COURT: The State says they're not going to bring that up in their case in chief.

MR. BLOOM: That's just a case in chief matter.

THE COURT: And if they don't, and it's not put at issue by the defense in their case in chief, then it's improper rebuttal and they -- and you can make that

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argument. They won't be able to go into it.

MR. BLOOM: Okay. Very well.

Thank you, Your Honor.

THE COURT: Let's do this: So the issues that we have for Thursday are the continued hearing on the State's motion to -- of evidence -- and let me get the names as set forth in the calendars, for the court clerk's edification here -- where is the calendar?

Here it is.

Okay. We're going to have a continued evidentiary hearing on the State's motion to admit evidence of other bad acts.

We've ruled on part of that today.

We will have the hearing with the police officer that spoke to Mrs. Centofanti. At that time, I will make a determination if the criterion has been met for that particular motion.

And we will -- the defense will be also entitled to subpoena that other officer and put him on the stand as well to address that particular.

We'll have the -- we had some things on calendar that I think have probably been dealt with before: We have the State's motion to strike expert witness list and to proscribe defendant from calling these experts.

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Mr. Laurent, is that moot?

MR. LAURENT: We haven't dealt with that yet, because we haven't -- that's still a continued motion, since I have not received the materials.

THE COURT: Okay. I'll continue that to the 27th to see where we're at with that.

We have the State's motion to compel discovery by experts; and, again, that's the same issue, you haven't received any reports by that.

MR. LAURENT: Okay.

THE COURT: So we'll continue that.

How about the defendant's request for an order to produce the cassette tape? What about that?

MR. LAURENT: What cassette tape is that?

THE COURT: That's on calendar. It just says defendant's request for order to produce cassette tape.

MR. LAURENT: I don't believe I've seen that motion.

MR. BLOOM: Yes, there --

(Whereupon, a sotto voce at this time.)

MR. BLOOM: Yes, we filed a motion having to do with the search warrant of the Wentry Garden house. It was -- it's filed with the Court.

The -- the motion itself was founded --

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there was a warrant that was obtained. It was telephonic.

THE COURT: Is this the issue on the return, the judge didn't sign the certification within the time period or what? Was that it?

MS. GOETTSCH: No. It's -- basically, what he's looking for is a -- they did a telephonic search warrant.

THE COURT: Right.

MS. GOETTSCH: Got a search warrant; all the paperwork is fine. That's always a tape recorded conversation.

They have asked for that tape. And we've asked Detective Thowsen for it. He says it's with the court or the clerk's office or whatever.

We've looked at the clerk's office; evidently, it's not there. Right now, it can't be located.

THE COURT: So there was a transcript done of the tape for the warrant --

MS. GOETTSCH: Yes.

THE COURT: -- like it's normally done.

And -- but you can't locate the actual cassette?

MS. GOETTSCH: Right. I mean --

MR. BLOOM: It's not a question of -- it's

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1 not a discovery issue, Your Honor.

2 It's whether or not the motion to suppress
3 the evidence should come in because, by statute, when you
4 have a -- a telephonic search warrant of this kind, the tape
5 recording must be presented; it must be a -- presented to
6 the Court.

7 It is not a question of -- of whether or not
8 this can be waived or this can be substituted.

9 And there was a transcript in this case that
10 was not prepared by the defense, and there is no question --

11 THE COURT: Well, didn't the judge -- the
12 judge signed the certification?

13 MS. GOETTSCH: Yes.

14 THE COURT: My understanding is you do
15 that -- because I do them: They call you up; they tape
16 record the search warrant; they bring in, the next day, a
17 transcript of the -- this search warrant conversation with
18 the judge; the judge reviews it and signs and certifies it
19 and says this is true and correct as far as what took place
20 on the telephone.

21 MR. BLOOM: It's unsigned, Your Honor.

22 There is no signature.

23 THE COURT: The judge has never signed it?

24 MR. BLOOM: That's right.

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1 MS. GOETTSCH: We're still trying to find
2 the tape too. It may still exist.

3 THE COURT: Well, I'm just saying -- I don't
4 know if the tape is as critical as the judge not signing the
5 certification. That concerns me.

6 So let's find out about what -- what's going
7 on with that.

8 If you can't find the tape, you can't find
9 it. We'll cross that bridge when we come to it.

10 MR. LAURENT: It should be filed in the
11 Justice Court though.

12 Is that where you guys looked?

13 MS. NAVARRO: The problem is, though, that
14 it was a Grand Jury case, so -- Justice Court looked for it;
15 they said they didn't have it.

16 It was probably with District Court when it
17 got bound over to the Grand Jury.

18 THE COURT: Can I see the file?

19 MS. NAVARRO: And the District Court says
20 they didn't have it and --

21 THE COURT: Well, let's see if it's in here.

22 MS. NAVARRO: Trudy over at the DA's Office,
23 who is in charge of Grand Jury stuff, said she didn't know
24 where it was either.

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1 THE COURT: Oh, well --

2 MR. BLOOM: And the motion before the -- the
3 Court hasn't read it yet; we just filed it today, I think,
4 or yesterday -- oh, here it is -- we filed it the 19th.

5 So the Court hasn't reviewed our motion in
6 that regard, but it outlines this exact issue from the
7 defense point of view.

8 THE COURT: Well, if it's not signed, that
9 could be an issue. So, that's -- I'll ask the State to
10 check into that, because that -- that's usually -- my
11 experience with the police officers is they're there the
12 next day to have you sign the search warrant, after you've
13 authorized it by telephone here, to get that done.

14 MR. BLOOM: All right. That's part of --
15 that -- that whole motion and the unsigned thing by the
16 Court --

17 THE COURT: Okay. We'll take that up next
18 Thursday.

19 And I am concerned -- I'll mention that to
20 the State -- about the judge -- who was the judge that
21 authorized the --

22 MR. LAURENT: Doug Smith, Judge.

23 We may not be able to find anything on that
24 by Thursday, since this is over the Christmas holiday.

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1 (Whereupon, a sotto voce at this time.)

2 THE COURT: Okay. Well, this is the A file?

3 THE CLERK: Yeah.

4 THE COURT: But we start with the
5 Indictment. That's all we have here.

6 THE CLERK: Yeah, we -- if -- there is a
7 notice that it went to the vault and that's -- that -- I
8 guess --

9 THE COURT: Did somebody check the Justice
10 Court file? They don't have a record of the search warrant
11 in there?

12 Miss Navarro, did you check that?

13 MS. NAVARRO: Your Honor, I did -- I did
14 make an affidavit that -- as part of the motion that states
15 on -- I believe it's on page -- what page? -- page four,
16 it's paragraph number five on line five, it states that my
17 secretary Donna Pollick did speak to both the Justice Court
18 and the District Court clerks, as well as the individual in
19 charge of the Grand Jury proceedings for the D.A.'s Office,
20 Trudy, and none of them could find the cassette tape in the
21 pleading files, nor was it accidentally or erroneously filed
22 as an exhibit, because we also thought, well, maybe they
23 thought it was an exhibit and they stuck it in the vault or
24 something. They even looked there and couldn't find it.

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1 THE COURT: Well, could you check and find
2 out if the judge signed the certification?

3 That should be in Justice Court if that's
4 done. If it's not done -- I mean, it may be you just have a
5 blank copy of it and the original was signed.

6 MS. GOETTSCH: Because we get the search
7 warrant from the detectives. We don't necessarily get the
8 one --

9 THE COURT: Right; right.

10 MS. GOETTSCH: -- that was in the file.

11 THE COURT: Well, the judge probably signed
12 an original and maybe they handed out blank copies.

13 But the original should be with the court, I
14 would assume.

15 MS. GOETTSCH: I would assume.

16 THE COURT: So, Miss Navarro, could you
17 check on that before Thursday, and then see if -- if you
18 will just look at the Justice Court file and see what they
19 have in there.

20 MS. NAVARRO: I sure will, Judge.

21 THE COURT: But I'll check on the Family
22 Court issue.

23 MS. NAVARRO: We did end up ordering a
24 complete set of all pleadings from the court, when you were

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1 appointed on this case, because we had tried to compile from
2 this attorney and that attorney and we weren't getting a
3 complete copy, so we did eventually order a complete copy.

4 So I think that our copy is the Court's copy
5 already, but I'll doublecheck on it to make sure.

6 THE COURT: Okay. If you would do that,
7 we'll pass that issue then until next Thursday.

8 Okay. Anything else we need to do today?

9 I'll -- if you would approach, Mr. Bloom, I
10 will sign this order here and get this taken care of for
11 you.

12 MR. LAURENT: Judge, there is -- there is
13 one matter I would like to throw out: On a number of these
14 arguments Mr. Bloom has been making, he keeps saying it's
15 not an issue of who shot Jeena; it's just not an issue.

16 The issue is going to be the mens rea.

17 In the past, what has happened -- because we
18 had a case in front of Judge Thompson at the time where Dave
19 Gibson got up and basically admitted to second degree
20 murder; says: Yeah, this is murder; we're not going to tell
21 you this wasn't murder.

22 And the Supreme Court reversed that.

23 What I'm asking, Judge, is that you canvass
24 the defendant, outside the presence of the State, as to

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1 whether Mr. Bloom is authorized to argue that, so that we
2 don't end up starting a trial, having that error introduced,
3 and just so we have a record that that's authorized ahead of
4 time.

5 THE COURT: Okay.

6 MR. LAURENT: We'll leave. I do this all
7 the time when that comes up.

8 THE COURT: Okay.

9 MR. BLOOM: Before we lose their valuable
10 assistance, there is a -- I -- I'm going to request that we
11 have the Court order a transcript of Quito's testimony
12 today, not --

13 THE COURT: I'll order it for each side.

14 MR. BLOOM: Thank you. And on the list of
15 things to do, aren't there more things for Thursday than
16 what --

17 THE COURT: There is some additional things
18 that we already set over to Thursday. I didn't go through
19 those again, just the ones we were dealing with today.

20 So it's quite a laundry list of them, but
21 we'll get through them.

22 MR. BLOOM: I'll go through them with your
23 clerk and she can help me with -- a loss of memory. I don't
24 recall.

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1 THE COURT: I will ask Kristen to tell you
2 what she's got on the list in just a minute then.

3 MR. BLOOM: Thank you.

4 THE COURT: Okay. As far as -- the State
5 can be excused and I will --

6 MR. LAURENT: This is one -- they have a
7 motion to suppress or dismiss the case based on lost or
8 destroyed evidence.

9 I'm going to try to have that done in time,
10 Judge, but I may need additional time based on that.

11 THE COURT: Okay.

12 MR. LAURENT: I'm just giving a heads up
13 now. We just got it this morning.

14 THE COURT: I -- if you can, you can.

15 I understand.

16 MR. LAURENT: I appreciate it.

17 THE COURT: Okay. We'll see you on
18 Thursday.

19 The State will be excused and I will address
20 that issue with the -- with Mr. Bloom on that.

21 (Recess in proceedings.)

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(The following proceedings were had in open court outside the presence of the deputies District Attorney.)

THE COURT: Okay. The record will reflect District Attorneys have left the courtroom.

Mr. Bloom, our -- and I'm going to ask Mr. Centofanti: Are you authorized on behalf of Mr. Centofanti to confirm that Mr. Centofanti did fire with the weapon in question, which was the subject of this Indictment.

MR. BLOOM: I think -- and I now, for the first time, understand that that's what this inquiry is about.

May I have -- delay that until the 27th, Your Honor, because I believe that was -- this canvassing type of situation Mr. Laurent just spoke to and what the Court has in mind, I believe, comes about from a -- an appellate decision.

THE COURT: Okay.

MR. BLOOM: And I -- I haven't seen that appellate decision.

THE COURT: I'll let you look at it.

MR. BLOOM: Thank you. So can we put that on the long list for Thursday as well?

THE COURT: We'll take that issue up then like that. Thank you.

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MR. BLOOM: Does the Court happen to know -- (Whereupon, a sotto voce at this time.)

THE COURT: Okay. We'll be in recess until nine a.m. on the 27th.

MR. BLOOM: Thank you.

* * * * *

ATTEST: Full, true and accurate transcript of proceedings.

Renee Silvaggio
RENEE SILVAGGIO, C.C. #140, 122
OFFICIAL COURT REPORTER

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CONCORDANCE

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DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

ALFRED P. CENTOFANTI, III,

Defendant.

Case No. C172534

Dept. No. VII

Date of Hearing: 12/20/01
Time of Hearing: 9A

1) MOTION TO PERMIT COUNSEL TO REFER TO THIS BRIEF IN PLACE OF LENGTHY, RECORD-MAKING OBJECTIONS;

2) MOTION TO REQUEST THAT COMPLAINING WITNESSES AND THE DEFENDANT SHOULD BE ADDRESSED BY THEIR NAMES AND NOT BY CONCLUSORY AND ARGUMENTATIVE LABELS WHICH ASSUME FACTS NOT IN EVIDENCE AND UNDERMINE THE PRESUMPTION OF INNOCENCE.;

3) MOTION TO INSURE THAT THE PROSECUTION DOES NOT TELL THE JURY IT REPRESENTS THE "PEOPLE" IN A MANNER THAT IMPLIES THAT HE/SHE REPRESENTS THE JURORS AGAINST THE DEFENDANT;

4) MOTION TO INCLUDE THE NECESSARY LEVEL OF CERTITUDE TO THE REASONABLE DOUBT INSTRUCTION TO PREVENT UNDERMINING DEFENDANT'S DUE PROCESS AND SIXTH AMENDMENT RIGHT TO A JURY DECISION BASED UPON SUFFICIENT EVIDENCE OF EVIDENTIARY CERTAINTY.

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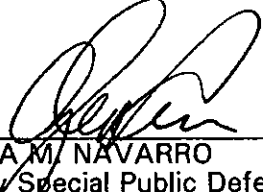


1 COMES NOW, Defendant ALFRED P. CENTOFANTI, by and through his attorneys
2 of record, ALLEN BLOOM, retained out-of-state counsel, PHILIP J. KOHN, Special Public
3 Defender and GLORIA M. NAVARRO, Deputy Special Public Defender, local counsel, and
4 hereby moves this Honorable Court to permit counsel to refer to this brief in place of
5 lengthy, record making objections.

6 This Motion is based upon the attached Points and Authorities, all papers and
7 pleadings on file herein, and any argument at the time of the hearing on this Motion.

8 DATED this 19 day of December, 2001.

9
10
11 
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CLARK COUNTY
NEVADA

1 **NOTICE OF MOTION**

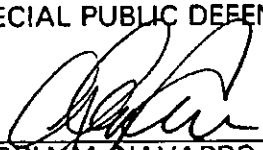
2 TO: STATE OF NEVADA, Plaintiff; and

3 TO: STEWART L. BELL, District Attorney, Attorney for Plaintiff

4 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above
5 and foregoing **MOTION** on the 27 day of Dec, 2001, at the hour of 9
6 _____ M., in Department No. VII of the above-entitled Court, or as soon thereafter
7 as counsel may be heard.

8 DATED this 18 day of December, 2001

9 PHILIP J. KOHN
10 SPECIAL PUBLIC DEFENDER

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12 GLORIA M. NAVARRO
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17 **POINTS AND AUTHORITIES**

18
19 **1) MOTION TO PERMIT COUNSEL TO REFER TO THIS BRIEF IN PLACE**
20 **OF LENGTHY, RECORD-MAKING OBJECTIONS;**

21 To make a proper constitutional objection, the state and federal courts have
22 required precision and specificity by counsel. In other words, simply objecting "hearsay,"
23 will not preserve a confrontation issue, nor will objecting "unfair trial" preserve a due
24 process issue.

25 Such imprecision can result in the sacrifice of a meritorious claim as happened in
26 Duncan v. Henry (1995) 513 U.S. 364. There, Mr. Henry was tried in a California court
27 for allegedly molesting a 5-year old child. The prosecution was allowed to put on
28 evidence of the parent of another child who testified that twenty years previous, Henry

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1 molested that child. Henry's lawyer objected that the evidence should not come in and
2 arguing the evidence was far more unduly prejudicial than relevant. The parent testified
3 and Henry was convicted. On direct appeal, his lawyers argued that the evidence was
4 irrelevant and inflammatory and that the resulting error resulted in a miscarriage of justice
5 under the California Constitution (the standard for whether an error is harmless under the
6 state constitution). The Court of Appeal found error, but ruled it harmless. Henry then
7 petitioned in federal district court, arguing that the error was not harmless and denied him
8 federal due process of law. The district court granted the petition, and the Court of
9 Appeal for the Ninth Circuit affirmed the ruling.

10 The U.S. Supreme Court summarily reversed the grant of relief stating that Mr.
11 Henry never explicitly raised the federal due process issue in state court and thus did not
12 "exhaust" his claim. The court observed that the test for the state law claim was similar
13 to, but not quite the same as the federal due process claim. By not intoning the magic
14 words "due process" under the federal constitution, the issue was lost and Mr. Henry's
15 reversal of his felony conviction went with it.

16 As the Supreme Court stated, similarity of claims is not enough to exhaust an issue
17 in state court to permit its being raised in federal court. Justice Stevens' dissent placed
18 the impact of this ruling more bluntly: the case "tightens the pleading screws ... to hold
19 that the exhaustion doctrine includes an exact labeling requirement." Duncan v. Henry
20 (1995) 513 U.S. 364, at 368.

21 Obviously, this is no small point. Precious constitutional rights can be sacrificed
22 for lack of a few syllables in stating an objection. One thing is clear, the State will urge
23 that trial counsel waived raising a claim and thus the defendant must be deemed
24 procedurally barred from asserting - "[t]ime and again in his briefs, he [the State
25 Attorney General] claims that a contention by defendant is procedurally barred." People
26 v. Gordon (1990) 50 Cal. 3d 1223, 1250.

27 A remedy. To save this court's time during this trial, to not frustrate the jury during
28 needless record-making sidebars for objections, and to not unduly interrupt opposing

1 counsel's presentation of his or her case, present counsel requests permission to use
2 abbreviated terminology in making his constitutional objections. This same simplified
3 technique is commonly used to make standard evidentiary objections under the Evidence
4 Code.

5 By the same token, the defense requests that every hearsay or relevance objection
6 be deemed to have been made under the due process clause of the Fifth and Fourteenth
7 Amendments, and under the confrontation clause of the Sixth and Fourteenth
8 Amendments.

9 The specifics of incorporated meaning are as follows:

10 **FIFTH AMENDMENT DUE PROCESS**

11 This objection encompasses the Fifth Amendment of the U.S. Constitution due
12 process guarantee of a fair trial as made available to the States through the Fourteenth
13 Amendment. Franklin v. Duncan, 70 F.3d 75 (9th Cir.1995), *adopting*, 884 F.Supp.
14 1435, 1456 (N.D. Cal 1995)(denial of introduction of defense evidence to impeach
15 complaining witness denied due process fair trial).

16 **SIXTH AMENDMENT CONFRONTATION AND RIGHT TO
17 PRESENT EVIDENCE IN DEFENSE OF THE ACCUSED**

18 This objection states that the defendant's state and federal constitutional rights to
19 confront witnesses against him as guaranteed by the Sixth and Fourteenth Amendments
20 to the United States Constitution, and under the similar, but separate and independent
21 California Constitutional protections provided by article one, sections seven and fifteen.
22 are violated. U.S. v. Kojayan, 8 F.3d 1315, 1321 (9th Cir. 1993)(prosecution violates
23 the "advocate-witness" rule by asserting "facts" not in evidence); U.S. v. Prantil, 756
24 F.2d 759, 764 (9th Cir. 1985) (unfairly impugning defense counsel denies due process.);
accord *See*, U.S. v. Rodrigues, 159 F.3d 439, 451 (9th Cir. 1998).

25 **EIGHTH AMENDMENT PROTECTION AGAINST CRUEL OR
26 UNUSUAL PUNISHMENT & THE STATE CONSTITUTIONAL
PROTECTION AGAINST CRUEL AND UNUSUAL PUNISHMENT.**

27 If the defendant moves under Romero to strike strikes, he is also raising the issue
28 as a cruel or unusual constitutional claim. See the recent Ninth Circuit Andrade v.

1 Attorney General (May 25, 2001) case; Riggs v. California, 525 U.S. 1114, 119 S. Ct.
2 890, 142 L. Ed. 2d 789 (1999) (memorandum opinion by Justice Stevens, joined by
3 Justices Souter and Ginsburg, respecting the denial of the petition for writ of certiorari).

4 **PROSECUTION ERROR MEANS THE FOLLOWING:**

5 This objection includes the statement that the prosecutor's comment is irrelevant,
6 inflammatory, and prejudicial. The objection is grounded in the defendant's state and
7 federal due process rights to a fair trial under the Fifth and Fourteenth Amendments to the
8 United States Constitution, as well as my client's state and federal constitutional right to
9 confront witnesses against him as guaranteed by the Sixth and Fourteenth Amendments
10 to the United States Constitution, and under the similar, but separate and independent
11 California Constitutional protections provided by article one, sections seven and fifteen.
12 The error has "so infected the trial with unfairness as to make the resulting conviction a
13 denial of due process." Donnelly v. DeChristoforo (1974) 416 U.S. 637, 643. I also ask
14 the court to assign this as misconduct,¹ strike the offending comments, and admonish
15 the jury to disregard it per People v. Bolton (1979) 23 Cal. 3d 208, 215-16, n. 5.² If the
16 court will not do that, I ask for a mistrial given the extremely prejudicial nature of the
17 statements on my client's fair trial rights. Berger v. United States (1935) 295 U.S. 78.)
18
19
20

21
22 ¹ This "misconduct" request is required by the California Supreme Court. Thus, generally, the
23 requirement of an objection to prosecutorial argument is stated in People v. Green (1980) 27 Cal. 3d 1, 24
24 (failure to object to prosecution argument waives the issue unless an objection would have been fruitless.)
25 And the courts have held that objecting may not be enough -- "As a general rule a defendant may not
complain on appeal of prosecutorial misconduct unless in a timely fashion--and on the same ground--the
defendant [requested] an assignment of misconduct and [also] requested that the jury be admonished to
disregard the impropriety. [Citation.]" (People v. Samayoa (1997) 15 Cal. 4th 795, 841.)

26 ² This request would include the statement to the jury by the court: "Ladies and Gentlemen of the
27 jury, the prosecutor has just made certain uncalled for insinuations about the defendant. I want you to know
28 that the prosecutor has absolutely no evidence to present to you to back up these insinuations. The
prosecutor's improper remarks amount to an attempt to prejudice you against the defendant. Were you to
believe these unwarranted insinuations, and convict the defendant on the basis of them, I would have to
declare a mistrial. Therefore, you must disregard these improper, unsupported remarks."

1 **II. COMPLAINING WITNESSES AND THE DEFENDANT SHOULD BE**
2 **ADDRESSED BY THEIR NAMES AND NOT BY CONCLUSORY AND**
3 **ARGUMENTATIVE LABELS WHICH ASSUME FACTS NOT IN EVIDENCE**
4 **AND UNDERMINE THE PRESUMPTION OF INNOCENCE.**

5 Neither the prosecutor, court personnel, nor the State's witnesses should be
6 allowed to characterize any witnesses during the trial as "the victim" or "victims," any
7 more than the defense should called the defendant throughout the trial "the framed
8 victim." This prohibition would include voir dire, opening statement (which is not to be
9 argumentative), and trial testimony.

10 Common sense dictates that at least until the jury decides the case, Virginia
11 Centofanti remains an alleged victim, and not "the victim." The "victim" characterization
12 is argumentative and subverts the defendant's presumption of innocence by the State's
13 repeated characterizing for the jury the complaining witness's version as the correct one.
14 As such, it violates the defendant's state and federal right under due process (as
15 described above) to his presumption of innocence as protected by the due process clause
16 of the Fifth and Fourteenth Amendments to the U.S. Constitution. It also violates the
17 defendant's Sixth Amendment and Fourteenth Amendment right to a jury determination
18 of the facts, as well as the analog protection provided by the California Constitution.

19 Prosecutorial statements are assumed to make an impression upon the minds of the
20 jurors because the office "carries such weight with a jury that his statement of fact
21 predicated on his knowledge, rather than on the evidence, constitute reversible error."

22 People v. Purvis (1963) 60 Cal.2d 323, 341 [33 Cal.Rptr. 104]. Generally, a lawyer
23 cannot use subterfuge to place before a jury matters which it cannot properly consider.

24 (People v. Daggett (1990) 225 Cal.App.3d 751, 759 [275 Cal.Rptr. 287].) And, a
25 prosecutor cannot use argument or questioning as a basis to "testify" before the jury.

26 People v. Hill (1998) 17 Cal.4th 800, 827-28 [72 Cal.Rptr. 2d 656].

27 "When a lawyer asserts that something not in the record is true, he is, in effect,
28 testifying. He is telling the jury: 'Look, I know a lot more about this case than you, so
29 believe me when I tell you X is a fact.' This is definitely improper." United States v.

30 Kojayan (9th Cir. 1993) 8 F.3d 1315, 1321.

1 In People v. Sanchez (1989) 208 Cal.App.3d 721, 739-740, the court rejected an
2 appeal claim of constitutionally ineffective assistance of counsel for failure to assert this
3 position at trial but his was because there were fewer mentions of the term by the
4 prosecutor than defense, and because it was largely restricted to comments in *voir dire*.
5 However, even though the issue was not raised properly on appeal, the court found that
6 the use by the prosecutor was "possibly objectionable," but that there was no prejudice
7 on the facts of the case. See also, Godbey v. Oklahoma (1987) 731 P.2d 986 ("In the
8 fifth instance the prosecutor referred to the complaining witness as a victim. During his
9 objection, defense counsel asserted that the witness should be referred to as "alleged
10 victim," which the trial court sustained.")

11 The witnesses in this case should be addressed by their proper given names.

12 **III. IT IS MISCONDUCT FOR THE PROSECUTION TO TELL THE**
13 **JURY IT REPRESENTS THE "PEOPLE" IN A MANNER THAT**
14 **IMPLIES THAT HE/SHE REPRESENTS THE JURORS AGAINST**
15 **THE DEFENDANT.**

16 The prosecutor may, as some do, maintain that it is correct to tell the jury that he/she
17 represents the people of the State of Nevada, and that "I am an advocate for them."
18 This statement improperly suggests to the jurors -- who are supposed to be impartial fact-
19 finders -- that they are in fact aligned with the prosecutor against the defendant.

20 It is, of course, misconduct to suggest such a notion. As the Supreme Court stated
21 in People v. Eubanks (1996) 14 Cal.4th 580, 589-590), the role and interest of the
22 prosecution in a criminal case is obviously *not* that of the jury and the phrase "the State"
23 includes the defendant:

24 The nature of the impartiality required of the public prosecutor follows
25 from the prosecutor's role as representative of the People as a body, rather
26 than as individuals. "The prosecutor speaks not solely for the victim, or the
27 police, or those who support them, but for all the People. That body of 'The
28 People' includes the defendant and his family and those who care about him.
It also includes the vast majority of citizens who know nothing about a
particular case, but who give over to the prosecutor the authority to seek a
just result in their name." (Corrigan, On Prosecutorial Ethics (1986) 13
Hastings Const.L.Q. 537, 538-539.) Thus the district attorney is expected
to exercise his or her discretionary functions in the interests of the People
at large, and not under the influence or control of an interested individual.

1 (People v. Superior Court (Greer), supra, 19 Cal. 3d at p. 267.) [Emphasis
2 added.]

3 Unlike the adversary role of the prosecutor, the domain of the judge and the jury
4 is true disinterest and objectivity in a criminal case. (Id. at 590.) To suggest to jurors
5 that the prosecutor's role and interest and the jury's role and interest are one and the
6 same is a total distortion of the constitutional role each must play and undermines the
7 defendant's Fifth Amendment right to due process of law, the presumption of innocence,
8 proof beyond a reasonable doubt, and the Sixth Amendment right to trial before an
9 impartial jury.

10 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ADDING**
11 **THE NECESSARY LEVEL OF CERTITUDE TO THE REASONABLE DOUBT**
12 **INSTRUCTION TO PREVENT UNDERMINING DEFENDANT'S DUE PROCESS**
13 **AND SIXTH AMENDMENT RIGHT TO A JURY DECISION BASED UPON**
14 **SUFFICIENT EVIDENCE OF EVIDENTIARY CERTAINTY.**

15 The jury will be instructed per NRS 175.211.

16 Appellate courts of this state see nothing erroneous, vague or misleading about
17 NRS 175.211 in its current form either when viewed in isolation or with all instructions
18 given.

19 Yet, the defect in NRS 175.211 exists and it is clear that the concept of reasonable
20 doubt (the very high degree of probability required under the U.S. Constitution to sustain
21 a conviction) has been diluted below constitutional minimums.

22 When the concept of "moral certainty" was criticized by the U.S. Supreme Court
23 as misleading, the court stated that what reasonable doubt meant was **evidentiary**
24 **certainty**. That forceful concept stands as the bulwark against the many CALJIC
25 instructions emphasizing preponderance of evidence standards. Also, prosecutors in their
26 closing argument typically argue for guilt as the "only reasonable" verdict.

27 Cage v. Louisiana (1990) 498 U.S. 39,³ involved an unconstitutionally vague
28 reasonable doubt definition focusing juror attention on moral beliefs rather than whether
29 the objective evidence offered was sufficient. The United States Supreme Court held it

30 ³ Cage was disapproved on other grounds in Estelle v. McGuire (1991) 502 U.S. 62, 73 fn.4.

1 unconstitutional because it defined reasonable doubt as "founded upon a real tangible
2 substantial basis and not upon mere caprice and conjecture." (Id., at 498 U.S. 40.)
3 Concluding that the challenged instruction equated a reasonable doubt with a "grave
4 uncertainty," the high court concluded that this might have altered the constitutional
5 standard for penal liability to one of "a moral certainty" that the defendant was guilty"
6 (ibid); the high court reversed the conviction due to this basic structural defect.

7 Victor v. Nebraska (1994) 511 U.S. 1, upheld a conviction where the "moral
8 certainty" version of CALJIC 2.90 was challenged. The Court did not "countenance its
9 use" (id. at 12, 22), recognizing that "a jury might understand the phrase to mean
10 something less than the very high level of probability required by the Constitution in
11 criminal cases." (Id. at 14.) The Court held, however, that the instruction was
12 buttressed by the phrase "abiding conviction" so that the jury would know of the required
13 high level of probability amounting to that "subjective state of near certitude of the guilt
14 of the accused." (Id. at 15; emphasis added.)⁴

15 Where the Nevada courts have erred is in interpreting language in Victor as
16 approving an instruction which defines reasonable doubt *only* in terms of an abiding
17 conviction. Victor, at 14-15. In this passage, the Victor court cited Hopt v. Utah,
18 (1886) 120 U.S. 430, which had ruled approvingly of the language of an "abiding
19 conviction," but on in the context of the instruction given there. The language of the
20 instruction in Hopt was tethered to a level of a very high probability concept; in other
21 words, the instruction there required the lasting belief (abiding conviction) in a decision
22 involving a juror's own important affairs. Thus, the court said in Hopt "it is difficult to
23 conceive what amount of conviction would leave the mind of a juror free from a
24 reasonable doubt, if it be not one which is so settled and fixed as to control his action in
25 the more weighty and important matters relating to his own affairs." (Id. at 339.) This
26 is because "[i]f the evidence produced be of such a convincing character that they would

27
28 ⁴ Victor noted that in 1850, "moral certainty" meant "the state of subjective certitude about some
event or occurrence." (Id. at 12.) That level of certainty was appropriate, but the Court feared that the term
had lost its meaning over the next century. (Id. at 23.)

1 unhesitatingly be governed by it in such weighty and important matters, they may be said
2 to have no reasonable doubt...." (Id. at 441.)

3 Indeed, Hopt referred to an English case as equivalent to the one approved in
4 Haupt's case. It told the jury to have that "level of certainty with which you should
5 transact your own most important concerns in life." (Id. at 441.) Hopt recognized and
6 approved of "abiding conviction" language because it was tied to a level of certainty.
7 Thus, any notion that Victor or Hopt held that a mere "abiding conviction" definition of
8 reasonable doubt would be constitutional is destroyed upon examination of the cases.
9 Other courts have held such instructions rely only on an "abiding conviction"
10 unconstitutional. (See, Patzwald v. U.S. (1898) 54 P. 458, 459-460 [7 Okla.
11 232]; Alexander v. City of Kingisher, (1915) 151 P. 1197 [2 Okla.Crim. 600];
12 Williams v. State, (1896) 73 Miss. 820 [18 So. 826].)

13 Further, as noted in footnote 6 *supra*, just as the Victor court believed the term
14 "moral certainty" meant something different (less demanding) in contemporary times than
15 it did in 1850, the same may be said of an "abiding conviction."⁵ Today, the best a
16 linguist would opine is that the term means nothing more than a lasting belief. But in
17 what? Matters found true by a preponderance of evidence, or clear and convincing
18 evidence could sustain a lasting belief, but clearly would be unconstitutional if they were
19 applied in a criminal case.

20 Justice Mosk noted this defective phrase in his concurring opinion in People v.
21 Brigham, (1979) 25 Cal.3d 283, 299. He asked, "what is an 'abiding' conviction?" He
22 observed that "it has long since fallen into disuse and is no longer part of our daily
23 speech" and that it is a mere phrase connoting the "duration of the jury's belief." (Ibid.)
24 Justice Mosk rightly stated that "the duration of a juror's belief in guilty is essentially
25

26 5 One federal judge, commenting on the inadequacy of "abiding conviction" language untethered
27 to a certainty principle, said: "The [Supreme] Court did not suggest that "abiding conviction" in itself stated
28 the proper degree of certainty or that such term did so in a manner that could overcome conflicting and
erroneous definitions used in the same instruction. In fact, the phrase employed in Victor was "abiding
conviction to a moral certainty," which establishes a considerably higher standard than does the simple term
"abiding conviction" without the added exponential phrase." (Ramirez v. Hatcher (9th Cir. 1998) 136 F.3d
1209, 1219 (Reinhardt dissenting.)

1 irrelevant." (Id. at 300.) Adding the word "conviction" is not only of no help; it adds to
2 the confusion because that word has a meaning of an adjudication of guilt. (Id. at 300,
3 n. 5.)

4 The current instruction is so vague and low-probability oriented that jurors would
5 interpret it as requiring only a preponderance of evidence to convict. In fact, in the
6 September/October 1999 magazine, *The Sciences* (p. 18), a survey of mid-level business
7 executives was done to see what level of probability they interpreted California's
8 reasonable doubt instruction required. The figures were alarming:

9 35% put the probability at over 90% .
10 35% put the probability at 80-90%
11 18% put the probability at 70-80%
12 12% put the probability at 50-70%

13 In other words, there was wide ranging disagreement and one-third of this
14 "relatively sophisticated and homogeneous population of businesspeople" (id. at 20)
15 thought that probabilities ranging for 50% to 80% were good enough to convict. From
16 reading the article, this instruction did not include the "satisfactory proof" clause which
17 only further insures a low probability concept is communicated. This is because NRS
18 175.191¹⁹¹ definitional core of reasonable doubt is not just an abiding conviction. It reduces
19 the level of proof of guilt to that which is "satisfactorily shown" -- in other words,
20 "satisfactory proof" supporting a lasting belief.⁶ Preponderance of the evidence and clear
21 and convincing evidence can generate lasting beliefs, but these reduced civil certainty
22 standards are obviously unconstitutional if used in a criminal case.

23 Coupled with the other "reasonableness" instructions NRS 175.191 and 175.201,
24 the overall result trivializes the reasonable doubt standard so that a jury has no clue of the
25 required high level of "near certainty" (*People v. Hall*, (1964) 62 Cal.2d 104, 112 (opinion
26

27 6 The "abiding conviction" language alone is too weak to require evidentiary certainty. (*But see*
28 *Lisenbee v. Henry* (9th Cir. 1999) 166 F.3d 997 (rejecting the argument that "abiding conviction" alone is
defective).) Certainly, when that phrase is coupled to a low probability phrase like "satisfactorily shown,"
the instruction loses any chance of requiring a due process level of proof.

1 by Chief Justice Traynor), or "evidentiary certainty" (Cage v. Louisiana, *supra*, at 489
2 U.S. 41), or a "subjective state of near certitude of the guilt of the accused." (Victor,
3 *supra* at 15.)

4 Without some level of near certitude in the instruction to give the lasting belief
5 (abiding conviction) language meaning the resulting combination deflates the required
6 certainty to convict and denies due process of law. (*But see*, People v. Osband, (1996)
7 13 Cal. 4th 622, stating these instructions do not confuse the jury on the proper
8 standard; *compare* People v. Nguyen, (1995) 40 Cal. App. 4th 28 (improper argument
9 for prosecutor to trivialize reasonable doubt standard with examples of everyday decisions
10 people make).) A concept of evidentiary certainty is required to be given the jury and the
11 instructions here, assessed in their entirety, do not come close to accurately demanding
12 that level of certitude. (Victor v. Nebraska, *supra* at 5 (taken as a whole, the instructions
13 must correctly convey the concept of reasonable doubt.)

14 This is structural error and will warrant reversal *per se* under Cage if a conviction
15 results. Sullivan v. Louisiana, (1993) 508 U.S. 275.

16 This court certainly has the power (and duty) to implement the U.S. Constitution's
17 guarantees. Appellate decisions which refuse to reverse convictions do not forbid this
18 court from implementing the required language of the U.S. Supreme Court in Cage and
19 Victor.

20 Nothing forbids it. That statutory language obviously does not mandate that no
21 additional words can be given. Given that this is the most fundamental of constitutional

22 ...
23 ...
24 ...
25 ...
26 ...
27 ...
28 ...

1 guarantees and that the NRS 175.211 defect can be remedied by simply adding a few
2 words to the current defective instruction, it must be done.

3 DATED this 19 day of December, 2001.

4
5
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10 Out of State Counsel for
11 for Defendant
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FILED IN OPEN COURT

DEC 21 2001

SHIRLEY B. PARRAGUIRRE, CLERK

BY Kristen Brown
KRISTEN BROWN DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALFRED PAUL CENTOFANTI, III,
#1730535

Defendant.

Case No. C172534
Dept. No. VII

NOTICE OF MOTION AND MOTION IN LIMINE TO CONDUCT
A EVIDENTIARY HEARING TO ESTABLISH TO WHAT EXTENT MS.
CISNEROS HAS AN OBLIGATION OF ATTORNEY CLIENT PRIVILEGE

DATE OF HEARING: 1-8-02
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through
CHRISTOPHER LAURENT, Chief Deputy District Attorney, and files this Notice of Motion
and Motion in Limine.

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

///

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DATED this 21 day of December, 2001.

BY CHRISTOPHER LAURENT
Chief Deputy District Attorney
Nevada Bar #005043

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On the morning of December 5, 2000, police were called the Centofanti's home at 8720 Wintry Garden Avenue in Las Vegas as a result of a 911 call. The defendant and Gina had gotten into an argument over the fact Gina had arrived at home in the early morning hours on December 5, 2000, after being out all night. The defendant was aware that Gina wanted a divorce. The argument over Gina's absence escalated and the defendant got on the phone to call Gina's boss to accuse him of having an affair with Gina. In order to stop the defendant from embarrassing her at her place of work, Gina broke a picture frame over the defendant's head and ripped his shirt. Gina told police that the defendant held a gun to her head and told her to beg for her life. He threatened to kill Gina, the kids and himself. As a result of the struggle over the gun, Gina received a split lip.

1 The defendant denied the allegations regarding the gun to Officers stating that Gina held
2 the gun and tried to fire it at him. This, however, is inconsistent with the information provided
3 to Mark Smith when he called 911.

4 **TRANSCRIPTION OF MR. SMITH'S 911 CALL**

5 DISPATCH: Metro Police, 152

6 MARK: Yes hello, my name is Mark Smith, I'm a social worker in New York City.
7 I have a Gina Centosanti [sic] on the line. She just told me that her
8 husband pointed a gun at her and pulled the trigger, that the weapon did not
9 fire. There are two minor children in the household.

10 DISPATCH: Okay, is calling us?

11 MARK: No she's not, I'm calling you.

12 DISPATCH: I know, why isn't she calling us?

13 MARK: I have no idea ma'am. I'm a social worker I have a duty to warn. I'm
14 letting you know.

15 DISPATCH: Okay, what's the address she's at?

16 MARK: 8720 Wintry Garden Avenue

17 DISPATCH: Wintry Garden?

18 MARK: Yes.

19 DISPATCH: You have any info on him?

20 MARK: Uh, other than his name, no. His name is, oh jeez, what is his name. Hang
21 on for one second, got it here somewhere.

22 DISPATCH: Do you have her phone number?

23 MARK: Yes, (702) 838-9814

24 DISPATCH: Okay, let me get what I can from you and then I'll try to call her.

25 MARK: Ma'am.

26 DISPATCH: Yes.

27 MARK: She is significantly frightened of her husband, you cannot call.

28 DISPATCH: She won't say anything.

1 MARK: No.
2 DISPATCH: Okay, do you have his name?
3 MARK: No I don't have his name ma'am.
4 DISPATCH: Okay, is that all you, is that it, do we have, and there's two small children
5 in the house?
6 MARK: There are two small children in the house, she ...
7 DISPATCH: What is you call back number?
8 MARK: My number's 800-448-4358.
9 DISPATCH: And that is a home, do you know?
10 MARK: Yes.
11 DISPATCH: Okay, we'll get somebody out there.
12 MARK: Thank you.
13 DISPATCH: Uh-huh.

14 The defendant's employer, Eva Cisneros, also spoke with the defendant and she was
15 under the impression that the defendant would be going to jail. However, due to the fact Gina
16 had admitted to breaking the picture frame over the defendant's head, she was arrested for
17 Battery Domestic Violence the defendant and Gina were separated. GJT, pp. 80-87.

18 On December 6, 2000, the defendant applied for and received a Temporary Protective
19 Order against Gina. His basis for the Temporary Protective Order was the Battery Domestic
20 Violence that occurred the day before. GJT, p. 123.

21 The defendant finally agreed to the divorce. On December 11, 2000, the defendant filed
22 for a divorce with the aid of an attorney. Gina was not represented by counsel. The divorce was
23 uncontested and on December 12, 2000, the final decree of divorce was entered in which the
24 defendant was given primary physical custody of Nicholas and the family residence on Wintry
25 Garden Avenue. In the meantime, Gina obtained an apartment on the other side of town and
26 proceeded with her life.

27 As a result of the domestic violence incident on December 5, 2000, three (3) guns,
28 including the murder weapon in this case, were taken into safekeeping by Metro. On several

1 occasions from December 5 to December 20, the defendant contacted Metro attempting to get
2 these guns back. Due to the fact the defendant had a clean background check and Gina was
3 deemed the primary aggressor in the domestic violence, the guns were returned to the defendant.
4 The day the guns were returned to the defendant is the day he shot Gina. GJT, pp. 109-113.

5 This day was December 20, 2000. This was a Wednesday and was the day that Gina was
6 scheduled to pick up Nicholas for visitation. The defendant even called Gina at work to confirm
7 that Gina would be coming over to pick up Nicholas that night. After work, Gina went to the
8 gym to work out and made plans with her friend Trisha to meet Trisha and her parents for dinner
9 later that night. Due to Gina's dinner plans, she had called the defendant and asked if she could
10 switch her visitation from Wednesday night to Thursday night. The defendant was angry at the
11 request and insisted that Gina come to his home on Wintry Garden Avenue to visit her son.

12 Gina called Trisha Miller and told her that she would be going to pick up Nicholas after
13 all and then would meet them for dinner around 7:00 o'clock at a strip hotel. Shortly before 7:00
14 p.m. on December 20th, Gina arrived at the defendant's home at 8720 Wintry Garden Avenue
15 to pick up her son. The defendant's parents, Alfred Centofanti, Jr., and Camille Centofanti were
16 watching television on the second floor of the house. Camille and Alfred Jr. heard no arguing
17 or yelling prior to hearing gunshots and did not even know that Gina had arrived at the home.
18 GJT, pp. 35-36, 41, 57.

19 During the time that Camille and Alfred, Jr. were upstairs watching TV, the defendant
20 and Gina were alone in the downstairs family room. The defendant produced a 9mm Ruger and
21 shot Gina numerous times in the head, chest, arm, finger, and back. Specifically, Gina sustained
22 a gunshot wound to the temple, cheek and jaw, some of which were at point blank range. She
23 also sustained a gunshot wound to the upper left arm and left breast and right finger with
24 indications of at least one (1) of these shots being at point blank range. Gina also had a gunshot
25 entry wound in her lower back and a gunshot wound to the back of her left arm. GJT, pp. 12-15.

26 When Alfred Jr. and Camille heard gunshots, they ran downstairs to find the defendant
27 with the 9mm Ruger in his hands. Camille called 911 and took the defendant and Alfred Jr. next
28 door to the neighbors' house. Camille told the neighbors that the defendant had shot Gina.

1 Upon the arrival of patrol officers, it was discovered that Virginia Centofanti was dead. GJT,
2 pp. 31-34, 52-58.

3 In this case Ms. Cisneros gave police a taped statement on January 3, 2001. The sum and
4 substance of that statement are as follows:

5 Cisneros identified herself as Alfred "Chip" Centofanti
6 III's work supervisor. On December 3, Cisneros stated that she
7 became aware of difficulties in Centofanti's marriage when he
8 called her for advice. Centofanti was concerned because his
9 wife was not coming home, and he was taking responsibility for
10 the care of the children.

11 Some time afterward on the December 5th in the mid
12 morning hours, Cisneros received another telephone call from
13 Centofanti. Centofanti alleged that when he wife Virginia
14 Centofanti, woke up--after being out late the previous evening
15 into the morning--he confronted her about having an affair with
16 her boss. Virginia became angry and broke a picture frame over
17 his head. Chip contended that Virginia threw him down the
18 stairs, and there was a struggle over the gun. Cisneros provided
19 Chip with a telephone number to an Employee Assistance
20 Program and she advised Chip to get the gun out of the house.
21 Cisneros overheard Virginia screaming in the background: "He,
22 he's trying to kill me." Chip also asked Cisneros if she could
23 obtain names of divorce attorneys. Cisneros added in the
24 interview, that she called the residence back later and spoke with
25 a police officer who had arrived at the scene, and then on a third
26 subsequent telephone call, she contacted Chip--who explained
27 the incident to her.

28 Cisneros attended a divorce hearing on December 13th
between Chip and Virginia. The divorce was finalized and
Cisneros described Chip's Demeanor as "very depressed. . .
almost in a state of shock."

On Wednesday--the day of the homicide--Cisneros noted
that Chip was really angry because Virginia wanted to take
Nicholas (the baby) to San Diego for Christmas; Furthermore,
Chip had told Cisneros that eh was concerned because Metro
still had his gun; Chip had mentioned that he thought he had
been followed from work, Cisneros also stated that Chip told her
either on Monday or Wednesday he discovered that Virginia was
having a second affair.

On the evening of the homicide, Cisneros received a
telephone call at 1900 hours from Chip's father, Alfred
Centofanti Jr.. He was sobbing and indicated that he was going
to pass the telephone to his wife. Camille Centofanti then told
Cisneros: "Eva, um we were upstairs and I heard shots and
Gina's dead." Camille Centofanti asked Cisneros if she could
come over to the house. Cisneros said that she would get the
name for an attorney for Chip and call her back with the
information. Camille provided the telephone number to a
neighbor's residence. Cisneros called Jeena Mutch, a co-worker
of Chip Centofanti, in an effort to get a telephone number of a
criminal attorney with who she was acquainted.

1 Officer's Report, Thomas Thowsen.

2 Initially Ms. Cisneros was very cooperative. In recent months she has hired John Moran
3 Jr. in this matter and is now asserting attorney client privilege. Yesterday the District Attorney's
4 Office attempted to serve both Ms. Cisneros and Mr. Moran's office. Both Ms. Cisneros and
5 Mr. Moran's office attempted to refuse service.

6 **ARGUMENT**

7 Section 49.015 of the Nevada Revised Statutes states:

8 NRS 49.015 Privileges recognized only as provided.

9 1. Except as otherwise required by the Constitution of the
10 United States or of the State of Nevada, and except as provided
11 in this Title or Title 14 of NRS, **no person has a privilege to:**

- 12 (a) Refuse to be a witness;
13 (b) Refuse to disclose any matter;
14 (c) Refuse to produce any object or writing; or
15 (d) Prevent another from being a witness or disclosing
any matter or producing any object or writing.

16 2. This section does not:

17 (a) Impair any privilege created by Title 14 of NRS or by
18 the Nevada Rules of Civil Procedure which is limited to a
19 particular stage of the proceeding; or

20 (b) Extend any such privilege to any other stage of a
21 proceeding.

22 (Emphasis added). The statute clearly indicates that an individual may not refused to testify
23 unless there is some constitution protection or a valid privilege. Section 49.095 states the
24 general rule on privilege:

25 NRS 49.095 General rule of privilege. A client has a
26 privilege to refuse to disclose, and to prevent any other person
27 from disclosing, confidential communications:

- 28 1. Between himself or his representative and his lawyer
or his lawyer's representative.
2. Between his lawyer and the lawyer's representative.
3. Made for the purpose of facilitating the rendition of
professional legal services to the client, by him or his lawyer to
a lawyer representing another in a matter of common interest.

29 The State is requesting an evidentiary hearing to determine if such a privilege exists in this case.
30 The focus of this inquire needs to be whether or not the defendant was a client of Ms. Cisneros
31 for the purpose of the various conversations he had with her concerning Virginia.

32 NRS 49.045 "Client" defined. "Client" means a person,
including a public officer, corporation, association or other
organization or entity, either public or private, who is rendered

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Shirley B. Pangione
CLERK

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)

Plaintiff,)

vs.)

ALFRED P. CENTOFANTI, III,)

Defendant.)

Case No. C172534

Dept. No. VII

Docket No. P

CONDENSED TRANSCRIPT
CONCORDANCE

Before the Honorable Mark Gibbons

Friday, December 21, 2001, 9:00 a.m.

Reporter's Transcript of Proceedings

MOTIONS HEARING

APPEARANCES:

For the State:

CHRISTOPHER LAURENT, ESQ.

BECKY GOETTSCH, ESQ.

Deputies District Attorney

For the Defendant:

GLORIA NAVARRO, ESQ.

Deputy Special Public Defender

ALLEN BLOOM, ESQ.

Attorney at Law

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

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I N D E X

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ACCUSCRIPTS (702) 391-0379

on this case.

He also represents Jeena Mutch, who is also an attorney who responded to the scene on December 20th, 2000.

Mr. Moran came into our office, in fact, Miss Goettsch's office, and we spoke with him concerning whether or not we were going to call Jeena Mutch, and indicated that he was going to assert the attorney/client privilege.

We looked at the evidence concerning Jeena Mutch; we indicated we wouldn't be calling her, but that we would like -- we might be calling Miss Cisneros, because we thought that that was outside the scope of the attorney/client privilege on some of the information.

Mr. Moran agreed that we could have a pre-trial with his -- agreed that we could have a pre-trial. We tried to set up a pre-trial. He was supposed to get back with us, and we'd try to do it this -- was it this Tuesday?

He never called us back and now he's gone for 20 days apparently.

Just so I can comply with my obligations as prosecutor, I tried to get Miss Cisneros served, so I tried to serve her at her office. They refused service.

So then I tried to serve her through Mr.

ACCUSCRIPTS (702) 391-0379

Las Vegas, Nevada, Friday, December 21, 2001, 9:00 a.m.

THE COURT: Let's go to page two, Case Number C172534, the State of Nevada versus Alfred Centofanti, III.

Let the record reflect the presence of Mr. Centofanti; together with his attorneys Allen Bloom and Gloria Navarro; the State of Nevada represented by deputy District Attorneys Christopher Laurent and Becky Goettsch. Also present is attorney Lew Brandon as well.

Mr. Laurent, Mr. Brandon -- Mr. Laurent, Mr. Brandon came by my office this morning and advised me that his office, himself and John Moran, Jr., represent Eva Cisneros, I guess, who he indicated to me had been subpoenaed as a witness today.

And I -- I just asked him to stick around and -- Mr. Moran, apparently, is out of town -- and come back in and let us know what his client's concerns were so you could hear them and we could deal with them before we get started.

MR. LAURENT: Let me clear up the record on that, Judge. We've been speaking with Mr. Moran for a while

Moran, since Mr. Moran is representing her. Mr. Moran's office refused to take service at that point.

My alternative will be, in the future, to seek a material witness warrant if I can't get her served and that's just where I'm at.

I tried to call Mr. Moran's secretary. They indicated they would be calling me back in ten minutes. I waited around for an hour and a half; nobody called me back on that.

I just want to explain, I'm not trying to be, you know, evil on this. I'm just trying to make sure I am served.

I understand we have to have a hearing in front of the Court. In fact, I have a motion that I'll file in open court at this time.

It's entitled notion -- Notice of Motion in Limine to conduct an evidentiary hearing to establish to what extent Miss Cisneros has an obligation of attorney/client privilege. I'll get you a copy.

I understand that, but I still need to have her served and since I was not having any cooperation -- that's the state of record as it is now.

Mr. Moran never got back with us on that; and yesterday, his office was refusing service for their

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1 client, which under the legal -- under the ethical
2 obligations, I can't directly contact her myself. I can
3 have her served, but I have to go through her attorney.

4 So that's what I was trying to do and now
5 they're refusing to accept service.

6 THE COURT: Okay. Mr. Brandon.

7 MR. BRANDON: I just got a call late last
8 night from John Moran. He was the attorney for Eva
9 Cisneros.

10 He is in Sun Valley now, but he related to
11 me that he spoke with Becky Goettsch at some time --

12 THE COURT: Goettsch.

13 MR. BRANDON: -- last week about whether or
14 not Eva was going to be testifying or not; and that the
15 trial was beginning on January -- on the 7th; and that her
16 testimony, if needed, would not begin until the 8th, and
17 that when he returned from Sun Valley, that they would be
18 meeting to discuss whether or not they're going to have her
19 testify.

20 MR. LAURENT: Well, that's inaccurate,
21 because we had agreed to meet on Tuesday and --

22 MS. GOETTSCH: Judge, just to --

23 THE COURT: Miss Goettsch, go ahead.

24 MS. GOETTSCH: I had the conversation with

ACCUSCRIPTS (702) 391-0379

1 trying to get set up.

2 THE COURT: Okay.

3 MS. GOETTSCH: I don't know if she could
4 testify or not.

5 THE COURT: Mr. Brandon, when is Mr. Moran
6 due back from Sun Valley?

7 MR. BRANDON: I believe he's going to be
8 back the 7th.

9 I don't know. I know he's not going to be
10 back until after the new year.

11 THE COURT: Well, the trial starts the 2nd.

12 MR. BRANDON: The 2nd or the 7th?

13 THE COURT: The 2nd.

14 MR. LAURENT: Testimony doesn't come until
15 the 7th at the very earliest.

16 MR. BRANDON: Until the 7th.

17 MR. LAURENT: At least three days to pick
18 the jury.

19 THE COURT: Well, jury and opening
20 statements and whatever else we have to deal with.

21 MR. BRANDON: Right.

22 THE COURT: Let me ask you this: Can you
23 meet with Miss Cisneros and the State, like, next week --
24 just set up a time and then that gives you time to talk to

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1 him. I called him on Monday. I said: We need to set
2 something up.

3 He says: Oh, well, it has to be tomorrow,
4 Tuesday, or I'm gone for 20 days.

5 And I said: Well, we're in the middle of
6 trial by the time you get back. So call me about getting
7 together on Tuesday. I hear nothing from nobody.

8 And we're kind of left hanging then at this
9 point as to what's going to happen for today's hearing and
10 for the trial, because we'd be in the middle of trial before
11 we could set up a time for him to come back and meet.

12 THE COURT: Well, did you need Miss Cisneros
13 to testify at today's hearing, the Petrocelli hearing?

14 MS. GOETTSCH: We wanted to talk to her
15 before we made that decision, because we don't -- Mr.
16 Moran -- and our agreement was that: Well, we'll get
17 together; we'll talk.

18 If you think you want to use her, then we'll
19 go the next step and we'll have a hearing about whether she
20 has an attorney/client privilege.

21 But just to try to work things out on our
22 own ahead of time, let's have this little meeting and you
23 can talk to her in my presence.

24 That never happened. That's what I was

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1 Mr. Moran on the phone and kind of get --

2 MR. BRANDON: Well, I --

3 THE COURT: -- details and all.

4 MR. BRANDON: Why don't I relate -- get his
5 calendar and find out exactly when he's going to get back
6 and make it my responsibility that John Moran and Eva get
7 together with them --

8 THE COURT: Well, here's how I'm kind of
9 thinking, because the State -- we're going to start jury
10 selection --

11 MR. BRANDON: Right.

12 THE COURT: -- and the State -- the first
13 thing we're going to do on January 2nd is each side is going
14 to get up and have to say who their witnesses are going to
15 be. So the State has to get some sort of feel for who they
16 are calling.

17 MR. BRANDON: Would it be possible to do it
18 telephonically?

19 MR. LAURENT: I have no objection.

20 THE COURT: I'm thinking that if you can
21 talk to Mr. Moran and maybe go with Miss Cisneros and
22 yourself to the DA's Office and hook up with Mr. Moran on
23 the telephone and you can discuss whatever you need to
24 discuss so that the State can make a determination: Are

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1 they going to call her or not call her?

2 And, again, the defense has a right to know,
3 as well, if she's going to be a witness or not and what
4 she's going to be a witness for.

5 MR. BRANDON: Right.

6 THE COURT: So we need to get that resolved
7 as soon as possible.

8 MR. BLOOM: If I could interrupt, Your
9 Honor.

10 There is actually even a more preliminary
11 step to that.

12 We're -- the Court has addressed the
13 question of general notice as to regular witnesses and stuff
14 like that, but there is that foundational question of
15 attorney/client privilege; and I don't know if it's
16 addressed in Mr. Laurent's motion that he just filed, that
17 I'll get a copy of in a little bit, I guess, or -- or not,
18 but it's -- before Miss Cisneros should speak to the
19 prosecution, there has to be a determination as to whether
20 or not the information -- there is an assertion on behalf of
21 my client and he holds a privilege as attorney/client
22 privilege.

23 THE COURT: Right.

24 MR. BLOOM: He holds that privilege, not

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1 THE COURT: Mr. Laurent.

2 MR. LAURENT: I guess the question needs to
3 be: When is Mr. Centofanti asserting that the
4 attorney/client privilege began?

5 I mean, that's what we need to know.

6 THE COURT: Well, here's what I'm kind of
7 thinking -- we're kind of fleshing this out as we --

8 MR. LAURENT: Well, my motion contemplates
9 an evidentiary hearing to determine that, Judge.

10 THE COURT: Well, I'm going to set it for
11 next -- how long do you think the evidentiary hearing would
12 be?

13 And I will ask Mr. Bloom -- I'm going to
14 work on this case -- I mean, I will allot time both on
15 Wednesday and Thursday. We have calendar call next
16 Thursday.

17 Because this last minute flurry of issues
18 are coming up, I'm going to make Wednesday available to --
19 Mr. Bloom, I don't know what your schedule is, but if it's
20 bad, I mean, let -- let me know.

21 My problem is, Thursday afternoon, I have to
22 be in San Diego, but I -- I will have some time Thursday
23 morning, you know, to deal with the issues here, but I don't
24 have all day on Thursday, so that's why I want to make

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1 Miss Cisneros.

2 THE COURT: Right.

3 MR. BLOOM: The Court has to make a
4 determination as to whether or not Miss Cisneros is
5 speaking -- gained information under this umbrella of
6 attorney/client privilege, and that has to be done before
7 she communicates with the prosecutor and makes it a
8 foundational thing and gives them information to -- for them
9 to determine, well, do they want her as a witness?

10 Before they can evaluate the benefits or
11 detriments of her testimony by interviewing her, there has
12 to be a determination by the Court as to whether or not they
13 can speak to her at all or --

14 THE COURT: So what you are saying, your
15 client is asserting the attorney/client privilege in
16 conversations with Miss Cisneros; and, therefore, you want
17 to do this before she even talks to the District Attorney.

18 MR. BLOOM: Yes.

19 Now, she may have things that have nothing
20 to do with their attorney/client contacts, and I -- I don't
21 know that either.

22 But I do know that there was communications
23 between them, which was under the umbrella of
24 attorney/client.

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1 Wednesday available.

2 MR. LAURENT: I think that hearing, Judge,
3 would be no more than a half an hour at the most.

4 What -- there --

5 MR. BLOOM: He's probably right.

6 THE COURT: Would you agree with that?

7 MR. BLOOM: This issue -- we may have other
8 issues on Thursday, but this issue of Miss Cisneros --

9 THE COURT: Is Wednesday a bad day for you?

10 MR. BLOOM: Yes, Your Honor.

11 THE COURT: Okay. We'll do it Thursday then
12 like that. As long as we can get it done in the morning,
13 this and whatever other issues we have, because we've got
14 some new matters that have just been filed, and we're going
15 to need to get them set, so each side can take a look at
16 them and respond.

17 So why don't we do this then: We'll have --
18 Mr. Brandon, then, for your edification, we'll have a
19 hearing next Thursday at nine o'clock.

20 At that time, we'll deal with the issue of
21 what's being asserted on the attorney/client privilege,
22 which will be relevant to what your client needs to know.

23 Then, after we go through -- flesh out that
24 issue, assuming their issue is what Miss Cisneros can talk

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1 to the State about, then we'll set up the time, and maybe on
2 Thursday, later, Mr. Moran can hook up by telephone and the
3 State can go ahead and interview Miss Cisneros.

4 MR. BRANDON: So Thursday is the hearing set
5 for the motion --

6 THE COURT: Well, I'll deal on Thursday with
7 the motion to see if she can even --

8 MR. LAURENT: So Miss Cisneros will have to
9 be here on Thursday.

10 THE COURT: Yeah.

11 MR. BRANDON: She will have to be here on
12 Thursday or is that a time -- if you establish that there is
13 attorney/client privilege --

14 MR. LAURENT: Well, she needs to be
15 questioned as to that matter.

16 THE COURT: Well, I suspect you are going to
17 have to -- each side is going to have to ask her questions
18 as part of the evidentiary issues on -- on the
19 attorney/client -- all we're going to deal with on Thursday
20 morning is the attorney/client privilege.

21 I mean: Is there matters that she discussed
22 as an attorney with -- for Mr. Centofanti, which would be
23 privileged and we can't -- the State can't go into it, and
24 we'll sort that out.

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1 proof to what extent there is attorney/client privilege.

2 I mean: Oh, now, there is an
3 attorney/client privilege on that. Now there is
4 attorney/client privilege on this.

5 THE COURT: Well, let's deal with the
6 attorney/client privilege; that shouldn't be that hard to
7 get a definition of what was -- if it comes under that scope
8 or it doesn't.

9 MR. LAURENT: Right.

10 THE COURT: Why don't we get -- Kristen, did
11 you file the motion?

12 MR. BLOOM: If what comes under the scope --

13 THE COURT: I mean, if there -- if there is
14 an attorney/client privilege and what the issues are; are
15 there matters that are beyond the scope of the
16 attorney/client privilege, i.e., percipient witness issues
17 or things like that.

18 I mean, we'll figure that out on Thursday
19 morning.

20 MR. BLOOM: I haven't seen the motion.
21 Maybe it's in there.

22 (Whereupon, a sotto voce at this time.)

23 THE COURT: Okay. Mr. Bloom, we'll give you
24 a copy right now so you can read it --

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1 Or -- I don't know if she's a percipient
2 witness. I have no idea. I don't know what she knows about
3 it. It may be non-attorney/client issues and the State has
4 a perfect right to go into them. We're not going to know
5 that unless we have her here.

6 But it will be just restricted to that. All
7 I'm going to do is just attorney/client issues, period, on
8 Thursday morning.

9 And then after that, then Mr. Moran can be
10 available as far as general interviewing, assuming the Court
11 feels it's appropriate to do that.

12 MR. BLOOM: Maybe -- I don't know if his
13 motion addresses it -- and Mr. Laurent has been somewhat
14 handicapped because he hasn't spoken to her -- but if we can
15 have an offer of proof as to the general subject matter that
16 people think she would have relevant testimony about, then
17 that would --

18 THE COURT: Well, it might be in his motion.
19 I don't know.

20 MR. BRANDON: Judge, I did --

21 MR. LAURENT: Judge, it's in the motion; the
22 information is in the motion.

23 Additionally, I think that would be
24 premature until we decide -- until there is an offer of

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1 MR. BLOOM: All right.

2 THE COURT: -- and we won't be stabbing in
3 the dark on this one.

4 MR. BRANDON: Judge, for some reason -- I
5 tried to find out where Eva was, and their office -- I mean,
6 I have an impression that she -- she's gone for the holiday.

7 MR. LAURENT: She was there yesterday,
8 Judge; wouldn't take service; either would Mr. Moran's
9 office.

10 And what we're asking --

11 MR. BRANDON: He wasn't there yesterday.

12 MR. LAURENT: Mr. Moran is Moran &
13 Associates. He has a law office going on. He is the
14 attorney and his associates.

15 THE COURT: Mr. Brandon, I will continue the
16 subpoena until Thursday morning at nine a.m.

17 If she's not here or gone or whatever, would
18 you call it to my attention?

19 MR. BRANDON: Yes.

20 THE COURT: Notify Mr. Laurent or Miss
21 Goettsch and Mr. Bloom so we know what we're dealing with.

22 I'm going to go ahead with the hearing on
23 next Thursday one way or the other. Hopefully, she will be
24

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1 here so we can deal with those issues then.

2 MR. LAURENT: Have you -- have you deemed
3 this as served then on -- on Miss Cisneros, Judge?

4 THE COURT: Mr. Brandon, did you want to
5 comment on that?

6 There was some issue on service --

7 MR. BRANDON: Well, I mean, I'm just looking
8 through -- I mean, I adamantly deny that anyone has refused
9 service. John Moran, Jr., Esq. is not Moran & Associates.
10 It's a professional corporation, so I mean --

11 THE COURT: Well, what --

12 MR. BRANDON: I'm here merely on behalf of
13 John Moran to state that he was not properly served.

14 THE COURT: Okay. What about Miss --

15 MR. LAURENT: Your Honor, I need a material
16 witness warrant then, because no one will accept service.
17 We have tried to serve; she's a material witness.

18 And I'm sorry, Judge, but that -- I mean,
19 what am I supposed to do?

20 THE COURT: Well --

21 MR. LAURENT: And I'll have that warrant to
22 you today.

23 MR. BLOOM: I'm not --

24 MR. LAURENT: That's an ex parte motion.

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1 come on back to the court and give us a status report on
2 what is going on and we'll go from there.

3 MR. BRANDON: Sure. Okay.

4 THE COURT: Okay. Thank you.

5 MR. LAURENT: Judge, I have another motion
6 to file in open court. It's titled Notice to Motion and
7 Motion in Limine to prohibit the introduction of character
8 evidence of the victim or any State's witnesses, absent a
9 Petrocelli hearing.

10 The Coleman case requires that a Petrocelli
11 hearing be held any time you want to enter evidence under
12 48.0 -- I can't remember the --

13 THE COURT: I'll set that for next
14 Thursday --

15 MR. LAURENT: I appreciate that, Your Honor.

16 THE COURT: -- at nine o'clock, Mr. Bloom,
17 so you get a chance to read it and respond to it.

18 MR. LAURENT: Another issue that I have,
19 Judge, is I got this memorandum -- I don't know if it was
20 filed with the Court or not, because I don't have a filed
21 stamped copy, but I'm a little bit concerned about this.

22 It's come to my attention that there has
23 been quote/unquote newly discovered evidence.

24 That newly discovered evidence is, as I

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1 You don't even get to talk about it in this court.

2 THE COURT: I don't want to have attorneys
3 arrested on material witness warrants, Mr. Laurent.

4 Why don't we get Mr. Brandon to go get on
5 the phone with his client and see if we can get this worked
6 out.

7 MR. LAURENT: My question then is: Under
8 your supervisory powers, would you order her to be here;
9 make contact -- have your office contact her and order her
10 to be here.

11 THE COURT: Why don't we do this: Let's let
12 Mr. Brandon go ahead and make a phone call. Let's find out
13 what is going on with the schedule as of -- my intention
14 right now would be to order her to be here on the 27th at
15 nine a.m.

16 I don't want to sign a warrant, I mean, for
17 an attorney to -- to --

18 MR. BRANDON: Judge, I'm going to do my best
19 efforts to find her and inform her.

20 THE COURT: Well, I'm sure her secretary
21 probably has some idea where she is so you can get ahold of
22 her.

23 Why don't you go do that. You are welcome
24 to go back to my office and use the phones there and just

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1 understand it, shell casings that the defendant found in his
2 home after; it has been in his possession since that time,
3 and under advice of counsel has not been turned over to
4 anybody.

5 Mr. Bloom was at least aware of this last
6 month and now we're just finding out about these shell
7 casings.

8 I'm a little concerned about that, Judge.

9 I'll -- as you know, you can't tell where
10 shell casings come from once they're fired; you don't know
11 when they were fired, where they were, and I'm concerned
12 about that evidence having been held for that period of
13 time.

14 And I -- and quite honestly, I don't even
15 know where it is at this point.

16 THE COURT: Okay. Mr. Bloom.

17 MR. BLOOM: Starting backwards, the police
18 have the evidence.

19 I believe they've been turned over to a Las
20 Vegas Metropolitan police technician. His name is Dahn,
21 D-a-h-n. And I told Miss Goettsch this yesterday.

22 Officer Thowsen had them. My investigator
23 Jim Thomas brought them to Officer Thowsen and I believe
24 Officer Thowsen turned them over to -- to Investigator Dahn

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1 and that's -- that's where they are now in terms of the
2 case.

3 THE COURT: Okay.

4 MR. BLOOM: And in terms of the sequence of
5 them and how they ended up in those people's hands and how
6 we delivered them and so on and so forth, and why we did it,
7 that's why I prepared the memo, to try to explain to the
8 Court the sequence of it.

9 So, yes, I did file this with the Court. I
10 assume the Court has a copy of that and that provides the
11 sequence of why we did it.

12 Frankly, I don't think we had to, but I felt
13 we should and we took that road and presented it.

14 So I don't think the evidence really has --
15 as I stated in there, I don't really think this is terribly
16 earth shaking evidence.

17 It was -- there were seven shots; five
18 casings were found at the scene. The police missed these
19 two.

20 They were questioned about the missing shell
21 casings throughout their investigation. Even at the Grand
22 Jury, they were asked by a Grand Juror how come there is
23 only five when there was seven shots and so forth.

24 And the officer said sometimes these things

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1 Well, now we've had these shell casings that
2 the defendant is going to allege came from who knows where
3 and that's made part of that -- we've got them now,
4 apparently, but now it's made part of their examination.

5 We have -- there is no -- the evidentiary
6 value of those is very minimal since -- I mean, look where
7 they're found, the manner in which they were kept.

8 Additionally, Judge -- and it needs to be
9 pointed out, and this is a side issue but not, we have still
10 not received a single report from the defendant on any of
11 the experts; no notes, no reports.

12 This Court ordered it last time, ordered it
13 this time. We're way within the 21 days. We have no
14 reports. We have no subject matter of what was going to be
15 said. We have nothing on this.

16 That's what concerns me, Judge. It's not
17 that there's casings. I don't know what -- what their
18 intent to use them for is because the defense has failed to
19 follow the procedure in the State of Nevada. They have
20 consistently thumbed their nose at it. We have nothing on
21 that.

22 When we asked for discovery, pursuant to the
23 Court's order, last time we were in court, the defense says:
24 Yeah, I got some discovery for you. I said: When can I

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1 happen; they get kicked; they get moved; they get bounced.
2 Shell casings can bounce around and sometimes we just miss
3 these things.

4 And that's what they did and now they're in
5 their possession.

6 In terms of establishing that there was
7 seven shots and -- sometimes, casings can tell you how many
8 shots are there, if you don't have the bullets or the wounds
9 or something, but that's not -- that's not our situation
10 here.

11 We're -- we know there is seven shots.
12 Independent of the -- of any casings, we know that.

13 So I don't really think there is an enormity
14 or tremendous impact or explosiveness of any kind as relates
15 to these two casings that we have, but I have presented this
16 to -- we delivered them to the police for all the reasons
17 that I put in the motion.

18 THE COURT: Mr. Laurent.

19 MR. LAURENT: Here's my problem with this,
20 Judge: As you will recall, back when we asked for expert
21 witnesses and you ordered that all -- all the witness
22 information on experts be given 21 days out, the defendant
23 indicated that he was going to be calling an expert on
24 ballistics and shot trajectory.

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1 have it? I will have it to you today. Never received that.

2 Then when they talked about discovery this
3 week: Oh, yeah, 700 pages. Can you come down and pick it
4 up? Down in San Diego.

5 Can you arrange to have it copied in San
6 Diego?

7 You know, the fact that there is a San Diego
8 attorney representing the defendant is not the State's
9 fault. We provided the discovery. There was a bill made.
10 But we provided the discovery.

11 This hiding the ball is disingenuous and
12 inconsistent with the Court's order.

13 I contemplate that the Court wants a fair
14 proceeding and wants materials turned over to the State as
15 promptly as possible.

16 Mr. Bloom said: I'm going to turn them over
17 immediately. We got 700 pages yesterday. That's not
18 immediate. He didn't collect those 700 pages a day ago.

19 And we're just trying to make sure that
20 we're ready to go to trial, like we've always been trying to
21 make sure.

22 We haven't received a single report from an
23 expert. They've designated how many experts now?

24 MS. GOETTSCHE: Four or five.

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1 MR. LAURENT: Four or five experts.
 2 We don't have any reports.
 3 THE COURT: Okay. Mr. Bloom, what is the
 4 status of the reports? Are they preparing reports or --
 5 MR. BLOOM: This -- the Court asked, I
 6 think, a relevant question.
 7 MR. Laurent's account of a shotgun, of a
 8 whole lot of things, I'm sitting here trying to be polite
 9 and hold my breath and not respond to.
 10 Let me do them one at a time. The Court
 11 brings up the experts first.
 12 THE COURT: Okay.
 13 MR. BLOOM: We don't have any reports from
 14 their experts either, Judge. They've designated three
 15 experts. I don't have any reports from them either.
 16 MR. LAURENT: Judge, I've got to object to
 17 that. That's entirely --
 18 MR. BLOOM: You know --
 19 MR. LAURENT: -- false.
 20 MR. BLOOM: I don't know how much
 21 rudeness --
 22 THE COURT: Hang on a second.
 23 I'll hear what he has to say, Mr. Laurent.
 24 I'll let you respond to whatever he says.

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1 Go ahead, Mr. Bloom.
 2 MR. BLOOM: I appreciate that, Judge.
 3 I was sitting here -- I could have
 4 interrupted Mr. Laurent a bunch of times with indignation.
 5 THE COURT: Well, just as a preview for the
 6 trial, this is how we will do it. I will let each side
 7 speak; objections can be made; and then we'll make sure each
 8 side gets their fair say on all issues then.
 9 So go ahead.
 10 MR. BLOOM: I -- I don't have any report
 11 from their experts.
 12 I have a general statement of what they're
 13 going to testify to and that's what they have in my case,
 14 but that's not why they only have that in my case
 15 I don't -- none of -- there are no experts
 16 that have prepared reports.
 17 Dr. Eisel is a pathologist. He has talked
 18 to Dr. Sims, who is the coroner, who did the autopsy here.
 19 He has reviewed materials from Dr. Sims and
 20 materials that the People have given us with regard to that;
 21 and he has talked with me.
 22 He has not yet written a report, because we
 23 haven't formulated -- I don't know if he's going to write a
 24 report. A formal report is not required under Nevada law.

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1 It -- perhaps that's why the People's
 2 experts haven't prepared any formal report either.
 3 But, nonetheless, he is going to testify
 4 about what I think their expert is going to testify about.
 5 Oh, when I said their experts have not
 6 prepared any reports, Mr. Laurent is correct to correct me.
 7 That's wrong. Because Dr. Sims, who did the autopsy, of
 8 course, prepared his autopsy report, and I have that.
 9 But I was thinking about the other report --
 10 the other experts, some designated ballistics experts, that
 11 were talked about afterwards, and there is no report on
 12 them.
 13 But Dr. Sims most definitely prepared a
 14 report. It's the autopsy report.
 15 And so Dr. Eisel is one expert and he has
 16 reviewed these materials and he's going to testify depending
 17 on what Dr. Sims says. If there is a difference, he -- Dr.
 18 Eisel will testify about the cause of death and the manner
 19 of death and the things that pathologists testify to as
 20 relates to our particular case.
 21 We have an expert on ballistics, Richard
 22 Fox. He has not prepared a report because he hasn't
 23 completed his evaluation of the case. He has relied upon
 24 materials that the People have provided. There is nothing

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1 new that he has done. He hasn't gone down to do any expert
 2 testing.
 3 Mr. Fox has consulted with Dr. Eisel, and he
 4 will -- I expect he will testify with regards to a theory or
 5 a -- what -- what happens with experts is one side says
 6 it's -- the physical findings you have is consistent with
 7 this type of potential circumstance of him shooting her in
 8 this -- in this way and the People will ask those questions.
 9 I expect to ask the same questions of their
 10 experts and of my experts: From the physical findings you
 11 have seen, is it consistent with this theory or this
 12 sequence of events?
 13 And that's the way experts always testify
 14 and no expert that I'm going to present will say this is the
 15 only way it could ever happen or something like that.
 16 They will say the -- these physical facts
 17 are consistent with this -- this scenario.
 18 Certainly, I'm not obligated to -- to tell
 19 them the exact questions I expect to present; that's work
 20 product.
 21 But in terms of what the experts are going
 22 to -- the general subject matter, which is what the statute
 23 envisions, that is -- we've told them that and I continue to
 24 tell them that.

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1 We have another expert -- oh, we have Dr.
2 Glen Lipscomb. He is a psychologist who has examined his --
3 begun the examination; has had one full day of examination
4 of Mr. Centofanti, needs a second, and we'll do that.

5 Like everybody during this period of time,
6 there is holiday travel, so he had to interrupt his second
7 day of evaluating Mr. Centofanti because he went to China.

8 I think he's in China now and is due to be
9 back in, I think, two or three days or something like that,
10 and expects over the Christmas -- that week to -- to
11 complete that.

12 The -- oh, Dr. Scott Frazier is a
13 psychologist, who is going to be presenting testimony in
14 general, not to a -- not having examined Mr. Centofanti per
15 se, but he -- Dr. -- Dr. Frazier will speak about the
16 subject of -- of what he calls a syndrome of flight or
17 fright.

18 The body experiences a series of
19 physiological responses in the face of an enormous,
20 stressful situation. That's something that the jurors don't
21 know about, how the -- how -- literally how the body
22 changes, how the blood flows away -- goes to the brain,
23 how -- how it moves to the major skeleton areas, moves away
24 from the stomach.

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1 was his state of mind at that time?

2 Was it a state of mind of premeditation and
3 deliberation and cool calculated thought? Was it -- was
4 there malice there? Was there heat of passion? Was there
5 justifiable self defense? Was in his mind a feeling about
6 fear?

7 These are all -- this is -- that's the whole
8 case. And the question, the People are going to say: Seven
9 shots is an indication of that evil state of mind, that
10 premeditated state of mind; that's cold and calculated.

11 Dr. Frazier is going to talk about the
12 phenomenon of -- of the -- what happens to people under
13 enormous stressful situations and how seven shots doesn't
14 necessarily at all indicate some sort of -- it doesn't have
15 to indicate some sort of -- of evil premeditation.

16 THE COURT: Well, let me ask you this -- I
17 mean, he's an expert. He has his opinions on this issue.

18 It seems to me the State has a right to
19 rebut this --

20 MR. BLOOM: Yes.

21 THE COURT: -- and have their experts
22 disagree with this expert.

23 MR. BLOOM: Yes.

24 THE COURT: So we need to know -- and I

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1 And -- and this general phenomenon that
2 happens in people is why you have officers who, when they do
3 a shooting, under that stressful situation, they'll think
4 they shot once and, in reality, they shot seven times or
5 unloaded the gun, fired the gun until it's empty.

6 Because the People have talked about, and,
7 undoubtedly, the people in this case will emphasize, the
8 fact that the victim in this case or Miss Centofanti -- I'll
9 call her Miss Centofanti -- the decedent in this case was
10 shot seven times.

11 What could possibly be the -- they will
12 undoubtedly argue: You are claiming self defense in this.
13 Well, wouldn't one shot have been enough?

14 There is no question they're going to make
15 that presentation the theme of their case; they're going to
16 argue it.

17 They've already said -- they've already said
18 so in their statements to this Court and also in papers they
19 filed.

20 So then why somebody would react and
21 shoot -- they're going to attribute those seven shots as
22 showing a state of mind, which is the whole case that we
23 have here, right, the function of not whether or not Mr.
24 Centofanti shot Mrs. Centofanti, but whether or not -- what

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1 appreciate you laying this out so the State at least knows
2 where you are coming from and they can determine, for
3 rebuttal purposes, what they need to do.

4 MR. BLOOM: I've -- I've told this to the
5 State.

6 Dr. Frazier's general thing that I've said,
7 I've mentioned to them already. That's not anything new.

8 He has sent me -- the only thing he sent me
9 is some articles which deal with this in general terms
10 and -- of course, he sent me his CV, which they have, and
11 the articles dealing with it in general terms.

12 I got those and I have marked them and they
13 have been sent to --

14 THE COURT: Well, my understanding of the
15 law -- and you both can correct me if I'm wrong -- is
16 neither expert is required to prepare reports --

17 MR. BLOOM: That's true.

18 THE COURT: -- but you have to notify the
19 other side of basically a synopsis of their testimony so
20 they have some way of -- each side has some way of preparing
21 how to deal with it.

22 MR. BLOOM: When the People -- that's true.

23 I actually fashioned my notice to -- to --
24 to them, based upon the notice they gave me, with regard

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1 to -- I think his name was McLaughlin and two others.

2 These are ballistics; would be equivalent to
3 my guy Fox, the ballistics person. They say here he's going
4 to testify about the general matters having to do with the
5 shooting and so forth and so on.

6 It was, I think, about four lines or
7 something like that. I -- that's what I fashioned mine
8 after when I was telling them about Dr. Frazier.

9 Our invest- -- our preparation for this
10 matter of -- with regard to Dr. -- I can tell you this:
11 That Richard Fox is going to talk about the shooting
12 capabilities of that weapon; that the seven shots of that --
13 with that kind of weapon, the seven shots could be fired in
14 a matter of two seconds or three seconds.

15 And to that extent, I've had my investigator
16 take a very similar weapon and fire off the shots, seven
17 shots, and we've tape recorded that, and that -- but we did
18 that two days ago.

19 It's just a tape recorded firing off and
20 tried to measure how long that takes to do.

21 I guess you would call it a -- some sort of
22 an experiment with regards to how long it would take to fire
23 off a similar weapon.

24 And that tape recording, I just heard for

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1 And when he says that he hasn't received
2 reports, well, that's just absolutely lack of candor to the
3 Court, because we have provided every report: We've
4 provided the chemist's report; we provided -- and that is
5 what their testimony is.

6 We have provided all their reports; the
7 crime scene analyst's report --

8 THE COURT: Well, I guess, what if his -- he
9 has to do what the statute says, substantive testimony and
10 all, but what if they don't do written reports, Mr. Laurent?

11 MR. LAURENT: Then he has to summarize what
12 the testimony is going to be. That's what the statute
13 contemplates. That's what I think.

14 I mean, you're the judge of the law.

15 THE COURT: Well, I think it's pretty clear.
16 I mean, I think we all agree on that.

17 So I think that's what Mr. Bloom is trying
18 to do.

19 MR. LAURENT: No, Judge. I want it in
20 writing. That's what the --

21 THE COURT: Well, it's going to be in
22 writing, but I'm just trying to flesh it out what it is,
23 actually to give the State as much notice as possible right
24 now, and then we'll get it and put in writing so you will

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1 the first time yesterday and actually spoke to Miss Goettsch
2 about 30 minutes after I heard it and told her she could
3 have it. It's two and a half seconds of seven shots.

4 But in any event -- so that deals with Dr.
5 Frazier's testimony though about the stress, you know --

6 THE COURT: Okay. Who else do you have then
7 like that?

8 MR. LAURENT: Judge, can I interject real
9 briefly?

10 Because I think we're getting far afield
11 here.

12 THE COURT: All right.

13 MR. LAURENT: All I'm asking for is what I'm
14 entitled to under the statute; and the statute says -- in
15 subsection (2)(b) N.R.S. 174.234, It says:

16 A brief statement regarding the subject
17 matter.

18 Well, that's what he's given us, a brief
19 statement. It's not brief, but he's given us a statement
20 regarding the subject matter.

21 Then it says: And the substance of the
22 testimony.

23 That's what I'm complaining about. I don't
24 have any of the substance of the testimony.

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1 have something that you can -- you can prepare for.

2 MS. GOETTSCH: And that's kind of our
3 complaint, because I have spoken with Mr. Bloom several
4 times and he's always saying: This is what they're going to
5 say; this is what they're going to say.

6 It's a phone call conversation. It's
7 something real general.

8 I mean, we're getting down to the crunch
9 time now. We need to start seeing something in writing,
10 because I've heard all of this before. I have.

11 THE COURT: We will deal with that this
12 morning. I will get that taken care of.

13 Okay. Mr. Bloom, go ahead.

14 MR. BLOOM: I've noticed several other
15 experts. One is a toxicologist, whose name I didn't know at
16 this time, because we were retesting the samples.

17 I have since contacted a Las Vegas expert
18 named Van Berkible. I don't know the name of his
19 laboratory. I mean, I know it, but it doesn't come to mind
20 at this moment.

21 And he -- we're attempting to have him
22 retest the -- the materials that have been tested.

23 I don't know what he's going to find. He
24 may find exactly what their results are with regards to

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1 toxicology.

2 But we're having that done, so I didn't
3 label his name.

4 I since have -- when I first wrote out the
5 list, I didn't know his name. I didn't know who we would be
6 able to get. I since have and I have noticed them in terms
7 of the name of the person.

8 I don't have Mr. Berkible's CV yet. I
9 believe he's testified before this Court and other courts
10 and with -- on behalf of the District Attorney and on behalf
11 of defense probably hundreds of times.

12 THE COURT: Well, he testified for the
13 defense in the Jessica Williams case and had kind of an
14 acrimonious exchange with the DA's Office in that one, so I
15 don't know how that's going to play out.

16 MR. BLOOM: I've been informed -- I've been
17 informed that he has testified -- that the District Attorney
18 has asked him to testify and he has testified and done
19 examinations or evaluations for the District Attorney's
20 Office or on behalf of the prosecution on a number of
21 occasions.

22 I'm just saying --

23 THE COURT: I think -- I think he did, as I
24 recall. You are right on that one.

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1 karate and I believe she was proficient to a particular
2 degree of expertise.

3 THE COURT: She has a belt in karate?

4 MR. BLOOM: I think she was a brown belt, I
5 believe.

6 I have to say that from my information and
7 belief, as opposed to asserting that, because we're doing
8 the investigation to see if we can lay that.

9 But if I can lay a foundation that she had a
10 certain level of expertise, then I can call this karate
11 expert, who I can qualify, because he's like a 29th degree
12 black belt. He will qualify as a person who can say that
13 someone who is at this level of proficiency would have been
14 able to be this effective, X effective, as -- in the -- in
15 the --

16 THE COURT: Is this self defense; is this
17 the issue then?

18 MR. BLOOM: Right; right.

19 And -- and how -- how -- because the People
20 will say -- and they have said in many papers that they've
21 written -- I don't know if they made the presentation to the
22 Court yet, but we can anticipate they'll say in front of the
23 jury, because they've said it already, that there is a
24 disparity in the physical heights and weights between Mr.

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1 MR. BLOOM: I'm just saying I don't have his
2 CV now, but I don't think that's catching them off notice;
3 and I can't tell them the substance of his testimony any
4 more than what I've done, other than he's going to retest
5 those and the results of that are going to be presented.

6 THE COURT: Okay.

7 MR. BLOOM: Another expert I have listed is
8 Michael Newman and I just listed him as a karate expert.

9 THE COURT: A karate expert?

10 MR. BLOOM: A karate expert.

11 Now, am I sure that Michael Newman is going
12 to testify?

13 I'm not. I haven't -- I was trying to give
14 them the pos- -- give them as much --

15 THE COURT: Could you tell me what a karate
16 expert has to do with this case?

17 MR. BLOOM: Yes. Miss Centofanti -- there
18 was an incident on the -- the 5th of December, and there was
19 an incident on the 1st of December where Miss -- Miss
20 Centofanti assaulted Mr. Centofanti, prior to -- the history
21 before December 20th, a fairly short time before December
22 20th, the shooting.

23 And Miss -- I'm informed that Miss
24 Centofanti or Virginia Centofanti was very proficient in

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1 Centofanti and Miss Centofanti.

2 She is -- she was 125 pounds and five five
3 or something; and he's 180 pounds, about five eleven or
4 something; and that difference shows that he didn't have to
5 resort to this -- to the use of the gun and shoot seven
6 times.

7 Where if there is a great equalizer involved
8 there, namely, her not -- her past history in using her
9 experience -- or her karate expertise or her physical
10 assertiveness in the past.

11 And so that's what that could lead to.
12 Will it? I don't know yet. I haven't been
13 able to establish that.

14 THE COURT: Okay. Anything else?

15 MR. BLOOM: Yes, there is one other witness
16 that I noticed and one that I'm going -- that I will -- what
17 one -- the other witness is Dr. Demitrius Heller.

18 Dr. Heller is -- if we can gather the
19 information regarding the background of Miss Centofanti, it
20 will be to Dr. Heller that we turn to make an evaluation of
21 this, to determine whether or not her behavior patterns here
22 are consistent with -- with, I guess, a psychological
23 pattern of showing aggressiveness or combativeness.

24 Miss Centofanti has a gang history. When

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1 she was 15 and 16, she was very active in gangs. We believe
2 she was arrested for violent conduct in San Diego and that
3 she has gang tattoos on her body.

4 She went through a period of time when she
5 was not involved with gangs. When he met her, she was not
6 involved with gangs, but she -- her behavior changed
7 dramatically in a few weeks, in the month or so prior to
8 this shooting, leading to the incident which we have
9 December 5th, where she took a gun and she was fighting over
10 the gun and trying to shoot Mr. Centofanti and kill him.

11 She was arrested for domestic violence on
12 that day, having to do with hitting him, but there was -- at
13 that time, he -- he got the Temporary Restraining Order
14 saying she tried to kill him and so forth.

15 This is a throwback, we believe, to -- we
16 think this is not just aberrational just for that moment,
17 but a throwback to behaviors of her that -- that stem far
18 longer than just that few weeks before December 20th.

19 We are attempting to get the records in San
20 Diego from the juvenile court there. It's difficult to
21 unseal or open up the books of the juvenile court
22 proceedings. We're attempting to do that.

23 Notice has been given to -- to the parties
24 to try to get those juvenile court records.

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1 sort of evil intent and so forth.

2 So he would be testifying as -- again, as to
3 counter the People's argument that seven shots equal this
4 premeditation.

5 And I believe this is an area of expertise,
6 because the jury doesn't -- will not know that there are
7 many, many circumstances -- and I think Lieutenant Franks
8 has a foundation for this, or I am led to believe he will.
9 I will speak to him at noon and find out -- that there are
10 lots of circumstances where people will engage in shootings,
11 people who are trained, people who are not evil people, who
12 are out to do a robbery, but people who are sworn to protect
13 the community, namely, police officers, they will engage in
14 a shooting under a circumstance -- circumstances, the
15 adrenalin will flow, the emotion will flow, and they will
16 shoot a number of times, load and reload their gun even and
17 shoot some more and not even know that they did it.

18 Afterwards, when they're interviewed, they
19 say, of course, I fired twice, when they really fired nine
20 times or something like that.

21 So that's what I expect he will be able to
22 have a foundation about.

23 I believe this is clearly an area outside
24 the presence of what a jury would normally know. They're

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1 If there is enough foundation, Dr. -- it
2 will be to Dr. Heller that we turn to -- to see if there is
3 a psychological explanation for these kind of behaviors and
4 this sort of pattern.

5 She hasn't done anything on the case yet
6 because I haven't been able to get her these materials, but
7 that's -- that's --

8 Now, also today -- I have just found out
9 yesterday afternoon, I scheduled today to meet a Lieutenant
10 Steve Franks of the Las Vegas Metro Police Department.

11 They've never been told this before. I'm
12 telling the Court this now. I made this -- I found out this
13 yesterday afternoon.

14 Lieutenant Franks is -- I'm going to speak
15 to him this noon about being an expert regarding the same
16 type of thing that Dr. Frazier would testify about, this
17 stressful situation, because it's my understanding that
18 Lieutenant Franks has been an officer who has investigated
19 officer involved shootings.

20 And in response to the People's argument
21 about seven shots show premeditation and clear deliberation
22 and real focus sort of to your evil intent, I believe
23 Lieutenant Franks will be in a position to say that he has
24 seen where the number of shots doesn't at all indicate that

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1 not going to have the benefit of having done many, many
2 investigations of police shootings, like Lieutenant Franks
3 will have.

4 Now, I haven't -- those are the experts that
5 we have there, and I haven't --

6 THE COURT: Okay. Well, Mr. -- Mr. Laurent,
7 do you want -- I'm going to set some times to get these in
8 compliance with that statute here.

9 Anything else you want to add before I do
10 that?

11 MS. GOETTSCH: Well, definitely, this
12 Lieutenant Franks -- he cannot be declaring a witness now.
13 The 21 days is long gone on that, to even tell us about that
14 today.

15 That has to be stricken today, because
16 that's just ridiculous, that he's going to come up with an
17 expert today, two weeks before the trial. And the 21 days
18 is -- that ship has sailed on that.

19 The other ones -- I mean, we need something
20 in writing and we've heard this before. Like I said, I
21 mean, I haven't -- everything I've listened to for the last
22 bit here, I've heard before, but it's not telling us what
23 these witnesses are going to testify about. That's not a
24 proper declaration.

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I mean, if we want to --

THE COURT: Well, we're going to deal with that in one moment.

MS. GOETTSCH: Okay. And we'll have a continuing objection to that when they get on the stand, if we don't have the proper designation or haven't had time to prepare rebuttal stuff because of it.

THE COURT: Okay. Mr. Laurent.

MR. LAURENT: Just in regards to the allegations that Mrs. Centofanti has held a gun on Mr. Centofanti, of course, we see it the other way, and that's the information that we have, just so the record is clear on that.

And, again, just to correct the misstatements by counsel, about whether or not we gave -- have given them reports, we have given them -- they've come over; they have looked in the police file; they've had an opportunity to look at that.

Miss Navarro -- Miss Goettsch and I went there. They were able to go through the entire police file. They were able to copy anything they wanted. We made the copies for them.

They came over to our office; looked through our entire file, open file policy.

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that you are going to receive and -- well, the Court didn't order me on this, but the Court gave me a strong nudge in the direction of saying: Look, use people that you are -- here is your limitations in terms of your funding source in doing this.

And there has been difficulty in getting people who -- who will testify and will come forward and the funding and all of that.

With regard to Lieutenant Frank, I haven't even discussed what fee -- I haven't discussed what fee he's going to have, but finding a police officer related shooting expert, who was in this area and would not charge an enormous amount to come here from far away was a very difficult process.

THE COURT: Well, I don't know somebody who is an active officer could even charge a fee.

MR. LAURENT: And Metro may decide they're not going to let him testify since he's not a percipient witness.

THE COURT: Well, I had that in Jessica Williams. I had a Highway Patrol officer testify for the defense on a matter, but -- that's the first time I've ever seen that one, but I guess it happens.

MR. BLOOM: But that's an explanation as to

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Miss Goettsch has continued to provide provide them discovery as it came available.

That's the type of information we've been giving them.

They have the -- the report -- in fact, we've actually got the -- have received the notes from these experts and we're handing them over as we get them.

But we have produced all of their reports. To say we haven't is just disingenuous.

Secondly, Judge, something has to be done about the way the discovery is coming to us because they're mailing it to us.

We have local counsel here for a purpose: It's to facilitate the trial. The fact that Mr. Bloom didn't bring this discovery and mailed it to us has delayed it even further.

THE COURT: We're going to deal with that.

MR. BLOOM: Your Honor, if I could address one thing?

THE COURT: Yes.

MR. BLOOM: Mr. Laurent and Miss Goettsch were not privy to the defense efforts to obtain funding in this case; and one of the things that they don't know, that one of the things the Court said, is here is the funding

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why all of the subject matter we've been focusing on for a long time, that's an explanation why Lieutenant Frank was -- only able to talk to him and speak to him and only be able to speak to him today.

THE COURT: Mr. Laurent, I'm not going to rule on Lieutenant Frank, because you haven't even talked to him.

But I understand Miss Goettsch's point on the time limits.

MR. BLOOM: By the way, we're well ahead of 21 days before any evidence is presented on the defense --

THE COURT: Well, technically, the 21 days is to January 2nd, because that's the start of the trial.

But be that as it may, you go in and interview who you need to interview.

What I'm going to ask you to do, Mr. Bloom, is by four p.m. on December 26th, to fax to the District Attorney's Office -- I'll ask Miss Goettsch to give you a fax number; just dictate out these summaries here in compliance with the statute Mr. Laurent cited and get that information and facts to them, so if there is problems, I can deal with them on the morning of the 27th when we come back to -- for other issues then.

MR. BLOOM: All right.

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1 THE COURT: Likewise, if the People have any
2 additional information, they're to fax it to you by four
3 p.m. on the 26th so you have it and you can bring it up to
4 my attention on -- on the 27th as well.

5 But I -- I expect compliance with the
6 statute. If there is -- if I find that there hasn't been
7 compliance, I will bar the witness from testifying.

8 MR. LAURENT: Judge, just so you don't fall
9 into that trap often, we're really not the People. We're
10 the State of Nevada. The People is from California.

11 Another issue, Judge, we have a motion
12 pending -- it will be on the 27th -- but we will be asking
13 for all notes and all materials that these experts will be
14 relying so, of course, we can start getting our experts --

15 THE COURT: I understand.

16 MR. LAURENT: And I just wanted to make sure
17 that everyone is aware of that; that we are entitled to
18 that; we are providing it and --

19 MR. BLOOM: Well, the people -- the State --
20 Mr. Laurent says that they provided reports of their experts
21 and then he refers to the police report.

22 Well, absent Dr. Sims' autopsy report, which
23 is a clearly a report, the -- the documents that the State
24 is talking about are other officers' police reports about

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1 MR. BLOOM: I don't know about any DNA
2 report. There may be one. I don't know -- what does a DNA
3 issue have to do with it?

4 MR. LAURENT: There is DNA in the case.

5 MR. BLOOM: Are you talking about -- for
6 what purpose?

7 MR. LAURENT: He's been designated as an
8 expert, the DNA, and we've provided the report.

9 MR. BLOOM: Well, if that's the situation, I
10 will amend what I said.

11 I don't know what DNA has to do with this
12 case, but if there was -- the experts I was talking about
13 that I received notification, that I think is relevant to
14 this case, are the two experts; McLaughlin, I think, is one
15 and somebody else, who were ballistics folks and --

16 MR. LAURENT: I could probably help out
17 there.

18 McLaughlin is a crime scene analyst. His
19 crime scene report and the crime scene reports have been
20 provided. He is not a firearms expert.

21 MR. BLOOM: He did not provide any analysis.
22 He did provide a report --

23 MR. LAURENT: He didn't --

24 MR. BLOOM: -- of what he saw.

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1 what happened. They aren't experts' reports about it.

2 I haven't received any expert report from
3 any expert except Dr. Sims who prepared the autopsy.

4 THE COURT: Well, if there are reports
5 prepared for either side --

6 MR. BLOOM: Right.

7 THE COURT: -- each side's expert witnesses
8 are to be furnished to the other side.

9 If they're not prepared, then we have to
10 have compliance with the statute as far as what that
11 requires, or else -- and the rule would apply to both sides,
12 that that -- if there hasn't been compliance, then I won't
13 allow the witness. It's that simple.

14 So it's like Russian Roulette. I hope both
15 sides will comply with it. If not, the witness won't
16 testify.

17 MR. LAURENT: Can I ask a few questions?
18 Do you have the DNA report?

19 MR. BLOOM: What?

20 MS. GOETTSCH: Thomas Wahl.

21 MR. LAURENT: From Thomas Wahl.

22 Because Miss Navarro came and copied
23 everything that was in that file.

24 I mean, there is --

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1 But I thought that he's been designated, not
2 as a percipient witness, but as an expert, so maybe that's
3 my -- maybe that's my fault there.

4 THE COURT: He just clarified that.

5 MR. LAURENT: Right. The next person is --
6 is it Torrey Johnson who -- Jim Krylo, who is the firearms
7 expert; his report has been furnished.

8 MS. GOETTSCH: I mean, it's not extensive;
9 it's just the one page report saying: I compared these
10 bullets. It's a page, but it's a report.

11 THE COURT: Well --

12 MR. BLOOM: Okay.

13 THE COURT: It sounds to me like we've got
14 some communication issues between the sides, and what I'm
15 going to ask the parties to do, again, is use the fax
16 machine as much as possible.

17 Mr. Bloom, I think it's economical to
18 transmit information that way and it's quick as well.

19 So if we can do that, that will probably
20 assist both sides.

21 Mr. Brandon came in.

22 Lisa, did he leave you a message or --
23 Here he is.

24 Mr. Brandon, come on up. We're just getting

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1 to you then like that.

2 Can you bring us up to date on what you
3 found out?

4 MR. BRANDON: I've got a -- I've got a call
5 into John. He's waiting for a conference call right now.

6 If we could take two minutes and just call
7 him and get this straightened out.

8 I put a call into Eva Cisneros's office and
9 haven't received a response.

10 But I would like to put John in; he's
11 waiting right now. I have a number for him. If we could
12 take two minutes and find out what exactly his schedule is
13 going to be looking at.

14 THE COURT: Do you want to talk to him or do
15 want us --

16 MR. BRANDON: No, us.

17 MR. LAURENT: I tried to do that last night,
18 but the secretary just wouldn't call me back.

19 THE COURT: Okay. Well, I'll take a break
20 and I'll invite -- we'll go in my office. We'll invite the
21 State and the defense in there, Mr. Brandon. We'll hook up
22 and find out what's going on.

23 MR. BRANDON: Perfect.

24 MR. LAURENT: We just handed Mr. Bloom a

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1 matters?

2 I thought ex parte matters were things that
3 were -- by statute, would be like the funding thing and so
4 forth.

5 Isn't something of the -- if the -- if the
6 State wants to get an order from this Court regarding
7 whether or not my client's divorce proceedings should be
8 unsealed for purposes -- in effect, if it's a discovery
9 request, it's in the nature of a discovery request -- maybe
10 I don't know and I'm not going to try to cast stones if I'm
11 out of place here -- but it's my understanding that
12 discovery requests, those matters should come in as regular
13 noticed matters and they shouldn't be ex parte proceedings
14 in this court.

15 In California, that would be a sanctionable
16 conduct for one party or the other to go behind the scenes
17 and attempt to have some communication with the Court on
18 that matter.

19 But if I'm out of line, correct me, Judge.

20 THE COURT: I'll have Mr. Laurent comment on
21 that.

22 MR. LAURENT: Judge, the statute
23 contemplates -- it says that it could be sealed, it could
24 still be viewed by the attorneys for the parties or party or

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1 second amended Notice of Witnesses, pursuant to our
2 obligations to make sure that we stay current.

3 THE COURT: Okay. Mr. Laurent, I have one
4 issue to bring up with you, that Mr. Bloom is not aware of,
5 and it would affect Mr. Centofanti.

6 The State filed an ex parte application for
7 me to enter an order unsealing the divorce file.

8 I -- I feel it's relevant, but I don't feel
9 I have jurisdiction to do that. I think it's the Family
10 Court that entered the divorce to do that.

11 So what I would propose to do, Mr. Bloom, is
12 modify the order indicating that I will sign it, subject to
13 the approval of Family Court.

14 MR. LAURENT: We already had it signed,
15 Judge, and we will provide him copies from the Family Court.

16 THE COURT: Oh, Family Court signed it?

17 MR. LAURENT: Yes, sir.

18 THE COURT: Okay. I -- 'cause I -- they're
19 the ones that have jurisdiction over it, not me, you know,
20 as far as that issue.

21 MR. LAURENT: In fact, I have those copies
22 right here for him.

23 MR. BLOOM: Is there something I don't know
24 about, in terms of local practice, in terms of ex parte

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1 it contemplates that it can be viewed by -- in connection
2 with another proceeding for evidentiary purposes.

3 We didn't argue the case; we provided the
4 order. The Court said it wouldn't sign the order. We then
5 went to the Family Court, because that was the instruction
6 we were given and that's consistent.

7 I could have just as well gotten a search
8 warrant and pulled it off, but there is a statutory
9 allowance for us to see that.

10 I have made copies for counsel to let him
11 know exactly what we have. There was no intent on trying to
12 sneak behind anyone's back. I just needed to get the
13 information.

14 I couldn't wait the three months it would
15 take to receive response from Mr. Bloom, and so I --

16 MR. BLOOM: One second, Your Honor.

17 I apologize again to the Court.

18 I don't know the statute they're talking
19 about, but I'm sure there is a statute that exists for --
20 for the unsealing of certain documents. Every state has
21 them. I'm certain Nevada has them.

22 That's not -- wasn't the question I was
23 posing to this Court.

24 I was posing the issue of: Why is one party

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1 in this court attempting to get an order from -- from the
2 judge who is sitting on this case, trying to get an order
3 from the Court to -- to exercise its discretion with regard
4 to a particular statute which exists in the state, to
5 provide discovery in this matter, to loosen up certain
6 records? Why is that being done out of the presence of --
7 of the opposing party.

8 THE COURT: Mr. Bloom, look, I indicated I
9 wouldn't sign the order.

10 MR. BLOOM: Yeah, well, I appreciate you
11 telling me.

12 THE COURT: And I -- I try and bring
13 these -- as we get together, to bring issues that have come
14 up to me so both sides are aware of them.

15 The -- the statute on the -- the domestic
16 relations statute, I think, Mr. Laurent is correct, as far
17 as how it can be done, so what I'm going to do is this:

18 I'm not going to rule whether it's proper or
19 improper, because I -- I think they would have gotten it,
20 you know, sooner or later anyway.

21 MR. LAURENT: But we hadn't got it --

22 THE COURT: But -- did you furnish to the
23 defense whatever you got from --

24 MR. LAURENT: A copy right here. I just

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1 both parties have a chance to exercise that -- their review.

2 THE COURT: I will do my best to screen
3 these things here. I can't tell either side what to file.

4 If I feel it's something for a noticed
5 hearing, I will put it on calendar and each side can comment
6 on it and then I'll deal with it.

7 MR. LAURENT: The record should also
8 reflect, Judge, that he also had an ex parte communication
9 with Mr. Kohn concerning this case, right?

10 Mr. Kohn informed me about it later on. It
11 was not something that I was advised about nor was I privy
12 to any of the conversation that took place.

13 But there was an ex parte communication
14 based from the defense with this Court --

15 THE COURT: Right.

16 MR. LAURENT: -- and I was not apprised of
17 anything there.

18 THE COURT: Mr. Kohn did come to me on a
19 procedural issue.

20 MR. LAURENT: Right. I believe that's true
21 and I don't doubt that.

22 I'm just pointing out that there has been ex
23 parte contact that I was unaware of until after the fact.

24 This was -- this was put in an order form,

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1 need him to sign the discovery request -- the request for
2 discovery.

3 THE COURT: Mr. Bloom, if you feel it's in
4 some way improper, when you research the issue here, and you
5 want to file a motion, I will be glad to look at it.

6 MR. BLOOM: I will look at it, Your Honor,
7 and see if it is improper.

8 I don't know if there is supposed to be
9 notice to the other party for unsealing or not.

10 THE COURT: Well, I tried -- like the case
11 you saw before here, the defense made an ex parte motion for
12 me to take their client off house arrest, and I said I -- I
13 wouldn't do it.

14 I mean, we've got to have a noticed hearing,
15 so the State can respond.

16 So I try to go through procedural things,
17 money things, things like that, separate it out, and that's
18 what I do in all civil or criminal.

19 MR. BLOOM: I wasn't at all saying that this
20 Court was trying to hide the ball or do anything.

21 My question was -- and not so much, I guess,
22 for just this issue, but also for the future, it's my
23 understanding that any of these matters, I believe, are
24 supposed to come to the Court in a notice fashion, where

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1 so that it wouldn't be a hidden thing. It was just there.

2 THE COURT: Okay. Well, anyway, we'll --
3 we'll move on on that.

4 Are we ready to go talk to Mr. Moran?

5 MR. BRANDON: Yes.

6 THE COURT: Okay. Let's take a recess.

7 We'll go back to my office; talk to Mr.
8 Moran and figure out what's going on with that.

9

10 (Recess in proceedings.)

11

12 THE COURT: This is the continuation of Case
13 Number C172534, the State of Nevada versus Alfred
14 Centofanti.

15 The record will reflect the presence of the
16 parties; together with their respective attorneys.

17 Based upon our meeting in chambers, what
18 we're going to do is continue the hearing on the State's
19 motion, which was filed in open court, to -- on the issue of
20 the attorney/client privilege with Eva Cisneros to -- we're
21 going to continue that hearing until January 8th at nine
22 o'clock a.m.

23 THE CLERK: Okay.

24 MR. LAURENT: Judge, with regard to our

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1 motion in limine as to other bad act evidence, will that be
2 heard as well on the 27th?

3 THE COURT: Yes.

4 MR. LAURENT: Thank you.

5 THE COURT: We'll hear that the 27th.

6 MR. LAURENT: I just -- I'm sure you said
7 that, Judge, I just didn't --

8 THE COURT: That will be heard the 27th.

9 I want to do everything I possibly can by
10 the 27th, except we've stipulated to do that other one on
11 January 8th. So we'll do that one then.

12 MR. LAURENT: Thank you, sir.

13 I appreciate it.

14 THE COURT: Okay. So we'll go ahead today
15 with the State's motion to admit evidence of other bad acts.

16
17 I'll let the -- the parties wanted to make
18 some representations on that before we get to -- Miss
19 Goettsch.

20 MS. GOETTSCH: I can probably get us started
21 some place.

22 There is basically three things that were in
23 my motion that were going to come in as part of this
24 Petrocelli.

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1 was the fact that when he filed -- when Mr. Centofanti filed
2 the temporary protective order, he put down that it was
3 Virginia Centofanti that was the owner of the nine
4 millimeter Ruger.

5 And then we have evidence that he knew, at
6 that point, that she was not the owner; it was him; or at
7 least they were in joint custody of it.

8 He tried to represent to the Family Court to
9 get the temporary protective order that it was Virginia
10 Centofanti who owned that gun and that was not true.

11 THE COURT: So that -- that's an act or an
12 alleged act.

13 MS. GOETTSCH: Right; right.

14 I don't know. Maybe -- maybe that's not,
15 technically, another bad act, but I wanted to put it out
16 here just in case anybody would say we need a Petrocelli on
17 it, we can have that Petrocelli. I have one witness to
18 testify --

19 THE COURT: Okay.

20 MS. GOETTSCH: -- and then a court document
21 would be easy on that one.

22 THE COURT: Okay.

23 MS. GOETTSCH: The other one, which we were
24 going to bring in, is the fact that Mr. Centofanti had said

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1 The first thing is the battery/DV incident
2 on December 5th.

3 Since I have done that, I have read their
4 response; it appears that they want to bring in evidence of
5 the battery/domestic violence as well, because they have a
6 different version of events.

7 I don't know who their -- what witnesses
8 they would call to prove their version of events, but they
9 have a different version of events.

10 And it appears that we have a meeting of the
11 mind -- of the minds that the subject matter of that
12 December 5th incident should come in. It seems like we
13 agreed to that.

14 So I'm not sure why we need to actually call
15 witnesses. I can. I have the police officers here. I can
16 call those witnesses if we need to, but it appears that we
17 both want to bring in evidence of that battery/domestic
18 violence incident on December 5th.

19 So I don't know if they're going to agree to
20 that or not.

21 THE COURT: Well, why don't you finish on
22 the issues we're going into and I will let Mr. Bloom comment
23 on them.

24 MS. GOETTSCH: All right. The other issue

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1 things about Virginia Centofanti before this murder about
2 how she was a bad mother, she was drinking and kind of went
3 on what I was calling a PR campaign.

4 I had -- I have people here to testify about
5 things that he said, prior to the murder, along those lines.

6 As we've gotten discovery from the defense,
7 it also appears that perhaps they were going to bring in
8 some evidence of Jeena's character, whether she was
9 drinking, what she was doing, before this murder.

10 I don't -- I don't know exactly what they
11 intend to bring in.

12 In light of some problems with that, I don't
13 think we're going to proceed on another bad act motion today
14 on that particular issue, which leaves us basically the two
15 issues: The battery/domestic violence and the TPO issue.

16 THE COURT: So you are not --

17 (Whereupon, a sotto voce at this time.)

18 THE COURT: So at the trial, would you be
19 offering evidence in the case in chief about alleged bad
20 mouthing of Mrs. Centofanti by Mr. Centofanti?

21 MS. GOETTSCH: Not in the case in chief at
22 that point; possibly in rebuttal.

23 MR. LAURENT: If there comes a time, Judge,
24 where we feel it necessary, we will bring it to the Court's

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1 attention prior to putting that evidence on and request a
2 hearing outside the presence of the jury.

3 THE COURT: We do have to have a hearing,
4 whether it's rebuttal or case in chief.

5 MR. LAURENT: Right. That's what we
6 understand.

7 But we're not sure we're going to use it.
8 We don't want to take up the Court's time at this period if
9 we're not going to proceed --

10 THE COURT: Okay. So you want to go forward
11 with these two issues here?

12 MS. GOETTSCH: Correct.

13 THE COURT: And then we have the issue of
14 the State's motion that we'll deal with on Thursday about
15 the defense having to have a Petrocelli hearing on incidents
16 involving Mrs. Centofanti.

17 MS. GOETTSCH: Right. And I guess the --
18 the issue is on -- especially on the battery/domestic
19 violence, if they want it to come in, too, I don't know why
20 we're having a Petrocelli.

21 THE COURT: Let's ask Mr. Bloom. He can
22 comment on this and then we can go and get started.

23 MR. BLOOM: Thank you, Your Honor.

24 I don't believe this is -- let me start with

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1 presented to the -- before the trial.

2 So I believe they're not obligated to
3 present it today, just because they've noticed it, and we
4 decided we weren't going to do it today. They could do it
5 on the 27th when we come back.

6 So I'm not saying it must be done on this
7 date, but I don't think there is any issue that it must be
8 done prior to the commencement of the trial; and somehow
9 couching it in a presentation that may come in in rebuttal,
10 that doesn't eliminate the need for the defense to -- to
11 have that.

12 THE COURT: Is there case law -- I know you
13 have to have the hearing, but can you have the Petrocelli
14 hearing during the trial?

15 MS. GOETTSCH: I believe so. I don't know
16 of any case law that says it has to come before opening
17 statements.

18 There just has to be an out of court hearing
19 before they -- and so the judge can rule on whether or not
20 it's being proven by clear and convincing evidence, its
21 relevant and it's more probative than prejudicial.

22 Those are the three things we have to prove;
23 and it appears we just have to have a hearing outside the
24 presence of the jury at some time before that witness hits

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1 what the People have called the PR campaign and their
2 statement that the -- that it doesn't have to be presented
3 now; that it may only come in in their rebuttal.

4 That doesn't eliminate the requirement for
5 having it; and it doesn't eliminate the requirement for
6 having it before trial.

7 The question of the admissibility should be
8 known to the defense before opening statement, before the
9 presentation of the defense case, and also during
10 cross-examination.

11 If they can get it in, perhaps it has to be
12 one way; if other -- the defense could present other
13 evidence in its defense case.

14 The fact that they anticipate it may only
15 come in in rebuttal doesn't:

16 A, eliminate the requirement for Petrocelli,
17 and we all agree on that;

18 And in my view, doesn't, B, eliminate the
19 requirement that that Petrocelli hearing be held before the
20 commencement of the -- of the trial.

21 For all of the same reasons, the case in
22 chief or ordinary rebuttal, if it's going to come in, how
23 the defense will have to deal with it, when the defense will
24 deal with it, the manner it deals with it, all has to be

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1 the stand.

2 THE COURT: Okay.

3 MS. GOETTSCH: I know of no law that says
4 otherwise.

5 THE COURT: And, Mr. Bloom, I'm not sure if
6 there is some authority on that, one way or the other, when
7 you have the hearing.

8 MR. BLOOM: Well, here is why I think we
9 should do it beforehand: This Court has taken this case for
10 all purposes. This dovetails with the comments I'm going to
11 make about other things.

12 So rather than try and chop up the case and
13 have jurors out for -- for a couple of hours or a half of
14 day or something or whatever it is, just for that logistical
15 purpose, I think we should do it beforehand.

16 But besides that, just in terms of leveling
17 the playing field, of understanding this, the defense ought
18 not to be going into a trial when my client is facing life
19 on an open murder charge, not knowing if a whole chunk of
20 big evidence is going to come in against him; namely, a
21 whole claim that the People have -- I'm sorry -- that the
22 State has repeatedly talked about, being very dramatic about
23 his state of mind.

24 This all goes to the state of mind. The

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1 prosecution wants to say that this PR campaign, a bad
2 mouthing campaign, shows that he was just lying in wait for
3 her and he had this enmity and this anger towards her and
4 this -- this aggressiveness or something that shows that his
5 killing on -- of her on the 20th was, in fact, that
6 premeditated deliberate act.

7 Now they say it's not going to come in in
8 their case in chief. Obviously, that means they can't talk
9 about it in opening statement.

10 But if they're going to present it at some
11 point, it is the worst kind of sandbagging to wait until the
12 very end to present it at that point.

13 And courts are -- I know the Court has the
14 authority to -- to take the defense motion, to say: Wait,
15 this is not proper impeachment. This is stuff that should
16 have come in in their case in chief and to wait until the
17 very end is improper in terms of when they should present
18 the evidence.

19 That -- that would be -- I could make such a
20 motion. The Court would do it. Frankly, the Court wants --
21 in general, courts want to say: Well, let's let the jury
22 have the information and let them make the decision.

23 But in terms of the dramatic impact of it
24 and the sandbagging aspect of it and all of that, the People

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1 the defense is going to call in their case.

2 I mean, we don't know what their experts are
3 going to say. We don't know, at this point, what evidence
4 we're going to put on, especially not in rebuttal.

5 So I don't want to take up anybody's time
6 now putting this stuff on and say: Oh, never mind. I'm not
7 going to do it.

8 I also have a concern with -- I don't know
9 what they're going to say about -- or what evidence they're
10 going to try to present, whether it will be admissible or
11 not, about Virginia Centofanti's character either. I don't
12 want to put this stuff out there at this point.

13 THE COURT: Okay.

14 MS. GOETTSCH: And plus, it's not -- it's
15 not sandbagging, because all of our witnesses are on the
16 witness list for discovery. They can talk to them. So it's
17 not sandbagging. I don't think they're left with not
18 knowing what is going on. They can go talk to them.

19 THE COURT: Well, here's what I will do, Mr.
20 Bloom, in that regard:

21 Is if -- the State can't take case in chief
22 material and just park it on the side and just spring it on
23 you in rebuttal. I mean, you can't do that.

24 So if -- rebuttal has to be rebuttal. It's

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1 shouldn't be allowed to -- to do that. And that's why we
2 should have a Petrocelli hearing beforehand.

3 THE COURT: Okay. Well, Miss Goettsch, here
4 is one question I have for you and then you can say whatever
5 you want to say.

6 MS. GOETTSCH: Okay.

7 THE COURT: Offhand, I think you are right:
8 You could do it during the trial and -- because I -- I don't
9 think I've ever read a case that it has to be done before
10 the trial; it just has to be done before testimony is
11 presented.

12 However, from a practical standpoint, Mr.
13 Bloom, I'm concerned about the jury, you know, waiting
14 around.

15 We're going to try to move this case along,
16 and if we have to break the trial to have these hearings, I
17 really hate to do that because of the inconvenience to the
18 jury and all.

19 MS. GOETTSCH: If we had to do that, I think
20 it would be fairly short. I mean, we could put that on in
21 one or two witnesses, just to give an offer of proof as to
22 what they were going to say.

23 But, more importantly, we don't know what
24 we're going to call in rebuttal because we don't know what

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1 got to be new issues that have been raised by the defense.

2 So I won't make them put it on right now.

3 On the other hand, if you -- I'm going to
4 look at that very strictly, as far as the -- the case in
5 chief; the rebuttal case will be strictly limited to
6 whatever the defense puts at issue here.

7 Miss Goettsch is right: We don't know --
8 we're not looking in a crystal ball. We don't know exactly
9 how this is going to play out.

10 But I certainly will let you make that
11 objection if you feel it's improper rebuttal evidence and
12 I'll take that into consideration if and when we get to that
13 point.

14 MR. BLOOM: All right, Your Honor.

15 THE COURT: So why don't we go ahead --

16 MR. BLOOM: With regards to the --

17 THE COURT: -- with the first two issues.
18 Why don't we address them.

19 MR. BLOOM: Now, with -- with regards to the
20 Temporary Restraining Order and a claim that my client
21 mislabeled it and so forth, we object to that and all the --
22 the three theories under Petrocelli and clearly believe that
23 has to be presented today.

24 With regard to the December 5th incident,

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1 Petrocelli dealt primarily with the question of whether or
2 not the subject matter should come before a -- a jury.

3 And then the Court has to make, before the
4 jury hears it, these foundational determinations as to
5 whether or not there is a foundation for presenting it;
6 actually, whether there is relevance to it, whether there is
7 a foundation for presenting it, and whether or not the
8 prejudicial impact of it would far exceed the -- the
9 admissible relevance to it.

10 That -- it's the subject matter.

11 I agree, December 5th is going to come in in
12 this case. The December 5th incident is going to come in in
13 this case.

14 But there is another level of foundational
15 things that the Court will have to make a determination of,
16 of all witnesses, even as to matters which are admissible:

17 Namely, as to whether or not a witness --
18 whether or not there is a foundation for a witness to make a
19 statement, to give testimony, rather, from the witness
20 stand, whether there is a foundation for that.

21 The testimony with regard to December 5th
22 involves several witnesses. I'll put them in two
23 categories:

24 One involves the testimony of a young boy

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1 MR. BLOOM: That's my point. I think we
2 should deal -- and flesh those issues out.

3 THE COURT: Well, you have to because it's a
4 Petrocelli issue.

5 MR. BLOOM: That's exactly what I think.

6 THE COURT: And then you can -- you can
7 raise that on cross-examination.

8 And I still have to -- the State has to
9 establish by clear and convincing evidence that -- the
10 veracity of that testimony. You can argue that.

11 MR. BLOOM: I -- that's exactly why I think
12 we have to have a Petrocelli hearing on -- on that subject,
13 even though the general subject is going to come in, the
14 foundation for the people through this young boy, Quito, has
15 to be established and I think that has to be done.

16 The other category of witnesses have to do
17 with the December 5th incident, about what really happened:

18 Did my client point a gun at her and shoot,
19 as they -- they say? Or did Miss Eisenman -- Miss
20 Centofanti, Jeena Eisenman, have a gun and try to shoot my
21 client as we say it happened?

22 That question, what actually happened,
23 they -- we have an eye witness about it.

24 They may have some eye witnesses or

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1 Francisco Niquito Eisenman, who was the son and -- of
2 Virginia Eisenman, Virginia Centofanti.

3 He's approximately ten years of age. He was
4 living with my client. Adoption things were started and so
5 forth. He was -- during the time my client was married to
6 his mom.

7 And that testimony -- this young boy, when
8 he first gave the statement about what happened December
9 5th, doesn't say anything about my client trying to -- being
10 angry at -- about -- at Jeena.

11 The testimony changes after he is in the
12 custody -- not custody. He's been in the care of his -- of
13 the decedent's parents and decedent's family for -- since
14 December 20th and that testimony has now changed.

15 The question of planted memories or false
16 recollections --

17 THE COURT: Well, isn't that
18 cross-examination at the hearing?

19 MR. BLOOM: Well, there is a foundational
20 issue of whether or not he can testify at all --

21 THE COURT: Well, don't I have to --

22 MR. BLOOM: -- as to competence.

23 THE COURT: There is no jury here. I mean,
24 I guess we could --

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1 something from the police about where the guns were found
2 and so forth. Okay. No -- no need for a foundational
3 hearing for that.

4 But they also want to present it in the form
5 of hearsay statements from her to other people.

6 That foundation has to be established,
7 independent and out of the presence of the jury.

8 So I think that's why we have a
9 foundation -- a Petrocelli type hearing on that part.

10 THE COURT: Okay. Well -- Miss Goettsch.

11 MS. GOETTSCH: Well, I -- I disagree with
12 that, because if the subject is coming in -- I mean, we do
13 not call every single December 5th witness to be here today
14 to testify.

15 We just have to show, by clear and
16 convincing evidence, that -- that this incident happened,
17 and this is the general subject matter of what's going to
18 come into trial.

19 The issues about Quito are cross-examination
20 issues.

21 THE COURT: Right.

22 MS. GOETTSCH: And certainly --

23 THE COURT: Is he going to testify today?

24 MS. GOETTSCH: He's here today.

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1 THE COURT: Well, let's hear from him; let's
2 get it done.

3 MR. LAURENT: Judge, if that's the tack that
4 we're going to take, then we would like the opportunity --
5 remember, we have not received any information from any of
6 their witnesses that they're going to present. We'd like
7 the opportunity to test their competence as well.

8 And that's where we're at.

9 THE COURT: Mr. Laurent, I think where this
10 thing is going -- I don't want to rule prematurely, because
11 the motion is on next week, but I suspect the same standard
12 is going to apply to the defense side of it as well as how
13 they're going to present it.

14 And -- and we're going to flesh those
15 people -- I mean -- and, again, I don't want to prejudge it,
16 because I know -- I haven't read the motion and I'm going to
17 hear from Mr. Bloom on that, but it's -- I mean, how I'll
18 apply the rules, it's the same on both sides.

19 But I think what Mr. Bloom is saying makes
20 sense to me. I mean, let's address these issues. Let's get
21 them out now and get them done.

22 MS. GOETTSCH: Well, we can put Quito on
23 today. That's fine.

24 But the officers, as to whether the hearsay

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1 officers, want to present hearsay testimony from Jeena
2 Centofanti, then it has to fit within one of the exceptions
3 of the hearsay rule --

4 THE COURT: Well, there is a whole set of
5 exceptions to the hearsay rule.

6 MS. GOETTSCH: And it's going to be an
7 excited utterance exception.

8 THE COURT: Okay.

9 MS. GOETTSCH: So I mean, we can rule on
10 that when they're testifying on the stand: It either comes
11 in or it doesn't.

12 THE COURT: That's my point: Let's get them
13 up there; see what they say.

14 The objections will be made.

15 I'll see if I think one of the exceptions
16 apply. You each can object and tell me why you don't think
17 they apply. And we will rule and --

18 MR. LAURENT: We don't have all the
19 witnesses here that might be used to testify.

20 THE COURT: Well, Mr. Laurent, you -- you
21 can put it on -- the Petrocelli hearing is -- we know what
22 the standard is. You can put it on, and if -- if I allow
23 the evidence, then -- and there is additional witnesses
24 later on, Mr. Bloom can make the objections and all, when

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1 would come in, isn't really necessary for a foundational
2 hearing.

3 That's like he would object, hearsay. I
4 mean, I have four officers out there that have to come in.

5 THE COURT: You can put it on. Mr. Bloom,
6 I'm sure, will make hearsay objections. I'll see if there
7 are exceptions to it. And Mr. Bloom can move in limine for
8 the trial purposes too.

9 But I don't know if there is exceptions to
10 the hearsay rule. I don't know. I don't know what it's
11 going to be and the circumstances. But let's -- let's see
12 what they have to say.

13 MR. BLOOM: Well, I don't -- I wasn't even
14 anticipating problems with the hearsay, as it relates to the
15 officers, because the reports that I read and looking at the
16 Grand Jury testimony of the two officers, they're going to
17 testify as percipient witnesses as to what happened on
18 December 5th, what they did and stuff like that.

19 THE COURT: Okay. That's simple enough.

20 MR. BLOOM: That's simple enough. I wasn't
21 even talking about that.

22 There may be -- but if they want -- if they
23 want to present something about hearsay from Jeena
24 Centofanti or if other people want to present -- besides the

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1 they testify.

2 MR. LAURENT: And I'm not trying to argue
3 with you, Judge.

4 We just decided, the parties, that it meets
5 that standard. And that's -- I mean -- and I understand you
6 want to hear the foundation on Quito. No objection.

7 I'm just trying to figure out where we're
8 going here, so we're not spending hours doing what we've --
9 what everyone has just decided comes in.

10 THE COURT: Well, I'll take a break and if
11 you can give me a stipulation what each side agrees to --
12 you're right. It looks like we may be splitting hairs on
13 this one here.

14 But I'm just -- we're here. I'm ready to do
15 the Petrocelli hearing.

16 MR. LAURENT: I understand, Judge.

17 THE COURT: I want to get it done, if we're
18 going to need it, and not, at the last minute, have to deal
19 with it when I have jurors sitting around, trying to do
20 their job.

21 MR. BLOOM: I've already conferred with
22 them, Your Honor, and to the extent that I told you, I
23 believe we need the hearing with regard to the Temporary
24 Restraining Order and to the December 5th incident as it

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1 relates to Quito's foundation.

2 THE COURT: Okay. So we got --

3 MS. GOETTSCH: But not the officers.

4 Now we're talking about doing the officers
5 too?

6 THE COURT: Well, look, you decide who you
7 want to call on your motion. I mean, you can call whoever
8 you want.

9 I mean -- and then it's -- it's a burden of
10 proof issue, whether it's clear and convincing, and each
11 side can argue whether it is or it isn't on that.

12 I mean -- I'm not telling either side how to
13 put on their case. It's your job to do it.

14 What do you want to do first? Do you want
15 to do the gun one first or the other one?

16 MS. GOETTSCH: Yeah. We'll call Sharon
17 Zwick.

18 THE COURT: Which issue is this going to be
19 on?

20 MS. GOETTSCH: This is going to be on the
21 TPO.

22 THE COURT: Okay. Sharon Zwick.

23 (Off the record.)

24 THE COURT: Okay. There is a motion to

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1 wait outside.

2 MR. BLOOM: Isn't there, within Nevada, an
3 exception that the defense can designate and -- both parties
4 can designate an investigator or an expert, regarding the
5 State in proceedings as they are in California, so that
6 people --

7 THE COURT: Not that I know of.

8 MR. LAURENT: We're not in Kansas anymore, I
9 guess.

10 THE COURT: What?

11 MR. LAURENT: We're not in Kansas anymore, I
12 guess.

13 THE COURT: No.

14 MR. LAURENT: No, you can have an expert sit
15 in --

16 THE COURT: How the law works, Mr. Bloom,
17 and I'll -- and Miss Navarro will correct me if I'm wrong --
18 is this: Is that expert witnesses -- and, by the way, I
19 will do this during trial. I'm glad you brought it up --
20 expert witnesses can sit in for their counterpart expert --

21 MR. BLOOM: Right.

22 THE COURT: -- in the Court's discretion.
23 It's not an automatic right.

24 You can ask the Court to exercise its

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1 exclude witnesses who may testify.

2 Anybody that may testify today on the issues
3 on the Petrocelli hearing, please remain outside in the
4 hallway until you are called.

5 MR. LAURENT: And also we will exclude
6 people who will be trial witnesses as well.

7 THE COURT: Okay. If there is anybody here
8 who may be a trial witness, please remain in the hallway,
9 and we'll call you as soon as we need you then.

10 MR. BLOOM: There is -- one person that's
11 here, Your Honor, is my investigator, Jim Thomas. I don't
12 think the Court --

13 MR. LAURENT: That's why I'm moving to
14 exclude.

15 MR. BLOOM: So he wants him to --

16 THE COURT: Do you want him excluded?

17 MR. LAURENT: Yes, I do.

18 THE COURT: Is Mr. Thomas maybe going to be
19 a witness in the case?

20 MR. BLOOM: Certainly not in the Petrocelli.
21 Will he be a witness in the case?
22 He's an investigator. He's done a lot of
23 things.

24 THE COURT: Okay. Mr. Thomas, you have to

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1 discretion to allow that. I will do that during the trial.

2 So I will allow like the defense experts to
3 sit in when the State's experts testify and vice versa in
4 that regard.

5 But as far as an investigator, no, I'm not
6 aware of that.

7 MR. BLOOM: Very well. Thank you, Your
8 Honor.

9 THE COURT: And, Miss Navarro, are you aware
10 of any investigators being able to sit in?

11 MS. NAVARRO: No, Your Honor.

12 THE COURT: Okay. Mr. Thomas, we will call
13 you when we need you then like that.

14 Sorry, ma'am, to keep you waiting.

15 Would you face me and raise your right hand,
16 please.

17 (Witness sworn.)

18 THE CLERK: Please be seated.

19 MR. BLOOM: And, Your Honor, I haven't
20 noticed -- excuse me.

21 Can I have one moment?

22 (Whereupon, a sotto voce at this time.)

23 THE COURT: Just go ahead and have a seat.

24 MR. BLOOM: Your Honor, I do know of one

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1 person remaining in the courtroom, and I just ask to have
2 his name. He's not designated as a witness by the
3 prosecution, I believe --

4 THE COURT: Okay.

5 MR. BLOOM: -- and he's not ours.

6 THE COURT: Sir, could you give me your
7 name.

8 MR. THORBURN: Douglas Thorburn.

9 Do you want me to spell it?

10 THE COURT: Please.

11 MR. THORBURN: The last name is T-h-o-r-b, b
12 as in boy, -u-r-n.

13 THE COURT: Okay. Are you here as --

14 MR. THORBURN: I'm a friend of the family,
15 but I'm not a witness for the trial.

16 THE COURT: Is the State -- is this
17 gentleman going to be a witness?

18 MS. GOETTSCH: No.

19 THE COURT: Okay, sir, you are welcome to
20 stay then.

21 Okay, ma'am, could you state your name and
22 spell your first and last name for the court reporter,
23 please.

24 THE WITNESS: Sharon Marie Zwick.

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1 circumstances would you have to give a weapon release for?

2 A There are two different types of weapon
3 releases. We have the ones that are released that have been
4 impounded into evidence, that come through the other
5 bureaus, such as in burglaries or, you know, I -- that are
6 held in a crime. Those releases are determined by the
7 detectives and sent to us and we do the background.

8 The others are on safe keeping weapons and
9 possession of unregistered firearms weapons.

10 Q On December 20th, did you have occasion to
11 have contact with anyone who identified themselves to you as
12 Alfred Centofanti?

13 A I spoke to Mr. Centofanti about ten o'clock
14 that morning.

15 THE COURT: What date was that, ma'am?

16 I'm sorry.

17 THE WITNESS: On December 20th.

18 BY MS. GOETTSCH:

19 Q What was the nature of your conversation
20 with him on that day?

21 A I had spoken to him previously on the 18th,
22 regarding the initiation of his background to get his
23 weapons released.

24 I spoke to him on the 20th, to talk to him

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1 First name is S-h-a-r-o-n; last name,
2 Z-w-i-c-k.

3 THE COURT: Thank you very much.
4 Miss Goettsch.

5 SHARON ZWICK

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

9 DIRECT EXAMINATION

10 BY MS. GOETTSCH:

11 Q Miss Zwick, are you employed?

12 A Yes, I am.

13 Q Where are you employed?

14 A Las Vegas Metropolitan Police Department.

15 Q In what capacity?

16 A I'm an investigative specialist in the
17 firearms unit.

18 Q What are your job duties in that position?

19 A My sole responsibilities are doing
20 background investigations on weapon releases for the
21 department, and I also handle stolen weapons.

22 Q When you say 'weapon releases', what kind of

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1 about the completion of his background check and about
2 getting the guns released.

3 MR. BLOOM: I couldn't hear what she said.

4 THE COURT: Ma'am, would you repeat the last
5 statement?

6 MR. BLOOM: No, I heard about the 20th, but
7 did she give another date?

8 I apologize.

9 THE WITNESS: I spoke to him also on the
10 18th.

11 MR. BLOOM: Thank you, Miss Zwick.

12 BY MS. GOETTSCH:

13 Q When you spoke to him on the 18th, did he
14 make any indications to you as to who was the owner -- the
15 owner of the guns that you had in safekeeping that he was
16 seeking a release for?

17 A Yes. He originally stated that the guns
18 were both --

19 MR. BLOOM: Objection, Your Honor.

20 THE COURT: I'm sorry. What?

21 MR. BLOOM: I think -- I'll withdraw the
22 objection. I apologize.

23 THE COURT: Okay. Go ahead, ma'am.

24 THE WITNESS: Originally, he stated that all

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1 the weapons belonged to him.

2 And I questioned the registration, because
3 they were registered in his name, but then they had also
4 been registered in her name.

5 And he said: Well, the nine is mine. It's
6 registered to me.

7 He said: The -- the .38 is hers. Well,
8 it's mine; well, it's hers; you know how it is.

9 And he says: And the long gun is mine also.

10 BY MS. GOETTSCH:

11 Q When he was referring to the nine, what gun
12 was he referring to?

13 A A Stern Ruger.

14 Q What caliber?

15 A Nine millimeter.

16 Q And you had that in safekeeping?

17 A Yes, we did.

18 Q Did you then investigate the gun
19 registration on that nine millimeter Ruger?

20 A Yes. It had been originally registered on
21 the 22nd of January to Virginia Centofanti; and it had
22 been -- he had been added onto the registration on the 27th,
23 because he had desired a COW permit, and so the gun
24 registrations were put in his name at that time.

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CROSS-EXAMINATION

1 BY MR. BLOOM:

2 Q Miss Zwick, you wrote a report with regards
3 to your testimony -- I'm sorry -- with regards to the
4 conversations?

5 I apologize for our little screen in the way
6 there.

7 A That's okay. I'm just leaning out so I can
8 see you.

9 MR. BLOOM: Right. I'll stand over here to
10 make it easier to see.

11 So the record reflect, between you and I is
12 a TV screen from an earlier court proceeding, so I'll stand
13 over here.

14 Now, let me start again.

15 BY MR. BLOOM:

16 Q You did write a report with regard to your
17 contact with Mr. Centofanti on the 18th and the 20th; is
18 that correct?

19 A Yes, it is.

20 Q And when did you author that report?

21 A I think it was on the 21st of December, last

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1 Q On January 27th of the year 2000?

2 A Yes.

3 Q Okay. And did he also make representations
4 to you about the nine millimeter belonging to him?

5 A Yes, he did.

6 Q Did you eventually release the guns to him?

7 A Yes. His main concern was getting the nine
8 back on that day.

9 He said the other two, he wanted to get them
10 back, but he wasn't as concerned.

11 Excuse me. So I went into the computer and
12 I had everything signed by the sergeant. I had completed
13 his background and I set it for release at ten, and he went
14 in and picked them up about 11:30 or 11:40, as I recall.

15 Q And in order to release the gun to him,
16 would it have to be registered in his name?

17 A That's correct.

18 Q You couldn't release it if it was registered
19 to Virginia Centofanti?

20 A No.

21 MS. GOETTSCH: I have no further questions
22 for this witness.

23 THE COURT: Mr. Bloom.

24 MR. BLOOM: Yes. Thank you, Your Honor.

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1 year.

2 Q Could it have been on the 22nd of December?
3 Because I see it's dated the 22nd.

4 A Yes, it could have been.

5 MR. BLOOM: So -- may I approach, Your
6 Honor?

7 THE COURT: Yes, you may.

8 MR. BLOOM: Thank you.

9 BY MR. BLOOM:

10 Q Is this the report that you authored?

11 A Yes, it is.

12 Q And it has a date and time on the bottom, of
13 the 22nd of December and the time of being 11 --

14 A 11:30.

15 Q -- 30.

16 So would -- is that the date and time then
17 that you authored this report?

18 A Yes.

19 Q And you prepared this report in response --
20 this report would normally not have been prepared if it was
21 just going to have to do with the release of the weapon --

22 A That's correct.

23 Q -- correct?

24 This report was prepared specifically at the

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1 request of someone involving the homicide investigation of
2 Mr. Centofanti, correct?

3 A It was requested by him, but it was also
4 suggested by my sergeant that I document the events so that
5 I could remember them if I had to recall them at a later
6 date.

7 Q And requested by him, meaning the homicide
8 detective, correct?

9 A Yes.

10 Q Is that Officer Thowsen, Detective Thowsen?

11 A Yes.

12 Q So Detective Thowsen spoke to you on what
13 day with regard to these reports or with regard to creating
14 records?

15 A I spoke -- I spoke to him on the 21st.

16 Q And on the 21st of December, he asked you to
17 prepare a report memorializing your events with Mr.
18 Centofanti?

19 A Yes.

20 Q You reviewed that report for your testimony
21 here today, correct?

22 A Yes, I did.

23 Q Now, in that report -- and you -- you relied
24 on that report to help you and assist you today in your

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1 did you hear?

2 A Excuse me for a minute.

3 He said -- he said his name.

4 Q What -- what name did he -- just say what
5 words he used.

6 A He said it was -- I thought it was Albert at
7 the time. I thought it was Albert Centofanti, but I didn't
8 understand all of the last name.

9 And he said he was calling to pick up his
10 weapons.

11 Q How do you know it was Centofanti then?
12 What part of --

13 A I didn't know at the beginning -- I didn't
14 know on the 15th what the whole last name was. All I got
15 was part of -- a garbled message of Centa -- I didn't know
16 how to spell the whole thing is what I'm trying to say.

17 Q And what I'm trying to understand is what
18 you actually did -- did you hear the words -- or did you
19 hear Albert Centa?

20 A Yes.

21 Q So if we were going to spell that
22 phonetically now, Centa could be S-e-n-t-a?

23 A Could be.

24 Q That could be a phonetic -- that's a

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1 testimony here today, correct?

2 A I relied on it to remind me, but I remember
3 most of it.

4 Q In the report, it says that you began -- Mr.
5 Centofanti began calling to claim the weapons on the 14th of
6 December.

7 How was it you remembered the exact date?

8 A I recalled the exact date because he had
9 left an undecipherable message on the answering machine and
10 it was just prior to the weekend.

11 Q What did that undecipherable message say?

12 A He was calling to get his weapons back, but
13 I couldn't understand the name or the phone number.

14 Q When you say undecipher- -- what exactly is
15 it that you heard on that message that you can remember?

16 I mean, undecipherable, to me, means that
17 you can't understand what's being said.

18 A I knew it was someone that was calling to
19 get their weapons back. I got part of his name, but I
20 wasn't exactly sure how to spell it. I couldn't look it up
21 in the system. And he didn't leave a complete event number,
22 to my recollection.

23 Q Okay. So what was on -- what -- what did
24 you hear on that recording -- not what you didn't hear; what

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1 phonetic spelling of what you heard?

2 THE COURT: Is that yes, ma'am?

3 THE WITNESS: Yes.

4 MR. BLOOM: You have to answer.

5 THE WITNESS: Yes.

6 MR. BLOOM: Thank you.

7 BY MR. BLOOM:

8 Q And did you recognize the voice of that
9 person?

10 A I had never spoke to that person before.

11 Q Then the answer is no?

12 A Did I recognize the -- I -- I have to
13 clarify the question: Did I recognize his voice on the
14 machine on the 14th?

15 Q That voice that you heard that said this is
16 Albert Centa --

17 A When I spoke to him on the 18th, I
18 recognized his voice as being the same person, yes.

19 On the 14th, I didn't recognize his voice.
20 I had never heard his voice before.

21 Q And where is that -- well, you heard that
22 message on the 15th of December?

23 A Yes.

24 Q And that was left on a voice mail of yours?

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1 A On a -- yes.
 2 Q What number was that?
 3 A 229-2749.
 4 Q Is that still the number for your voice
 5 mail?
 6 A Yes, yes, it is. That's the main number for
 7 our office.
 8 Q I've called that main number in the last few
 9 weeks and can't get a voice -- any answer.
 10 Is there a different system now in
 11 existence?
 12 A You've called 229-2749 this week?
 13 MS. GOETTSCH: I'm going to object to this
 14 line of questioning as irrelevant to what we're here to do
 15 today.
 16 THE COURT: Sustained.
 17 BY MR. BLOOM:
 18 Q Your report that you relied on said that you
 19 had -- that he left a second message.
 20 A My report said that I thought he had, yes.
 21 Q Not sure about that?
 22 A No.
 23 Q What is it that you remember hearing about
 24 that second message?

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1 Q That's the one that said Albert Centa?
 2 A No, that was on the Thursday, the 14th.
 3 Q In your report, you write the words: I
 4 believe he also left a second message at the end of the day,
 5 on Friday the 15th.
 6 You wrote the words 'I believe'.
 7 And just now, a few moments ago, you said
 8 that you think he left another message, a second message.
 9 That's what I'm trying to get at, that
 10 question.
 11 What is it in your mind that makes it
 12 unclear about that second message?
 13 A What makes me unclear is that you are saying
 14 that I wrote that 'I believe'.
 15 What I'm saying is at some time between that
 16 first garbled message and the Monday when I talked to him on
 17 the 18th, he did leave a message that I got the information
 18 from, that I started pulling his paperwork on.
 19 Q So the uncertainty was simply the date?
 20 A The date and the time.
 21 Q I see.
 22 So the second message then, you are certain
 23 there was a message; you are just not sure --
 24 A Exactly.

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1 A I'm gathering my thoughts, please.
 2 He had left a second message. It was on a
 3 Friday because when I spoke with him on the 18th, that was a
 4 Monday.
 5 So, yes, he had left a message on the Friday
 6 prior to the weekend, and I had not talked to him again
 7 until the 18th.
 8 Q And -- but now -- and you are saying that
 9 you are not sure that he -- that he left that message on the
 10 Friday, and that's what I'm trying to get at.
 11 Why is it that you believe that he left a
 12 message on the Friday?
 13 A Because when he left the message on the
 14 answer machine on the Friday, prior to the 18th, is when I
 15 got the information -- it was clear -- the event number and
 16 his name and I started his background check prior to even
 17 speaking to him on the 18th.
 18 Q But I'm trying to -- I thought you -- you
 19 just told us a few minutes ago, he had left a second
 20 message; you thought it was him; you weren't sure --
 21 A I was trying to straighten out the days in
 22 my head. I know that he left a message the Friday prior to
 23 the 18th. That's the message that I took off the machine
 24 and started his background check.

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1 Q -- you weren't sure of the date and time of
 2 it; is that correct?
 3 A Yes; yes.
 4 Q I understand.
 5 And on that second message on the 15th, what
 6 did it say? Or whatever day that was, the second one where
 7 he actually left the message that you got --
 8 A His name, his event number and that he
 9 wanted to pick up his guns.
 10 Q You didn't speak with him at that time?
 11 A No, I did not.
 12 Q Now, that's in -- again, with that message
 13 on the 14th and the 15th, that was on your answering -- your
 14 voice mail system?
 15 A Yes.
 16 Q Is that an actual tape -- a little tape
 17 cassette or is it --
 18 A It's a digital -- a digital voice answering
 19 machine.
 20 Q And does that exist now?
 21 A No. It's erased each time. It's erased
 22 when we take the messages off the machine. The machine
 23 exists, but the tape doesn't.
 24 Q So as soon as you listen to the message, it

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1 erases --

2 A We hit delete and delete them. It only
3 holds ten, so after each message, we delete it.

4 Q And in this case then, on the 14th, did you
5 delete the message that came in on the 14th; that first
6 date, you deleted that message after you heard it?

7 A Yes.

8 Q And the same on the 15th, you deleted that
9 after you heard it?

10 A Yes.

11 Q Did you make any notes with regards to those
12 conversations?

13 A Yes. I filled out a slip with his name and
14 the event number.

15 Q And could I -- do you have that in front of
16 you?

17 A I don't know if I do or not.

18 No, because once it's printed up and
19 released, we don't keep the original phone messages.

20 Q So that was a document that you prepared in
21 furtherance of your regular duties with regard to releasing
22 weapons?

23 This two page report that we talked about
24 before was prepared in furtherance of your investigation of

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1 for release, which means they can go into the evidence vault
2 and pick it up.

3 Q The -- you finally did have a conversation
4 with Mr. Centofanti on the -- on the -- on the 18th --

5 A Yes, I did.

6 Q -- correct?

7 Now, on that message on the 15th, when he
8 was calling to -- to leave his name and his event number to
9 get his weapons, was there anything unique or unusual about
10 his -- about those -- about the message?

11 A No.

12 Q On that message that you couldn't -- that
13 was sort of undecipherable, it said Albert Centa, from the
14 first one that was called in on the 14th, was there anything
15 unusual about that, other than the fact it was hard to hear,
16 but anything unusual?

17 A It wasn't hard to hear. It was that the
18 person was talking very -- like they were in a hurry, very
19 rushed; other than that, no.

20 Q And when you spoke to Mr. Centofanti on the
21 18th, was there anything unusual about his conversation with
22 you on that date?

23 A It wasn't unusual, but there was an urgency
24 to it.

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1 the homicide?

2 A That's correct.

3 Q But with regards to the notes that you made
4 on the -- on the 15th, that second message, that's
5 destroyed?

6 A Yes. Once we have a signed disposition
7 order, then the notes and everything, we -- we shred them,
8 unless there is something that needs to be forwarded to
9 records.

10 Q When was there a signed disposition order?

11 A The morning of the 20th.

12 Q And of -- you are holding a document?

13 A I have a certified copy of it.

14 MR. BLOOM: May I approach, Your Honor?

15 THE COURT: Yes, you may have.

16 MR. BLOOM: Thank you.

17 MR. BLOOM: Do you have that one already?

18 MS. GOETTSCH: I don't believe so.

19 BY MR. BLOOM:

20 Q This is a document you prepared at the
21 completion of the -- of the release of the weapons?

22 A No. I prepared this at the completion of
23 the background. I have it signed by my supervisor, and then
24 I go into the evidence vault computer system and set it up

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1 Q What was that? How -- why do you say that?

2 A Why did I say that?

3 Because he kept -- he asked me: When can I
4 get them? How long will this take? Why do you have to do
5 this background? I have a blue card. I have a CCW. Why is
6 this necessary?

7 Q Do you experience that with other people who
8 wanted to get their guns back from you?

9 A Yes.

10 Q I don't mean just Mr. Centofanti. I mean
11 other -- other members of the citizens of Las Vegas, who
12 want their guns back after they've been taken by the police?

13 A Yes.

14 Q So that really wasn't -- that's why you said
15 it wasn't unusual, but there was a certain sense of urgency
16 to it?

17 A That's correct.

18 Q In fact, lots of people want to get their
19 guns back and seem to have that sense of urgency when they
20 come to talk to you?

21 A Yes.

22 Q Correct?

23 A Yes.

24 Q And it had been at that point about 13 days

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1 since the guns had been seized?

2 A Yes.

3 Q So sometimes, as a civil servant dealing
4 with the public, you get a fair amount of -- of flack
5 from -- do you know what I'm saying?

6 Why do you have to go through all of this
7 rigamarole, all of these bureaucratic things?

8 MS. GOETTSCH: I'm going to object to this
9 as asked and answered; beyond the scope of what this hearing
10 is --

11 THE COURT: Sustained.

12 BY MR. BLOOM:

13 Q Other than that -- that you have described
14 of Mr. Centofanti, the 18th, was there anything else that
15 you think was -- well, that wasn't unusual, but was there
16 anything else, was there anything remarkable about that
17 conversation?

18 A There wasn't anything remarkable about the
19 conversation, no.

20 He was -- there were questions regarding the
21 registration being transferred to him.

22 Q Is that when you talked to him about it,
23 when he -- when you are trying to figure it out?

24 A On the 18th, yes.

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1 And then on the 27th -- the original
2 registration was from a gun store.

3 On the 27th, the registration showed that it
4 had been transferred to Mr. Centofanti on the 27th out of
5 Downtown Area Command, so I questioned why they had been
6 changed.

7 And he told -- explained to me that when he
8 went in to get COWs on both of those guns, that since he was
9 not the registered owner, they would not let him register
10 them.

11 So he, at that time, went over to the
12 Downtown Area Command and registered the weapons to himself.

13 But in the computer system, it did not show
14 that they were co-registered.

15 As of this morning, I pulled off the
16 microfilm, the original application from Downtown Area
17 Command, and it shows that it was to be added as a
18 co-register.

19 Q So you are --

20 A But I was not aware of that at the time.

21 Q So the records show now that the application
22 for registration was as a -- a co-register, Mr. Centofanti
23 along with Mrs. Centofanti, as the owners?

24 A That's correct.

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1 Q All right. And -- now, did your -- did your
2 examination of the records with regards to the weapons --
3 and there are three weapons that were involved, correct?

4 A Correct.

5 Q There were two handguns and a --

6 A Winchester.

7 Q -- and a rifle, correct?

8 A Yes.

9 Q And did you -- did your records initially
10 show that some of these weapons had been registered to
11 Virginia Centofanti?

12 A Yes. Initially, when I was doing his
13 background check, I went to the registration computer, which
14 is the computer where all the registrations are logged, and
15 it showed that they were originally registered to Jeena
16 on -- excuse me -- on the 22nd of January.

17 Q January 22nd of the year 2000?

18 A Yes.

19 Q And they being all three of the weapons?

20 A No. You only have to register handguns.
21 You don't register --

22 Q So both the handguns had been initially
23 registered to Jeena?

24 A On the 22nd.

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1 Q And, apparently, that's an acceptable
2 practice here in Las Vegas --

3 A Yes.

4 Q -- to allow us to -- to be, I guess,
5 co-owners or co-registered owners of a particular weapon?

6 A Only -- only marital spouses.

7 And when I spoke to him, he did not say
8 anything about her no longer -- about it being co-registered
9 to her.

10 He just said that he had transferred the
11 registration to him so that it could be on his COW. He
12 never told me that they were co-registered.

13 Q I thought your words earlier, when you were
14 talking about what Mr. Centofanti told you, was something
15 along -- his words were something like, you know: They're
16 mine; they're hers; they're mine; they're hers.

17 A Right, but he said they were registered to
18 him.

19 Q So he told you that they were -- they both
20 had ownership, but he also told you he was the -- the
21 registered owner?

22 A That's correct, because of the COW.

23 Q And he was a registered owner?

24 A That's correct.

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1 Q She was also a registered owner?
 2 A Yes.
 3 Q And the only thing -- for your purposes in
 4 terms of the release of them, the only thing that was
 5 necessary was to show that he was a registered owner of the
 6 weapon.
 7 A Yes. They have to provide proof of
 8 ownership, which registration does, and they have to pass a
 9 background check.
 10 Q Did you tell him how long it would take for
 11 the guns to be released?
 12 A I told him it takes three to five working
 13 days, and that if he hadn't heard from me in a few days to
 14 give me a call.
 15 Q And this was on the 18th?
 16 A Yes.
 17 Q And on the 20th, there was a call?
 18 A Yes.
 19 Q And you hadn't contacted him by the 18th --
 20 by the 20th, had you?
 21 A No, I hadn't contacted him, no.
 22 Q So he was following up on your statement to
 23 go ahead and contact you and made a call on the 20th; is
 24 that correct?

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1 A Yes.
 2 Q And did you take that call on the 20th?
 3 A Yes, I did speak to him.
 4 Q Is there anything unusual about the contact
 5 you had with him on the 20th?
 6 A Not that I can recall.
 7 Q And as you are sitting here now, not that
 8 you can recall, but also as of the time that you wrote your
 9 report, which was on the 22nd of December, there wasn't
 10 anything unusual about it that you recalled at that time,
 11 was there?
 12 A No. I spoke to him and he said he would go
 13 get it that day.
 14 Q Did you -- did you contact him on the 20th?
 15 A My report says that I did contact him on the
 16 20th, yes.
 17 Q So he didn't even call you on that date --
 18 A I called him.
 19 Q -- you -- you called him.
 20 So was there anything unusual about the fact
 21 that you called him and told him that the guns were ready,
 22 and later that day, he came and picked them up?
 23 A No.
 24 (Whereupon, a sotto voce at this time.)

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1 MR. BLOOM: All right. Thank you very much.
 2 Thank you, Miss Zwick.
 3 THE COURT: Miss Goettsch, anything else?
 4 MS. GOETTSCH: No, Your Honor.
 5 THE COURT: Thank you, ma'am, for coming in
 6 to court and testifying. You're excused.
 7 The State may call its next witness.
 8 MS. GOETTSCH: And the next thing I have on
 9 this particular issue is a copy of the -- is a copy of the
 10 Temporary Protective Order.
 11 In this case, it is a file stamped copy and
 12 I would ask this be marked and moved for admission for
 13 this -- for this particular hearing as State's Exhibit 1.
 14 THE COURT: Mr. Bloom, do you have any
 15 objection to admitting it for this hearing only?
 16 MR. BLOOM: No, Your Honor.
 17 THE COURT: Okay. It will be marked and
 18 received as State's Exhibit 1 to this hearing.
 19 (State's Exhibit 1 admitted into evidence.)
 20 MS. GOETTSCH: And then my next witness,
 21 moving on to the domestic violence issue, would be Francisco
 22 Sanchez.
 23 MR. BLOOM: Well, do you want us --
 24 THE COURT: I'm sorry?

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1 MR. BLOOM: I -- I was going to say, if
 2 that's the extent of the litigation on this one, perhaps we
 3 can litigate it, but if you want --
 4 THE COURT: Well, we might as well do the
 5 whole thing and then I'll let you each argue both issues. I
 6 will separate the two in my own notes and issues then like
 7 that.
 8 MR. BLOOM: That's fine.
 9 THE COURT: Okay.
 10 MR. LAURENT: If you will take a seat right
 11 up here.
 12 THE COURT: Would you come on up here. You
 13 can stand up here for a minute.
 14 MR. LAURENT: Stand up and face that lady
 15 right there.
 16 Can you raise your right hand?
 17 (Oath given.)
 18 THE CLERK: You can say yes or no.
 19 THE COURT: Do you know what she just asked
 20 you?
 21 THE WITNESS: No.
 22 THE COURT: You don't understand what that
 23 means? Okay.
 24 MR. LAURENT: Can I inquire, Judge?

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1 THE COURT: Yeah. Let's do that.
 2 Why don't you go ahead and have a seat.
 3 MR. LAURENT: I'll move you right up here.
 4 Do you see this microphone?
 5 Get up to that and get comfortable.
 6 THE COURT: And why don't you go ahead
 7 and -- actually, you don't even have to talk in the
 8 microphone. Just go ahead and talk so this lady right in
 9 front you can take it down on her machine.
 10 And could you -- can you tell me your name
 11 and spell your first name and your last name.
 12 THE WITNESS: Francisco Sanchez.
 13 THE COURT: Okay. That's -- how do you
 14 spell it? F-r --
 15 THE WITNESS: F-r-a-n-c-i-s-c-o.
 16 THE COURT: Okay. And the last name?
 17 MR. BLOOM: Your Honor --
 18 THE COURT: You can't hear?
 19 MR. BLOOM: I couldn't hear.
 20 THE COURT: Mr. Bloom, I'm going to have
 21 you -- why don't you come up to the bench.
 22 If you want to pull the lecturn as well for
 23 your notes, you may do so.
 24 MR. BLOOM: Thank you.

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1 THE COURT: Francisco, can you spell your
 2 last name for me?
 3 THE WITNESS: F-r-a-n --
 4 THE COURT: Go ahead. Your last name then.
 5 THE WITNESS: S-a-n-c-h-e-z.
 6 THE COURT: Okay.
 7 MR. LAURENT: We have --
 8 MR. BLOOM: Your Honor, if I can interrupt.
 9 I apologize, Mr. Laurent.
 10 I believe that, as a minor -- it's quite
 11 clear this witness is a minor; that these matters are
 12 subject to now the exclusion of all people from the audience
 13 and the matter should be marked as sealed until further
 14 court order.
 15 MR. LAURENT: That's true, Judge, but we do
 16 have someone who is standing in here as support and they're
 17 allowed to have someone come in for support.
 18 The witness who is on the stand -- in the
 19 audience right now is here as moral support, not as a
 20 potential witness. And minors are entitled to have someone
 21 like that even come up and sit with them if they want.
 22 THE COURT: Mr. Bloom, if he's not going to
 23 be a witness in the case and it's the minor's desire to have
 24 him there, do you have any problem with that?

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1 MR. BLOOM: If this witness -- if this
 2 person -- we're talking about that same gentleman that gave
 3 his name earlier?
 4 THE COURT: Right.
 5 MR. BLOOM: If this gentleman did assist in
 6 discussing this matter with this witness and did discuss the
 7 potential what's going to happen today, in terms of
 8 testimony or things like that, then that person then becomes
 9 a potential witness.
 10 And I don't know if that actually happened,
 11 but --
 12 MR. LAURENT: I have never ever had any
 13 I don't even know who the witness is.
 14
 15 I'll let him stay, but
 16 and can't be
 17
 18 let you come
 19 jury box and
 20 the front row,
 21
 22 and I will be
 23 itness

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1 testifies then.
 2 Okay. Mr. Laurent, why don't we start about
 3 the oath here and go into that.
 4 MR. LAURENT: Thank you, Your Honor.
 5
 6 FRANCISCO SANCHEZ
 7 called as a witness on behalf of the State,
 8 being unsworn at this time,
 9 was examined and testified as follows:
 10
 11 DIRECT EXAMINATION
 12 BY MR. LAURENT:
 13 Q Now, Francisco, you are called Quito; is
 14 that correct?
 15 A Yeah.
 16 Q Would you prefer that I call you Quito or
 17 Francisco?
 18 A Quito.
 19 Q Quito is spelled Q-u-i-t-o?
 20 A Yes.
 21 Q And it's a lot easier to write your name --
 22 or spell your name when you are writing it down, isn't it?
 23 A Yes.
 24 Q Now, a minute ago, the lady over there on

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1 the other side of the judge asked you to raise your right
 2 hand and she went through a litany of things and then you
 3 wanted to ask you to say yes or no.
 4 Some of the things she asked you was if you
 5 would tell the truth.
 6 Do you know what it means to tell the truth?
 7 A Yes.
 8 Q What does it mean to tell the truth?
 9 A You are not lying.
 10 Q Oh, you are not lying.
 11 What does it mean to tell a lie?
 12 A You are not telling the truth.
 13 Q Very good. You are not telling the truth.
 14 If I were -- if the judge were to -- well,
 15 let's say if someone -- because we don't want to call anyone
 16 a liar -- if someone were to say that I was wearing a clown
 17 suit today, would that be a truth or a lie?
 18 A A lie.
 19 Q If someone were to say that I'm wearing a
 20 suit with a blue tie today, would that be the truth or a
 21 lie?
 22 A The truth.
 23 Q Now, do you understand, when you raised your
 24 hand over there, what the judge was asking you was, and his

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1 A No, sir.
 2 Q Did I tell you to tell the truth?
 3 A No, it's not -- oh, yeah, yeah,
 4 Q Did I tell you to tell the truth?
 5 A Yes.
 6 Q And when you said it's not your mom's
 7 sister, you think of your grandmother as your mom, don't
 8 you?
 9 A Yeah.
 10 Q And you are living with your grandmother
 11 now?
 12 A Yes.
 13 Q What's her name?
 14 A Lynn Eisenman.
 15 Q Lynn? L-y-n?
 16 A L-y-n-n.
 17 MR. LAURENT: L-y-n-n, Eisenman.
 18 Does the Court have any other questions on
 19 his ability to tell the truth?
 20 THE COURT: I'm going to let Mr. Bloom voir
 21 dire on that issue then like that, just understanding the
 22 oath and telling the truth.
 23 You may proceed.
 24 MR. LAURENT: Just so you know what's going

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1 clerk, do you promise to tell the truth today?
 2 MR. BLOOM: Objection, Your Honor; leading.
 3 MR. LAURENT: Foundational.
 4 THE COURT: I will allow it under MRS
 5 50.115.
 6 You may proceed.
 7 MR. LAURENT: Thank you.
 8 BY MR. LAURENT:
 9 Q Do you understand that your -- are you
 10 promising to tell the truth today?
 11 A Yes.
 12 Q Has anyone told you to say anything in
 13 connection with this case?
 14 A Tell the truth,
 15 Q Who has told you to tell the truth in this
 16 case?
 17 A Aunt Lisa.
 18 THE REPORTER: Who?
 19 THE COURT: Aunt Lisa.
 20 BY MR. LAURENT:
 21 Q And just so the record is clear, that's Lisa
 22 Eisenman, correct?
 23 A Yes.
 24 Q That's your mom's sister?

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1 on, the defense attorney is now going to ask you some
 2 questions, and then I will ask you questions after that.
 3 Okay?
 4 THE WITNESS: Okay.
 5
 6 VOIR DIRE EXAMINATION
 7 BY MR. BLOOM:
 8 Q Hi, Quito.
 9 A Hi.
 10 Q Before you came here today, were you -- did
 11 people talk to you about what you would say?
 12 MR. LAURENT: Judge, I'll object at this
 13 point. This is just on the oath.
 14 THE COURT: Sustained.
 15 Why don't we talk about if he understands
 16 what telling the truth means and the oath.
 17 Mr. Bloom, that's certainly proper for
 18 cross-examination, assuming you would get that far.
 19 BY MR. BLOOM:
 20 Q Quito, have you ever told a lie?
 21 A Yeah.
 22 MR. BLOOM: Have you -- I'm not trying to go
 23 beyond what the Court's direction is, Your Honor, but to be
 24 frank, I'm -- just the concept of whether or not we're going

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1 to have a truthful testimony with regards to this witness
2 today, I think it's proper for the defense to be able to
3 inquire if the witness has spoken with -- or under what
4 circumstances the witness has discussed his testimony before
5 he comes in here.

6 THE COURT: Well, I'll let you do that on
7 cross-examination.

8 I just wanted to give you the opportunity to
9 voir dire if you had anything specifically to understanding
10 the oath to tell the truth, and then we'll let you get into
11 the -- I'm not going to rule -- I'll rule after we hear from
12 him about where we go in the future with his testimony.

13 BY MR. BLOOM:

14 Q Quito, do you know why you are here today?

15 A No.

16 Q Has anybody told you why you are here today?

17 A No.

18 Q Do you know what your -- what is going to
19 happen today?

20 A No.

21 Q Do you know why you were called into our
22 courtroom today?

23 A No.

24 Q Do you -- don't you know that this has

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1 something to do with the -- the -- the death of your mom?

2 A Yes.

3 Q Do you know that that's what you are going
4 to be called to -- to talk about today?

5 A No.

6 MR. LAURENT: That's an accurate statement.
7 I'm not going to talk about the death of the mom or ask him
8 any questions.

9 THE COURT: Anything else you want to ask on
10 that, understanding the truth issue?

11 MR. BLOOM: I guess -- I'll -- no, no, Your
12 Honor, not with regard to voir dire on that subject.

13 THE COURT: Okay. Very good.

14 Mr. Laurent, you may proceed.

15 DIRECT EXAMINATION (Resumed)

16 BY MR. LAURENT:

17 Q Quito, tell me who your mom is.

18 A What?

19 Q Tell me who your mom is, please.

20 A Jeena Eisenman.

21 Q Can you try to speak up just a little bit
22 louder so this lady can get everything down for us.

23 A Okay.

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1 Q Thank you. I appreciate it.

2 And who was your mom married to?

3 A Mr. Centofanti.

4 Q Do you see Mr. Centofanti in court today?

5 A Yes.

6 Q Will you point to him and describe an
7 article of clothing he's currently wearing?

8 A Um, the --

9 THE COURT: Is he sitting -- Quito, is he
10 sitting at the table on your right down there behind those
11 big books? Can you point out where you see him sitting?

12 THE WITNESS: Right there.

13 THE COURT: Okay. The record will reflect
14 the identification of the defendant.

15 MR. LAURENT: Okay.

16 BY MR. LAURENT:

17 Q Did you and -- let me ask you this: Did
18 you, your mom and Mr. Centofanti live together at some
19 point?

20 A Yes.

21 Q Do you remember when that was?

22 A At Las Vegas.

23 Q You guys lived together in Las Vegas?

24 A Yes.

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1 Q Was that last year?

2 A Yes.

3 Q And do you recall a time last year when your
4 mom went -- was arrested and went to jail?

5 A What?

6 Q Do you remember a time last year when your
7 mother was arrested and went to jail?

8 A Yes, sir.

9 Q Okay. Do you remember the date of that?

10 A No.

11 Q But you do remember it happening?

12 A Yeah.

13 Q Do you remember that morning that your mom
14 was arrested?

15 A Yes.

16 Q Where were you that morning?

17 A I was at the -- there was like a little
18 playground next to my house.

19 Q A little playground next to your house?

20 A Yes.

21 MR. BLOOM: A little what?

22 MR. LAURENT: Playground next to the house.

23 BY MR. LAURENT:

24 Q Was that -- let me ask you this: When did

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1 you wake up that morning?
 2 A I don't know. I forgot.
 3 Q How did you wake up that morning?
 4 A With a glass -- glass falling on my stomach.
 5 Q Now, let me ask you some questions about
 6 that. Okay?
 7 When you say glass fell on your stomach,
 8 where were you when the glass fell on your stomach?
 9 A On the bed.
 10 Q On the bed.
 11 And which bed was that?
 12 A My -- my mommie's and Chip's.
 13 Q So that was your mom's bed?
 14 A Uh-huh.
 15 Q Is that a yes?
 16 A Yes.
 17 Q Are you scared?
 18 A Yes.
 19 Q Okay. Don't worry. Nobody is going to hurt
 20 you here. Okay?
 21 You say you were sleeping at that time.
 22 You were sleeping in your mom's bed?
 23 A Yes.
 24 Q And some glass fell on you?

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1 That's a bad question.
 2 Let me forget that.
 3 Some of your shirt was out from the covers
 4 and the glass landed on that, right?
 5 Am I doing this wrong?
 6 I guess my question is: Did the glass land
 7 on the covers that were on top of you or did they land on
 8 your shirt?
 9 A On the covers.
 10 Q On the covers.
 11 It didn't land on your shirt or it did land
 12 on your shirt?
 13 A Didn't.
 14 Q It didn't.
 15 It landed on the covers where your shirt
 16 would have been if the covers weren't there?
 17 A No.
 18 Q You don't know?
 19 MR. BLOOM: Excuse me, Your Honor.
 20 I apologize.
 21 (Whereupon, a sotto voce at this time.)
 22 THE COURT: Do you want to break here, Mr.
 23 Bloom?
 24 MR. BLOOM: Well, I've just had a chance to

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1 A Yes.
 2 Q Where on you did the glass fall? Did it
 3 land on your head? Did it land on your chest? Did it land
 4 on your legs? Where?
 5 A Chest.
 6 Q On your chest.
 7 When you were sleeping in the bed, were you
 8 under the covers, on top of the covers? Did you have a
 9 pillow on top of your head? How was that?
 10 A Under the covers.
 11 Q Under the covers.
 12 Were the covers -- if you can remember, were
 13 the covers pulled up to your neck? Were they pulled up to
 14 your nose? Were they pulled up to your waist? What do you
 15 remember about that?
 16 A My nose.
 17 Q Your nose.
 18 And when the glass landed on you, did it
 19 actually land on the -- did it land on the covers then or on
 20 your shirt?
 21 A On my shirt.
 22 Q On your shirt.
 23 So there was some of it exposed that it
 24 could land on; is that right?

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1 skim through the materials that I had received today, this
 2 morning, from the District Attorney, and some documents that
 3 I signed for today. And I believe that contained in those
 4 documents is an October 24th -- October 24th interview with
 5 the witness by the District Attorney.
 6 I have never seen this --
 7 THE COURT: Okay.
 8 MR. BLOOM: -- I don't believe I have ever
 9 seen this document or this tape recording.
 10 MS. GOETTSCHE: This is a Petrocelli hearing.
 11 I mean, I don't understand what the objection is.
 12 MR. BLOOM: The objection is that the
 13 defense should have had the opportunity to examine the
 14 witness and have all the information that both parties have;
 15 and the District Attorney has been sitting on this for two
 16 months and --
 17 MS. GOETTSCHE: That is not true. It took us
 18 a while to get this transcribed. I mean, my secretary, who
 19 does a whole track of work, transcribed this.
 20 THE COURT: Okay. Let's do this --
 21 MS. GOETTSCHE: And I don't think he's in a
 22 position right now to be saying stuff is late.
 23 THE COURT: Let's take our lunch break right
 24 now and give Mr. Bloom a chance to read this material and go

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1 through it before he has to do his examination this
2 afternoon.

3 I'm not going to -- I'll rule on whatever
4 you feel the appropriate motion is and I will hear the
5 State's response to it, but I want to give you a break
6 today, so you can prepare for your examination.

7 MR. LAURENT: Shall we --

8 THE COURT: And you have a witness, I
9 believe, that you have to interview at the noon hour as well
10 or a potential witness.

11 MR. LAURENT: Should we finish direct?

12 It's up to you, Judge. I'm just asking.

13 THE COURT: I think we better -- I think we
14 better break, Mr. Laurent, now, because of the fact that Mr.
15 Bloom hasn't seen the statement before.

16 Let's do that. Let's take a recess and
17 let's -- I'll give a little 15 minute -- let's come back at
18 1:45 and give Mr. Bloom a little extra time then like that.

19 Okay, Quito, we're going to have you go back
20 out with your -- your Aunt Lisa and -- and we want you to
21 come back here at 1:45, but we -- we -- we don't want you to
22 talk about the case. Okay? Don't talk about what's going
23 on in court with anybody. Okay?

24 THE WITNESS: Okay.

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1 (Recess in proceedings.)
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1 THE COURT: And you can come back -- other
2 than you can talk to the District Attorney or you can talk
3 to -- to Mr. Bloom here like that.

4 It's okay to talk to attorneys, but don't
5 talk to anybody else about the case until we come back at
6 1:45. Okay?

7 MR. LAURENT: Same admonishment applies to
8 you.

9 THE COURT: Yes, sir, and, again, I --
10 I'm -- I'm welcome to have you here, but I don't want you
11 discussing the case with Quito or say anything to him about
12 testimony or anything unless it's -- not only from this
13 point forward, but through the duration of the trial. Okay?

14 Do you understand that?

15 MR. THORBURN: I understand it.

16 MR. LAURENT: And if I could just augment
17 that, Judge, please.

18 THE COURT: Yes.

19 MR. LAURENT: Don't talk to Lisa about it;
20 don't talk to anyone about it. What you observed here and
21 heard here is to remain here. Okay?

22 THE COURT: Okay. Thank you.

23 We'll come back at 1:45 this afternoon.
24

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1 Las Vegas, Nevada, Friday, December 21, 2001, 1:45 p.m.
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THE COURT: This is the continuation of Case
Number C172534, the State of Nevada versus Alfred
Centofanti.

Let the record reflect the presence of Mr.
Centofanti; together with his attorneys Mr. Bloom and Miss
Navarro; Mr. Laurent and Miss Goettsch, representing the
State.

When we left off, we had Francisco Sanchez
on the stand.

Could we continue forward?

MR. LAURENT: I'd just put something on --
it's not an argument; it's just a record.

Judge, I'm handing Mr. Bloom right now the
crime scene report of Mr. Peterson, so they won't make any
claims any more that the -- there is a couple of requests
for forensic inspection. One is from Tom Thowsen on
serology, buccal swabs, sexual assault kit; and then the
other one is on the Ruger handgun.

Additionally, there is a copy of the crime
scene diagram signed by Mr. Peterson.

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1 This stuff is all in our file and it was
2 reviewed.

3 Additionally, there is a report from Mr.
4 Krylo. I spoke with co-counsel, Miss Navarro. She has
5 these items, what I'm handing to Mr. Bloom, to make sure he
6 got them as well, and also a fingerprint report from Edward
7 Gunther.

8 Now, in all fairness, we do have another
9 report from Mr. Krylo. I thought we had e-mailed it to Mr.
10 Bloom.

11 We could not find it immediately in our
12 file, so we will look for that, but there is another report,
13 and the subject matter of that report has to do with
14 stipling, based on the test firing of the weapon, with
15 similar ammo.

16 The -- the -- he gave a distance of about --
17 I don't know -- eight to 13 inches, something like that.
18 That's not exact. But I will get that. I think they have
19 it, but I'm not positive.

20 MR. BLOOM: I have that.

21 THE COURT: Okay. Anything else to put on
22 the record?

23 MR. LAURENT: No. Just wanted to make sure
24 we had all parties -- everything is out there.

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1 MR. BLOOM: And along that same line, Your
2 Honor, I told Miss Goettsch a few seconds ago that I did
3 have a chance to and did speak with Lieutenant Steve Franks
4 of the Las Vegas Metropolitan Police Department and do
5 expect to call him and will subpoena him.

6 I did not subpoena him at lunch, but I will
7 subpoena him to testify on the issue of psychology -- I
8 guess I'll call it the psychology of shooting, but this
9 question of whether or not seven shots equals premeditation
10 or if there are other explanations.

11 And I will present that to -- to the Court;
12 and he informs me that if he was under subpoena that he will
13 testify to that.

14 THE COURT: Okay. Well, you need to put
15 that in writing; and then Miss Goettsch can file a motion if
16 she feels it's appropriate to deal with that issue then.

17 MR. LAURENT: And, again, Judge, since he's
18 not a percipient witness, Metro may not allow him to be
19 called in this case because he is not a percipient witness
20 in this case.

21 MR. BLOOM: I'm sorry?

22 MR. LAURENT: I don't know. I have not
23 talked with their attorney yet, Mr. Mitch Cohen, of our
24 office.

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1 He's the one who represents Metro. I don't
2 know.

3 MR. BLOOM: Well, that's an interesting
4 issue, because I heard Mr. Laurent say that earlier.

5 I can't imagine how any policy of a police
6 department or any other agency can stop someone from being a
7 witness if they're subpoenaed and they're going to testify
8 about things, they're going to testify to the truth about
9 what they know.

10 And a policy of -- and I don't know if there
11 is such a policy or if they're going to attempt to implement
12 it as it relates to this witness or what he would do
13 otherwise or -- or any of that.

14 So the issue is not --

15 THE COURT: Well, why don't we leave it open
16 for right now and then both sides can --

17 MR. LAURENT: Just so you know, Judge, where
18 we're going -- if they're calling him as an expert witness,
19 generally, you can't call another side's expert.

20 He's employed by the Las Vegas Metropolitan
21 Police Department. I'm imbued with knowing everything that
22 they're supposed to know.

23 So they may not want their expert, who they
24 employ and pay on a regular basis to be testifying as an

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1 expert witness. I don't know. I have not talked to anyone.

2 THE COURT: Yeah. And, Mr. Laurent, you
3 might talk to Gary Booker, since that issue came up in the
4 Jessica Williams case, and I'm sure he's researched it and
5 dealt with it and see if he can give you any insight --

6 MR. LAURENT: Thank you, Judge.

7 THE COURT: -- on that.

8 Okay? Okay. And we're ready to go
9 forward -- we're going forward at this time?

10 Okay. Do you want to come on up here.

11 Mr. Bloom, you can come back over where you
12 were before --

13 MR. BLOOM: Thank you.

14 THE COURT: -- and we'll go ahead.

15 And, Francisco, why don't you look at me.

16 I want you to understand you are -- you are
17 still -- you got to tell the truth, like you said you would
18 before.

19 Okay? Do you understand that?

20 THE WITNESS: (Nods head affirmatively.)

21 THE COURT: Okay. So you just go ahead and
22 try and speak up the best you can and answer the questions
23 of the attorneys.

24 This is Mr. Laurent here. He will ask you

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1 some questions, and when he gets done, Mr. Bloom will ask
2 you some questions.

3 And just be sure and tell us the truth then.
4 Okay?

5 THE WITNESS: Okay.

6 THE COURT: Very well.

7 MR. BLOOM: Judge, I apologize again.

8 I guess I'm going to do this a lot,
9 apologize to the Court for interrupting, coming in at the
10 beginning.

11 It's my belief that at this time, because of
12 the age of witness, that are sealed -- that these are sealed
13 proceedings and the public is precluded; and so, except for
14 a special designated support person, who is present -- I
15 believe there is someone else in the audience for that.

16 MR. LAURENT: I believe he's a member of the
17 press, Judge.

18 I think, in the past, when we've had
19 juveniles testify, that they are proscribed from using a
20 juvenile's name and/or likeness, but, to be honest with you,
21 I don't know that area of the law, specifically, on the
22 issue that someone is being excluded, but I think that would
23 be challenged by -- on a First Amendment basis --

24 THE COURT: Okay.

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1 regards to testimony of witnesses.

2 They have a right, and if we could get to
3 the issues of the attorneys making arguments or something
4 about the case, they have a right to be present.

5 THE COURT: Well, I disagree on that.

6 MR. BLOOM: All right.

7 THE COURT: Under Nevada law and I think
8 under the First Amendment, they have a right to be here --
9 MR. BLOOM: Thank you.

10 THE COURT: -- subject to the limitations
11 that we have, victims and sexual assault cases or juveniles.

12 And the press will adhere to those standards
13 about names and images and not broadcast them either on
14 television or by photographs and not publish their names.

15 I -- I don't -- I believe the First
16 Amendment allows them to be here.

17 MR. BLOOM: Thank you very much, Your Honor.

18 THE COURT: Okay. Mr. Laurent, you may
19 proceed.

20 MR. LAURENT: Thank you.

21 BY MR. LAURENT:

22 Q Quito, can you tell us how old you are?

23 A Ten.

24 Q And so back in December of last year, how

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1 MR. LAURENT: -- and I don't do that.

2 THE COURT: Well, sir, you are with the
3 press then?

4 MR. WINKLER: With the Las Vegas Sun, Judge.

5 THE COURT: Okay. Sir, what I will do, you
6 may stay, but please do not mention the -- the child's name
7 or -- as far as anything that's reported.

8 THE REPORTER: I need his name.

9 THE COURT: Okay. Mr. Winkler from the Las
10 Vegas Sun.

11 MR. BLOOM: Judge, I guess along those
12 lines, Your Honor, we are in -- the press has every right to
13 be present at public hearings -- at public trials, but we
14 are in an evidentiary Petrocelli type of situation now, and
15 the Court might make a finding that certain evidence which
16 is heard today is not going to be heard at a later time.

17 And in that regard, I think there is -- a
18 greater protection; you have a stronger balance in favor of
19 the accused to have -- not having the press present with
20 regards to the contents of what we're having -- doing here
21 today.

22 And for that reason, I think, as it relates
23 to pretrial matters, that the press does not have a right to
24 be present during evidentiary Petrocelli hearings with

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1 old were you?

2 A Nine.

3 Q And when is your birthday?

4 A April 30th.

5 Q 3-0, April 3-0?

6 A (Nods head affirmatively.)

7 Q Is that a yes?

8 A Yes.

9 Q Remember, this lady right here, she is
10 taking everything down.

11 Before lunch, we were talking about what
12 woke you up in December, the day your mom went to jail.
13 Do you remember that?

14 A Yes.

15 Q And I was asking you questions concerning
16 where you were at that time.

17 Do you remember?

18 A Yes.

19 Q And just so the record is clear, so we can
20 start on the right foot, where were you when you were woken
21 up that day?

22 A In my bed.

23 Q And whose bed was that?

24 A Chip's and my mom's.

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1 Q And you were woken up by glass falling on
2 you; is that correct?
3 A Yes.
4 Q When you say --
5 THE COURT: Excuse me a second, Mr. Laurent.
6 Mr. Winkler, I will allow you, if you want,
7 to come up and sit in the jury box, so you can hear better;
8 and if you want to leave, you can get up and leave whenever
9 you want to.
10 MR. WINKLER: Thank you.
11 THE COURT: Okay, Mr. Laurent. I'm sorry.
12 MR. LAURENT: Thank you, sir. No problem.
13 BY MR. LAURENT:
14 Q Okay. When you woke up, when that glass hit
15 you, can you tell us how much glass was there? Do you know?
16 A I forgot.
17 Q You forgot.
18 Do you remember if it was a lot of glass --
19 a lot of glass?
20 A No, it was little.
21 Q Little.
22 Were you able -- when you woke up, were you
23 able to tell where that glass came from?
24 A No.

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1 A Chip and my mom.
2 Q And so you are lying in the bed.
3 Where are Chip and your mom when you are
4 lying on the bed?
5 A They were, like, next to the door.
6 Q Were they at the end of the bed, the side of
7 the bed, or the other side of the bed? (Indicating)
8 A Other side of the bed.
9 Q Right side of the bed or left side?
10 If you're lying down --
11 A The right.
12 Q And is that where the door is as well?
13 A Yeah.
14 Q Is that a yes?
15 A Yes.
16 Q Thank you.
17 And when you say they were fighting, what --
18 is this a fist fight, an argument? What is happening?
19 A Um, fighting -- arguing.
20 Q An argument.
21 Who is arguing at this time?
22 A Um, my mom and Chip.
23 Q Your mom and Chip.
24 Is that a yes?

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1 Q Was it glass like would come from a -- a
2 glass of water or a glass that would come from, maybe, a
3 picture frame, or a glass that would come from a window?
4 A Picture frame.
5 Q Okay. Did you see a picture frame that day?
6 A Yes.
7 Q Did you see a broken picture frame that day?
8 A Yes.
9 Q Was that -- where did you see that broken
10 picture frame that day?
11 A It was on the -- a desk.
12 Q And where is that desk located?
13 A It's sort of next to the -- your head of the
14 bed.
15 Q So that picture frame was right -- I don't
16 want -- was that picture frame right by where you were --
17 A Yes.
18 Q -- where you were in the bed?
19 After you woke up and you felt the glass on
20 your chest, what did you -- what did you see when you woke
21 up, besides the glass?
22 A I saw them fighting.
23 Q When you say 'them', to whom are you
24 referring?

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1 A Yes.
2 Q Could you hear what was being said?
3 A Oh, yes.
4 Q You could hear what was being said.
5 Do you remember what was being said?
6 A No.
7 Q Was it -- were they arguing in soft voices,
8 loud voices?
9 A Loud.
10 Q Screaming, hollering?
11 A Hollering.
12 Q Were they screaming and hollering or was it
13 just loud talk?
14 A Loud talk.
15 Q And who was -- who had loud talk, just Chip,
16 just your mom, who?
17 A Both of them.
18 Q Both of them.
19 Did you see anyone -- did you see any type
20 of physical contact?
21 And by that, I mean, did you see anyone
22 pushing or shoving or hitting?
23 A Pushing.
24 Q And who was pushing?

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1 A Chip.
 2 Q Did you see your mom push as well?
 3 A Yeah.
 4 Q So both people are pushing back and forth
 5 right now?
 6 A Yes.
 7 Q Okay. What do you do when you see this?
 8 A I --
 9 MR. BLOOM: Objection; vague, Your Honor.
 10 The way the question is -- what did you do
 11 as opposed to what do you do.
 12 THE COURT: Okay. Rephrase it, please.
 13 BY MR. LAURENT:
 14 Q What did you do when you saw Chip and your
 15 mom pushing and fighting?
 16 A Hide.
 17 Q Excuse me?
 18 A Hide.
 19 Q You hid? Where did you hide?
 20 A Under the bed.
 21 Q So did you roll out of bed? Did you get up
 22 out of bed? How did it happen that you got out of bed?
 23 A I don't remember.
 24 Q So you -- you -- you hid under the bed.

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1 Okay. You said that you were lying in the
 2 bed at one point, and to the right is the door that goes
 3 outside the bedroom; is that correct?
 4 A Yes.
 5 Q Where is the living room? Is it by that
 6 door or is it somewhere else?
 7 A By the door.
 8 Q And did you see -- and you said you saw
 9 someone lying on the floor.
 10 Who was lying on the floor?
 11 A Both of them.
 12 Q And can you see that -- are you seeing --
 13 are you in the bedroom when you see that?
 14 A Yes.
 15 Q Are you under the bed when you see that?
 16 A No.
 17 Q Are you in the bed when you see that?
 18 A Yes.
 19 Q Or maybe are you out of the bed, walking
 20 around?
 21 A I --
 22 Q I guess there is three possibilities.
 23 You are in the bedroom when you see it,
 24 right?

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1 Could you see anything under the bed at that
 2 time?
 3 A No.
 4 Q Did there come a time -- or did you see
 5 anyone fall on the floor or anything like that?
 6 A No.
 7 Q Did you see anybody lying on the floor or
 8 anything like that?
 9 A Yeah.
 10 Q Okay. When did you see somebody lying on
 11 the floor?
 12 A In the living room, outside the door.
 13 MR. LAURENT: Okay. Now let me ask you this
 14 --
 15 THE COURT: Can't hear?
 16 MR. BLOOM: I'm right next to him and I
 17 can't hear. I'm sorry.
 18 THE COURT: Would you read it back, Renee,
 19 please.
 20 (Record read back by the reporter.)
 21 BY MR. LAURENT:
 22 Q Are you all right?
 23 A Yes.
 24 Q Okay. So where is the living room?

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1 A Yeah.
 2 Q So are you -- you -- you could either be in
 3 the bed, under the bed, or maybe somewhere else in the
 4 bedroom.
 5 Do you remember where you were when you saw
 6 that?
 7 A On the bed.
 8 Q You were on the bed.
 9 Was this before you went to hide or after?
 10 A Before.
 11 Q Okay. And what did you see when you saw --
 12 you saw -- you said both of them were lying on the floor?
 13 A Yeah.
 14 Q Is that -- when you say 'them', do you mean
 15 Chip and your mom?
 16 A Yes.
 17 Q And what do you see them doing when they're
 18 lying on the floor?
 19 A Fighting.
 20 Q Okay. Do you remember who is on top?
 21 A Chip.
 22 Q Could you hear anything -- or could you hear
 23 what they're saying at this point?
 24 A Yes.

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1 Q Do you remember anything that they said at
2 this point?
3 A No.
4 Q Okay. Did you -- where was your mom when
5 Chip was on top?
6 A She was on the floor.
7 Q Okay. Is Chip on top of her at that point?
8 A Yes.
9 Q And so there comes a time when you see them
10 on the floor.
11 Do you see them get up at all?
12 A No.
13 Q How come you don't see them get up?
14 A 'Cause I hid.
15 Q Oh, that's when you hid. Okay.
16 So now you are hiding under the bed.
17 Do you hear anything, your mom or Chip say
18 anything while you are under the bed?
19 A Can you repeat that?
20 Q Excuse me?
21 A Can you repeat that?
22 Q Sure, I can.
23 Did you hear them say anything, either one
24 of them, either your mom or Chip, while you are hiding under

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1 the bed?
2 A No.
3 Q Okay. Did there come a time -- let me ask
4 you this: Were there guns in your house?
5 A Yes.
6 Q How many guns were in your house, do you
7 know?
8 A Three, I think.
9 Q You think there were three.
10 Did there -- did anyone -- did you ever see
11 a gun that day in anyone's hand?
12 A No -- yes.
13 Q Okay. Okay. When you said yes, who -- who
14 did you see a gun -- where did you see a gun and in whose
15 hand was it?
16 A Chip.
17 Q Okay. And where -- when did you see the gun
18 in Chip's hand?
19 A When I was on the bed.
20 Q When you were on the bed?
21 A (Nods head affirmatively.)
22 Q Can you describe the gun that you saw in
23 Chip's hand?
24 A It was black.

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1 Q It was black.
2 Have you ever told the police or myself this
3 before, that you saw a gun in Chip's hand while he was on
4 the bed?
5 A Yes.
6 Q Okay. While you were on the bed -- excuse
7 me.
8 Did you hear Chip say anything or your mom
9 say anything with regard to what was going to happen to
10 either one of them?
11 Bad question. I apologize.
12 Let me ask it again.
13 Did you ever hear your mom threaten Chip or
14 Chip threaten your mom?
15 A Chip threaten my mom.
16 Q Okay. When did he threaten your mom?
17 A While they were on the floor.
18 Q When they were on the floor.
19 What did he say when they were on the floor?
20 A Cussing words.
21 Q Cussing words.
22 Do you remember what those cussing words
23 were?
24 A I don't want to say them.

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1 Q You don't want to say them.
2 But they were bad words?
3 A Yeah.
4 Q And when you say it was a threat to your
5 mom, was he threatening to do something to your mom?
6 A Yes.
7 Q What was he threatening to do?
8 A I'm going to kill you, myself, Nick and
9 Quito.
10 Q And -- and so Chip is saying he's going to
11 kill somebody?
12 A Yes.
13 Q Who is he saying he's going to kill?
14 A Everybody in the house.
15 Q And that would be you, your mom -- and you
16 said Nick.
17 Is that your little brother?
18 A Yes.
19 Q And he was -- he was real tiny then, wasn't
20 he?
21 A Yes.
22 Q Well, three months old, four months old, do
23 you know?
24 A No. I don't remember his --

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1 Q Did you see this happen or did you just hear
 2 this happen?
 3 A Hear this happen.
 4 Q Was this when you were under the bed that
 5 you heard this?
 6 A Yes.
 7 Q Did you hear any other threats? Did your
 8 mom -- from your mom or from Chip?
 9 A No.
 10 Q Did you -- did -- did there come a time when
 11 you got out from underneath the bed?
 12 A Yes.
 13 Q You didn't stay there all day, did you?
 14 A No.
 15 Q How long do you think that you were
 16 underneath the bed?
 17 A Probably -- I don't remember actually.
 18 Q Sometime later.
 19 Let me ask you this: Had the yelling
 20 stopped and the fighting stopped when you got out from
 21 underneath the bed?
 22 A Yes.
 23 Q Okay. What did you do then?
 24 A I went in my room and I started -- saw them.

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1 Q You went in your room and you saw them
 2 there.
 3 A Yeah.
 4 Q Who is them?
 5 A Chip and my mom.
 6 Q Were they in your room?
 7 A Yes.
 8 Q How close is your room to your mom's
 9 bedroom?
 10 A Um, two rooms away.
 11 Q What was -- what were they doing in your
 12 room?
 13 A They were talking.
 14 Q Were they fighting anymore?
 15 A No.
 16 Q Did you see a gun at this time?
 17 A No.
 18 Q Were they yelling at each other?
 19 A No.
 20 Q Did anything -- did you see anything else
 21 that they did together that day?
 22 A No.
 23 Q Did there come a time when somebody -- when
 24 you left the house?

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1 A Yes.
 2 Q Where did you go?
 3 A Burger King.
 4 Q And why did you go to Burger King?
 5 A Because Chip told me to go there.
 6 Q Did he give you anything?
 7 A \$5.
 8 Q And when was it that Chip told you to go to
 9 Burger King?
 10 A After the fighting.
 11 Q When was it -- how long after you saw him
 12 and your mom in your room -- or was it right then?
 13 A Like ten minutes.
 14 Q Okay. And so for ten minutes after -- for
 15 ten minutes after -- approximately ten minutes after you saw
 16 your -- your mom and Chip in your room, was there any more
 17 fighting?
 18 A No.
 19 Q Were any telephone calls made that you saw?
 20 A Um, yeah.
 21 Q Do you know who was called?
 22 A I think my mom called the cops.
 23 Q But you are not sure?
 24 A No.

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1 Q So did you go to Burger King?
 2 A Yeah.
 3 Q What did you get at Burger King?
 4 A Chicken tenders and a Coke.
 5 Q Would that be -- it would be a Happy Meal at
 6 McDonald's.
 7 A Big Kid's meal or something?
 8 A Yeah.
 9 Q Did there come a time when you came back?
 10 A Yes.
 11 Q What did you see when you came back to the
 12 house?
 13 A Cops running through the house.
 14 Q Were they already there or were they just
 15 arriving?
 16 A Just arriving.
 17 Q When you got to the house, did the police
 18 talk to you?
 19 A Yes.
 20 Q Did you remember making statements to them
 21 or telling them what you saw or heard?
 22 A No.
 23 Q You don't remember that?
 24 A No.

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1 Q Do you remember making statements to a
2 detective who came and interviewed you in San Diego?

3 A It was in Las Vegas.

4 Q It was the Las Vegas detectives that
5 talked --

6 A Yes.

7 Q Okay. And do you remember what you told
8 them then?

9 A Yes.

10 Q What did you tell them then?

11 MR. BLOOM: Objection; vague, Your Honor.

12 It's only been about one subject.

13 Did I miss --

14 THE COURT: Is this in the interview in San
15 Diego?

16 MR. LAURENT: Correct. No, this is the
17 interview that he's having in Las Vegas right now concerning
18 the incident that we just spent the last 15 minutes on.

19 THE COURT: I'll -- because of his age, I'll
20 give the State a little bit of latitude on this and I'll
21 overrule it.

22 BY MR. LAURENT:

23 Q Do you remember -- that interview, you said
24 you had one in Las Vegas; is that true?

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1 A Yes.

2 Q And it was with a police officer?

3 A Yes.

4 Q Was he in a uniform?

5 A No.

6 Q Did he have a tie on or something like that?

7 A Yeah.

8 Q And when you spoke with him, do you remember
9 what you told him about the day your mom got arrested?

10 A Can you repeat that?

11 Q Sure. And when you spoke with him that day,
12 do you remember what you told him about the day your mom got
13 arrested?

14 A What I'm saying right now.

15 Q So you told him the same thing? That's what
16 you remember telling him?

17 A Yeah.

18 Q Okay. Did there come a time later on,
19 sometime this year, when the detective came and spoke to you
20 in San Diego at your grandma's house?

21 A Yes.

22 Q Was that the same person who talked to you
23 before or a different person or do you know?

24 A Different person.

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1 Q And he asked you questions about the day
2 your mom got arrested; is that correct?

3 A Yes.

4 Q When your mom -- when he spoke to -- when
5 you spoke to him, do you remember what you told him?

6 A Same thing.

7 Q Same thing you are telling them today?

8 A I remembered a little more though.

9 Q You remember a little more now?

10 A Yeah.

11 Q Okay. When you -- you spoke to me in
12 October; is that correct?

13 I came out and spoke with you.

14 A Yes.

15 Q Are you -- do you remember what you told me?

16 A Same thing.

17 Q Same thing.

18 Let me ask you this: When you came out of
19 your bed -- and I'm going back to the day your mom got
20 arrested and -- I'm sorry.

21 When you came out of the bedroom and your
22 mom and Chip were talking in your bedroom, was anybody
23 crying?

24 A Yes.

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1 Q Who was crying?

2 A My mom.

3 Q Was Mr. Centofanti crying?

4 A I don't remember.

5 Q You don't remember if he was crying.

6 When you got back from Burger King, and the
7 police were arriving, was anybody crying at that time?

8 A Yes.

9 Q Who was crying then?

10 A My mom.

11 Q Was -- did you see if Chip was crying?

12 A Yes.

13 Q He was crying or you saw --

14 A No, he wasn't.

15 MR. LAURENT: He was not crying.

16 Court's indulgence, Your Honor.

17 (Whereupon, a sotto voce at this time.)

18 MR. LAURENT: We past the witness, Your
19 Honor.

20 Thank you.

21 THE COURT: Thank you.

22 Mr. Bloom.

23 MR. BLOOM: Could we explain to the witness
24 what is going on, because I didn't explain. I apologize.

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THE COURT: Quito, do you want to look at me now.

The other attorney, Mr. Bloom, will get to ask you some questions now.

Now, again, I want you to tell him the truth and tell him what you -- you recall based upon whatever questions he asks you. Okay?

Can you do that?

THE WITNESS: Yeah.

THE COURT: Okay. Thank you.

Okay. Go ahead and look at him and just answer his questions.

CROSS-EXAMINATION

BY MR. BLOOM:

Q Quito, would you do me a favor and -- and be sure to tell me to repeat my question if you don't understand it.

Would you do that?

A Yeah.

Q And be sure to tell me that the question doesn't make sense or you couldn't hear me or something like that if my question doesn't make sense. Okay?

A Yes.

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Q I can't hear you, son.

A A year ago.

Q And during that time, you've been living with your -- with your grandma, correct?

A Yes.

Q Also -- does your Aunt Lisa live with you or just live close with you?

A Lives with me.

Q Lives with you.

And they're here today, aren't they?

A Yes.

Q Not right here in this room right now, but they're outside, right?

A Yes.

Q And this -- this nice gentleman right over here, he's friends with --

A Lisa.

Q -- Lisa.

Now, between -- between the time of December 5th of last year -- that's the day that we're talking about where you went to Burger King; that day is the Burger King day; that day happened to be December 5th of last year.

Between that day and now, right this minute, let's -- I want to ask you if you could please tell me all

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Q You are ten years old now, right?

A Yes.

Q You live with your grandma now, correct?

A Yes.

Q And you call her mom, right?

A Yes.

Q Because she was most -- she was the person who raised you most of your life?

A Yes.

Q And most of that time that she raised you was when you were in San Diego, where she lives, right?

A Yes.

Q But for a while, a year or sometime, you lived in Las Vegas with your real mom and Chip --

A Yes.

Q -- correct?

But since your mom's death, you've gone back to live with your grandma?

A Yes.

Q And you've lived with her for how long?

A Like two years.

Q You think it was about two years ago that your -- that your mom was shot?

A A year ago.

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the people you've talked to about what happened on Burger King day.

First of all, I'm the last person you talked to, right, because I'm still talking to you about it, correct?

A Yes.

Q And Mr. Laurent, he just asked you a few questions today.

So we know you talked to him.

A Yes.

Q You talked to him today, correct?

A Yes.

Q I'd like you to help us and tell us all the people you've talked to about it besides us two today.

We know who you talked to in this courtroom, but besides in the courtroom, who have you talked to?

A My Aunt Lisa, my grandma, my uncle Robert, and that's it.

Q Didn't you talk to some police people?

A Yes.

Q Okay. Who -- when -- who did you talk to with the police people?

A Can you repeat that?

Q Yes. Good. Thank you for telling me.

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1 Who were the policemen or women that you
2 talked to about this?

3 A I don't know their names.

4 Q Fair enough.

5 Do you know who the -- when you talked to
6 the police people?

7 A December 5th.

8 Q Say again?

9 A December 5th.

10 Q December 5th, the day it happened, the same
11 day, Burger King day, right?

12 A Yeah.

13 Q Okay. What about other times afterwards?

14 A That's it.

15 Q Remember, Mr. Laurent asked you just a
16 couple minutes ago, did you -- did you talk to -- did some
17 policeman come to your house in San Diego?

18 A Yes.

19 Q And do you remember when that happened?

20 A No.

21 Q But did it -- did that happen, where you
22 talked to the policeman and they came to your house?

23 A Yes.

24 Q And after that, did you also speak to Mr.

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1 Laurent, the same gentleman here, but -- not in court today,
2 but it was --

3 MR. LAURENT: October.

4 (Whereupon, a sotto voce at this time.)

5 BY MR. BLOOM:

6 Q Okay. Another time where Mr. Laurent went
7 to your house and spoke to you -- or a time that Mr. Laurent
8 went to your house and talked to you?

9 A Yes.

10 Q Do you remember that?

11 A Yes.

12 Q Now, when you talk to the police -- okay.

13 So now let's go back and keep it straight.

14 You talk to the policeman on December 5th;
15 and you talk to the policeman when he came to your house;
16 and you talked to Mr. Laurent when he came to your house;
17 and you've talked to Lisa, Grandma and Uncle Robert at
18 various times throughout the year.

19 A Yes.

20 Q Now, when you first talked to that
21 policeman, the very first time, December 5th, when it was
22 the same day that it happened, did you tell him the truth?

23 A Yes.

24 Q Do you know what -- is it right to lie to a

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1 policeman?

2 A No.

3 Q And did you lie to him?

4 A No.

5 Q And did he -- did that -- tell me what
6 happened with that time.

7 You said you remember him talking to you on
8 that same date. Tell me what questions he asked you.

9 Do you remember what you told him?

10 A No.

11 Q Was it pretty much the same thing you told
12 in here?

13 A Yes.

14 Q You told him -- you answered his questions
15 as best you could and told him everything you could
16 remember?

17 A Yes.

18 Q And when you talked to him on that date, did
19 you tell him that you saw a -- that same day now; this is
20 just talking about that time you talked to the police
21 officer on the Burger King day, that same December 5th.

22 Did you tell him that you saw Chip holding a
23 gun?

24 A Yes.

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1 Q And when you talked to the policeman when he
2 came to your house in San Diego, do you remember telling the
3 police officer the truth?

4 A Yes.

5 Q And did you try to tell him everything?

6 A Yes.

7 Q And did you tell that police officer, on
8 that day when he came to your house in San Diego, that you
9 saw Chip holding a gun?

10 A Yes.

11 Q And when you talked to Mr. Laurent, when he
12 came to your house in San Diego -- do you remember that --
13 that time?

14 A Yes.

15 Q And did you tell him the truth then?

16 A Yes.

17 Q And did you tell him that you saw Chip
18 holding a gun?

19 A Yes.

20 MR. BLOOM: I need to get a sip of water.

21 Would you like a cup of water?

22 THE WITNESS: No. Thank you.

23 MR. BLOOM: Okay.

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BY MR. BLOOM:

Q When Mr. -- those other times that you talked to -- to the -- to the different people, when you talked to Mr. Laurent when he came to your house -- do you call him Mr. Laurent or do call him Chris, this gentleman here? How do you call him?

A I don't know his --

Q Don't know his name. He's the guy. Okay. I'm going to call him Mr. Laurent.

Q When Mr. Laurent came to your house, did he -- when he talked to you, did he have a tape recorder with him?

A Yes.

Q So he tape recorded everything you said, right?

A Yes.

Q When that police officer came to your house, did he have a tape recorder with him?

A Yes.

Q And did he tape record everything?

A Yes.

Q Now, what about the police officer that you talked to on December 5th, on Burger King day, did he have a tape recorder with him?

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A No.

Q But did you still tell him everything that you remember and everything that was -- was --

A Yes.

Q -- that happened?

A Yes.

Q And did you tell him truthfully -- tell him the truth?

A Yes.

Q And you say your memory is a little more now?

A Yes.

Q Have you talked about this with -- is your memory a little better because of talking with Lisa and Grandma and Uncle Robert about it?

A No.

MR. LAURENT: Is that a no?

I couldn't hear.

THE WITNESS: Yes.

THE COURT: He said no.

BY MR. BLOOM:

Q Why is your memory a little more now?

A Don't know. I just thought of it; just --

Q Is there any special reason why you think

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your memory is a little more now?

A No.

Q Grandma is with you here outside in the hallway, right?

A Yes.

Q And what has she told you about testifying or what you should say today?

A Tell the truth.

Q And did she tell you why it's important what you should say today?

A Repeat that.

Q Sure.

Q Did she tell you what -- what was important about you -- you testifying today, why -- why you are here and why it's important?

A Yes.

Q What did she say?

A She said to get Chip in jail.

Q To get Chip in jail?

A Yeah.

Q What else did she say?

A That's it.

Q When -- the very first time on December 5th, that very first time you talked to the police officer, had

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Grandma already told you that you were supposed to get Chip in jail way back then?

MR. LAURENT: Objection, Your Honor; misstates the evidence.

THE COURT: Overruled. It's cross-examination.

BY MR. BLOOM:

Q Way back then, way back then, that very first time, had Grandma told you to get Chip in jail?

MR. LAURENT: Objection, Judge.

He didn't -- didn't say -- the witness -- the witness' answer was not: You are to get Chip in jail.

She said it was important, but she didn't tell him that was his job. I think it's misstating the evidence.

THE COURT: It's cross-examination, Mr. Laurent.

I'll allow it.

BY MR. BLOOM:

Q Okay. Way back then, that very first day, did -- had Grandma told you that you should get Chip in jail when you -- that first time when you first talked to the police officers back there on Burger King day --

A Yes.

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1 Q -- had she told that you already?
 2 A No.
 3 Q When -- what did she tell you exactly? What
 4 did Grandma tell you about Chip in jail? What words did she
 5 use?
 6 MR. LAURENT: Objection as to foundation.
 7 THE COURT: Overruled.
 8 MR. LAURENT: How about the time frame,
 9 Judge? That's what I'm trying to find out, when, where,
 10 what?
 11 THE COURT: Let's find out what it was and
 12 then we'll find out when.
 13 MR. LAURENT: Okay.
 14 BY MR. BLOOM:
 15 Q What -- what did she tell you?
 16 A I don't remember.
 17 Q As best you can remember, what words did she
 18 tell you to say or tell you -- what words did she use when
 19 she told you?
 20 A She -- she didn't like him; doesn't like
 21 him.
 22 Q Anything else?
 23 A No.
 24 Q What did she say about jail?

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1 A Um, she doesn't want him to die yet. She
 2 wants him to suffer.
 3 Q And what did she say about jail?
 4 A What I just said right now.
 5 Q And when did she say that to you?
 6 A Can't remember.
 7 Q Has she said it several times to you?
 8 A No.
 9 Q Several meaning more than once.
 10 Has she said it more than one time?
 11 A No.
 12 Q When -- did she say it today?
 13 A No.
 14 Q About how long ago did she say it?
 15 A Probably two months.
 16 Q Was that after -- did she say it after Mr.
 17 Laurent went to your house and talked to you?
 18 A Um, before.
 19 Q Did she say it after the policeman went to
 20 your house and talked to you?
 21 A Yes.
 22 Q Now, has there been any other time that --
 23 that she told you anything about what you should -- about
 24 her feelings or about what you should testify to or

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1 anything?
 2 A Can you repeat that?
 3 Q Yes.
 4 Did she tell -- you told us about that --
 5 that time.
 6 Did she ever say -- say anything at any
 7 other times? This is Grandma.
 8 Did Grandma ever talk to you on any other
 9 times?
 10 A No.
 11 Q I'm sorry?
 12 A No.
 13 Q Now, you love your grandma very much, don't
 14 you?
 15 A Yes.
 16 Q And you want to do what she wants, don't
 17 you?
 18 A Yes.
 19 Q And you want to help your grandma as best
 20 you can, right?
 21 A Yes.
 22 Q Now, you like Chip too, don't you?
 23 A Yes.
 24 Q He helped you with your homework and things

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1 like that when you were together?
 2 A Yes.
 3 Q He brought you to soccer practice and signed
 4 you up for soccer and stuff, right?
 5 A Yes.
 6 Q But if you had to choose between Chip and
 7 Grandma, it would be Grandma that you would choose, right?
 8 A Yes.
 9 Q I'm going to ask you this -- a question now
 10 about the Burger King day, about the Burger King day.
 11 Did you ever see either your mom or Chip
 12 have that pistol in their hand that day?
 13 A Yes.
 14 Q Do you remember when Mr. Laurent asked you
 15 that question?
 16 A Yes.
 17 Q And do you remember that you told him no,
 18 you didn't see --
 19 MR. LAURENT: Objection; foundation, Judge,
 20 as to what I've asked him here, and so I just -- just so
 21 he's clear.
 22 THE COURT: Sustained.
 23 Rephrase it, please.
 24 Are you talking about today's -- today's

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1 questioning?
 2 BY MR. BLOOM:
 3 Q Do you remember when -- did Mr. Laurent ask
 4 you that question when he came to your house in San Diego?
 5 A No, not really.
 6 Q Here's the question -- here's the question:
 7 Did you ever see either your mom or Chip
 8 have that pistol in their hand that day?
 9 That's the question.
 10 Did Mr. Laurent ask you that question when
 11 he -- when he went to your house in San Diego?
 12 A No. My mom did.
 13 Q When you talked to the police officer at
 14 your house, did he ask you the question: Did you see the
 15 gun at all during this morning?
 16 A No.
 17 Q Never asked you that?
 18 A (Shakes head no.)
 19 Q When you talked to Mr. Laurent, when he was
 20 at your house in San Diego, was there any question that he
 21 asked you about the gun?
 22 A Yes.
 23 Q What question did he ask you?
 24 A Do they have a gun in the house? Do they

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1 have guns?
 2 Q Do they have a gun in the house or guns in
 3 the house?
 4 A Yes.
 5 Q Did he ask you any other questions about
 6 guns?
 7 A Did you see a gun at that day?
 8 Q Did you see a gun that day?
 9 What did you say?
 10 A I don't remember.
 11 Q You told him no, didn't you?
 12 A (Shrugs shoulders.)
 13 Q Not sure?
 14 A No.
 15 Q Was it a lie -- let me ask you this: When
 16 you told him -- if -- if you told him, no, you didn't see a
 17 gun that day, if you told him that, would that have been a
 18 lie or the truth?
 19 A Truth.
 20 Q The truth?
 21 A Yes.
 22 Q If you say today that you saw a gun that
 23 day, is that a lie or the truth?
 24 A Do you want to repeat that?

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1 Q Yes. If you say today that you saw a gun on
 2 Burger King day, on December 5th, is that the lie -- a lie
 3 or the truth?
 4 A Lie.
 5 Q It's a lie?
 6 (Nods head affirmatively.)
 7 Q Because you didn't see a gun that day on
 8 Burger King day; is that -- is that correct?
 9 A I don't know.
 10 Q Okay. Let's start over.
 11 Did you -- what -- what would be a lie?
 12 What's -- what's the truth? What's the
 13 truth here, seeing a gun or not seeing a gun?
 14 A Not seeing a gun.
 15 Q Say it again.
 16 A Not seeing a gun.
 17 Q So you didn't see Chip with a gun on the
 18 Burger King day, did you?
 19 A No, 'cause I was hiding under the bed.
 20 Q But your grandma has told you that he had a
 21 gun, right?
 22 A Yes.
 23 Q So because your grandma told you, even
 24 though you didn't see it, that's why you said he had a gun

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1 that day?
 2 A Yes.
 3 Q Is that right?
 4 A Yes.
 5 Q Now -- so is that why you remember a little
 6 bit more now because of what Grandma has told you?
 7 A Yes.
 8 Q I want to ask you about something else now
 9 Quito.
 10 Do you want to take a break for a couple
 11 minutes or are you okay?
 12 A I'm okay.
 13 Q You know you can do that any time you want.
 14 If you want to take a break, Judge Gibbons will -- you just
 15 have to turn to him or whoever is asking you and just say:
 16 Can I rest for a couple minutes?
 17 A Okay.
 18 Q And can you -- you can do that. Okay?
 19 A Yeah.
 20 Q I'm going to ask you a couple more questions
 21 about what you heard on Burger King day, on that day.
 22 I know you heard arguing, kind of yelling
 23 back and forth, between Chip and your mom, right?
 24 A Yes.

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1 Q What do you remember your mom saying?
 2 A No, Chip. Please don't hurt me.
 3 Q What do you remember Chip saying?
 4 MR. LAURENT: I couldn't hear that.
 5 Can I get that read back?
 6 THE COURT: Renee, would you read that back?
 7 (Record read back by the reporter.)
 8 BY MR. BLOOM:
 9 Q Is that all you ever heard your mom say that
 10 day?
 11 A Yes.
 12 Q What did you hear Chip say that day?
 13 A I'm going to kill you and myself and Quito
 14 and Nick.
 15 Q And you heard swear words, didn't you?
 16 A Yes.
 17 Q Now, when you talked to the policeman the
 18 very first time, on Burger King day, that first policeman
 19 that you talked to, did you tell that policeman that your
 20 mom said the words: Please don't hurt me?
 21 A Yes.
 22 Q When you talked to the policeman who came to
 23 your house in San Diego, did you tell that person, that
 24 policeman, that your mom said: Please don't hurt me?

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1 A I don't -- I don't remember.
 2 Q When you talked to Mr. Laurent -- when he
 3 went to your house, did you tell Mr. Laurent that your mom
 4 said: Please don't hurt me?
 5 A Yes.
 6 Q You did?
 7 A Yes.
 8 Q Are you sure?
 9 A (Nods head affirmatively.)
 10 Q I can see you are shaking your head, but --
 11 A Yes.
 12 Q Didn't you tell Mr. Laurent that you could
 13 only hear Chip talk on that day? When they were yelling and
 14 they were arguing, on Burger King day, the only person you
 15 heard was Chip? You didn't hear your mom?
 16 A I heard my mom, too.
 17 Q But didn't you tell Mr. Laurent that you
 18 didn't hear your mom?
 19 A Don't remember.
 20 Q Didn't you tell your mom -- did Mr. Laurent
 21 ask you -- so both your mom and Chip were yelling; and then
 22 you said: Just Chip, all I heard was him.
 23 Didn't you tell that to Mr. Laurent?
 24 A Yeah.

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1 Q You think -- you think yes, but you are not
 2 sure.
 3 A Yes.
 4 Q So if you said to Mr. Laurent -- if you said
 5 to him that it was just Chip that you heard, all you heard
 6 was him, if you said that to him, was that a lie or the
 7 truth?
 8 A The truth.
 9 Q It was the truth?
 10 A Yes.
 11 Q Is that because the only person you heard
 12 that day was Chip?
 13 A It was both of them.
 14 Q You heard both.
 15 How about this statement about: I'm going
 16 to kill you, or Nick or myself? I'm going to -- and Quito.
 17 Did you tell that to the first policeman who
 18 came to talk to you?
 19 A Yes.
 20 Q On -- on Burger King day?
 21 A Yes.
 22 Q Are you sure?
 23 A Oh, no, not on Burger King day, no.
 24 Q When did you tell him?

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1 A Because he didn't ask that.
 2 MR. LAURENT: What was that?
 3 I couldn't hear.
 4 THE WITNESS: Because he didn't ask that.
 5 BY MR. BLOOM:
 6 Q Didn't he ask you to tell him everything
 7 that happened?
 8 A Um, I forgot.
 9 Q Didn't he ask you: Do you remember what
 10 Chip said that day? And didn't you say no?
 11 A What?
 12 Q Didn't -- that policeman, on Burger King
 13 day, didn't he ask you: Do you remember what Chip said?
 14 And you said no.
 15 So on Burger King day, didn't the policeman
 16 ask you that?
 17 A Yes, I guess.
 18 Q So was that a lie when you told him that you
 19 didn't hear what Chip said or was that the truth?
 20 A It was the truth -- no.
 21 Q No what?
 22 A It was wrong.
 23 Q It was wrong?
 24 A Yes.

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1 Q Well, did you do it on purpose and -- lie to
2 him on purpose?

3 A No.

4 Q Did you remember about Chip saying this
5 about -- about -- do you remember about Chip saying about
6 he's going to kill Jeena and kill Nick and kill Quito and
7 kill himself?

8 Q Do you remember that after your grandma
9 helped you remember some things?

10 A Yes.

11 Q Has your --

12 A But I already knew that.

13 Q Sorry?

14 A I already knew that.

15 Q You already knew that.

16 Q Where were you when you -- where were you
17 when Chip said that?

18 A Under the bed.

19 Q Let me ask you this: You say you heard Chip
20 say some swear words, some cuss words, right?

21 A Yes.

22 Q Do you remember when you talked to Mr.
23 Laurent, when he went to your house in San Diego, on that
24 day when he talked to you in San Diego, that he asked you if

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1 BY MR. BLOOM:

2 Q And do you remember you said -- he said:
3 You don't know his exact words, but what was he yelling
4 about?

5 And you said: He was saying cuss words.
6 Where -- where were you when you heard Chip
7 say the cuss words?

8 A Under the bed.

9 Q And where were you when you heard him say
10 that he was going to kill you or something like that?

11 A Under the bed.

12 Q Under the bed?

13 A Yes.

14 Q Are those the -- are those the words that
15 caused you or kind of -- the reason why you went underneath
16 the bed?

17 A Yes.

18 Q So here's what I don't understand, Quito;
19 help me on this: Were you out of the bed when you heard
20 those words or were you under the bed when you heard those
21 words?

22 A I was out of the bed and I was --

23 Q You were out of the bed when you heard the
24 words?

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1 you heard Chip say anything; and -- and you said yes, you
2 heard Chip say something?

3 A Yes.

4 Q And you -- and you remember now that Mr.
5 Laurent, on that day in San Diego, he asked you: And do you
6 remember anything what he was saying; and you answered no?

7 Do you remember Mr. Laurent asking you that
8 and you saying no?

9 A No.

10 Q Let me ask you: If -- if he -- if you did
11 say that, if he did ask you 'Do you remember what he was
12 saying,' and then if you answered no, that you didn't
13 remember what Chip was saying on Burger King day, do you
14 remember -- would that be a -- the truth or a lie?

15 A It would be a lie.

16 Q It would be wrong.

17 Do you remember after -- after that, Mr.
18 Laurent, when he was in San Diego, he asked you: So, you
19 remember not his exact words, but what he was yelling about?

20 And you said --

21 MR. LAURENT: Could I have a page, counsel?

22 MR. BLOOM: They're not numbered. I don't
23 know.
24

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1 A I don't know. I don't know where --

2 Q Where were you?

3 A I was under the bed.

4 MR. LAURENT: I couldn't hear that.

5 I'm sorry.

6 MR. BLOOM: He said he was under the bed.

7 BY MR. BLOOM:

8 Q Well, if you were already under the bed,
9 then why did you tell us those were the words that caused
10 you to go under the bed?

11 A All the words that he said caused me to go
12 under.

13 Q All the words that he said?

14 A Yes.

15 Q Has -- you said you like Chip and, of
16 course, you like your grandma.

17 You love your grandma, don't you?

18 A Yes.

19 Q How about your Aunt Lisa, that you live
20 with, do you love her?

21 A I used to live with her.

22 Q You used to live with her?

23 A Yeah.

24 Q Does she still live with you now?

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1 I got confused. I thought you said she
2 still lives with you now.
3 A No, she doesn't.
4 Q What?
5 A No.
6 Q No?
7 You said -- you -- do you live just alone
8 with Grandma?
9 A Yes.
10 Q When did you live with Aunt Lisa?
11 A Um, a long time ago when we didn't even know
12 Chip yet.
13 Q But after you returned -- after you returned
14 to Grandma, after you left Chip, you've lived with just
15 Grandma -- with just Grandma; is that right?
16 A Yes.
17 Q But you still see Aunt Lisa all the time?
18 A Yes.
19 Q And -- and do you like her?
20 A Yes.
21 Q And if you had to -- if you had to choose
22 between Chip or Aunt Lisa, who would you choose?
23 A Aunt Lisa.
24 Q And how about Uncle Robert; is that Lisa's

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1 brother?
2 A Yes.
3 Q And does he live in San Diego?
4 A He lives in Escondido.
5 Q That's in the San -- kind of -- pretty close
6 to San Diego, isn't it?
7 A Thirty miles away.
8 Q How many?
9 A Thirty miles away.
10 Q And -- and between Chip and -- I know you
11 like Chip, but you like Uncle Robert?
12 A Yes.
13 Q And between Uncle Robert and Chip, who would
14 you choose?
15 A Uncle Robert.
16 MR. BLOOM: May I have a moment, Your Honor?
17 I'm not breaking for -- I'm breaking for my
18 thoughts.
19 May I have a moment?
20 (Whereupon, a sotto voce at this time.)
21 BY MR. BLOOM:
22 Q Okay. A couple more minutes and I promise
23 I'll be finished. Okay?
24 A Okay.

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1 Q It's kind of scary being in this courtroom,
2 isn't it?
3 A Yes.
4 Q Here you are -- what grade with you in,
5 fourth?
6 A Fifth.
7 Q Fifth grade.
8 You are the only fifth grader in this
9 courtroom, aren't you?
10 A Yes.
11 Q Everybody else is older, huh?
12 A Yes.
13 Q I'm about the oldest one in here though,
14 aren't I?
15 A Don't know.
16 Q Anyway, all these adults around and all
17 these people, it's kind of scary in here, huh?
18 A Yes.
19 Q Now, as you were growing up, it was Grandma
20 who was the one -- who was the one person who has always
21 been there for you, right?
22 A Yes.
23 Q Because your mom, she didn't raise you very
24 much, did she?

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1 A No.
2 Q And your dad wasn't around?
3 A No.
4 Q And Chip was only around for a little while,
5 right?
6 A Yes.
7 Q Are you afraid maybe that Grandma might not
8 be around if you don't say what she wants you to say?
9 A No.
10 Q Are you worried that -- that you want to
11 make sure that your Grandma -- that you say what -- what you
12 think Grandma wants to say?
13 Maybe she didn't tell you you have to say it
14 or something.
15 MR. LAURENT: Objection, Judge.
16 That's a compound, complex question.
17 THE COURT: Sustained.
18 Rephrase it, please.
19 BY MR. BLOOM:
20 Q Are you worried that maybe because of -- you
21 know, that maybe what you have to say, you want to help
22 Grandma out by what you are saying here, about her wanting
23 to beat Chip and having Chip in jail?
24 A Well, I want him to be in jail too because

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1 IND
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

FILED

ORIGINAL

JAN 10 2 18 PM '01

Shirley B. Purgina
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 -vs-

14 ALFRED PAUL CENTOFANTI, III,
15 #1730535

16 Defendant(s).

Case No. C172534
Dept. No. VII

INDICTMENT

18 STATE OF NEVADA }
19 } ss.
20 COUNTY OF CLARK }

21 The Defendant(s) above named, ALFRED PAUL CENTOFANTI, III, accused by the
22 Clark County Grand Jury of the crime of MURDER WITH USE OF A DEADLY WEAPON
23 (Open Murder) (Felony - NRS 200.010, 200.030, 193.165);, committed at and within the
24 County of Clark, State of Nevada, on or about the 20th day of December, 2000, as follows:
25 did then and there wilfully, feloniously, without authority of law, and with premeditation and
deliberation, and with malice aforethought, kill VIRGINIA CENTOFANTI, a human being, by

//

//

COUNTY CLERK

JAN 10 2001

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1 Names of witnesses testifying before the Grand Jury:
2 DR. LARRY SIMMS, CLARK COUNTY CORONER'S OFFICE
3 ALFRED CENTOFANTI, JR., 8720 WINTRY GARDEN AVE., LV, NV
4 CAMILLE CENTOFANIT, 8720 WINTRY GARDEN AVE., LV, NV
5 MARILEE WRIGHT, 8716 WINTRY GARDEN AVE., LV, NV
6 MARK WRIGHT, 8716 WINTRY GARDEN AVE., LV, NV
7 OFFICER CRAIG McGREGOR, LVMPD #6256
8 OFFICER TIFFANY GOGIAN, LVMPD #5987
9 SHARON ZWICK, LVMPD FORENSIC LAB
10 DET. THOMAS THOWSEN, LVMPD HOMICIDE
11

12 Additional witnesses known to the District Attorney at the filing of the Indictment:
13 DET. KENNETH HEFNER, LVMPD #2185, HOMICIDE
14 ROBERT HILLIARD, LVMPD #2429
15 DANIEL R. PETERSON, LVMPD #4034
16 RANDALL McLAUGHLIN, LVMPD #4170
17 DET. JAMES R. LaROCHELLE, LVMPD #4353, HOMICIDE
18 ROBBIE DAHN, LVMPD #5947, FORENSIC LAB
19 MARK A. USIAK, LVMPD #6470
20 KYLE J. LOPEZ, LVMPD #6709
21 COR, LVMPD COMMUNICATIONS BUREAU
22 COR, CLARK COUNTY CORONER'S OFFICE
23 TRISHA MILLER, C/O DET. THOWSEN, LVMPD HOMICIDE
24 MARK SMITH, 99 WALL STREET, NY, NY
25
26

27 00BGJ009X/00F21542X/lg
28 LVMPD EV# 0012202143
MURDER WDW - F

1 the Defendant shooting at and into the body of the said VIRGINIA CENTOFANTI, with a
2 deadly weapon, to-wit: a firearm.

3 DATED this 9 day of January, 2001.

4 STEWART L. BELL
5 DISTRICT ATTORNEY
6 Nevada Bar #000477

7 BY 

8 CHRISTOPHER J. LAURENT
9 Chief Deputy District Attorney
10 Nevada Bar #005043

11 ENDORSEMENT: A True Bill

12 
13 Foreperson, Clark County Grand Jury

14 //

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Las Vegas, Nevada 89155
(702) 455-4711
Attorney for Plaintiff

FILED

OCT 16 4 01 PM '01

Shirley E. Langston
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ALFRED PAUL CENTOFANTI,
#1730535

Defendant.

Case No. C172534
Dept. No. VII

NOTICE OF MOTION AND STATE'S MOTION TO
ADMIT EVIDENCE OF OTHER BAD ACTS

DATE OF HEARING: 10/29/01

TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through CHRISTOPHER LAURENT and BECKY GOETTSCH, Deputy District Attorneys, and files this Notice of Motion and State's Motion to Admit Evidence of Other Bad Acts.

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

NOTICE OF HEARING

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing motion on for setting before the above entitled Court, in Department VII thereof, on Monday, the 29th day of October, 2001, at the hour of 9:00 o'clock a.m., or as soon

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CMC

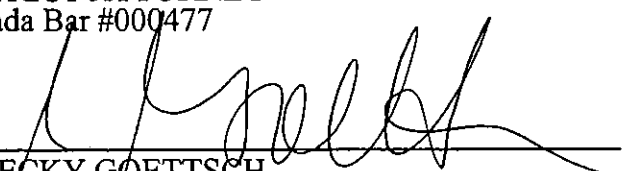
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OCT 16 2001
COUNTY CLERK

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1 thereafter as counsel may be heard.

2 DATED this 16th day of October, 2001.

3 STEWART L. BELL
4 DISTRICT ATTORNEY
5 Nevada Bar #000477

6 BY 
7 BECKY GOETTSCH
8 Deputy District Attorney
9 Nevada Bar #006316

10 FACTS

11 EVENT NO. 001205-0990

12 Gina Centofanti arrived at her home at 8720 Wintry Garden Avenue in Las Vegas,
13 Nevada, during the early morning hours of December 5, 2000, after spending the night out with
14 friends. Gina had previously told her husband, the defendant, she wanted a divorce.

15 After arriving home, Gina went to bed only to awake a few hours later to discover she
16 was late for work. The defendant was very angry with her for coming home late and accused
17 her of having an affair. An argument ensued.

18 During the argument, the defendant grabbed Gina's cell phone and attempted to call her
19 boss at work, as apparently this is the individual he believed Gina was seeing. There was a
20 struggle over the phone and Gina grabbed a picture frame and hit the defendant over the head
21 with the picture frame. At this point, the defendant grabbed his gun out of the top drawer of his
22 dresser and tried to shoot it at Gina. The gun did not fire.

23 A struggle over the gun ensued. The defendant pointed the gun at Gina's head, telling
24 her to beg for her life. The defendant then told Gina he was going to kill her, the kids and
25 himself. Eventually he uncocked the gun and put it aside. This incident was witnessed by Gina's
26 nine year old son, who heard the defendant state he was going to kill her, the kids, and himself.

27 At some time during the argument, the defendant apparently called his work and asked
28 for "help" with Gina. He was referred to an Employee Assistance Program Hotline. He called
the number which put the Centofantis in touch with a counselor in New York City. After a

1 conversation with the counselor, Mark Smith, Mr. Smith called police in Las Vegas, telling them
2 to dispatch the police to the Centofanti's house. Mr. Smith told 911 operators that "he had Gina
3 Centofanti on the line and she is saying that her husband pointed a gun at her and pulled the
4 trigger, but the weapon did not fire. There are two minor children in the household." Mr. Smith
5 also told the 911 operator that Gina was significantly frightened of her husband and that 911
6 should not try to call her.

7 Police arrived and a domestic violence investigation ensued. Police found the defendant
8 to have minor scratches on his left hand and Gina to have a swollen lip. Police also noted that
9 Gina was nervous and crying. Gina admitted to police that she did hit the defendant with a
10 picture frame; however the defendant denied threatening to kill Gina with the gun. Because the
11 aggression by Gina was corroborated by her admission and the officers had a duty to arrest, Gina
12 was arrested on battery domestic violence charges. Gina was killed by the defendant before the
13 case proceeded to trial. Ex. 1.

14 As a result of the battery domestic violence incident on December 5, 2001, the defendant
15 sought and received a Temporary Protective Order against Gina on the same day. In his
16 application for the Temporary Protective Order, the defendant attached as an exhibit a copy of
17 two gun registration cards. One of these cards was for the 9 mm Ruger handgun which he held
18 to Gina's head on December 5th and eventually shot her with on December 20th. This
19 registration card showed Gina was the registered owner of the Ruger and was dated January 19,
20 2000. Ex. 2. The defendant failed, however, to attach the most recent and effective registration
21 card for the Ruger, dated January 27, 2000, in which the registration for the gun was changed
22 to his name. The defendant clearly believed the 9 mm Ruger was his gun and represented as
23 much to Metro when he picked up the guns from safekeeping the morning of December 20,
24 2001. Ex. 3.

25 INSTANT OFFENSE

26 On December 20, 2000, Gina Centofanti was scheduled to visit her infant son at the 8720
27 Wintry Garden address. By this time, the defendant and Gina had divorced and the defendant
28 was given primary custody of their infant son. In fact, the defendant had called Gina that

1 afternoon at her work to confirm she would be arriving at the house to visit their son that
2 evening.

3 After work, Gina went to the gym to work out and made plans with her friend Trisha
4 Miller to meet Trisha and her parents for dinner later that night. Due to Gina's dinner plans, she
5 called the defendant and asked him if she could switch her visitation to the following night. The
6 defendant became angry at the request and insisted that Gina come to his home to visit her son
7 that night. Gina called Trisha back and told her she was going to pick up her son and meet her
8 for dinner around 7:00 p.m.

9 Shortly before 7:00 p.m. on this date Gina arrived at the defendant's home. The
10 defendant's parents, Alfred and Camille Centofanti, were watching television on the second floor
11 of the house. Neither parent heard any arguing or fighting or commotion prior to hearing what
12 they described as a "car back firing."

13 During the time the defendant's parents were upstairs, the defendant had produced the
14 same 9 mm Ruger he threatened her with on December 5th, and proceeded to shoot Gina
15 numerous times in the head, chest, arm, finger, and back. Gina sustained a gunshot wound to
16 the temple, cheek, and jaw, some of which were at point blank range. She also sustained a
17 gunshot wound to the upper left arm and the left breast and right finger with indications of at
18 least one of these shots being at point blank range. Gina also had a gunshot entry wound in her
19 lower back and a gunshot wound to the back of her left arm.

20 When the defendant's parents heard the gunshots, they ran downstairs to find the
21 defendant with the 9 mm Ruger in his hands. Camille called 911 and took the defendant and her
22 husband next door to the neighbor's house. Camille told the neighbors that the defendant had
23 shot Gina.

24 POINTS AND AUTHORITIES

25 Evidence of other crimes, wrongs or acts by a defendant may be admissible at trial for
26 purposes other than to show that a defendant acted in conformity with those prior acts. NRS
27 48.045. For example, the prosecution may introduce such prior wrongs or crimes to show the
28 defendant's intent, preparation, plan, motive, knowledge or absence of mistake in the matter

1 currently on trial. Id. The State seeks to admit evidence of the defendant's acts which occurred
2 on December 5th, and his actions with regard to his TPO application, because these acts are
3 highly probative of the defendant's intent, plan, and motive when he shot Gina on December 20,
4 2000.

5 First, these acts show the defendant's intent and plan. For a first degree murder
6 conviction, the State is required to show that the defendant premeditated this murder and/or
7 intended to kill, and acted voluntarily in killing, Gina Centofanti. These are essential elements
8 of the crime. It is often difficult to prove intent or premeditation with anything other than
9 circumstantial evidence because one can never get inside the mind of the killer at the time the
10 trigger is pulled. However, on December 5th, the defendant told Gina exactly what his intent
11 and plan was for her - he was going to "kill her, himself and the kids." He told Gina to beg for
12 her life as he pointed the gun at her head. These statements are extremely probative of the
13 defendant's state of mind when he pulled the trigger on December 20th.

14 Other acts used to prove plan and intent are admissible especially if the cases are similar
15 and in close proximity of time. See Gallego v. State, 101 Nev. 782, 711 P.2d 856 (1985)(in
16 murder prosecution, evidence of a prior killing by defendant was admissible to show plan and
17 intent because the prior killing was recent and had substantial similarities to the current
18 homicide); Tillema v. State, 112 Nev. 266, 914 P.2d 605 (1996)(evidence of prior burglary
19 conviction admissible in current burglary trial to show intent to feloniously enter vehicles when
20 both crimes occurred in parking garages of casinos). Similarities exist here. These two events
21 occurred within fifteen days of each other. They occurred in the same place, i.e. the house on
22 Wintry Garden Avenue. In both instances, the defendant had control of the 9 mm Ruger. These
23 separate acts of violence involve the same victim. One may see how this was the beginning of
24 the defendant's plan for his wife. His ultimate goal was achieved when he completed his
25 intentions and killed Gina Centofanti. In both circumstances, the defendant threatened to take
26 his own life. In the first instance, the defendant threatened to kill himself. In the second
27 instance, he was in that process when his father took the gun from him. Therefore, evidence of
28 the defendant's prior actions on December 5, 2000, should be admitted as proof of his plan and

1 intent on December 20, 2000.

2 This conclusion is confirmed by Petrocelli v. State, 101 Nev. 46, 692 P.2d 503 (1985).

3 In this case, the defendant was on trial for the murder of a car salesman and claimed the killing
4 was an accident. The defendant had five months earlier dragged his girlfriend out of her place
5 of employment. When she resisted, he pulled a gun and killed her in a flurry of shots. The
6 evidence of his girlfriend's murder was admissible in the homicide prosecution for the car
7 salesman to show absence of mistake and intent when he killed the car salesman, especially due
8 to the fact there was a short span of time between the murders and the same gun was used in
9 each killing. Cf. People v. McCarthy, 547 N.E. 2d 459, 463 (Ill. 1989) (evidence that defendant
10 previously assaulted victim was admissible to show defendant went to victim's home on night
11 of murder with intent to harm her).

12 There are other aspects of the defendant's behavior that also show the defendant's plan
13 and intent to kill Gina Centofanti. This is a relationship in which Gina unequivocally wanted
14 out. She told the defendant she wanted a divorce sometime in November of 2000. He replied
15 that he'd kill her first before he gave her a divorce. The witnesses who will substantiate these
16 claims include Steve Ciulla, Trisha Miller, and Tom Thompson. The defendant was obsessed.
17 Gina sought to end the marriage. Gina was seeing other people. Gina did not care about Chip
18 Centofanti. As a result, the defendant channeled this anger and humiliation into an on-going
19 public relations campaign to paint Gina as the bad mom, bad wife, alcoholic, and violence-prone
20 drug addict. He did this by telling everyone he knew, including his neighbors, co-workers, and
21 other acquaintances, that Gina was a problem, was violent, and had a drug and alcohol problem.
22 When he eventually killed her, he had a built in self-defense argument. Witnesses will testify
23 to this and this will be proven through direct statements of the defendant

24 This is relevant to this motion because there is another piece of evidence used to prove
25 this theory that includes uncharged fraudulent conduct. When the defendant applied for the
26 Temporary Protective Order he attached to it an exhibit that lies about the registered owner of
27 the Ruger 9mm. He attaches a registration card dated January 19, 2000 in which Gina was the
28 registered owner of the Ruger 9 mm; however, the defendant himself re-registered the Ruger to

063

1 himself a week later. He knew he was the registered owner of the Ruger when he filed the
2 Temporary Protective Order but sought to paint a picture that Gina was a gun-toting, violent
3 estranged wife. This fact is relevant to proving the defendant's intent and plan to set Gina up as
4 the guilty party, and he as the sympathetic party, so that when he did kill her eventually, he
5 would have a built in defense.

6 Second, the acts of the defendant on December 5th also establishes part of the defendant's
7 motive for killing Gina on December 20th. She not only told him in November that she was not
8 interested in continuing the marriage, but on December 5th she went out after work and did not
9 come home until the early hours of the morning. Certainly, this made the defendant suspicious
10 that she was involved with someone else. Furthermore, Gina didn't necessarily deny that she was
11 moving on. This is clearly a motive for a possessive spouse to take action against the party who
12 has decided to move on. See McCarthy, 547 N.E.2d at 463 (prior acts of violence may also
13 show hostility or provide motive for further acts of violence). It should also be noted that
14 similarity between acts is not required for a prior bad act used to prove motive. Thompson v.
15 State, 102 Nev. 348, 350, 721 P.2d 1290, 1291(1986) (evidence of two homicides in California
16 for which the defendant was being investigated were admissible in the trial of the defendant for
17 robbery to show the defendant had a plan to obtain money to flee the homicide prosecution).

18 This conclusion is confirmed by Hogan v. State, 103 Nev. 21, 732 P.2d 422 (1987). In
19 this case the defendant was on trial for murdering his female companion. The State sought to
20 admit evidence where several days prior to the murder he had picked up the victim and dropped
21 her to the ground from shoulder height. This evidence was admitted properly to show motive,
22 or that the defendant did in fact harbor ill will towards the victim.

23 To be admissible, other bad acts must be proven by clear and convincing evidence. The
24 state is prepared to call witnesses at a Petrocelli hearing to prove the acts of December 5, 2000.

25 Pursuant to Petrocelli, the probative value of the evidence must not be substantially
26 outweighed by prejudice to the defendant. However, just because evidence is prejudicial does
27 not mean it is inadmissible, for the best evidence usually is prejudicial. United States v. Mahler,
28 452 F.2d 547 (9th Cir. 1971).

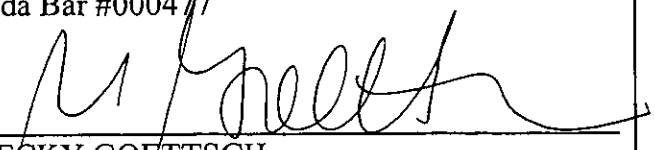
1 The risk of prejudice to the defendant in admitting evidence of the defendant's acts on
2 December 5, 2000, is minimal as the jury would be instructed in the law relating to the admission
3 of other bad acts and will be able to distinguish between proper and improper use of the
4 evidence. In fact, the State must now ask for such an instruction and we do so at this time.
5 Tavares v. Nevada, 117 Nev. Adv. Op. No. 61 (9/17/2001). Furthermore, the prejudice to the
6 defendant of admitting the acts of December 5th is mitigated by the fact Gina was the individual
7 arrested for the Battery Domestic Violence on that night. Thus, the probative value of the
8 evidence of the defendants' actions on December 5, 2000, are not substantially outweighed by
9 any prejudice to him and should be admitted.

10 CONCLUSION

11 The defendant's actions in the other bad acts set forth above is highly probative of his
12 motive, intent, and plan in the instant case. Because that evidence substantially outweighs any
13 prejudice to him, the State respectfully requests that the evidence be admitted in its case in chief.
14 Additionally, the State respectfully requests that this Court give a limiting instruction on the use
15 of other acts evidence. The State is prepared for a Petrocelli hearing upon Court Order.

16 DATED this 16th day of October, 2001.

17
18 STEWART L. BELL
19 DISTRICT ATTORNEY
Nevada Bar #000477

20
21 BY 
22 BECKY GOETTSCH
23 Deputy District Attorney
24 Nevada Bar #006316
25
26
27
28

065

1 CERTIFICATE OF FACSIMILE TRANSMISSION

2 I hereby certify that service of NOTICE OF MOTION AND STATE'S MOTION TO
3 ADMIT EVIDENCE OF OTHER BAD ACTS, was made this 16 day of October, 2001, by
4 facsimile transmission to:

5 ALLEN BLOOM, ESQ.
6 619-235-0516
7 1551 Fourth Avenue, Ste. 801
8 San Diego, California 92101

9 BY *N. McDonald*
Employee of the District Attorney's Office

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066

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DOMESTIC VIOLENCE REPORT**

2-2

Date of Occurrence 1-05-06	Time of Occurrence 1143	Event # (Original) 001205-0990	
Location of Occurrence 8720 WINTER GARDEN		City <input checked="" type="checkbox"/> City <input type="checkbox"/> County	Specific Crime BATT D.V.
		Sector/Beat VI	Connecting Events

PERSON ONE

☒ Victim ☐ Suspect ☐ Unknown Name
CENTOFANTI, ALFRED P III

Address (Include Zip Code)
8720 WINTER GARDEN

DOB **02-28-68** Phone (day) ID/SS# **016760-5759**

Race Sex Ht. Wt. Hair Eyes Statement Obtained? Drugs/Alcohol?
W M 5'6 190 B2C BRN ☒ Yes ☐ No ☐ Rts. ☐ Yes ☒ No ☐ Unk.

Emergency Contact (Name/Address)

Medical Information: Emergency Contact Phone #

☐ Will Seek Own Doctor ☐ First Aid ☐ Hospital

Paramedics? Unit # Name/ID#(s)
☐ Yes ☒ No

PERSON TWO

☐ Victim ☒ Suspect ☐ Unknown Name
CENTOFANTI, VIRGINIA RAMOS

Address (Include Zip Code)
8720 WINTER GARDEN

DOB **06-01-75** Phone (day) ID/SS# **5206-77-2842**

Race Sex Ht. Wt. Hair Eyes Statement Obtained? Drugs/Alcohol?
W F 5'3 110 B2C BRN ☒ Yes ☐ No ☐ Rts. ☐ Yes ☒ No ☐ Unk.

Emergency Contact (Name/Address)

Medical Information: Emergency Contact Phone #

☐ Will Seek Own Doctor ☐ First Aid ☐ Hospital

Paramedics? Unit # Name/ID#(s)
☐ Yes ☒ No

Children Present 1 (Name) GRACIELA CANALES	(Age) 7	(Post Incident Location) OUTSIDE	Children Present 2 (Name) NICHOLAS CENTOFANTI	(Age) 4	(Post Incident Location) HOME
Witness 1 (Name) N/A	(Address)	(DOB)	Witness 2 (Name) N/A	(Address)	(DOB)

Relationship between persons involved: ☒ Spouse ☐ Former spouse ☐ Cohabitants

☒ Have child in common ☐ Related by blood ☐ Parent/Child ☐ Minor child ☐ Dating

Victim given Domestic ☒ Yes ☐ No Weapon: (briefly describe) Evidence: (briefly describe)

Violence Info Card? ☐ No ☒ Yes **WATER 1100** ☒ Yes ☐ No

Narrative

ALFRED AND VIRGINIA WHO HAVE ONE CHILD IN (MIDDLE) AND 4A. BEEN MARRIED APPROX 1 1/2 YRS. GOT INTO AN ARGUMENT OVER THE TELEPHONE, AT APPROX 1000 HRS (2:00 PM). ALFRED HUNG THE EL AND VIRGINIA TRIED TO GET IT. GRABBED ALFRED BY THE SHIRT KICKING IT OUT OF HIM. AT ONE POINT VIRGINIA HIT ALFRED ON THE LEFT CHEEKN WITH HER FINGER WHICH SHE ADMITTED TO. A SEVERAL MINUTES LATER VIRGINIA HIT ALFRED ON THE CHEEKN WITH THE OTHER FINGER. ALFRED HIT VIRGINIA ON THE CHEEKN WITH HIS FINGER. ALFRED HIT VIRGINIA ON THE CHEEKN WITH HIS FINGER. ALFRED HIT VIRGINIA ON THE CHEEKN WITH HIS FINGER.

Suspect Arrested? ☐ Male ☒ Female Court: Determine primary aggressor No physical evidence/injury Suspect gone on arrival Outside time taken (24 hrs)

How was primary aggressor determined? ☐ Prior history ☐ Severity of injuries inflicted ☐ Defense wounds ☐ Potential for future injury ☒ Corroborating statements

Arresting Officer Squad P # Officer(s) Taking Report Squad P #

C. MACGREGOR **NW22** **4750** **M. USIAN** **NW22** **4750**

Supervisor Approving Squad P # Connecting Reports ☒ Property ☐ Tow ☒ Voluntary ☒ Suspect Voluntary

D. L. LINDA **NW22** **2533** **DOA** **XAR** **XEDOC**

EXHIBIT "1"

067

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

Event #

11/12/97 11:00

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime <u>Domestic Violence</u>	Date Occurred <u>11-12-97</u>	Time Occurred <u>11:00 AM</u>
Location of Occurrence <u>3730 W. NORTH GARDEN AVE. LV. NV 89124</u>	Sector/Beat <u>V1</u>	<input checked="" type="checkbox"/> City <input type="checkbox"/> County

Your Name (Last / First / Middle) <u>Cento-Santi, Alfred Paul III</u>						Date of Birth <u>9-28-68</u>		Social Security # <u>016-60-5759</u>	
Race <u>M</u>	Sex <u>M</u>	Height <u>6.0</u>	Weight <u>200</u>	Hair <u>BRN</u>	Eyes <u>Hazel</u>	Work Schdl. (Hours)	(Days Off)	Business / School	
Residence Address: (Number & Street)				Bldg./Apt. #	City	State	Zip Code	Res. Phone: <u>938-9214</u>	
Bus. (Local) Address: (Number & Street)				Bldg./Apt. #	City	State	Zip Code	Bus. Phone: <u>962-4545</u>	
Best place to contact you during the day <u>Home 962-4545</u>				Best time to contact you during the day <u>Business Hours</u>				Can You Identify <input checked="" type="checkbox"/> Yes the Suspect? <input type="checkbox"/> No	

DETAILS After coming home at about 7:00 a.m., intoxicated, my wife shot until about 10:00 a.m. Upon waking I attempted to talk with her about where she was last night and I was attacked on the stairwell and had a picture smashed across the back of my head. The shirt was ripped from my back and I was kicked to the ground which resulted in skinning my right knee. The struggle continued into the hallway when I was able to get the gun out of her hands and calmed her down.

My wife has a history of problems with alcohol (Abu) and drug use. I hope she gets the help she needs.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) 3730 W. NORTH GARDEN AVE.

ON THE 12 DAY OF NOV AT 11:00 (AM / PM) 1997

Witness/Officer

(SIGNATURE)

068

VOLUNTARY STATEMENT

21205-223

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime <u>BATTERY I.V.</u>	Date Occurred <u>12-05-00</u>	Time Occurred <u>11:20 AM</u>
Location of Occurrence <u>8720 Wintery Garden Ave. LV. NV. 89134</u>	Sector/Beat <u>41</u>	<input checked="" type="checkbox"/> City <input type="checkbox"/> County

Your Name (Last / First / Middle) <u>Centefanti Virginia (Gina) Ramos</u>						Date of Birth <u>6-11-75</u>		Social Security # <u>566772842</u>	
Race <u>C</u>	Sex <u>F</u>	Height <u>5'3"</u>	Weight <u>110</u>	Hair <u>Brown</u>	Eyes <u>Hazel</u>	Work Schdl. (Hours) <u>10:00-6:00</u>	(Days Off) <u>Sat/Sun</u>	Business / School <u>INTEGRITY CENTER</u>	
Residence Address: (Number & Street) <u>8720 Wintery Garden Ave</u>				Bldg./Apt.# <u>41</u>	City <u>LV</u>	State <u>NV</u>	Zip Code <u>89134</u>	Res. Phone: <u>8389814</u>	
Bus. (Local) Address: (Number & Street) <u>955 Grier Dr.</u>				Bldg./Apt.# <u>B</u>	City <u>LV</u>	State <u>NV</u>	Zip Code <u>89119</u>	Bus. Phone: <u>736-2220</u>	
Best place to contact you during the day <u>cell phone 702-6045219</u>				Best time to contact you during the day				Can You Identify <input checked="" type="checkbox"/> Yes the Suspect? <input type="checkbox"/> No	

DETAILS Came home fell asleep woke up. was late for a meeting. My husband took my phone and attempted to call work. I struggled over phone. I then took a frame and hit him over the head. He grabbed his gun out of the top drawer and tried shooting it. We then struggled over the gun. He was yelling started yelling for me to beg for my life. Kept the gun at my head. then pointed it to his. he then stated he was going to kill me the kids and himself. He unlocked the gun put it aside. I have a fat lip from struggled with the gun.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) 8720 Wintery Garden Ave

ON THE 5th DAY OF DECEMBER AT 11:20 (AM / PM)

Witness/Officer: [Signature]

(SIGNATURE)

Witness/Officer: [Signature] # 2535

069

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TRANSCRIPTION OF PHONE CALLS**

EVENT# 001205-0990

CALL #1

Dispatch: Metro Police, 152.

Mark: Yes hello, my name is Mark Smith, I'm a social worker in New York City. I have a Gina Centosanti on the line. She's just told me that her husband pointed a gun at her and pulled the trigger, that the weapon did not fire. There are two minor children in the household.

Dispatch: Okay, is she calling us?

Mark: No she's not, I'm calling you.

Dispatch: I know, why isn't she calling us?

Mark: I have no idea ma'am. I'm a social worker I have a duty to warn, I'm letting you know.

Dispatch: Okay, what's the address she's at?

Mark: 8720 Wintery Garden Avenue.

Dispatch: Wintery Garden?

Mark: Yes.

Dispatch: You have any info on him?

Mark: Uh, other than his name, no. His name is, oh jeez, what is his name. Hang on for one second, got it here somewhere.

Dispatch: Do you have her phone number?

Mark: Yes, (702) 838-9814.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT**

Page 2

Event # 001205-0990

Dispatch: Okay, let me get what I can from you and then I'll try to call her.

Mark: Ma'am.

Dispatch: Yes.

Mark: She is significantly frightened of her husband, you cannot call her.

Dispatch: She won't say anything.

Mark: No.

Dispatch: Okay, do you have his name?

Mark: No I don't have his name, ma'am.

Dispatch: Okay, is that all you, is that it, do we have, and there's two small children in the house?

Mark: There are two small children in the house, she...

Dispatch: What's your call back number?

Mark: My number's 800-448-4358.

Dispatch: And that is a home, do you know?

Mark: Yes.

Dispatch: Okay, we'll get somebody out there.

Mark: Thank you.

Dispatch: Uh-huh.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Page 3

Event # 001205-0990

CALL #2

Female: _____

Dispatch: Hi, is Mark Smith in?

Female: Hold on a moment. (Pause) Who's calling?

Dispatch: Metro Police.

Female: Um, he's not answering, is this urgent?

Dispatch: Yes.

Female: Hold on. I'll try and get him for you.

Dispatch: Thank you.

Mark: Hello this is Mark.

Dispatch: Hi Mark it's Kimberly with Metro Police calling back.

Mark: Hi Kimberly.

Dispatch: You gave me 8720 Wintery Garden?

Mark: That's the address they gave me.

Dispatch: It doesn't exist. I have Winter Garden, but the hundred blocks are 74 to 75 and that's it.

Mark: Okay, can you, uh, is there a reverse, um, um.

Dispatch: Yeah.

Mark: 'Cause that's, that's their phone number. (Both talking at once)

Dispatch: _____ I just wanted, it usually takes a long time so I wanted to see if you had

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Page 4

Event # 001205-0990

anything different. Okay, I'll _____. (Both talking at once)

Mark: I apologize.

Dispatch: That's okay, bye-bye.

Mark: Bye.

CALL #3

Herbert: Operator service, this is Herbert.

Dispatch: Herbert this is Metro Police, we need to get an address through a phone number please.

Herbert: One moment. (Pause) You have a badge number?

Dispatch: 6546.

Herbert: And what number you want to check?

Dispatch: We ____ check 838-9814.

Herbert: One moment (placed on hold). Okay that number 838-9814, the address is 8720 Wintry, W-I-N-T-R-Y.

Dispatch: T-R-E-Y?

Herbert: No, T-R-Y.

Dispatch: W-I-N-T-R-Y?

Herbert: That's correct and Garden is the last name of it, Avenue, it's a house.

Dispatch: Well, hang on for me one second, 'cause I can't get that to, there it is, okay great

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Page 5

Event # 001205-0990

thank you.

Herbert: You're quite welcome.

CALL #4

Gina: Hello.

Dispatch: Hi, is this Gina?

Gina: Hm-hmm.

Dispatch: Is your husband there?

Gina: Hm-hmm.

Dispatch: Are you okay?

Gina: Who is this, I don't know if~ I'm on the other line, who is this?

Dispatch: Oh you're on the other line, this is the police department.

Gina: I'm okay, yeah.

Dispatch: Are you sure?

Gina: Uh-huh.

Dispatch: Where's the gun?

Gina: I have someone on the other line, can you call back?

Dispatch: Okay.

Gina: Thanks.

01m0001

074

Incident Report

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
400 E STEWART
LAS VEGAS, NV 89101
702 229-3111

Incident Number: LLV001205000990

Incident Summary

Incident Type: CRIMINAL INCIDENT

Incident Occurred Address: 8720 WINTRY GARDEN AV LV, NV

Report type: FIELD INCIDENT RE

Sector/Beat: V1 V1

Occur Start Date/Time: 12/05/2000 11:43 Occur End Date/Time: 12/05/2000 11:43

Rpt Taken Date/Time: 12/05/2000 11:43

Domestic: Y

Bias Motivation

Gang Related: U

Substance: N

Contact Nature

Reporting Officer: USIAK, M 6470

Primary Assigned Officer: MARSHALL JR, L 4781

Case Status: SUBMITTED

Disposition:

Disposition Date/Time:

Offenses

Statute Code	Description	Severity	Counts
BATT171.137	BATTERY / DOMESTIC VIOLENCE	MISDEMEANOR	1

Persons Involved**Person # 0001**

Event Association: VICTIM

Contact Date/Time:

Name: CENTOFANTI, ALFRED P

SSN: 016-60-5759

DOB: 02/28/1968

Age: 32

Sex: M

Race: W

Height: 6'0"

Weight: 190

Eye Color: HAZEL

Hair Color: BROWN

Address: 8720 WINTRY GARDEN AV LV, NEVADA

Sector/Beat: V1V1

Phone:

DL State:

DL #

Expires:

Occupation:

Employer/School:

Person # 0002

Event Association: ARRESTEE

Contact Date/Time:

Name: CENTOFANTI, VIRGINIA RAMOS

SSN: 566-77-2842

DOB: 06/11/1975

Age: 25

Sex: F

Race: W

Height: 5'3"

Weight: 110

Eye Color: HAZEL

Hair Color: BROWN

Address: 8720 WINTRY GARDEN AV LV, NEVADA

Sector/Beat: V1V1

Phone:

DL State:

DL #

Expires:

Occupation:

Employer/School:

Person # 0003

Event Association: WITNESS

Contact Date/Time:

Name: SANCHEZ, FRANCISCO

SSN:

DOB:

Age: 9

Sex:

Race:

Height:

Weight:

Eye Color:

Hair Color:

Address:

Sector/Beat:

Phone:

DL State:

DL #

Expires:

Occupation:

Employer/School:

Person # 0004

Event Association: WITNESS

Contact Date/Time:

Name: CENTOFANTI, NICHOLAS

SSN:

DOB:

Age: 0

Sex:

Race:

Height:

Weight:

Eye Color:

Hair Color:

Address:

Sector/Beat:

Phone:

DL State:

DL #

Expires:

Occupation:

Employer/School:

Printed by: k2185h

Printed date/time: 12/21/00 8:20

Incident Report

Page 2 of 2

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
400 E STEWART
LAS VEGAS, NV 89101
702 229-3111

Incident Number: LLV001205000990

Narratives

Entered Date/Time: 12/05/2000 11:43

Subject: BATT DV

Narrative:

Type: INCIDENT CRIME REPORT

Author:USIAK, M 6470

ALFRED AND VIRGINIA WHO HAVE ONE CHILD IN COMMON AND HAVE BEEN MARRIED APPROX 1-1/2 HRS, GOT INTO AN ARGUMENT OVER THE TELEPHONE, AT APPROX 1030 HRS (12/5/00). ALFRED HAD THE PHONE AND VIRGINIA TRIED TO GET IT; GRABBED ALFRED BY THE SHIRT RIPPING IT OFF OF HIM. AT ONE POINT VIRGINIA HIT ALFRED ON THE HEAD W/A PICTURE FRAME WHICH SHE ADMITTED TO. A STRUGGLE OVER A GUN ALSO OCCURRED WITH BOTH PARTIES STATING THAT THE OTHER POINTED THE GUN AT THE OTHER AND PULLED THE TRIGGER.

RELATIONSHIP: SPOUSE, CHILD IN COMMON

PHOTOS: NO

TEMPORARY HOUSING: NO

TPO IN EFFECT: NO

VICT GIVEN DV CARD: YES

WEAPON: RUGER 9MM

EVIDENCE: NO

911 CALLED BY: SOCIAL WORKER

PRIMARY AGGRESSOR DETERMINED BY: CORROBORATING STMTS

PD Impounded:
Taurus 38 revolver
Ruger 9mm
Winchester Shotgun
Ripped T-shirt.
Guns released to Alfred
on 12-20-00

FILED

APPO

DEC 6 1 00 PM '00

DISTRICT COURT,
FAMILY DIVISION,
CLARK COUNTY, NEVADAShirley A. Longoria
CLERKAlfred P. Centofanti III

Applicant,

Case No. T 746849

vs.

Virginia R. Centofanti

Adverse Party.

APPLICATION FOR A TEMPORARY AND/OR EXTENDED ORDER FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

Applicant states the following facts under penalty of perjury:

Applicant Date of Birth: 9-28-68Adverse Party Date of Birth: 6-1-25

1. My relationship to the Adverse Party is (for example, current/former husband, current/former wife, current/former boyfriend, current/former girlfriend, father, mother, brother, sister, etc.):

current husband

- ☐ Length of relationship: 2 1/2 years
- ☐ Have you ever lived together? Yes or No _____. If so, how long? 1 1/4 yrs
- ☐ Are you living together now? Yes or No _____.
- ☐ Date of Separation: _____
- ☐ We have child(ren) TOGETHER: Yes or No _____. If yes, where and with whom are these child(ren) living? with us

2. My address is: ☒ CONFIDENTIAL. (If confidential, do not write address here)

or, if not confidential list 8720 Wintry Garden AveCity Las Vegas County Clark State NV Zip Code 89134
Phone 702 838-5814☐ own ☐ rent this residence. Lease/title is held in all the following name(s):

I have been living in this residence for _____

3. Adverse Party's address is: 8720 Wintry Garden Ave

City Las Vegas County Clark State NV Zip Code 89134
Phone 702 838-5814Adverse Party has been living in this residence for 1 yr +

077

21228-2141

4. My employment is: ☐ CONFIDENTIAL, (If confidential do not write address here)

or, if not confidential, state place of employment CISNEROS & ASSOC

Address: 1650 E. Flamingo Suite 200

City Las Vegas County Clark State NV Zip Code 89119

Phone 862-4545

5. Adverse Party's employment is: Eagle Sentry

Address: _____

City Las Vegas County Clark State NV Zip Code _____

Phone 736-8880

6. (a) The name(s) and dates of birth of minor child(ren) who I am the parent of, or who live in my home, are as follows:

NAME(first and last)	Date of Birth	APPLICANT'S CHILD (YES/NO)	ADVERSE PARTY'S CHILD (YES/NO)	WHO CHILD LIVES WITH
1. <u>Nicholas Centofanti</u>	<u>7-25-00</u>	Circle one Yes <input checked="" type="radio"/> No <input type="radio"/>	Circle one Yes <input checked="" type="radio"/> No <input type="radio"/>	<u>Both</u>
2. <u>Francisco Sanchez</u>	<u>4-30-91</u>	Circle one Yes <input type="radio"/> No <input checked="" type="radio"/>	Circle one Yes <input checked="" type="radio"/> No <input type="radio"/>	<u>Both</u>
3.		Circle one Yes <input type="radio"/> No <input type="radio"/>	Circle one Yes <input type="radio"/> No <input type="radio"/>	
4.		Circle one Yes <input type="radio"/> No <input type="radio"/>	Circle one Yes <input type="radio"/> No <input type="radio"/>	
5.		Circle one Yes <input type="radio"/> No <input type="radio"/>	Circle one Yes <input type="radio"/> No <input type="radio"/>	

(b) Have you or the Adverse Party ever been awarded custody of the minor child(ren) that you have in common by Court order? ☐ Yes ☒ No

Who was awarded custody? ☐ Applicant ☒ Adverse Party

By what Court? _____ Case No. _____

078

001220-2141
11/29/07

- 1
2
3 7. Please check the appropriate box, IF YOU or the ADVERSE PARTY has ever filed a case in any Court
4 for ☐ Divorce, ☐ Custody, ☐ Paternity, ☐ Child Support, ☐ Guardianship, ☐ Order for Protection,
5 ☐ Stalking/Harassment Order. Please indicate when and where the case was filed, and list the case
6 numbers. _____
7 _____
8 _____

- 9 8. Has CHILD PROTECTIVE SERVICES (CPS) ever been contacted regarding any member of the household
10 in the past year? ☐ Yes ☒ No. Is CPS currently involved with this family? ☐ Yes ☐ No.
11 If yes to the question, give details, including the caseworker's name: _____
12 _____
13 _____
14 _____
15 _____

- 16 9. ☒ I have been or reasonably believe I will become a victim of domestic violence committed by the
17 Adverse Party.
18 ☒ My child(ren) have been or are in danger of being a victim of domestic violence committed by
19 the Adverse Party.
20
21
22
23
24
25
26
27
28

1
2 In the following space, state the facts which support your application. Be as specific as you can, starting with
3 the most recent incident. Include the approximate dates of domestic violence, how long it has gone on, and
4 whether law enforcement or medical personnel have been involved.

5
6 My wife, who was intoxicated, assaulted me in ~~the front~~ front
7 of our children. She broke a picture frame off the back
8 of my head, ripped a shirt, scratched my ~~on~~ right hand
9 drawing blood, and causing a big burn on my right
10 knee. She also grabbed my gun which I was able to take
11 away from her after she attempted to use on me. The police
12 were called and she was taken into custody on December
13 5, 2000. Due to her past and present problems with alcohol,
14 her being violent, and ~~her~~ her prior drug and criminal
15 problems which have now surfaced, I feel that she is
16 a danger to both me and the minor children unless or
17 until she deals with her substance and anger problems.
18
19
20
21
22
23
24
25
26

27 Please do not write on the backs of any pages.
28

080

01220-2141
K 55470

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DOMESTIC VIOLENCE REPORT

Date of Occurrence 12-05-00		Time of Occurrence 1143		Event # (Original) 001705-0990	
Location of Occurrence 8720 WINTER GARDEN		City <input checked="" type="checkbox"/> City	Specific Crime BATT/D.V.	Sector/Beat 41	Connecting Events
PERSON ONE					
<input checked="" type="checkbox"/> Victim <input type="checkbox"/> Suspect <input type="checkbox"/> Unknown Name CENIOFANTI, ALBERT J JR Address (Include Zip Code) 8720 WINTER GARDEN DOB 02-18-68 Phone (day) 014-60-5759 ID/SS# 014-60-5759		INDICATE WOUNDS BELOW FOR PERSONS ONE/TWO <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> 1 MINOR SCALDS PAINFUL </div> <div style="text-align: center;"> 2 LIP LIP </div> </div>			
Race Sex Ht. Wt. Hair Eyes Statement Obtained? Drugs/Alcohol? W M 5'0 190 680 BAZ <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> R/A <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unk.					
Emergency Contact (Name/Address)					
Medical Information: <input type="checkbox"/> Will Seek Own Doctor <input type="checkbox"/> First Aid <input type="checkbox"/> Hospital					
Emergency Contact Phone #					
Paramedics? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Unit # Name/ID#(s)					
PERSON TWO					
<input type="checkbox"/> Victim <input checked="" type="checkbox"/> Suspect <input type="checkbox"/> Unknown Name CENIOFANTI, VIRGINIA RANDO Address (Include Zip Code) 8720 WINTER GARDEN DOB 06-01-75 Phone (day) 506-77-2847 ID/SS# 506-77-2847					
Race Sex Ht. Wt. Hair Eyes Statement Obtained? Drugs/Alcohol? W F 5'3 110 380 BAZ <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> R/A <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unk.					
Emergency Contact (Name/Address)					
Medical Information: <input type="checkbox"/> Will Seek Own Doctor <input type="checkbox"/> First Aid <input type="checkbox"/> Hospital					
Emergency Contact Phone #					
Paramedics? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Unit # Name/ID#(s)					
Children Present 1 (Name) (Age) (Post Incident Location)		Children Present 2 (Name) (Age) (Post Incident Location)			
GRANVILLE CENIOFANTI 9 OUTSIDE		NICHOLAS CENIOFANTI 4 HOME			
Witness 1 (Name) (Address) (DOB) (Phone)		Witness 2 (Name) (Address) (DOB) (Phone)		Siml. Obs? <input type="checkbox"/> Yes <input type="checkbox"/> No	
N/A		N/A		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Relationship between persons involved: <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Former spouse <input type="checkbox"/> Cohabitants		Photos taken: <input checked="" type="checkbox"/> None		Has victim requested temporary housing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input checked="" type="checkbox"/> Have child in common <input type="checkbox"/> Related by blood <input type="checkbox"/> Parent/Child <input type="checkbox"/> Minor child <input type="checkbox"/> Dating		<input type="checkbox"/> Polaroid <input type="checkbox"/> Criminalistics		Is there a TPO in effect? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Victim given Domestic Violence Info Card? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		Weapon: (briefly describe)		Evidence: (briefly describe)	
Yes		None		None	
Violence Info Card? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		If 911 called, by whom: <input type="checkbox"/> Victim <input type="checkbox"/> Child <input type="checkbox"/> Unk/Anon.		Suspect <input type="checkbox"/> Neighbor <input checked="" type="checkbox"/> Other SOCIAL WORKER	
Yes		None		None	
Narrative ALBERT AND VIRGINIA HAVE ONE CHILD IN COMMON AND HAVE BEEN MARRIED APPROX 1 1/2 YRS. GOT INTO AN ARGUMENT OVER THE TELEPHONE, AT APPROX. 1030 HRS. (12-05-00). ALBERT HAD THE GUN AND VIRGINIA TRIED TO GET IT; GRABBED ALBERT BY THE SHIRT- KIPPING IT OFF OF HIM. AT ONE POINT VIRGINIA HIT ALBERT ON THE HEAD W/ A PICTURE FRAME, WHICH SHE ADMITTED TO. A STRUGGLE OVER A GUN ALSO OCCURRED, WITH BOTH PARTIES STATING THAT THE OTHER POINTED THE GUN AT THE OTHER AND PULLED THE TRIGGER.					
Suspect Arrested? <input type="checkbox"/> Male <input type="checkbox"/> Couldn't determine primary aggressor <input type="checkbox"/> No physical evidence/injury <input type="checkbox"/> Suspect gone on arrival <input type="checkbox"/> Outside time frame (24 hrs.)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Female If no arrest made, describe mitigating circumstances					
How was primary aggressor determined? <input type="checkbox"/> Prior history <input type="checkbox"/> Severity of injuries inflicted <input type="checkbox"/> Defense wounds <input type="checkbox"/> Potential for future injury <input checked="" type="checkbox"/> Corroborating statements					
<input type="checkbox"/> Other:					
Arresting Officer C. MACGREGOR		Squad NW77	P # 0750	Officer(s) Taking Report M. USIAH	Squad NW77
Supervisor Approving		Squad	P #	Connecting Reports <input checked="" type="checkbox"/> Property <input type="checkbox"/> Tow <input checked="" type="checkbox"/> Voluntary <input checked="" type="checkbox"/> Suspect Voluntary	P # (b) 0470 081
				<input type="checkbox"/> O/R <input checked="" type="checkbox"/> A/R <input checked="" type="checkbox"/> TCR/DOA	031223-241

1 10. Have YOU ever been arrested or charged with domestic violence, or any other crime committed against
2 your spouse, partner, or child(ren)? ☐ Yes ☒ No. If yes, WHEN and where? _____
3 _____

4 11. To your knowledge, has the ADVERSE PARTY ever been arrested or charged with domestic violence,
5 or any other crime committed against his/her spouse, partner, or child(ren)? ☐ Yes ☐ No. If yes,
6 WHEN and where? I don't know
7 _____

8 12. ☒ An emergency exists, and I need a TEMPORARY ORDER FOR PROTECTION AGAINST
9 DOMESTIC VIOLENCE issued immediately without notice to the Adverse Party to avoid
10 irreparable injury or harm. I request that it include the following relief (please check all the
11 choices that apply to you):

11 ☒ (a) Prohibit the Adverse Party, either directly or through an agent, from threatening,
12 physically injuring or harassing me and/or my minor child(ren).

12 ☐ (b) Prohibit the Adverse Party from any contact with me whatsoever.

13 ☒ (c) Exclude the Adverse Party from my residence and order the Adverse Party to stay
14 at least 100 yards away from my residence.

15 ☒ (d) Obtain law enforcement assistance to ☐ accompany me to the following residence,

16 _____, or ☒ to accompany the Adverse
17 Party, to the following residence, 6720 Winding Garden Ave
18 to obtain personal property.

18 ☒ (e) Grant temporary custody of the minor child(ren) to me.

19 ☐ (f) Order that custody, visitation, and support of the minor child(ren) remain as ordered
20 in the Decree of Divorce/Order entered in Case Number _____ in the

21 _____ Judicial District Court of the State of _____.

22 ☒ (g) Order the Adverse Party to stay at least 100 yards away from the minor child(ren)'s
23 school, or day care, located at ☒ CONFIDENTIAL. (If confidential do not write address
24 here) or, if not confidential list 1. _____

25 Address: _____

26 City _____ County _____ State _____ Zip Code _____

27 2. _____

28 Address: _____

City _____ County _____ State _____ Zip Code _____

3. _____

Address: _____

City _____ County _____ State _____ Zip Code _____

☒ (h) Order the Adverse Party to stay at least 100 yards away from my place of employment.

☒ (i) Order the Adverse Party to stay at least 100 yards away from places which I or my minor child(ren) frequent regularly: ☒ ~~CONFIDENTIAL~~, (If confidential do not write address here) or, if not confidential list 1. _____

Address: _____

City _____ County _____ State _____ Zip Code _____

2. _____

Address: _____

City _____ County _____ State _____ Zip Code _____

3. _____

Address: _____

City _____ County _____ State _____ Zip Code _____

☒ (j) I further request the following other conditions: _____

*that any visitations allowed be supervised
and she be tested for drugs and alcohol*

**IF YOU WISH TO APPLY FOR A HEARING FOR AN EXTENDED ORDER
FOR PROTECTION COMPLETE THE FOLLOWING INFORMATION**

13. ☒ I request the Court hold a hearing for an EXTENDED ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE (which could be in effect for up to one year), and at that hearing the Court issue an Extended Order for Protection Against Domestic Violence and that it include the following relief (please check all the choices that apply to you):

☒ (a) Prohibit the Adverse Party, either directly or through an agent, from threatening, physically injuring or harassing me and/or my minor child(ren).

☐ (b) Prohibit the Adverse Party from any contact with me whatsoever.

☒ (c) Exclude the Adverse Party from my residence and order the Adverse Party to stay at least 100 yards away from my residence.

☒ (d) Grant temporary custody of the minor child(ren) to me.

☐ (e) Grant the Adverse Party visitation with the minor child(ren).

☒ (f) Order the Adverse Party to pay support and maintenance of the minor child(ren).

(You may be required to file an affidavit of financial condition prior to the hearing.)

- 1 ☒ (g) Order the Adverse Party to pay the rent or make payments on a mortgage or pay
2 towards my support and maintenance.
- 3 ☐ (h) Order that custody, visitation, and support of the minor child(ren) remain as ordered
4 in the Decree of Divorce/Order entered in Case Number _____
5 In the _____ Court of the State of _____.
- 6 ☒ (i) Order the Adverse Party to stay at least 100 yards away from the minor child(ren)'s
7 school, or day care, located at: ☒ ~~CONFIDENTIAL~~, (If confidential, do not write address
8 here) or, if not confidential list 1. _____
9 Address: _____
10 City _____ County _____ State _____ Zip Code _____
11 2. _____
12 Address: _____
13 City _____ County _____ State _____ Zip Code _____
- 14 ☒ (j) Order the Adverse Party to stay at least 100 yards away from my place of
15 employment.
- 16 ☒ (k) Order the Adverse Party to stay at least 100 yards away from places which I or my
17 minor child(ren) frequent regularly: ☒ ~~CONFIDENTIAL~~, (If confidential do not write
18 address here) or, if not confidential list 1. _____
19 Address: _____
20 City _____ County _____ State _____ Zip Code _____
21 2. _____
22 Address: _____
23 City _____ County _____ State _____ Zip Code _____
- 24 ☒ (l) I further request the following other conditions: _____
25 That she be ordered to undergo alcohol
26 counseling
27 _____
28 _____

Alfred P. Centofanti III

Applicant Alfred P. Centofanti III
(First and last name)Adverse Party Virginia Ramos Centofanti
(First and last name)ID # 1795202

Fax request # _____

EMERGENCY PROTECTION ORDER---FAX COVER PAGE

TO: District Court Judge/Master _____

Terminating Fax # CONFIDENTIALFROM: Safe Nest shelter (TADC) 646-4981 Originating Fax # 455-7243Number of pages of Fax including this cover sheet: 9

DETENTION FACILITY HOLDING ADVERSE PARTY:

☐ Clark County Detention Center☒ Las Vegas Detention Center☐ North Las Vegas Detention Center☐ Henderson Detention Center☐ Other: _____

Applicant Information:

Sex M Race W Ht 6.0Wt 200 Hair BRN Eye Hazel

Adverse Party information:

Social Security # 566-77-2842Sex F Race W Ht 5'3"Wt 110 Hair BROWN Eye HazelPlace of Incident 8720 Wintery Garden Arrest Event # 001205-0990Date & time of arrest 12/05/00 12:30 PM Charges: BATT D.V.

Special requests or instructions: _____

Preparer's signature [Signature]Preparer's name Alfred P. Centofanti III

(printed)

085
01220-2141
K54470

Plaintiff's Last name, First, MI

Serial #: 1-65668

Manufactured By: TAURUS

Caliber: 38 Type: REV Color: S.S.

Model: 85 Barrel Length: 2"

Virginia Centopanti
Signature of Owner

C.C. Ord. 12.04.210 It shall be unlawful for any person to sell, give away, or permanently pass on to another person of any pistol, revolver or other firearm capable of being concealed unless the Transferor first registers, or causes the weapon to be registered to the new owner.

Serial #: 313-49672

Manufactured By: RUGER

Caliber: 9mm Type: Semi Color: Black

Model: P95 Barrel Length: 4"

Virginia Centopanti
Signature of Owner

C.C. Ord. 12.04.210 It shall be unlawful for any person to sell, give away, or permanently pass on to another person of any pistol, revolver or other firearm capable of being concealed unless the Transferor first registers, or causes the weapon to be registered to the new owner.

086

001220-2141
R59470

GUN REGISTRATION CARD
LAS VEGAS METROPOLITAN POLICE DEPARTMENT
LAS VEGAS, NEVADA

Date: 1/19/00

This certifies that on this date:

(Name) Virginia Centofanti

(City) LV (State) NV

registered the weapon described on the reverse side of this card.

THIS CARD IS NOT AND SHALL NOT BE CONSTRUED AS A
PERMIT TO CARRY SAID GUN CONCEALED. THIS CARD IS
NOT TRANSFERRABLE TO ANY OTHER PERSON.

JERRY KELLER, Sheriff

GUN REGISTRATION CARD
LAS VEGAS METROPOLITAN POLICE DEPARTMENT
LAS VEGAS, NEVADA

Date: 1/19/00

This certifies that on this date:

(Name) Virginia Centofanti

(City) LV (State) NV

registered the weapon described on the reverse side of this card.

THIS CARD IS NOT AND SHALL NOT BE CONSTRUED AS A
PERMIT TO CARRY SAID GUN CONCEALED. THIS CARD IS
NOT TRANSFERRABLE TO ANY OTHER PERSON.

JERRY KELLER, Sheriff

087

GP1220-2141
R 5910

44

LAS VEGAS METROPOLITAN POLICE DEPT.
OFFICER'S REPORT

EVENT #: 001205-0990

WEAPON RELEASE

SUBJECT

DIVISION REPORTING: Financial Prop Crimes Bureau

DIVISION OF OCCURRENCE: FPCB

DATE AND TIME
OCCURRED:

12-14-00 thru 12-20-00

LOCATION OF
OCCURRENCE:

Firearms Section

Person Reporting: Sharon M. Zwick
Investigative Specialist, Firearms Section

Persons Involved: Alfred P. Centofanti
DOB/09-28-68 Soc/016-60-5759

Virginia R. Centofanti
DOB/06-11-75 Soc/566-77-2842

Address: 8720 Wintry Garden Ave
Las Vegas NV 89134

Property: (Safekeeping)
.38 Taurus Revolver s/n RF65668
9m Sturm Ruger semi automatic s/n 313-49672
20ga Winchester pump shotgun s/n L3333515

(Evidence)
White ripped T-Shirt

Related Evt# 001220-2141 Murder w/Dead Weap

This is to document the details of the occurrences which took place surrounding the release of the weapons impounded under the above referenced event.

Alfred Centofanti began calling to claim his weapons on or about the 14th of December. The first message he left on the Firearms Disposition answering machine was very difficult to understand, the callers name was indecipherable. I believe he also left a second message at the end of the day on Friday the 15th. I spoke with Mr. Centofanti on Monday the 18th. He indicated that his weapons had been impounded for safekeeping during a domestic dispute and that he was calling to get them back. He informed me that there had been a TPO in effect against his wife and that it had since been dissolved. I asked him for the event number and ran it in ACE with him still on the line.

Date and Time of Report: 12-22-00 11:30

Officer: Sharon M. Zwick P#: 4184

Approved: Sgt. T. Johnson

Officer: _____ P#: _____

LVMPD 82 (REV. 1-91) - AUTOMATED

SIGNATURE: Sharon M. Zwick

EXHIBIT 3

088

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/Event Number: 001205-0990

Page 2 of 2

When the ACE entry came up I read the circumstances which I had updated with the information from the property report and gun registration details on 12-12-00. I was reminded at that time that I had questions regarding the registrations. I asked Mr. Centofanti why both handguns had been originally registered to his wife, Virginia, on 01-22-00 and then the registration had been transferred into his name on 01-27-00. He explained that when he applied for his CCW on 01-27-00 they (CCW) told him that the guns had to be registered to him to be on his CCW, so he changed the registrations at that time. He first stated that the .38 was hers and the 9 was his and then I asked him if it wasn't his why then is it registered to him and on his CCW? He then said "it's hers, it's mine, you know." His main concern was getting his 9m back and then - what did we need to do so he get the guns back. He stated at this time that the winchester was his also.

I explained to him that I would need to conduct a background check on him prior to releasing the property. He verified his DOB/09-28-68 and his SS#/016-60-5759, and gave me a phone number where I could reach him. He mentioned that his answering machine said you have reached "Chip" and for me not to think it was a wrong number but that was his nickname.

I worked on his background on Monday and Tuesday. Firearms backgrounds include: SCOPE, CTRACK, MUNICT, NCIC, TRIPLE I, NCJIS, TPO, and LRMS. Mr. Centofanti had a clear history. He had no arrests, maintained a current Concealed Weapons Permit for both handguns and both handguns were registered to him. The original registration to Virginia Centofanti was done at The Gun Store on 01-22-00, the transferring registration to Alfred Centofanti was done five days later on 01-27-00, at LVMPD DTAC. The Battery domestic violence charge was against his wife, Virginia Centofanti and she was scheduled to go to court on 01-24-01. I contacted Family Court to inquire about the Temporary Protective Order that Mr. Centofanti had advised me about, (the TPO was no longer in Scope when I ran Virginia). I was told that the order had been dissolved and that the only other case involving the Centofanti's was a divorce case. I specifically asked if there had been any attempt or inclination to extend the Protective Order and she said no, it was all over and done with.

I called Alfred Centofanti on Wednesday morning, 12-20-00 and asked him where he was living, if he and his wife were still living together, and if not where was she residing? He informed me that he was still residing at 8720 Wintry Garden and that she had moved to Henderson, he didn't know the exact address and they were getting a divorce. I told him that his background check was fine and that he could pick up the guns later that day at the Evidence Vault. I then gave him directions and the phone number for the vault. At this point approximately 10:00 a.m. I printed the disposition order, had it signed by Sgt. Johnson and placed on RTC (release to claimant) status to Alfred Centofanti. On 12-20-00 at 11:40 a.m., shortly after our phone conversation, Mr. Centofanti picked up his .38 Taurus revolver s/n RF65668, 9m Sturm Ruger semi automatic s/n 313-49672 and a winchester 20ga pump shotgun s/n L3333515.



Las Vegas Metropolitan Police Department
Gun Registration

Registration Date
01/22/2000

Serial Number RF65668		Manufacturer TAS		Model # 85	
Caliber: 38	Color: SS	Barrel Length: 2	Gun Type: PR		
Other # on Gun		Misc:			

OWNER INFORMATION

Last Name CENTOFANTI			First Name VIRGINIA			Middle Name RAMOS		
Social Security # 566-77-2842	DOB 06/11/1975	Race W	Sex F	Height 503	Weight 114	Eyes HAZ	Hair BRO	
Address (Number, Direction, Street Name & Apt) 8720 WINTRY GARDEN AVE			City / State / Zip LAS VEGAS / NV / 89134			Phone # (702) 838-9814		
Place of Birth BRIDGEPORT / CT			US Citizen Y	Driv License # 1600846813			State NV	
Employed By SECURITY LINK			City / State LAS VEGAS / NV					

Control No: D108820	Received From: THE GUN STORE, INC.	City / State: LAS VEGAS / NV
Registered By:		

12/27/2000



Las Vegas Metropolitan Police Department
Gun Registration

Registration Date
01/22/2000

Serial Number 31349672		Manufacturer SR		Model # P95	
Caliber: 9	Color: BLU	Barrel Length: 4	Gun Type: PJ		
Other # on Gun		Misc:			

OWNER INFORMATION

Last Name CENTOFANTI			First Name VIRGINIA			Middle Name RAMOS		
Social Security # 566-77-2842	DOB 06/11/1975	Race W	Sex F	Height 503	Weight 114	Eyes HAZ	Hair BRO	
Address (Number, Direction, Street Name & Apt) 8720 WINTRY GARDEN AVE			City / State / Zip LAS VEGAS / NV / 89134			Phone # (702) 838-9814		
Place of Birth BRIDGEPORT / CT			US Citizen Y	Driv License # 1600846813			State NV	
Employed By SECURITY LINK			City / State LAS VEGAS / NV					

Control No: D108821	Received From: THE GUN STORE, INC.	City / State: LAS VEGAS / NV
Registered By:		

12/27/2000



Las Vegas Metropolitan Police Department
Gun Registration

Registration Date
01/27/2000

Serial Number RF65668		Manufacturer TAS		Model # 85	
Caliber: 38	Color: SS	Barrel Length: 2	Gun Type: PR		
Other # on Gun		Misc:			

OWNER INFORMATION

Last Name CENTOFANTI			First Name ALFRED			Middle Name PAUL		
Social Security # 016-60-5759	DOB 09/28/1968	Race W	Sex M	Height 600	Weight 205	Eyes HAZ	Hair BRO	
Address (Number, Direction, Street Name & Apt) 8720 WINTRY GARDEN AVE			City / State / Zip LAS VEGAS / NV / 89134			Phone # (702) 838-9814		
Place of Birth MALDER / MA			US Citizen Y	Driv License # 2100841997			State NV	
Employed By CISNEROS AND ASSOCIATES			City / State LAS VEGAS / NV					

Control No: A68081	Received From: THE GUN STORE	City / State: LAS VEGAS / NV
Registered By: DTAC 4567/AMYOT		

12/27/2000



Las Vegas Metropolitan Police Department
Gun Registration

Registration Date
01/27/2000

Serial Number 31349672		Manufacturer SR		Model # P95DC	
Caliber: 9	Color: BLK	Barrel Length: 4	Gun Type: PI		
Other # on Gun		Misc:			

OWNER INFORMATION

Last Name CENTOFANTI		First Name ALFRED			Middle Name PAUL		
Social Security # 016-60-5759	DOB 09/28/1968	Race W	Sex M	Height 600	Weight 205	Eyes HAZ	Hair BRO
Address (Number, Direction, Street Name & Apt) 8720 WINTRY GARDEN AVE		City / State / Zip LAS VEGAS / NV / 89134			Phone # (702) 838-9814		
Place of Birth MALDER / MA			US Citizen Y	Driv License # 2100841997		State NV	
Employed By CISNEROS AND ASSOCIATES			City / State LAS VEGAS / NV				

Control No: A68082	Received From: THE GUN STORE	City / State: LAS VEGAS / NV
Registered By: DTAC 4567/AMYOT		

12/27/2000

*** TX REPORT ***

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CONNECTION TEL 16192350516
CONNECTION ID
ST. TIME 10/16 13:15
USAGE T 18'15
PGS. SENT 36
RESULT OK

1 0332
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 ALFRED PAUL CENTOFANTI,
12 #1730535

13 Defendant.

Case No. C172534
Dept. No. VII

15 NOTICE OF MOTION AND STATE'S MOTION TO
16 ADMIT EVIDENCE OF OTHER BAD ACTS

17 DATE OF HEARING: 10/29/01

18 TIME OF HEARING: 9:00 A.M.

19 COMES NOW, the State of Nevada, by STEWART L. BELL, District Attorney, through
20 CHRISTOPHER LAURENT and BECKY GOETTSCH, Deputy District Attorneys, and files
21 this Notice of Motion and State's Motion to Admit Evidence of Other Bad Acts. 094

22 This Motion is made and based upon all the proper and pleading on file herein.

ORIGINAL

(SPACE BELOW FOR FILING STAMP ONLY)

ALLEN R. BLOOM

ATTORNEY AT LAW
1551 FOURTH AVENUE, SUITE 801
SAN DIEGO, CALIFORNIA 92101-3156
TELEPHONE (619) 235-0508
CALIFORNIA STATE BAR NO. 65235

PHILIP J. KOHN

CLARK COUNTY SPECIAL PUBLIC DEFENDER
NEVADA STATE BAR #0556

GLORIA NAVARRO

DEPUTY SPECIAL PUBLIC DEFENDER
NEVADA STATE BAR #5434
309 SOUTH THIRD STREET, 4TH FLOOR
P.O. BOX 552316
LAS VEGAS, NEVADA 89155-2316
TELEPHONE (702) 455-6265

ATTORNEYS FOR DEFENDANT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff

versus

ALFRED P. CENTOFANTI, III,

Defendant

CASE NO. C172534
Dept No. VII

Hon. Mark Gibbons, Judge
Presiding

DATE: 10/29/01
TIME: 9:00 a.m.

DEFENSE RESPONSE TO THE FOLLOWING MOTIONS FILED BY THE
PLAINTIFF:

1. MOTION TO COMPEL DISCOVERY
2. MOTION TO REQUIRE PARTIES TO DECLARE WITNESSES
21 DAYS PRIOR TO TRIAL
3. MOTION TO DECLARE DEFENDANT'S PARENTS ADVERSE
WITNESSES
4. MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS

and

DEFENSE REQUEST FOR SUBSEQUENT STATUS CONFERENCE TO
DISCUSS POTENTIAL FOR CONTINUANCE OF TRIAL

FILED
OCT 29 9 15 AM '01
CLERK

RECEIVED
OCT 29 2001
CLARK COUNTY CLERK

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1 The defendant hereby files the following response to the several motions filed
2 by the Plaintiff in the above entitled case:

3 1. NOTICE AND MOTION TO COMPEL DISCOVERY - In a general
4 motion, the plaintiff presents a statement of facts from the perspective of the
5 prosecution and thereafter cites NRS §174.245 and requests that the defense
6 provide the state with an opportunity to inspect and copy or photograph the
7 items listed in 174.245 (1)(a-c).
8

9
10 DEFENSE POSITION: The defense has no objection whatsoever to this
11 request. Though the facts listed in the motion are only from the perspective of the
12 prosecution, the plaintiff, as an advocate, has every right to state the facts in a light
13 most favorable to their side of the case. Needless to say, the defense, does not agree
14 with the statement of facts, but the defense has no objection to the plaintiff's
15 request. The defense investigation in the case is woefully short of completion.
16 Extensive preparation efforts over the past thirty days have been undertaken,
17 involving hundreds of person hours by the undersigned, co-counsel, consulting
18 counsel, a defense investigator, and several defense experts, trial preparation is still
19 no where near completion.
20

21 Approximately fifty witnesses have yet to be contacted. Three defense experts
22 have commenced their evaluations. These persons are Dr. John Eisele, a medical
23 examiner and pathologist; Richard Fox, a criminalist and ballistic expert; and Dr.
24 Scott Frazer, a Neuro-psychologist, have all been consulted. None of them have
25 completed their respective evaluations.
26
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1 The defense has provided the names and locations of each of these experts and
2 has provided the CV of Dr. Eisele and agreed to provide the CV's of each of the
3 others as soon as they are received.

4 The evaluation of each of the experts likely will lead to the need of two or
5 perhaps three other experts, and initial inquiries have been made to obtain their
6 services. Funding difficulties have slowed the process and under separate cover, the
7 defense will make an ex-parte request for funding assistance.

8 The defense investigator has taken 58 photos of the house where the homicide
9 occurred and has made measurements of the property. The defense has already
10 advised the prosecution of these photos and agreed to provide them the opportunity
11 to review these documents.

12 Decisions regarding certain defense witnesses will be made within the next
13 week, and the defense will immediately make the name, addresses, and any reports
14 regarding these witnesses available to the prosecution.

15 In essence, however, the defense fully agreed to provide all names, reports,
16 CV's to the prosecution and has already advised the prosecution of this both orally
17 and in writing - all with the understanding, that the defense investigative and
18 preparation effort is not any where near completion at this point.

19
20
21
22 2. MOTION TO REQUIRE PARTIES TO DECLARE WITNESSES 21 DAYS
23 PRIOR TO TRIAL: The plaintiff requests that the court override the
24 statute and go beyond the wording of NRS 174.234 which requires the defense
25 to reveal its witnesses five days prior to trial and require the defense to
26 provide the information 21 days prior to trial.

1 DEFENSE POSITION: The defense has no objection to this request, with
2 the caveat that the defense will by no means have all of its expert or non-expert
3 witnesses known by November 6, 2001 (21 days before the currently set trial date of
4 November 27, 2001) and will, by necessity, continue with its trial preparation and
5 its investigation well past November 6, 2001, and reserves the right to provide both
6 expert and non-expert witness information to the prosecution beyond November 6,
7 2001 as it becomes available, up to the time of trial.

8
9 The prosecution's request for a 21 day defense notice was actually evaluated
10 by the Nevada Assembly when this statute was enacted. (see Assembly Bill 151
11 legislative history; Judiciary Committee hearings on 2/22/95 and 3/10/95) The
12 proposal was *rejected*. After testimony from representatives from both the
13 prosecution and the defense bar, the legislature rejected a prosecution sponsored
14 effort to move up the notice requirements by the defense to 21 days.

15 The statute specifically requires the defense to provide experts within 21 days
16 before trial and non-experts five days prior to trial.

17 The defense agrees with the general principle that the prosecution should not
18 be faced with a trial by ambush and *does not object to the prosecution's request*.

19
20 Having agreed in principle, the huge difficulty, will be the fact that the
21 defense, having started its preparation of the case with current counsel 24 and 19
22 days ago (the undersigned formally came on the case on October 1, 2001, and co-
23 counsel, Ms. Navarro entered five days later) cannot possibly complete its
24 preparation of the case by November 6, 2001.

25 The defense advised the court and the plaintiff on October 1, 2001 in open
26 court, that without the full participation of prior counsel, Mr. Albregts, the defense
27
28

1 could not be sure if it could be ready by November 27, 2001, and it certainly could
2 not be ready to designate all experts and all witnesses by November 6, 2001.

3 Thereafter, the court relieved Mr. Albregts from the case at the prosecution's
4 request, leaving him in a consultant status. Co-counsel, Ms. Navarro, was appointed
5 to take his place and began her efforts on October 5, 2001.

6 Since that time, the undersigned and Ms. Navarro have worked extensively on
7 the case. It should be noted, however, that Ms. Navarro has had to divide some of
8 her time and will have to divide her time even more dramatically, as she is co-
9 counsel on a death penalty case which will take the first entire first half of
10 November.

11 NRS §174.234 (3) allows for the parties to continue their investigation beyond
12 the 21 day period and to file amended notices as soon as practicable after it is
13 determined that a witness will testify. The statute requires that all witnesses, even
14 expert witnesses, shall be allowed to testify even if they were noticed after the 21
15 day/ 5 day period, unless the opposing party can prove that the moving party acted
16 in "bad faith" in its preparation. In this context, "bad faith" has been determined to
17 be proof that there was an intentional effort to hide the name, whereabouts, or
18 efforts of the witness.

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22 3. MOTION TO DECLARE DEFENDANT'S PARENTS ADVERSE
23 WITNESSES - The prosecution requests that the court determine at this early
24 stage of the proceedings that the defendant's parents are adverse witnesses,
25 relying on NRS 50.115, calling the defendant's parents "identified with an
26 adverse party".
27
28

1 DEFENSE POSITION - The request is premature and may never be
2 necessary. The prosecution opines that the defendant's parents are "clearly
3 identified" with the defendant, citing the prosecution view that the parents, who
4 testified at the grand jury presentment had "selective memories". That conclusion
5 should be left for this court to determine. It is correct, that the incredible shock and
6 stress of the incident did cause the parents of the defendant to remember some, but
7 not every detail of their observations in the minutes immediately after the shooting.
8 But this hardly supports the prosecution inference that they are intentionally being
9 selective in their recollection. Who amongst us would not suffer incredible shock
10 in experience the shooting of your former daughter in law by your son just one floor
11 below you as you were sleeping with the couples child just a few feet away.

12
13 The court may very feel that the prosecution should be given some additional
14 lee-way in its examination of the parents, on a situation-by-situation basis, but that
15 is a call which should be made by the court after it has observed the demeanor of the
16 defendant's parents.

17
18 4. MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS - the
19 prosecution requests that the court allow it to present evidence of (1) the
20 domestic violence incidence of December 5, 2000 between the defendant and
21 the decedent; (2) the "fact" that defendant stated he'd kill the decedent before
22 agreeing to a divorce; (3) the "fact" that the defendant entered into an on-
23 going public relations campaign to paint the decedent as a bad mom, bad wife,
24 alcoholic, and violence-prone drug addict; (4) that when the defendant
25 attempted to gain a Temporary protective Order after the December 5th
26 incident, he lied about the ownership of a Ruger 9 mm gun.
27
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1 The prosecution presents an interpretation of facts solely from its
2 perspective (something it has the right to do as an advocate) and cites NRS
3 48.045 for the general principle that wrongs or acts by the defendant may be
4 admissible at trial for purposes other than to show defendant acted in
5 conformity with those prior acts.

6 The prosecution requests that a *Petrocelli* hearing be held to prove these
7 acts.
8

9
10 DEFENSE POSITION - in principle, the defense does not object to a
11 *Petrocelli* hearing to evaluate this issue. The defense responds to each of the four
12 areas as follows:

13 (1) The December 5, 2001 Incident - Though the facts outlined by the
14 prosecution are decidedly subjective and incomplete, the defense agrees that the
15 details of the December 5, 2001 incident should, for several different reasons, be
16 presented to the trier of fact.

17 The defense does not agree that all of the facts outlined by the prosecution
18 should be included, and also believes that additional facts, not outlined by the
19 prosecution, should be presented, but nonetheless the defense believes that in
20 general, the incident of December 5, 2001 is admissible.
21

22 For the court's edification, the defense believes a full statement of the facts
23 regarding this incident will show as follows: Virginia Centofanti, the 25 year old
24 wife of the defendant and mother of then four month old Nicholas, spent the entire
25 evening of December 4 and morning hours of December 5, 2000 drinking and having
26 sexual relationships with co-worker Steve Ciulla until she came home at 7 or 8 in the
27
28

1 morning. It was during this entire evening, that her infant son Nicholas was
2 extremely ill.

3 When she came home, the defendant was understandably upset that his wife
4 was not home with their ill infant son, that she was decidedly intoxicated, and that
5 she had - he believed - relations with another man.

6 Though Virginia lied about her sexual relations to the defendant (and later to
7 everyone of her friends and family), in fact, Steve Ciulla confirms that he was
8 engaged in regular sexual activity with Virginia and did have sexual relationships
9 with her on the night of December 4/5, 2000.

10 When the defendant attempted to call her work to find out who she had been
11 out with and to tell the man that he shouldn't keep his wife away from her family,
12 Virginia became violent. She repeatedly struck the defendant with her fists and a
13 broke a glass picture frame on the back of his head and grabbed a gun and attempted
14 to shoot him. The defendant was able to wrestle the gun away from the victim and
15 hide it out of her reach.

16 The defendant called a counselor to get help in the situation and that
17 counselor spoke to both parties and called the police. The police arrived at the
18 house and were directed to where he had hid the gun by the defendant. They did not
19 have probable cause to arrest the defendant, but they did have probable cause to
20 arrest Virginia and they did so.

21 That same day, the defendant obtained a Temporary Restraining Order against
22 Virginia.

23 (2) The "fact" that the Defendant stated he would rather kill Virginia than
24 give her a divorce - This "fact" never did happen. The defendant NEVER
25 threatened Virginia. The only source for this is Virginia herself and her self-serving
26
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1 hearsay statement to one person - Trisha Miller. It is absolutely true that the
2 defendant and Virginia did discuss getting a divorce, getting a counselor because of
3 Virginia's drinking and violence, but the defendant never threatened to kill her (or
4 harm in any way) rather than give her a divorce (or for any other reason, for that
5 matter).

6 It is also true, that it was the defendant NOT Virginia who filed for the
7 divorce.

8 This statement should not be entered into evidence on foundational grounds.

9 (3) The "fact" that the defendant entered into an "ongoing campaign" to paint
10 the decedent as a bad mom, bad wife, alcoholic, and violence-prone drug addict -
11 this "fact" never happened. It is correct that the defendant was extremely upset that
12 Virginia virtually abandoned her infant son and engaged in a regular pattern of
13 drinking, sometimes until midnight, sometimes until 2 a.m., sometimes all night.
14 It is correct that she did so when her infant son was home, sometimes ill. It is
15 correct that, while she was still married, that Virginia engaged in sexual relations
16 with at least one co-worker and then lied about it to her friends and family. It is
17 correct that Virginia was violent-prone, did strike the defendant, particularly when
18 she had been drinking, and that he worried about her erratic behavior which seemed
19 to indicate she might have gone back to her habit of drug use from her teenage years.

20 It is correct that this behavior upset the defendant. It is also upset that he
21 attempted to get counseling and talked to his friends about the behavior. It is also
22 correct, that ultimately her behavior so changed Virginia, that the defendant sought
23 and obtained a divorce.
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1 These facts should be part of the trial. But the "fact" that he entered into a
2 campaign to set up a self defense theory at some later date is utterly absurd and
3 unsupported.

4 (4) That the defendant lied in getting the T.R.O. against Virginia - the
5 defendant did no such thing. A *Petrocelli* hearing regarding this matter is entirely
6 appropriate.

7
8
9 DEFENSE REQUEST FOR SUBSEQUENT STATUS CONFERENCE TO
10 DISCUSS POTENTIAL FOR CONTINUANCE OF TRIAL

11 As the court can see from the contents of the response herein, the defense
12 preparation of the case is going on in fast and furious fashion. Some fifty witnesses
13 still need to be talked to. Several major experts have been retained, but have not
14 completed their investigation. It is likely that their results will require the need for
15 additional experts.

16 Co-counsel, Ms. Navarro, must cease working on the case, because of the fact
17 she is co-counsel with Philip Kohn on a capital murder trial due to commence next
18 week.

19 The undersigned has prepared and will present to the court a motion for
20 funding so as to allow the defense to obtain the necessary investigation and ancillary
21 services.

22
23 To date, literally hundreds of hours of person-hours have been expended by
24 the undersigned, co-counsel, consulting counsel Mr. Albregts, several experts, and
25 a defense investigator, but the task is not nearly complete.
26
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1 For the above reason, the defense will request that the court set another status
2 conference, in a short time, so as to allow the defense the opportunity to address the
3 state of readiness of the defense case.
4

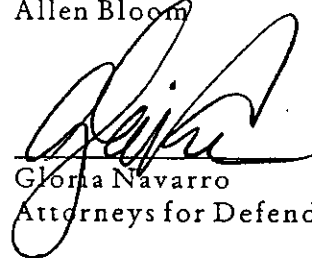
5 As a final comment, it should be noted, that the general contents of this
6 motion were conveyed to the prosecution orally several days ago so as to allow them
7 to have a general understanding of the defense position.
8

9 Dated: October 25, 2001

Respectfully submitted,

10
11 

12 Allen Bloom

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15 Gloria Navarro
16 Attorneys for Defendant
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ORIGINAL

0001
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(702) 455-6265
Attorneys for Defendant

FILED

DEC 20 4 03 PM '01

Shirley B. Rios
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

ALFRED P. CENTOFANTI, III,

Defendant.

Case No. C172534

Dept. No. VII

Date of Hearing: 12/20/01
Time of Hearing: 9A

MOTION TO EXCLUDE EVIDENCE AND DISMISS
CHARGES AGAINST DEFENDANT

COMES NOW the Defendant, ALFRED P. CENTOFANTI, III, by and through his attorneys, PHILIP J. KOHN, Special Public Defender, GLORIA M. NAVARRO, Deputy Special Public Defender, and ALLEN BLOOM, retained California counsel, and hereby moves this Honorable Court to Grant Defendant's Motion to Exclude certain Evidence and, the alternative, Grant Defendant's Motion to Dismiss the charges against Defendant on the following grounds:

1. The State, through the Las Vegas Metropolitan Police, its agents and the District Attorney's Office has destroyed evidence in bad faith and or has prejudiced the Defendant in the preparation of the defense of his case.

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

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COUNTY CLERK



1 2. The destruction of evidence has unfairly prejudiced Defendant's right to a
2 fair trial and, therefore, the evidence must be excluded and the charges
3 against Defendant dismissed.

4 This Motion is based upon this notice, the attached Memorandum of Points and
5 Authorities, all of the pleadings and other items on file with the Court, and on any
6 argument and further evidence the Court will allow at the hearing of this matter.

7 DATED this 20 day of December, 2001.

8
9
10 ALLEN BLOOM, ESQ.
11 1551 4th Avenue, Suite 801
12 San Diego, CA 92101
13 (619) 235-0508
14 Out of State Counsel for
15 for Defendant

16
17
18 GLORIA M. NAVARRO
19 Deputy Special Public Defender
20 Nevada Bar #5434
21 309 South Third Street, 4th Floor
22 PO. Box 552316
23 Las Vegas, Nevada 89155-2316
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25 Local Counsel for Defendant
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SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

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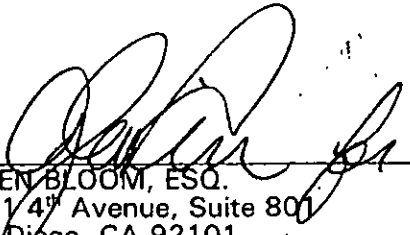
NOTICE OF MOTION

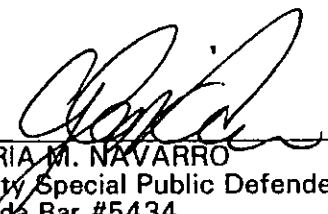
TO: STATE OF NEVADA, Plaintiff; and

TO: STEWART L. BELL, District Attorney, Attorney for Plaintiff

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above and foregoing **MOTION TO EXCLUDE EVIDENCE AND DISMISS CHARGES AGAINST DEFENDANT** on the 27 day of Dec, 2001, at the hour of 9 m., in Department No. VII of the above-entitled Court, or as soon thereafter as counsel may be heard.

DATED this ____ day of December, 2001.


ALLEN BLOOM, ESQ.
1551 4th Avenue, Suite 801
San Diego, CA 92101
(619) 235-0508
Out of State Counsel for
for Defendant


GLORIA M. NAVARRO
Deputy Special Public Defender
Nevada Bar #5434
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(702) 455-6265
Local Counsel for Defendant

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **A. Introduction**

3 The Defendant in this case is charged with open murder in connection with the
4 shooting death of Virginia Centofanti (Gina), his former wife, which occurred on December
5 20, 2000. There had prior incidents of violence between the parties, including a
6 December 5, 2000 incident when Gina was arrested for domestic battery. The police
7 seized weapons from home on December 5, 2000, including the weapon allegedly used
8 in the incident on December 20, 2000.

9 The defendant subsequently took a temporary protective order out against Gina.
10 The parties were divorced on December 12, 2000. Defendant was given custody of the
11 parties minor child and exclusive possession of the marital residence located at 8720
12 Wintry Garden Avenue.

13 **B. Evidence Destroyed by the State**

14 In the course of their investigation of the alleged homicide, the State, through the
15 police, its agents, and the office of district attorney has destroyed the following
16 exculpatory evidence:

- 17 1. Alleged voice recordings by police of the defendant on December 14 and
18 December 15, 2000 purporting to indicate defendant's desire to obtain the
19 weapons seized on December 5, 2000.
- 20 2. Items seized by the police at the 8720 Wintry Garden Residence the night
21 of December 20, 2000 pursuant to a search warrant issued on December
22 20, 2000.
- 23 3. Items seized by the police at Gina's residence.

24 **C. Statement of Facts**

25 1. Recordings Destroyed by Police

26 On December 22, 2000 police obtained a Officer's Report from a Sharon M. Zwick,
27 Investigative Specialist, Firearms Section, regarding the release of the weapons
28 impounded on December 5, 2000 to defendant on December 20, 2000. In this report,

1 Sharon alleged:

2 Alfred Centofanti began calling to claim his weapons on or about the 14th of
3 December. The first message he left on the Firearms Disposition answering
4 machine was very difficult to understand, the callers name was
5 indecipherable. I believe he also left a second message at the end of the day
6 on Friday the 15th.

7 The tape of these "alleged" messages was requested from the police and the
8 district attorney's office who informed the defense that the tape had been destroyed.

9 2. Items destroyed by police on December 20, 2000

10 On December 20, 2000, police obtained a search warrant for 8720 Wintry Garden
11 Avenue as well as Gina's car, a 1999 black BMW, license NV 505 KSH. In the Search
12 Warrant, the police indicated the property referred to and sought to be seized consists of
13 the following:

- 14 1. Paperwork such as rent receipts, utility bills, and addressed letters
15 showing the name(s) of the persons residing at the premises.
- 16 2. Written correspondence, diaries, financial records, wills and the like
17 items which may provide information as to the motive and/or identity
18 of the perpetrator
- 19 4. Physical items associated with the probable cause of death.
- 20 6. Items of value such as jewelry, watches, money, credit cards and like
21 items including receipts for same tending to show whether the murder
22 was for financial gain or for other reasons.

23 In the Telephonic Application for the search warrant the police noted the
24 need for the following:

25 Information from diaries, letters, written records, audio and video tapes, and
26 computer drives may disclose whether insurance policies, payments of large
27 sums of money to other persons, businesses or financial plans and thereat
28 received or delivered by the deceased victim are present which in turn may
produce evidence showing the motives and/or identity of the perpetrator.

29 Pursuant to the search warrant the police seized the following items:

- 30 a. Gina's purse and its contents¹.
- 31 b. Gina's car and its contents.

32 The contents of Gina's purse were immediately turned over to her family members

33 ¹ On November 19, 2000, Defendant purchased for Virginia an early Christmas present of a palm
34 pilot, ostensibly to keep track of client appointments and other information pertaining to work and personal
35 matters.

1 along with Gina's car and its contents. The defense was unable to obtain these items
2 despite requesting them from the State and Gina's family.

3 3. The contents of Gina's apartment.

4 The police obtained a similar search warrant for Gina's apartment and turned over
5 the contents², without any notice to the defense, or taking an inventory, to Gina's family.
6 The defense was unable to obtain these items despite requesting them from the State and
7 Gina's family.

8 **D. Standard of Review**

9 The standard of review for this Court to apply to the destroyed evidence is a three
10 part test:

- 11 1. The defendant must show that the State acted in bad faith in destroying the
12 evidence. If this is shown the evidence will be excluded³;
- 13 2. In the absence of bad faith, the evidence can still be excluded if the
14 defendant meets the burden of making a showing of prejudice⁴, and
- 15 3. The Defendant must show that it could be reasonably anticipated that the
16 evidence sought would be exculpatory to the defense.

17 See, Sheriff v. Wagner, 112 Nev. 1234, 1239-40, 926 P.2d 775, 778 (1996); see
18 also Arizona v. Youngblood, 488 U.S. 51, 109 S.Ct. 333 (1988). **E. Legal**

Argument

19 When the police investigated the scene of the shooting on December 20, 2000

20
21 ² The Parties also owned a personal computer which Virginia used for marketing and other aspects
22 of the business dealings she was involved with. She also used this computer to send and receive e-mails.
23 She would often send e-mails to the Defendant professing her love and affection for him. The latest of
24 these e-mails was sent to the Defendant a few weeks before the domestic violence incident.

25 ³ In Quillan v. State, 112 Nev. 1369, 929 P.2d 893 (1996), the Nevada Supreme Court held that
26 the State erred in failing to preserve the swastika medallion or the jacket it was displayed upon because
27 the defendant failed to adduce any evidence that the jacket in question did not display a swastika
28 medallion. Therefore, the defendant failed to meet his "burden of making 'some showing that it could be
reasonably anticipated that the evidence sought would be exculpatory.'" Id. In this case, however, a
showing can be made that the evidence is exculpatory.

⁴ If somehow this was not viewed as bad faith by the Court it still can be excluded on the grounds
of a showing of prejudice. Id. The defendant must show that "it could be reasonably anticipated that the
evidence sought would be exculpatory and material to the defense. Id. It is not sufficient to show "merely
a hoped for conclusion" or "that examination of the evidence would be helpful in preparing a defense." Id.

1 they were already aware of the history of violence between Gina and the defendant and
2 the potential for the defendant to claim the defense of self defense. These sentiments
3 were reflected in statements to the press that night, from the house, while the
4 investigation and evidence gathering was taking place.

5 As to the specific items destroyed, the defendant contends the following:

6 **1. The State destroyed police tape recordings of defendant**

7 The state had a duty to preserve the alleged tape recordings of defendant on
8 December 14 and December 15, 2000 to the police. There is no excuse why these
9 recording were destroyed, and is clearly bad faith as the State knew the value of the
10 recordings before they were destroyed, as reflected in the report of Ms. Zwick. The State
11 is now left with the prejudicial advantage of being able to argue, as they have in pre-trial
12 motions and hearings, that defendant had been calling for days trying to get the weapons
13 released to him.

14 The tape, which even the State admits was "indecipherable" at points, if preserved,
15 would be the only exculpatory evidence available to the defendant that the calls were not
16 made or were not made by him.

17 Since the tape was destroyed in bad faith by the State merely hours after the
18 December 20, 2000 incident, the defendant is prejudiced in its absence, and its
19 exculpatory value is clear, this Court should exclude all reference to the alleged phone
20 calls of December 14 and December 15, 2000, by the State and its witnesses.

21 **2. The State destroyed items seized by Police on December 20, 2000**

22 **A. Contents of Gina's purse**

23 Gina's purse contained the very items that the police listed in their search warrant⁵
24 as well as other exculpatory evidence. In particular, the police destroyed (1) her keys (2)
25

26
27 ⁵ Furthermore, it is clear that the State was aware of the evidentiary value of the property. The
28 property was not accumulated in the ordinary course at the scene. The State obtained the evidence after
they specifically requested it, by way of a search warrant, specifically for the purpose of examining its
evidentiary value as stated in the State's Affidavit in support of the Search Warrant.

1 her hand held diary (3) all of the paperwork and financial documents contained therein⁶.
2 It was bad faith for the police to destroy the very type of evidence the night of December
3 20, 2000 it sought from its search warrant by turning it over to Gina's family and thus
4 destroying any evidentiary value.

5 a. Gina's keys

6 Gina told others that night that she though defendant "was being a jerk" and that
7 she was upset that she had to spend time with her infant son as it conflicted with her
8 social plans with Tricia Miller. Gina was not supposed to have keys to the residence. The
9 keys would have shown how Gina was able to gain access, unlawfully, to the residence
10 the night in question (as no one has testified that they heard the door bell or knocks on
11 the door) and her state of mind (she was not supposed to have keys to the residence
12 anymore.

13 b. Gina's electronic diary

14 Gina's electronic diary, a palm pilot, would have been the only evidence to verify
15 Virginia's whereabouts and activities leading up to the December 20, 2000, incident, her
16 activities from November 19, 2000 (the date the palm pilot was purchased) until
17 December 20, 2000, and her intentions relative to the Defendant and her son, and others
18 located in the residence that night.

19 The State destroyed or failed to preserve it by releasing it to the decedent's family
20 before the defendant had an opportunity to photograph, test or access the contents of the
21 memory of the Palm pilot. The State's release of said items to the decedent's family was
22 made in bad faith⁷.

23 c. Gina's personal and financial paperwork

24
25 ⁶ Specifically, Virginia began to behave in an erratic and peculiar manner, which included covering
26 up her whereabouts, her spending, her work, and her consumption of alcohol and illicit substances,
27 sometimes during the work week and when she was taking care of the children. It is believed that Virginia
28 also found herself in financial difficulty and may have turned to alternative sources of income.

⁷ The defense was intentionally not afforded this opportunity to have access to these items which
were immediately released to the family by police.

1 The personal and financial paperwork which, as police admitted in their own
2 application for a search warrant, are the types of things that "produce evidence" were
3 neither gathered or copied but were simply turned over to Gina's family and thus lost to
4 defendant, prejudicing his ability to use physical evidence of Gina's state of mind.

5 d. Gina's automobile and its contents

6 On December 5, 2000, police took from Gina's automobile a loaded 38 caliber
7 handgun, prescription medication for herpes, and empty beer bottles. These items are
8 clear evidence of her state of mind and were exculpatory for the defendant when
9 questioned by police regarding Gina's attack of him as (1) Gina concealed the fact that
10 she had a loaded gun in her car (2) Gina concealed the fact that she had herpes on her lip
11 (she claimed she received a "fat lip" in her attack (3) Gina concealed the fact that she
12 had been out drinking and drove home intoxicated. Further, witnesses noticed that the
13 angle in which Gina had parked her car and the fact it was parked on the sidewalk were
14 peculiar as she always parked the car in the driveway.

15 The night of December 20, 2000, the police interviewed the neighbors of Gina and
16 Chip as well as Chip's parents. The police were told of Gina's problems with anger, drugs
17 and alcohol. Despite having knowledge of known exculpatory evidence the police⁸, in bad
18 faith, failed to conduct any search of the car for (1) weapons (2) evidence of drug and
19 alcohol use (3) items which they represented to a judge in obtaining the warrant would
20 "produce evidence"⁹. Not only did the police in bad faith fail to search the car and

21
22 ⁸ In Mortensen v. State, 986 P.2d 1105 (1999), the Nevada Supreme Court found that the State
23 did not err by returning the truck to Brady after it had been photographed and examined because "[a]t that
24 time, the State did not consider Brady a suspect, nor did it know that Mortensen would contend that Brady
25 was the shooter." Therefore, there was no showing of bad faith. In this case, however, the State was
immediately on notice that self defense was the theory of defense and stated so on the night of the
incident.

26 ⁹ Having shown bad faith, a showing of prejudice is not necessary, nevertheless, the awkward
27 position of the decedent's vehicle parked in front of the defendant's residence would have provided the
28 jury insight into the decedent's state of mind. It would have corroborated the defense theory that the
decedent was intoxicated and exhibiting erratic behavior. The defense was also denied the opportunity
to inspect or test the interior of the vehicle for the presence of drugs or alcohol, which would also have
provided the jury with insight into the decedent's state of mind.

1 inventory its contents, the police did not photograph the interior of the car before it was
2 removed (there is evidence that the car was parked in the same manner as on December
3 5, 2000 ie at a peculiar angle on the sidewalk).

4 Gina, per the custody order of the Court, was supposed to be at the residence at
5 5:00 p.m. Witnesses place her last at the gym at 5 or 5:30 p.m. At some point she
6 allegedly speaks with her work and tells others the defendant "was being a jerk" and
7 appeared agitated at having to spend time with her infant child. Gina mysteriously
8 arrives at the residence at around 7:00 p.m. Gina was also known to keep a loaded
9 weapon in her car and had even encouraged Tricia Miller to obtain a weapon during recent
10 discussions.

11 Physical evidence indicative of Gina's state of mind immediately as she drove to
12 the defendant residence and prior to entering the residence is destroyed and has
13 prejudiced the defendant¹⁰. None of this know exculpatory evidence was preserved. The
14 police investigated the scene for hours. When they made statements to the press from
15 the scene they knew about the domestic violence incident and the facts and
16 circumstances surrounding it. It is even believed some of the same officers who
17 responded on December 5 responded on December 20, 2000. There is no excuse for the
18 actions of the police in destroying exculpatory evidence and then turning the car, and its
19 contents, over to her family and thus losing any of its evidentiary value.

20 This evidence, which might influence a jury as to Gina's state of mind, is tainted,
21 the product of the bad faith actions of the state and, therefore, any and all references by
22 prosecution witnesses should not be allowed.

23 **3. The State destroyed items seized by Police at Gina's residence**

24 The police did not immediately conduct a search of Gina's residence, located in
25

26 ¹⁰ From the time period of December 12, until December 20, 2000, Gina's erratic behavior
27 continued and was observed by others. It is believed Gina was stalking the Defendant and was angry and
28 upset at the fact that she was arrested on December 5, 2000, was to assume a large amount of debt she
was not prepared to pay, and was to pay Defendant \$500.00 a month, which she could also not afford
to pay. When she was observed by others she appeared to be withdrawn and hung-over.

1 Henderson. At the point that they conducted the search they were well aware of (1) the
2 facts and circumstances of the December 5, 2000 attack by Gina and attempted murder
3 of Chip (2) had interviewed witnesses who stated Gina had a history of problems with
4 anger, alcohol and drugs (3) ostensibly were searching for the very same items as outlined
5 in the warrant obtained for 8720 Wintry Garden Ave. on December 20, 2000.

6 The apartment contained Gina and defendant's computer, her financial records, and
7 other items that were destroyed by the State. The computer contained her will, her
8 financial records, a record of websites visited, as well and her saved e-mail messages sent
9 and received by the decedent which would have provided the jury with insight into the
10 state of mind of the decedent.

11 The State obtained a warrant for this evidence, then lost, destroyed or failed to
12 preserve it before the defendant had an opportunity to photograph, test or have access
13 to it. As stated above, the contents of the decedent's apartment were released to the
14 decedent's family, not a lien holder, without notice to the defense. The State obtained
15 the evidence after they specifically requested it, by way of a search warrant, specifically
16 for the purpose of examining its evidentiary value as stated in the State's Affidavit in
17 support of the Search Warrant. This constitutes a sufficient showing of bad faith.

18 **F. Conclusion**

19 The State's conduct of failing to preserve evidence in its possession, custody and
20 control which was material to the Defense in this case constitutes a due process violation
21 of Defendant's right to a fair trial. The actions of the State in destroying evidence of
22 alleged messages defendant left with the police regarding the release of weapons,
23 destroying evidence gathered on December 20, 2000, and destroying evidence contained
24 in Gina's apartment were evidence that the State acted in bad faith and that the
25 defendant suffered undue prejudice as the exculpatory value of the evidence was apparent
26 before it was lost or destroyed.

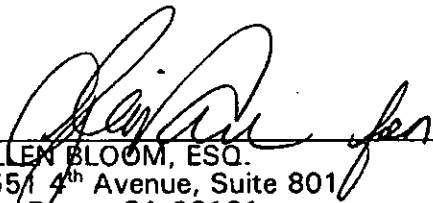
27 Here, Defendant can clearly show that this evidence was exculpatory and material
28 to the presentation of its Defense. The destruction of the only independent and objective

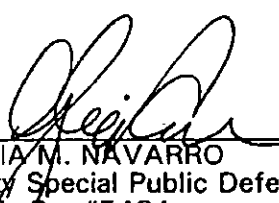
1 means to determine how she gained access to the residence that night (which is
2 illustrative of her state of mind), and the contents of her purse and car, which would be
3 the only method to determine Virginia's state of mind is lost and not available to the
4 defense. In a case with no eye-witnesses to the events, any physical evidence is
5 prejudicial if lost.

6 Therefore, the defense respectfully requests that the Court either dismiss the case,
7 or exclude the State's use of any inculpatory evidence obtained from the above-listed
8 items in its case-in-chief.

9 The issue of whether the State could use the evidence in rebuttal could be visited
10 by the Court at the appropriate time.

11 DATED this 20 day of December, 2001.

12
13
14
15 
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SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALFRED P. CENTOFANTI III,

Appellant,

vs.

E.K. McDANIEL, WARDEN,
ELY STATE PRISON

Respondent.

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Clerk of Supreme Court

APPELLANT'S APPENDIX, VOLUME I

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CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA vs Centofanti III, Alfred P

01/10/01 11:30 AM 00 GRAND JURY INDICTMENT

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: TINA HURD, Court Clerk
GEORGETTE BYRD/GB, Relief Clerk
RENEE SILVAGGIO, Reporter/Recorder

PARTIES: STATE OF NEVADA
004088 Adair, Valerie
006316 Goettsch, Becky S.

N
Y
Y

Grand Jury Foreperson Bob Blankenship stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. The State presented Grand Jury Case Number 00BGJ009X to the Court. COURT ORDERED, the indictment may be filed and is assigned Case Number C172534, Department VII. State requested a warrant be issued and bail set in the amount of \$250,000 cash or \$500,000 surety. COURT SO ORDERED. Ms. Goettsch stated Defendant's attorney is Peter Christiansen Jr.; Steve Wolfson is Defendant's former attorney. Exhibits 1 thru 3, 5 thru 8, 11, 17 thru 21 & 23 thru 27 lodged with Clerk of District Court. Exhibits 4, 9, 10, 12 thru 16, & 22 withdrawn. COURT ORDERED, matter set for Initial Arraignment.

B.W. (CUSTODY)

1/17/01 9:00 AM INITIAL ARRAIGNMENT (DEPT VII)

01/12/01 02:25 PM 00 MINUTE ORDER RE: BAIL SETTING

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: TINA HURD, Court Clerk

PARTIES: NO PARTIES PRESENT

Court met with attorneys Christopher Laurent, DDA, and Peter S. Christiansen, ESQ, in chambers to clarify the bail set by Judge Cherry at the time of the Grand Jury Indictment Return. COURT ORDERED, BAIL IS SET AT \$250,000.00 CASH OR SURETY WITH HOUSE ARREST as a condition. Court advised this is WITHOUT PREJUDICE to the State or defense to seek modification by written motion.

CUSTODY

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 001

01/17/01 09:00 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: TINA HURD, Court Clerk
GEORGETTE BYRD/GB, Relief Clerk
RENEE SILVAGGIO, Reporter/Recorder

PARTIES: STATE OF NEVADA
005927 De La Garza, Melisa

Y
Y

0001 D1 Centofanti III, Alfred P
005254 Christiansen, Peter S.

Y
Y

Mr. Christiansen stated he previously filed his substitution as counsel. DEFENDANT CENTOFANTI ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial. Mr. Christiansen stated the defendant will ultimately be released on a bond with house arrest. COURT FURTHER ORDERED, Mr. Christiansen has 21 days after filing of the preliminary hearing transcript to file any writs.

CUSTODY

07/05/01 9:00 AM CALENDAR CALL

07/09/01 1:30 PM TRIAL BY JURY

04/03/01 09:00 AM 00 DEFT'S MTN TO EXTEND TIME WITHIN WHICH
TO FILE A WRIT OF HABEAS CORPUS

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: TINA HURD, Court Clerk
PATSY SMITH, Reporter/Recorder

PARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

Y
Y

0001 D1 Centofanti III, Alfred P
004435 Albregts, Daniel J.

N
Y

COURT ORDERED, deft's presence WAIVED for today. Court advised the transcript was filed January 25 according to Mr. Laurent. Mr. Albregts advised he received a file from Mr. Christiansen but he did not receive the transcript and the time for the Writ was extended to March 7, but he did not find out until after. Mr. Albregts advised he requested an extension from Mr. Laurent who refused and he received the transcript a few days after that, however, there were 10-12 pages missing and some pages copied in such a way that he cannot read them. Mr. Albregts advised there are issues he

CONTINUED ON PAGE: 003

RINT DATE: 04/29/04

PAGE: 002

MINUTES DATE: 04/03/01

002

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 002

wants to raise and requested two weeks. State advised they have always had a copy of the transcript since January 25; one extension was granted and deft. Centofanti keeps changing counsel. State argued there is no reason to extend time. COURT ORDERED, motion GRANTED for two weeks considering the magnitude of the charge; Mr. Albregts to obtain a copy of the transcript from Ms. Goettsch; Writ to be filed by April 17.

BOND

05/03/01 09:00 AM 01 DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: AMBER FARLEY/AF, Court Clerk
APRIL WATKINS, Relief Clerk
CINDY MAGNUSSEN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	N
006702	Dragan, Diane	Y

Defendant's presence WAIVED for the purposes of this hearing. Ms. Kappenman stated Mr. Albregts is requesting the matter be continued. There being no objection, COURT SO ORDERED.

BOND

CONTINUED TO: 05/15/01 09:00 AM 02

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 003

05/15/01 09:00 AM 02 DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

HEARD BY: Michael P Gibbons, Visiting Judge; Dept. MGIB

OFFICERS: TINA HURD/th, Court Clerk
Keith Reed, Relief Clerk
PATSY SMITH, Reporter/Recorder

PARTIES: STATE OF NEVADA
005144 Sweetin, James R.

Y
Y

0001 D1 Centofanti III, Alfred P
004435 Albregts, Daniel J.

Y
Y

Mr. Albregts requested the trial judge hear the Writ and advised Ms. Goettsch had to leave as she is picking a jury in another case, however, she will return if the Court wants to hear the Writ today. Colloquy. COURT ORDERED, continuance DENIED and the Court will hear argument as soon as Ms. Goettsch is available.

LATER: Matter recalled. Becky Goettsch, DDA, present for the State. Court advised he has discussed this case with Judge Mark Gibbons and has reviewed the case also. Ms. Goettsch advised, if Deft. Centofanti wants evidence of the Battery Domestic Violence in December in the record, they need to put on witnesses and advised her witnesses say something different than Deft. says. Mr. Albregts advised, if other officers had been called at the Grand Jury hearing, they would have testified to other things that happened that night and that alcohol was found in the victim's vehicle as well as statements regarding other domestic violence incidents. The officer that testified was allowed to testify to inflammatory statements made by the victim at the prior incident. Ms. Goettsch advised the outcome of that incident was that MRS. Centofanti was arrested; the officer also testified that her statements could not be corroborated but they could corroborate that she was hitting Mr. Centofanti and she was arrested. Further arguments by counsel. Court stated his findings and advised there was ample evidence to support the decision and it was NOT an unfair hearing. COURT ORDERED, petition DENIED.

BOND

CRIMINAL COURT MINUTES

-C-172534-C STATE OF NEVADA vs Centofanti III, Alfred P
CONTINUED FROM PAGE: 004

06/05/01 09:00 AM 00 DEFT'S MOTION TO CONTINUE TRIAL

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: AMBER FARLEY, Court Clerk
DIANN PROCK, Reporter/Recorder

PARTIES: STATE OF NEVADA
005043 Laurent, Christopher J.

Y
Y

0001 D1 Centofanti III, Alfred P
004435 Albregts, Daniel J.

Y
Y

Court stated the State has no opposition, as this is the Defense's first request, conditioned upon trial being reset within a reasonable amount of time. COURT ORDERED, Motion GRANTED; trial date VACATED. Mr. Albregts requested the Court seal the State's Motion to revoke bail, and his response. COURT ORDERED, STATE'S MOTION and Mr. Albregts RESPONSE SEALED. Matter set for trial setting and status check an evidentiary hearing on the State's motion to revoke bail.

BOND

6/12/01 9:00 AM TRIAL SETTING...STATUS CHECK: EVIDENTIARY HEARING ON STATE'S MOTION TO REVOKE BAIL

06/14/01 09:00 AM 00 ALL PENDING MOTIONS 6-14-01

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: TINA HURD, Court Clerk
PATSY SMITH, Reporter/Recorder

PARTIES: STATE OF NEVADA
005043 Laurent, Christopher J.
006316 Goettsch, Becky S.

Y
Y
Y

0001 D1 Centofanti III, Alfred P
004435 Albregts, Daniel J.

Y
Y

TRIAL SETTING...STATUS CHECK: EVIDENTIARY HEARING RE STATE'S MOTION TO REVOKE BAIL

Mr. Albregts requested matter be sealed and advised the divorce decree was sealed by Family Court and he filed his response under seal. Mr. Laurent advised the divorce was sealed the day after the homicide and he does not understand why the defense is concerned about the information. COURT ORDERED, the divorce decree, the motion to revoke bail and Mr. Albregts' response are SEALED; the remainder of the proceedings are not. Court

CONTINUED ON PAGE: 006

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 005

advised he is only sealing the divorce decree because of the Family Court decision and Mr. Laurent may refer to whatever he needs to. Mr. Laurent argued the attorney/client privilege is waived on several issues and would make Mr. Albregts a witness in these proceedings and others because Deft. authorized him to file these pleadings. Mr. Albregts advised the State has complained all along that he is Deft's third attorney. Arguments by counsel regarding attorney/client privilege. Mr. Laurent argued Deft. Centofanti is a considerable flight risk and he is concerned about the fraud that Deft. has perpetrated on the Court so far. Further arguments. Conference at the bench. Court advised he is inclined to continue this matter to Monday. Mr. Laurent objected and argued the State holds Deft. has perpetrated a fraud on the Court at least twice while out on bail. The day after the murder, Deft. moved ex parte to seal the divorce decree; the house in California is only half his and he posted it as bail and told the bondsman it was his. Deft. then began sales proceedings in April of this year as a joint tenant and signed an affidavit as a widower; Deft. never disclosed information about his ex-wife. Deft. attempted to keep the money immediately after the sale of the property and did not disclose it to the estate and State believes Deft. had the decree sealed so it would not show up on the title search. COURT ORDERED, matter CONTINUED to Monday at 11:00 a.m.; HOUSE ARREST WILL CONTINUE. Mr. Laurent requested the Special Public Defender be present if Mr. Albregts is relieved as counsel. Court advised his office will contact the Special PD to be here. Deft. advised he has been served a subpoena for Family Court for Monday morning and he is trying to get it quashed. Court advised he expects Deft. to be HERE on Monday morning and will advise Family Court.

BOND/H.A.

CONTINUE TO: 6-18-01 11:00 AM

06/18/01 09:00 AM 00 ALL PENDING MOTIONS 6/18/01

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: AMBER FARLEY, Court Clerk
RENEE SILVAGGIO, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005043	Laurent, Christopher J.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
004435	Albregts, Daniel J.	Y
000556	Kohn, Philip J.	Y

TRIAL SETTING...STATUS CHECK: EVIDENTIARY HEARING RE: STATE'S MOTION TO
REVOKE BAIL

CONTINUED ON PAGE: 007

RINT DATE: 04/29/04

PAGE: 006

MINUTES DATE: 06/18/01

006

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 006

Court stated it did some research and concurs with the point of having another attorney present. As such, the Court has requested Mr. Kohn be present today. Mr. Albregts stated that if he cannot continue on as counsel, he doesn't feel he can argue the bond issue. Mr. Albregts argued the State is trying to get over the first hurdle of the attorney-client privilege, and the Defendant has never waived that privilege. Mr. Albregts stated that under the affidavits nothing has been disclosed that would bring up the issue of the attorney-client privilege. Upon Court's inquiry regarding striking the affidavit, Mr. Albregts stated he doesn't think it is necessary. Mr. Albregts argued the 6th Amendment.

Arguments regarding the sealing of the divorce proceedings after the murder. Mr. Albregts stated that was done by the Defendant's divorce attorneys without them discussing it with the Defendant. Mr. Laurent argued regarding the fraudulent transfer of the property which was held in joint tenancy in common. Mr. Laurent argued the sale of the property in San Diego can be used in either/or the State's case in chief or in the penalty phase. Further colloquy regarding Mr. Albregts knowledge of the transfer of the property into the Defendant's name prior to him doing it and whether that knowledge would necessitate Mr. Albregts' testimony at trial.

COURT ORDERED, Phil Kohn is APPOINTED as co-counsel. Motion to disqualify Mr. Albregts is DISMISSED without prejudice. The hearing on the bond issue will go forward. Court stated the Defense is now aware of some of what Mr. Laurent will be arguing before the Jury, and as such, may make a motion in limine. Court stated that by the appointment of co-counsel, it gives the Defendant of the right of affective assistance of counsel should Mr. Albregts have to disqualify from the case should he have to become a witness. Mr. Laurent argued that once counsel has notice that s/he may be called as a witness, that person would have to withdraw. Mr. Laurent moved to strike the affidavit and exhibits. COURT ORDERED, Motion DENIED, however, the State may object to anything that is hearsay. Court stated it needs to know the net proceeds on the sale of the San Diego property, what the Defendant did with the money from the sale of the property above and beyond the \$40,000 posted for bail. State requested that the source of any other collateral posted with the bail bondsman be disclosed.

COURT ORDERED, matter CONTINUED.

BOND

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 007

06/19/01 09:00 AM 00 ALL PENDING MOTIONS 6/19/01

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: AMBER FARLEY, Court Clerk
RENEE SILVAGGIO, Reporter/RecorderPARTIES: STATE OF NEVADA
005144 Sweetin, James R.
006316 Goettsch, Becky S.0001 D1 Centofanti III, Alfred P
004435 Albregts, Daniel J.
000556 Kohn, Philip J.Y
Y
Y
Y
Y
YTRIAL SETTING...STATUS CHECK: EVIDENTIARY HEARING RE: STATE'S MOTION TO
REVOKE BAIL

Court inquired as to the location of the property in San Diego. Mr. Albregts advised the Court that \$40,000 of the sale proceeds of that property went to the bond company as collateral, and the Defendant paid a 3% transaction fee. Mr. Albregts further stated he has a check drawn from the Defendant's family for payment of his services. Testimony and exhibits per worksheets. Mr. Laurent argued the bond should be revoked. Argument by Mr. Albregts. Court stated the divorce decree specifically states that the San Diego property would be held in joint tenancy in common, and the affidavit of the surviving tenant by the Defendant was improper, and thinks the Defendant knew better than that. COURT FINDS Mr. Shaner's actions to marshal the funds from the sale of the property were proper. COURT ORDERED, 1/2 of the gross proceeds (which equals \$20,567.47) and 1/2 of the checks that Mr. Albregts is holding shall be delivered to Mr. Shaner forthwith, who will deposit those funds into his trust account pending further order from District Court to transfer to the Special Administrator. Mr. Albregts to further provide copies of the checks he is holding to Mr. Shaner. All monies shall be delivered within ONE WEEK. If there is non-compliance, this Court will revoke the Defendant's bail. The Court will allow the State to re-address the amount of the bail next date. MATTER CONTINUED.

Mr. Albregts stated it is not confirmed that Mr. Kohn will be co-counsel, and he is looking into other co-counsel.

BOND

CONTINUED TO: 6/26/01 9:00 AM

CONTINUED ON PAGE: 009

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 008

06/26/01 09:00 AM 00 ALL PENDING MOTIONS 6-26-01

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: TINA HURD, Court Clerk
Renee Silvaggio, Reporter/RecorderPARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

Y

Y

0001 D1 Centofanti III, Alfred P
004435 Albregts, Daniel J.

Y

Y

TRIAL SETTING...STATUS CHECK: EVIDENTIARY HEARING RE STATE'S MOTION TO
REVOKE BAIL

Court advised he did receive a letter from Mr. Albregts regarding substitute collateral on the bond. Mr. Albregts stated he believes Deft. has complied and notice was sent to everyone and he has not heard from anybody. State advised she believes everything went through the way the Court ordered. Mr. Albregts advised the only other issue he would like the Court to correct is the minutes show there was a check drawn from the family to pay his fees. Court stated about \$1,300.00. Mr. Albregts advised that was for photographs. State advised no decision has been made whether they can have an increased bail; Deft. has paid the money back that he took fraudulently, which is a crime, and she believes the State is entitled to increase bail. Court stated he does not know if the State is going to elect to file a motion as he had indicated the State could. Deft. has complied with house arrest and with the Court's order, therefore, COURT ORDERED, motion to revoke bail is DENIED, however the State may file a new motion if they feel it is appropriate. Colloquy regarding a trial date. Court advised he is going to keep this case after he assumes Chief Judge and will set the trial in early October. Colloquy. COURT ORDERED, matter set for trial on October 1.

BOND/H.A.

9-27-01 9:00 AM CALENDAR CALL

10-1-01 1:30 PM JURY TRIAL

CONTINUED ON PAGE: 010

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 009

08/31/01 10:00 AM 00 STATE'S REQUEST: HEARING RE DEFT'S MTN
TO ASSOCIATE CNSL/CONTINUE TRIAL DATE/22

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Patsy Smith, Reporter/Recorder

PARTIES: STATE OF NEVADA
005043 Laurent, Christopher J.

Y

Y

0001 D1 Centofanti III, Alfred P
004435 Albregts, Daniel J.

N

Y

COURT ORDERED, Deft's presence WAIVED. Court advised this is the State's request to move up the hearing, however, he is not going to rule on the motion today. Court advised he is disturbed that there is an out-of-state attorney who wants to come in, but says he is too busy to do it until December; Court appointed Philip Kohn, SPD, to assist in case there was a conflict and inquired why Mr. Kohn cannot do it. Mr. Albregts advised there were apparently representations to the Court that he approved moving this up to today and he did not; Mr. Bloom is out of the country until next week and the Court is not available next week. Mr. Albregts advised he wants to have a hearing on this issue. Court advised the State can go ahead and subpoena the case and have it ready to go. State advised he does not know why Mr. Albregts needs to have another attorney as they have already indicated they do not intend to call Mr. Albregts; if he intends to call himself, he cannot be a witness and an advocate. Mr. Albregts advised he received the transcripts regarding the San Diego property and the State clearly indicated he was a potential witness. Mr. Albregts advised he has addressed this as diligently as he can while still trying to prepare for trial. Mr. Albregts advised the 14th is a good day for Mr. Bloom considering another matter he is involved in that week. State inquired if Mr. Albregts intends to call himself as a witness and advised he would have to give the State notice 5 days before trial anyway. Mr. Albregts advised he has not had an opportunity to sit down with Mr. Bloom and discuss it. Deft. Centofanti appeared at this time and Court advised him of the proceedings. Court advised, as of now, his decision is to go forward with the trial on October 1 and ORDERED, matter OFF CALENDAR and the motion will be heard on the date originally set, September 14th.

BOND/H.A.

CONTINUED ON PAGE: 011

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 010

09/14/01 09:00 AM 00 DEFT'S MTN TO ASSOCIATE COUNSEL/CONTINUE
TRIAL/21

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Renee Silvaggio, Reporter/Recorder

PARTIES: STATE OF NEVADA
005043 Laurent, Christopher J.
006316 Goettsch, Becky S.

0001 D1 Centofanti III, Alfred P
004435 Albregts, Daniel J.
000556 Kohn, Philip J.

Y
Y
Y
Y
Y
Y

Allen Bloom, ESQ, from California present also. Upon Court's inquiry, Mr. Albregts advised he has the verified application and the check that has to go through the State Bar and he expects it to be approved; after Court today, he will hand-deliver it to the State Bar and have it expedited. Mr. Albregts requested the Court allow Mr. Bloom to appear today pro hac vice to argue the motion. Mr. Laurent submitted it to the Court's discretion. COURT ORDERED, Mr. Bloom will be allowed to argue today.

Mr. Bloom advised he is currently in trial in California and expects to finish by Thursday of next week; he could do this trial on October 1 but does not think it can be competently prepared by then. Mr. Bloom advised, if the sale of property in San Diego comes up, the defense will ask the Court to review it in limine as to its admissibility; it is entirely possible the transaction will not come up in the State's case-in-chief, but may be raised on rebuttal if Deft. Centofanti testifies. If it comes in in any form, Mr. Albregts will definitely be a witness. Mr. Bloom advised the State may raise the transaction to question Deft's credibility. Court advised he saw this possible conflict months ago and appointed Mr. Kohn to assist Mr. Albregts and the defense should not have missed a beat. Mr. Bloom advised Mr. Kohn is not prepared to assist Mr. Albregts and will address the Court on that matter; further, Deft. has the right to choose counsel. Mr. Bloom advised 60 days would be sufficient for Mr. Albregts and himself to prepare the case, however, it would be much longer if Mr. Albregts is removed from the case. Court inquired if Mr. Bloom is prepared to be in this case for the duration of the trial. Mr. Bloom advised there is no question he is and he cannot see any prejudice in this matter being continued as it would still only be 11 months from the date of the incident. Further, Deft's state of mind is a crucial issue and is not anywhere near ready for trial as there is considerable evidence of the decedent's violent history which must be developed and goes back to Deft's state of mind. Mr. Bloom advised he believes the December 1 date to be a very firm date. Upon Court's inquiry, Mr. Kohn advised it was clear to him Deft. wanted to hire private counsel and had the means to do so; his role was never well-defined and he never saw himself taking over a role in this case. Mr. Laurent advised the defense puts the State in a box with their representations of

CONTINUED ON PAGE: 012

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 011

unpreparedness and stated he does not know why these things have not been done. When the State suggested Mr. Albregts might be a witness, the defense categorically denied it, now they are saying he will be a witness. Mr. Laurent advised Mr. Albregts is definitely in conflict and there is a long-standing standard of jurisprudence that an advocate cannot be a witness; the State does not want a continuance, but it appears the Court must grant a continuance to preserve the integrity of the trial as counsel have already set their record of ineffective assistance of counsel. Mr. Laurent stated he believes it is wrong to let Mr. Albregts remain as counsel if he is going to be a witness. Upon Court's inquiry, Mr. Laurent advised they do not intend to bring up the San Diego transaction in their case-in-chief, but it could come up in rebuttal or in the penalty phase; further, it was also his impression that Mr. Kohn was to have a very limited role. State anticipates being ready to go forward. Court suggested December 10 and stated he believes he will have to remove Mr. Albregts from the case. Mr. Bloom advised he would be ready to go in December, and that is very firm, but is contingent on Mr. Albregts and himself working together. Court advised the issue of Mr. Albregts being a witness must be resolved prior to trial. Mr. Bloom stated he believes that will be a fairly small point and the State's representation that Mr. Albregts would only testify on rebuttal makes it an even smaller issue; further, there will be a motion in limine regarding whether the San Diego transaction will come in at all. Further arguments by counsel. COURT ORDERED, motion to associate counsel GRANTED contingent on the application being approved by the State Bar; continuance GRANTED and trial date VACATED AND RESET on November 26; matter set for hearing on counsel issues on October 1. Mr. Bloom advised, on October 1, they will need to know how crucial a witness Mr. Albregts will be and what the State intends to present and requested a briefing schedule. Colloquy. COURT ORDERED, the State's Opening Brief to be filed by September 19, 2001; Deft's Responding Brief to be filed by September 26; State's Reply Brief to be filed by September 28. Court directed all counsel to provide courtesy copies to the Court.

BOND/H.A.

10-1-01 9:30 AM FURTHER PROCEEDINGS

11-21-01 9:00 AM CALENDAR CALL

11-26-01 1:30 PM JURY TRIAL

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

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10/01/01 09:30 AM 00 ALL PENDING MOTIONS 10-1-01

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Patsy Smith, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005043	Laurent, Christopher J.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
004435	Albregts, Daniel J.	Y
005103	Richards, Daren B.	Y

STATE'S MOTION TO DISQUALIFY COUNSEL...STATE'S MOTION IN LIMINE...FURTHER PROCEEDINGS

Allen Bloom, ESQ, counsel from California, present for Deft. also. Order Admitting to Practice FILED IN OPEN COURT regarding Mr. Bloom. Court advised the defense has not responded to the motion in limine. Mr. Bloom advised he received it late Friday and does not believe he can address all those matters now. Court stated he believes the State is going to file a motion for other bad acts and he believes that motion will cross over. Mr. Laurent advised he did not want to file the motion in limine but did at the behest of the Court for the defense's benefit and he believes their excuse is weak. Court advised he will not rule on the motion in limine today, but will rule on the motion to disqualify. Mr. Laurent advised the Court set a witness list date at 21 days before trial and Mr. Bloom wanted to consider that. Mr. Bloom requested the time be the normal time frame as he is going to need that amount of time to prepare and advised his trial in San Diego is over but the jury is deliberating and he has not had much time to devote to this case. As to the motion in limine, Mr. Bloom advised it did clarify for the defense that Mr. Albregts will be a witness in this case and he believes the Court has laid out the precedent and the State has cited numerous cases that state an attorney cannot be a witness and an advocate at the same time. Mr. Bloom advised he has made the argument that it would be a substantial hardship to the defense to disqualify Mr. Albregts and why the exception should be applied is set forth in the pleadings. Court suggested Mr. Albregts continue with trial preparation, but not be allowed to sit at counsel table during trial as the Court sees the real danger in Mr. Albregts appearing as counsel in this case, then as a witness. However, the Court does not see any danger in allowing Mr. Albregts to help prepare the case; then the Special Public Defender could sit as local counsel. Mr. Bloom advised they had not discussed that option. Off record conference between Mr. Bloom, Mr. Albregts and Mr. Richards. 10:06 a.m.--On the record, Mr. Bloom stated he believes the hybrid solution the Court suggested may be workable. Court advised what he would envision is Mr. Albregts continuing to work with Mr. Bloom, but could not sit at counsel table when the jury venire is brought in and cannot be present as counsel in any way during the

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INT DATE: 04/29/04

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MINUTES DATE: 10/01/01

013

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 013

trial. As to the Special Public Defender, Court advised there must be local counsel present with Mr. Bloom. Mr. Bloom stated he believes their office has that availability. Mr. Laurent advised he has no exception, however, he intends to invoke the exclusionary rule and advised the attorney/client privilege would not apply. Mr. Laurent advised he is concerned Mr. Albregts should not be in the courtroom as he is a witness. Mr. Bloom stated he believes the Court's suggestion is a wise one and advised Mr. Albregts would not be present in the courtroom as a witness. COURT ORDERED, motion to disqualify counsel is GRANTED with the exception that Mr. Albregts WILL BE ALLOWED to help Mr. Bloom in preparation of the case and Mr. Albregts WILL BE ALLOWED to testify in the guilt phase and the penalty phase, if there is one; Mr. Albregts will NOT be allowed in the courtroom and will NOT be allowed to sit at counsel table during trial. COURT FURTHER ORDERED, the Special Public Defender will continue as co-counsel for trial and that appointment is RE-AFFIRMED.

Colloquy regarding scheduling issues. Mr. Bloom requested a status check date for discovery issues about 30 days before trial that will take 1-2 hours. Mr. Bloom advised he has rescheduled other hearings, however, he has a Board of Parole hearing on November 26 pursuant to a Writ of Habeas Corpus and pleadings that were filed; the hearing was ordered by the Court and is in San Diego County. Mr. Bloom requested the trial start on the 27th or 28th. Colloquy. COURT ORDERED, trial date VACATED AND RESET to November 27 @ 1:30 p.m.; November 21 Calendar Call date STANDS. Colloquy regarding jury selection and the selection of alternates. Court advised he allows the jury to ask questions and provided the case citation to Mr. Bloom. Colloquy regarding guidelines as to witness disclosure. Mr. Laurent requested expedited disclosure. Mr. Bloom requested the statutory guidelines stand. Mr. Laurent advised the State's concern is character evidence. Further colloquy. Court advised he will not rule on that today. COURT ORDERED, matter set for further proceedings on October 29 and the motion in limine is CONTINUED to that same date.

BOND/H.A.

10-29-01 9:00 AM STATE'S MOTION IN LIMINE...FURTHER PROCEEDINGS

11-27-01 1:30 PM JURY TRIAL

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 014

10/29/01 09:30 AM 00 ALL PENDING MOTIONS 10-29-01

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Patsy Smith, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005043	Laurent, Christopher J.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Allen Bloom, out-of-state counsel for Deft. Centofanti, present also.

STATE'S MOTION TO COMPEL DISCOVERY...Court stated he understands the defense has no objection. Mr. Bloom concurred. COURT ORDERED, motion GRANTED. Upon Court's inquiry, Mr. Laurent advised they want any photographs, books, papers that are not attorney/client privilege so they can inspect that prior to trial. Mr. Bloom stated his understanding is anything the defense is going to use at trial must be provided and they will do so, whatever form it is in, and advised they have continued to provide discovery and are giving it to the State as soon as it is available. Court acknowledged.

STATE'S MOTION TO REQUIRE PARTIES TO DECLARE WITNESSES...Court stated he understands the defense is still going through the process of determining witnesses. Mr. Bloom concurred and advised Mr. Albregts is continuing to help them prepare in a limited fashion and Ms. Navarro has a professional conflict wherein she will not be able to participate in trial. COURT ORDERED, motion GRANTED and the witnesses are to be disclosed by 21 days before trial, however, the defense may continue to do preparation and see what comes out of it. Mr. Laurent advised Mr. Albregts was to participate fully in the preparation, but cannot participate in trial. Court concurred. Mr. Laurent advised Mr. Bloom has indicated he does not have all of his expert witnesses, however, this trial has been continued twice and the experts should be known. Mr. Bloom advised this may be a third trial call on this case, but it is the first trial call for him. Court advised he would request Mr. Albregts continue to participate fully in trial preparation at this time. Mr. Bloom advised there is no bad faith. Court advised Mr. Bloom to continue to move preparation along.

STATE'S MOTION IN LIMINE TO DECLARE DEFT'S PARENTS ADVERSE WITNESSES...Court advised the defense believes this motion is premature. Colloquy. COURT ORDERED, motion GRANTED and Deft's parents may be asked leading questions by the State.

STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS...Court advised this motion is regarding the December 5 incident between Deft. and his wife, the

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CRIMINAL COURT MINUTES

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vs Centofanti III, Alfred P

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domestic violence incident, and he believes it is something the defense intends to go into anyway. Mr. Bloom concurred and advised there may be some foundational issues to be taken up by the Court and he believes there should be a Petrocelli Hearing. Court advised incident #2 is that Deft. Centofanti said he would kill his wife before he would agree to a divorce and there must be a Petrocelli Hearing on that. Court advised incident #3 is the alleged fact that Deft. went into a public relations campaign to paint the victim as a bad mother, alcoholic, etc., and a hearing is needed on that. The last issue is the allegation that when Deft. attempted to get a Temporary Protective Order, he lied about ownership of the gun and Court advised they will need a Petrocelli Hearing on that issue. Colloquy regarding Dr. Smith in New York and doctor/patient privilege. Mr. Laurent advised they have submitted discovery and inquired regarding billing; Deft. has hired private counsel and he does not believe the Court intended to circumvent that by appointing the Special Public Defender. Court advised that is correct and the defense is responsible for the cost of discovery. Mr. Laurent advised it appears the defense will be requesting a continuance and he would like to settle that now. Court advised he has set a trial date and expects to go forward with it and will only address a continuance by formal motion. Mr. Bloom requested a status conference for a week from tomorrow and a Petrocelli Hearing just prior to trial. Colloquy. COURT ORDERED, matter set for status check on November 7 and he will set the Petrocelli Hearing at that time. Colloquy regarding a Widdis motion. COURT ORDERED, Widdis motion to be filed under seal. Colloquy regarding a credit bureau report of the victim. Court advised he does not want to violate any Federal credit reporting guidelines. Ms. Navarro advised the credit bureau will provide the report with a court order and she does not believe it will violate any guidelines. Mr. Laurent advised he was out of town and cannot address this issue. COURT ORDERED, request GRANTED and, if the credit reporting agency has a problem, they can bring it to court.

STATE'S MOTION IN LIMINE...Court stated he believes he has dealt with all the issues. Mr. Laurent concurred and advised this motion was filed at the request of the defense. COURT ORDERED, OFF CALENDAR.

BOND/H.A.

11-7-01 9:00 AM STATUS CHECK: TRIAL READINESS / SET PETROCELLI HEARING

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-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

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11/07/01 09:00 AM 00 STATUS CHECK: TRIAL READINESS / SET
PETROCELLI HEARING

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Renee Silvaggio, Reporter/Recorder

PARTIES: STATE OF NEVADA
005043 Laurent, Christopher J.

Y
Y

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.
004435 Albregts, Daniel J.

Y
Y
Y
Y

Allen Bloom, out-of-state counsel for Deft. Centofanti, present also.

Court advised he received a motion to continue from the defense yesterday which he read. Affidavit of Robert Larson marked and admitted as Deft's exhibit A. Mr. Bloom advised the motion also regards Ms. Navarro's schedule. State advised the defense alleges they are interviewing 40 witnesses but there are not 40 percipient witnesses to this case; the defense has also indicated they have not been able to get Deft. to a psychologist because he cannot travel, however, they can do it here. State advised they anticipate being ready for trial, though they do not have all of their subpoenas in yet. State advised it is their opinion Deft. has perpetrated fraud after fraud and their position is Deft. should not be out of custody. Mr. Bloom argued there would be no prejudice to the State if this trial is continued and he cannot see how Deft's custody status figures in at all and advised Deft. is under very rigorous control with house arrest. Court stated he does not believe custody status is relevant. Court inquired why the defense needs ballistics tests. Mr. Bloom advised the state has alleged Deft. shot the victim with malice and the tests would be done on stippling and what shots were fatal and which were not; there would be a focus on the question of what the scene tells as to where the 2 people were in relation to each other as self defense is an aspect of this case; there would be ballistics, pathological and criminalist testing. Colloquy regarding the work done on the case before Mr. Bloom took over. Mr. Bloom advised there is circumstantial evidence as to where the victim was before the shooting. Mr. Bloom advised a lot of the time before he came into the case was spent on bail hearings and whether Mr. Albregts would be a witness; what he asks is necessary. Colloquy regarding scheduling. Mr. Bloom advised Ms. Navarro is second chair on a Murder case starting next Tuesday. Ms. Navarro advised her trial is before Judge Vega; that Deft. is in custody and has invoked and they are definitely going to trial. Upon Court's inquiry, Ms. Navarro advised there is a substantial defense case as well. Ms. Navarro advised she has an old track case going in December, then she has a capital case in March. State advised, if this case is continued to January, they would like to start on January 2. COURT ORDERED, defense

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motion to continue is GRANTED; trial date VACATED AND RESET. Court advised Ms. Navarro may appear at Calendar call and Mr. Bloom's presence may be waived. Colloquy regarding a Petrocelli Hearing. State advised he intends to submit an offer of proof. Court advised he will accept it if defense counsel stipulates. COURT ORDERED, matter set for hearing. State requested the 21-day notice continue. COURT ORDERED, the 21-day witness notice is CONTINUED to 21 days before trial. Colloquy regarding witnesses. State advised they copied the tapes and the billing is \$65.00. COURT ORDERED, the court will pay the \$65.00. State provided the tapes to Mr. Bloom in open court. Mr. Bloom advised case P45451 is the probate case of Virginia Centofanti and shows assigned to this Court. Colloquy regarding probate procedure. Court advised he does not know if he has signed any orders or heard any matters in that case, however, he will recuse himself to avoid any appearance of impropriety.

BOND/H.A.

12-19-01 10:00 AM EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS

12-27-01 9:00 AM CALENDAR CALL

1-2-02 1:30 PM JURY TRIAL

12/21/01 09:00 AM 00 ALL PENDING MOTIONS 12-21-01

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Kristen Brown, Relief Clerk
Renee Silvaggio, Reporter/Recorder

PARTIES:	STATE OF NEVADA	N
006316	Goettsch, Becky S.	Y
005043	Laurent, Christopher J.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS...STATE'S MOTION TO STRIKE EXPERT WITNESS LIST AND PROSCRIBE DEFT FROM CALLING THOSE EXPERTS...STATE'S MOTION TO COMPEL DISCOVERY OF EXPERT'S REPORTS, NOTES AND ALL ITEMS CONSIDERED BY EXPERTS IN FORMING AN OPINION...DEFT'S REQUEST FOR ORDER TO PRODUCE CASSETTE TAPE

Also present, Allen Bloom, out-of-state counsel for Deft. Centofanti and Lou Brandon on behalf of Eva Cisneros.

Secon Amended Notice of Witnesses FILED IN OPEN COURT. Notice of Motion and

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Motion in Limine to Prohibit the Introduction of Character Evidence of the Victim or any State's Witness Absent a Petrocelli Hearing and Notice of Motion and Motion in Limine to Conduct an Evidentiary Hearing to Establish to What Extent Ms. Cisneros has an Obligation of Attorney Client Privilege FILED IN OPEN COURT and set for December 27, 2001 at 9:00.

Arguments by counsel regarding serving Ms. Cisneros and having her present for today's hearing. Mr. Laurent requested a material witness warrant be issued for Ms. Cisneros. COURT ORDERED, Mr. Laurent's request DENIED; subpoena will continue and Mr. Brandon is to contact Ms. Cisneros to have her present at the Calendar Call. RECALLED: Mr. Brandon stated he is waiting for a call back from Ms. Cisneros' office. Following a conference in chambers, COURT ORDERED, State's Motion in Limine to Conduct an Evidentiary Hearing to Establish to What Extent Ms. Cisneros has an Obligation of Attorney Client Privilege RESET to January 8, 2002.

Arguments by counsel regarding the shell casings that were found in Defendant's house after incident. Mr. Bloom advised those were turned over to the police. Further arguments by counsel regarding the lack of reports by parties experts. COURT ORDERED, parties are to provide summaries that will comply with the statute by 4:00 pm on December 26, 2002.

State's Motion to Admit Evidence of Other Bad Acts: Ms. Goettsch advised she will not proceed with the third bad act; it may be brought in rebuttle but will not be in her case in chief. Arguments by counsel regarding the December 5, 2000 incident and misrepresentations by the Deft. regarding the ownership of the gun when filing the TPO. EXCLUSIONARY RULE INVOKED. Testimony and exhibits presented. (See worksheets.) Regarding the December 5, 2000 incident, Court stated that there is some confusion with the testimony of the victim's son regarding certain statements by the Defendant and under NRS 51.085, 51.095, or 51.105 they could possibly come in but there needs to be some testimony from the officer; regarding the TPO, COURT FINDS that the State has presented its case. Arguments by counsel regarding the competence of the victim's son. COURT FINDS the victim's son to be competent to testify about the gun subject to cross examination and impeachment. COURT ORDERED, Evidentiary Hearing CONTINUED for the testimony of the officer. Mr. Bloom requested the other officer, Officer Lawrence be present as well. COURT FURTHER ORDERED, Mr. Bloom to subpoena Officer Lawrence and the State is to subpoena the other officer. Mr. Bloom requested to withdraw his "no objection" to State's exhibit #2. Colloquy between Court and counsel regarding exhibit #2. Court stated it will order the original file from Family Court and counsel may review it at the next hearing.

Ms. Navarro requested an order for the actual lab packet and to retest the samples. Mr. Laurent stated he would like the same thing from Defendant's experts. Mr. Bloom requested that if experts did not prepare a report, he will tell the State the items they relied upon and will get any notes they have with regards to it. COURT ORDERED, Defendant's allowed to do testing by an independant lab and counsel to provide the underlying data, work

CRIMINAL COURT MINUTES

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product, and notes the experts relied upon.

Mr. Laurent requested Defendant be made available for a phsychological evaluation. Mr. Bloom argued the State is required to show that they have the right to have an evaluation of the Defendant done. COURT ORDERED, State to let Court and counsel know what they are going to do from a phsychological stand point and if State is going to do what is permitted under the law.

Mr. Bloom inquired if the search warrant of the Defendant's house is filed with the Court. Ms. Goettsch advised it was a telephonic search warrant and the certification is not with the Clerk's office. Mr. Bloom argued the tape recording must be present. Upon Court's inquiry, Ms. Goettsch stated the judge signed the certification. COURT ORDERED, matter CONTINUED for the State to locate the original certification signed by the judge.

COURT FURTHER ORDERED, all matters set on today's calendar CONTINUED.

CONTINUED TO: 12/27/01 9:00

12/27/01 09:00 AM 00 ALL PENDING MOTIONS 12-27-01

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Renee Silvaggio, Reporter/Recorder

PARTIES:	STATE OF NEVADA	
005043	Laurent, Christopher J.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Allen Bloom, out-of-state counsel for Deft. Centofanti, present also.

The following motions were FILED IN OPEN COURT: State's Opposition to Deft's Motion to Dismiss...State's Supplemental Notice of Expert Witnesses...Deft's Reply to Prosecution's Oral Request to 1) Require the Deft. to be Examined by a Prosecution Psychiatric Expert if He Wishes to Present Psychological Evidence in His Defense and 2) Require Deft. to Provide Experts' Notes and Reports...Deft's Supplemental Notice of Expert Witnesses/Statement of Subject Matter.

Court advised the State has indicated they served Deft's parents with subpoenas to appear for trial and the Court understands, through a conference at the bench, that the State will not contact them directly, but will contact Mr. Bloom and he will have them present in Court when it is time for them to testify. Court advised the State has requested to

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pre-trial these witnesses, however, it is not required for them to speak with the State and the witnesses may speak with Mr. Bloom and decide what they want to do. Court stated he has advised the parties they need to decide if there will be penalty phase by the jury if there is a conviction of First Degree Murder; if the penalty phase is waived, it must be in writing and signed by both sides. Colloquy regarding the remaining issues.

EVIDENTIARY HEARING: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS...As to the Temporary Protective Order (TPO) issue, Ms. Goettsch advised, when she received the TPO copy, the gun registration records were attached; if they were not, they were not, but if it comes up later that they were attached, she would reserve the right to move them in at a later time. Court acknowledged and ORDERED, the last two pages of exhibit #1, the gun registrations, are REDACTED from that exhibit. Testimony and exhibits presented. (See worksheets.) Arguments by Ms. Goettsch and Mr. Bloom regarding the statements, oral and written, made by Virginia Centofanti at the time of the December 5 domestic violence incident. Court stated, when Ms. Centofanti was interviewed, she said things that were bad for her and ORDERED, the conversation she had with the officers is ADMISSIBLE under NRS 51.075 and 51.095, excited utterance; it also may be admissible under present sense impression, but the Court will allow it under the prior two statutes. COURT ORDERED, what Deft. said to the officers WILL ALSO BE ALLOWED under NRS 51.075. Ms. Goettsch advised the testimony is Deft. was cool, calm and collected, so it was not excited utterance. Court advised it will be allowed under 51.075 as Deft. can be cross-examined. COURT FURTHER ORDERED, he WILL NOT ADMIT the conversations of the next day or Sgt. Winslow's conclusions. COURT ORDERED, State's motion to admit evidence of other bad acts is GRANTED as what happened that evening will come in. Mr. Bloom inquired as to the observations by Quito. COURT ORDERED, Quito WILL BE ALLOWED to testify and Mr. Bloom can bring out any prior inconsistencies in cross-examination.

STATE'S MOTION IN LIMINE TO PROHIBIT THE INTRODUCTION OF CHARACTER EVIDENCE OF THE VICTIM OR ANY STATE'S WITNESS ABSENT A PETROCELLI HEARING... Mr. Bloom stated he does not believe he has to offer it as the State has no right to reduce their burden regarding presentation of information. Court referred Mr. Bloom to the Coleman case and stated he believes counsel may be splitting hairs as the Court believes the main evidence Mr. Bloom is concerned with is the picture frame and that is coming in; further, Mr. Bloom can offer the evidence that the victim knew Karate. Mr. Bloom advised he has not formed a full response to that at this time. Mr. Laurent advised admission of other crimes, wrongs or acts is not admissible as character evidence and if it is intended to be offered for the purposes stated under statute, a Petrocelli Hearing must be had. Mr. Bloom advised this does not go to the victim's character, it would go to Deft's state of mind. Colloquy. COURT ORDERED a brief recess at this time. Back on the record, Mr. Bloom objected to any ruling or requirement that the defense reveal any information regarding the defense under these circumstances and stated he does not believe the statute cited was meant for discovery purposes. Mr. Bloom discussed the Coleman case and cited the Petty case and argued that conviction was reversed and the Court advised the prior bad acts of the victim can be presented without that person testifying. Court advised he

CRIMINAL COURT MINUTES

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vs Centofanti III, Alfred P

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did the re-trial of Petty and the opinion evidence was allowed as to whether the victim was violent. Mr. Bloom argued the Nevada Supreme Court did not make a ruling that it was only as to opinion evidence and argued, whether opinion or acts which support the element of self-defense, it is allowed to come in. Court advised the law in Petty and Shoels speak for themselves as to what they permit and what they do not and advised statute is Mr. Bloom's problem as it tells counsel when they can offer specific acts. Court advised, if counsel has specific acts of the victim that he wants to get in under NRS 48.045, he has to tell the Court so he can rule whether they come in. Mr. Bloom argued Coleman was the Deft. claiming a third party committed the crime and advised Deft. is not claiming a third party, he is claiming the victim had conduct that justified his conduct. COURT ORDERED, State's motion to prohibit character evidence absent a Petrocelli hearing is GRANTED. Mr. Bloom advised his concerns is, if these observations came from the mind of the Deft., he does not believe there is law that states Deft. has to testify regarding those. Court advised the only way to put it at issue is for Deft. to testify, it would not be admissible at trial. Mr. Laurent stated he believes these are statements that are coming from the Deft. regarding what he believes has to come in and his concern is proving it through other people; the State wants the opportunity to have a Petrocelli Hearing to prove these things through other people. Court advised Deft. can testify to his perceptions without a Petrocelli Hearing. Mr. Bloom stated, for example, Ms. Centofanti had gang tattoos and there are pictures of them and Deft. had concerns about that history. Court advised those are the issues they need to flesh out. Mr. Laurent advised, if the defense intends to present pictures of gang tattoos, the State should have been provided with those and they have not and advised any tattoos the victim had were removed by laser; further, if anyone else is going to testify regarding those, they need a Petrocelli Hearing. COURT ORDERED, a Petrocelli Hearing will NOT be required if it is testimony from Deft.; if it is by third parties, a hearing WILL BE REQUIRED. Mr. Bloom advised his other concern is the State has indicated Deft. has set out on a campaign to paint the victim in a negative light. Court stated he does not believe that would come in in the State's case-in-chief but rather during cross-examination IF Deft. testifies.

As to the jury questionnaire, Court advised he ordered the jury during the break, 50 people, and has requested they come in early to fill out questionnaires, however, if counsel cannot agree to the questionnaires, they will not be used. Court suggested the State and the defense sit down together after court today and go through this and, if they can agree, make them up and have them copied and to the Jury Commissioner by Wednesday morning. Mr. Bloom requested the Court look at it and make a ruling if counsel cannot agree. Court advised counsel to have it to him by Monday morning if they cannot agree. Court advised there will be two alternates and counsel will have eight peremptory challenges apiece and one each on the alternates. Colloquy regarding whether or not to have the alternates selected at the beginning or at the end of trial. Court advised counsel may think about it and let him know.

As to the autopsy photographs, Court advised they are relevant for identification purposes, however, he will not allow them to be cumulative.

CRIMINAL COURT MINUTES

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vs Centofanti III, Alfred P

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Court requested the State to be selective as to what they need for identity purposes and would ask the State to pick out the pictures they intend to use and advise the defense before Wednesday morning and Mr. Bloom can make his objections. Mr. Bloom advised he is concerned about the prejudicial effect as there are not many pictures after the victim was cleaned up, most still have blood dripping. Mr. Laurent advised they would not be able to make that decision until they speak with Dr. Simms, but will let Mr. Bloom know as soon as possible.

As to hearsay issues of the statements by the victim and Deft. on the December 5 incident, Court advised he wants to know what they are and will present a balanced picture to the jury. Mr. Bloom advised, technically, he wants to consider this and re-visit it before opening statements.

As to whether Deft. has to submit to a psychological evaluation by the State, Mr. Laurent advised he received Deft's response this morning when he got in and advised, over the years, the Courts have held that a psychiatric examination does not violate the 5th or 6th Amendment rights and cited case law. Court inquired if there is any authority that requires Deft. Centofanti to submit to a psychological evaluation before trial. Mr. Laurent advised there is no State case, but the 9th Circuit has held the Court can order it when the defense asserts an insanity defense or a state-of-mind defense and argued the State is entitled to that information. State advised the Deft. becomes a piece of physical evidence and is being examined and argued the defense puts this kind of evidence at issue and the attorney/client privilege does not pertain. Court stated he believes, under the Constitution, Deft. cannot be compelled to testing by the State and ORDERED, motion DENIED; if the defense puts this kind of evidence at issue, if the psychologist testifies, the State may have an expert in the courtroom to hear the testimony and rebut it. Mr. Laurent requested a stay to do an interlocutory appeal. Colloquy. COURT ORDERED, STAY DENIED and either side may file a Writ. Mr. Laurent advised the defense has declared an expert and he cannot adequately prepare his cross-examination as he does not know what testing has been done. Court advised, if that person testifies, he will give the State a break to review that information with their expert. Mr. Laurent requested the transcript from today's hearing. COURT ORDERED, the Court Reporter is to prepare today's transcript and provide it to both counsel.

As to the canvass of Deft., Mr. Laurent advised he never said it was required, however, he believes it is prudent under the Beets case and advised it is a cautionary measure to make sure the record is clean. Mr. Laurent advised he wants to make sure defense counsel is authorized to argue what he does. COURT ORDERED, motion DENIED WITHOUT PREJUDICE. Court advised he will see how things develop.

Court advised the defense has requested the weapon be released for testing. Mr. Laurent advised he would object due to the late date as the State needs to be provided the results. COURT ORDERED, the weapon will be RELEASED to the defense expert. Mr. Bloom advised the test is for rapidity of fire. Mr. Laurent objected as the defense expert is well-trained in operation of the weapon. COURT ORDERED, the weapon WILL BE RELEASED, however, that does not mean the test results are admissible.

As to the release of juvenile records in California, Mr. Laurent

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

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objected as juvenile records are sacrosanct and are protected all the time and can only be reviewed in camera. Mr. Bloom advised that is what is being done in California and he is only asking this Court to say the theory of self-defense makes them necessary. COURT ORDERED, this Court has no objection to the Judge in California inspecting the records in camera and making a ruling under California law on whether there is anything in the record that could possibly relate to the defense theory of self-defense.

DEFT'S MOTION REQUESTING ORDER TO PRODUCE CASSETTE TAPE...As to the search warrant issue, Mr. Laurent stated he believes the document was filed under a different District Court case number. Mr. Bloom stated he believes the law states the cassette tape is to be made available to the defense. COURT ORDERED, the defense objection is OVERRULED and the motion is DENIED. Court advised the search warrant is an exact transcription of the tape recording and, when the Judge signed the written search warrant, that was written certification of the transcription. Mr. Laurent advised he will make a copy of the document and provide it to the defense.

As to the TPO issue, Mr. Laurent advised the State is not offering it at this time. Mr. Bloom stated he believes portions will come in on the defense side. Court advised, if either side wants to offer it with or without redactions, he will consider it at that time.

DEFT'S MOTION TO EXCLUDE EVIDENCE AND DISMISS CHARGES AGAINST DEFT.... COURT ORDERED, motion CONTINUED to Wednesday at 10:00 a.m.

STATE'S MOTION TO STRIKE EXPERT WITNESS LIST AND PROSCRIBE DEFT. FROM CALLING THOSE EXPERTS...Mr. Bloom advised there was a requirement to provide a list of experts and subject matter. Ms. Goettsch advised what she received is the same thing she received before and advised she needs to know what the opinions are or it is impossible for her to hire an expert to rebut; she received a 6-page designation of who the experts are and very general statements of the subject matter. Ms. Goettsch advised she still does not have the reports. Mr. Bloom advised he would invite the Court to read the 2-page document he received from the State. COURT ORDERED, matter CONTINUED to Wednesday at 10:00 a.m. and the Court will look at the documents. Ms. Goettsch advised she has provided the reports.

DEFT'S MOTION TO PERMIT COUNSEL TO REFER TO THIS BRIEF IN PLACE OF LENGTHY, RECORD-MAKING OBJECTIONS...Court stated his understanding is either side reserves their objections for appellate purposes and can object in two words. Mr. Bloom advised he wants to avoid having to make a record on each objection and advised this preserves the federalization of the objections. Mr. Laurent argued, if the defense can just refer to a document, the State cannot fix it at the time and argued contemporaneous objections need to be made. Mr. Bloom argued this document does not create objections, it just states that when he makes his objections under State and Federal authority and that the document is incorporated. Mr. Laurent advised he needs to have the opportunity to respond to specific objections as there are exceptions to every rule. COURT ORDERED, motion DENIED; counsel will have to state the grounds for their objections. MOTION TO REQUEST THAT COMPLAINING WITNESSES AND THE DEFT. SHOULD BE ADDRESSED BY THEIR NAMES AND NOT BY CONCLUSORY AND ARGUMENTATIVE LABELS WHICH ASSUME FACTS NOT IN EVIDENCE AND UNDERMINE THE PRESUMPTION OF INNOCENCE...Court requested counsel refer to the victim by her name or by "decedent", but not use the word "victim". MOTION TO INSURE

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MINUTES DATE: 12/27/01

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vs Centofanti III, Alfred P

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THAT THE PROSECUTION DOES NOT TELL THE JURY IT REPRESENTS THE "PEOPLE" IN A MANNER THAT IMPLIES THAT HE/SHE REPRESENTS THE JURORS AGAINST THE DEFT... COURT ORDERED, the prosecution can tell the jury they represent the State of Nevada and that the District Attorney is a duly-elected official. MOTION TO INCLUDE THE NECESSARY LEVEL OF CERTITUDE TO THE REASONABLE DOUBT INSTRUCTION TO PREVENT UNDERMINING DEFT'S DUE PROCESS AND SIXTH AMENDMENT RIGHT TO A JURY DECISION BASED UPON SUFFICIENT EVIDENCE OF EVIDENTIARY CERTAINTY... COURT ORDERED, the reasonable doubt instruction that the defense wants is DENIED as there is a statutory definition of reasonable doubt and that is what the Court will use. Court adjourned at 12:13 p.m.

BOND/H.A.

1-2-02 10:00 AM STATE'S MOTION TO STRIKE EXPERT WITNESS LIST AND PROSCRIBE DEFT. FROM CALLING THOSE EXPERTS...DEFT'S MOTION TO EXCLUDE EVIDENCE AND DISMISS CHARGES AGAINST DEFT.

01/02/02 01:30 PM 00 ALL PENDING MOTIONS 1-2-02

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Renee Silvaggio, Reporter/Recorder

PARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.
000556 Kohn, Philip J.

Y
Y
Y
Y
Y

STATE'S MOTION TO STRIKE EXPERT WITNESS LIST AND PROSCRIBE DEFT. FROM CALLING THOSE EXPERTS...DEFT'S MOTION TO EXCLUDE EVIDENCE AND DISMISS CHARGES AGAINST DEFT.

1:30 P.M.--Court advised this matter is on to see where they are at as the Supreme Court has issued a stay of all proceedings and this Court does not believe he has jurisdiction to rule on any motions at this time. State concurred. Court advised the parties may be able to do a stipulation to proceed with other matters and submit it to the Supreme Court. State advised she believes the State would prefer to wait. COURT ORDERED, matter STAYED, however, ministerial matters may go forward. Court advised he is considering setting a tentative date, possibly April 15. Ms. Navarro stated she believes the State and herself both have a problem with that date as she is starting a trial on April 29. State advised she has a murder trial starting on April 22 and would prefer a date after early May. Court inquired if counsel would prefer to set a tentative trial date after May. State advised she would prefer May as she will be on maternity leave in

INT DATE: 04/29/04

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MINUTES DATE: 01/02/02

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vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 025

March. Court advised he has a trial coming down from up North that will take about a month and may be using this courtroom and advised he will be gone to the Bar convention in June. Colloquy. Court advised he will set a tentative date of June 17, but will not put it in the computer yet because of the stay. Colloquy regarding a status check. COURT ORDERED, matter set for status check on February 14.

BOND/H.A.

2-14-02 9:00 AM STATUS CHECK: SUPREME COURT PROCEEDINGS...SET TIME CERTAIN:
PRE-TRIAL MOTIONS

02/14/02 09:00 AM 00 ALL PENDING MOTIONS 2-14-02

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Dina Dalton, Reporter/Recorder

PARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

Y
Y

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.

Y
Y
Y

STATUS CHECK: SUPREME COURT PROCEEDINGS...SET TIME CERTAIN: PRE-TRIAL
MOTIONS

Counsel advised they have not heard anything from the Supreme Court. Court advised there is a tentative trial date in June. Colloquy. COURT ORDERED, matter CONTINUED 60 days.

BOND/H.A.

CONTINUED TO: 4-18-02 9:00 AM

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 026

04/18/02 09:00 AM 00 ALL PENDING MOTIONS 4-18-02

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Renee Silvaggio, Reporter/RecorderPARTIES: STATE OF NEVADA
005043 Laurent, Christopher J.Y
Y0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.Y
Y
YSTATUS CHECK: SUPREME COURT PROCEEDINGS...SET TIME CERTAIN: PRE-TRIAL
MOTIONS

Court advised he received a copy of the order from the Supreme Court indicating they have set this matter for oral argument at the end of June. Court suggested a status check in late July or early August. Counsel concurred. COURT ORDERED, matter CONTINUED to August 1. Court advised, once the Supreme Court rules, he intends to set the trial quickly so Mr. Bloom needs to remain flexible. Ms. Navarro advised the only problem she foresees is they have out-of-state witnesses. Court acknowledged.

BOND/H.A.

CONTINUED TO: 8-1-02 9:00 AM

08/01/02 09:00 AM 00 ALL PENDING MOTIONS 8-1-02

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Diann Prock, Reporter/RecorderPARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.Y
Y0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.Y
Y
Y

Court stated he understands the Supreme Court has not ruled so this matter is still in limbo, however, they need to discuss a trial date as this Court's time is getting limited. Court advised he has September 30 in mind. Ms. Navarro advised she has a number to reach Mr. Bloom today and he wanted her to remind the Court that they have out-of-state witnesses and need a little extra time. Court advised his schedule is pretty full for the rest

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 027

of the year and he may have to transfer this case to another Court. Court at ease for Ms. Navarro to call Mr. Bloom. Ms. Navarro advised Mr. Bloom indicates the certification process in California cannot start until there is a trial date and to go ahead and set the September date. State advised she does not think they should set the date as, if the Supreme Court rules in the State's favor, they would be entitled to an independent psychological exam which would take time. Colloquy regarding the certification process in California. Ms. Navarro advised there is also an individual in another state. Court advised the clock is going to run out on him being able to do this case. Ms. Navarro advised the defense is okay with the September 30 date. State advised she has another trial set for September 30 and stated she foresees a problem with setting a trial date as things will go forward as if there was no stay. Colloquy regarding the trial date. Upon Court's inquiry, State advised she will stipulate only to setting the trial date so the subpoena process can begin. COURT ORDERED, matter set for trial ONLY for the issuing of subpoenas subject to the approval of the Nevada Supreme Court and further subject to any substantive decision made by the Nevada Supreme Court. Ms. Navarro to prepare the stipulation.

BOND/H.A.

10-4-02 9:00 AM CALENDAR CALL

10-7-02 1:30 PM JURY TRIAL

09/05/02 09:00 AM 00 STATE'S REQUEST FOR STATUS CHECK ON
TRIAL DATE /60

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Julie Lever, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Court stated it is his understanding there has been no ruling from the Supreme Court. Counsel concurred. Court advised the trial is set in October and he understands counsel have agreed to move the trial date to mid-November. Counsel concurred. Court stated he understands the parties stipulate he may set the trial subject to the Supreme Court's stay order. Counsel concurred. COURT ORDERED, trial date VACATED AND RESET to November 18. Ms. Navarro advised she does have another case set for trial on November 18 that is a double homicide and she does not know what is going to happen with that case. State suggested a status check. Colloquy. COURT

CONTINUED ON PAGE: 029

INT DATE: 04/29/04

PAGE: 028

MINUTES DATE: 09/05/02

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 028

ORDERED, matter set for status check regarding the Supreme Court appeal.

BOND/H.A.

10-10-02 9:00 AM STATUS CHECK: SUPREME COURT APPEAL

11-14-02 9:00 AM CALENDAR CALL

11-18-02 1:30 PM JURY TRIAL

10/10/02 09:00 AM 00 STATUS CHECK: SUPREME COURT APPEAL

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Tina Hurd, Court Clerk
Renee Silvaggio, Reporter/Recorder

PARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

Y
Y

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.

Y
Y
Y

Court advised he has heard nothing from the Supreme Court. Counsel concurred. Court advised he inquired of the staff at the Supreme Court and they suggested the parties do a motion requesting a decision and include the November trial date. State advised her concerns are it is time for her to start subpoenaing witnesses and she does not want to go through all that work if they still do not have a decision. Court advised, if the November trial date is vacated, he will not be able to hear the trial. Ms. Navarro advised she would like to do the suggested motion and see if they get a response. Colloquy. COURT ORDERED, matter CONTINUED one week for status check regarding the trial date.

BOND/H.A.

10-21-02 9:00 AM STATUS CHECK: TRIAL DATE

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 029

10/21/02 09:00 AM 00 STATUS CHECK: TRIAL DATE

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Cindy Lory/CNL, Relief Clerk
Renee Silvaggio, Reporter/RecorderPARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

Y

Y

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.

Y

Y

Y

Colloquy between the Court and counsel regarding selection of judge. Ms. Goettsch stated she will be filing a motion to the Supreme Court for a decision. COURT ORDERED, matter CONTINUED for Status Check. Court directed counsel to set matter back on calendar when they find a judge to hear the trial. FURTHER, trial date VACATED.

BOND/H.A.

11-04-02 9:00 AM STATUS CHECK

11/04/02 09:00 AM 00 TRIAL SETTING /65

HEARD BY: Mark Gibbons, Chief Judge

OFFICERS: Carole D'Aloia, Court Clerk
Renee Silvaggio, Reporter/RecorderPARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

Y

Y

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.

Y

Y

Y

Upon Court's inquiry, counsel advised they have not been able to agree upon Judge and Ms. Goettsch requested matter be randomly reassigned. Statements by Ms. Navarro regarding the e-mails received from both Ms. Goettsch and Mr. Laurent regarding selection of a Judge to hear this matter and Ms. Navarro requested the e-mail marked as Court Exhibits. Ms. Goettsch stated her objections. FOLLOWING CONFERENCE AT THE BENCH, COURT ORDERED, Ms. Navarro's request DENIED and matter sent to MASTER CALENDAR FOR RANDOM REASSIGNMENT with today's STATUS CHECK date CONTINUED for TWO WEEKS. Court further instructed Clerk to notify counsel of the new date and Department. Regarding the e-mails, Court instructed Ms. Navarro to prepare an Affidavit with the appropriate information contained therein.

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 030

BOND/H.A.

CONTINUED TO: 11/18/02 09:00 AM 01

11/20/02 09:00 AM 02 TRIAL SETTING /65

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Carole D'Aloia/CD, Relief Clerk
Joe D'Amato, Reporter/Recorder

PARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

Y
Y

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.
004435 Albregts, Daniel J.

Y
Y
Y
Y

Mr. Allen Bloom Pro Hoc Vice, lead counsel from San Diego, California, also present. Court inquired if this case were a capital matter and counsel advised it is not. Ms. Navarro advised Mr. Albregts was originally retained by the Defendant and the Special Public Defender was appointed co-counsel at that time and will now remain co-counsel and local counsel since Defendant has now retained Mr. Bloom. Mr. Albregts advised a complicated issue arose and that is whether or not he will be called as a witness. Mr. Albregts further advised he will remain on the case, in the background, to provide support to defense counsel. Mr. Bloom requested matter be set for trial and advised he already discussed dates with Court's Clerk, who suggested a dual trial setting since the first date given this matter would be #2 on the stack. COURT ORDERED, matter set for JURY TRIAL (dual setting) and STATUS CHECK.

BOND/H.A.

5/5/03 9:00 AM STATUS CHECK: TRIAL READINESS

7/1/03 9:00 AM CALENDAR CALL (#2 ON STACK)

7/7/03 1:30 PM JURY TRIAL (#2 ON STACK)

11/25/03 9:00 AM CALENDAR CALL (#1 ON STACK)

12/1/03 1:30 PM JURY TRIAL (#1 ON STACK)

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 031

01/09/03 02:16 PM 00 MINUTE ORDER RE: POTENTIAL EVIDENCE

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Connie Kalski, Relief Clerk

PARTIES: NO PARTIES PRESENT

MINUTE ORDER CONCERNING POSSIBLE EVIDENCE...

At 2:16 PM, today's date, this Clerk was notified by chambers to type the minute order reflected below. This minute order was dictated over the telephone from the department secretary and is to be placed into the case as soon as possible.

Judge Donald Mosley conducted a conference call with the following parties:

- 1) Ms. Becky Goettsch, Deputy District Attorney, Criminal Division;
- 2) Ms. Gloria Navarro, Special Public Defender, Criminal Division;
- 3) Mr. Bloom, out of state counsel involved with the case.

The following is a summary of the conversation and the Court's Order:

A conference call occurred at approximately 2:10 PM, this date, involving the above-noted parties. It has been agreed that the Court will assume custody of an envelope alleged to contain a floppy disk with possible evidentiary value to this case. This Court will maintain the item in a safe place with the status of the contents to be decided at a later time.

Above-noted counsel is to work together to arrange this matter be placed on the Court's calendar at counsel's convenience.

Mr. John Moran is to deliver the subject envelope to the Court as early as possible./ck

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 032

01/16/03 09:00 AM 00 STATUS CHECK ON EVIDENCE-AGREED REQUEST

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/RecorderPARTIES: STATE OF NEVADA
005043 Laurent, Christopher J.Y
Y

0001 D1 Centofanti III, Alfred P

Y

Mr. Allen Bloom, lead counsel from San Diego, California present. Court noted this matter was discussed in chambers and stated this Court has taken into evidence an envelope containing a disk. Counsel concurred. Mr. Laurent stated the disk will be checked for fingerprints and then sent to an expert. COURT ORDERED, matter RESOLVED.

BOND/H.A.

05/05/03 09:00 AM 00 STATUS CHECK: READINESS

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.Y
Y0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.Y
Y
Y

Mr. Bloom, counsel from San Diego present. Ms. Goettsch advised this matter is no longer stayed as a decision has come down from the Supreme Court and she will be ready for trial in July. Mr. Bloom advised he will not be ready; that they are second on the July stack and because of the out of state witnesses and experts, he has scheduled another trial with multiple attorneys in July and requested to utilize the December date when he will be ready. Objections by Ms. Goettsch. Following arguments by counsel, COURT ORDERED, trial date of 7/7/03 is VACATED and date of 12/1/03 for trial will be maintained and this Court expects to go forward. Mr. Bloom advised that an expert has been found to review the disk. Court so noted. Further, Mr. Bloom advised the State has filed motions to be heard on 5/12/03 and he would request they be moved to 5/27/03. There being no objection, COURT SO ORDERED.

BOND/H.A.

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 033

5/27/03 9:00 AM STATE'S MOTION TO PLACE ON CALENDAR, RELEASE AND
EXAMINATION OF EVIDENCE...STATE'S MOTION FOR EVIDENTIARY HEARING RE:
ATTORNEY/CLIENT PRIVILEGE 5/27/03 9:00 AM

05/27/03 09:00 AM 00 ALL PENDING MOTIONS 5/27/03

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner/ls, Court Clerk
Melissa Davis, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.

Y
Y

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005103 Richards, Daren B.

Y
Y
Y

STATE'S MOTION TO PLACE ON CALENDAR FOR RELEASE AND EXAMINATION OF
EVIDENCE...STATE'S MOTION FOR EVIDENTIARY HEARING REGARDING ATTORNEY-CLIENT
PRIVILEGE

Alan Bloom, lead counsel from San Diego, present.

As to State's Motion for Release and Examination of Evidence: Ms. Goettsch
advised they are very close to having this resolved. COURT SO ORDERED.

As to State's Motion for Evidentiary Hearing: Mr. Bloom agrees there should
be a hearing. Ms. Goettsch advised there are 2 other attorneys involved.
Upon review of schedules, COURT ORDERED, matter set for hearing.

BOND/H.A.

7/18/03 9:00 AM EVIDENTIARY HEARING

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA vs Centofanti III, Alfred P
CONTINUED FROM PAGE: 034

08/13/03 09:00 AM 00 STATUS CHECK: EVIDENTIARY HEARING

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005043	Laurent, Christopher J.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005103	Richards, Daren B.	Y

Alan Bloom, lead counsel from San Diego, present. Court noted Mr. Laurent, Mr. Bloom, Mr. Moran and Mr. Richards were in chambers prior to calendar. Pursuant to discussion in chambers, COURT ORDERED, trial set for 12/1/03 is VACATED and RESET, Evidentiary Hearing set in January and blind briefs to be supplied by counsel.

BOND/H.A.

1/9/04 9:00 AM EVIDENTIARY HEARING

3/9/04 9:00 AM CALENDAR CALL (#1 ON STACK)

3/15/04 1:30 PM JURY TRIAL (#1 ON STACK)

01/23/04 09:00 AM 02 EVIDENTIARY HEARING

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: April Watkins, Relief Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
007595	Bawa, Ravindar N.	Y
0001 D1	Centofanti III, Alfred P	N
SPD	Special Public Defender	Y
000556	Kohn, Philip J.	Y

COURT ORDERED, matter CONTINUED at request of interested parties.

BOND/H.A.

NTINUED TO: 02/20/04 09:00 AM 03

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 035

02/20/04 09:00 AM 00 AT THE REQUEST OF THE COURT

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006088	Peterson, Clark A.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, defense counsel from California also present. Mr. John Moran Jr. and Mr. Brandon present with Eva Cisneros and Janeen Isaacson.

Colloquy between Court and counsel regarding original floppy disc and copies. Mr. Bloom to review within 10 days regarding attorney/client privilege. If there appears to be none, then they can be turned over to Metropolitan Police Department. Additionally, Mr. Bloom requested original not be opened to maintain authenticity.

COURT ORDERED, Transcript of the testimony of Ms. Cisneros and Ms. Isaacson SEALED and COURTROOM CLEARED but for necessary staff, Mr. Moran, Mr. Brandon and Defense counsel. Testimony by Ms. Cisneros and Ms. Isaacson.

ALL PARTIES PRESENT: Arguments by counsel. Court FINDS that Ms. Cisneros was merely a conduit and that Defendant aired concerns. Further, no legal advise was given and therefore, nothing to protect. However as to Ms. Isaacson, Court FINDS that she was involved and the attorney/client privilege WILL BE PROTECTED. Mr. Moran requested that the State not have investigators contact Ms. Isaacson or Ms. Cisneros prior to trial as they are not interested in speaking with investigators. Court sees no reason for them to be contacted, however it is not a blanket order absent some abuse. Mr. Peterson requested Ms. Cisneros testimony be unsealed and COURT SO ORDERED. Colloquy between counsel regarding expert witnesses and the lack of reports. Mr. Bloom advised that papers filed will have reports and CV's attached. Court directed parties to work together to have matter prepared for trial. FURTHER, all motions to be filed by 2/27/04 and if filed, will be heard one week thereafter.

BOND

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA vs Centofanti III, Alfred P
CONTINUED FROM PAGE: 036

03/05/04 09:00 AM 00 AT REQUEST OF COURT: PRETRIAL ISSUES

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES: STATE OF NEVADA

Y

Allen Bloom, California counsel present. Court noted this is an ex-parte matter on the record. Colloquy regarding the certification of out of state expert witnesses. Upon Court's inquiry, Mr. Bloom advised there are possibly 24 expert witnesses. Additionally witnesses Kruger and Tibbetts (phonetic) will testify as to victims rage and violence which goes to character and the Defendant's belief of fear and self defense. Mark Wright, who was the neighbor of the victim and Defendant can testify as to the events that took place on December 5th. Mr. Wright is willing to testify, however needs a subpoena for work purposes and COURT SO ORDERED. Court advised Mr. Bloom that duplicative testimony will not be allowed and a hearing prior to trial will be necessary regarding victim's gang involvement and drug usage. Mr. Bloom advised he will work on having this matter heard and witnesses present in the San Diego court to have the subpoena's issued in time for this trial. COURT ORDERED, matter SET to resolve outstanding witness issues.

BOND

3/12/04 9AM PRETRIAL MOTIONS

03/09/04 09:00 AM 00 CALENDAR CALL (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/Recorder

PARTIES: STATE OF NEVADA

006316 Goettsch, Becky S.
006088 Peterson, Clark A.

Y

Y

Y

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.

Y

Y

Y

Court noted Ms. Navarro appeared prior to calendar and advised she is ready for trial. Ms. Goettsch advised she is ready as well with 35 witnesses, 5 out of State and lasting 2-3 weeks. Court advised there is a hearing on Friday as to witnesses and that is when any additional pre-trial motions should be addressed. COURT ORDERED, jury selection would begin at 1:30 on

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 037

3/15/04 in this Dept.

BOND/H.A.

03/12/04 09:00 AM 00 ALL PENDING MOTIONS 3/12/04

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006088 Peterson, Clark A.	Y
	006316 Goettsch, Becky S.	Y
	0001 D1 Centofanti III, Alfred P	Y
	SPD Special Public Defender	Y
	002255 Jackson, Alzora B.	Y

STATUS CHECK: WITNESSES...STATE'S MOTION IN LIMINE TO PRECLUDE EVIDENCE REGARDING THE VICTIM'S ALLEGED PRIOR DRUG USE AND ALLEGED PRIOR VIOLENCE UNLESS AND UNTIL DEFENDANT TESTIFIES HE WAS AWARE OF SUCH VIOLENCE...STATE'S MOTION IN LIMINE TO ADMIT EVIDENCE REGARDING THE VICTIM'S STATE OF MIND

Mr. Allen R. Bloom, counsel from California, present.

Mr. Peterson stated there is recent case law that says Defendant can claim there was no offer and that is why he had to go to trial. For the record, the offer is Defendant plead to First Degree Murder and stipulate to a sentence of Life with parole after 20, plus an equal and consecutive Life with parole after 20. Mr. Bloom stated they have rejected this offer and made a counter offer which the State has refused.

Mr. Peterson requested Defendant authorize Mr. Bloom to admit that he was the shooter; that they are using a self defense theory and that is one of the elements. Following discussion with counsel, Defendant so authorized.

State requested that the father and mother of Defendant be considered as adverse witnesses and if a problem arises, will approach the Bench and review it at that time. Court so noted.

State has submitted Proposed Voir Dire questions; the Court will incorporate some of them and will also address the issue of graphic pictures to the Jury.

Mr. Bloom advised Dr. Lipson has examined Defendant, however, will not be testifying as to him, but in general. Mr. Peterson concurred and stated unless the door is opened, he will not pursue anything further.

CONTINUED ON PAGE: 039

INT DATE: 04/29/04

PAGE: 038

MINUTES DATE: 03/12/04

038

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 038

AS TO MOTION IN LIMINE TO PRECLUDE: Mr. Peterson stated he would like to withdraw the later part of the motion. Following arguments and statements about the victim's past, Mr. Peterson requested to WITHDRAW the motion entirely as he wants to hear how Defendant will explain how he was afraid of the victim. Following further colloquy, Mr. Bloom advised he has 6 witnesses that will attest to the violence issues.

AS TO MOTION IN LIMINE TO ADMIT: Mr. Peterson advised there are several statements made by victim that are now admissible because the defendant has made the victim unavailable. Following arguments, Mr. Bloom requested a list of the statements to be used and COURT SO ORDERED.

Mr. Bloom stated Mr. Peterson spoke to the witnesses and he would like his notes or any statements made that are Brady material. Mr. Peterson stated the notes are his own personal ones when interviewing witnesses and there were no surprise statements made; if he uncovered Brady material, he would have given it to Mr. Bloom.

BOND/H.A.

03/15/04 01:30 PM 00 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006088	Peterson, Clark A.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from California present. 1:55 PM Roll call taken of prospective jury panel, three prospective jurors not present. Court noted one of the potential jurors had to be taken to the hospital, however COURT ORDERED, WARRANTS ISSUED on the other two potential jurors that failed to appear. 2:08 p.m. Clerk administered Voir Dire Oath. Counsel conducted jury selection. 5 p.m. COURT ADMONISHED potential jurors and ORDERED, matter CONTINUED.

BOND

CONTINUED TO: 03/16/04 09:00 AM 01

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA vs Centofanti III, Alfred P
CONTINUED FROM PAGE: 039

03/16/04 09:00 AM 01 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006088 Peterson, Clark A.	Y
	006316 Goettsch, Becky S.	Y
	0001 D1 Centofanti III, Alfred P	Y
	SPD Special Public Defender	Y
	005434 Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from California present. Clerk called roll of prospective jurors taken, potential jurors #287, 329 and 330 not present when roll was taken, however #287 and 330 appeared late. Counsel continued jury selection. 4:55 p.m. Jury selected and sworn. Five names drawn for the purpose of alternates and ORDERED to return tomorrow. Matter CONTINUED.

BOND

CONTINUED TO: 03/17/04 09:00 AM 02

03/22/04 01:30 PM 03 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006316 Goettsch, Becky S.	Y
	006088 Peterson, Clark A.	Y
	0001 D1 Centofanti III, Alfred P	Y
	SPD Special Public Defender	Y
	005434 Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego present.

1:33 PM JURY PRESENT: Roll call taken. Testimony and exhibits presented, see worksheets. 5:00 PM EVENING RECESS.

CONTINUED TO: 03/23/04 01:30 PM 04

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 039

03/23/04 01:30 PM 04 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006316 Goettsch, Becky S.	Y
	006088 Peterson, Clark A.	Y
	0001 D1 Centofanti III, Alfred P	Y
	SPD Special Public Defender	Y
	005434 Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego present. 1:37 PM JURY PRESENT: Roll call taken. Testimony and exhibits presented, see worksheets. 2:49 PM OUTSIDE PRESENCE OF JURY: Mr. Bloom advised a witness, Mr. Wright observed another witness, Trisha Miller speaking to the sister of the victim and learned details of the victim's background. Ms. Miller told Mr. Wright that she was the "best friend" when in reality she did not really know that much about her past. Further Ms. Miller was seen speaking to a juror from Dept. 15 and was told to act a certain way for the Jury; then she burst into tears on the stand and he feels it was an act. He feels she could be impeached. Arguments by Mr. Peterson. Court noted that it did not feel Ms. Miller was "acting" on the stand, that after a few hours of being on the stand, she did start crying, however, regained her composure and did not drag it out. The Court feels there is no consequence of the juror talking to Ms. Miller and she was explaining her role to Mr. Wright, that of being the friend. 3:24 PM JURY PRESENT: All present as before. Testimony continues and exhibits presented, see worksheets. 4:57 PM EVENING RECESS.

CONTINUED TO: 03/24/04 01:30 PM 05

CRIMINAL COURT MINUTES

01-C-172534-C

STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 040

03/24/04 01:30 PM 05 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006316 Goettsch, Becky S.	Y
	006088 Peterson, Clark A.	Y
	0001 D1 Centofanti III, Alfred P	Y
	SPD Special Public Defender	Y
	005434 Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego present. 1:34 PM OUTSIDE
PRESENCE OF JURY: Arguments by counsel regarding issues of conduct as to
12/20. 1:35 PM JURY PRESENT: Roll call taken. Testimony and exhibits
presented, see worksheets. 4:00 PM EVENING RECESS.

CONTINUED TO: 03/25/04 01:30 PM 06

03/25/04 01:30 PM 06 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006316 Goettsch, Becky S.	Y
	006088 Peterson, Clark A.	Y
	0001 D1 Centofanti III, Alfred P	Y
	SPD Special Public Defender	Y
	005434 Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego present. 1:38 PM OUTSIDE
PRESENCE OF JURY: Ms. Goettsch requested Mark Smith testify, however, due
to confidentiality, would need this Court to Order him to. Upon review of
Mr. Smith, COURT ORDERED, HE TESTIFY. 1:45 PM JURY PRESENT: Roll call
taken. Testimony and exhibits presented, see worksheets. 5:00 PM EVENING
RECESS.

CONTINUED TO: 03/26/04 01:30 PM 07

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 042

03/26/04 01:30 PM 07 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/RecorderPARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.
006088 Peterson, Clark A.Y
Y
Y0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.Y
Y
Y

Mr. Allen R. Bloom, counsel from San Diego present. 1:36 PM JURY PRESENT:
Roll call taken. Testimony and exhibits presented, see worksheets. 5:00 PM
EVENING RECESS.

CONTINUED TO: 03/29/04 01:30 PM 08

03/29/04 01:30 PM 08 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.
006088 Peterson, Clark A.Y
Y
Y0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.Y
Y
Y

Mr. Allen R. Bloom, counsel from California present. 1:35 PM OUTSIDE
PRESENCE OF JURY. Colloquy between Court and counsel regarding photos taken
at the crime scene as well as the autopsy photos. Mr. Bloom believes there
is relevant evidence, but the photos are cumulative and the probative value
does not outweigh the prejudice. Mr. Bloom argued that the 8 photos of the
victims head could be reduced to one photo. Response by the State. Court
does not feel that the photos are duplicative and ruling on admission will
be reserved. Further colloquy regarding keys and who they were given to.
Mr. Bloom argued that the victim's entrance into the Defendant's home was
improper and the jury will need to take into consideration the victim was
not invited on the day of the incident. Court noted victim was expected due
to the fact that she was to pick up the infant. Court advised counsel that
the key issue can be resolved during questioning. 1:57 PM Jury present;

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 043

roll call taken. Testimony and exhibits continued, see worksheets. 5:01 PM
EVENING RECESS.

BOND

CONTINUED TO: 03/30/04 01:30 AM 09

03/30/04 01:30 AM 09 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006088	Peterson, Clark A.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego, California also present. 1:38
p.m. JURY PRESENT: Roll call taken. Testimony and exhibits presented, see
worksheets. 4:59 PM EVENING RECESS, Court ADMONISHED JURORS.

CONTINUED TO: 03/31/04 01:30 PM 10

03/31/04 01:30 PM 10 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006088	Peterson, Clark A.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from California present. 1:30 PM JURY PRESENT.
Roll call taken. Testimony and exhibits continued per worksheets. 3:32
p.m. OUTSIDE PRESENCE OF JURY. Mr. Bloom requested the side bar from
yesterday be placed on the record. The first issue regarding Defendant
being terminated from his employment with Traveler's Insurance and owning a

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 042

04/01/04 01:30 PM 11 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006088 Peterson, Clark A.	Y
	006316 Goettsch, Becky S.	Y
	0001 D1 Centofanti III, Alfred P	Y
	SPD Special Public Defender	Y
	005434 Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego, California also present. 1:30 p.m. JURY PRESENT: Roll call taken. Testimony and exhibits presented, see worksheets. 5:00 PM EVENING RECESS, Court ADMONISHED JURORS.

CONTINUED TO: 04/02/04 01:30 PM 12

04/02/04 01:30 PM 12 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	006088 Peterson, Clark A.	Y
	006316 Goettsch, Becky S.	Y
	0001 D1 Centofanti III, Alfred P	Y
	SPD Special Public Defender	Y
	007076 Maningo, Ivette A.	Y

Mr. Allen R. Bloom, counsel from San Diego, California also present. 1:41 p.m. JURY PRESENT: Roll call taken. Testimony and exhibits presented, see worksheets. 4:18 PM EVENING RECESS, Court ADMONISHED JURORS.

CONTINUED TO: 04/05/04 09:00 AM 13

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA vs Centofanti III, Alfred P
CONTINUED FROM PAGE: 043

04/05/04 01:30 PM 13 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
006088	Peterson, Clark A.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego present. 1:47 PM JURY PRESENT:
Roll call taken. Testimony and exhibits continued, see worksheets. 4:03 PM
OUTSIDE PRESENCE OF JURY: Objection by Mr. Bloom that victim made a
statement to Police that the Defendant did not even know how to use his own
gun. Arguments by Mr. Peterson. Court noted it could be under the excited
utterance exception. Discussion regarding bags that were admitted, however
not opened. Mr. Bloom is stipulating that they go back to the Jury Room,
unopened and the Jury can open them if they wish. ABSENT A REQUEST OF THE
COURT, THE BAGS WILL NOT BE OPENED. Jury instruction submitted last week
was discussed and decided as to when it will be read. 4:12 PM JURY
PRESENT: All present as before. Testimony and exhibits continued, see
worksheets. 5:00 PM EVENING RECESS.

CONTINUED TO: 04/06/04 01:30 PM 14

04/06/04 01:30 PM 14 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
006088	Peterson, Clark A.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego present. 1:37 PM JURY PRESENT:
Stipulations as to evidence stated on the record. Testimony and exhibits
continued, see worksheets. 4:31 PM STATE RESETS. 5:55 PM EVENING RECESS.

CONTINUED TO: 04/07/04 01:30 PM 15

CONTINUED ON PAGE: 045

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA vs Centofanti III, Alfred P
CONTINUED FROM PAGE: 044

04/07/04 01:30 PM 15 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
006088	Peterson, Clark A.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego present. 1:41 PM JURY PRESENT:
Roll call taken. Testimony and exhibits continued, see worksheets. 5:02 PM
EVENING RECESS.

CONTINUED TO: 04/08/04 01:30 PM 16

04/08/04 01:30 PM 16 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
006088	Peterson, Clark A.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

1:34 PM JURY PRESENT: Roll call taken. Testimony and exhibits continued,
see worksheets. 2:13 PM OUTSIDE PRESENCE OF JURY: Defendant admonished of
his rights to testify. 2:16 PM JURY PRESENT: All present as before. 4:58
PM EVENING RECESS.

CONTINUED TO: 04/09/04 01:30 PM 17

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 045

04/09/04 01:30 PM 17 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
006088	Peterson, Clark A.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from San Diego present. 1:37 PM JURY PRESENT.
Roll call taken. Testimony and exhibits continued, see worksheets. 5:01 PM
EVENING RECESS.

CONTINUED TO: 04/12/04 01:30 PM 18

04/12/04 01:30 PM 18 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
006088	Peterson, Clark A.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

1:40 PM JURY PRESENT: Roll call taken. Testimony and exhibits continue,
see worksheets. 5:05 PM EVENING RECESS.

CONTINUED TO: 04/13/04 01:30 PM 19

CRIMINAL COURT MINUTES

01-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 048

04/12/04 01:30 PM 18 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.
006088 Peterson, Clark A.

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.

Y
Y
Y
Y
Y
Y1:40 PM JURY PRESENT: Roll call taken. Testimony and exhibits continue,
see worksheets. 5:05 PM EVENING RECESS.

CONTINUED TO: 04/13/04 01:30 PM 19

04/13/04 01:30 PM 19 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Joe D'Amato, Reporter/Recorder

PARTIES: STATE OF NEVADA
006316 Goettsch, Becky S.
006088 Peterson, Clark A.

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.

Y
Y
Y
Y
Y
Y

Mr. Allen R. Bloom, counsel from California present. 1:38 PM JURY PRESENT.
Roll call taken. Testimony and exhibits continued, see worksheets. 3:30
p.m. OUTSIDE PRESENCE OF JURY. Colloquy between Court and counsel regarding
witness(es). State believes witnesses mentioned are cumulative. COURT
ORDERED, State not to use the van hitting incident as an accident; parties
stipulate that the victim was the driver of the vehicle. FURTHER, and
witness Lopez is DISALLOWED. JURY PRESENT, continued testimony. 4:41 p.m.
Mr. Bloom advised he needs to check on 2 possible witnesses for tomorrow,
however due to scheduling they may not be present. If witnesses are
unavailable, the Defense will rest. Court ADMONISHED Jury and matter
CONTINUED.

BOND

CONTINUED TO: 04/14/04 01:30 PM 20

CRIMINAL COURT MINUTES

01-C-172534-C

STATE OF NEVADA

vs. Centofanti III, Alfred P

CONTINUED FROM PAGE: 049

04/14/04 01:30 PM 20 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006088	Peterson, Clark A.	Y
006316	Goettsch, Becky S.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

Mr. Allen R. Bloom, counsel from California also present. 1:37 PM JURY PRESENT. Roll call taken. Testimony and exhibits continued per worksheets. 1:40 p.m. Defense RESTED. State's rebuttal witnesses per worksheet. 2:51 p.m. State RESTED. JURY NOT PRESENT: Jury Instructions settled. 3:51 p.m. All parties present. Court read Jury Instructions. 4:16 PM EVENING RECESS; Jury ADMONISHED.

CONTINUED TO: 04/15/04 01:30 PM 21

04/16/04 09:00 AM 22 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006316	Goettsch, Becky S.	Y
006088	Peterson, Clark A.	Y
0001 D1	Centofanti III, Alfred P	Y
SPD	Special Public Defender	Y
005434	Navarro, Gloria M.	Y

9:00 a.m. Jury returned and began deliberations. Mr. Allen R. Bloom, counsel from California present. 4:27 PM JURY PRESENT. Roll call taken. Jury returned with a verdict. JURY FOUND DEFENDANT GUILTY OF FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). At request of Mr. Bloom, Jury polled. CONFERENCE AT THE BENCH. Defendant having been found guilty of First Degree Murder with Use of a Deadly Weapon, COURT ORDERED, matter set for Penalty Hearing to begin on Tuesday. COURT ADMONISHED JURORS. OUTSIDE PRESENCE OF JURY: Ms. Goettsch requested Defendant be remanded to custody. Objection by Mr. Bloom, stating Defendant has not violated his House Arrest. Defendant now having been found guilty, COURT ORDERED, Defendant REMANDED TO

CRIMINAL COURT MINUTES

1-C-172534-C STATE OF NEVADA

vs Centofanti III, Alfred P

CONTINUED FROM PAGE: 046

04/16/04 09:00 AM 22 TRIAL BY JURY (#1 ON STACK)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Melissa Swinn, Relief Clerk
Maureen Schorn, Reporter/Recorder

PARTIES:

STATE OF NEVADA
006316 Goettsch, Becky S.
006088 Peterson, Clark A.

0001 D1 Centofanti III, Alfred P
SPD Special Public Defender
005434 Navarro, Gloria M.Y
Y
Y

Y
Y
Y

9:00 a.m. Jury returned and began deliberations. Mr. Allen R. Bloom, counsel from California present. 4:27 PM JURY PRESENT. Roll call taken. Jury returned with a verdict. JURY FOUND DEFENDANT GUILTY OF FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). At request of Mr. Bloom, Jury polled. CONFERENCE AT THE BENCH. Defendant having been found guilty of First Degree Murder with Use of a Deadly Weapon, COURT ORDERED, matter set for Penalty Hearing to begin on Tuesday. COURT ADMONISHED JURORS. OUTSIDE PRESENCE OF JURY: Ms. Goettsch requested Defendant be remanded to custody. Objection by Mr. Bloom, stating Defendant has not violated his House Arrest. Defendant now having been found guilty, COURT ORDERED, Defendant REMANDED TO CUSTODY - NO BAIL SET.

BOND, if any, EXONERATED.

CUSTODY

4/20/04 1:30 PM PENALTY HEARING

District Case Inquiry - Minutes

Home	Case 01-C-172534-C	Just Ct. 00-GJ-00009	Status INACTIVE
	Case#		
Summary	Plaintiff State of Nevada	Attorney Roger, David J.	
Case Activity	Defendant Centofanti III, Alfred P	Attorney Colucci, Carmine J.	
Calendar	Judge Mosley, Donald M.	Dept. 14	
Continuance			
Minutes			
Parties	Event 04/22/2004 at 09:00 AM	STATUS CHECK: SET SENTENCING	
Def. Detail	Heard By Mosley, Donald M.		
Next Co-Def.	Officers Linda Skinner, Court Clerk		
Charges	Maureen Schorn, Reporter/Recorder		
Sentencing	Parties 0000 - State of Nevada	Yes	
Bail Bond	S1		
Judgments	District Case 006316 Goettsch, Becky S.	Yes	
	Party Search 006088 Peterson, Clark A.	Yes	
	Corp. Search 0001 - Centofanti III, Alfred P	Yes	
	Atty. Search D1		
	Bar# Search SPD	Yes	
	ID Search 005434	Yes	
	Special Public Defender		
	Navarro, Gloria M.		
Calendar Day			
Holidays			
Help	Ms. Navarro advised Mr. Bloom is in California. Mr. Peterson advised a		
Comments &	Stipulation and Order to Waive Jury Penalty Hearing has been provided for		
Feedback	signature. Court so noted and ORDERED, matter referred to the Division of		
Legal Notice	Parole and Probation for a Pre-sentence Investigation Report and set for		
	sentencing.		

CUSTODY

5/28/04 9:00 AM SENTENCING

Due to time restraints and individual case loads, the above case record may not reflect all information to date.

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District Case Inquiry - Minutes

Home	Case 01-C-172534-C	Just Ct. 00-GJ-00009	Status INACTIVE
Summary	Case#		
Case Activity	Plaintiff State of Nevada	Attorney Roger, David J.	
Calendar	Defendant Centofanti III, Alfred P	Attorney Colucci, Carmine J.	
Continuance	Judge Mosley, Donald M.	Dept.	14
Minutes			
Parties			
Def. Detail	Event 08/26/2004 at 09:00 AM	ALL PENDING MOTIONS 8/26/04	
Next Co-Def.	Heard By Mosley, Donald M.		
Charges	Officers Linda Skinner, Court Clerk		
Sentencing	Maureen Schorn, Reporter/Recorder		
Bail Bond			
Judgments	Parties 0000 -	State of Nevada	Yes
	S1		
District Case	006088	Peterson, Clark A.	Yes
Party Search	0001 -	Centofanti III, Alfred P	Yes
Corp. Search	D1		
Atty. Search	000881	Colucci, Carmine J.	Yes
Bar# Search			
ID Search			
Calendar Day	STATE'S MOTION TO COMPEL AUDIO TAPED INTERVIEW...DEFT'S MOTION FOR A NEW TRIAL		
Holidays			
Help	AS TO STATE'S MOTION: Mr. Peterson advised this issue is moot as he has received a transcript from the interview. COURT SO ORDERED.		
Comments & Feedback	AS TO DEFT'S MOTION: Following arguments by Mr. Colucci and Mr. Peterson, COURT ORDERED, Motion DENIED.		
Legal Notice	Mr. Colucci requested the sentencing date of 8/27 be continued as he would like to file a writ to the Supreme Court and possibly obtain a stay of the sentencing. COURT SO ORDERED.		
	CUSTODY		
	9/10/04 9:00 AM SENTENCING		
	Due to time restraints and individual case loads, the above case record may not reflect all information to date.		

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District Case Inquiry - Minutes

Home

Case 01-C-172534-C

Just Ct. 00-GJ-00009

Status INACTIVE

Case#

Summary

Case Activity

Calendar

Continuance

Minutes

Parties

Def. Detail

Next Co-Def.

Charges

Sentencing

Bail Bond

Judgments

District Case

Party Search

Corp. Search

Atty. Search

Bar# Search

ID Search

Plaintiff State of Nevada

Defendant Centofanti III, Alfred P

Judge Mosley, Donald M.

Attorney Roger, David J.

Attorney Colucci, Carmine J.

Dept. 14

Event 03/04/2005 at 09:00 AM

SENTENCING

Heard By Mosley, Donald M.

Officers Georgette Byrd/gb, Relief Clerk

Maureen Schorn, Reporter/Recorder

Parties 0000 -

State of Nevada

Yes

S1

006316

Goettsch, Becky S.

Yes

006088

Peterson, Clark A.

Yes

0001 -

Centofanti III, Alfred P

Yes

D1

000881

Colucci, Carmine J.

Yes

Calendar Day

Holidays

DEFT. CENTOFANTI ADJUDGED GUILTY of FIRST DEGREE MURDER WITH USE OF A DEADLY

Help

Comments &

Feedback

Legal Notice

WEAPON (F). Pursuant to statute, the \$25.00 Administrative Assessment fee is imposed. Statements of mitigation. Witnesses Robert and Lisa Isom and Keto Sanchez sworn and testified. COURT ORDERED, Deft. SENTENCED to LIFE WITHOUT THE POSSIBILITY OF PAROLE plus an equal and consecutive LIFE SENTENCE WITHOUT THE POSSIBILITY OF PAROLE for use of a deadly weapon. Mr. Colucci requested defendants three year house arrest go towards his credit for time served. Objection by the State. COURT ORDERED, request DENIED; Deft will received (374) days credit for time served.

Due to time restraints and individual case loads, the above case record may not reflect all information to date.

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