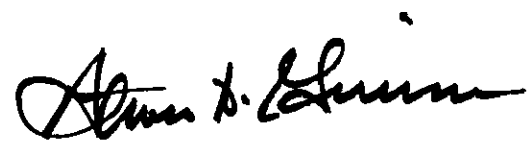
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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. FREDERICK HAROLD HARRIS, JR., Defendant.	CASE NO. C291374 DEPT. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

TUESDAY, JUNE 30, 2015

RECORDER'S TRANSCRIPT RE:
EVIDENTIARY HEARING
DEFENDANT'S MOTION FOR A NEW TRIAL

APPEARANCES:

For the State: ELISSA LUZAICH, ESQ.
Chief Deputy District Attorney

For the Defendant: BETSY ALLEN, ESQ.

RECORDED BY: KRISTINE CORNELIUS, COURT RECORDER

Docket 69093 Document 2016-19011

TUESDAY, JUNE 30, 2015; 10:46 A.M.

* * * * *

THE COURT: State of Nevada versus Frederick Harris, Case C291374. Mr. Harris is present and he's in custody.

Good morning.

MS. ALLEN: Good morning, Your Honor.

THE DEFENDANT: Good morning.

MS. ALLEN: Betsy Allen on behalf of Mr. Harris, present in custody.

MS. LUZAICH: Lisa Luzaich for the State.

THE COURT: Okay.

MS. ALLEN: Your Honor, we – we're back her today. I believe it was a continued evidentiary hearing. Essentially what we're doing, or at least what I had planned on doing today was essentially arguing.

THE COURT: Okay.

MS. ALLEN: I'm not sure when I provided the Facebook stuff to you, but I knew I had provided it to you some time ago. We've had a couple continuances since then. I also provided them to the State. So essentially what we're –

THE COURT: Have they been made part of the record?

MS. ALLEN: Pardon?

THE COURT: Have they been made part of the record?

MS. ALLEN: I don't think that they have and I would request that copies of the Facebook posts be made part of the record for the purposes of appeal, if it goes that direction. I'm not sure if the Court wants my – I have two copies of it or I – I mean I have my copies, but the Court's welcome to have them. I do have them on my computer.

[Colloquy between the Court and clerk]

THE COURT: Okay. We have State's Exhibit 3 –

MS. ALLEN: Okay.

THE COURT: – this one [indicating]. Do you want to have that one marked?

MS. ALLEN: And this is just the one of Yvonne.

MS. LUZAICH: No objection.

MS. ALLEN: Okay.

THE COURT: I couldn't read my copy very well, so yours looks better.

MS. ALLEN: Does it? I don't know if it is or not. The Court's welcome to have – use that one.

THE COURT: Yeah. I don't have –

MS. ALLEN: It's really small.

THE COURT: It's really hard –

MS. ALLEN: Uh-huh.

THE COURT: Okay.

MS. ALLEN: Reading glasses may not even help.

THE COURT: Yeah.

MS. ALLEN: I don't know if you want to make a – do you want me to – or we can make a copy of it, whatever the Court wants to do.

THE COURT: Okay. This is your only copy?

MS. ALLEN: That's my – yes, Your Honor.

THE COURT: Okay. Then we'll have Pam come in.

MS. ALLEN: I thought I emailed those to the Court. Maybe I – did I –

THE COURT: Right, but – well, I guess, I could make mine –

MS. ALLEN: If mine's better –

THE COURT: I thought mine was a bad copy, so I'll go ahead and –

MS. ALLEN: If mine is better, you can make a copy of mine. That's totally fine.

THE COURT: Well, I just want to make sure it – you know what? I'm going to have yours made part of the record.

MS. ALLEN: Okay.

[Colloquy between the Court and clerk]

THE COURT: Do you have copies, Ms. Luzaich?

MS. LUZAICH: I do.

THE COURT: So this will be which –

THE CLERK: Defense A.

THE COURT: Okay, Defense A.

Can I just read these, because yours I can actually –

MS. ALLEN: Of course.

THE COURT: Do you mind if I –

MS. ALLEN: Yes, of course. No, no, no.

THE COURT: Okay.

THE CLERK: I'm sorry. It will be Defendant's B.

THE COURT: B?

THE CLERK: Yes.

THE COURT: Okay. Will you make a copy of that?

JUDICIAL EXECUTIVE ASSISTANT: Just one copy?

THE COURT: Yeah, just one. Okay.

MS. ALLEN: Okay.

THE COURT: I've had a chance to read them.

MS. ALLEN: Were you able to read them better?

THE COURT: Right. Now did you send me this letter from the juror?

MS. ALLEN: I did.

THE COURT: Okay.

MS. ALLEN: That was part of what she sent me, and so I provided it to both the State and to the Court.

THE COURT: Has that been made part of the record?

MS. ALLEN: We can.

MS. LUZAICH: No. And I would ask that it be made part of the record.

THE COURT: Okay. So the letter from Yvonne Lewis –

MS. ALLEN: Correct.

THE COURT: Does the –

Okay. It will be marked as State's next in line.

THE CLERK: That will be 4.

THE COURT: Is there anything else either side wants made part of the record?

MS. ALLEN: I don't think so. I think we've given – I think I've –

MS. LUZAICH: Not for the State.

MS. ALLEN: Everything's been handed over to both the Court and Ms. Luzaich.

[Colloquy between the Court and clerk]

THE COURT: Okay. And this is the other juror's Facebook, the multiple pages.

MS. ALLEN: Oh, is that Mr. Bell?

THE COURT: The selfie guy.

MS. ALLEN: Oh, yeah.

THE COURT: Uh-huh.

MS. ALLEN: Okay, yes.

THE COURT: But I don't know. It's multiple pages. I don't know if it's all relevant to this.

MS. LUZAICH: It's not. There's – I mean there's only one post that's relevant to this.

THE COURT: Right. It's the –

MS. LUZAICH: The defense had asked him for 30 days' worth of posts and he sent everything.

MS. ALLEN: Oh, he sent everything over. Okay.

THE COURT: Oh, okay, so it's 30 days' worth.

MS. ALLEN: I mean you can make it part of the record, if you want.

THE COURT: Okay.

MS. ALLEN: If not, the – this one [indicating], the original one that I'd given you in color, that one works as well.

THE COURT: Okay. That's in.

MS. ALLEN: We can make that one part of the record.

THE COURT: Okay. That's in.

MS. LUZAICH: That was already part of the record.

THE COURT: Okay.

MS. ALLEN: Yeah, that's right.

THE COURT: All right, go ahead.

MS. ALLEN: Your Honor, just briefly. I had briefed this twice, the initial motion for a new trial and then I did a reply and a supplement. Oddly enough, none

of the Facebook stuff was part of either of the original motions. That came up as the result of, honestly, Mr. Bell's testimony when we were here at the evidentiary hearing. If you recall, Mr. Bell said something about – I can't even remember the question I asked, but it leads to the idea that he knew Ms. Lewis –

THE COURT: Uh-huh.

MS. ALLEN: – and/or Kerrigan and he was, I felt – maybe the Court feels differently, but I felt he was somewhat dishonest when he was answering the question about posting on Facebook. And when I asked him to pull the picture up, it's very clear that this was after he was already sworn because he's got the blue badge, and we all know they don't get the blue badges until they're sworn. He tried to sort of pass it off as saying: No. I wasn't sworn yet. It was, you know, the first day.

So now what we have is Mr. Bell has posted on Facebook, and his page is open, completely open. I was able to just go onto – I have a Facebook account not in my name, because I don't do that, but anyways I went onto Facebook and I was able to access his account. It's very open. Ms. Lewis's is not. She – hers is a little different and that's why those records had to be subpoenaed from her. But what we have here is a situation, and the concern that we have is that this was directly in contrast with the Court's order.

The Court's order is essentially – and I could be wrong, and if I am, I'm sure the Court will correct me – but essentially the Court says that, you know, you're not supposed to volunteer information to anybody. If someone asks you can say that you're on a criminal trial, and I think that's the extent of what you're allowed to do. No one asked and they were posting on Facebook, again, in a very open form. So they have violated the Court's order. And I think coming in here today that – I

don't think I have to even argue to the Court that they've done something wrong. They did. They clearly did something wrong.

The next – so the next thing we have to look at, and it's difficult because I didn't really find a lot of cases that talked about this and probably I didn't because even though Facebook has been around for a couple of years it is somewhat new. The Faceback – Facebook, Snapchat, whatever, all those different tweet stuff is relatively new and this – I mean I know I've encountered jurors talking about things, but this – again, this was something a little new. A lot of times the courts address misconduct during deliberations, and this is not deliberations. We're clearly pre-deliberations in this, and this is right at the beginning of the case. In fact, I'm not sure if it's the exact day they were sworn in or if it was the next day. I can't remember, but this is really maybe the first day that we actually had testimony.

Had I been aware that this had happened on March 27th or March 28th and I found that two jurors were doing this, I have no doubt in my mind I would've asked for a mistrial. At a minimum I would've asked that they be replaced for violating the Court's order, but I probably would've asked for a mistrial. Because the problem with this is that if they are so free in their minds to do this the very first day of trial or the first couple of days, what else were they also free to do?

If you look at Mr. Bell's Facebook page, Yvonne Kerrigan actually comments on his Facebook post. So now they're talking on Facebook to each other about – and that's – I apologize. That's three pages in. They're actually talking to each other on Facebook. And I know the State's going to say this is innocuous. They weren't discussing the case, you know things like that, but it's not innocuous. These are two people who violated the Court's order and pretty early on in the case. Having myself been – sat on a jury before, and I didn't make it to deliberations, but I

think I've said this to the Court, I actually after two or three days of just jury selection I heard what other jurors were saying. They don't –

MS. LUZAICH: Well, objection. That is completely irrelevant and beyond the scope of anything that needs to be in this record.

MS. ALLEN: Well, this is argument and all I'm doing is I'm –

THE COURT: Are you talking about your own personal experience?

MS. ALLEN: Right. I'm just saying that I watched what jurors do and this is very indicative of that; that they're free – they think they're free to do these types of things.

So if we are looking pre-conviction on this case, if we were looking at two weeks into the case and we find out jurors are on Facebook commenting, I would've asked for a mistrial. I don't think at that point that these two should have been allowed to deliberate and they infected the deliberation process with this, with the idea that they felt it was appropriate to discuss this case or discuss the fact that they were jurors in a public form. But now we're post-conviction and I would argue to the Court that that doesn't necessarily change anything. I think this Court has broad discretion to vacate the judgment in this case and order a new trial.

I looked at cases, just some of the names, and I put these in my brief, *Canada*; I quoted *Chavez*. There's a new case out, *Vanda Carts* [phonetic], juror – general juror misconduct and, again, it doesn't speak directly to this issue, but it's the quality. You look at the quality and the quantity of the misconduct. And if you look at the comments, you look at some of the comments that some of these people make on the Facebook page, you know, Robert Bell's hang him high, you know another on –

MS. LUZAICH: Well, objection. Robert Bell did not say that.

MS. ALLEN: No. I said a –

MS. LUZAICH: Somebody else did.

MS. ALLEN: I said a comment on his Facebook page.

THE COURT: Right. What –

MS. ALLEN: I said a comment.

THE COURT: What I believe is I don't think that he necessarily commented.

MS. ALLEN: No.

THE COURT: But by posting that he elicited conversation about the case from other people.

MS. ALLEN: He did and that's wrong. That should've never happened. It violated my client's due process rights to a fair trial.

I'm not going to argue all of the other things that I put in the motion for a new trial, save and except for one thing, and that was the redacted statement with Mr. Harris. You know in the initial motion for a new trial I put something in there about the fact that his statement was redacted as a result of the State taking out – they took out a part that he talked about Victoria saying something about her having sex in Utah. I argued under *Summit* that was allowed in. The Court did not allow it in. I know the State says, well, it's self-serving. I think just if the Court would take a look at the totality of the circumstances. The statement wasn't self-serving.

First of all, you would have to assume that he knew anything about *Summit* and that he would have some predisposed indicia, I guess, or some indicia that he would be allowed to bring that in at trial. I'm thinking that's probably not the case. And if you look at the remainder of his statement, he actually admits to having sex with Victoria at some point. And so I would submit to the Court, at least with regard to that statement, that that should've been allowed in, that the comments he

made to the police about Victoria.

Regardless of that, the juror misconduct I think is the overarching issue here. And I would submit it with the right to rebut once the State argues.

THE COURT: Sure.

MS. LUZAICH: As far as the Defendant's statement, I'll just submit it on the paperwork that was generated by both sides. But as far as the juror misconduct, it was not misconduct. First of all, she comments about thinking Mr. Bell was being dishonest. The jurors don't understand the way we do the concept of all this stuff, sworn versus not sworn, you know the way in which trials progress. He wasn't being dishonest. He just didn't know any different.

But as far as misconduct, you specifically told this jury, just like you tell every other jury, you cannot talk about the case, the facts of the case. What you can do is tell your friends and family that you're a juror in a criminal case in Department 12, and that is all that these two jurors did. The fact that Yvonne Lewis actually commented on Mr. Bell's page that, oh, I didn't know it was you, it doesn't mean they had a conversation on Facebook. All she did was comment after her friend said that, hey, we have a friend in common, yeah, I'm there too. But there was nothing wrong with showing that they were a juror in a criminal case in Department 12, because that's exactly what you told them that they could do.

THE COURT: How do you reconcile that with me telling them 50 times a day you can't talk about this case on any social media?

MS. LUZAICH: But you told them that afterwards.

THE COURT: I tell them that almost immediately.

MS. LUZAICH: But they're not talking about the case. They're talking about the fact – and it was one post, one – they each posted one picture of their badge

just to show that they were a juror. It's got nothing to do with the case, the facts of the case, what they thought about the case. It's just this is what I'm doing today, just like 9,000 people every day – 900,000 probably – in Las Vegas post what they're doing every day. This is what I'm doing. That's all they did. And it was the very first day that they had been sworn, March 27th, and they never did it again after that. They're not talking about anything other than the fact that they were going to be a juror, and they didn't even talk about it. It was just a comment. I mean, literally, when you look at his, Mr. Bell's picture it's, you know, cup o' Joe and whatever and Yvonne Lewis's is just the picture of the badge. There's nothing wrong with that. How does that possibly prejudice the Defendant?

THE COURT: Well, that's the issue, whether it prejudiced the verdict, I think.

MS. LUZAICH: And it's not possible that they – okay, so assuming the Court does find it misconduct –

THE COURT: Right, assuming there was.

MS. LUZAICH: – which we'll agree to disagree about that, there's no possible way that that prejudiced the verdict, the fact that they posted a picture that they were jurors. There's – when you look at all of Mr. Bell's 30-some days' worth of Facebook, there's not one further comment by him. There's not one comment about even the – like what kind of case it is, just criminal. It doesn't say anything about sex versus property versus drugs, whatever, nothing whatsoever. In Ms. Lewis either, there's never a comment again after that first day. There's nothing.

So there is absolutely, positively no evidence whatsoever before this Court that there's any prejudice at all. And when you look at the way the trial progressed, the evidence progressed for three weeks. The jurors, then after the arguments, which also took pretty much a whole day – and they deliberated for

three days. It's not like they quick came in, said guilty to everything. They very carefully went through all the evidence, and they didn't convict him of everything. They went through carefully the charges. They found him guilty of some, not guilty of others. It's not like they found him guilty of every count for Victoria or every count for Tina. There were some not guilties for everything that was charged. So they very carefully went through the evidence, discussed things and came up with a verdict that was not only free of prejudice but that, I mean, kind of made sense. And I would submit it on that.

THE COURT: Thank you.

MS. ALLEN: Your Honor, if I may. I'd ask the Court to look at Ms. Lewis-Kerrigan, the – I stapled it wrong, but if you look at the second page – and I don't have it in front of me because I gave the Court my copy – if you look at the second page, I think at the top, that's her comment. That's just not being on a criminal trial. That's just not saying I'm on – Ms. Luzaich says, oh, look, she just posted a copy of her juror badge. That's not what she did. She was making specific comments about being on this trial.

And so the Court says, well, how does it prejudice the verdict? This is what I – this is what I posit to the Court. They shouldn't have been allowed to deliberate. They should not have been on this trial. Two jurors should not have been here because – excuse me – because of this. They violated the Court's order and they opened this up to discussion from other people.

So I would give this analogy. What if these jurors – and this is public. I mean, again, Mr. Bell's post is very public. What if these jurors went on Channel 8 News and said: I'm on a criminal trial in Department 12. I'd like, you know – and opened it up to comment. Would the Court grant a new trial for that? Would you

declare a mistrial for something like that, if they went on the news and they started doing things like this? I suspect the Court would. There's no difference.

The prejudice to my client is they should not have been allowed to deliberate. He was denied a fair trial because they couldn't even stay away from Facebook posts. And then Ms. Kerrigan clearly did not say that she was just on a trial. She opened it up by saying she was praying and all of these things, inviting comments from all of her friends about what was going on. And it's clear, at least with regard to Ms. Kerrigan, she read it because she redacted it. When she sent it over to the Court she redacted certain things out of it, so it's very clear that she opened herself up to these comments from other people.

So that's what I would argue the prejudice is, is that these people shouldn't have been allowed to deliberate. And I would ask the Court to consider what the Court would've done pretrial. If you had found out that this was going on what – I mean what would the Court's solution be? Would it be, okay, we're just going to get rid of these two jurors and use our alternates, or would it have been a mistrial? I suspect it would've been a mistrial, because they're commenting on each other's Facebook posts. And I mean if we're doing this the very first day that we're sworn and we've been – I don't remember how many days jury selection was. I want to say three.

THE COURT: It was a few days.

MS. ALLEN: But I'm pretty sure the Court told them for those three days don't talk about it, let's not discuss this, please don't do this. You know, what else was going on when this started on day one? And I'd submit it to the Court with that.

THE COURT: Anything else?

MS. LUZAICH: I would just ask you to read her letter. She explained exactly

what she said, exactly what she meant, and it wouldn't have been a mistrial. The Court would've admonished them don't do that, and the Court would've just gone on.

THE COURT: Okay. Well, I can tell you I admonish them a lot better about Facebook and social media. I tell them don't go on it at all, and if you can't go on it or if you can't – and I specifically ask them, is there anyone who feels they can't control themselves for the next few days? And so far I haven't had anyone say they can't control themselves, but I am more specific with the whole social media thing.

But at this time I'm going to deny the motion for a new trial. I think that even if there were juror misconduct, the defense hasn't met their burden to show that it prejudiced or affected the verdict.

Does the State want to prepare the order?

MS. LUZAICH: Yes, Judge. Now as far as sentencing, P&P, once the Court vacated the sentencing date, won't accept my file, so I tried to get them to do a PSI anyway, but without a sentencing date they wouldn't. So can we get a 60-day date?

THE COURT: Sure.

THE CLERK: Sixty days will be September 1st at 8:30.

MS. LUZAICH: Thank you. Or I should say they sent it back to me.

MS. ALLEN: And I forgot. Last time we were here I meant to make this record. Some point during the last year the stuff about victim/witness came up.

I just am making a record of about the conversation we had.

The victim/witness came up. I asked Ms. Luzaich if she would check to see if the victims in this case were provided anything for – other than $26, or whatever it is, to come down and testify.

THE COURT: Okay.

MS. ALLEN: I'm sure you've seen the news. They've been –

THE COURT: Yes, of course.

MS. ALLEN: Right. I asked Ms. Luzaich if she could check and see if they were given anything. She indicated to me no. So I just want to make sure that's part of the record.

MS. LUZAICH: I indicated that I checked and they were not, not that I wouldn't check.

MS. ALLEN: Right. You said no –

MS. LUZAICH: Yeah, right just –

MS. ALLEN: – that they weren't given anything.

MS. LUZAICH: Because in the future the record might sound like I indicated no, I wouldn't check.

MS. ALLEN: Oh. No, no. She said she would check and what – she said that they weren't given anything other than the standard subpoena fee.

THE COURT: The witness fee.

MS. ALLEN: Right.

MS. LUZAICH: Correct.

THE COURT: Okay. Thank you.

THE COURT: Did we give them a sentencing date?

THE CLERK: Yes.

THE COURT: Okay.

THE CLERK: September 1st at 8:30.

THE COURT: Okay.

MS. LUZAICH: Thank you.

[Colloquy between the Court and clerk]

MS. LUZAICH: Did you just say September 30th or 1st?

MS. ALLEN: First.

THE CLERK: September 1st. I'm sorry.

MS. LUZAICH: Oh, sorry, at 8:30. Got it.

[Colloquy between the Court and clerk]

MS. ALLEN: Your Honor, if I may.

THE COURT: Sure, of course.

MS. ALLEN: The one thing I would state, Mr. Harris is concerned that the juror, that Ms. Lewis only provided one day of this. I – in my subpoena it did request a bunch. She did only provide this day, so we're not sure if there were other comments. I'm not sure if Ms. Luzaich knows about that, if there were –

MS. LUZAICH: For the record, she didn't provide one day. She provided the time frame that the Court ordered. The Court – when we were arguing about ordering for Facebook –

THE COURT: Right.

MS. LUZAICH: – the Court ordered the posts from, for example, the 24th to –

MS. ALLEN: Right.

MS. LUZAICH: – the 27th or whatever, and that's what she provided, the dates –

MS. ALLEN: Correct.

MS. LUZAICH: – that the Court ordered, as opposed to the other 30 days that the defense requested.

MS. ALLEN: And he's concerned that the other three weeks we were in trial that there could've been other posts. And so he – that's a request that he would like, is that she provide if there was anything else in that three-week time frame.

THE COURT: Okay, but I've already ruled on the motion.

MS. ALLEN: I understand, Your Honor.

MS. LUZAICH: So I would object.

THE COURT: Okay. I've already ruled on the motion.

THE DEFENDANT: Yeah. I talked to her before you finished, but she never mentioned it to you and then you ruled on it. So I mentioned it to her again and that's why she's speaking now. So she should've said something to you before you ruled on it, because we had talked about it before you even came in the courtroom. So it was just overlooked. I don't know if it was on purpose or it –

THE COURT: Well, you know, your attorney gets to determine the strategy on how to deal with issues before the Court –

THE DEFENDANT: We agreed on that –

THE COURT: – not you.

THE DEFENDANT: – but it didn't happen.

MS. ALLEN: Your Honor, our – well, when we came into this our concern was that it was – that the – I think it was a couple of day range.

THE COURT: Right.

MS. ALLEN: Because the two jurors were talking back and forth.

THE COURT: Right. And so that's what we limited it to and she provided the Court with what I asked her to provide.

THE DEFENDANT: Right. And I was telling her that since we have that –

THE COURT: And I'm not going to continue to expand this. I mean, I –

THE DEFENDANT: Since we had that, then it – she was the one talking and she was denying all the other allegations and we found out later that she was posting on Facebook right along with Robert, so that showed that she was a liar just

like he had been lying.

MS. LUZAICH: Well, you know, I would object.

THE COURT: All right, well –

I mean, Ms. Allen, what's your position?

MS. ALLEN: Your Honor, I mean, I –

THE COURT: It sounds like you were –

MS. ALLEN: I understand my – well, clearly I understand my client's position. He –

THE COURT: Sure.

MS. ALLEN: I mean he's – I – frankly, I would have concerns too that possibly she was on there posting other things. This was the first day of trial. The Court limited me to those two days because I believe that's what Ms. Luzaich requested; that it would just be limited to those two days.

THE DEFENDANT: [Indiscernible].

MS. ALLEN: So that's why I did it. I mean for a clear record for the purposes of appeal, the Court may want to get that – get those records as a – to see if she posted anything further. That – that's an open question that could potentially lead to problems later on and I just – I know. I'm just telling the Court that could lead to problems later on.

MS. LUZAICH: We argued about this way back when.

MS. ALLEN: We did.

MS. LUZAICH: And after considering both arguments, the Court issued the order for those, whatever the dates were, and I just threw numbers out of my head right now, but whatever those dates were.

MS. ALLEN: The 26th and 27th.

MS. LUZAICH: And this whole hearing is just getting bigger and bigger and bigger because they just keep throwing stuff out there. What if, what if, what if? You can what if yourself to death.

THE COURT: Right.

THE DEFENDANT: No. They actually told on themselves when you brought them in here, so they –

MS. ALLEN: And we –

MS. LUZAICH: Right. So they were honest and they gave up –

MS. ALLEN: But we –

MS. LUZAICH: – the information.

THE COURT: Yeah. They were honest.

THE DEFENDANT: I think he slipped it out and then he tried to swallow it.

THE COURT: Okay. Well, Mr. Harris, that's why you have an attorney –

MS. ALLEN: I –

THE COURT: – so she can argue on your behalf.

MS. ALLEN: Nothing has to be delayed further if the Court was – you know issues an order to – Mr. Bell was completely open. You can – I accessed all that myself, so I wouldn't – you don't have to bother him with that. If the Court wants to make sure, I think you can do an in – if you want an in-camera review. I don't know. She may not have anything else. I have no idea. She provided what was requested. Those were two days. You know, if she posted other things, it could open – and it's found out later, obviously, it could open a huge can of worms.

THE COURT: Right, but we had these witnesses here. We had an opportunity to question them.

MS. ALLEN: I will –

THE COURT: Correct?

MS. ALLEN: Right, but I will say this. Mr. Bell testified after Ms. Kerrigan did. So she left the room. I only found – again, I only found out about this Facebook stuff completely by chance. I don't know if you recall the sum and substance of that hearing, but he said something about –

THE COURT: The mutual friend.

MS. ALLEN: Yeah.

THE COURT: That's how it came up.

MS. ALLEN: The mutual friend commented they were both on the same jury, and I said: How would he know? And he said something about Facebook and that's –

THE COURT: Right.

MS. ALLEN: And this is what led to all of this. You know, whether or not Ms. Kerrigan-Lewis – slash Lewis posted anything further, I have no idea. It's certainly – you know that's an open question.

THE COURT: Okay. Well, I'm going to let the record stand as it is and the State can prepare the order.

MS. LUZAICH: Thank you.

THE COURT: Thank you.

[Proceedings concluded at 11:14 a.m.]

* * * * *

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.

Kristine Cornelius

KRISTINE CORNELIUS
Court Recorder

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

FREDERICK HARRIS, Appellant, vs. THE STATE OF NEVADA, Respondent.	S.C. CASE NO. 69093

Electronically Filed
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APPEAL FROM JUDGMENT OF CONVICTION
(JURY TRIAL)
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE MICHELLE LEAVITT , PRESIDING

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APPELLANT'S APPENDIX TO THE OPENING BRIEF
VOLUME XXII

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IN THE SUPREME COURT OF NEVADA

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court 17th day of June, 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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