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MATTHEW WASHINGTON
Case No. 65998

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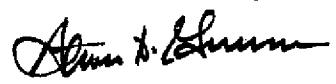
1 CASE NO. C294695-1 and C294695-2

2 DEPT. NO. 5

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

Electronically Filed
01/12/2014 08:56:48 AM

6 THE STATE OF NEVADA,)
7)
8 Plaintiff,)
9 vs.) Case No.
10 MATTHEW WASHINGTON,) 13F18022A-B
11 MARTELL MOTEN,)
12 Defendants.)


CLERK OF THE COURT

12 REPORTER'S TRANSCRIPT
13 OF
14 PRELIMINARY HEARING
15 BEFORE THE HONORABLE CYNTHIA CRUZ
16 JUSTICE OF THE PEACE
17 TAKEN ON MONDAY, December 9, 2013
18 AT 1:00 P.M.

19 APPEARANCES:

20 For the State: Danielle Pieper, Esq.
21 Chief Deputy District
22 Attorney

23 For the Defendant: David Otto, Esq.
24 Joel Mann, Esq.
Las Vegas, Nevada

25 REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

	I N D E X				
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1					
2					
3	WITNESSES:				
4					
5	ROBERT ROGERS	4	11	28	30
		17			32
6					
7	JASON McCARTHY	37	59		
			61		
8					
9	MATTHEW GILLIS	63	73	77	
10					
11	DEAN RAETZ	79	85		
12					
13	JAMES FINK	89	111	126	134
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1 LAS VEGAS, NEVADA, MONDAY, DECEMBER
2 9, 2013

3 * * * * *

4 THE COURT: Let's get back on the record on
5 Matthew Washington and Martell Moten, 13F18022A and

6 B.

7 They are both present in custody.

8 This is a continuation of the preliminary
9 hearing.

10 Get Mr. Moten and Washington moved down.

11 Ms. Pieper, call your next witness.

12 MS. PIEPER: The State calls Detective Bob
13 Rogers.

14

15 ROBERT ROGERS,

16

17 who, being first duly sworn to tell the
18 truth, the whole truth, and nothing but the
19 truth, was examined and testified as
20 follows:

21

22 THE CLERK: Please be seated.

23 Please state your name and spell it
24 for the record.

25 THE WITNESS: Detective Robert

1 Rogers, R-o-b-e-r-t R-o-g-e-r-s.

2 THE CLERK: Thank you.

3 THE COURT: You may proceed, State.

4

5 DIRECT EXAMINATION

6

7 BY MS. PIEPER:

8 Q. How are you employed?

9 A. With the Las Vegas Metropolitan Police
10 Department.

11 Q. And how long have you been with Metro?

12 A. A little over 29 years.

13 Q. And what unit are you currently in?

14 A. The homicide section.

15 Q. How long have you been with homicide?

16 A. 10 and a half years.

17 Q. I want to draw your attention to November 5,
18 2013, were you in an area where a car was parked on
19 the side of the road?

20 A. Yes.

21 Q. Do you remember what the location was?

22 A. Yes.

23 Q. What was the location?

24 A. It was Eastern and Ogden Avenues.

25 Q. Here in Las Vegas, in Clark County, Nevada?

1 A. Yes.

2 Q. How is it you got dispatched to the scene?

3 A. I was called my sergeant, Annette Darr, and
4 she requested that I respond to assist with a

5 homicide investigation.

6 Q. And when you say you were called to assist
7 in a homicide investigation, were other homicide
8 detectives working on this case as well?

9 A. Yes.

10 Q. Were you the one that was called out to the
11 scene where the car was?

12 A. That's correct.

13 Q. And other homicide detectives were called
14 out to other parts of the investigation?

15 A. Yes.

16 Q. Do you remember approximately what time you
17 arrived on scene?

18 A. Shortly after 6 in the morning, I believe.

19 Q. Once you arrive on scene, what is the first
20 thing that you do?

21 A. I spoke to the officers that had initiated
22 the car stop, and they briefed me on the
23 circumstances of why they stopped the car.

24 I knew that our crime scene personal were en
25 route, so I maintained the scene to ensure that

1 nothing was altered to the vehicle, pending their
2 arrival.

3 Q. What happened next?

4 A. Well, ID responded.

5 They photographed the Defendants.

6 A short time later, about quarter to 8 in
7 the morning, I was called by my sergeant, Sergeant
8 Darr.

9 She apprised me that a search warrant had
10 been obtained for the vehicle.

11 I notified the crime scene personnel, and
12 they initiated a search of the car.

13 Q. Okay.

14 Once you say they initiated a search of the
15 car, what do you mean by that?

16 A. They put on gloves.

17 Photographed the vehicle.

18 Prior to that, to the best of my knowledge,
19 no one entered the vehicle, although both doors on
20 the driver's side were open, and all 4 of the
21 windows were rolled down.

22 We were told that there was a handgun
23 located under the front passenger seat, so one of
24 the first things that the ID people did, I think it
25 was Mike Cromwell, was to recover the gun.

1 Unload it to make it safe.

2 Document its condition, and then
3 subsequently took possession and impounded it.

4 Q. Okay.

5 And while that's going on, you are just sort
6 of standing back, correct, and watching?

7 A. Yes. I am looking over his shoulder. I was
8 watching what he was doing.

9 I was curious how the gun was loaded myself.

10 Q. Okay.

11 Eventually was car towed taken to another
12 location?

13 A. Yes. It was sealed and put on a tow truck,
14 and driven to our Las Vegas Metropolitan Police
15 Department crime lab, where it could be processed in
16 a better environment.

17 It was cold out on the street. We are
18 blocking traffic, those kinds of conditions.

19 Q. Did you accompany the vehicle, I don't mean
20 did you sit in the car, but did you accompany the
21 vehicle back to the lab?

22 A. Yes, I did.

23 Q. Once you were back at the lab with the
24 vehicle, did you obtain some other information about
25 a second gun that was in the vehicle?

1 A. Yes, I did.

2 Q. Based on that information, what did you do
3 next?

4 A. Well, our ID people had since left to go to
5 lunch, so I was only person with the vehicle at the
6 time, waiting for a tow truck to respond.

7 By coincidence, the tow truck showed up
8 right around the same time I was apprised of the
9 second gun.

10 I put on some gloves. I looked around in
11 the area where I was told the gun may be, which was
12 the pedals on the driver's side.

13 The area in front of where the driver would
14 sit. I couldn't find anything.

15 I noticed that there was a plastic panel
16 below the steering wheel that connects to the dash
17 part.

18 I pulled that away. With a flashlight, I
19 could barely make out what appeared to be a
20 handgun.

21 At that point I had ID come back from lunch,
22 and then they recovered the gun, photographed it,
23 examined it.

24 MS. PIEPER: Your Honor, may I approach the
25 witness?

1 THE COURT: You may.

2 Q. Showing you what's been marked as State's
3 Proposed Exhibit Numbers 16, 17, 18, 19 and 20, can
4 you take a look at those and tell me if you

5 recognize them?

6 A. Yes, I do.

7 Q. Okay.

8 And do those fairly and accurately depict
9 what you described about locating the gun, where you
10 found the second gun, and then the gun itself after
11 it had been made safe?

12 A. Yes.

13 MS. PIEPER: Your Honor, the State moves for
14 the admission of 16 through 20.

15 THE COURT: Any objections for purposes of
16 preliminary hearing?

17 MR. OTTO: No objection.

18 MR. MANN: No, Your Honor.

19 THE COURT: 16 through 20 are deemed
20 admitted for purpose of preliminary hearing.

21 Q. You described earlier how you were told
22 where the guns' location was, it was near the pedal
23 area, and then did you look in that area to see if
24 you could find the gun?

25 A. I looked for easiest places first, thinking

1 maybe it was within reach, easy to find.

2 I didn't find anything. I got on my hands
3 and knees.

4 I use a flashlight. I looked underneath.

5 And then ultimately I decided to pull this
6 panel away, thinking that that could be the same
7 area that I was supposed to be looking for.

8 A. No.

9 Q. Okay.

10 Once you sort of located the gun, you called
11 ID, and ID took the pictures, which is what we
12 have.

13 Showing you State's Exhibit 16, you can see
14 the bottom panel under the steering wheel was pulled
15 away?

16 A. Yes.

17 Q. Is that what you are describing that you
18 did?

19 A. Yes. I pulled that away to be able to see
20 inside the recessed compartment.

21 Q. State's 17, is that a picture of the gun
22 underneath the odometer on the vehicle?

23 A. Yes, it below the steering column. It is
24 like a steel sub-frame to the dash area, kind of
25 sloped downward, but you could see the rear portion

1 of the handgun, yes.

2 Q. Okay.

3 Do you remember what caliber that gun is?

4 A. Yes, I do.

5 Q. What caliber is it?

6 A. A 40 caliber Glock.

7 Q. Did you physically pull the gun out, or did
8 ID actually pull the gun out?

9 A. I didn't touch it. I thought the best
10 course was to have ID come out and photograph it in
11 situ, and then they could recover it.

12 Q. State's Exhibit 16, do you remember if the
13 search warrant return was left on the seat of the
14 vehicle?

15 A. I believe so.

16 MS. PIEPER: Thank you.

17 No further questions.

18 THE COURT: Mr. Otto, cross.

19 MR. OTTO: Yes, a little bit.

20

21

CROSS-EXAMINATION

22

23 BY MR. OTTO:

24 Q. Detective Rogers, hello.

25 A. Hi.

1 Q. My name is David Otto, and I represent
2 Mr. Washington in this case.

3 A. Yes.

4 Q. Eastern and Ogden is where you came upon
5 car?

6 A. That's correct, sir.

7 Q. And how far is that, if you know, even
8 approximately, from Sherwood, and I believe is it
9 Charleston?

10 A. I think it is Sahara.

11 Q. Sherwood and Sahara?

12 A. Several Miles.

13 Q. 5, 6?

14 A. I would think in the vicinity of 2 to 4, if
15 I had to guess.

16 Q. Okay.

17 What time, if you recall -- I am sure we
18 have a copy of it here, I know I do, actually; what
19 time did the search warrant issue?

20 A. I believe it was 7:43 in the morning.

21 Q. Were you at the car when the search warrant
22 issued?

23 A. Yes.

24 Can I explain?

25 Q. Yes, please.

1 A. My sergeant, Sergeant Darr, obtained a
2 telephonic search warrant.

3 And immediately after she did so, she called
4 me to tell me we had a warrant for the vehicle.

5 Q. Could you tell us a little bit about how a
6 telephonic search warrant works?

7 A. Yes. In my case my sergeant called a judge,
8 typically a District Court Judge, provided probable
9 cause as to why we were asking for a search warrant
10 for the vehicle.

11 Should the judge determine there was enough
12 probable cause, then she allows in this case my
13 sergeant to sign a search warrant.

14 And a duplicate copy of the search warrant
15 to be left at the scene.

16 After ID started processing the vehicle, my
17 sergeant responded to the car stop and provided us
18 with a copy of the warrant, at which point a return
19 of service was completed.

20 That was left with the warrant in the
21 vehicle.

22 Q. You mentioned, I believe it is the one gun
23 under the seat that you unloaded first, I believe?

24 A. I didn't unload it. Yes, sir, that was the
25 first gun that was unloaded.

1 Q. What was in that a gun for ammunition?

2 A. It was 9 millimeter ammunition.

3 Q. And how many rounds, do you know?

4 A. I believe there was a round in the chamber,

5 and I believe there was 8 in the magazine.

6 Q. All right.

7 And you worked with guns for the last 29
8 years, true?

9 A. Yes.

10 Q. Did you handle the gun at all?

11 A. No, sir, I did not.

12 Q. But you have a certain amount of expertise
13 in firearms?

14 A. I have a good knowledge of them, yes, sir.

15 Q. When a gun is fired, gunshot residue is left
16 on the muzzle, around the muzzle from the flash
17 marks before it gets cleaned and oiled, isn't that
18 true?

19 A. Yes.

20 Q. Do you know if this gun had signs that it
21 had been fired and not cleaned?

22 A. I don't know if it was examined in that
23 regard. It is typically done later by the crime
24 scene people in a pristine environment, typically at
25 the lab.

1 Q. Had you seen the Defendants who are here
2 today, at any time?

3 A. Yes.

4 Q. When you arrived at the car?

5 A. Yes, sir.

6 Q. Did you bag their hands for gunshot residue?

7 A. No.

8 Q. Did anybody ever bag their hands for gunshot
9 residue?

10 A. I don't know if ID did or not, no, sir.

11 Q. Would it be a good idea to bag their hands
12 in a case like this?

13 A. It depends on the circumstances. I don't
14 know all of nuances of the case. I wasn't the case
15 agent.

16 Q. Is it true that when you fire a handgun
17 several rounds, you get black soot on your hands?

18 A. Yes. There will be some powder left behind.

19 Q. It is hard to get off, you have to wash it
20 with soap and water?

21 A. Yes.

22 Q. Moving on to the panel under the steering
23 column --

24 A. Yes.

25 Q. -- was it intact when you saw it?

1 A. It appeared to be, yes.

2 Q. And what did you use to disassemble it?

3 A. My fingers.

4 Q. How did you do that?

5 A. I found a weak spot on the plastic, and I
6 just pulled it, and it popped loose.

7 I think it is held in with clips, like they
8 typically are with cars.

9 Q. You searched the car before you pulled the
10 panel down; I believe you just testified to that.

11 A. Actually I just searched the foot area of
12 the driver's side.

13 Q. Like near the pedals under the seat?

14 A. Yes, the pedals, and where the console meets
15 with the dash, maybe like in that area.

16 Q. You had information as to where this gun
17 would now be found in the car, a second gun, that's
18 true, correct?

19 A. Yes, sir, it is.

20 Q. But the information you got didn't say where
21 more precisely than somewhere in the front?

22 A. It was pretty generic like that.

23 Q. A person such as yourself, a normal person
24 looking at that car even sitting at the steering
25 wheel, would not notice that there was a secret

1 compartment in that panel that would fit a gun, fair
2 statement?

3 A. Yes, in as much as the ID personnel didn't
4 find it when they searched the vehicle, correct.

5 Q. You didn't see it upon your initial
6 examination and search, as you just testified, you
7 went first to the foot area and the console, and
8 then you said where in the world is this, then you
9 worked under the dashboard?

10 A. That's correct.

11 Q. You didn't see it?

12 A. No, sir.

13 MR. OTTO: Thank you.

14 That's all for now.

15 THE WITNESS: Thanks.

16 THE COURT: Mr. Mann.

17 MR. MANN: Thank you, Your Honor.

18

19 CROSS-EXAMINATION

20

21 BY MR. MANN:

22 Q. Detective, did you prepare a report in this
23 case.

24 A No, I did not.

25 Q. Did you have the notes or anything that you

1 took in this case?

2 A. Yes, I did.

3 Q. Is that your general notepad that you take
4 notes on during any sort of investigation?

5 A. Yes.

6 Q. Okay.

7 When you arrived on scene, did you interview
8 the stopping officers?

9 A. I spoke to them, yes, sir.

10 Q. Do you remember who you spoke to?

11 A. Officer Parket. There were several other
12 officers there. It was primarily Parket.

13 Q. And Sergeant Darr was not at the stop
14 location, correct?

15 A. One point she did show up, when she had the
16 warrant to give me to leave in the vehicle, but
17 initially at the time that I was there, no, sir.

18 Q. So that would be after 7:43 that she showed
19 up?

20 A. Yes.

21 Q. So before 7:43, she was not there, correct?

22 A. I think I could help to define it better.

23 I think the vehicle was towed away at
24 8:40, so between 7:43 and 8:40 she would have been
25 there.

1 Q. Okay.

2 Do you know who relayed information to
3 Sergeant Darr regarding details for the warrant?

4 A No, I never went to the initial scene where
5 everyone went to.

6 I wouldn't know that.

7 Q. What about information regarding the stop?

8 A. The location of the stop?

9 Q. The manner of the stop, how it happened, how
10 Officer Parket was able to stop the car, anything to
11 that?

12 A. If I can elaborate.

13 Q. Please.

14 A. Typically what happens is, a group of
15 detectives are sent to a scene, a primary scene, and
16 at that point we are briefed on the details, whether
17 it is from a patrol officer, someone with knowledge
18 of what led us to this position, this location.

19 On occasion one of us has to break away,
20 whether it is to go to the hospital, or in this case
21 to go to the location of the car stop, which is what
22 I did.

23 So, as far as who briefed Sergeant Darr in
24 those details, that would have been someone
25 presumably at the initial crime scene. I wouldn't

1 know offhand who that was.

2 Q. So you went to the location of the stop,
3 correct?

4 A. Yes, sir.

5 Q. Were there any other detectives with you
6 tattoos?

7 A. No. It was just me, patrol officers.

8 Q. Would you say that you then would be in
9 control of the scene?

10 A. Yes, sir.

11 Q. Were you the primary officer in control of
12 the scene tattoos?

13 A. I would be the senior officer.

14 Q. Does that mean anyone would have to go
15 through you essentially to get permission to do
16 whatever sort of investigation they needed to do?

17 A. Ideally, yes.

18 Q. And, so, obviously Officer Paret stopped
19 the car, correct?

20 A. Yes.

21 Q. And, so, information regarding that stop,
22 did that information go through you to Sergeant Darr
23 or not?

24 A. Well, it did at one point. I don't know if
25 it was necessarily prior to her responding to the

1 car stop.

2 I don't have a memory of me updating her on
3 Officer Parket's details for the car stop prior to
4 her responding.

5 If I can explain, it is a pretty chaotic
6 scene. She is trying to get a telephonic search
7 warrant with a judge.

8 Her emphasis is on doing that, locating a
9 judge.

10 Q. Okay.

11 Would, since you are the senior officer on
12 scene, and you control the scene, would Officer
13 Parket talk directly to Sergeant Darr, or he would
14 go through you?

15 A. Well, since I was the only detective there,
16 he went through me.

17 Q. So it wouldn't be where Sergeant Darr would
18 speak directly to Officer Parket, the normal chain
19 of command is he would go through you?

20 A. Since I was there, if she was there, in
21 addition to myself, he would have gone through her.

22 Since she wasn't, it was exclusively me.

23 Q. Okay.

24 And now with when you arrived on scene, you
25 arrived on scene about 6 a.m., correct?

1 A. In that vicinity, yes, sir.

2 Q. Do you have any recollection of when the car
3 stop occurred?

4 A. I believe it was shortly after 4:30 in the
5 morning, maybe quarter to 5.

6 Q. Your information is relayed from a
7 conversation you had with officers on scene?

8 A. Yes.

9 Q. And any information that you had before you
10 arrived is obviously through the officers on scene?

11 A. Yes.

12 Q. Before you arrived on scene, were you
13 getting any sort of updates over the radio or
14 anything?

15 A. No. I was initially going to the crime
16 scene on Sherwood and at the last minute I was
17 directed over there.

18 Q. You never made it to Sherwood either?

19 A. At no point did I go to Sherwood.

20 Q. Okay.

21 Now, when you arrived on scene, who was it
22 that indicated to you that there was a handgun in
23 the car?

24 A. Officer Parket.

25 Q. And did Officer Parket explain to you as to

1 how he came upon the handgun in the car?

2 MS. PIEPER: Objection, Your Honor,
3 hearsay.

4 MR. MANN: If I may explain.

5 THE COURT: Absolutely.

6 MR. MANN: Officer Parket already
7 testified.

8 Second of all of, this goes to why Detective
9 Rogers may have done what he had done, and whether
10 anything else had been discovered in the car.

11 It is not for the truth of the matter
12 whether there was an actual handgun in the car, it
13 is for purposes of knowing why Detective Rogers did
14 what he did.

15 THE COURT: Detective Rogers stood back and
16 waited, and then got notified about the search
17 warrant?

18 MR. MANN: I don't know. I am still waiting
19 to ask Detective Rogers that question.

20 MS. PIEPER: Essentially, Judge, my response
21 is going to be hearsay, but also Detective Rogers
22 just testified that he was an essential part of what
23 happened.

24 He just was standing there, essentially,
25 passing along information.

1 It is not like Detective Rogers said he
2 searched the vehicle.

3 It sounds like counsel is trying to do an
4 effect on the listener doctrine. I don't know that

5 the fact that Officer Paret told Detective Rogers
6 there is a handgun in the vehicle made Detective
7 Rogers do anything in the vehicle.

8 Most of what Detective Rogers did in the
9 vehicle was after the car was sealed, and taken to
10 the crime lab, and he received some information,
11 which is why he looked in a particular area -- in a
12 particular area in the car, and then found the
13 second gun.

14 THE COURT: Mr. Mann, why don't you try to
15 rephrase your question.

16 MR. MANN: Okay.

17 Q. Officer Paret informed you have a handgun,
18 correct?

19 A. Yes, sir.

20 Q. And did you look inside the car to see if
21 there was a handgun there?

22 A. Yes, sir.

23 Q. And how did you go about looking inside the
24 car?

25 A Well, both of the doors on the driver's side

1 of the vehicle was open. I believe it was 2005
2 Dodge Magnum.

3 Both doors were open. All 4 windows were
4 rolled down. While standing in the open doorway to
5 the back passenger seat, and crouching down, you
6 could see what appeared to be a handgun under the
7 front passenger seat.

8 Q. Okay.

9 And did you use any sort of light or
10 anything to illuminate what you believe was the
11 handgun?

12 A. No. The sun was coming up. I could see
13 well enough without a flashlight.

14 Q. Was Officer Parket with you tattoos?

15 A. Yes, he was pointing out where he first saw
16 the handgun.

17 Q. Officer Parket informed and directed you to
18 where he believed the handgun was?

19 A. Yes.

20 Q. Okay.

21 And did you come to learn how Officer Parket
22 became aware of the handgun?

23 A. Yes.

24 Q. And was that a conversation that you had
25 with Officer Parket?

1 A. Yes, sir.

2 Q. And how soon after you arrived at the scene
3 did you have that conversation with Officer Parket?

4 A. It wasn't immediate. It was within 10
5 minutes.

6 Q. Okay.

7 And did you -- you had also indicated during
8 direct examination that you were curious on how the
9 gun under the passenger seat was loaded, you stated
10 that?

11 A. Yes.

12 Q. Why were you curious on how it was loaded?

13 A. Well, because I thought at some point I
14 would talk to the detectives that were investigating
15 the crime scene on Sherwood, and assume that they
16 would ask me that question, so I would have an
17 answer prepared.

18 It is question that I would have asked.

19 Q. What does that mean, how it was loaded?

20 A. I am sorry.

21 If the slide was back or not.

22 If there was a round in the chamber.

23 The number of rounds in the magazine.

24 The head stamp on the cartridges, those kind
25 of things.

1 Q. Okay.

2 Did you go through the gun and get that
3 information?

4 A. Well, I witnessed CSA Cromwell examine the
5 gun, and learned those answers by watching him and
6 talking to him, yes, sir.

7 Q. Okay.

8 And that was that information that you got
9 about the gun, that was before 7:43 or after?

10 A. It would have to be after 7:43. We didn't
11 go into the vehicle until after we had the search
12 warrant.

13 We didn't get the search warrant until 7:43.

14 Q. And it is your testimony that you didn't
15 relay any information to Sergeant Darr before she
16 arrived on scene after 7:43?

17 A. I don't recall specifically doing so.

18 MR. MANN: Court's indulgence.

19 No further questions.

20 THE COURT: Redirect?

21 MS. PIEPER: Just a couple of questions.

22

23

24

REDIRECT EXAMINATION

25

1 BY MS. PIEPER:

2 Q. When you were standing at the vehicle, you
3 described how both the passenger and the driver's
4 doors on the driver's side of the vehicle were both
5 open.

6 Do you remember those answers that the doors
7 were open?

8 A. Yes, ma'am.

9 Q. And you were asked some questions by defense
10 counsel in regards to the first gun found, the 9
11 millimeter.

12 From where you were standing, could you see
13 the gun?

14 A. Yes, I could.

15 Q. Okay.

16 I will show you some pictures that have been
17 admitted by the defense in this case.

18 Showing you what's been admitted as Defense
19 B, do you recognize that portion of the vehicle?

20 A. Yes.

21 Q. And where is that in the vehicle?

22 Where is the person who is taking the
23 photograph, where are they standing, and what are
24 they showing in the picture?

25 A. They would be standing where I was standing,

1 and essentially the area of the rear driver's side
2 door.

3 This appears to be the back-seat of the
4 vehicle, and a red jacket that was laying on the
5 rear seat.

6 Q. Okay.

7 Do you see that there's a circle sort of in
8 the picture?

9 A. Yes, I can see the red circle.

10 Q. Can you tell what is depicted in that
11 circle, it is little difficult.

12 A. It is challenging. I really can't say from
13 this photograph.

14 Q. Can you show me where, when you were
15 standing in that area, where the first gun, the 9
16 millimeter was found?

17 A. It was essentially in the same area.

18 Q. Okay.

19 Showing you what's been admitted as Defense
20 D, looking at that picture, can you see the gun
21 depicted in that picture?

22 A. It is hard to say. I think this is the gun
23 here.

24 Q. Okay.

25 A. It is little different seeing something with

1 your open eyes versus a photograph.

2 Q. It is.

3 So, when you were there, standing on the
4 scene, it was clear to you that there was a gun in

5 the back-seat, behind the front passenger seat?

6 A. Yes.

7 Q. Even though in these pictures that I showed
8 you in D, it doesn't seem that you can see it there?

9 A. Right.

10 MS. PIEPER: Nothing further.

11 THE COURT: Mr. Otto, any recross off of
12 that

13 MR. OTTO: Yes.

14

15 RECCROSS-EXAMINATION

16

17 BY MR. OTTO:

18 Q. Detective, what did you do while you were
19 waiting for the search warrant; you were there from
20 6:30, you said?

21 A. In that vicinity.

22 I spoke to the officers. I spoke to a
23 supervisor.

24 I waited for updates from the officers. I
25 can't recall anything specific.

1 I tried to stay warm. It was cold.

2 Q. You said you found a loaded 9 millimeter in
3 the rear passenger area, under the front passenger
4 seat?

5 A. Yes, sir.

6 Q. And you just described that in the exhibits,
7 and looking at Defendant's B, you mentioned the red
8 circle?

9 A. Yes, sir.

10 Q. Is that what you saw that morning?

11 A. This is the same area I was looking at, yes,
12 sir.

13 Q. All right.

14 And could you see clearly that morning that
15 it was a gun?

16 A. It appeared to be a gun.

17 Q. How many rounds does the magazine on that
18 particular handgun hold?

19 A. If I recall, 14.

20 Q. They were 8 in it when it was taken out of
21 the car?

22 A. Yes.

23 Q. In the magazine and one in the chamber?

24 A. That's correct.

25 MR. OTTO: Nothing further.

1 THE COURT: Mr. Mann.

2
3 RE-CROSS-EXAMINATION
4

5 BY MR. MANN:

6 Q. Detective, you said that when you arrived,
7 both the driver and the rear driver's side doors
8 were open, correct?

9 A. That's correct.

10 Q. Okay.

11 And you also had described that when you
12 were informed that there was something that appeared
13 to be a gun, that you went closer to and looked
14 inside the open doors, correct?

15 A. Yes, sir.

16 Q. And you had further described that you
17 actually had to crouch down and look to actually see
18 the butt of the gun, correct?

19 A. I don't know if I had to, but I chose to,
20 yes.

21 Q. Okay.

22 And it was at that angle that you were able
23 to see what you described what you thought to be a
24 gun tattoos, correct?

25 A. That's correct.

1 Q. So at the position that you actually saw the
2 gun, had the doors been closed, you would not be
3 able to see the gun, correct?

4 A. No. I am thinking.

5 Cars are different. Maybe you would be able
6 to see it through the open window.

7 Q. I am not asking maybe.

8 I am asking at the position that were at, at
9 the level that you were at, is that the same level
10 that if the door was closed, you obviously wouldn't
11 be able to look into a window, there is a door
12 there, correct?

13 A. Not necessarily.

14 Q. I am asking at what level you were crouched
15 down to?

16 A. I don't know.

17 Q. You did crouch down to look through the open
18 door, correct?

19 A. Yes, I did.

20 Q. And you would agree that a door has a metal
21 part and a window part, correct?

22 A. Certainly.

23 Q. And you can tell the difference between a
24 window part and a metal part, correct?

25 A. Sure.

1 Q. And the window part is higher than the metal
2 part, correct?

3 A. Certainly.

4 Q. And when you crouched down, you are actually
5 coming to a level that is closer to the metal part
6 than the window part?

7 A. Okay, yes.

8 Q. Okay.

9 When you crouched down, did you bend your
10 knees all the way?

11 A. I don't think so.

12 Q. I don't get up as easy as I once did.

13 I don't think I would do that.

14 Q. And who was with you when you did this?

15 A. I believe Officer Parket, because he was
16 helping to explain the location to look at.

17 Q. Had it not been for Officer Parket, you
18 would have had a more difficult time finding what he
19 was describing as a potential gun, correct?

20 A. Well --

21 MS. PIEPER: Judge, I object to the form of
22 the question.

23 What we know is it was a gun, not a
24 potential gun, since we have had testimony that
25 there was a gun located in the vehicle.

1 THE COURT: Okay.

2 MR. MANN: If Ms. Pieper had listened to the
3 question, I said; at the time of looking, it was
4 Officer Parket that pointed out what was the

5 potential gun.

6 Obviously we now know it is a gun, but I am
7 asking at the time what his mind set was, unless
8 Officer Parket already knew flat out and it was a
9 gun, it was clear it was gun.

10 THE COURT: Here is the thing; Detective
11 Rogers testified what he saw, what appeared to be a
12 gun.

13 He is laying a record that he was not one
14 hundred percent sure it was gun.

15 It appeared to him to be.

16 I am going to have you guys move on. You
17 know, Mr. Mann, I am giving you a lot of leeway to
18 build the issue on the 4th Amendment that I know is
19 coming.

20 We have to step it up. We are going to run
21 out of time.

22 MR. MANN: Okay.

23 Q. Now, Detective Rogers, I believe Mr. Otto
24 asked you about the gun shot residue.

25 You were in control of that scene, correct?

1 A. Yes.

2 Q. And you were the one that was directing your
3 CSAs on to what they should actually investigate,
4 correct?

5 A. Well, it is group effort. I don't
6 necessarily tell them what to do.

7 We kind of concur on what is the best course
8 of action, yes.

9 Q. You never directed CSAs to do any sort of
10 gunshot analysis on anyone, or anything?

11 A. That's correct.

12 MR. MANN: No further questions.

13 MS. PIEPER: Nothing further by the State.

14 THE COURT: Detective, thank you very much
15 for your time and patience and coming today.

16 You may back step down.

17 Please don't discuss your testimony with
18 anybody aside from a representative from the State
19 or Mr. Otto's or Mann's.

20 Thank you for coming back.

21 State, call your next witness.

22 MS. PIEPER: The State calls Detective Jason
23 McCarthy.

24

25

JASON McCARTHY,

1
2 who, being first duly sworn to tell the
3 truth, the whole truth, and nothing but the
4 truth, was examined and testified as
5 follows:

6
7 THE CLERK: Please be seated.
8 Please state your name and spell it
9 for the record.

10 THE WITNESS: Jason McCarthy,
11 J-a-s-o-n M-c-C-a-r-t-h-y.

12 THE COURT: You may proceed.

13

14 DIRECT EXAMINATION

15

16 BY MS. PIEPER:

17 Q. How are you employed?

18 A. I am currently employed with the Las
19 Vegas Metropolitan Police Department, and
20 have been for the past 19 and a half years,
21 and am currently assigned to the homicide
22 section.

23 Q. Thank you.

24 Drawing your attention to November 5,
25 2013, were you working on that day?

1 A. Yes, I was.

2 Q. Where did you respond initially when the
3 call came out about the homicide?

4 A. Sunrise Hospital.

5 Q. When you went to Sunrise Hospital, did you
6 see 2 victims that were at Sunrise Hospital?

7 A. I did.

8 Q. Did you meet with Leroy Thomas, as well as
9 Ashlay, but it is spelled Ashley Scott in our
10 complaint; did you see them at the hospital?

11 A. Yes.

12 Q. When saw Mr. Thomas, did you see his
13 injuries?

14 A. Yes, I did.

15 MS. PIEPER: Your Honor, may I approach
16 witness?

17 THE COURT: You may.

18 Q. Showing you what's been marked as State's
19 Proposed Exhibits 8 through 11, can you look at
20 those and tell me if you recognize them?

21 A. Yes. These are photos of the victim,
22 Thomas, and injuries to his left ankle, a gunshot
23 wound.

24 Q. Those are the injuries that you saw November
25 5, 2013?

1 A. Yes.

2 MS. PIEPER: Your Honor, the State moves for
3 the admission of 8 through 11.

4 MR. OTTO: No objection.

5 MR. MANN: No objection.

6 THE COURT: 8 through 11 are deemed admitted
7 for purposes of the preliminary hearing.

8 MS. PIEPER: Thank you.

9 Q. After you went to Sunrise Hospital, what did
10 you do next?

11 A. I responded to the scene and spoke with
12 Detective Raetz for a short period of time, and then
13 I responded back to the homicide office.

14 Q. Once you got to the homicide office, that's
15 here at MLK and --

16 A. 400, south Martin Luther King in the
17 interview rooms where 2 suspects were currently in
18 custody.

19 Q. Did you speak with Matthew Washington?

20 A. I did.

21 Q. Do you see Mr. Washington today in the
22 courtroom?

23 A. I do.

24 Q. Can you point to him and describe an article
25 of clothing he is wearing?

1 A. He is sitting to the left wearing a CCDC
2 uniform..

3 Q. Is he sitting between the 2 defense
4 attorneys at the table to my right?

5 A. Yes.

6 Q. When you meet with Mr. Washington, did you
7 give him Miranda?

8 A. Detective Gillis read him his Miranda
9 rights.

10 Q. You were in the room?

11 A. Yes.

12 Q. Did he agree to speak with you and waive
13 those rights?

14 A. Yes.

15 Q. What did Mr. Washington tell about the
16 events that happened on November 5, 2013?

17 A. He stated that he received a call from a
18 subject that he knew as LG to come up to the area of
19 the Sherwood Apartments and give his friend a ride.

20 And the friend that needed the ride knew him
21 only by the moniker of Murder.

22 Q. Did you say Murder?

23 A. Yes.

24 Q. Did you later come to know who Murder
25 actually was; that's not his given name?

1 A. That's correct.

2 The subject that he was speaking about is
3 Mr. Moten.

4 Q. Is that Martell Moten that you she
5 in the courtroom today?

6 A. Yes.

7 Q. Can you point to him an describe an article
8 of clothing he is wearing?

9 A. He is sitting to my far left of the defense
10 table with the CCDC uniform on as well.

11 Q. Sitting next to attorney who has the purple
12 tie on?

13 A. Yes, sir.

14 MS. PIEPER: May the record reflect that the
15 witness identified the Defendant Mr. Moten?

16 I identified Mr. Mann with the purple tie.

17 THE COURT: It will.

18 Q. I am sorry, so Mr. Washington told you that
19 he went down based on a phone call.

20 Did he tell you which area he went down to?

21 A. The area of the Sherwood Apartments. It was
22 in the northwest corner, in back alley there.

23 Q. And did he say how he got there?

24 A. He drove.

25 MR. MANN: Your Honor, I am sorry.

1 I know we have spoken about this before, but
2 on the issue of my continuing objection over the
3 hearsay comment that Mr. Washington said.

4 We can't cross-examine Mr. Washington in
5 these proceedings, so I want to object to hearsay
6 issues.

7 Obviously we are going to get to the Gruton
8 issues, but definitely for the hearsay.

9 THE COURT: I am not going to, considering
10 what Mr. Washington may have said, made some
11 exculpatory statements in regards to Mr. Moten, that
12 would be a violation of Gruton, so right now I am
13 considering what is being said, what
14 Mr. Washington's statements would be potentially
15 against him, but will definitely be careful to not
16 consider against Mr. Moten.

17 MR. OTTO: I don't believe the Court
18 addressed the hearsay issues.

19 THE COURT: He can't bring hearsay as to
20 your client.

21 MR. MANN: But as to my client, it is going
22 to be hearsay.

23 THE COURT: It is the co-Defendant's
24 statements, so technically the hearsay rule doesn't
25 exactly apply at this particular juncture.

1 And considering that I am not considering it
2 against your client, it is moot.

3 All right, go on Ms. Pieper.

4 MS. PIEPER: All right.

5 Q. So he, Mr. Washington said he drove down to
6 the area of 2655 Sherwood, and he was in his
7 vehicle; what happened next?

8 A. He was going to give this subject a ride.

9 Q. Meaning Murder?

10 A. Meaning Murder. He meets LG and Murder, who
11 are in a silver car, which belong to LG.

12 And he states that they get out of the car,
13 he hears 6, to 7 gunshots.

14 He gets back in the car. He follows them
15 away from the apartment complex, and then the
16 subject Moten out of LG's car, and gets in the back
17 seat of his car.

18 Q. Okay.

19 Initially when he is talking about how he
20 goes down to 2655 Sherwood, and he is in his
21 vehicle, and he realizes he is supposed to pickup
22 Murder, who now is identified as Martell Moten, he
23 knows he is supposed to pickup that person.

24 Was he surprised at all that there was
25 already a vehicle down there?

1 A. Yes.

2 MR. OTTO: Objection. He can't testify as
3 to whether he is surprised.

4 Q. Was Mr. Washington surprised that LG and
5 Murder were already in a vehicle?

6 A. He stated that he had things to do that
7 night, but it was made -- there were statements from
8 LG to him per Washington that LG would take care of
9 him money-wise, or I think in his words I believed
10 he would hook him up.

11 Q. Did you ask sort -- he gave you this initial
12 story; did you kind of flush out sort of what
13 happened?

14 Initially he tells you he goes to an area,
15 he sees his friend, he hears shooting, and then
16 everybody drives off?

17 A. Yes.

18 Q. So what else did you ask him and what did he
19 essentially tell you?

20 A. He states after that he gets in the back-
21 seat and they are driving to take him back home --

22 Q. When you say he, do you mean Murder?

23 A. Murder. Yes, the police are behind them.
24 He looks back in the back-seat. He notices a gun
25 starts.

1 He starts questioning Murder about the gun.
2 He states he doesn't want to take the fall for the
3 gun, because he is afraid the police are going to
4 pull him over because they are behind him.

5 He makes statements that he doesn't want to
6 go to prison, he is on probation.

7 And Murder tells him --

8 MR. OTTO: Objection.

9 MS. PIEPER: I am going to say that's a
10 statement made in furtherance of the conspiracy.

11 THE COURT: This is Washington stating what
12 Moten possibly told him, which he told to the cops?

13 MS. PIEPER: Correct. That's a
14 co-conspirator statement.

15 THE COURT: No, it is only a co-conspirator
16 statement if -- here is your problem is Washington,
17 which I have a Gruton problem now, Washington is
18 telling this detective what purportedly Moten told
19 him, which while I understand what Moten told him
20 would potentially be an alleged co-conspirator
21 statement, I have got a Gruton problem right now.

22 So I am going to sustain for that, for
23 purposes of the preliminary hearing.

24 I am sure you can go from there.

25 MS. PIEPER: The State is going to -- I am

1 going to object saying it is a statement made by a
2 co-conspirator in furtherance of the conspiracy.

3 At this time the conspiracy is still
4 ongoing.

5 THE COURT: Which I understand, but there's
6 no way that Mr. Mann can cross-examine on that.

7 MS. PIEPER: My understanding is that Gruton
8 applies at trial.

9 We are not at the trial stage.

10 THE COURT: Officer, please step down
11 please.

12 Okay. It is cleaner for PC, for probable
13 cause, if we don't do it.

14 MS. PIEPER: Mr. Mann was allowed to make
15 his record on the 4th Amendment.

16 We gave him lots of latitude.

17 THE COURT: The State is making it's record.

18 You are allowed to make a record. It is
19 better part and partial to keep it clean.

20 Like I told Mr. Mann, I understand that --
21 he knows that he is not going to be able to pull a
22 4th Amendment on it, because it is very factual
23 driven.

24 If this gets up to District Court, he will
25 have to litigate it there.

1 There is transcripts for everybody to read a
2 more thoroughly on, if it goes up there, to
3 hopefully expedite, if it gets there, and you have
4 to do an evidentiary hearing, but I have told him to
5 reign it in a little bit so we are not here for
6 another day.

7 Your record is launched. I understand that
8 you would like to get that in.

9 I am not saying it is set in stone. It is
10 only for today's purposes. I think if we allow it
11 in at the last minute, it is for that one issue to
12 come back.

13 MS. PIEPER: I am sure I am going to get
14 writted as it is.

15 THE COURT: I am pretty confident you are
16 going to get writted.

17 MS. PIEPER: It is another issue that the
18 State has to deal with, but we believe it is a
19 statement made by a co-conspirator who is named in
20 this case in furtherance of the conspiracy.

21 THE COURT: The only problem is thing, and
22 while I understand under Wittenburg there is a no
23 6th Amendment right to confront in Justice Court.

24 I am going to just for that statement not
25 allow that particular statement.

1 However, a continuing objection is noted for
2 the record. I just feel that it is going to be just
3 a little cleaner on that.

4 I am pretty confident that we are going to
5 hear about what Mr. Moten may have said soon

6 enough.

7 Let's keep to what Mr. Washington talked
8 about himself.

9 And I will see the parties out in the
10 hallway.

11 MR. OTTO: The attorneys.

12 THE COURT: Yes.

13 Do you need to use the restroom?

14 DEFENDANT MOLTEN: I need to use the
15 restroom.

16 THE COURT: Officers can you let the
17 Defendants use the restroom while we are on a little
18 break?

19

20 (Recess taken.)

21

22 THE COURT: Let's gets the detective back on
23 the stand.

24 Ms. Pieper, you laid your record. The
25 Court's position is that I am not going to allow

1 it.

2 However, your record is noted.

3 MS. PIEPER: Thank you, Your Honor.

4 THE COURT: Thank you, detective.

5 You are still under oath.

6 THE COURT: So we were --

7 Q. You asked him, Mr. Washington, some
8 additional -- once he initially told you what
9 happened, you went back and you followed through
10 with more detail, is that correct?

11 A. Yes.

12 Q. And what did you ask him next in regard to
13 sort of -- I am going to lead a little bit.

14 There's a statement, Mr. Washington tells
15 you there's a statement that Mr. Moten made,
16 correct?

17 A. Yes.

18 Q. After the statement is made, what does
19 Mr. Washington say happened?

20 A. At the apartment complex?

21 Q. Go back.

22 In the car, Mr. Washington is driving,
23 Mr. Moten is in the back-seat, is that correct?

24 A. Yes.

25 Q. And Mr. Moten then makes a statement as they

1 are driving away, and then what does Mr. Washington
2 say happens in regards to the car, did they continue
3 driving or stop?

4 What did they do next?

5 A. They were ultimately pulled over, yes.

6 Q. And ultimately they exited the vehicle,
7 correct?

8 A. Yes.

9 Q. And then ultimately they then came and spoke
10 to you?

11 A. Both of them, yes.

12 Q. You asked Mr. Washington a series of
13 questions to clarify or expand on what he told you,
14 correct?

15 A. Yes.

16 Q. You asked him those other questions, and
17 what is it he told you happened on November 5th,
18 2013?

19 A. He says LG and Murder got out of the car,
20 and they went -- we kind of showed them the aerial
21 photograph, and he pointed to like the area where
22 the murder occurs.

23 That's when he heard the gunshots, and he
24 sees 2 black males run and get in the car.

25 One is wearing a red hoodie, and the other

1 one a black hoodie.

2 We questioned him further on that. He said
3 that Murder was one of the guys.

4 Q. And when he says Murder was one of the guys,
5 when you first asked him about the vehicles, he is

6 in a vehicle, correct, he is in Silver Dodge Magnum?

7 A. Yes.

8 Q. And LG is also driving a vehicle, is that
9 correct?

10 A. Yes, I believe he has a silver vehicle. I
11 think it was Lexus.

12 Q. And when he describes how he first drives to
13 the area where LG tells him to go, does he say how
14 he pulls his car in or --

15 A. He says he follows around the complex for a
16 little bit, and then said he was waiting in the car
17 when the shots were fired, in his car. He was
18 backed in.

19 Q. So he initially says when he shows up, he
20 sort of the follows them, meaning he knows LG is
21 driving the silver Lexus, correct?

22 A. Correct.

23 Q. Does he say whether he knows who is in the
24 passenger seat of the Lexus tattoos?

25 A. He said Murder was with him.

1 Q. Okay.

2 He follows them around the apartment complex
3 where the shooting happens, and then they go into an
4 alleyway, is that correct?

5 A. It is alley just to the west of the
6 apartment complex.

7 There is an alley back there.

8 Q. Then Mr. Washington says he sorts of backs
9 in.

10 MR. MANN: I object to leading at this
11 point.

12 MS. PIEPER: By your client?

13 MR. MANN: You are in for a penny or a
14 pound.

15 MS. PIEPER: Interesting statement.

16 Q. How does he say he parked his car?

17 A. He is backed in.

18 Q. Who is in the silver Lexus in front of him,
19 once he backs in?

20 A. LG and Murder.

21 Q. What do LG and Murder do?

22 A. They get out and go into the courtyard area
23 of the complex.

24 Q. Is that the area that he describes, is that
25 the same area where the murder happens?

1 A. That's correct.

2 Q. Then what does he say he heard happens next?

3 A. 6 to 7 gunshots.

4 Q. Then what happens?

5 A. They are running back to the silver car.

6 Q. Murder and LG?

7 A. Yes.

8 Q. Murder and LG went back to the silver Lexus?

9 A. Yes.

10 Q. Then what happens next?

11 A. He follows them away from the apartment
12 complex. That's when he states Murder, Mr. Moten,
13 gets in his car, in the back-seat.

14 Q. At some point the silver Lexus stops, LG
15 continues to drive, and Mr. Moten gets into the
16 vehicle with Mr. Washington?

17 A. Yes.

18 Q. Then is that when he also clarified the
19 statements in regard to the gun?

20 A. Yes.

21 Q. So he, Mr. Washington, is driving along, he
22 describes how he looks in the back-seat, and what
23 does he see?

24 A. He sees the gun back there, and he doesn't
25 want to get in trouble for the gun, because right

1 before he was pulled over he sees the police behind
2 him.

3 Q. Who has the gun when he turns around and
4 looks?

5 A. It is by Mr. Moten.

6 Q. Okay.

7 What does he say Mr. Moten does with this
8 gun?

9 A. He put it up the front seat, in between the
10 seat.

11 Q. Like in between?

12 A. The passenger and driver's seat.

13 Q. Mr. Moten put the gun, put in front of him,
14 sort of near where Mr. Washington is, is that
15 correct?

16 A. Yes.

17 Q. Did he -- could he tell you which gun it
18 was, whether it was the 9 millimeter or the 40
19 caliber?

20 A. I don't know. I don't remember. I don't
21 recall.

22 Q. And then eventually he tells you that he
23 pulls over for the police, is that correct?

24 A. Yes.

25 Q. Does he explain to you why this situation

1 happened, the shooting happened?

2 A. We questioned him about that, and he did
3 talk about that there was a confrontation, a "beef"
4 that was going on between LG's little brother, who

5 was known to Mr. Washington by name of Zay. He goes
6 by the moniker Zay.

7 He was having some troubles with some people
8 in the complex.

9 MS. PIEPER: Your Honor, may I approach
10 witness?

11 THE COURT: You may.

12 Q. Showing you what's been marked as State's
13 Proposed Exhibit 26, do you recognize that?

14 A. This is a photo of LG.

15 Q. And does it say on there LG, and then
16 beneath it LJ, and then there is also a signature
17 that says Matthew?

18 A. Yes. This was a photo shown to
19 Mr. Washington through some investigation follow-
20 up.

21 They had identified this person as the
22 subject possibly being LG. That photo was shown to
23 Mr. Washington.

24 He had identified that person.

25 Q. That was then on November 5, 2013, correct?

1 A. That was done during the interview.

2 MS. PIEPER: Your Honor, the State moves for
3 the admission of 26.

4 MR. OTTO: No objection.

5 MR. MANN: No objection.

6 THE COURT: State's 26 will be deemed
7 admitted for purposes of preliminary hearing.

8 Q. During the time you are speaking to
9 Mr. Washington, are you and Detective Gillis also
10 speaking to Martell Moten?

11 A. Yes.

12 Q. Are you sort of going between the 2 rooms?

13 A. Yes.

14 There is approximately 13 to 14 interview
15 rooms at the headquarters, and about 3, 4 doors
16 down, Mr. Moten was in that room, and we had spoken
17 with Mr. Moten first.

18 Then spoke with Mr. Washington, kind of
19 going back and forth.

20 Q. Can they hear each other?

21 A. No.

22 Q. And they are not near each other, where they
23 can see what is happening with the other person?

24 A. Mr. Moten was at the end of the hallway.
25 Mr. Washington was in the room all the way at the

1 other end of the hallway.

2 Q. Did you tell Mr. Washington that you guys
3 found a 9 millimeter gun in the vehicle?

4 A. We told him about the firearm that he was
5 referring to during his statement to us; yes, we did
6 tell him there was a gun found.

7 We told him that his car had been identified
8 leaving the scene.

9 Q. And did he tell you whose gun -- tattoos the
10 information you had, did he tell you whose gun it
11 was that was found in the vehicle, whose gun it was?

12 A. He said it was Mr. Moten's.

13 Q. He didn't say Mr. Moten, correct?

14 A. He referred to the moniker Murder, the
15 subject deemed Murder.

16 Q. At some point you leave the interview and
17 speak to Mr. Moten, correct?

18 A. Yes.

19 Q. And he gives you some information about a
20 second gun in the vehicle, is that correct?

21 A. Yes.

22 Q. And then do you go back and speak to
23 Mr. Washington?

24 A. Yes, we do.

25 Q. And during the process of interviewing

1 Mr. Washington, as well as Mr. Moten, you asked them
2 to be forthright, is that correct?

3 A. Absolutely, yes.

4 Q. Okay.

5 When you go back into the room and speak to
6 Mr. Washington, after you spoken to Mr. Moten, and
7 you tell him that there is a second gun that's in
8 the vehicle, and that you guys have either located
9 it or are going to locate it, what is
10 Mr. Washington's reaction?

11 A. In my experience doing interviews, his
12 reaction changed dramatically.

13 And I could tell that he was really nervous,
14 and I wouldn't say sick, but ultimately he did get
15 sick.

16 But obviously he asked for an attorney, and
17 then requested to use the bathroom several times,
18 which we let him.

19 And he ultimately even throw up in the
20 interview room.

21 Q. And then at that point you cease all
22 questioning, is that correct?

23 A. Yes, we do.

24 MS. PIEPER: no further questions.

25 I pass the witness.

1 THE COURT: Cross.

2 MR. OTTO: Just a few, I believe.

3
4 CROSS-EXAMINATION

5
6 BY MR. OTTO:

7 Q. Detective, I would like to clear up the
8 sequence of events as described by Mr. Washington
9 during your interview.

10 He told you that he arrived alone at the
11 Sherwood Apartment complex, is that correct?

12 A. Yes.

13 Q. And he told you that he waited there for a
14 period of time, is that correct?

15 A. He said that he when he drove there, he met
16 LG, saw LG and Mr. Moten in the silver car.

17 Q. Which was parked in front of him or to the
18 side of him?

19 A. Throughout his statement he said when he got
20 over there it was on Sherwood. Then later in his
21 statement he says they drove around.

22 And then there is also a part in his
23 statement where he says that he was knocking on the
24 apartment door there looking for them.

25 Then he called them, and LG said; oh, we are

1 in the car met, and he him over by the car.

2 It kind of skips around, his statement.

3 Q. And at this point no shooting has occurred?

4 A. No.

5 Q. And then just before the shooting, what was
6 explained happened?

7 A. He said he was backed in, in the alley.

8 Q. Backed into a parking space in the alley?

9 A. Yes. And he said he hears the shots, and
10 then sees them come back in their car and follows
11 them.

12 Q. And follows them out of the apartment
13 complex?

14 A. Yes, away from the apartment complex,
15 several blocks away.

16 Q. Then what happens then?

17 A. He says that LG pulls over, and Mr. Moten
18 gets in his car.

19 Q. Does the car belong to Mr. Washington?

20 A. As far as I knew it was his girlfriend's.

21 MR. OTTO: I have nothing else.

22 THE COURT: Mr. Mann.

23 MR. MANN: Your Honor, based on my objection
24 that you since overruled, I will continue on with
25 questioning.

CROSS-EXAMINATION

BY MR. MANN:

Q. Detective McCarthy, it was Mr. Washington that said that the 2 gentlemen that left his car, and then ended up coming back to his car was wearing, I believe you said, a red hoodie and a blue hoodie?

A. A black hoodie.

Q. A black hoodie.

And what kind of clothing was Mr. Washington wearing when you arrested him, or when he was arrested?

A. I don't seem to remember.

Q. Was there ever a red hoodie recovered?

A. I believe this was a red hoodie recovered in the vehicle, in Mr. Washington's vehicle.

Q. A red hoodie?

A. I believe a red jacket.

Q. Okay.

And when Mr. Moten was arrested, when you interviewed him, what was he wearing?

A. I remember him having a white shirt on and some jeans.

1 Q. And --

2 A. However, he did have red lint stuck to the
3 side of his face, like if you were to take a sweater
4 off, or a hoodie off, because I remember
5 talking to him about that.

6 MR. MANN: no further questions?

7 THE COURT: Any follow-up, Ms. Pieper?

8 MS. PIEPER: No, Your Honor.

9 THE COURT: Detective, thank you for your
10 patience and testimony, and coming back today.

11 You may step down.

12 Please don't discuss your testimony with
13 anybody aside from a representative from the
14 District Attorneys office, Mr. Otto's office or
15 Mann's office.

16 Thank you for coming back to testify.

17 State, call your next witness.

18 MS. PIEPER: The State calls
19 Detective Gillis.

20

21

22 MATTHEW GILLIS,

23

24 who, being first duly sworn to tell the
25 truth, the whole truth, and nothing but the

1 truth, was examined and testified as follows:

2

3 THE CLERK: Please be seated.

4 Please state your name and spell it for the

5 record.

6 THE WITNESS: Matthew Gillis, M-a-t-t-h-e-w

7 G-i-l-l-i-s.

8 THE COURT: You may proceed.

9

10 DIRECT EXAMINATION

11

12 BY MS. PIEPER:

13 Q. How are you employed?

14 A. As a police officer with the Las Vegas

15 Metropolitan Police Department.

16 Q. How long have you been with Metro?

17 A. 14 years.

18 Q. You are currently assigned to the --

19 A. Homicide section.

20 Q. Drawing your attention to November 5, 2013,

21 were you working on that date?

22 A. Yes.

23 Q. Initially when you were called out, what

24 scene did you respond to?

25 A. To the Sherwood address.

1 Q. Were you by yourself, or did you partner
2 with somebody else earlier in the day, or did you
3 just arrive on scene by yourself?

4 A We were off duty. We wanted to call out to
5 the scene location, and then we were given
6 assignments.

7 Q. And what assignments were you given?

8 A. Interviews at the headquarters building.

9 Q. You interviewed with Detective McCarthy, is
10 that correct?

11 A. That's correct.

12 Q. Who did you interview?

13 A. Moten.

14 Q. And would that be Martell Moten?

15 A. Yes.

16 Q. Do you see him in the courtroom today?

17 A. Yes, I do.

18 Q. Can you point to him and describe an article
19 of clothing that he is wearing?

20 A. A blue shirt, blue shorts, orange socks.

21 Q. Is he sitting at the end of the defense
22 table?

23 A. Yes.

24 Q. Next to an attorney with the purple tie on?

25 A. That's correct.

1 MS. PIEPER: Your Honor, I ask the record to
2 reflect that he identified the Defendant Martell
3 Moten.

4 THE COURT: It will.

5 Q. When you spoke to Mr. Moten, did you read
6 him Miranda?

7 A. Yes.

8 Q. Did he waive it and agree to speak to you?

9 A. Yes.

10 Q. What did he tell you about the events that
11 happened on November 5, 2013?

12 A. Initially he denied any involvement. He
13 stated he had been asleep in the back-seat of the
14 vehicle.

15 Q. Did he tell you whether he knew what even
16 happened?

17 A. No, he state he had no idea what we were
18 talking about.

19 He was asleep. He didn't hear gunshots.

20 He had know idea what was going on until he
21 was pulled over by officers.

22 Q. While you are speaking to Mr. Moten,
23 yourself as well as Detective McCarthy are going
24 between that interview and the interview with
25 Defendant Washington, is that correct?

1 A. That's correct.

2 Q. So Mr. Moten continues to maintain the story
3 that he has no idea what is going on, and at some
4 point does the story change?

5 A. Yes, it does.

6 Q. What does he tell you?

7 A. Mr. Moten changed his story that he had
8 been, initially he state that earlier in the day he
9 had met up with a person known by LG, and that he
10 had been over at his mother's house, where he was
11 cutting up drugs.

12 He said been wearing gloves, and then later
13 on LG had called up Washington, and the 3 of them
14 got into Washington's vehicle, which was a Dodge
15 Magnum, and drove a short distance down the street
16 to house he came from, to the house they went to,
17 that had been on the same street, on Sherwood.

18 And at that location he had been in the
19 back-seat of the vehicle. He observed the driver of
20 the vehicle and LG exit the vehicle, and they walked
21 a short distance.

22 A few sections later he heard multiple
23 gunshots, and then he observed LG and the driver of
24 that vehicle running back to the vehicle.

25 That they entered the vehicle, the driver

1 being -- he was pointing to the room next door being
2 Washington, and LG had gotten in the passenger seat
3 of the vehicle.

4 And the vehicle drove away. A short
5 distance later the Dodge Magnum stopped next to LG's
6 vehicle, a Lexus.

7 The passenger, LG, got out of the vehicle,
8 and LG threw a gun into the vehicle that.

9 The driver had taken the gun and wedged it
10 between the console of the vehicle, and the
11 passenger seat.

12 Mr. Moten with some gloves moved the gun
13 from that location underneath the seat, because he
14 didn't want it to appear that that was his gun.

15 That the driver of the vehicle drove away
16 from that location.

17 And then they were stopped at a different
18 location by officers. While en route from the
19 Sherwood location to the location of the stop, the
20 person known as LG had been next to the vehicle up
21 to point they were stopped.

22 Q. You just testified that Mr. Moten kept
23 saying the driver of the vehicle, but you also said
24 he motioned with his hands.

25 A. That's correct.

1 Q. When he says the driver of the vehicle, who
2 does he identify the driver the vehicle as being?

3 A. Mr. Washington.

4 Q. So essentially, from what you told me,

5 Mr. Moten essentially says Mr. Washington and LG
6 committed the homicide?

7 A. That's correct.

8 Q. Did you talk to Mr. Moten -- initially when
9 you were talking to him, and he was denying that he
10 was involved, did you talk to him about a gun being
11 in the vehicle, that you guys had already located a
12 9 millimeter gun?

13 A. That's correct.

14 Q. And did he make any statements about the 9
15 millimeter being in there, and that he would not be
16 involved where the 9 millimeter was?

17 A. That's correct.

18 Q. Why wouldn't he be involved?

19 A. He stated that the 9 millimeter was LG's
20 vehicle.

21 Q. Did he say why the shooting happened?

22 A. He had stated that LG's brother, prior to
23 that day, had been in an argument with some people.

24 He did not know their names. He stated that
25 they had choked and had held a gun to LG's brother.

1 Essentially they had him fucked up, and that
2 he was going to fuck those mother fuckers up.

3 MS. PIEPER: Your Honor, may I approach the
4 witness?

5 THE COURT: You may.

6 Q. Showing you what's been marked as State's
7 Proposed Exhibit Number 29, do you recognize that?

8 A. Yes, I do.

9 Q. What is that?

10 A. A picture depicting the person known as LG.

11 Q. And who identified that that was LG for you;
12 I can see on here there's a writing.

13 A. Yes. This photograph was shown to Martell
14 Moten, and I noted that with his name and the event
15 number.

16 Q. Then who wrote the words, I think it is
17 supposed to be LG on there?

18 A. Mr. Moten did.

19 Q. And was that again on November 5th, 2013?

20 A. That's correct.

21 Q. Were you also in the room where State's
22 Proposed Exhibits Number 27 was shown to Matthew
23 Washington?

24 A. Yes.

25 Q. And on it -- I don't know if you can read

1 what he -- did you do any of the writing?

2 A. I did not.

3 Q. This is written by Mr. Washington. He wrote
4 down that the person depicted in this photograph was

5 the person he knew as Little Zay, and I had asked
6 him to sign it.

7 He signed his name. I noted it with the
8 name Matthew Washington and the event number on the
9 top.

10 Q. That was done November 5, 2013?

11 A. That is correct.

12 MS. PIEPER: The State moves for the
13 admission of 27.

14 MR. MANN: No objection.

15 MR. OTTO: No objection.

16 MS. PIEPER: As well 29.

17 MR. MANN: No objection.

18 MR. OTTO: No objection.

19 THE COURT: 27, and 29 are deemed admitted
20 for purposes of preliminary hearing.

21 Q. Showing you State's Exhibit 28, do you
22 recognize who is in that picture?

23 A. That is a photograph depicting Isaiah
24 Washington shown to Martell Moten.

25 Q. Isaiah Washington or Robinson?

1 A. Isaiah Robinson.

2 Q. There's a lot of names.

3 Do you know whether Mr. Moten identified
4 Isaiah Robinson?

5 A. No, he did not.

6 Q. You showed it to him?

7 A. Yes.

8 MS. PIEPER: Your Honor, the State moves for
9 the admission of 28.

10 MR. MANN: No objection.

11 MR. OTTO: No objection.

12 THE COURT: 28 is deemed admitted for
13 purposes of the preliminary hearing.

14 Q. Does Mr. Moten say whether he saw LG with a
15 gun?

16 A. He stated that when they ran back to the
17 vehicle, he saw LG with a firearm. He got in the
18 vehicle with the firearm.

19 And that when they the Magnum got to the
20 Lexus, LG left his gun in the vehicle, and then
21 Mr. Moten told us the location of where the second
22 firearm would be recovered in that vehicle.

23 Q. I want to ask you a little bit about that.

24 Earlier I asked you questions about you, as
25 well Detective McCarthy going between the 2

1 interview rooms, is that correct?

2 A. That's correct.

3 Q. At some point during the interview,
4 Mr. Washington never said anything about a second

5 gun, is that correct?

6 A. That's correct.

7 Q. At some point you go into Mr. Moten's room,
8 or his interview room, is that correct?

9 A. That's correct.

10 Q. And do you tell him information about what
11 Mr. Washington has said?

12 A. That's correct.

13 Q. And based off of that information, what did
14 Mr. Moten tell you?

15 A. Mr. Moten had stated that Washington had
16 been the other person with the gun, and told us the
17 location of where the second firearm would be
18 located at.

19 Q. What did he say, if you can remember?

20 A. He told was it was going to be down by the
21 pedals on the driver's side of the vehicle.

22 MS. PIEPER: Court's indulgence.

23 Q. Did he tell you that Matthew or Mat had a
24 black gun, a black semi-auto gun?

25 A. He described a black semi-auto.

1 Q. Did he tell you how many shots he heard
2 after LG and Matthew got out of the vehicle?

3 A. I would have to look at my notes to remember
4 the exact number, the statement.

5 MS. PIEPER: Your Honor, may I approach the
6 witness?

7 THE COURT: You may.

8 Q. Did he tell you how many shots he heard?

9 A. Yes, approximately 9.

10 MS. PIEPER: Nothing further.

11 I pass the witness.

12 THE COURT: Mr. Otto, cross.

13 MR. OTTO: Thank you, Your Honor.

14

15

CROSS-EXAMINATION

16

17 BY MR. OTTO:

18 Q. The story that Mr. Moten told you and the
19 other detective, McCarthy --

20 A. Correct.

21 Q. About what happened that morning at
22 Sherwood, changed more than once, is that correct?

23 A. Yes.

24 Q. Is it correct that at first Mr. Moten told
25 you that he had taken a Percocet or a painkiller

1 drug of some kind the night before?

2 A. A Lortab.

3 Q. And had fallen asleep, and was sleeping in
4 the back-seat the whole night, or he wasn't sure, he

5 didn't know where he was all night, isn't that what
6 he told you?

7 A. He was not sure of the time frames.

8 Q. And the next thing he knew, he told you the
9 first story was that he suddenly was woken up by the
10 police when they were stopped at Ogden and Eastern?

11 A. Correct.

12 Q. He heard no shots. Saw no LG. Saw no
13 Matthew Washington and LG run from the Sherwood
14 Apartments and get into the Magnum and then drive
15 off, and the gun being thrown in the window by LG or
16 LJ, as he left the Magnum and went into his Lexus.

17 He never told you any of that the first time
18 around, correct?

19 A. Correct.

20 Q. He told you he was asleep?

21 A. Correct.

22 Q. Is it your recollection that you were told
23 that the 9 millimeter was in LG's vehicle?

24 A. He had stated that the 9 millimeter was
25 LG's, and that LG threw it in the Dodge Magnum.

1 Q. And then you said the driver drove away
2 after the 9 millimeter was placed by LG into the
3 car; by that, you mean Washington drove away?

4 A. Washington was driving the Dodge Magnum.

5 Q. So at some point Mr. Moten's story changes,
6 correct, he is no longer asleep. Now he has
7 seen everything?

8 A. He does change his story.

9 Q. Does he change it immediately to the story
10 he told where Washington and LG ran out of the
11 apartment complex after hearing shots, or did he
12 have an interim story?

13 A. At first he only stated LG was the person
14 with the gun.

15 And then when he was confronted with the
16 items we located at the scene, the second set shell
17 casings, that's when he talked about Mr. Washington
18 also having a gun.

19 Q. After he was informed by you that there was
20 a second and a different type of caliber than a 9
21 millimeter, he changed his story and said; oh,
22 Matthew Washington was carrying that gun?

23 A. Correct.

24 Q. Before that he had not mentioned Matthew
25 Washington at all?

1 A. He mentioned --

2 Q. Had not mentioned him as being a shooter or
3 having gone into the apartment complex?

4 A. Correct.

5 Q. So then, at a certain point he says there is
6 another black automatic handgun, semi-auto handgun
7 in the front door panel, is that correct?

8 A. On the driver's side down by the pedals,
9 referring to the gas and brake pedals, he is
10 describing it down there in that location.

11 MR. OTTO: All right.

12 I don't have anything else at this point.

13 THE COURT: Mr. Mann.

14 MR. MANN: Court's indulgence.

15 No questions, Your Honor.

16 THE COURT: Any follow-up, Ms. Pieper?

17 MS. PIEPER: Yes.

18

19 REDIRECT-EXAMINATION

20

21 BY MS. PIEPER:

22 Q. Did Mr. Moten make a comment or say
23 something to you I wasn't in the courtyard when the
24 shooting was done?

25 A. Yes.

1 MS. PIEPER: Nothing further.

2 THE COURT: Any cross based upon that?

3 Mr. Otto?

4

5 RE-CROSS-EXAMINATION

6

7 BY MR. OTTO:

8 Q. If Mr. Moten was asleep or stayed in the car
9 the whole time, how would he know there was a
10 courtyard there, if you know?

11 MR. MANN: Objection, speculation.

12 MR. OTTO: If he knows.

13 THE COURT: Hold on.

14 MR. OTTO: I will rephrase.

15 Q. Do you know how he would know such a thing?

16 THE COURT: I will sustain it.

17 MR. OTTO: I will rephrase it.

18 Q. From the place where the cars were, you were
19 told the cars were parked, would Mr. Moten know
20 there was a courtyard, if he had never been in
21 there?

22 A. Him being just down the street, I don't know
23 if it would be the same set up of courtyard to
24 building from where they came from, going to.

25 That I don't know.

1 MR. OTTO: Okay.

2 Thank you.

3 MR. MANN: No questions, Your Honor.

4 THE COURT: Detective, thank you very much
5 for testifying.

6 You may step down.

7 Please don't discuss your testimony with
8 anybody, aside a from representative from the
9 District Attorneys office or Mr. Otto's office, or
10 Mann's office.

11 Thank you again for your time today.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: State, call your next witness.

14 MS. PIEPER: Judge, I am having my 2
15 witnesses come over now.

16 I scheduled them for 3:30.

17 THE COURT: We will be at ease for about 10
18 minutes.

19 Then we have a witness perking.

20

21 (Recess taken.)

22

23 THE COURT: We are back on the record.

24 MS. PIEPER: The State calls Detective Dean
25 Raetz.

1

2

DEAN RAETZ,

3

4 who, being first duly sworn to tell the
5 truth, the whole truth, and nothing but the

6 truth, was examined and testified as

7 follows:

8

9 THE CLERK: Please be seated.

10 Please state your name and spell it
11 for the record.

12 THE WITNESS: Dean Raetz, R-a-e-t-z.

13

14

DIRECT EXAMINATION

15

16 BY MS. PIEPER:

17 Q. How are you employed?

18 A. I am a detective with the Las Vegas
19 Metropolitan Police Department.

20 Q. How long have you worked for Metro?

21 A. 22 and a half years.

22 Q. What division are you currently in?

23 A. The homicide unit.

24 Q. How long have you been in homicide?

25 A. A little over 6 and a half years.

1 Q. Drawing your attention to November 5, 2013,
2 were you working on that day?

3 A. Yeah.

4 Q. When the call came out, where did you first
5 respond?

6 A. To the 2600 block of Sherwood.

7 Q. Here in Las Vegas, Clark County, Nevada?

8 A. Yes.

9 Q. You arrived on scene and you are the lead
10 investigator in regards to this case, is that
11 correct, case agent?

12 A. Yes, I am.

13 Q. When you arrived on the scene, did you walk
14 the crime scene?

15 A. Not immediately; but, yes.

16 Q. Eventually you walked the crime scene?

17 A. Yes.

18 Q. When you also arrived on scene, were other
19 members of your squad there?

20 A. They showed up, yes, staggering times?

21 A. Yes.

22 Q. Eventually everybody comes to the 2655
23 Sherwood, Apartment Number 18 address, correct?

24 A. Most everybody, yes.

25 Q. And then people get farmed out to go to

1 different locations based on the investigation
2 transpiring?

3 A. Yes.

4 Q. You were able to walk the crime scene; can

5 you describe for us a little when you first walk up
6 to the apartment, what that area is like and once
7 you get into the apartment?

8 A. The apartment complex consists of, I believe
9 6 buildings, multi-unit 2 story buildings.

10 Each one of the 6 buildings is in the shape
11 of an L.

12 The crime scene itself was in the courtyard
13 formed by the 2 southern most buildings of the
14 complex.

15 The buildings were kind of upside down L, if
16 you are looking at them from the south to the north
17 it is an upside down L, and then it is mirror
18 image.

19 The courtyard was in between the top
20 branches of the upside down L, and the wall
21 separating the property from the building to the
22 south.

23 Q. Is Apartment number 18 upstairs or
24 downstairs?

25 A. Downstairs.

1 Q. As you walk the scene, could you see bullet
2 holes?

3 A. There were what appear to be bullet holes,
4 what were bullet holes in the front of the
5 apartment, of Apartment Number 18.

6 Q. Do you know whether there were -- what types
7 casings that were located at the scene?

8 A. There were 13 separate cartridge cases
9 located out in courtyard itself, 6 9 millimeter
10 caliber cartridge cases, and 7, 40 caliber.

11 Q. Once you walked the scene, and stayed at the
12 scene; did you ever go to any other scenes?

13 A. Any other scenes --

14 Q. For this investigation, did you go out to
15 where the car was?

16 A. I stayed at the primary scene.

17 Q. During the entire time that you are at the
18 crime scene, were you being updated as to what
19 officers or what other detectives on your squad were
20 doing?

21 A. Yes.

22 Q. So you were in constant contact?

23 A. Periodically during the day I was given an
24 update.

25 I wouldn't call it a constant contact.

1 MS. PIEPER: May I approach the witness,
2 Your Honor?

3 THE COURT: You may.

4 Q. Showing you 22, 24 and 25, do you recognize
5 these pictures?

6 A. Yes, I do.

7 Q. In regards to State's Exhibit 22, what is
8 that a picture of?

9 A. It is a photograph of the interior of the
10 living room of Apartment 18.

11 Q. And of significance in this wall, on the
12 other side of this wall that we see in the picture,
13 what is on the other side of that wall?

14 A. The other side of the wall is a bedroom.

15 Q. Can you see bullet holes in that picture?

16 A. There is 3 bullet holes that are visible.

17 There is a fourth one that you cannot see in
18 the picture, because the projectile penetrated the
19 couch, the seat back of the couch, and went through
20 the wall.

21 Q. Is this how the apartment looked on November
22 5th, 2013?

23 A. Yes.

24 MS. PIEPER: Your Honor, the State moves for
25 the admission of 22.

1 MR. MANN: No objection.

2 MR. OTTO: No objection.

3 Q. Showing you State's Proposed Exhibit 24,
4 what is that a picture of?

5 A. The deceased victim, Nathan Rawls.

6 Q. That's how it appeared November 5, 2013,
7 when you showed up on the scene?

8 A. Yes.

9 MS. PIEPER: Your Honor, the State moves for
10 the admission of 24.

11 MR. OTTO: No objection.

12 MR. MANN: No objection.

13 Q. State's Proposed Exhibit 25, can you
14 describe what that is a photo of?

15 A. That is the interior of the curtains for the
16 window of Apartment 18.

17 It is an inside shot from the living room
18 toward the windows.

19 Q. Is there anything of significant in that
20 picture?

21 A. Yes. You can see several holes from the
22 bullets.

23 Q. That's the way it looked when you arrived on
24 November 5, 2013?

25 A. Yes.

1 MS. PIEPER: Your Honor, the State moves for
2 the admission of 25.

3 MR. OTTO: No objection.

4 MR. MANN: No objection.

5 THE COURT: Exhibits 22, 23, 24 and 25 will
6 be admitted for purposes of the preliminary hearing.

7 MS. PIEPER: No further questions.

8 THE COURT: Mr. Otto cross.

9 MR. OTTO: I have no questions.

10 THE COURT: Mr. Mann, cross.

11
12 CROSS-EXAMINATION

13
14 BY MR. MANN:

15 Q. Detective, you said there were 13 separate
16 casings?

17 A. Yes.

18 Q. What was the breakdown of the casings?

19 A. There were 6 9 millimeter caliber cases, and
20 7 40 caliber.

21 Q. And were you the one running the
22 investigation at 2655 Sherwood?

23 A. I am the lead case agent, yes.

24 The squad works as a unit, but I am
25 ultimately responsible for putting the case file

1 together.

2 Q. Ms. Pieper asked you about being in constant
3 contact with other people doing the investigation.

4 Did you have conversations with people at
5 the scene of the traffic stop?

6 A. I did not have any direct conversations with
7 any of the folks.

8 People are texting, or calling the sergeant,
9 the supervisor on the scene.

10 Q. Sergeant Darr?

11 A. Sergeant Darr was on the scene with me, and
12 she would update me or I would get texts from other
13 detectives as well.

14 Q. Even though you were the case agent, a lot
15 of things were feeding through Sergeant Darr?

16 A. Yes.

17 Q. And, so, do you have any personnel knowledge
18 who Sergeant Darr spoke to regarding the traffic
19 stop?

20 A. The initial stop itself, or whoever was out
21 there?

22 Q. Whoever was out there.

23 A. Detective Bob Rogers was the one who
24 responded out there, so I know that once he got on
25 scene, he was updating Sergeant Darr with what was

1 going on.

2 Q. Okay.

3 And do you know if anyone else at the scene
4 of the traffic stop updating Sergeant Darr?

5 A. No.

6 Q. And Sergeant Darr was with you at 2655
7 Sherwood?

8 A. Yes.

9 Q. Do you know approximately what time she
10 arrived?

11 A. I do not.

12 Q. Do you remember what time you arrived?

13 A. The exact time, no. We all get the call and
14 respond at the same time, responding from different
15 locations.

16 Q. Do you have an hour that you can identify
17 that you arrived at?

18 A. Off the top my head, no.

19 I would have to looked at the computer
20 printout for the CAD to show what time we arrived.

21 Q. CAD is just a printout where you contact
22 dispatch via radio, informing them what you are
23 doing at that point, and they log it into a
24 computer?

25 A. That's correct.

1 Q. And that's based on whatever representations
2 you make over the radio and what they log into the
3 computer?

4 A. Correct.

5 Q. And all Detective and all officers are
6 supposed to do that inform dispatch of where their
7 location is and what they are doing at the time?

8 A. Yes.

9 MR. MANN: Court's indulgence.

10 No further questions.

11 THE COURT: Any follow-up?

12 MS. PIEPER: Nope.

13 THE COURT: Detective, thank you very much
14 for your time and patience.

15 I ask that you step down.

16 Please step down.

17 Don't discuss your testimony with anyone,
18 aside from a representative from the District
19 Attorneys office or from Mr. Otto's office or
20 Mr. Mann's office.

21 Again, thank you very much.

22 State, call your next witness.

23 MS. PIEPER: He is driving over.

24

25

(Recess taken.)

1

2

THE COURT: We are back on the record.

3

4

JAMES FINK,

5

6 who, being first duly sworn to tell the
7 truth, the whole truth, and nothing but the
8 truth, was examined and testified as
9 follows:

10

11

THE CLERK: Please be seated.

12

Please state your name and spell it

13

for the record.

14

THE WITNESS: James Fink, J-a-m-e-s

15

F-i-n-k.

16

17

DIRECT EXAMINATION

18

19

BY MS. PIEPER:

20

Q. How are you employed?

21

A. With the Las Vegas Metropolitan

22

Police Department.

23

Q. How long have you been with Metro?

24

A. 19 years and 3 months.

25

Q. Where are you currently assigned?

1 A. I am assigned to the firearms investigation
2 section out of the gangs crimes bureau.

3 Q. Can you tell us some of your training and
4 experience in relation to gangs?

5 A. Yes. Well, going back to 1997 was my very
6 first class on street gangs in Last Vegas, called
7 Gangs in Clark County, which was taught by members
8 of the police department.

9 Thereafter, starting in 1999, I joined the
10 Gang Crimes Bureau, and I was a detective in the
11 gang bureau.

12 Throughout that, I have had classes not only
13 locally, but nationally to include Atlanta,
14 Georgia.

15 Northern Nevada put on a gang seminar and
16 training that has come into Las Vegas, as well, very
17 extensive.

18 Q. As well as your contact with gang members
19 when you worked on the gang unit, as well as patrol,
20 correct?

21 A. Yes.

22 Q. Have you ever been qualified in the area of
23 gang -- for lack of a better word, gang enhancement
24 in the Eighth Judicial District Court?

25 A. Yes.

1 Q. And in regard to any particular gangs?

2 A. Yes.

3 Q. Which gangs?

4 A. I testified well over 25 times as an

5 expert.

6 6 of those were in District Court,
7 including; Squad Up.

8 The Wood.

9 Sereno gangs, also including Mario, Naked
10 City and the like.

11 Not only Hispanic gangs, but black gangs and
12 hybrid gangs.

13 Q. Are you familiar with the Crips?

14 A. Yes.

15 Q. Can you give us a brief history?

16 A. The Rolling 60 Crips started in Los Angeles
17 probably back in the early to mid-1970s.

18 They started in the area of 130th and
19 Budlong, which is in the LA area.

20 As Crips, there is thousands of different
21 Crip gangs throughout the United States, but when
22 they started off in Las Angeles, they grew extremely
23 quick.

24 As the 70s moved on, and the gangs grew
25 larger, people moved out of Los Angeles, and one of

1 the places they came to was Las Vegas.

2 And gang members moved in Vegas, and started
3 their particular gangs here.

4 The Rolling 60 Crips actually started out as
5 the Crip City Gangsters back in the mid to late 70s,
6 and then ultimately became the Rolling 60 Crips.

7 Their main area that they were located in
8 was North Las Vegas off of Carey and Martin Luther
9 King, in the area which they call Crip City, which
10 is a group single family residences where they kind
11 of took up their turf.

12 Q. Do you know how many members there are of
13 the Rolling 60 Crips?

14 A. Currently, I believe we have over 2 or 300
15 documented members and associates as well.

16 Q. In regards to these particular Defendants,
17 Matthew Washington, do you know whether he is
18 affiliated or a member of a gang?

19 A. He has been documented by the Las Vegas
20 Metropolitan Police as a member of the Rolling 60
21 Crips.

22 Q. In regards to Martell Moten, do you know if
23 he has ever been documented or affiliated with a
24 gang?

25 A. Yes. Mr. Moten has been documented as Squad

1 Up gang member, with affiliation to the Rolling 60
2 Crips.

3 Q. Now, is Squad Up and the Rolling 60 Crips
4 the same gang?

5 A. No.

6 Q. Do they affiliate with each other?

7 A. Yes and no.

8 Q. Would it be unusual for someone who is a
9 Rolling 60 Crip to hang out with someone who is a
10 Squad Up member?

11 A. Not really. There are some a lot going on
12 there. It is kind of a loaded question.

13 I apologize. There is a lot to it.

14 Q. Would it be unusual for Mr. Moten to hang
15 out with something like Mr. Washington, even though
16 technically they are not part of the same gang?

17 A. Not at all.

18 Q. Why is that?

19 A. The Rolling 60s have been around for over 30
20 years.

21 A lot of the families that grew up in the
22 60s, there is a lot relatives.

23 As a matter of fact, the Rolling 60s have a
24 lot of loose affiliation with the Bloods here
25 in Las Vegas, family-wise.

1 Back in the late 1990s into the early 2000s,
2 the 60s were having and all out Gerson Park
3 Kingsmen.

4 At that time, the members of these
5 particular gangs were starting to get older, and
6 started having children, and the children from these
7 gang members, whether they were brothers or cousins
8 or whatever, were coming up through middle school,
9 high school, and were starting to form their own
10 alliances.

11 They were trying to find their own
12 identities. We had such a growth in Las Vegas back
13 in the late 90s, early 2000s, many more high schools
14 started coming on line, where back in the 70s and
15 80s we had under 10 high school.

16 In the 90s it started blowing up, the
17 population in high schools. Now, these kids started
18 going to school together and tried to find their own
19 identities, which Squad Up would be one of them.

20 A lot of the members from Squad Up
21 originally from GPK, Gerson Park Kingsmen, but you
22 had a lot of guys from the Rolling 60s Crips, family
23 members from the 60s, so it is usually to see 2
24 people from 2 totally different gang backgrounds now
25 coming together and hanging out, if you will.

1 Again, there is a lot of loose affiliations,
2 especially family-wise.

3 Q. So it is not like if you are Crip, you can
4 only hang out with Crips, or if you are a Blood, you
5 can only hang out with Bloods?

6 A. Absolutely not, and that's not only here
7 in Las Vegas, but that is throughout the country.

8 Q. Okay.

9 Is there difference between gang people that
10 hang out, like Brownies, and a criminal street gang?

11 A. The Brownies?

12 Q. They get patches, correct?

13 A. Yes. You can compare to a lot of different
14 organizations, but the difference between the
15 Brownies and a gang, would be a group of people who
16 go out and commit a pattern of unlawful activity.

17 The Brownies have a uniform, patches,
18 different things.

19 Gangs who have similar traits, they commit
20 crimes in a pattern.

21 Q. In regards to the Rolling 60s Crip, take
22 them first, do they have common felonious
23 activities?

24 A. Yes.

25 Q. What are they?

1 A. Anything from murder.
2 Auto theft.
3 Various gun crimes.
4 Drug trafficking.

5 All the way down to misdemeanor crimes.

6 Q. Okay.

7 Do they have unique symbols or customs that
8 are particular to their gang?

9 A. They usually have the same color.

10 They have hand signs.

11 They have the same type of graffiti.

12 They have all have common traits within
13 their gangs.

14 Q. Do you know if they have any particular type
15 of tattoos?

16 A. They have particular types of tattoos.

17 They vary, but there is several different
18 things that they put on their bodies.

19 Q. And what would some of those be?

20 A. They would have six zero for 60s.

21 They would have NC that stands for
22 neighborhood Crips.

23 They started out in LA, and they were
24 considered neighborhood Crips.

25 111, which the neighborhood Crips fall under

1 111, which is 111th Street. They fall under that
2 particular umbrella.

3 The Rolling 60s are under this umbrella.
4 They have Rolling 20s, 30s, 60s, 90s, and I
5 believe 100.

6 So, there is not only the 60s that are
7 stand-alone, they fall under the umbrella of the
8 neighborhood Crips.

9 Q. So there is some type of hierarchy within
10 their organization?

11 A. We have to separate between Las Vegas and
12 Los Angeles, because the only 60s that we have home
13 grown -- the only Rolling O's, which we call them in
14 Las Vegas, are the Rolling 60s.

15 Now, you have in LA different clicks or sets
16 if you will under the neighborhood of the Crips, of
17 the Rolling O's.

18 Back in the 90s and 2000s, they had a
19 hierarchy, because they were more organized and
20 established, and that is why we had the racketeering
21 case against the Rolling 60s.

22 But in today's standards, I would say there
23 is not a hierarchy. I would say they are more
24 dispersed throughout the valley.

25 I wouldn't say there is a hierarchy.

1 Q. Do they have any rival gangs?

2 A. Yes.

3 Q. And who are the rival gangs of the Rolling
4 60s?

5 A. Well, the main one would be the Gerson Park
6 Kingsmen, of course.

7 That is an on again, off again war if you
8 will.

9 But getting back to the RICO, when over 50
10 Rolling 60 gang members were indicted and sent to
11 federal prison, that pretty much shut down not only
12 the war, but took out a lot of the membership within
13 the Rolling 60 Crips.

14 Q. Okay.

15 In regards to the Rolling 60 Crips, within
16 the Crip organization, do they ever battle or war
17 with each other, or have beers amongst each other?

18 A. I can't name a particular case in which
19 there is a beef between the 2, 60s, but it would not
20 be unheard of.

21 Q. Are there sets within the Crip organization,
22 let's say the Rolling 60s Crypts, or that there may
23 be Crips that may not get along, even though they
24 are under the umbrella of Crips, but they do not
25 necessarily get along; do Crips have beefs within

1 the Crip organization?

2 A. Absolutely.

3 When we talk about Crips as a whole, there
4 is a thousand different Crip sets throughout the
5 country.

6 Crips don't necessary get along with Crips,
7 many times they don't.

8 It depends on turf.

9 Money.

10 Drug trafficking, whatever the case may be.

11 So just because you are a Crip, it doesn't
12 mean you are going to get along with another Crip.

13 Q. Are there colors that are associated with
14 the Crips?

15 A. Yes.

16 Q. The predominant color of Crip nation would
17 be blue.

18 The Rolling 60s have taken on the color of
19 light blue.

20 They have that, that kind of sets them apart
21 a little bit from other Crips.

22 Q. When a member of the Rolling 60s Crips goes
23 off to prison or dies, does the organization die?

24 A. Absolutely not.

25 Q. Let's talk about Squad Up, are there some

1 common felonious activities with Squad Up?

2 A. Yes. The same ones I mentioned before with
3 the 60s.

4 Murder.

5 Drug trafficking.

6 Grand larceny.

7 Robbery.

8 Various firearm-related crimes, all the way
9 down to misdemeanors.

10 Q. Do they have any unique symbols or customs?

11 A. Yes. They have hand signs.

12 They have particular hand signs.

13 Tattooing not as often. I have to explain,
14 because hybrid gangs, when they kind of broke off,
15 if you will, and started forming their own, they
16 didn't really put -- they didn't tattoo themselves
17 like your traditional gang sets would.

18 They didn't want to be recognized like your
19 traditional gangs would.

20 However, some of the youngsters coming into
21 these hybrid gangs, may and would tattoo themselves
22 with their primary set being the Rolling 60s, but
23 then also would claim Squad.

24 Q. Can you give us a brief history of Squad?

25 A. They started out as Young Baller Squad.

1 Then they became Squad or Squad Up. They
2 started forming around the late 90s, close to 2000,
3 and a lot of the young men that started Squad Up
4 then were infatuated with Little Wayne.

5 He had a little rap group called Squad Up,
6 spelled SQAD. They were infatuated with this kind of
7 music, and that's how they took on the name Squad
8 Up.

9 A lot of the guys that went into Squad came
10 from the Gerson Park Kingsmen background.

11 A lot of the kids grew up in the Gerson
12 Park, or in or around that particular area.

13 Some of the guys that came on board with
14 Squad were also Rolling 60s members, because they
15 associated with each other at Cheyenne High School
16 or in/or around the neighborhood.

17 Q. Do you know how many members or associates
18 are in Squad?

19 A. I believe there is definitely over 200, if
20 not close to her 300 documented members and
21 associates with Squad right now.

22 Q. And does Squad have any rival gangs?

23 A. They do. The one would be the Main Gang,
24 and when we talk about this, we don't have any
25 ongoing gang wars right now.

1 Between 2005 and currently, we have put
2 numerous members of all of these gangs in prison, so
3 there has been a concerted effort to shutdown these
4 gangs, which for the most part we have, but they
5 have continued their criminal activity.

6 So the wood would be the Squad's main rival,
7 but they do beef with other hybrid gangs.

8 Q. And just like the Rolling 60s Crips, if a
9 member of Squad dies or goes off to prison, does the
10 gang die?

11 A. Absolutely not.

12 Q. You and I have spoken about the victim in
13 this case, is that correct?

14 A. Yes.

15 Q. And I told you that the victim had been
16 identified as being a Grape Street Crip.

17 A. Yes.

18 Q. Can you give us some information about the
19 Grape Street Crips?

20 A. Again, like the Rolling 60s, the Grape
21 Street Crips started in LA, in the Watts area.

22 Again they carry the same -- they have
23 symbols and colors just like the Rolling 60s does,
24 however they are different.

25 And like the Rolling 60s, they spread out

1 throughout the country.

2 In this case the victim was from Memphis,
3 Tennessee. I have spoken to a gang detective in
4 Memphis regarding Grape Street.

5 And they have several hundred members that
6 live in or around the Memphis area.

7 Memphis is sort of the mid-America, so they
8 have a hodgepodge of gang activity, and they also
9 have a hybrid gang problem.

10 But not only do they have gangs coming out
11 from the west, but they have gangs that come up from
12 the north, the Chicago area, with the Vice Lords and
13 the Gangster Disciples and the like.

14 They congregate in that area, too.

15 They call themselves the Grape Street Crips,
16 because they are named after the Grape Street Gang
17 in California.

18 The victim, he was born and raised in
19 Memphis, so he is home grown, but claims a gang that
20 originated in California.

21 Q. Do they commit common felonious activities?

22 A. Yes.

23 Q. And what are some of those?

24 A. The same as I mentioned before.

25 Murder.

1 Drug trafficking.
2 Various firearms-related charges.
3 Burglaries.
4 Pretty much the whole gambit.

5 Q. Do they have any unique symbols or customs?

6 A. They do. They have hand signs.

7 They have the same color.

8 The Rolling 60s wear light blue.

9 Grape Street, they wear the color purple,
10 and their symbol would be Grapes.

11 A lot of them are tattooed with Grapes on
12 their body.

13 Q. Have you seen a picture of the victim in
14 this case?

15

16 A. I don't know. Well, actually I have from
17 his picture that was sent from Memphis, Tennessee, I
18 have seen him, Yes.

19 Q. Do you know any rivals, or did you learn of
20 any rivals of the Grape Street Crips?

21 A. Well, again, the rivals of Grape Street is a
22 little bit different in LA than it would be here.

23 We have members from Grape Street that come
24 in from California.

25 They don't have any rivals here, so to

1 speak. There are just hundreds of gangs within a
2 particular area.

3 I don't know what the rivals of Grape Street
4 are in California.

5 I checked to see if they are rivals with the
6 Rolling 60s. Their gang turfs are 10 blocks apart,
7 and there is not really any gang war beef between
8 those 2 gangs in California, unless it was something
9 personal, something happened, but nothing current.

10 Q. Just like Rolling 60s and Squad, when a
11 member of Grape Street dies or goes off to prison,
12 does that gang die?

13 A. No. They have been around for 25, 30 years,
14 and they have continued to excel.

15 Q. Live on?

16 A. Excel.

17 Q. You have read about the facts in this case,
18 correct?

19 A. Yes.

20 Q. You have had some statements that you have
21 looked at. You have looked at police reports.

22 In regard to this case and the information
23 that you have, is it your opinion that the crime was
24 committed to further promote or assist a criminal
25 gang?

1 MR. OTTO: I object. There has been no
2 foundation for that question.

3 He testified a lot about the nature of
4 gangs, the history of gangs.

5 But there has been no evidence, direct
6 evidence gang involvement.

7 MS. PIEPER: Of gang involvement? I just
8 had him testify --

9 THE COURT: She's asking for an expert
10 opinion.

11 MR. OTTO: What did he examine in regard to
12 this crime that forms the basis of his opinion?

13 MS. PIEPER: you can ask him that.

14 THE COURT: Do you want to take him on voir
15 dire.

16 MR. OTTO: Yes.

17 THE COURT: All right.

18

19 VOIR DIRE EXAMINATION

20

21 BY MR. OTTO:

22 Q. What have you examined that forms the basis
23 of your opinion?

24 A. Well, I examined the arrest report.

25 I also examined Mr. Washington's statement

1 and Mr. Moten's statement -- well, Mr. Washington's
2 statement after the fact.

3 So basically those 2 things.

4 Q. Do they mention gang involvement in their
5 statement?

6 A. They do not.

7 Q. And does the arrest report mention gang
8 involvement in the statement?

9 A. I believe that there is --

10 Q. -- in the arrest report?

11 A. I believe that there is mention in the
12 documents that they were gang members.

13 As far as your question, gang involvement,
14 no.

15 Q. So are you telling me --

16 A. I hate to say this, it is kind of a broad
17 question.

18 Q. Okay.

19 Are you saying -- I will try to rephrase it,
20 narrow it down.

21 What in the police report are you basing,
22 using to form the basis of your opinion?

23 A. I always say this, it is the totality of the
24 circumstances.

25 Not only have I read the reports that the

1 this crime committed to further promote or assist,
2 or enhance a gang, and the gang being Squad Up
3 and/or the Rolling 60s Crips?

4 A. At this point, no.

5 I talked about the totality of the
6 circumstances.

7 The 2 individuals at the table right now are
8 either associated or members of Squad Up and/or the
9 Rolling 60s.

10 One outstanding, who is believed to be
11 involved in this incident, who is also a Rolling 60s
12 member, and may have had communication with another
13 individual, being his brother, I believe, who is
14 also a documented Rolling 60s gang member, okay.

15 We have 4 individuals, who may be associated
16 with this case. 2 are in custody that are 60s.

17 And then other individual, the decedent, who
18 is a Grape Street Crip gang member.

19 Also have several other subjects that were
20 in the apartment at the time who are also documented
21 or associates of gang members.

22 It is a convoluted mess, to say the least.

23 However, I would like to have more
24 information as this case goes on to be able to give
25 you more formulated opinion on my belief as to

1 whether or not it was gang-related.

2 At this point there's hearsay. There is
3 statements that have been made that possibly there
4 were gang statements made back and forth.

5 I can say is it possible that it is gang-
6 related, and I would say yes, if somebody was
7 disrespected.

8 Maybe somebody called somebody a derogatory
9 gang term, or said this is on 60; for example.

10 I would like to have more statements, more
11 information before I give that rock solid opinion.

12 But I would say at this point in time it is
13 absolutely plausible.

14 MS. PIEPER: No further questions.

15 THE COURT: All right.

16 Mr. Otto you will do cross first.

17 MR. OTTO: Yes.

18 Thank you.

19

20

CROSS-EXAMINATION

21

22 BY MR. OTTO:

23 Q. Did you know there is a nice restaurant in
24 Summerlin the Grape Street?

25 A. I have eaten there.

1 The second I walked in there, I thought of
2 the Grape Street Crips.

3 Q. It is not in the name?

4 A. It is not in the name necessarily, no.

5 Q. What is the different between a gang member
6 and a gang associate?

7 A. Well, it is on how you look at it.

8 A gang member is somebody that is documented
9 by a police agency as being -- have admitted.

10 Have tattoos.

11 Several different factors that would -- we
12 would be able to establish that person as a member.

13 The way that law enforcement would document
14 somebody as an associates is somebody who either has
15 a claimed membership, doesn't wear the colors, but
16 maybe is just hanging out with these individuals on
17 a regular basis, we would consider him an associate.

18 It would be different if somebody from the
19 gang, who is a member of the gang, might consider
20 this kid a hang-around, or somebody trying to work
21 his way up to becoming a member, and hasn't been
22 jumped in.

23 It is different for different gangs.

24 Q. There isn't a diploma or an ID card, a badge
25 that puts you in the gang?

1 A. Not necessarily, because in some of the
2 gangs in the midwest, they may have some of these
3 things that establish themselves. Maybe on the west
4 coast they do.

5 For the part it is very informal, and for
6 most of the gangs, they have jump-ins, then you are
7 considered a member.

8 Q. It is not a crime to be a member of a gang?

9 A. Not in State of Nevada it is not.

10 Q. So, no gang member in Nevada is convicted
11 of being a gang member?

12 A. That is not necessarily true Jonathan
13 Toliver, who was one of the people that formed Squad
14 Up, he was a Gerson Park Kingsmen gang member, he
15 was convicted of his crime in federal court.

16 But it also -- it was noted that he was a
17 member of Squad Up and Gerson Park Kingsmen.

18 So, as far as labels, if you will, he is a
19 gang member from Squad Up.

20 As a matter of fact, that was one of the
21 first cases on Squad Up that was adjudicated in
22 federal court.

23 Q. Did the Court issue a judgment of conviction
24 for that person, I can't remember the name?

25 A. Jonathan Toliver.

1 Q. Committing a crime, with a statutory rubric
2 and elements of being a gang member?

3 A. I am not familiar with the terminology. It
4 was in the Judgment of Conviction that he was a
5 Gerson Park Kingsmen gang member.

6 Q. Is it a federal crime to be a Gerson Park
7 Kingsmen gang member?

8 A. No, just to promotes or further assist.

9 Q. I am talking about membership.

10 So, Metro decides who is a gang member and
11 who is not?

12 A. It is not that we decide, but we do have a
13 decision, because there is various criteria that we
14 use to be able to establish the fact that this
15 individual is documented as a gang member.

16 If this individual goes out and commits a
17 crime to promote or further assist that gang, that
18 has been labeled a criminal street gang, then yes,
19 we do have documentation to show, thus allowing the
20 probable cause to convict him for that crime as a
21 gang member.

22 Q. So, if 2 different gangs are running a
23 crime -- I am going to ask you a hypothetical.

24 A. Sure.

25 Q. If 2 different gangs are running a crime,

1 whatever that crime might be, a robbery, which gang
2 would they be committing the robbery for, with the
3 intent to promote, further or assist a criminal
4 gang, which gang would they be promoting?

5 A. I understand where you are going, but I
6 can't answer that. There is a lot of variables.

7 It is the totality of the circumstances.
8 What were said. Are they from 2 different gangs, or
9 is this second person from a hybrid gang, but he is
10 also member of the main gang.

11 Because -- let me use Squad Up as an
12 example. say you have a guy from Gerson Park
13 Kingsmen, and you have a guy from Squad Up, and they
14 go out and commit that crime that you are referring
15 to.

16 The Las Vegas Metropolitan Police Department
17 might have this individual documented as a GPK, but
18 we have this individual documented as a Squad Up.

19 They go out and commit a crime. Maybe
20 somebody yells something; this is for the Gerson
21 Park Kingsmen.

22 Then we have the Squad Up member here, and
23 little do we know, because he hasn't been documented
24 by Metro, he is Squad Up member; however he grew up
25 in Gerson, he is also a Gerson Park Kingsmen gang

1 member, but we only have information that he only
2 have information that he is a Squad.

3 During the investigation if it comes out
4 that he has associated his entire life with Gerson
5 Park Kingsmen, and he was born into Gerson Park
6 Kingsmen.

7 Now we have 2 people we have been able to
8 establish through identities, through our
9 investigation, as being Gerson Park Kingsmen.

10 Then we can establish the fact that they did
11 it for Gerson.

12 Does that make sense, because in the reality
13 of it, it is very convoluted, unless you put all of
14 the pieces together.

15 Q. In Your answer to my hypothetical, where you
16 present another hypothetical is fine.

17 If somebody had not yelled; this is for
18 Gerson, would it be plausible that they were
19 committing it for the money?

20 A. It is plausible. Again we have to
21 investigate why they did it.

22 Yes, it is.

23 Q. Was Washington wearing a blue hoodie?

24 A. On the night of the incident?

25 Q. Yes.

1 A. I don't recall.

2 I don't know.

3 Q. What is a hybrid gang?

4 A. A group of individuals who get together.

5 Hybrids could be from different races.

6 You might have black, white and Hispanic all
7 getting together in one gang.

8 You may have -- let's use Squad Up as an
9 example. Squad Up is made up of members from not
10 only Gerson Park Kingsmen, but we also have Rolling
11 60s Crips.

12 We have Lowry Street Hustlers.

13 We have different kids from different
14 traditional gangs that they grew up in, and then
15 they come together to form their own, what they
16 would coin as a click, but in reality it is a
17 criminal street gang.

18 And now you have a hodgepodge of all of
19 these different gang members now in one gang.

20 So hybrid means it is just things from
21 everywhere coming into one.

22 Q. Do they lose their membership in the prior
23 gang?

24 A. Not usually. Again it is different, because
25 for the most part, the older members of these gangs,

1 like the 60s and the Gersons don't want to deal with
2 these youngsters, because these youngsters who are
3 hybrids are dangerous.

4 They are a lot more dangerous than our OGs
5 were.

6 Q. OGs?

7 A. Original gangsters. They were a little more
8 organized back in the day, if you will.

9 These youngsters are loose canons. They go
10 out and commit crimes without even blinking an eye.

11 They might show up to a party, and somebody
12 says something in disrespect, and before you know
13 it, we have 3 people shot.

14 They are very dangerous.

15 Q. How does a member or an affiliate leave a
16 gang?

17 A. It depends. Are we talking about just a
18 simple street gang or the Mexican Mafia, who is a
19 prison gang.

20 You don't get out. If you want out, you will
21 get killed.

22 It you want to leave the Squad or the 60s,
23 different gangs have different rules.

24 You have hundreds, if not thousands of
25 different gangs throughout the country who formulate

1 their own set of rules.

2 Some of them are more organized than others.

3 Some can just leave, have a family. Some
4 might have to get jumped out, take a beating before

5 they get out.

6 It varies.

7 Q. And if they get out, does that mean they
8 don't have to abide by the dictates of the more
9 senior members of the gang, or something like that?

10 Is there a rank system?

11 A. Some, yes; some, no.

12 The reality is, is a lot of these gang
13 members who might leave physically, or don't bang
14 any more, it is still in their heart.

15 So, they are still down for their set, if
16 you will, and depending on the situation they may go
17 back.

18 Q. Okay.

19 A. Fall back into that gang lifestyle, commit a
20 crime for that gang once they have been out of it
21 for a while.

22 There is a lot of different variables. It
23 is not black and white.

24 Q. What is in their heart is a theory?

25 A. Based on what people have -- the research

1 that I have done, and people I have talked to.

2 I have talked to hundreds of different gangs
3 members, if not thousands.

4 Q. So you stated during your direct testimony

5 that for the most part, we have shut down these
6 gangs.

7 So are Squad, Gerson Park Kingsmen, are
8 there various gangs no longer really terribly
9 active?

10 A. I am not saying we shut them down. We have
11 put a hurting on them.

12 If we take 50 of your most dangerous gang
13 members out of the loop, so when we talk about the
14 60s, we have put a big dent in it.

15 Does that mean the gang stops, no. They
16 continue to build up that gang.

17 Are they as active in drug trafficking as
18 they were 10 years ago, because RICO came down in
19 2000-ish, no, they probably are not as active as
20 they used to be.

21 But the schematics of Las Vegas has
22 changed. A lot of the projects and the low income
23 areas have been torn down and have been rebuilt.

24 Houses are spread out throughout the valley,
25 so the gangs members are now spread throughout the

1 valley.

2 You have pockets of areas where gang members
3 are committing crimes for their gangs.

4 But as far as organization, I would say
5 definitely not as much as it was 10 or 15 years ago.

6 Q. I know they torn down Gerson Park.

7 A. Yes.

8 Q. And other areas?

9 A. Yes.

10 Q. Is there no more -- Hells Angels generally
11 have clubhouses.

12 They are --

13 MS. PIEPER: I would object to that
14 catheterization.

15 I am sure I can be called a gang.

16 THE COURT: This is a matter that is being
17 actively litigated.

18 MS. PIEPER: In some parts of the country.

19 Q. Do the gangs we are discussing in this case,
20 the Rolling 60s, Squad Up -- and I don't know if
21 there are any other mentioned -- do they have a
22 central meeting house?

23 A. They are not as vocalized as the Hells
24 Angels.

25 They have a couple different clubhouses, or

1 at least they did. They put their sign and symbol,
2 their name up on their house.

3 They have a clubhouse. Gangs don't usually
4 market themselves like that. They keep everything
5 underground.

6 They do have meetings. It is something that
7 law enforcement doesn't know about, and only their
8 members and close associates do.

9 They don't put themselves out there like HA,
10 no.

11 Q. So the answer is the gangs subject to this
12 litigation do not have, to your knowledge, a central
13 meeting hall?

14 A. No, not to my knowledge.

15 MR. OTTO: I have nothing else.

16 THE COURT: Mr. Mann.

17 MR. MANN: Thank you, Your Honor.

18

19 CROSS-EXAMINATION

20

21 BY MR. MANN:

22 Q. Detective, you indicated that upon looking
23 at field FI cards, that you look to a certain
24 criteria to establish if just a meeting with someone
25 in the field would warrant them being categorized by

1 Metro as a gang?

2 A. Yes.

3 Q. Can you tell me what that criteria is?

4 A. Yes.

5 If we come across a gang member, they can
6 admit to it.

7 We can have -- we can establish somebody by
8 tattoos.

9 Clothing.

10 Informants.

11 And a few other things.

12 In order for us to be able to categorize
13 somebody on an FI card as a gang member, we have to
14 have 2 criteria.

15 So if I have somebody that says I am a gang
16 members, he has tattoos, then I can categorize him
17 as being an admitted or as being a gang member from
18 a particular gang.

19 However, if somebody goes to jail, whether
20 it is CCDC or the Department of Corrections, and
21 they go to prison, and they say they are from a gang
22 set, that would be called a classification admin,
23 and you only need one criteria.

24 So, if somebody comes into county jail and
25 says I am a Rolling 60s Crip, they are documented as

1 a Rolling 60s Crip.

2 Q. Okay.

3 A. I will be honest, I left a couple of things
4 out.

5 Q. Keep being honest with me, please.

6 A. I am honest.

7 Q. Go ahead.

8 A. Also, hand signs and symbols.

9 So, if an individual throws up hand signs
10 and symbols, then we can add that as a basis for our
11 membership.

12 Q. Okay.

13 And you would also admit that just because
14 someone has been categorized as a gang, that any
15 sort of crimes they commit thereafter is not
16 necessarily in furtherance of that gang, correct?

17 A. I'd agree with that, not necessarily.

18 Q. So, for example, you said the types of
19 criminal activity that would categorize someone as
20 being in a gang, other than, for example, if Squad
21 Up was just a bunch of people wearing -- what color
22 is Squad Up?

23 A. They don't really have colors.

24 Q. If Crips were just a bunch of people wearing
25 blue, and they went around the country, they would

1 all be wearing blue, but didn't do any sort of
2 criminal activity except just wearing blue, that
3 wouldn't be a gang, correct?

4 A. If they are out --

5 Q. I said they weren't committing a crime.

6 A. No, they would just be an organization.

7 Q. They would just be a group of people that
8 like to wear blue?

9 A. Correct.

10 Q. So, the fact that you get a people that
11 commit crimes.

12 A. A pattern of criminal activity, yes.

13 Q. You said the pattern is anywhere from
14 misdemeanors all the way up to murder?

15 A. Yes.

16 Q. And is there a specific set of crimes that
17 you say, okay, these 10 crimes are what gang
18 members, or gangs comit in order for us to say; yes,
19 that's a gang?

20 A. No, and I have to expand on that, if you
21 will allow me.

22 Q. I will.

23 A. All right.

24 Hear is thing, when somebody goes out and
25 commits a crime, he may not or she may not be doing

1 it for the gang itself.

2 However, they have to establish that resume
3 within the gang.

4 They have to establish a criminal resume to
5 get that respect within the gang to be able to

6 elevate their status within the gang.

7 Just because Johnny goes out and rips off a
8 7-Eleven, and he steals something and punches a
9 clerk out, he might not have done it for the gang,
10 but he did it for himself to evaluate that status to
11 build that criminal resume.

12 Q. You as a Detective looking from the outside
13 in, you don't know if Johnny in this hypothetical
14 that you are talking about committed a store robbery
15 was actually in furtherance of becoming a gang
16 member or not, unless there is some sort of further
17 information that you have that would indicate that,
18 correct?

19 A. That's my job, to find that out.

20 Q. Okay.

21 And you specifically testified that you
22 don't have any sort of information in this
23 particular case that would indicate that the crimes
24 that are alleged to have been committed were in
25 furtherance of the gang at this time, because you

1 have no other information other than that potential
2 gang members, or people that have been identified in
3 the field as gang members have been accused of
4 committing this particular crime?

5 A. I would it is plausible, yes, but I don't
6 have enough information to make that conclusion yet.

7 MR. MANN: Thank you.

8

9 REDIRECT EXAMINATION

10

11 BY MS. PIEPER:

12 Q. Just because somebody comits a crime, and
13 they don't say this is on Gerson Park Kingsmen, that
14 they don't say anything, it is not committed in
15 furtherance of a gang?

16 A. I was correct. Nothing has to be said.

17 Q. The fact that somebody doesn't have
18 clubhouse does not mean they are not a gang?

19 A. Absolutely.

20 Q. Let's say the facts in this case were that
21 one of the people involved in the shooting is still
22 at large, LG's little brother sold some drugs to the
23 victim in this case and shorted them.

24 The victim in this case being a Grape Street
25 Crip was trying to show, you don't rip me off.

1 I am a Grape Street Crip, you don't rip me
2 off. So, the victim in this case then approaches
3 the brother of, let's say, LG, and shows him; hey,
4 you are not going to do this me, and either punches

5 Little Zay or Isaiah in the face, or gets physical
6 with him and shows him a firearm and says; you ain't
7 going to rip me off, I am Grape Street Crip.

8 LG goes out and gets 2 of his friends, let's
9 say Martell Moten and Matthew Washington, both gang
10 members, one is a Rolling 60s Crip, and the other
11 one is a Squad Up member, and then they go with LG,
12 who also is a Rolling 60s Crip and do the shooting;
13 does that change your opinion?

14 A It changes it. It doesn't solidify it, but
15 it definitely changes my opinion.

16 Q. Why?

17 A. Because this individual basically got punked
18 out, if you will, in front of other people, and now
19 he has to maintain his reputation, and he doesn't
20 want to get punked out, and not do anything about
21 it, so that people that he goes to, if this happened
22 in this case, he went to associates of his within
23 the same gang.

24 Q. Even though one of the members is not a
25 Rolling 60s Crip, he is a Squad Up member?

1 A. Well, here is where it gets tricky. We have
2 individuals who are associating with each other, and
3 we know that Squad and Rolling 60s have members and
4 associates within these particular groups that
5 associate with each other.

6 You can say they associate with each other
7 on a regular basis. Maybe not these 2 individuals
8 her per say, but we do have documentation through
9 Metro that Squad and Rolling 60s do associate with
10 each other, not only on one level, but also the gang
11 level.

12 Q. Let me ask you this, the fact that the
13 victim in this case Nathan Rawls, who is a Grape
14 Street Crip may have, using your language punked
15 out --

16 MR. OTTO: Can I object?

17 Q. -- may have punked out Little Zay, who is
18 the younger brother of LG, one of the outstanding
19 suspects, he is named in the criminal complaint, may
20 have been punked out, and then Little Zay may have
21 gone to his brother and said; this is what happened
22 to me, does that in some way change your opinion
23 about whether this crime was committed in
24 furtherance of a gang?

25 A. Yes.

1 THE COURT: Hold on, on answering.

2 MR. OTTO: I object, unless -- well, I
3 object to the form of the question unless it is a
4 hypothetical.

5 MS. PIEPER: some of those facts have been
6 established.

7 MR. OTTO: some.

8 THE COURT: I am going to sustain it. We
9 are stretching.

10 There are some facts that are germane to
11 this case that I have heard, but not all of those
12 facts.

13 Q. Let's say LG finds out that his brother has
14 been confronted, and gets 2 of his friends, who also
15 happen to be -- one of them happens to be a member
16 of the Rolling 60s Crips, and the other one happens
17 to be a Squad Up member, chromosomes and they go
18 over to a house and shoot up the house, because LG
19 says something to the effect; my brother was
20 disrespected, or that type of thing happens, it is
21 about respect.

22 A. It definitely raise my suspicions about it
23 being gang-related.

24 Q. Why is that?

25 A. Because why did he not handle it himself;

1 why didn't he just get his brother and handle
2 business.

3 We have dope rips all the time. He went to
4 an outside source who just happens to be more
5 members of the Rolling 60s Crips.

6 Now you are taking one small piece and
7 bringing more pieces in from the same gang, and that
8 elevates my suspicions; okay, why is he doing it; is
9 it to further his gang, are they trying to put
10 pressure on this guy; not to mention that he is a
11 Grape Street Crip out of another state.

12 There are rules on the street. Gang members
13 don't come into Las Vegas and sell dope on the west
14 side, they go to other areas, Sherwood, Van Patten.

15 People sell dope there all of the time, but
16 we have gang members who come in from out of state
17 who sell drugs in these neutral locations, if you
18 will.

19 In this instance we have somebody who has
20 been disrespected, and he brings people from his
21 gang to handle business, if you will.

22 Q. You said there are rules on the street.
23 What do you mean by there are rules on the street,
24 specifically in regard to people, outsiders, meaning
25 somebody from another state that comes into Clark

1 County?

2 A. The rules are the west side -- we will talk
3 about the west side. People don't come in from out
4 of town and sell narcotics on the west side in a
5 particular gang area.

6 I will go back to the case of Jonathan
7 Toliver from Squad Up. There was a Crip gang member
8 that was selling narcotics out of that particular
9 turf that Squad Up and GPK had control over.

10 They shot him, killed him. They were being
11 disrespected for selling narcotics in their area.

12 It happens all the time. But in this
13 particular case, it may not be so much they were
14 selling drugs in their turf, but an individual was
15 disrespected and challenged, and now he has to live
16 up to that and do something about it.

17 Q. Let's say hypothetically we have an older
18 brother whose younger brother is selling drugs --

19 MR. MANN: I object to the hypotheticals.
20 This is a probable cause hearing.

21 The facts are the facts. Your Honor can
22 determine if there are facts based on that.

23 We are going into all sorts of
24 hypotheticals. He already stated he doesn't have an
25 opinion based on the facts that he has already

1 received, which is the arrest report, and that
2 information.

3 So based on that, I ask that he not be
4 allowed to answer.

5 THE COURT: I will sustain that.

6 We are stretching a lot with the
7 hypotheticals.

8 MS. PIEPER: Even though counsel was ad-
9 nauseam on Thursday go through hours of issues in
10 regard to the 4th Amendment that those issues could
11 be taken up at District Court, and the rest of us
12 sat here and indulged him.

13 THE COURT: I understand that. You are
14 stretching into -- there's a difference between
15 laying some ground work for a 4th Amendment
16 challenge, and where we are at.

17 They are hypotheticals. I understand that we
18 can play the hypothetical game all day long, and I
19 know that with every hypothetical, Detective Fink is
20 going to be able to say it is stretching.

21 He already testified that it is plausible,
22 and he has already testified that if he has more
23 facts than what he had, it could be developing, that
24 it could definitely change his opinion.

25 So, I think with almost any hypothetical you

1 give him, Ms. Pieper, I think he is going to come
2 back and say; yes, it starts raising my awareness a
3 lot more.

4 Yes, I keep thinking it is more indicative
5 of gang activity. That's what he testified to 2 of
6 your hypotheticals.

7 I can ask -- you can ask a third one, and I
8 pretty confident I know what he is going to say.

9 Mr. Mann, how are we on your time; you have
10 pick up issues.

11 MR. MANN: Your Honor, I can go to 4:30.

12 THE COURT: One more hypothetical, and
13 that's it.

14 Q. Let's say you have a hypothetical where an
15 older brother hears that his younger brother has
16 been disrespected by somebody who is an out of town
17 gangster, would that change your opinion in regard
18 to whether it was gang motivated for not?

19 A. I would say no. However, it doesn't matter
20 if he is from town or out of town.

21 If they are both gang members, they have a
22 level of respect. Respect is the biggest thing when
23 it comes to gang members, even between 2 gang
24 members, or a gang member or a police officer, there
25 is that level of respect.

1 When somebody is disrespected, they have to
2 stand up for themselves. If this brother would
3 stand up for his younger brother, and go out and get
4 2 individuals from the same gang, that raises my
5 awareness to it.

6 I would say it is very plausible they did it
7 to promote or further assist that gang. They have a
8 reputation not only as individuals, but as gang
9 members to up hold.

10 MS. PIEPER: Thank you.

11 Nothing further.

12 THE COURT: Anything further?

13 MR. OTTO: Short, please.

14

15 REXCROSS-EXAMINATION

16

17 BY MR. OTTO:

18 Q. What information did you find that shows,
19 proves that Nathan Rawls was an active Grapes Grape
20 Street Crip?

21 A. I have some paperwork that was sent out from
22 Memphis, Tennessee through detective Lisa Mathis, I
23 believe, that sent out information regarding
24 Mr. Rawls and his gang activity as being a member
25 Grape Street.

1 Q. Do you the age of his sheet, the things on
2 his sheet?

3 A No, I don't. He had several things on his
4 sheet.

5 Q. People can leave gangs, they just drift
6 away, isn't that true?

7 A. Drift away, some do, sure.

8 Q. They move to Las Vegas?

9 A. We have a lot of gang members that leave
10 their towns an start-up new gangs in Las Vegas all
11 of the time.

12 Q. 35 years old?

13 A. Absolutely.

14 MR. OTTO: I have nothing further.

15 THE COURT: Mr. Mann.

16

17 RECROSS-EXAMINATION

18

19 BY MR. MANN:

20 Q. This information that you received from
21 Memphis, did you provide that to the District
22 Attorneys office?

23 A. It was provided to me.

24 Q. From the District Attorneys office?

25 A. I believe so. It was an e-mail through

1 somebody. I can't remember exactly where it came
2 from.

3 I think the District Attorneys office should
4 have a copy, or homicide. I don't remember.

5 MR. MANN: Thank you.

6 No further questions.

7 THE COURT: All right.

8 Detective Fink, thank you for your
9 testimony.

10 You may step down.

11 Don't discuss your testimony with anyone
12 else during the pendency of this case, aside from a
13 representative of the District Attorneys office,
14 Mr. Otto's office or Mr. Mann's office.

15 State, call your next witness.

16 MS. PIEPER: The State rests, Your Honor.

17 THE COURT: Mr. Otto, have you discussed
18 with Mr. Washington his right to testify at this
19 particular time?

20 MR. OTTO: I have.

21 THE COURT: Is he following your advice?

22 MR. OTTO: I advised him not to the testify,
23 and he is following my advice.

24 THE COURT: Is that correct, Mr. Washington,
25 that Mr. Otto has discussed that you do have a right

1 to testify at this particular juncture, and you are
2 following his advice and not presenting testimony
3 today?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Mr. Otto, any other witnesses or
6 evidence to offer on behalf of Mr. Washington
7 today?

8 MR. OTTO: No, Your Honor.

9 THE COURT: The defense as to Mr. Washington
10 rests?

11 MR. OTTO: Yes, Your Honor.

12 THE COURT: Mr. Mann, have you discussed
13 with Mr. Moten his right to testify?

14 MR. MANN: Yes, and he has decided not to
15 testify.

16 THE COURT: Is that correct, Mr. Moten, you
17 are following your attorney's advice and you are not
18 going to testify today?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Mr. Mann, any other witnesses or
21 evidence to present at this particular juncture?

22 MR. MANN: No, Mr. Moten rests.

23 THE COURT: Ms. Pieper, you are up.

24 MS. PIEPER: I waive for rebuttal.

25 THE COURT: Mr. Otto, you are first.

1 MR. OTTO: Oh, dear.

2 The amended criminal complaint has 19
3 counts. Count 1 through 17, and they range from
4 murder to attempted murder, to battery causing
5 substantial bodily harm, to firing into a vehicle or
6 a building that is occupied.

7 Count 18 and Count 19 are possession of a
8 firearm by an ex-felon, one each for Mr. Moten and
9 Mr. Washington.

10 Each of the first 17 counts recites the
11 underlying crime, if you will, be that murder or
12 battery, or conspiracy to commit murder or battery,
13 or the other charges within the amended complaint,
14 followed by with the intent to promote, further or
15 assist a criminal gang.

16 No evidence in this long preliminary hearing
17 has been presented that establishes the crimes in
18 Counts 1 through 17 were committed for purpose of;
19 with the intent to promote, further or assist a
20 criminal gang.

21 The State called the last witness today, an
22 expert on gangs, and he said his investigation and
23 analysis of the case, so far as he knows it, did not
24 allow him to form an opinion as an expert that these
25 crimes were committed in furtherance in promoting --

1 with the intent to promote or further assist a
2 criminal gang.

3 For that reason, I would ask Court to
4 dismiss Counts 1 through 17 .

5 THE COURT: All right.

6 Anything further, Mr. Otto?

7 MR. OTTO: No.

8 THE COURT: Mr. Mann.

9 MR. MANN: Your Honor, there was no evidence
10 presented to indicate that the bullets fired into
11 the structure was bullets that came from any of the
12 guns that were found in the car.

13 There was not even slight evidence presented
14 that it might be. The only information that we have
15 is that there is 9 millimeter and 40 caliber shell
16 casings that were found outside of the residence.

17 And we don't have any other information.

18 Obviously, Your Honor can realize that a 9
19 millimeter and a 40 caliber weapon are a very common
20 caliber weapon, and that there would be many
21 calibers throughout just Las Vegas that had that
22 same caliber weapons.

23 And just because they were found in the car,
24 does not mean that they were used in this particular
25 shooting whatsoever.

1 In addition, we have no evidence that would
2 indicate that these guns were even fired whatsoever,
3 out of the guns that were found in the car, that
4 they were even fired ever. There is no evidence
5 regarding that.

6 All we have is that they are the same
7 caliber shells, and the same caliber weapons in a
8 car that was found, as Detective Rogers put it, 2 to
9 4 Miles away from the incident.

10 Now, there are some obvious possible links,
11 but does it rise to the level of probable cause,
12 where Your Honor could say that there is slight or
13 marginal evidence that a crime occurred, and that
14 these gentlemen are the ones that committed that, or
15 are alleged to have committed that crime.

16 Further, I want to join into Mr. Otto's
17 argument that the gang enhancement has not been
18 proven.

19 Obviously Detective Fink testified that it
20 was plausible, but he did not testify as to it was
21 probable.

22 Plausible does not rise to level of probable
23 cause. It is obviously lower than probable cause.

24 That's what Your Honor needs to look at in
25 this particular case, is that was it such a degree

1 that it would render probable cause that a crime
2 occurred, and that in this instance that was it a
3 gang enhancement, was this gang motivated.

4 There is no information -- obviously

5 Ms. Pieper went through a series of hypotheticals,
6 but the hypothetical facts that she presented to
7 Detective Fink were not was not evidence that was
8 admitted in the preliminary hearing.

9 Although some was alluded to, not all of it
10 was, and therefore, the hypotheticals would not
11 stand before Your Honor as information as to what
12 Detective Fink would testify to as it being a
13 likelihood or slight or marginal evidence that the
14 crime was gang-related.

15 Regarding charge 19, which is regarding the
16 of a possession firearm by an ex-felon. There's no
17 information other than Mr. Moten was found in the
18 car with a gun that Mr. Moten possessed that gun,
19 that he had constructive or physical control over
20 that weapon, and directed that weapon to be used.

21 Now, obviously, the State is going to stand
22 up and say we believe that Mr. Moten fired the
23 weapon, therefore he had physical or constructive
24 control over that weapon.

25 But there is no evidence that he actually

1 did fire that weapon.

2 And if Your Honor does bind this particular
3 case up, specifically counts 1 through 7, I ask that
4 because of the lack of information, specifically the

5 forensic information, that we find out under what
6 theory Your Honor is binding this case up.

7 They alleged 3 different theories. There is
8 by directly committing said acts. Obviously we have
9 no information of anyone directly shooting.

10 All we have is that they were found with the
11 guns, that they believe might be the same caliber as
12 the guns that the casings were found outside.

13 2, the aiding and abetting, that how did
14 each aid and abet the other in committing the
15 crime.

16 And 3, that there was a conspiracy to
17 commit, the specific intent to commit murder.

18 Obviously, Your Honor, if you are going to
19 bind it up, you can't blanketly blind it up as to
20 the direct involvement, because there is no
21 information regarding that.

22 The aiding and abetting, we have conflicting
23 information regarding that, and Your Honor is
24 actually at a conundrum because the information that
25 would support the aiding and abetting comes from

1 each of the co-Defendant's statements, which can't
2 be used against each other, which is exactly why
3 they were introduced in the first place is to be
4 used against each other.

5 When you are using those statements against
6 each other, Your Honor specifically said; look, I am
7 going to separate what one says about the other, and
8 I am able to separate them.

9 But the State clearly introduced that
10 information to say that Defendant A was saying that
11 Defendant B committed the crime and vice versa.

12 And obviously if that is the basis, if you
13 look at each of their statements alone, Mr. Moten
14 specifically said that did he not commit the crime.

15 He never made any sort of commitment that he
16 had any sort of participation in the shooting.

17 All he said was that he was in the car at
18 the time of the shooting.

19 Whereas, as if you look at Mr. Washington's
20 statement alone, he specifically says that he didn't
21 commit the shooting. That he was in the car at the
22 time of the shooting.

23 So then up to say; well, what did each of
24 them say about the other, which then gets you into
25 the Gruton issues, and to the hearsay issues that

1 Your Honor so diligently said she would not consider
2 for the purposes of the preliminary hearing.

3 And when you extract that additional
4 information that was objected to, it becomes very

5 difficult for the State to be able to prove their
6 case that there was any sort of conspiracy.

7 That there was any sort of aiding and
8 abetting. All we have is a vehicle that was found
9 with guns that had similar caliber weapons in it.

10 We don't have any other information other
11 than that. And finally as to the discharging of a
12 firearm at or into a structure, obviously we have
13 bullets that went into a building, but we don't know
14 who actually fired those bullets.

15 We don't know who actually participated in
16 that. They have not demonstrated that these are
17 even the guns that were involved in the first
18 place.

19 And, so, for the purposes of preliminary
20 hearing, I know, Your Honor, the burden is extremely
21 low, slight or marginal, but I would argue that even
22 without that information, that they have not met the
23 slight or marginal hurdle to overcome, to be able to
24 prove that.

25 MR. OTTO: I would join in Mr. Mann's

1 argument.

2 THE COURT: Mr. Pieper.

3 MS. PIEPER: In regards to Count 19 or Count
4 18?

5 MR. OTTO: Me?

6 MS. PIEPER: Yes.

7 MR. OTTO: In regards to all. 18 for my
8 client.

9 MS. PIEPER: In regard to dismissing counts
10 1 through 17, because we haven't proven the gang
11 enhancement, I will submit it on the gang
12 enhancement.

13 What I am going to say is just because we
14 haven't met an element of 1 of the crimes, doesn't
15 mean we haven't met an element of the other crimes.

16 I think in regards to counts 1 to 17, the
17 State has met its burden.

18 If this Court is going to dismiss the gang
19 enhancement, I think the rest of the elements have
20 been met.

21 I think we have had testimony from -- well,
22 1, obviously we have a dead body. We have the
23 coroner's report.

24 We also have shots coming from the back. It
25 is very hard to shoot yourself in the back.

1 We also have testimony that the victims
2 were -- how the victims were sitting in the house,
3 that all of the shots came outside of the house into
4 the house.

5 I think we had testimony today from
6 Detective Raetz that there is at least 10 bullets
7 that went through the front window various, and then
8 various parts into the house.

9 That's where we get the 10 discharging
10 counts. In regard to the attempt murder, I am going
11 to assume that counsel is kind of objecting to that,
12 because he asked for the entire count to be
13 dismissed.

14 The State's theory is that obviously any
15 time somebody shoots into a house and somebody gets
16 shot, or they are lying on their bed, and their bed
17 is blowing up with bullets flying over their head,
18 that you intend to the kill someone when you do
19 that.

20 In this case we have 2 people that got shot.
21 With regard to this case, Ms. Scott testified that
22 she had scarring. She had surgery.

23 She had the bullet removed. We had
24 information in regard to Mr. Thomas' injuries.

25 We also heard from Markell Hill in regard to

1 the fact that he was lying, sleeping, and that the
2 bullets were whizzing past him.

3 I addressed the discharging. In regard to
4 Count 18 and 19, constructive possession can be if 2
5 people are in a car, and we have guns in the
6 vehicle.

7 In This case we have found that there were 2
8 guns in the vehicle. 1 is a 9 millimeter, and the
9 other 1 is a 40 caliber.

10 We actually get the 40 caliber from
11 Mr. Moten. It is his statement that tells us where
12 the gun is.

13 The State is going to say that we have shown
14 by slight or marginal constructive possession.

15 I think you have -- I don't know what the
16 exhibit numbers are, off the top of my head -- what
17 their felonies are, they are ex-felons, and that
18 they are at least constructively possessing a
19 firearm.

20 It is interesting that I heard the argument
21 that because we have no forensics, we cannot show
22 slight or marginal evidence.

23 Yet the 2 guns that were recovered in the
24 car were a 9 millimeter and a 40 caliber. And the
25 shell casings on the scene were of a 9 millimeter

1 and a 40 caliber.

2 We didn't get our forensics back because the
3 prelim essentially went within a month, or less than
4 a month, or maybe exactly a month of when this all
5 happened.

6 It you logically look at Mr. Mann's
7 argument, no prelim would get bound over without
8 forensic or somebody admitting to committing a
9 crime.

10 That's why in the State of Nevada the
11 preliminary hearing standard is slight or marginal
12 evidence that a crime has been committed, and that
13 these Defendants committed the crimes.

14 Had we had all of the forensics, we would
15 probably be talking about a different situation.

16 In regard to the theories that the State has
17 charged, it is interesting to me that he make those
18 arguments about the statement and Gruton, and all of
19 that, and yet, I think if you look at the totality
20 of the circumstances, we have these 2 Defendants
21 going to the scene with a third person.

22 1 or both of them, or maybe all 3 of them at
23 some point committed a shooting.

24 We have them leaving the scene and then
25 getting caught with the 2 guns. Interesting enough,

1 the third person who may be involved, we don't know
2 whether he had a gun or not, because these 2 were
3 caught within probably 10 to 15 minutes after it
4 this homicide occurred in a car 2 to 3 miles away
5 with the same caliber guns as the casings that are
6 on the scene.

7 Based on that, Your Honor, the State is
8 going to ask you to bindover the case.

9 We think we have shown by slight or marginal
10 evidence that these 2 Defendants committed these
11 crimes.

12 THE COURT: All right.

13 Mr. Washington and Mr. Moten, I am sure your
14 attorneys have discussed with you that the standard
15 at my particular level is slight or marginal
16 evidence that a crime may have occurred, and you may
17 have been the persons to commit it.

18 For those reasons, after hearing the
19 evidence before the Court today, I think it is
20 pretty clear from Mr. Washington's statements that
21 he acknowledged being there.

22 Mr. Moten's statements he acknowledged being
23 there. I have got a Silver Dodge Magnum that was
24 seen at the crime.

25 I have a Silver Dodge Magnum that was seen

1 at the crime.

2 I have a Silver Dodge Magnum that was
3 stopped later that the search revealed a 40 caliber
4 gun, and a 9 millimeter gun found in the car.

5 I have casings with both 40 and 9 millimeter
6 casings found outside the apartment at issue where
7 both independently Mr. Washington acknowledged that
8 he was over there and Mr. Moten.

9 So, for those reasons, the Court does find
10 slight or marginal evidence to hold Mr. Washington
11 over, and Mr. Moten to answer on the crimes of
12 conspiracy to commit murder.

13 I am not binding over on the gang
14 enhancement on Count 1.

15 Count 2, murder with use of a deadly weapon,
16 no gang enhancement.

17 Count 3, attempt murder with use of a deadly
18 weapon, no gang enhancement.

19 Count 4 deals with Ashley Scott, so battery
20 with use of a deadly weapon resulting in substantial
21 bodily harm, no gang enhancement.

22 Count 5, attempt murder with use of a deadly
23 weapon, no gang enhancement.

24 Count 6, battery with use of a deadly
25 weapon, I am not binding over the substantial bodily

1 harm with the gang enhancement.

2 Count 7, Marque Hill, attempt murder with
3 use of a deadly weapon, no gang enhancement.

4 On counts 8 through, I think it is 17 --

5 18 -- 8 through 17, discharging a firearm at or into
6 a structure, vehicle, aircraft or watercraft, I am
7 binding over on other all of those without the gang
8 enhancement.

9 Count 18 I am binding Mr. Washington over on
10 possession of a firearm by an ex-felon.

11 And on Count 19, I am binding Mr. Moten over
12 on possession of a firearm by an ex-felon.

13 Gentlemen, you will need to appear with your
14 attorneys in the lower level District Court
15 Arraignment on the following date and time.

16 THE CLERK: December 23, 9:30, lower level
17 District Court Arraignment.

18

19 (Proceedings concluded.)

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ATTEST: FULL, TRUE, ACCURATE AND CERTIFIED

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TRANSCRIPTION OF PROCEEDINGS.

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/s, Robert A. Cangemi

ROBERT A. CANGEMI, CCR NO. 888

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Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



Lead Atty: Public Defender

13F18022A

State of Nevada vs. WASHINGTON, MATTHEW

Result: Matter Heard

11/8/2013 8:00:00 AM Status Check

PARTIES PRESENT: Attorney Defendant Schieck, David Michael WASHINGTON, MATTHEW
Judge: Cruz, Cynthia
Prosecutor: Smith, Gwynneth
Court Reporter: Cangemi, Robert
Court Clerk: Fisher, Shauna

PROCEEDINGS

Added

Hearings: 11/22/2013 9:00:00 AM: Preliminary Hearing

Events: **Defense waives the 15 day rule**
Remand - Cash/Surety Amount: \$180,000.00
Counts 1,4,6,8,10,11,12,13,14
Counsel Substitutes in as Attorney of Record
D. Otto, Esq.

Comment

*Court addressed counsel as to being late to court
Counsel noted that he was retained this morning and was told hearing was at 8:30am.*

Las Vegas Justice Court: Department 05
LVJC_Criminal_MinuteOrder

Case 13F18022A Prepared By: fishers
11/8/2013 1:43 PM

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



13F18022A State of Nevada vs. WASHINGTON, MATTHEW

Lead Atty: David J. Otto

11/22/2013 9:00:00 AM Preliminary Hearing

Result: Matter Heard

PARTIES PRESENT: Attorney Otto, David J.
Defendant WASHINGTON, MATTHEW

Judge: Cruz, Cynthia
Prosecutor: Pleper, Danielle
Court Reporter: Nelson, Bill
Court Clerk: Okada, James

PROCEEDINGS

Attorneys:	Otto, David J. WASHINGTON, MATTHEW	Added
Hearings:	12/5/2013 10:00:00 AM: Preliminary Hearing	Added
Events:	Counsel Substitutes in as Attorney of Record Amended Criminal Complaint <i>Filed in open court</i> Comment <i>Defense just received Discovery</i> Motion to Continue - Defense <i>to better prepare for trial - granted</i> Remand - Cash/Surety	<i>Amount: \$0.00</i>

**Justice Court, Las Vegas Township
Clark County, Nevada**

Charges:	Amended: 001: Conspire to commit murder - with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 002: Open murder - with the use of a deadly weapon or tear gas, with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 003: Attempted murder - with the use of a deadly weapon or tear gas, with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 005: Attempted murder - with the use of a deadly weapon or tear gas, with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 004: Battery with use of deadly weapon, resulting in substantial bodily harm - with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 006: Battery with use of deadly weapon, resulting in substantial bodily harm - with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 007: Attempted murder - with the use of a deadly weapon or tear gas, with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 009: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 010: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 011: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 012: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 013: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	Amended Complaint Filed
	Amended: 014: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	Amended Complaint Filed
	008: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	
	015: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	
	016: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	
	017: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft - with intent to promote or assist a criminal gang	
	018: Own or possess firearm by prohibited person	

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



Lead Atty: David J. Otto

13F18022A

State of Nevada vs. WASHINGTON, MATTHEW

12/5/2013 10:00:00 AM Preliminary Hearing

Result: Matter Heard

PARTIES Attorney Otto, David J.
PRESENT: Defendant WASHINGTON, MATTHEW
Judge: Cruz, Cynthia
Prosecutor: Giordani, John
Court Reporter: Cangemi, Robert
Court Clerk: Fisher, Shauna

PROCEEDINGS

Attorneys:

Added

Hearings: 12/9/2013 1:00:00 PM: Preliminary Hearing

Events: **Motion to Exclude Witnesses - Defense**

granted

State Calls Witnesses

- #1 - Lorraine Desoto
- #2 - Ashley Scott
- #3 - Marque Hill
- #4 - Michael Cromwell
- #5 - Christian Parquette - witness id defendant

Court Continuance

Matter continued for remaining witnesses to testify.

Las Vegas Justice Court: Department 05
LVJC_Criminal_MinuteOrder

Case 13F18022A Prepared By: fishers
12/6/2013 7:33 AM

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



13F18022A State of Nevada vs. WASHINGTON, MATTHEW

Lead Atty: David J. Otto

12/9/2013 1:00:00 PM Preliminary Hearing

Result: Matter Heard

PARTIES PRESENT: Attorney Otto, David J.
Defendant WASHINGTON, MATTHEW

Judge: Cruz, Cynthia
Prosecutor: Pieper, Danielle
Court Reporter: Cangemi, Robert
Court Clerk: Fisher, Shauna

PROCEEDINGS

Exhibits:	Document, Photograph, Etc. (ID:)		
	Document, Photograph, Etc. (ID: 1)	Autopsy Report	Admitted
	Document, Photograph, Etc. (ID: 2)	Judgement of Conviction for Martell Moten	Admitted
	Document, Photograph, Etc. (ID: 3)	Judgment of Conviction - Matthew Washington	Admitted
	Document, Photograph, Etc. (ID: 4)	Judgment of Conviction - Matthew Washington	Admitted
	Document, Photograph, Etc. (ID: 5)	Second Amended Judgment of Conviction - Matthew Washington	Admitted
	Document, Photograph, Etc. (ID: 6)	Photo	Admitted
	Document, Photograph, Etc. (ID: 7)	Photo	Admitted
	Document, Photograph, Etc. (ID: 8)	Photo	Admitted
	Document, Photograph, Etc. (ID: 9)	Photo	Admitted
	Document, Photograph, Etc. (ID: 10)	photo	Admitted
	Document, Photograph, Etc. (ID: 11)	Photo	Admitted
	Document, Photograph, Etc. (ID: 12)	Photo	Admitted
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	Document, Photograph, Etc. (ID: 24)	Photo	Admitted

Las Vegas Justice Court: Department 05

12/10/2013 7:06 AM

LVJC_Criminal_MinuteOrder

Justice Court, Las Vegas Township Clark County, Nevada

Document, Photograph, Etc. (ID: 25)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: 26)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: 27)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: 28)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: 29)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: A)	<i>Map of area</i>	Admitted
Document, Photograph, Etc. (ID: B)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: C)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: D)	<i>Photo</i>	Admitted
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Document, Photograph, Etc. (ID: I)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: J)	<i>Photo</i>	Admitted
Document, Photograph, Etc. (ID: K)	<i>Photo</i>	Admitted

Events:

Preliminary Hearing

*Continued Preliminary Hearing
Motion to Exclude Witnesses by State - Motion Granted*

States Witnesses:

- #5 - Robert Rogers*
- #6 - Jason McCarthy - witness id defendant*
- #7 - Matthew Gillis - witness id defendant*
- #8 - Dean Raetz*
- #9 - James Fink*

State Rests

Defendant Advised of His Statutory Right to Make a Statement Defendant Waives the Right to a Sworn or Unsworn Statement

Defense Rests

Motion to remove gang enhancement from charges and Argument In Favor of Said Motion by Defense - Argument Against Said Motion by State - Motion granted

Bound Over to District Court as Charged

Review Date: 12/10/2013

District Court Appearance Date Set

*December 23, 2013 @ 9:30am
In Custody*

Case Closed - Bound Over

**Justice Court, Las Vegas Township
Clark County, Nevada**

Charges:	Amended: 001: Conspire to commit murder	Amended by Interlineation
	Amended: 002: Open murder - with the use of a deadly weapon or tear gas	Amended by Interlineation
	Amended: 003: Attempted murder - with the use of a deadly weapon or tear gas	Amended by Interlineation
	Amended: 005: Attempted murder - with the use of a deadly weapon or tear gas	Amended by Interlineation
	Amended: 004: Battery with use of deadly weapon, resulting in substantial bodily harm	Amended by Interlineation
	Amended: 006: Battery with use of deadly weapon	Amended by Interlineation
	Amended: 007: Attempted murder - with the use of a deadly weapon or tear gas	Amended by Interlineation
	Amended: 009: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 010: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 011: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 012: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 013: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 014: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 008: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 015: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 016: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation
	Amended: 017: Discharge firearm at or into occupied structure, vehicle, aircraft or watercraft	Amended by Interlineation

Plea/Disp: **001: Consp murder [50038]**
Disposition: Bound Over to District Court as Charged (PC Found)

002: Open murder, e/dw [50001]
Disposition: Bound Over to District Court as Charged (PC Found)

003: Att murder, e/dw [50031]
Disposition: Bound Over to District Court as Charged (PC Found)

004: Battery w/use of DW, r/SBH [50226]
Disposition: Bound Over to District Court as Charged (PC Found)

005: Att murder, e/dw [50031]
Disposition: Bound Over to District Court as Charged (PC Found)

**Justice Court, Las Vegas Township
Clark County, Nevada**

006: Battery w/DW [50223]

Disposition: Bound Over to District Court as Charged (PC Found)

007: Att murder, e/dw [50031]

Disposition: Bound Over to District Court as Charged (PC Found)

008: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

009: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

010: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

011: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

012: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

013: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

014: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

015: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

016: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

017: Dischg gun at/into occup struct/veh/craft [51442]

Disposition: Bound Over to District Court as Charged (PC Found)

018: Own/poss gun by prohibit pers [51460]

Disposition: Bound Over to District Court as Charged (PC Found)

Las Vegas Justice Court: Department 05

LVJC_Criminal_MinuteOrder

Case 13F18022A Prepared By: fishers
12/10/2013 7:06 AM

Alvin D. Quinn
CLERK OF THE COURT

1 **INFM**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 DANIELLE K. PIEPER
6 Chief Deputy District Attorney
7 Nevada Bar #008610
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

7 I.A. 12/23/13
8 9:30 A.M.
9 OTTO/MANN

10 THE STATE OF NEVADA,
11 Plaintiff,

Case No: C-13-294695-1
Dept No: VI

12 -vs-

13 MATTHEW WASHINGTON,
14 #2685499
15 MARTELL MOTEN,
16 #1999333
17 Defendant.

INFORMATION

17 STATE OF NEVADA }
18 COUNTY OF CLARK } ss.

19 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State
20 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

21 That MATTHEW WASHINGTON and MARTELL MOTEN, the Defendant(s) above
22 named, having committed the crimes of **CONSPIRACY TO COMMIT MURDER**
23 **(Category B Felony NRS - 199.480, 200.010, 200.030); MURDER WITH USE OF A**
24 **DEADLY WEAPON (Category A Felony NRS - 200.010, 200.030); ATTEMPT**
25 **MURDER WITH USE OF A DEADLY WEAPON (Category B Felony NRS - 193.330,**
26 **200.010, 200.030); BATTERY WITH USE OF A DEADLY WEAPON RESULTING**
27 **IN SUBSTANTIAL BODILY HARM (Category B Felony NRS - 200.481.2e);**
28 **BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony NRS -**

1 200.481); DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
2 AIRCRAFT, OR WATERCRAFT (Category B Felony NRS - 202.285) and
3 POSSESSION OF FIREARM BY EX-FELON (Category B Felony NRS - 202.360), on
4 or about the 5th day of November, 2013, within the County of Clark, State of Nevada,
5 contrary to the form, force and effect of statutes in such cases made and provided, and
6 against the peace and dignity of the State of Nevada,

7 COUNT 1 - CONSPIRACY TO COMMIT MURDER

8 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
9 unnamed coconspirator, did then and there meet with each other and between themselves and
10 each of them with the other, willfully, unlawfully and feloniously conspire and agree to
11 commit a crime, to-wit: Murder with use of a deadly weapon, and in furtherance of said
12 conspiracy, Defendants MATTHEW WASHINGTON and MARTELL MOTEN did commit
13 the acts as set forth in Counts 2-18, said acts being incorporated by this reference as though
14 fully set forth herein.

15 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

16 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
17 unnamed coconspirator, did then and there willfully, feloniously, without authority of law,
18 and with premeditation and deliberation, and with malice aforethought, kill NATHAN
19 RAWLS, a human being, by shooting at and into the body of the said NATHAN RAWLS,
20 with a deadly weapon, to-wit: a firearm; the said actions of the Defendants MATTHEW
21 WASHINGTON and MARTELL MOTEN and an unnamed coconspirator, resulting in the
22 death of the said NATHAN RAWLS, Defendants MATTHEW WASHINGTON and
23 MARTELL MOTEN being responsible under the following principles of criminal liability,
24 to-wit: (1) by directly committing said act, and/or (2) by Defendants MATTHEW
25 WASHINGTON and MARTELL MOTEN and/or unnamed coconspirator, aiding or abetting
26 each other, with the specific intent that a killing occur, by providing counsel and
27 encouragement and by assisting each other in this crime by accompanying each other to the
28 crime scene where one or more of their member acted as lookouts, as one or more of their

1 member discharged one or more firearms multiple times striking at and into the body of
2 NATHAN RAWLS resulting in the death of the said NATHAN RAWLS, Defendants
3 MATTHEW WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator
4 left the crime together immediately after the shooting, Defendants MATTHEW
5 WASHINGTON and MARTELL MOTEN and the unnamed coconspirator acting in concert
6 throughout, Defendants MATTHEW WASHINGTON and MARTELL MOTEN and the
7 unnamed coconspirator counseling and encouraging each other throughout by words or
8 deeds, and/or (3) Defendants MATTHEW WASHINGTON and MARTELL MOTEN and an
9 unnamed coconspirator, conspiring with each with the specific intent to commit murder
10 whereby each is vicariously liable for the acts of the other in furtherance of the conspiracy in
11 its commission

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

13 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
14 unnamed coconspirator, did then and there, without authority of law, and malice
15 aforethought, willfully and feloniously attempt to kill ASHLEY SCOTT, a human being, by
16 shooting at and into the body of the said ASHLEY SCOTT, with a deadly weapon, to-wit: a
17 firearm, Defendants MATTHEW WASHINGTON and MARTELL MOTEN being
18 responsible under one or more of the following principles of criminal liability, to-wit: (1) by
19 directly committing said act, and/or (2) by Defendants MATTHEW WASHINGTON and
20 MARTELL MOTEN and/or unnamed coconspirator, aiding or abetting each other, with the
21 specific intent that a killing occur, by providing counsel and encouragement and by assisting
22 each other in this crime by accompanying each other to the crime scene where one of more
23 of their member acted as lookouts, as one or more of their member discharged one or more
24 firearms multiple times striking at and into the body of ASHLEY SCOTT, Defendants
25 MATTHEW WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator
26 left the crime together immediately after the shooting, Defendants MATTHEW
27 WASHINGTON and MARTELL MOTEN and the unnamed coconspirator acting in concert
28 throughout, Defendants MATTHEW WASHINGTON and MARTELL MOTEN and the

1 unnamed coconspirator counseling and encouraging each other throughout by words or
2 deeds, and/or (3) Defendants MATTHEW WASHINGTON and MARTELL MOTEN and an
3 unnamed coconspirator, conspiring with each other with the specific intent to commit this
4 murder whereby each is vicariously liable for the acts of the other in furtherance of the
5 conspiracy in its commission.

6 COUNT 4 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
7 SUBSTANTIAL BODILY HARM

8 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
9 unnamed coconspirator did then and there wilfully, unlawfully, and feloniously use force or
10 violence upon the person of another, to-wit: ASHLEY SCOTT, with use of a deadly
11 weapon, to-wit: a firearm, by shooting at and into the body of the said ASHLEY SCOTT,
12 resulting in substantial bodily harm to the said ASHLEY SCOTT, Defendants MATTHEW
13 WASHINGTON and MARTELL MOTEN, being responsible under one or more of the
14 following principles of criminal liability, to-wit: (1) by directly committing said act, and/or
15 (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN and/or unnamed
16 coconspirator, aiding or abetting each other, by providing counsel and encouragement and by
17 assisting each other in this crime by accompanying each other to the crime scene where one
18 or more of their member acted as lookouts, as one or more of their member discharged one
19 or more firearms multiple times striking at and into the body of ASHLEY SCOTT,
20 Defendants MATTHEW WASHINGTON and MARTELL MOTEN and/or an unnamed
21 coconspirator left the crime together immediately after the shooting, Defendants
22 MATTHEW WASHINGTON and MARTELL MOTEN and the unnamed coconspirator
23 acting in concert throughout, Defendants MATTHEW WASHINGTON and MARTELL
24 MOTEN and the unnamed coconspirator counseling and encouraging each other throughout
25 by words or deeds, and/or (3) Defendants MATTHEW WASHINGTON and MARTELL
26 MOTEN and an unnamed coconspirator, conspiring with each other to commit this crime
27 whereby each is vicariously liable for the acts of the other in furtherance of the conspiracy in
28 its commission.

1 COUNT 5 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

2 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
3 unnamed coconspirator, did then and there, without authority of law, and malice
4 aforethought, willfully and feloniously attempt to kill LAROY THOMAS, a human being,
5 by shooting at and into the body of the said LAROY THOMAS, with a deadly weapon, to-
6 wit: a firearm, Defendants MATTHEW WASHINGTON and MARTELL MOTEN being
7 responsible under one or more of the following principles of criminal liability, to-wit: (1) by
8 directly committing said act, and/or (2) by Defendants MATTHEW WASHINGTON and
9 MARTELL MOTEN and/or unnamed coconspirator, aiding or abetting each other, with the
10 specific intent that a killing occur, by providing counsel and encouragement and by assisting
11 each other in this crime by accompanying each other to the crime scene where one of more
12 of their member acted as lookouts, as one or more of their member discharged one or more
13 firearms multiple times striking at and into the body of LAROY THOMAS, Defendants
14 MATTHEW WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator
15 left the crime together immediately after the shooting, Defendants MATTHEW
16 WASHINGTON and MARTELL MOTEN and the unnamed coconspirator acting in concert
17 throughout, Defendants MATTHEW WASHINGTON and MARTELL MOTEN and the
18 unnamed coconspirator counseling and encouraging each other throughout by words or
19 deeds, and/or (3) Defendants MATTHEW WASHINGTON and MARTELL MOTEN and an
20 unnamed coconspirator, conspiring with each other with the specific intent to commit this
21 murder whereby each is vicariously liable for the acts of the other in furtherance of the
22 conspiracy in its commission.

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

24 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
25 unnamed coconspirator, did then and there, without authority of law, and malice
26 aforethought, willfully and feloniously attempt to kill MARQUE HILL, a human being, by
27 shooting at the body of the said MARQUE HILL, with a deadly weapon, to-wit: a firearm,
28 Defendants MATTHEW WASHINGTON and MARTELL MOTEN being responsible under

1 one or more of the following principles of criminal liability, to-wit: (1) by directly
2 committing said act, and/or (2) by Defendants MATTHEW WASHINGTON and
3 MARTELL MOTEN and/or unnamed coconspirator, aiding or abetting each other, with the
4 specific intent that a killing occur, by providing counsel and encouragement and by assisting
5 each other in this crime by accompanying each other to the crime scene where one of more
6 of their member acted as lookouts, as one or more of their member discharged one or more
7 firearms multiple times at the body of MARQUE HILL, Defendants MATTHEW
8 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
9 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
10 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout,
11 Defendants MATTHEW WASHINGTON and MARTELL MOTEN and the unnamed
12 coconspirator counseling and encouraging each other throughout by words or deeds, and/or
13 (3) Defendants MATTHEW WASHINGTON and MARTELL MOTEN and an unnamed
14 coconspirator, conspiring with each other with the specific intent to commit murder whereby
15 each is vicariously liable for the acts of the other in furtherance of the conspiracy in its
16 commission.

17 COUNT 7 - BATTERY WITH USE OF A DEADLY WEAPON

18 did then and there wilfully, unlawfully, and feloniously use force or violence upon
19 the person of another, to-wit: MARQUE HILL, with use of a deadly weapon, to-wit:
20 firearm, by shooting at and into the body of MARQUE HILL, Defendants MATTHEW
21 WASHINGTON and MARTELL MOTEN being responsible under one or more of the
22 following principles of criminal liability, to-wit: (1) by directly committing said act, and/or
23 (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN and/or unnamed
24 coconspirator, aiding or abetting each other, with the specific intent that a killing occur, by
25 providing counsel and encouragement and by assisting each other in this crime by
26 accompanying each other to the crime scene where one of more of their member acted as
27 lookouts, as one or more of their member discharged one or more firearms multiple times at
28 the body of MARQUE HILL, Defendants MATTHEW WASHINGTON and MARTELL

1 MOTEN and/or an unnamed coconspirator left the crime together immediately after the
2 shooting, Defendants MATTHEW WASHINGTON and MARTELL MOTEN and the
3 unnamed coconspirator acting in concert throughout, Defendants MATTHEW
4 WASHINGTON and MARTELL MOTEN and the unnamed coconspirator counseling and
5 encouraging each other throughout by words or deeds, and/or (3) Defendants MATTHEW
6 WASHINGTON and MARTELL MOTEN and an unnamed coconspirator, conspiring with
7 each other with the specific intent to commit murder whereby each is vicariously liable for
8 the acts of the other in furtherance of the conspiracy in its commission.

9 COUNT 8 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
10 AIRCRAFT, OR WATERCRAFT

11 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
12 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
13 discharge a firearm at or into a structure, said structure, not having been abandoned, located
14 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
15 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
16 more of the following principles of criminal liability, to-wit: (1) by directly committing said
17 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
18 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
19 with the intent to commit this crime by accompanying each other to the crime scene where
20 one of more of their member acted as lookouts, as one or more of their member discharged
21 one or more firearms multiple times at or into a structure, Defendants MATTHEW
22 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
23 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
24 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
25 pursuant to a conspiracy to commit this crime.

26 //

27 //

28 //

1 COUNT 9 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
2 AIRCRAFT, OR WATERCRAFT

3 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
4 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
5 discharge a firearm at or into a structure, said structure, not having been abandoned, located
6 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
7 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
8 more of the following principles of criminal liability, to-wit: (1) by directly committing said
9 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
10 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
11 with the intent to commit this crime by accompanying each other to the crime scene where
12 one of more of their member acted as lookouts, as one or more of their member discharged
13 one or more firearms multiple times at or into a structure, Defendants MATTHEW
14 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
15 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
16 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
17 pursuant to a conspiracy to commit this crime.

18 COUNT 10 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
19 AIRCRAFT, OR WATERCRAFT

20 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
21 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
22 discharge a firearm at or into a structure, said structure, not having been abandoned, located
23 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
24 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
25 more of the following principles of criminal liability, to-wit: (1) by directly committing said
26 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
27 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
28 with the intent to commit this crime by accompanying each other to the crime scene where

1 one of more of their member acted as lookouts, as one or more of their member discharged
2 one or more firearms multiple times at or into a structure, Defendants MATTHEW
3 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
4 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
5 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
6 pursuant to a conspiracy to commit this crime.

7 COUNT 11 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
8 AIRCRAFT, OR WATERCRAFT

9 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
10 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
11 discharge a firearm at or into a structure, said structure, not having been abandoned, located
12 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
13 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
14 more of the following principles of criminal liability, to-wit: (1) by directly committing said
15 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
16 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
17 with the intent to commit this crime by accompanying each other to the crime scene where
18 one of more of their member acted as lookouts, as one or more of their member discharged
19 one or more firearms multiple times at or into a structure, Defendants MATTHEW
20 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
21 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
22 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
23 pursuant to a conspiracy to commit this crime.

24 COUNT 12 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
25 AIRCRAFT, OR WATERCRAFT

26 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
27 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
28 discharge a firearm at or into a structure, said structure, not having been abandoned, located

1 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
2 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
3 more of the following principles of criminal liability, to-wit: (1) by directly committing said
4 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
5 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
6 with the intent to commit this crime by accompanying each other to the crime scene where
7 one of more of their member acted as lookouts, as one or more of their member discharged
8 one or more firearms multiple times at or into a structure, Defendants MATTHEW
9 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
10 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
11 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
12 pursuant to a conspiracy to commit this crime.

13 COUNT 13 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
14 AIRCRAFT, OR WATERCRAFT

15 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
16 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
17 discharge a firearm at or into a structure, said structure, not having been abandoned, located
18 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
19 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
20 more of the following principles of criminal liability, to-wit: (1) by directly committing said
21 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
22 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
23 with the intent to commit this crime by accompanying each other to the crime scene where
24 one of more of their member acted as lookouts, as one or more of their member discharged
25 one or more firearms multiple times at or into a structure, Defendants MATTHEW
26 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
27 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
28

1 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
2 pursuant to a conspiracy to commit this crime.

3 COUNT 14 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
4 AIRCRAFT, OR WATERCRAFT

5 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
6 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
7 discharge a firearm at or into a structure, said structure, not having been abandoned, located
8 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
9 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
10 more of the following principles of criminal liability, to-wit: (1) by directly committing said
11 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
12 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
13 with the intent to commit this crime by accompanying each other to the crime scene where
14 one of more of their member acted as lookouts, as one or more of their member discharged
15 one or more firearms multiple times at or into a structure, Defendants MATTHEW
16 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
17 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
18 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
19 pursuant to a conspiracy to commit this crime.

20 COUNT 15 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
21 AIRCRAFT, OR WATERCRAFT

22 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
23 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
24 discharge a firearm at or into a structure, said structure, not having been abandoned, located
25 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
26 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
27 more of the following principles of criminal liability, to-wit: (1) by directly committing said
28 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN

1 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
2 with the intent to commit this crime by accompanying each other to the crime scene where
3 one of more of their member acted as lookouts, as one or more of their member discharged
4 one or more firearms multiple times at or into a structure, Defendants MATTHEW
5 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
6 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
7 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
8 pursuant to a conspiracy to commit this crime.

9 COUNT 16 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
10 AIRCRAFT, OR WATERCRAFT

11 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
12 unnamed coconspirator did then and there wilfully, unlawfully, maliciously, and feloniously
13 discharge a firearm at or into a structure, said structure, not having been abandoned, located
14 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
15 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
16 more of the following principles of criminal liability, to-wit: (1) by directly committing said
17 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
18 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
19 with the intent to commit this crime by accompanying each other to the crime scene where
20 one of more of their member acted as lookouts, as one or more of their member discharged
21 one or more firearms multiple times at or into a structure, Defendants MATTHEW
22 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
23 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
24 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
25 pursuant to a conspiracy to commit this crime.

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1 COUNT 17 - DISCHARGING FIREARM AT OR INTO STRUCTURE, VEHICLE,
2 AIRCRAFT, OR WATERCRAFT

3 Defendants MATTHEW WASHINGTON and MARTELL MOTEN along with an
4 unnamed coconspirator did then and there willfully, unlawfully, maliciously, and feloniously
5 discharge a firearm at or into a structure, said structure, not having been abandoned, located
6 at 2655 Sherwood Street, Apartment No. 18, Las Vegas, Clark County, Nevada, Defendants
7 MATTHEW WASHINGTON and MARTELL MOTEN being responsible under one or
8 more of the following principles of criminal liability, to-wit: (1) by directly committing said
9 act, and/or (2) by Defendants MATTHEW WASHINGTON and MARTELL MOTEN
10 and/or unnamed coconspirator, aiding or abetting each other in the commission of this crime
11 with the intent to commit this crime by accompanying each other to the crime scene where
12 one of more of their member acted as lookouts, as one or more of their member discharged
13 one or more firearms multiple times at or into a structure, Defendants MATTHEW
14 WASHINGTON and MARTELL MOTEN and/or an unnamed coconspirator left the crime
15 together immediately after the shooting, Defendants MATTHEW WASHINGTON and
16 MARTELL MOTEN and the unnamed coconspirator acting in concert throughout, and/or (3)
17 pursuant to a conspiracy to commit this crime.

18 COUNT 18 - POSSESSION OF FIREARM BY EX-FELON

19 Defendant MATTHEW WASHINGTON did then and there wilfully, unlawfully, and
20 feloniously own or have in his possession, or under his control, a weapon, to-wit: a firearm,
21 the said Defendant being an ex-felon, having in 2010, been convicted of Grand Larceny, in
22 Case No. C263408, in the Eighth Judicial District Court Clark County, a felony under the
23 laws of the State of Nevada and/or having in 2011, been convicted of Attempt To Carry
24 Concealed Firearm Or Other Deadly Weapon, in Case No. C269722-1, in the Eighth Judicial
25 District Court Clark County, a felony under the laws of the State of Nevada and/or having in
26 2011, been convicted of Burglary, in Case No. C274118-1 in the Eighth Judicial District
27 Court Clark County, a felony under the laws of the State of Nevada.

28 //

1 COUNT 19 - POSSESSION OF FIREARM BY EX-FELON

2 Defendant MARTELL MOTEN did then and there wilfully, unlawfully, and
3 feloniously own or have in his possession, or under his control, a weapon, to-wit: a firearm,
4 the said Defendant being an ex-felon, having in 2007, been convicted of Robbery With Use
5 of A Deadly Weapon and Conspiracy to Commit Robbery, in Case No. C225913, in the
6 Eighth Judicial District Court Clark County, each a felony under the laws of the State of
7 Nevada.

8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10
11 BY /s//DANIELLE K. PIEPER
12 DANIELLE K. PIEPER
13 Chief Deputy District Attorney
14 Nevada Bar #008610

15 Names of witnesses known to the District Attorney's Office at the time of filing this
16 Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
CUSTODIAN OF RECORDS - CLARK COUNTY DETENTION CENTER	
CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS	
CUSTODIAN OF RECORDS - LVMPD RECORDS	
DESOTO, DARRIN - 2635 SHERWOOD ST., #18, LVN 89109	
DESOTO, DARRIN - 2635 SHERWOOD ST., #18, LVN 89109	
FINK, JAMES - LVMPD P#4780	
HILL, MARQUE - 2655 SHERWOOD ST., #18, LVN 89109	
HONAKER, JAMIE - DISTRICT ATTORNEY INVESTIGATOR	
MCCARTHY, JASON - LVMPD P#4715	
PAIQUETTE, C. - LVMPD P#13937	
RAETZ, DEAN - LVMPD P#4234	

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REVELS, JEROME - DISTRICT ATTORNEY INVESTIGATOR

ROGERS, R. - LVMPD P#2858

SCOTT, ASHLEY - 2645 SHERWOOD ST., #11, LVN 89109

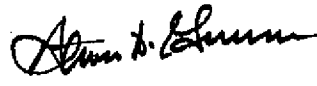
SHELL, ELIZABETH - 1918 PINEDALE AVE., MEMPHIS, TN 38127

SIMMS, DR. LARY - CLARK COUNTY CORONER'S OFFICE

THOMAS, LAROY - 2655 SHERWOOD ST., #18, LVN 89109

WATTS, JOE - DISTRICT ATTORNEY INVESTIGATOR

DA#13F18022A/B/mmw/GANG
LVMPD EV#1311050479
(TK5)



CLERK OF THE COURT

1 NOTM
2 DAVID OTTO & AFFILIATES, PC
3 David J. Otto, Esq.
4 Nevada State Bar No. 5449
5 davidottolaw@yahoo.com
6 1433 North Jones
7 Las Vegas, NV 89108
8 Telephone: (702) 419-1222
9 Facsimile: (702) 778-3670

6 Counsel for Defendant Washington

DISTRICT COURT
CLARK COUNTY

9 STATE OF NEVADA

10 Plaintiff

11 v.

12 MATTHEW WASHINGTON,

13 MARTEL MOTEN

14 Defendants.

) Case No. C-13-294695-1

) Department No. VI

) **NOTICE OF MOTION AND MOTION
TO SEVER DEFENDANTS**

15
16
17
18
19 PLEASE TAKE NOTICE that a hearing on this motion be held before the Eighth Judicial District
20 Court in the Regional Justice Center located at 200 Lewis Avenue Las Vegas, Nevada 89155, on
21 the 13 of January, 2014 in Department 11 at 9:00 AM .m.

22 **MOTION TO SEVER TRIALS OF DEFENDANTS MARTEL "MURDER" MOTEN AND
23 MATTHEW WASHINGTON**

24 COMES NOW Defendant Matthew Washington by and through his attorneys the law firm of
25 David Otto & Associates, PC, David J. Otto, Attorney and Moves this Honorable Court for an Order
26 Severing the trials of the two Defendants in this matter. This Motion is Based on the Points and
27

1 Authorities herein, all pleadings and papers filed in the case and any argument of counsel at any
2 hearing on this Motion.

3 **STANDARD OF REVIEW**

4 "[T]he decision to sever a joint trial is vested in the sound discretion of the district court and will
5 not be reversed on appeal unless the appellant carries the burden of showing that the trial judge
6 abused his discretion." Chartier v. State, 124 Nev. 760, 764, 191 P.3d 1182, 1185 (2008) (internal
7 quotations omitted). Once a district court denies a motion to sever, it has a continuing duty
8 throughout the entire trial to grant a severance should it become clear that prejudice exists. Id. at
9 765, 191 P.3d at 1185-86.

10 The 'Bruton' issue alone is enough to sever these Defendants' trials. Failure of this court to do so
11 will be harmful and reversible error. Bruton v. United States, 391 U.S. 123 (1968)

12
13 Defendants herein have been bound over on the following charges: CONSPIRACY TO COMMIT
14 MURDER (Category B Felony NRS - 199.480, 200.010, 200.030); MURDER WITH USE OF A
15 DEADLY WEAPON (Category A Felony NRS - 200.010, 200.030); ATTEMPT MURDER WITH
16 USE OF A DEADLY WEAPON (Category B Felony NRS - 193.330, 200.010, 200.030);
17 BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY
18 HARM (Category B Felony NRS - 200.481.2e); BATTERY WITH USE OF A DEADLY
19 WEAPON (Category B Felony NRS -200.481: DISCHARGING FIREARM AT OR INTO
20 STRUCTURE, VEHICLE AIRCRAFT, OR WATERCRAFT (Category B Felony NRS - 202.285)
and POSSESSION OF FIREARM BY EX-FELON (Category B Felony NRS - 202.360).

21 As grounds for this Motion, Defendant Matthew Washington (Washington) states as follows:

- 22
- 23 1. Martel Moten aka "Murder" Moten (Moten) is a Co-Defendant in this case.
 - 24 2. The Co-Defendant Moten has made a statement concerning facts relevant to the charges in
25 this case. The State will use these statements as evidence against the Defendant, Matthew
26 Washington.
 - 27 3. Statements made by Moten are not admissible against Defendant Washington.

1 4. Due to the circumstances of this case, protective editing of the statements of Moten would not
2 be able to overcome the prejudice.

3 5. In Nevada, NRS 174.165(1) provides the guidelines for granting relief in instances when a
4 joint trial is prejudicial: If it appears that a defendant or the State of Nevada is prejudiced by a
5 joinder of offenses or of defendants in an indictment or information, or by such joinder for trial
6 together, the court may order an election or separate trials of counts, grant a severance of
7 defendants or provide whatever other relief justice requires.

8 6. Moten made statements against Washington to police. Severance of the trial of the Defendant
9 and the Co-Defendant is necessary in this case to promote a fair determination of guilt or
10 innocence of Defendant. See Bruton v. United States, 391 U.S. 123 (1968).

11 7. Moten made statements against Washington to police. A joint trial of Defendant Washington
12 and co-Defendant Moten at which such statement is admitted would violate the Sixth Amendment
13 to the U.S. Constitution, Bruton v. United States, 391 U.S. 123, 88 S.Ct. 1620, 20 L.Ed.2d 476
(1968).

14 CONCLUSION

15 For the foregoing reasons the trials of these co-Defendants should be severed and each Defendant
16 should be tried separately.

17
18 DATED this 27th day of December, 2014.

19 DAVID OTTO & AFFILIATES, PC

20 /s/ DAVID J. OTTO

21 David J. Otto, Esq.
22 Nevada Bar #5449
23 davidottolaw@yahoo.com
24 1433 North Jones
25 Las Vegas, NV 89108
26 Telephone: (702) 419-1222
27 Facsimile: (702) 778-3670
28 Counsel for Defendant Washington

CERTIFICATE OF SERVICE BY MAIL

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Pursuant to NRCP 5 (b), I certify that I am an employee of DAVID OTTO & AFFILIATES, PC, and that on the _____ day of _____, 2014, I deposited a true and correct copy of the foregoing NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT for mailing in the U.S. Mail in Las Vegas, NV, in a sealed envelope upon which first class postage was prepaid and addressed to:

Clark County District Attorney
301 Clark Avenue - Suite 100
Las Vegas, NV 89101

An employee of David Otto & Affiliates, PC

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW WASHINGTON,
Appellant,
vi.
THE STATE OF NEVADA,
Respondent.

No. 65998

APPELLANT'S APPENDIX VOLUME II PAGES 242-444

PHILIP J. KOHN
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

Attorney for Appellant

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

CERTIFICATE OF SERVICE

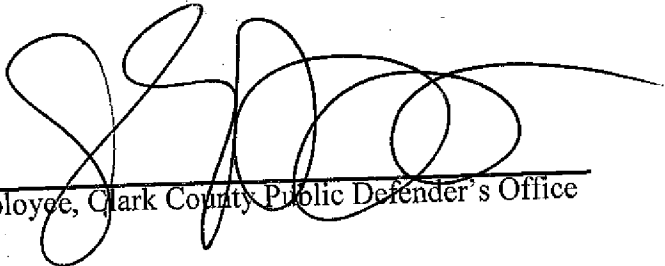
I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 1st day of June, 2014. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO
STEVEN S. OWENS

HOWARD S. BROOKS
SHARON DICKINSON

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

MATTHEW WASHINGTON
NDOC # 1061467
c/o High Desert State Prison
PO Box 650
Indian Springs, NV 89070

BY 
Employee, Clark County Public Defender's Office