DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **November 29, 2016**

C-15-309578-1 State of Nevada
vs
Steven Turner

November 29, 2016 9:00 AM Calendar Call

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristen Brown

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES PRESENT:

Beverly, Leah C	Attorney for the State
Lisk, Steven	Attorney for the Defendant
Public Defender	Attorney
State of Nevada	Plaintiff
Turner, Steven	Defendant

JOURNAL ENTRIES

- Counsel stated they are working on negotiations and requested matter be continued. COURT ORDERED, Trial date VACATED and RESET.

CUSTODY

7/06/17 9:00 AM CALENDAR CALL

7/10/17 10:00 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **July 06, 2017**

C-15-309578-1 State of Nevada
vs
Steven Turner

July 06, 2017 **9:00 AM** **Calendar Call**

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Aja Brown

RECORDER: Dalyne Easley

REPORTER:

PARTIES PRESENT:

Banks, Jeff	Attorney for Defendant
Beverly, Leah C	Attorney for State
State of Nevada	Plaintiff
Turner, Steven	Defendant

JOURNAL ENTRIES

- Mr. Banks advised Deft is open to negotiations. COURT SO NOTED. Colloquy regarding trial setting. COURT ORDERED, trial VACATED and RESET.

CUSTODY

11/7/17 9:00 AM CALENDAR CALL

11/13/17 10:00 AM JURY TRIAL

C-15-309578-1 State of Nevada
vs
Steven Turner

October 12, 2017 09:00 AM All Pending Motions

HEARD BY: Saitta, Nancy COURTROOM: RJC Courtroom 11D

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Public Defender	**Attorney for Defendant**
Tegan Machnich	**Attorney for Defendant**
Michael Dickerson	**Attorney for Plaintiff**
Steven Turner	**Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Defendant's Joinder to Co-Defendant Clemon Hudson's Motion to Sever ... Pre Trial Conference

Co-Defendant, Clemon Hudson present. Craig Mueller, Esq. present on behalf of Co-Defendant.

Arguments by counsel. Co-Defendant cites the Chartier case and circumstances in their pleadings. Arguments by counsel regarding the allegations and Defense's position that each Defendant will have to defend two theories of liability. State's opposition that the record can be sanitize for the sake of each Defendant as to statements made by parties in contravention to a fair trial. Colloquy regarding alleged facts and circumstances. COURT does Find this case to be distinguishable from the Chartier case. Court has considered whether or not there is a substantial risk the Jury will use factually incriminating confession(s) of a non-testifying Defendant as evidence of guilt of his co-defendant; and, fundamental unfairness at trial. FURTHER, Court notes State's offer of cooperation, and DENIES Motion and Joinder to Sever WITHOUT PREJUDICE; State will offer both counsel the opportunity to see the redacted version the State intends to use at trial. IF after review, Defense determines their client cannot be adequately defended at trial, then Defense may renew its motion. State to prepare an order consistent with the Court's ruling that both Defendants will have the opportunity to renew their motions. Court directed State to provide its redacted version to Defense counsel NO LATER THAN 10/17/17 for review; and Defense to respond to State's redactions NO LATER THAN 10/20/17. THIS COURT gives parties permission to contact the Senior Judge Department for further consideration on these matters, if needed. Colloquy regarding discovery requests. Mr. Pesci advised he just picked up this matter for trial and has instructed his staff to provide requested discovery to both Defendants' counsel. Mr. Pesci clarified that the disk received has been copied and will be provided to opposing counsel. COURT ORDERED, oral request to compel discovery is GRANTED. Mr. Pesci acknowledged they State will comply. Court placed the burden on both counsel to ensure that discovery production is satisfactorily complied with.

Upon Court's inquiry, State advised the case has been subpoenaed and anticipates ready. Defense advised, they will have a better idea once redactions have been received, but otherwise anticipate ready. COURT ORDERED, proposed Jury Instruction be prepared and provided by calendar call date. Defense Proposed Jury Instructions to be submitted directly to chambers.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor | **COURT MINUTES** | **October 31, 2017**

C-15-309578-1 State of Nevada
vs
Steven Turner

October 31, 2017 **09:00 AM** **State's Request: Status Check to Address "Bruton Issues" with the Defendant's Statements**

HEARD BY: Bailus, Mark B **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Public Defender	**Attorney for Defendant**
Tegan Machnich	**Attorney for Defendant**
Leah C Beverly	**Attorney for Plaintiff**
Steven Turner	**Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

COURT ORDERED, CONTINUED for review of objection to redactions submitted and to possible negotiations.

CUSTODY

CONTINUED TO:
11/02/17 9:00 a.m.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **November 02, 2017**

C-15-309578-1 State of Nevada
vs
Steven Turner

November 02, 2017 09:00 AM All Pending Motions

HEARD BY: Bailus, Mark B COURTROOM: RJC Courtroom 11D

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Public Defender	**Attorney for Defendant**
Tegan Machnich	**Attorney for Defendant**
Leah C Beverly	**Attorney for Plaintiff**
Steven Turner	**Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Defendant Turner's Motion to Continue Trial Date ... Status Check: Negotiations/Trial Setting

Co-Defendant Hudson, and counsel, Mr. Mueller also present. Redactions served on Defendants by State. Mr. Mueller objected to the proposed redactions and advised he has no proposed submission as he does not believe the record can be satisfactorily redacted. Further, Mr. Mueller stated there no negotiation for his client; and, Defendant Hudson is prepared for trial. Ms. Machnich provided her proposed changes in open court. Colloquy. Court continued state check for review of submissions and to see if this Court may present its own redacted version.

Matter submitted. COURT Finds no opposition and good cause shown and ORDERED, Defendant Turner's Motion to Continue Trial Date is GRANTED. FURTHER, Defendant Hudson's Motion to Sever is DENIED Without Prejudice. Trial date reset. Parties estimated 2 to 3 weeks for trial with numerous witnesses.

CUSTODY

11/16/17 9:00 a.m. Status Check: Redactions

03/06/18 9:00 a.m. Pretrial Conference

04/10/18 9:00 a.m. Calendar Call

04/16/18 11:00 a.m. Jury Trial

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN TURNER,	)	No. 76465
	)	
	)	
Appellant,	)	
	)	
vi.	)	
	)	
THE STATE OF NEVADA,	)	
	)	
Respondent.	)	
	)	

APPELLANT'S APPENDIX VOLUME III PAGES 473-721

DARIN F. IMLAY
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

AARON FORD
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 4 day of February, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
STEVEN S. OWENS
DEBORAH L. WESTBROOK
HOWARD S. BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

STEVEN TURNER, #1200863
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV 89070

BY *_/s/ Carrie M. Connolly_*
Employee, Clark County Public Defender's Office

Firearms Training and Tactics Unit

6. Inspects the confiscated firearms for function, tags the firearm as serviceable or unserviceable.

Supply Section

7. Retains serviceable confiscated firearms for future issuance. Returns unserviceable firearms to the Evidence Vault for destruction.
8. Notifies appropriate bureau/area commander when any confiscated firearms issued for training purposes are retained in excess of sixty days from the date it was issued.

Requests for confiscated firearms from other law enforcement agencies, for official use, must be approved by the Sheriff and coordinated through the Supply Section. Confiscated weapons will not be withdrawn directly from the Evidence Vault for issue to other agencies. Normally, all other confiscated weapons will be destroyed. (1/02, 1/09)■

5/208.21 NIBIN FIREARMS DATABASE
A.S. 8.2.1, 83.3.1, 83.3.2

It is the policy of this department to participant in the use of NIBIN, the National Integrated Ballistics Information Network, a firearms database supported and administered by the ATF. The NIBIN database contains information from firearms evidence which can successfully link firearms to crimes and one crime scene to another, making it an important tool in combating violent crime. The Forensic Lab's Firearms/Toolmark Unit has utilized this technology since 2002, resulting in numerous NIBIN "hits".

NIBIN technology is based on the markings imparted on cartridge cases when a firearm is discharged. A digital image of these marks is entered into NIBIN and the system searches previously entered cartridge cases for possible matches. The scope of the search can be limited to Southern Nevada and Southern California, or expanded nationwide. For the database to be successful, it is important that both cartridge cases from crime scenes and test fired cartridge cases are entered. Test fire cartridge cases are generated when an evidence gun is fired in the laboratory to obtain representative cartridge cases for analysis. The following are appropriate for NIBIN entry:

- Cartridge Cases
  - Recovered from crime scenes such as homicides, robberies, gun assaults
  - Which may be associated with a series of robberies or shootings
  - Recovered from incidents (such as drive-by shootings), vehicles, residences or persons that may be tied to criminal activities
- Crime Related Guns
  - Collected during crime investigations that either automatically or semi-automatically eject fired cartridge cases (This includes semiautomatic, fully automatic, pump action, lever action, bolt action, and any other firearms that eject fired cartridge cases).
  - Recovered from suspected criminals such as ex-felons, suspected gang members or drug dealers
  - Possibly used in a series of shootings, robberies, etc.
  - Collected in search warrants or recovered under suspicious circumstances which are thought to be associated with criminal activities

  NOTE: Revolvers are not appropriate for NIBIN entry.

  If DNA or Latent print analysis is required on the evidence, these requests must be made at the same time or prior to the NIBIN request.
- Evidence/Safekeeping Guns
  - In the possession of suspected criminals such as ex-felon, a suspected gang member or drug deal
  - Where the owner is unable to produce the gun registration/concealed weapon permit, proof of Nevada residency, or legitimate identification
  - Which are brandished during a domestic disturbance
  - Guns which, based on officer discretion, may be associated with criminal activity

Submit requests for NIBIN entry on the Forensic Laboratory Examination Request form (LVMPD 63) with the "NIBIN Entry" box checked. This request is available in hard copy from Supply or as an electronic LVMPD template. Requests may be submitted to the Forensic Lab electronically via ForensicLab@lvmpd.com (email), by fax, or by 1000 miler.

For more information, see training video entitled "An Intro to NIBIN" on UMLV, and Policy 5/209.03 Laboratory Examination of Evidence. (7/09)■

5/208.22 USE OF THE DEPARTMENT ARMORY

The Las Vegas Metropolitan Police Department Armory is a restricted area and access is limited to those individuals having specific authority to enter.

Only the following personnel shall have specific authority to enter the Las Vegas Metropolitan Police Department Armory:

Sheriff
Assistant Sheriffs
Division Commander, Technical Services Division
Bureau Commander, Logistics Bureau
Supply Section Manager and designee
Internal Affairs Investigating Officer

All other persons, regardless of rank or assignment, shall conduct their business at Supply Customer Service unless escorted by or given permission to enter by an individual on the access list.

During an extreme emergency situation, or for purposes of moving equipment or cleaning weapons, certain other personnel shall be allowed in the Armory under the supervision of the Supply Section. (1/09, 12/10)■

5/208.24 SPECIAL WEAPONS AND MUNITIONS
A.S. 1.3.9, 33.6.2, 46.2.3

The Logistics Bureau, Supply Section, maintains an inventory of special weapons and munitions in the armory. These items are available only to officers who have been appropriately trained, and who are authorized to carry Department owned special weapons in accordance policy 5/208.02 (see special circumstances for SWAT personnel listed below).

DEFINITIONS

Special Weapon	Special use weapons that are utilized by certain components of the department (i.e., sub-machine guns, automatic or semi-automatic assault rifles, gas guns, shotguns with a barrel length of less than 18", etc.). Does not include the department approved handguns, shotguns.
Special Munitions	Devices used in tactical operations which require special training for use and are not routinely carried/used by field officers. Such devices include chemical irritant devices (except the personally carried non-lethal aerosol agent), sting ball grenades and sound and distract devices.

PROCEDURE

Special weapon/munitions will be signed out to the respective officer. All special weapons and munitions will be issued on an individual basis and the Supply Section will maintain a listing of personnel and any special weapons they have been issued.
Any individual signing for and receiving a special weapon will be responsible for its safekeeping and maintenance. Inspection and qualification for special weapons will be handled in accordance with Department Manual Section 5/108.14, Firearms Training. To return a special weapon, the member will either make an appointment with the Firearms Training and Tactics Unit (FTTU) staff or a certified armorer assigned to SWAT for inspection. The special weapon must be presented clean for inspection and tagging for serviceability. The officer will then return the special weapon along with all unused ammunition to the Supply Section.

EXHIBIT B

15-10744
D148602
7/21/16

LAS VEGAS METROPOLITAN POLICE DEPARTMENT FORENSIC LABORATORY

NIBIN HIT DISPOSITION FORM

This form is a follow-up to the NIBIN Hit Notification previously sent to you and available in OnBase. According to Department Policy 5/206.18, this form is required to be filled out and returned to the Hit Notification Detail within 60 days of the distribution date of this form. This form should be submitted stating the action to be taken regarding each listed association.

Assigned Detective Name/P#/Agency: Det. M. O'Halloran NEAC

A NIBIN Hit Notification report was generated listing possible associations between the evidence and/or test fired cartridge cases from the following event numbers:

EVENT NUMBER	Item Description
150901-0059	One "Blazer" .40 S&W cartridge case
150903-4386	One "Blazer" .40 S&W cartridge case

For a conclusive identification to be made, the above listed hits must be confirmed by a microscopic comparison of the actual cartridge cases.

In reference to the NIBIN hit for the above event number(s) the investigative action is:

☐ **This association needs to be confirmed and a supplemental request for this confirmation has been submitted to the Forensic Laboratory through Property Connect.**

☒ **This association does not need to be confirmed at this time.**

If no, explain: Neither event had any suspects identified or arrests made. Det. O'Halloran couldn't identify any commonalities between the two events other than the two casings.

Information above provided by (Name/P#): M. O'Halloran P# 9626

Date form returned to Hit Notification Detail: 7/20/2016

This form will be retained as part of the Forensic Laboratory's case record and is subject to Information Disclosure Requests.

Investigative Sgt. Approval and Date: M. Ruiz P# 6794 07/20/16

*Completed forms can be emailed to HitNotificationDetail@lvmpd.com

Recovered Property Information

Recovered Date
Recovered Location
Recovered By
Owner Type
Insurance Rep.

Recovered Value
Recovered Reason
Recovered Stock #
Released To
Tow Company

Type: Vehicle-Other / Motorcycles / Scooters (Not Stolen or Recovered)

Status: Destroyed/Damaged/Vandalized
Description: Bullet hole in rear bumper.
Manufacturer: [redacted]
Vehicle Year: [redacted]
Lic Plate #: [redacted]
Insurance Company:
Owner: [redacted]
Notes: [redacted]

Quantity: 1
Value: 00.00
Color: White
Model:
Body Type: [redacted]
Lic Plate State: [redacted]
Serial No.\VIN: [redacted]
Lic Plate Exp: [redacted]

Detailed Property Information

Length
Horse Power
Caliber
Features

Width
Propulsion Serial #
Barrel Length

Height

Recovered Property Information

Recovered Date
Recovered Location
Recovered By
Owner Type
Insurance Rep.

Recovered Value
Recovered Reason
Recovered Stock #
Released To
Tow Company

Solvability

Modus Operandi

MO General
Occupied? Yes
General Premise: Single Family Residence

Surrounding Area: Middle of Block
Specific Premise: Room

MO Against Property
Entry Point
Entry/Attempt Method
Safe Entry
Victim Location
Maid

Exit Point
Entry Tool
Suspect Actions
Electronic Locks
Inspectress

Entry Location
Vehicle Entry
Additional Factors
Video Surveillance

MO Against People
Victim-Suspect Relationship
Victim Condition
Suspect Pretended to Be
Sexual Acts

Pre-Incident Contact
Suspect Solicited/Offered
Suspect Actions
Vehicle Involvement

Fired Shots

Narrative

On 09/01/15 at approximately 0030 hours, I, Officer J. Cooper P#10142 and Officer H. Svarczkopf P#14867, operating as marked patrol units 1F22 and 1F13, respectively, responded to [redacted] in reference the residents hearing gunfire outside their house. Upon arriving I made contact with [redacted] both of who said that they were asleep in their bedroom on 09/01/15 at approximately 0000 hours when they were awaken by 5-6 shots and a loud thud near their bedroom. They went outside approximately 20 minutes later and discovered that there was a brand new hole in the north side of their house where it appeared that a bullet struck. It was at this time that they notified police.
During the course of the investigation we located (5) .40 caliber shell casings in the roadway of [redacted] as well as a bullet impact under the west facing window and an impact into the bumper of a Mercedes belonging to [redacted] in the yard of [redacted], their child [redacted]. We contacted the occupants of [redacted] identified as [redacted] and [redacted] brother [redacted]. All occupants of both residences were uninjured. None of

the bullet impacts went through the walls i... into their respective residences. None of the ... nts of either residence saw any of the shooters or any vehicles related to the shooting.

[redacted] emerged from [redacted] as officers were close to clearing the call. He said that his ex-girlfriend, [redacted], has sent him threatening text messages throughout the day telling him "don't let your bitch ass get merked" and "what do you want written on your tombstone", but nothing specifically mentioning the word "shooting". [redacted] also stated that originally he was not going to contact police and he was attempting to keep his presence unknown because he did not want to get involved.

Patrol Follow-Up
All shell casings as well as bullet fragments were photographed by ID and impounded. Also photographed were the impacts as well as the aforementioned threatening text messages sent from [redacted] along with a consent to search form to go through [redacted] phone. On [redacted] phone were texts from [redacted] threatening violence towards [redacted] unknown at this time if [redacted] involved in the shooting, although its appears that the intended target was [redacted] ...nte where [redacted] was at the time. Gangnet check was done on [redacted] and [redacted] neither have been documented associates or members of any gang thus far.
PD detectives responded to handle follow-up.

EXHIBIT C

Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination: Firearms & Toolmarks	Distribution Date: December 29, 2015 Agency: LVMPD Location: Homicide & Sex Crimes Bureau Primary Case #: 150904-0516 Incident: OIS Requester: Craig Jex Lab Case #: 15-09456.3
Subject(s):	Steven Turner (Suspect) Clemon Hudson (Suspect)

The following evidence was examined and results are reported below.

Lab Item #	Impound Pkg #	Impound Item #	Description
1	008177-1	1	One Yugo Model 59/66 7.62 x 39mm caliber semiautomatic rifle, serial number: M478852
2	008177-1	1A	One magazine (fits and functions in Lab Item 1)
3	008177-1	1B	Five "Tulammo" 7.62 x 39mm cartridges One "71 93" 7.62 x 39mm cartridge
4	008177-1	1C	One "71 93" 7.62 x 39mm cartridge
5	008177-2	2	One Mossberg Model 500A 12 Gauge pump shotgun, serial number: P081210
6	008177-2	2A	Four unfired "WINCHESTER" 12 Gauge shotshells (disassembled one for exam)
7	008177-2	2B	One fired "WINCHESTER" 12 Gauge shotshell
8	008177-2	2C	One metal fragment
9	008177-3	3	One Beretta Model 950BS .25 Auto caliber semiautomatic pistol, serial number: BR21889V
10	008177-3	3A	One magazine (fits and functions in Lab Item 9)
11	008177-3	3B	Eight "FC" .25 Auto cartridges
12	008177-3	3C	One "FC" .25 Auto cartridge
13	008177-4	4	One magazine
14	008177-4	4A	Five "Super-X" .22 Long Rifle cartridges
22	005158-2	2	One Glock Model 17 9 x 19 (9mm Luger) caliber semiautomatic pistol, serial number: MGS941 equipped with a Streamlight TLR-1 flashlight
23	005158-2	3	One magazine (fits and functions in Lab Item 22)
24	005158-3	4	One "SPEER" 9mm Luger +P cartridge
25	005158-3	5	Seventeen "SPEER" 9mm Luger +P cartridges
26	005158-4	6	One magazine (fits and functions in Lab Item 22)
27	005158-4	7	One magazine (fits and functions in Lab Item 22)
28	005158-5	8	Seventeen "SPEER" 9mm Luger +P cartridges
29	005158-5	9	Seventeen "SPEER" 9mm Luger +P cartridges
30	014402-4	8	One "SPEER" 9mm Luger +P cartridge case
31	014402-4	9	One "SPEER" 9mm Luger +P cartridge case
32	014402-4	10	One "SPEER" 9mm Luger +P cartridge case
33	014402-4	11	One "SPEER" 9mm Luger +P cartridge case
34	014402-4	12	One "SPEER" 9mm Luger +P cartridge case
35	014402-4	13	One "SPEER" 9mm Luger +P cartridge case
36	014402-5	14	One "SPEER" 9mm Luger +P cartridge case
37	014402-5	15	One "SPEER" 9mm Luger +P cartridge case
38	014402-5	16	One "SPEER" 9mm Luger +P cartridge case
39	014402-5	17	One "SPEER" 9mm Luger +P cartridge case
40	014402-5	18	One "SPEER" 9mm Luger +P cartridge case
41	014402-5	19	One "SPEER" 9mm Luger +P cartridge case
42	014402-6	20	Shot pellets
43	014402-6	21	Shot pellets
44	014402-6	22	One partial wad
45	014402-6	23	One partial wad
46	014402-7	24	One bullet
47	014402-8	25	One "Tulammo" 7.62 x 39mm cartridge case
48	014402-8	26	One "Tulammo" 7.62 x 39mm cartridge case

Lab Item #	Impound Pkg #	Impound Item #	Description
49	014402-8	27	One "Tulammo" 7.62 x 39mm cartridge case
50	014402-9	28	One metal fragment
51	014402-9	29	One metal fragment
52	014402-9	30	One metal fragment
53	014402-9	31	One metal fragment
54	014402-13	35	One metal fragment

Results and Conclusions:

Firearms and Magazines

The Yugo rifle was examined, test fired and found to be operational with no noted malfunctions. This rifle has a barrel length of approximately 24 ¼ inches, an overall length of approximately 42 ⅝ inches and a trigger pull of 4 ¾ - 5 ¼ pounds. The submitted magazine (Lab Item 2) has a capacity of twenty-one cartridges.

The Mossberg shotgun was examined and was noted to have an area of damage, consistent with a bullet impact, to the fore-end and magazine tube. This damage rendered the shotgun inoperable and unable to be test fired.

The Beretta pistol was examined, test fired and found to be operational with no noted malfunctions. This pistol has a barrel length of approximately 2 $^{3}/_{8}$ inches, an overall length of approximately 4 ¾ inches and a trigger pull of 5 ¼ - 5 ¾ pounds. The submitted magazine (Lab Item 10) has a capacity of 8 cartridges.

The Glock pistol was examined, test fired and found to be operational with no noted malfunctions. This pistol has a barrel length of approximately 4 ½ inches, an overall length of approximately 8 inches and a trigger pull of 6 ¼ - 6 ¾ pounds. The submitted magazines (Lab Items 23, 26 & 27) each have a capacity of 17 cartridges.

The magazine (Lab Item 13) has a capacity of 8 .22 Long Rifle cartridges and does not fit or function in any of the firearms submitted in this case.

Comparisons

The evidence cartridge cases and bullets were examined and microscopically compared to the test fired cartridge cases and bullets with the following results:

- The twelve cartridge cases (Lab Items 30 - 41) were identified as having been fired by the submitted Glock pistol.
- The three cartridge cases (Lab Items 47 – 49) shared a similar general overall appearance and some limited corresponding microscopic information with the test fired cartridge cases from the submitted Yugo rifle; however, insufficient microscopic detail precludes a conclusive identification to this rifle.
- The bullet (Lab Item 46) shared similar general rifling characteristics with the test fired bullets from the submitted Glock pistol; however, damage to this item precludes any further comparisons. This bullet was not fired by any of the other firearms submitted in this case.
- The metal fragments (Lab Items 8, 50 – 54) bear no markings of value for microscopic comparisons.

Shot and Wads

- The submitted shot pellets (Lab Items 42 and 43) were determined to be consistent in size, weight and composition with number 6 steel shot.
- The submitted wad pieces (Lab Item 44 & 45) were determined to be consistent in size, appearance and composition with the wad contained in the disassembled evidence shotshell (Lab Item 6).

NIBIN

Representative images of a test fired cartridge case from the Yugo rifle and the Beretta pistol were entered into and searched in the National Integrated Ballistic Information Network (NIBIN). Notifications will be made if there are any associations to these entries.

The fired shotshell (Lab Item 7) did not meet the minimum acceptance criteria (breechface and firing pin marks) for entry into the NIBIN.

The evidence is returned to secure storage.

---This report does not constitute the entire case file. The case file may be comprised of worksheets, images, analytical data and other documents.---

Anya Lester

Anya Lester, #13771 12/23/2015
Forensic Scientist II

- END OF REPORT -

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER,
#2717636

Defendant.

CASE NO: C-15-309578-1

DEPT NO: XVIII

STATE'S SUPPLEMENTAL OPPOSITION TO DEFENDANT'S MOTION FOR NEW TRIAL

DATE OF HEARING: June 19, 2018
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through LEAH BEVERLY, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Supplemental Motion For New Trial.

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

///

///

///

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

An Indictment was filed on September 23, 2015 charging Steven Turner and Clemon Hudson (Hereinafter "Defendant Turner" and "Defendant Hudson") as follows: Count 1: Conspiracy to Commit Burglary; Count 2: Attempt Burglary While in Possession of Firearm or Other Deadly Weapon; Counts 3-4: Attempt Murder with Use of a Deadly Weapon; Count 5: Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm and Count 6: Discharging a Firearm at or Into Occupied Structure. On September 28, 2017, Defendant Hudson filed a Motion to Sever. Defendant Turner filed a Joinder to that Motion on September 13, 2017. The State filed its Opposition on September 18, 2017. The Court denied both Defendant's Motions on October 12, 2017. Subsequently, the State, Defense Counsel and the Court went through a series of redactions in regards to the various statements. On December 14, 2017, the Court submitted its redactions of Defendant Hudson's statements to Defendant's Turner's attorneys. At that time, Defendant Turner indicated that based on the Court's redactions, Turner had no challenge to the statements of Hudson. Jury trial was held beginning April 16, 2018. On April 27, 2018, the jury returned a verdict of guilty on all counts (except count 6 which had previously been dismissed by the State prior to trial). It should be noted that at no time during the trial did Defendant Turner object to the statements of Defendant Hudson when they were introduced by the State. Sentencing is currently set for June 21, 2018. The Motion for New Trial was filed on May 4, 2018. The Supplemental Motion was filed on June 14, 2018. The State's Supplemental Opposition follows:

ARGUMENT

In the instant Supplemental Motion, it appears that Defendant now claims that Metro had a policy in place since August of 2015 that indicated when it would be appropriate to enter casings or guns into the NIBIN database. Interestingly, Defendant fails to allege or provide any evidence that it was mandated, prior to the crimes in this case, that any casings or guns recovered from a crime scene or suspect be entered into NIBIN. As such, at the time of this offense, Detectives did in fact have discretion about whether or not to enter items into NIBIN.

Considering that the facts in this case were that the only two suspects in this case were identified hours after the crime, both Turner and Hudson indicated multiple times in multiple interviews that they were the only two people who were in the backyard of the home, and the fact that the handgun was never even fired, it would not be surprising if Detectives specifically decided not to enter anything into NIBIN. In addition to the fact that all handguns and all casings were actually submitted directly to the forensic lab.

Defendant claims that the relevance of an NIBIN report is to see whether the handgun in this case was tied to another case or another individual other than Turner or Hudson. The answer to that question as stated by the State in our first opposition, is that the gun was NOT tied to another crime or another individual. Had it been, there would have been an NIBIN hit report from when the forensic lab entered the evidence after it was submitted and tested by them. As the State has said over and over again, the report does not exist.

Defendant continues to talk about some other irrelevant case where an NIBIN hit occurred. The State does not dispute that the NIBIN database was being used in 2015. But it was not mandated. The casings from 2015 in this other case were entered into NIBIN because the crime was unsolved and there were no suspects. The State has no idea how this is relevant to the instant case where the crime was solved and there were suspects.

Defendant continues to allege that the handgun "could have" been used in another case and could have been linked to a third suspect. Again, there was no NIBIN hit related to the handgun and there is no report. While defense counsel made representations to this Court on May 31, 2018 that "someone" in the Gun Crimes Unit of the District Attorney's Office told her that an NIBIN report existed in this case, that completely inaccurate statement has now been addressed with the "someone" who supposedly told counsel this and was confirmed to be completely false. The State can only hope that defense counsel merely misinterpreted information.

For the first time now, Defendant claims that the State failed to turn over a "non- hit" report and the failure to do so "may" have caused the defense to use a different strategy if they knew the handgun could not affirmatively be linked to another suspect. Any "non" hit report

is not exculpatory or Brady material. In fact, it is actually inculpatory because it gives more credence to the fact that the only two people involved in the shooting were Turner and Hudson.

In McLemore v. State, 94 Nev. 237 (1978), the Nevada Supreme Court held

> This Court has required that such ***HN1*** newly discovered evidence comply with additional criteria. The evidence must be (1) newly discovered, (2) **material to movant's defense**, (3) such that it could not with reasonable diligence have been discovered and produced for the trial, (4) **not cumulative**, (5) **such as to render a different result probable upon retrial,** (6) that it does not attempt only to contradict a former witness [***4] or impeach or discredit him, unless the witness to be impeached is so important **[*240]** that a different result must follow, and (7) that these facts be shown by the best evidence the case admits.

Defendant has not made any showing whatsoever that a "non hit" NIBIN on the handgun is material or that it would render a different result. In fact, had the State presented a non-hit NIBIN, it would have been further evidence of guilt against both Defendants and made it even more likely that there were only two people and two shooters in the backyard. Finally, Defendant completely ignores the fact that he repeatedly said there were only two people in the backyard and he was one of them. As this Motion is completely without merit, it should be denied.

CONCLUSION

Based upon the foregoing points and authorities, the State respectfully requests that Defendant's Supplemental Motion for New Trial be denied.

DATED this 18th day of June, 2018.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY _____
LEAH C. BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556

///

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of STATE'S SUPPLEMENTAL OPPOSITION TO DEFENDANT'S MOTION FOR NEW TRIAL, was made this 18th day of June, 2018, by Electronic Filing to:

ASHLEY L. SISOLAK, Deputy Public Defender
ashley.sisolak@clarkcountynv.gov

C. Jimenez
Secretary for the District Attorney's Office

LCH/cmj/L2

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
TEGAN C. MACHNICH, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11642
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Tegan.Machnich@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. STEVEN TURNER, Defendant,	CASE NO. C-15-309578-1 DEPT. NO. XVIII DATE: June 21, 2018 TIME: 9:00 a.m.

LETTERS IN SUPPORT OF SENTENCING

COMES NOW, the Defendant, STEVEN TURNER, by and through TEGAN C. MACHNICH and ASHLEY SISOLAK, Deputy Public Defenders and hereby provides the attached letters in support of sentencing scheduled for June 21, 2018.

DATED this 19th day of June, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/*Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing LETTERS IN SUPPORT OF SENTENCING was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com on this 19th day of June, 2018.

By: __/s/*Annie McMahan*_____
An employee of the
Clark County Public Defender's Office

Honorable Judge Bailus,

I am sure that you have received thousands upon thousands of letters from mothers advocating for their children that have been incarcerated and are now looking at being sentenced. Sentencing that will impact their lives forever. I am now one of those mothers asking you to show mercy for my son, Steven.

Steven has always been the strength of our family. I have never been the kind of mom to use being a single mother as a crutch. I embraced it and tried to make sure that my children had everything that they needed and wanted. We (myself, Steven and Jade) have always been the "Team of We" and we depend on each other. But, Steven has always been the strength of this union, he is the nucleus.

When my daughter (his little sister) started kindergarten, I had to get to work on her first day of school. Steven was eight years old at the time but, he was the one who had to walk her to her school on the first day and then cross over a major street to his elementary school (my helpmate). My children were latchkey children. Another example is there was a time his little sister was sick and I could not afford to miss work. So, they had to stay home. I would call and check on them hourly and Steven would always have his report ready. He would check her temperature and make sure that she had warm 7up and chicken broth. This has been Stevens role in our family for 27 years.

Steven is a kind, caring, loving responsible man. He would help and has helped many people in all kind of situations. Him being away has been very hard for me and I have had a couple of hospital stays from the stress of not having my son. I was just most recently released from the hospital on June 9th.

Your honor, Steven is not a menace to society, he is an asset to society and he just needs a change to get out here and pick back up with the positive life he was living before the whole incident took place. He was an assistant manager at his place of employment and engaged his life was on the right track. I know my son is a force to be reckoned with in this universe and he is going to accomplish greatness. But, if his life is wasted with years of incarceration that is going to be such a waste of such a good, talented man's life.

Steven already has job offers here in Las Vegas and in San Diego upon his release. He got his GED while incarcerated and has plans to continue his education.

It was very heartbreaking to sit in that courtroom and listen to the States witnesses testify that my son's fingerprints were not at the scene of the crime. To hear that my son's DNA was not at the scene of the crime. That no one saw or could place my son at the scene and that no could identify that very loud obnoxious ensemble that Steven was wearing. It was heartbreaking that a jury of "his peers" would find him guilty of charges. To know that he could lose so many years of his beautiful life. I implore you to please consider his future as I am sure you do in all cases that you handle. I am asking for leniency for my son Steven. I know that he will be a success story and not a repeat offender because that is not my son.

Thank you for taking out the time to hear my voice, my plea and my hopeful request.

Stephanie Robinson

To Whom It May Concern:

I've watch Steven grow up into a respectful young man who honors his mother in a way that most young men don't. He has always looked after his family and made sure they were ok. He is awesomely creative with a passion for music. He has always worked hard to accomplish his goals. If given the opportunity I know for a fact that Steven will become an asset to his community. I believe in his character so much that I am willing to employ him with my company QHC Behavioral Health to aid him in getting back on his feet once released. He has served enough jail time to impact him for the rest of his life. I hope you see fit to help cultivate him instead of wasting such a talented young mans life. I believe in him 100 percent and I know plenty others that do too.

Respectfully,

Aisha Butler

Elaine Steele
7527 Alamo Ranch Ave.
Las Vegas, NV 89179

June 5, 2018

Justice Court
200 Lewis Avenue
Las Vegas, NV 89101

Re: Steven Turner

Dear Justice Court:

I have known Steven Turner since 2004 and am writing this letter to tell you about the young man I have come to know since. I hired his mother, Stephanie as my Administrative Assistant. Having been a struggling single mother at one time, I saw no harm in allowing Stephanie's children, Steven and Jade to come to the office after school. Steven was the most polite, kind and respectful young man I could have hoped to have around an office environment. His quiet and gentle manner was felt by all of the women in the office. After school, Steven and Jade would perform odd jobs around the office after completing homework. Steven often took the initiative, even then, to help out before he was asked. He offered to walk women to their cars if it was dark. He often accompanied a blind employee and her dog to the bus stop and waited until she was safely onboard.

While Stephanie and I moved on in our careers, we remained friends. I came to know this family on a much more intimate level in that capacity. Steven was not the child who was running in the streets, getting in trouble and hanging out on corners. Steven was home if he was not at work. I was a guest in this home on many occasions and witnessed Steven interact with his family. Steven comes from a strong female led household, on a foundation of Christian faith, love and redemption. In his home, mutual respect was taught and expected. As he got older, Steven took on more responsibilities, cooking meals, cleaning and running errands for his mother and his grandmother who lived nearby.

I had a conversation with Steven once regarding interacting with police. National riots had compelled me to broach this subject with Steven. Steven expressed a very high positive opinion towards law enforcement and the law. Steven had a healthy respect and trust at the time and I was satisfied that he would never resist an officer if he was detained.

In my opinion, Steven took on many responsibilities of "the man of the house." Once employed, he turned his paychecks over to his mother to help with rent, utilities and anything his younger sister

might need. In his down time, Steven could be found writing or playing music in his room more often than anywhere else. He wrote songs and sang them so beautifully. He certainly is multi-talented.

Steven should not be at the defendant's table. Steven was compelled to trial because of his co-defendant's lack of willingness to take responsibility for his actions. Steven accepts his role in the events that resulted in the wounding of an officer. It is painful to see this young man's life on the verge of being wasted. He has so much potential and desire to find meaning and purpose in his life even as he faces sentencing in this case. He has written to me about writing books. Even under the conditions he has endured in County jail, he has found a way to use his mind and gift of storytelling to start writing novels. I encourage him to use his voice to effect change for the better and help others.

Your Honor, I am respectfully requesting that you take these factors into consideration before sentencing this promising young man. I know Steven will be a model prisoner. He will follow the rules and do more than is expected of him, as is his nature. Prison will change him, Sir. Please consider his potential. Please consider what impact his absence for an extended amount of time will have on his family. His mother is devastated and heartbroken. Jade has moved to another state to avoid this painful time. Steven had an integral role in his family and his absence has created a void which has caused a lot of pain. I pray that this void will be temporary and short lived.

Thank you for your consideration of my thoughts regarding this matter.

Respectfully,

Elaine Steele
Title

June 1, 2018

To Whom it May Concern,

I am writing on behalf of my cousin, Steven Turner Jr. and his pending sentencing decision.

I have known this young man his entire life and am still stunned at the situation he finds himself in with the Justice system.

Steven has always been a soft spoken, kind and helpful soul. His family has depended on him for not only financial support, but practical assistance with medical conditions, emergencies, transportation and other life issues. He has always been dependable, willing to help out wherever needed and a pleasure to be around.

His incarceration has not only affected his life, but has been traumatic for his mother, sister and other family members, who rely on him.

Personally I still can't believe this is happening and pray daily that his young life has not been ruined by this incident. An extended term of incarceration will not serve justice nor is it in the best interest of a family and community that will only benefit from Steven's return.

Please know Steven has a loving supportive family that believes in him and can provide the encouragement and opportunities to get his life back on track and redeem the time he has lost behind bars.

Respectfully Submitted,

Narri R. Cooper
Cousin

(619) 454-1602
P.O. Box 948
Lemon Grove CA 91946

To Whom It May Concern:

My name is Carla Smith, I am a professional in the Post-Secondary Education field. It is hard for me to wrap my head around the fact that I even need to write a letter such as this for Steven, this is not the young man I know.

I have known Stephanie and her children Steven and Jade for over 15 years. I have admired the way Stephanie has raised her children as a single mother – allowing and encouraging them to grow and develop as individuals, be true to themselves, be kind-hearted, and pursue their dreams. Stephanie's relationship with her son Steven is especially special. She is able to be a mom to him when he needs support and encouragement, a mother to him when he needs guidance, direction, and discipline, and a friend – his BEST friend when he needs one. They have been an amazing support system to each other – all three of them. They have stuck together through difficult times for the family, death of family members, stressful financial situations, anything and everything one of them would go through – they went through TOGETHER.

What I have always appreciated about Steven as a young Black man is his respect and kind heart for others. Steven has been through situations where people close to him have let him down and he has walked in his Christian upbringing and showed them grace and forgiveness when this hasn't always been shown to him. Steven, like his mother, cannot let anyone go hungry or homeless, and would not let anyone who needed a friend be without, he would give anyone the shirt off his back – it's just who he is!

I consider myself a good and capable judge of character. In my profession as a Director of Admissions for several colleges and currently a Director of Student Finance, I have to meet with and assess a student's likelihood for success in completing programs and being success in their studies and training.

Since I've known Steven he has been very consistent in showing an aptitude for success if given the opportunity. Steven has expressed having a passion for music and culinary. Steven was looking into a local culinary school to attend here in the near future. He loves cooking and loves writing music. I am confident that Steven will achieve his dreams one day. He is a nice young man who wants to do so much with his life for himself and for his family.

Steven has a very large and committed support system of friends, uncles, aunts, grandparents and cousins. I assure you this family intends to rally around this young man to make sure that nothing like this ever happens to him again. In my conversations with Steven he as expressed a very strong desire to return to a positive lifestyle.

Thank you for your time and consideration,

Carla Smith

June 11, 2018

To Whom It May Concern

We are John and Randa Robinson, the aunt and uncle of Steven Turner. Steven Turner is a very caring and responsible adult. As a child of a single mother he was put in a position to care for his younger sister Jade early on in his life. As an adult Steven worked very hard to make sure that all needs of his family were met financially as he was the man of the house. We have also known Steven to be a level headed man who has a great sense of responsibility to do the right thing. Throughout his entire life, Steven has cared for and supported his mother, Stephanie and his sister. Jade's father and Steven's step father Jerome passed away when they were teens and Steven made a point to support and care for Jade and their mom. He is very loving and loyal to his family and I have no doubt that he will continue on this path.

Not having Steven around these past few years has been very difficult on the entire family. We have a large family filled with cousins of Stevens ranging from 23 to 2 years old. We all miss him very much and our family is not complete without him.

I, John Robinson, am a veteran of the United States Marine Corps, who served my country for 10 years during the wars in Afghanistan and Iraq. I currently run a multi-inspector firm based in San Diego which Randa and I have ran successfully for 7 years. Upon Steven's release, he has guaranteed employment at my company. This is due to the fact that Steven has proven to be a hard worker and he excels at whatever task or job that he chooses to take on. As his aunt and uncle, we want to see Steven excel in all ways possible and be given the opportunity to show his true potential. I feel he can do this with our guidance.

Thank you for taking the time to read this letter. It is greatly appreciated.

John and Randa Robinson

To Whom It May Concern

Hi,

My name is Jade Wood and I am Steven's younger sister. Since I was born, Steven has been a constant source of love and support. When I was younger and my parents divorced, Steven became the man of the house. He provided my mother and me strength when we felt weak. When we were children Steven looked out for me, encouraged me to excel in school and was always there for me when I needed someone to lean on. He also acted as a disciplinarian when it was needed (whether I liked it or not) and also stressed the importance of hard work and responsibility.

When I was 15, my father passed away suddenly. I would not have made it through that time if it had not been for Steven supporting me emotionally and mentally. When Steven was old enough, he worked to assist my mother and me for living expenses and things that I may have needed. Seeing Steven work SO hard encouraged me to be the same way.

When Steven was first arrested, my mother and I were devastated. For the majority of our lives it was just the three of us. When the trio was broken, we all felt as if our hearts were shattered. Despite the current predicament, Steven once again made a point to be the source of strength for our family. He has remained strong and determined to make sure that he uses this time to ensure that he is able to grow as a person. While he has been incarcerated, Steven has earned his GED and taken multiple self-growth courses to ensure that he is a healthy contributing member to society.

I currently live in San Diego where I am attending school full time for my Bachelors in Applied Biotechnology and working full time as well. Upon Steven's release, I will help him in any way that I can, whether it is financial or emotional. Steven is a good man with amazing potential to excel if given the opportunity.

Jade Wood

To whom it may concern,

I am writing to you in regard to my nephew Steven Anthony Turner Jr. who has been incarcerated for quite some time now. I have obviously known Steven all of his life through family connections and realize that makes me slightly biased. I feel that I am a good enough judge of character to be considered a fair reference.

Steven is a person of good moral character who comes from a strong family. Our family has always believed in hard work, integrity and goodwill toward others and has been raised in the church. Steven has retained all of those beliefs.

Steven knows what it means to do an honest day's work and also recognizes the value of his personal obligations. In fact for all of his adult life Steven has been the kind of person who took care of his family and friends without hesitation.

As far as his personal life he has many family members and friends among whom he is loved, quite well respected and liked. Steven never has a bad word to say about anyone and his kindness and generosity stands to the highest quality.

By now I hope you have gotten the impression that Steven is a good person and could never do the crime that he is accused of doing he was just at the wrong place at the wrong time. Please contact me personally if you would like to discuss Steven's case any further

Thank you for your time and consideration,

Romelia Turner

Project Assistant/Umoja Peer Mentor
School of Arts, Humanities, Communications, and Telecommunications
AH-519A/ 619-388-3522
Cell: 619-779-9124
San Diego City College

To Whom It May Concern:

My name is Jaylon Cory Robinson I am 19yrs old and Steven Turner is an older cousin of mine. Steven always had an influence on my life. I still remember all the talks we had when I was much younger he was full of dreams and aspirations and he still is. These last couple of years have been really hard, not just the fact that he's gone but seeing the effect it has on my Aunt and other cousin is really painful. I am currently enlisted in the Air Force and Steven pushing me to do that is honestly the main reason why I enlisted. I know for a fact as soon as Steven is released he will immediately put nothing but positivity into this world.

To Whom It May Concern:

Hello, my name is Asta Galaviz, I am 28, and I currently work in property management, in North Dakota. I have known Steven Turner since we were in middle school. You could call us close friends, as we spent most of our youth years, until today, as close friends. Everywhere from school dances, sports events many birthdays, and one day hopefully weddings. Being close friends with Steven, I grew close to his family as well. His family, who he loves more than anything in this world. He is everything to his mother, and little sister. Steven worked hard his entire life, to make sure his mom and sister were always taken care of. I know they miss him terribly, as he was the male figure in both of their lives, for as long as I can remember. I know they are missing him, as much as he misses them. I have talked to Steven a few times since he has been incarcerated. How he is ready for change, ready to live the life he is supposed to. He knows he made a mistake. I truly believe he has grown, and learned from his mistake. He is ready for another chance to do right, and be the man we all know he is. I hope you take in to consideration, giving this man another chance, as well all deserve second chances. I am hoping my lifelong friend, gets to come home, work hard, and one day start a family of his own. Starting a family was something we all would talk about as young adults. I hope I get to share more of life's big milestones, with Steven for the rest of our lives. And, hope that one day my children, and his children, can admire seeing their parents, friends with the same friends since middle school. Thank you for taking the time to read my letter.

To whom this may concern

On behalf of my grandson Steven Anthony Turner Junior I speak from the heart I speak as a grandmother to inform you that Steven Jr. is an awesome grandson who helps his mother financially. Stevens a hard worker who is loving, caring, considerate, protective, a God fearing young man that doesn't stray away from the Law. In all the years he's lived here on this earth troubles never found him because he's been an honorable young man that honored himself, and his family values with the utmost respect.

When I was hospitalized for several months my grandson visited me as often as two times a week while living in Las Vegas and I in San Diego. Relentless to let nothing stop him from making sure I was being cared for properly.

Steven would never put himself in a Compromising position that would end his life behind a jail room wall that would bring shame to his mother whom he adores.

Please consider his clean record and listen to the heart and know he's an awesome young man that picked the wrong acquaintances that day but never did he deviate from right and wrong that would make him harm anyone.

With great consideration

Annie D. Turner

To Whom It May Concern,

I am writing this letter on behalf of my friendship with Steven Turner. Steven and I have been close friends since we were in the 10th grade. Now that I think about it, that makes it 12 years long. He has always been a very good and loyal friend to me and i believe that is why our friendship has lasted.

I have been across the country and our friendship remains strong. Steven has never been a violent or malicious person and I know him well. That is the only reason I am taking the time to write this letter. He is a hard working and respectable man that takes care of those around him.

I have personally witnessed him be the glue in his house; taking care of his sister and mother emotionally and financially. In his absence I have paid close attention to his mother since he is not there to look after her and she is not happy. This situation has torn her apart and she just wants her son home. Steven does not deserve the situation he is in. He has never been in trouble with the police and has most certainly never been to jail. He has so much potential that is being wasted. As we have talked over the years he has shared with me that he is writing books. He has completed a full novel. That is amazing. He refuses to let his mind go to waste. Please give him another chance. Let him come home to the family that loves, misses, and needs him. Its crucial.

Sincerely,
Courtney Banks-Dozier
Notary Public for the state of Texas
Licensed Life Insurance Agent

Courtney Banks-Dozier

To Whom It May Concern:

Steven Anthony Turner is an awesome individual. He's funny, intelligent, very driven, hardworking and talented. He was working on his 3rd music project which now is on standby due to his circumstances. I went to elementary school with Steven, we had the same class in fourth grade at Cholas elementary in San Diego, ca. He always got his class and homework done on time and anytime me and any other relative had issues amongst each other we could always count on Steven to come up with a win win solution he was like the mediator of our circle of close cousins.

He was raised my his wonderful mother Stephanie who was pretty strict on him but it was so he could understand the value of hard work and earning his way through his life. She always made sure his school work was done before he could do the activities he'd like to do. Growing up Steven always stayed level headed I always thought his intellect was ahead of its time. I don't feel like the charges that Steven is facing represents his character and who he is a person I've never known Steven to be in trouble with the law he's always kept a job. The last time we spoke when he was a free man he spoke about enrolling back in school, we both did. I and the family of Steven just hope there's a second chance in the works for him because not only does he deserve it he is not the menace that these charges make him out to seem to be. I send my deepest regards to the victim(s) and I hope and pray that Steven gets a second chance to show that he has learned from all of this

To whom it may concern,

My name is Akaira Woods; I'm a child care Case Manager with the Las Vegas Urban League. I have known Stephanie Robinson for seven years and her son Steven Turner. When this situation first happened with Steven being arrested I was in shock because that was not the Steven I know. Steven has also been a respectable young man who loved his family. He was always there for his mother and sister and would never intentionally do anything that would separate him from them. Since this whole ordeal Stephanie has been by her son side but it has been hard because she misses him truly and it takes a toll on her life. Steven was never a bad kid, he worked and a good hard worker to say the least. He has a good heart and would give the shirt off his back for someone if he had too. Please take all of this in consideration when it comes to his sentencing. Thank You for your time.

To whom it may concern:

My name is Dimawi

I am Stevens Aunt by marriage and would like to attest to his character, kindness and maturity. He has always been one to look out for others and especially his mother and sister. He is an asset to the community and his presence is sorely missed by all close to him.

Sincerely, Dimawi

49305 Hwy 74 space 119

Palm Desert, CA 92260

Dear Your Honor,

I am the father of the defendant, Steven Turner. I am writing you this letter as a plea for leniency for my son. He and I, as well as the rest of our family are aware of the gravity of the crime for which he has been convicted. It is difficult to grasp the reality of what has happened and that my son did it. However, it is a reality that we must accept. Please allow me to give you more insight to my son's character, he is much more than the sum of actions he demonstrated on that unfortunate night.

Steven has always been a good son, brother, and friend. He has never been in any serious trouble. But what he has done is be there for his family and friends in their times of need.

With this being Steven's first conviction, and otherwise clean record. Please give him a second chance at life with a lesser sentence.

Sincerely,

Steven Turner Sr.

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER
#2717636

Defendant.

CASE NO. C-15-309578-1

DEPT. NO. XVIII

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060; COUNT 2 – ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON (Category C Felony) in violation of NRS 205.060.4; COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165; and COUNT 5 – BATTERY WITH USE OF A

Jury Trial
☐ Dismissed (during trial)
☐ Acquittal
☐ Guilty Plea with Sent. (during trial)
■ Conviction

DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony) in violation of NRS 200.481, and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060; COUNT 2 – ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON (Category C Felony) in violation of NRS 205.060.4; COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165; and COUNT 5 – BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony) in violation of NRS 200.481, thereafter, on the 21st day of June, 2018, the Defendant was present in court for sentencing with counsel TEGAN MACHNICH and ASHLEY SISOLAK, Deputy Public Defenders, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the $25.00 Administrative Assessment Fee, $9,099.98 Restitution to be paid jointly and severally with Co-Defendant to VC2253860 – Jeremy Robertson, and $150.00 DNA Analysis Fee including testing to determine genetic markers plus $3.00 DNA Collection Fee, the Defendant is SENTENCED to the Nevada Department of Corrections (NDC) as follows: **COUNT 1** – THREE HUNDRED SIXTY-FOUR (364) DAYS in the Clark County Detention Center (CCDC); **COUNT 2** - a MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM parole eligibility of SIXTEEN (16)

MONTHS, CONCURRENT with COUNT 1; **COUNT 3** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of FORTY-EIGHT (48) MONTHS, plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT 2; **COUNT 4** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of FORTY-EIGHT (48) MONTHS, plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 3; **COUNT 5** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 2; with ONE THOUSAND, TWENTY-TWO (1022) DAYS credit for time served. The AGGREGATE TOTAL sentence is FOUR HUNDRED EIGHTY (480) MONTHS MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF ONE HUNDRED SIXTY-EIGHT (168) MONTHS.

DATED this 26 day of June, 2018.

MARK B. BAILUS
DISTRICT COURT JUDGE

NOAS

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR No. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. STEVEN TURNER, Defendant.	CASE NO. C-15-309578-1 DEPT. NO. XVIII **NOTICE OF APPEAL**

TO: THE STATE OF NEVADA

STEVEN B. WOLFSON, DISTRICT ATTORNEY, CLARK COUNTY, NEVADA and DEPARTMENT NO. XVIII OF THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK.

NOTICE is hereby given that Defendant, Steven Turner, presently incarcerated in the Nevada State Prison, appeals to the Supreme Court of the State of Nevada from the judgment entered against said Defendant on the 2 day of July, 2018, whereby he was convicted of Ct. 1 – Conspiracy to Commit Burglary; Ct. 2 – Attempt Burglary While in Possession of a Firearm or Deadly Weapon; Cts. 3 & 4 – Attempt Murder With Use of a Deadly Weapon; Ct. 5 – Battery With Use of a Deadly Weapon and sentenced to $25 Admin. Fee; $9,099.98 restitution, paid jointly with co-defendant to VC2253860-Jeremy Robertson and $150 DNA analysis fee; genetic testing, $3 DNA collection fee; Ct. 1 – 364 days CCDC; Ct. 2 – 16-72 months in prison concurrent with Ct. 1; Ct. 3 – 48-120 months

plus a consecutive term of 36-120 months for the Use of a Deadly Weapon, concurrent with Ct. 2 – Ct. 4 – 48-120 months plus a consecutive term of 36-120 months for the Use of a Deadly Weapon, consecutive to Ct. 3; Ct. 5 – 36-120 months concurrent with Ct. 2; 1022 days CTS; aggregate total 168-480 months in prison.

DATED this 18 day of July, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: */s/ Howard S. Brooks*
HOWARD S. BROOKS, #3374
Deputy Public Defender
309 S. Third Street, Ste. 226
Las Vegas, Nevada 89155
(702) 455-4685

DECLARATION OF MAILING

Carrie Connolly, an employee with the Clark County Public Defender's Office, hereby declares that she is, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that on the 18 day of July, 2018, declarant deposited in the United States mail at Las Vegas, Nevada, a copy of the Notice of Appeal in the case of the State of Nevada v. Steven Turner, Case No. C-15-309578-1, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to Steven Turner, c/o High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. That there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on the 18 day of July, 2018.

/s/ Carrie M. Connolly
An employee of the Clark County
Public Defender's Office

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was made this 18 day of July, 2018, by Electronic Filing to:

District Attorneys Office
E-Mail Address:

PDMotions@clarkcountyda.com

Jennifer.Garcia@clarkcountyda.com

Eileen.Davis@clarkcountyda.com

/s/ Carrie M. Connolly
Secretary for the
Public Defender's Office

ORDR

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
TEGAN C. MACHNICH, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11642
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Tegan.Machnich@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

PLEASE NOTE
DEPARTMENT CHANGE

THE STATE OF NEVADA,

Plaintiff,

v.

STEVEN TURNER,

Defendant,

CASE NO. C-15-309578-1

DEPT. NO. ~~XVIII~~ XXIX

ORDER

THIS MATTER having come before the Court on March 29, 2018, and good cause appearing therefore,

IT IS HEREBY ORDERED that Defendant Turner's statement taken on September 4, 2015 from 15:35 hours to 18:12 hours by Detective Jex is hereby suppressed.

DATED this 29 day of Aug, 2018.

DISTRICT COURT JUDGE

Submitted by:

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By */s/Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Chief Deputy Public Defender

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **September 23, 2015**

C-15-309578-1 State of Nevada
vs
Steven Turner

September 23, 2015 11:45 AM Grand Jury Indictment

HEARD BY: Barker, David **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Louisa Garcia

RECORDER: Cheryl Carpenter

PARTIES PRESENT:

Overly, Sarah	Attorney
State of Nevada	Plaintiff
Talim, Tina Singh	Attorney

JOURNAL ENTRIES

- Ann Kling, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 15AGJ055A to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C309578-1, Department 2. State requested warrant and agued bail. COURT ORDERED, WARRANT ISSUED, BAIL SET in the TOTAL AMOUNT OF $500,000.00 and matter SET for initial arraignment. FURTHER ORDERED, Las Vegas Justice Court case 15F13307A DISMISSED and exhibits 1-59 lodged with clerk of District Court.

I.W. (CUSTODY)

10/1/15 9:00 AM INITIAL ARRAIGNMENT (DEPT 2)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **October 01, 2015**

C-15-309578-1 State of Nevada
vs
Steven Turner

October 01, 2015 **9:00 AM** **All Pending Motions**

HEARD BY: Scotti, Richard F **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Tena Jolley

RECORDER: Elsa Amoroso

PARTIES PRESENT:

Beverly, Leah C.	DA/Attorney for State of Nevada
Machnich, Tegan	PD/Attorney for Defendant
Turner, Steven	Defendant

JOURNAL ENTRIES

- INITIAL ARRAIGNMENT...INDICTMENT WARRANT RETURN

DEFT. TURNER ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter SET for Trial.

CUSTODY

5/5/16 9:00 AM CALENDAR CALL

5/9/16 10:00 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **November 10, 2015**

C-15-309578-1 State of Nevada
vs
Steven Turner

November 10, 2015 9:00 AM Deft's Motion for Bail Reduction

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: April Watkins

RECORDER: Elsa Amoroso

PARTIES PRESENT:

Demonte, Noreen	Attorney for Pltf.
Machnich, Tegan	Attorney for Deft.
State of Nevada	Plaintiff
Turner, Steven	Defendant

JOURNAL ENTRIES

- Matter submitted by counsel. COURT ORDERED, motion DENIED.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **May 03, 2016**

C-15-309578-1 State of Nevada
vs
Steven Turner

May 03, 2016 **9:00 AM** **Calendar Call**

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Shelly Landwehr

RECORDER: Elsa Amoroso

REPORTER:

PARTIES PRESENT:	Coumou, Frank	Attorney
	Machnich, Tegan	Attorney
	State of Nevada	Plaintiff
	Turner, Steven	Defendant

JOURNAL ENTRIES

- Parties stipulated to continue trial. COURT SO ORDERED. Upon Court's inquiry, parties advised this matter would take one week to try.

CUSTODY

11/29/16 9:00 AM CALENDAR CALL

12/05/16 10:00 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	**COURT MINUTES**	**July 12, 2016**

C-15-309578-1 State of Nevada
vs
Steven Turner

July 12, 2016 **9:00 AM** **Defendant's Motion for Production of Discovery**

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Shelly Landwehr

RECORDER: Elsa Amoroso

REPORTER:

PARTIES PRESENT:

Beverly, Leah C.	Attorney
State of Nevada	Plaintiff
Turner, Steven	Defendant
Lisk, Steven	Attorney

JOURNAL ENTRIES

- At the request of the parties, COURT ORDERED, matter CONTINUED to 7/26/16 at 9:00 a.m.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **July 26, 2016**

C-15-309578-1 State of Nevada
vs
Steven Turner

July 26, 2016 **9:00 AM** **Defendant's Motion for Production of Discovery**

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Shelly Landwehr

RECORDER: Elsa Amoroso

REPORTER:

PARTIES PRESENT:	Turner, Steven	Defendant
	Yeager, Steven	Attorney
	Mendoza, Erika	Attorney

JOURNAL ENTRIES

- Mr. Yeager requested a continuance on behalf of Ms. Machnich. There being no objection, COURT SO ORDERED.

CUSTODY

CONTINUED TO: 8/04/16 9:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor **COURT MINUTES** **August 04, 2016**

C-15-309578-1 State of Nevada
vs
Steven Turner

August 04, 2016 **9:00 AM** **Defendant's Motion For Production Of Discovery**

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Tena Jolley

RECORDER: Patti Slattery

PARTIES PRESENT:

Beverly, Leah C.	Attorney for the State
Machnich, Tegan	Attorney for Defendant
Turner, Steven	Defendant

JOURNAL ENTRIES

- Ms. Machnich indicated the parties do not appear to have a discovery dispute at this time; requested that the Court grant the motion as to statutory and Brady; and that the motion was filed at this time because there was a CD that was missing which holds the bulk of the discovery. Ms. Beverly stated the CD was sent, however it apparently was not working and she will be sending another copy. Based on the representations of counsel and good cause appearing, COURT ORDERED, Defendant's Motion for Production of Discovery GRANTED to the extent that the State has the obligation to produce the documents requested consistent with Brady, Giglio and their progeny.

CUSTODY

INSTRUCTION 49

If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and his counsel.

Play backs of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a play back, you must carefully describe the testimony to be played back so that the court recorder can arrange her notes. Remember, the court is not at liberty to supplement the evidence.

INSTRUCTION NO. 30

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN: _____
DISTRICT JUDGE

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR 27 2018

1:36 p.m

BY, [signature]
ALAN PAUL CASTLE, SR, DEPUTY

VER

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER,
CLEMON HUDSON

Defendant.

CASE NO: C309578 – 1

DEPT NO: XVIII

VERDICT

We, the jury in the above entitled case, find the Defendant **STEVEN TURNER** as follows:

COUNT 1 – CONSPIRACY TO COMMIT BURGLARY

(please check the appropriate box, select only one)

☑ Guilty of Conspiracy to Commit Burglary

☐ Not Guilty

COUNT 2 – ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON

☑ Guilty of Attempt Burglary While in Possession of a Firearm or Deadly Weapon

☐ Guilty of Attempt Burglary

☐ Not Guilty

COUNT 3 – ATTEMPT MURDER WITH DEADLY WEAPON

☑ Guilty of Attempt Murder with Deadly Weapon

☐ Guilty of Attempt Murder

☐ Not Guilty

C-15-309578-1
VER
Verdict
4741914

COUNT 4 – ATTEMPT MURDER WITH DEADLY WEAPON

☑ Guilty of Attempt Murder with Deadly Weapon

☐ Guilty of Attempt Murder

☐ Not Guilty

COUNT 5 – BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

☑ Guilty of Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm

☐ Guilty of Battery with Use of a Deadly Weapon

☐ Guilty of Battery Resulting in Substantial Bodily Harm

☐ Guilty of Battery

☐ Not Guilty

DATED this 27 day of April, 2018

Beatriz Cruz
FOREPERSON

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. STEVEN TURNER, Defendant.	CASE NO. C-15-309578-1 DEPT. NO. XVIII DATE: MAY 15, 2018 TIME: 9:00 A.M.

MOTION FOR NEW TRIAL

COMES NOW, the Defendant, STEVEN TURNER, by and through ASHLEY L. SISOLAK, Deputy Public Defender and hereby file this Motion For New Trial.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 4th day of May, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ ASHLEY L. SISOLAK
ASHLEY L. SISOLAK, #13958
Deputy Public Defender

DECLARATION

ASHLEY SISOLAK makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and am familiar with the following facts and circumstances of this case.

2. On August 23, 2017 Craig Muller filed a Motion to Sever on behalf of Co-Defendant Clemon Hudson. Please see attached Exhibit A.

3. On October 12, 2017, Joinder was filed on behalf of Mr. Turner by the Office of the Public Defender. Please see Exhibit B[1].

4. On October 12, 2017 Judge Nancy Saitta denied Mr. Turner's Joinder to the Motion to Sever without prejudice based on the belief of the Court that any Bruton[2] issues could be remedied through redactions to proposed statements. Please see Exhibit C.

5. The Motion to Sever by Co-Defendant was renewed on November 16, 2017, and was denied by Judge Bailus. Please see Exhibit D.

6. On December 14, 2017, the Court issued the official redaction to the statements based on the denial of the Motion to Sever. Based upon the Courts denial of the Motion to Sever and decision to instead redact the statements to comply with Bruton, Mr. Turner did not challenge the Court's redactions. Please see Exhibit E.

7. It is the belief of the defense that the redactions as used at trial could not erase the implication of either Co-Defendant based upon the State's argument that there were only two people present.

8. It is further the belief of the defense that severance was warranted and necessary based on the direct implication of the other party at trial and further, the antagonistic defenses by each Co-Defendant.

9. The Defense asserts that based on failing to sever the Co-Defendants in this matter and instead to redact the statements the ability of Mr. Turner to present a complete theory of defense was diminished.

[1] "Exhibit B" does not include the statements attached to the original filing. They will be submitted upon request.
[2] Bruton v. United States 391 U.S. 123 (1968)

9. It has come to the attention of the defense, based on conversations with law enforcement, that any time there are firearms or shell casing involved in a crime an entry is made into the National Integrated Balistics Information Network also known as NIBIN.

10. Where there is a NIBIN entry, that entry can then be used to compare shell casings from a firearm or those found at a crime scene to other such casings or firearms in the database and a report is generated. Please see attached Exhibit F for an example of such report (unrelated case).

11. Based upon the facts in the case herein there may be a NIBIN report and/or entry related to each firearm present at the scene. This includes the Berretta handgun that was not fired.

12. It was the Defense's contention at trial that there was a third person involved in this shooting. Based on that contention, the existence of a NIBIN entry and/or report as to the guns in this case, particularly the hand gun is potentially exculpatory, whether or not there was a "hit" based on the database.

13. No such NIBIN reports regarding any of the firearms were turned over to the Defense. This report constitutes Brady[3] material because of its potential exculpatory value to the Defense.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 4th day of May, 2018.

/s/ ASHLEY L. SISOLAK
ASHLEY L. SISOLAK

[3] Brady v. Maryland, 373 U.S. 83 (1963)

POINTS AND AUTHORITIES

NRS 176.515 sets out when a motion for a new trial can be brought:

> ***1. The court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.***
> 2. If trial was by the court without a jury the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.
> 3. Except as otherwise provided in NRS 176.0918, a motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.
> ***4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the court may fix during the 7-day period.***

This motion is brought pursuant to NRS 176.515, section 1 and section 4. This motion is brought based on the fact that the Court did not properly sever the matter at hand prior to trial, and based on violated discovery rules resulting in potential new evidence. An evidentiary hearing is requested in order to make a more complete record on these matters.

Motion to Sever

In Chartier v. State of Nevada, 124 Nev. 760 the Court held that "severance may be required where a failure to sever hinders a defendant's ability to prove his theory of the case." Here, based on the Court's redactions, Mr. Turner could not address the potential second vehicle described by the Co- Defendant. Nor could Mr. Turner inquire about that vehicle specifically with law enforcement who testified. Like in Chartier had the cases been severed prior to trial, Mr. Turner could have brought out the statements of the Co-Defendant at his separate and distinct trial without the worry of prejudice to the Co- Defendant that Bruton is designed to protect. Bruton v. United States, 391 U.S. 123 (1968).

Rueda-Denvers v. State of Nevada, 128 Nev. 931, which distinguishes Chartier, the Court found that a defendant's right to confrontation was violated by the detective's use of the word "they" in referencing the crime that occurred. The Court found this to be a harmless error based on the same fact being clearly established by other evidence. However, the Court also found that a Bruton violation did occur. Citing Stevens, the Court stated that it was "not only natural, but

seemingly inevitable, that the jury would infer appellant to be the person referred to in the blanks in [the codefendant's] statements". Stevens v. State, 97 Nev. 443, 444 (1981).

Unlike in Rueda-Denvers there was no video surveillance in the case herein. Additionally, when compared with Stevens it could be argued that the same inferences could be made regarding the Co-Defendant's statements, the detectives testimony, and other officers testimony as it related to Co-Defendant's statements and an the additional suspect being sought at the time of the shooting.

Discovery in the Case

Prosecutors must turn over all material related to the case in the possession, control and custody of any government agent or agency. See U.S. v. Blanco, 392 F.3d 382, 388 (9th Cir. 2004). Prosecutors are responsible for disclosing evidence in their possession as well as evidence held or maintained by other government agents, as "it is appropriate to charge the State with constructive knowledge" of evidence held by any investigating agency. Bennett, 119 Nev. at 603.

This constructive possession rule applies to evidence that is *withheld* by other agencies. Bennett, 119 Nev. at 603. Even if investigating officers withhold reports without the prosecutor's knowledge, "the state attorney is *charged with constructive knowledge and possession of evidence withheld by other state agents*, such as law enforcement officers." Id. (internal quotations and citation omitted) (emphasis added). "Exculpatory evidence cannot be kept out of the hands of the defense just because the prosecutor does not have it, where an investigative agency does." U.S. v. Zuno-Arce, 44 F.3d 1420, 1427 (9th Cir. 1995). "It is a violation of due process for the prosecutor to withhold exculpatory evidence, and his motive for doing so is immaterial." Jimenez, 112 Nev. at 618.

In fact, a prosecutor has an *affirmative obligation* to obtain Brady material and provide it to the defense, *even if the prosecutor is initially unaware of its existence*. "The prosecution's affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20th century strictures against misrepresentation and is of course most prominently associated with this Court's decision in Brady . . . ." Kyles, 514 U.S. at 432. This obligation exists even where the defense does not make a request for such evidence. Id. As the U.S. Supreme Court explained:

> This in turn means that the individual prosecutor *has a duty to learn* of any favorable evidence known to the others acting on the government's behalf in the case, including the police. But whether the prosecutor succeeds or fails in meeting this obligation (whether, that is, a failure to disclose is in good faith or bad faith), the prosecution's responsibility for failing to disclose known, favorable evidence rising to a material level of importance is inescapable. . . . Since then, the prosecutor has the means to discharge the government's Brady responsibility if he will, any argument for excusing a prosecutor from disclosing what he does not happen to know about boils down to a plea to substitute the police for the prosecutor, and even for the courts themselves, as the final arbiters of the government's obligation to ensure fair trials.

Kyles, 514 U.S. at 437-38 (emphasis added) (citations and footnotes omitted); see also Carriger, 132 F.3d at 479-82 (holding that "the prosecution has a duty to learn of any exculpatory evidence known to others acting on the government's behalf. *Because the prosecution is in a unique position to obtain information known to other agents of the government, it may not be excused from disclosing what it does not know but could have learned.*" (citations omitted) (emphasis added). Thus, the disclosure obligations outlined above extend not only to material directly in the possession of prosecutors, but material prosecutors constructively possess, as well.

Because the defense was entitled to the potentially exculpatory NIBIN entries and/or reports generated as a result of this case, Mr. Turner's discovery rights were violated.

Conclusion

Due to the Court's failure to sever the case and the discovery violations by the State regarding the NIBIN entries/reports, Mr. Turner should be granted a new trial.

DATED this 4th day of May, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ ASHLEY L. SISOLAK
ASHLEY L. SISOLAK, #13958
Deputy Public Defender

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing Motion on for hearing before the Court on the 15th day of May, 2018, at 9:00 a.m.

DATED this 4th day of May, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ ASHLEY L. SISOLAK
ASHLEY SISOLAK, #13958
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

A COPY of the above and foregoing was sent via electronic to the District Attorney's Office at Motions@clarkcountyda.com on this 4th day of May, 2018.

By: /s/ KONIE BALDWIN
An employee of Clark County Public Defender's Office

EXHIBIT A

MOT

CRAIG A. MUELLER, ESQ.
Nevada Bar No. 4703
MUELLER HINDS & ASSOCIATES, CHTD
600 S. Eighth St.
Las Vegas, NV 89101
Tel (702) 940-1234
Fax (702) 940-1235
cmueller@muellerhinds.com

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA, Plaintiff, vs. CLEMON HUDSON, Defendants.	CASE NO.: C-15-309578-2 DEPT. NO.: XVIII **MOTION TO SEVER; NOTICE**

COMES NOW, CLEMON HUDSON, by and through his attorney, Craig A. Mueller, Esq., of the law firm Mueller Hinds & Associates, hereby move the court to sever the codefendants in this case into two separate cases. This motion is made based on the following points and authorities and any oral arguments made at the time of the hearing of this motion.

DATED this 23rd August, 2017.

CRAIG A. MUELLER, ESQ.
Nevada Bar No: 4703

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Plaintiff,

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the above and foregoing **MOTION** will be heard before the above entitled Court on the 7th day of September 2016, at 9:00 a.m., or as soon thereafter as counsel may be heard.

POINTS AND AUTHORITIES

I. FACTUAL BACKGROUND

According to the police report, on September 4, 2015 Eric Clarkson heard a noise and saw an unknown subject on his patio, got out of bed, got his cell phone and woke up his roommate, Willoughby Grimaldi, and called 9-11. Ultimately, police officers Robertson and Greco-Smith arrived, saw Steven Turner and Clemon Hudson, on the patio. Officers took a position, unlocked the door when Turner fired an AK47 rifle striking Officer Robertson in the leg, and Clemon Hudson allegedly fired one shot from the shotgun into the doorway missing the officers.

Turner fled but was seen limping and jaywalking nearby where a person stop was conducted. The officers interviewed Turner who identified his friend Clemon Hudson, AKA "Mar," as the person who he was with when they planned to go to someone's house to "steal their weed" on Westcliff and Rainbow. After changing his story a couple of times, Turner stated he waited in a car while "Mar" grabbed a SKS rifle and shotgun and jumped in the backyard of the house. Turner thought Mar was taking too long so he jumped over the fence too. Turner claims that "Mar" walked toward the glass patio door, that he saw the door open and "Mar" started to shoot.

II. APPLICABLE LAW

Section 173.135 of the Nevada Revised Statutes provides:

Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in or or more counts together or separately and all of the defendants need not be charged in each count.

Under section 174.165 of the Nevada Revised Statutes:

1. If it appears that a defendant or the State of Nevada is prejudiced by a joinder of offenses or of defendants in an indictment or information, or by such joinder for trial together, the court may order an election or separate trials of counts, grant a severance of defendants or provide whatever other relief justice requires.

2. In ruling on a motion by a defendant for severance the court may order the district attorney to deliver to the court for inspection in chambers any statements or confessions made by the defendants which the State intends to introduce in evidence at trial.

Of course, the ability to join defendants is not unlimited. The Confrontation Clause in the Sixth Amendment to the United States Constitution provides the right to confront and cross-examine the accuser in a criminal case. See Bruton v. United States, 391 U.S. 123, 135-37 (1968). That right is violated where a non-testifying codefendant makes a confession that incriminates the defendant. See Romero v. State, 2016 Nev. LEXIS 512, 9, 2016 WL 3257826, Nev. SC No. 67731 (filed June 10, 2016) citing Bruton v. United States, 391 U.S. 123 (1968).

The party seeking severance bears the burden of proof of prejudice and such a case must be severed "if there is a serious risk that [it] would compromise a specific trial right of one of the defendants, or prevent the jury from making a reliable judgment about guilty or innocence." See Rimer v. State, 351 P.3d 697, 711 (Nev. 2015), citing Marshall v. State, 118 Nev. 642, 647 (2002) (quoting Zafiro v. United States, 506 U.S. 534, 539 (1993)). Another way to state the law was also provided in Rimer: "To require severance, the defendant must demonstrate that a joint trial would manifestly prejudicial. The simultaneous trial of the offenses must render the trial fundamentally unfair, and hence, result in the violation of due process." See Rimer v. State, 351 P.3d 697, 710-11 (Nev. 2015), citing Honeycutt v. State, 118 Nev. 660 (2002), overruled on other grounds by Carter v. State, 121 Nev. 759, 765 (2005).

III. ANALYSIS

The case must be severed under Bruton. The State intends to introduce the statements of a non-testifying defendant Steven Turner, the codefendant in this case, against Clemon Hudson by the alias "Mar" that tend to implicate Hudson. Because Hudson will not have the ability to confront and cross-examine Turner, his rights under the Confrontation Clause would be violated by the introduction of these statements. This would render the trial fundamentally unfair and result in a violation of due process. Therefore, the case must be severed.

IV. CONCLUSION

We pray that the defendants in this case be severed into two separate cases.

CRAIG A. MUELLER, ESQ.
Nevada Bar No: 4703

CERTIFICATE OF SERVICE

I, an employee of Mueller Hinds & Associates, Chtd., certify that this document was served to the following persons or entities through the Wiznet e-service system:

DATED this 23rd day of August, 2017.

Employee of Mueller Hinds & Associates, CHTD.

EXHIBIT B

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
TEGAN C. MACHNICH, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11642
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. STEVEN TURNER, Defendant,	CASE NO. C-15-309578-1 DEPT. NO. XVIII DATE: October 12, 2017 TIME: 9:00 a.m.

JOINDER TO CO-DEFENDANT CLEMON HUDSON'S MOTION TO SEVER

COMES NOW, the Defendant, STEVEN TURNER, by and through TEGAN C. MACHNICH, Chief Deputy Public Defender and respectfully joins the Co-Defendant, CLEMON HUDSON, by and through his attorney, CRAIG MUELLER, and hereby adopts said Motion as though fully set forth here in its entirety.

DATED this 12th day of September, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: */s/Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Chief Deputy Public Defender

DECLARATION

TEGAN C. MACHNICH makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Chief Deputy Public Defender for the Clark County Public Defender's Office appointed to represent Defendant Steven Turner in the present matter;

2. Co-Defendants Steven Turner and Clemon Hudson both made multiple statements to police. Mr. Hudson's statements are attached hereto has Exhibits A and B. Mr. Turner's first three statements (relevant to this issue) are attached hereto as Exhibits C, D, and E.

3. While the Defendants' statements arguably implicate themselves in a robbery-type situation, both deny shooting the weapon that allegedly caused serious injury to the police officer in this case.

4. It is Mr. Turner's belief that the State intends to use Mr. Hudson's statements at trial. It is currently unknown whether Mr. Hudson will testify. The statements implicate Mr. Turner.

5. The law greatly disfavors limiting instructions when co-defendants statements are used at trial, as this Court is well aware. See Ducksworth v. State, 114 Nev. 951, 953 (1998) citing Bruton v. United States, 391 U.S. 123, 127-128 (1968).

6. Thus, Mr. Turner joins in Defendant Clemon Hudson's Motion to Sever currently set for hearing on October 12, 2017.

7. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

///

///

///

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 12th day of September, 2017.

/s/Tegan C. Machnich
TEGAN C. MACHNICH

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com on this 13th day of September, 2017

By: */s/ Erin Prisbrey*
An employee of the
Clark County Public Defender's Office

EXHIBIT C

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor | **COURT MINUTES** | **October 12, 2017**

C-15-309578-1 State of Nevada
vs
Steven Turner

October 12, 2017 **09:00 AM** **All Pending Motions**

HEARD BY: Saitta, Nancy **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Public Defender	**Attorney for Defendant**
Tegan Machnich	**Attorney for Defendant**
Michael Dickerson	**Attorney for Plaintiff**
Steven Turner	**Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Defendant's Joinder to Co-Defendant Clemon Hudson's Motion to Sever ... Pre Trial Conference

Co-Defendant, Clemon Hudson present. Craig Mueller, Esq. present on behalf of Co-Defendant.

Arguments by counsel. Co-Defendant cites the Chartier case and circumstances in their pleadings. Arguments by counsel regarding the allegations and Defense's position that each Defendant will have to defend two theories of liability. State's opposition that the record can be sanitize for the sake of each Defendant as to statements made by parties in contravention to a fair trial. Colloquy regarding alleged facts and circumstances. COURT does Find this case to be distinguishable from the Chartier case. Court has considered whether or not there is a substantial risk the Jury will use factually incriminating confession(s) of a non-testifying Defendant as evidence of guilt of his co-defendant; and, fundamental unfairness at trial. FURTHER, Court notes State's offer of cooperation, and DENIES Motion and Joinder to Sever WITHOUT PREJUDICE; State will offer both counsel the opportunity to see the redacted version the State intends to use at trial. IF after review, Defense determines their client cannot be adequately defended at trial, then Defense may renew its motion. State to prepare an order consistent with the Court's ruling that both Defendants will have the opportunity to renew their motions. Court directed State to provide its redacted version to Defense counsel NO LATER THAN 10/17/17 for review; and Defense to respond to State's redactions NO LATER THAN 10/20/17. THIS COURT gives parties permission to contact the Senior Judge Department for further consideration on these matters, if needed. Colloquy regarding discovery requests. Mr. Pesci advised he just picked up this matter for trial and has instructed his staff to provide requested discovery to both Defendants' counsel. Mr. Pesci clarified that the disk received has been copied and will be provided to opposing counsel. COURT ORDERED, oral request to compel discovery is GRANTED. Mr. Pesci acknowledged they State will comply. Court placed the burden on both counsel to ensure that discovery production is satisfactorily complied with.

Upon Court's inquiry, State advised the case has been subpoenaed and anticipates ready. Defense advised, they will have a better idea once redactions have been received, but otherwise anticipate ready. COURT ORDERED, proposed Jury Instruction be prepared and provided by calendar call date. Defense Proposed Jury Instructions to be submitted directly to chambers.

EXHIBIT D

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor | **COURT MINUTES** | **November 16, 2017**

C-15-309578-1 State of Nevada
vs
Steven Turner

November 16, 2017 09:00 AM **Status Check: Status of Case - Redactions**

HEARD BY: Bailus, Mark B **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Public Defender	**Attorney for Defendant**
Leah C Beverly	**Attorney for Plaintiff**
Geordan G. Logan	**Attorney for Defendant**
Steven Turner	**Defendant**
State of Nevada	**Plaintiff**

JOURNAL ENTRIES

Co-Defendant and his counsel also present. Mr. Logan present on behalf of Ms. Machnich for Defendant. Court advised this court is more inclined to go with Defendants' redactions than State's. Court further advised, this court will be submitting its own more extensive version for consideration, noting Mr. Mueller is of the opinion the transcript cannot be redacted. Court DENIED Defendant Hudson's renewed motion to sever Defendants Without Prejudice. Court advised parties that if the Court's redactions are not satisfactory to parties and following further arguments, Defense may renew its motion to sever trials. Mr. Mueller tabled Defendant Hudson's objection pending Court's presentation of its redactions. COURT ORDERED, status check continued.

CUSTODY

CONTINUED TO:
11/30/17 9:00 a.m.

EXHIBIT E

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor | **COURT MINUTES** | **December 14, 2017**

C-15-309578-1 State of Nevada
vs
Steven Turner

December 14, 2017 09:00 AM **Status Conference - Redactions**

HEARD BY: Bailus, Mark B **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Leah C Beverly	**Attorney for Plaintiff**
Public Defender	**Attorney for Defendant**
State of Nevada	**Plaintiff**
Steven Turner	**Defendant**
Tegan Machnich	**Attorney for Defendant**

JOURNAL ENTRIES

Co-Defendant and counsel also present. Upon Court's inquiry, State submitted on Court's redactions. Ms. Machnich stated based on the redactions, Defendant Turner has no challenges at this time. Mr. Plummer stated Mr. Mueller will likely be filing a renewed motion to sever. Court so noted.

CUSTODY

EXHIBIT F

LAS VEGAS METROPOLITAN POLICE DEPARTMENT FORENSIC LABORATORY

NIBIN HIT DISPOSITION FORM

This form is a follow-up to the NIBIN Hit Notification previously sent to you and available in OnBase. According to Department Policy 5/206.18, this form is required to be filled out and returned to the Hit Notification Detail within 60 days of the distribution date of this form. This form should be submitted stating the action to be taken regarding each listed association.

Assigned Detective Name/P#/Agency: Det. M. O'Halloran NEAC

A NIBIN Hit Notification report was generated listing possible associations between the evidence and/or test fired cartridge cases from the following event numbers:

EVENT NUMBER	Item Description
[redacted]	One "Blazer" .40 S&W cartridge case
[redacted]	One "Blazer" .40 S&W cartridge case

For a conclusive identification to be made, the above listed hits must be confirmed by a microscopic comparison of the actual cartridge cases.

In reference to the NIBIN hit for the above event number(s) the investigative action is:

☐ **This association needs to be confirmed and a supplemental request for this confirmation has been submitted to the Forensic Laboratory through Property Connect.**

☒ **This association does not need to be confirmed at this time.**

If no, explain: Neither event had any suspects identified or arrests made. Det. O'Halloran couldn't identify any commonalities between the two events other than the two casings.

Information above provided by (Name/P#): M. O'Halloran P# 9626

Date form returned to Hit Notification Detail: 7/20/2016

This form will be retained as part of the Forensic Laboratory's case record and is subject to Information Disclosure Requests.

Investigative Sgt. Approval and Date: M. Ruiz P# 6794 07/20/16

*Completed forms can be emailed to HitNotificationDetail@lvmpd.com

LVMPD Forensic Laboratory • 5605 W Badura Ave Suite 120 B • Las Vegas, NV 89118

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER,
#2717636

Defendant.

CASE NO: C-15-309578-1

DEPT NO: XVIII

STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR NEW TRIAL

DATE OF HEARING: May 15, 2018
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through LEAH BEVERLY, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in State's Opposition to Defendant's Motion for New Trial.

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

///

///

///

///

POINTS AND AUTHORITIES

STATEMENT OF THE CASE

An Indictment was filed on September 23, 2015 charging Steven Turner and Clemon Hudson (Hereinafter "Defendant Turner" and "Defendant Hudson") as follows: Count 1: Conspiracy to Commit Burglary; Count 2: Attempt Burglary While in Possession of Firearm or Other Deadly Weapon; Counts 3-4: Attempt Murder with Use of a Deadly Weapon; Count 5: Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm and Count 6: Discharging a Firearm at or Into Occupied Structure. On September 28, 2017, Defendant Hudson filed a Motion to Sever. Defendant Turner filed a Joinder to that Motion on September 13, 2017. The State filed its Opposition on September 18, 2017. The Court denied both Defendant's Motions on October 12, 2017. Subsequently, the State, Defense Counsel and the Court went through a series of redactions in regards to the various statements. On December 14, 2017, the Court submitted its redactions of Defendant Hudson's statements to Defendant's Turner's attorneys. At that time, Defendant Turner indicated that based on the Court's redactions, Turner had no challenge to the statements of Hudson. Jury trial was held beginning April 16, 2018. On April 27, 2018, the jury returned a verdict of guilty on all counts (except count 6 which had previously been dismissed by the State prior to trial). It should be noted that at no time during the trial did Defendant Turner object to the statements of Defendant Hudson when they were introduced by the State. Sentencing is currently set for June 21, 2018. The instant Motion for New Trial was filed on May 4, 2018. The State's Opposition follows:

ARGUMENT

In the instant Motion, it appears that Defendant first claims that he is entitled to a new trial based on the denial of the Motion to Sever. Additionally, Defendant claims that he is entitled to a new trial because there may be a "newly discovered" NIBIN report. Both claims are without merit and should be denied.

///

///

///

APPLICABLE LAW:

NRS 176.515 states:

1. The court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.
2. If trial was by the court without a jury, the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.
3. Except as otherwise provided in NRS 176.09187, a motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.
4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the court may fix during the 7-day period.

Motion to Sever:

It appears Defendant claims he is entitled to a new trial because the Court denied his Motion to Sever. In the instant Motion, Defendant Turner merely recites arguments he already made during argument on the Motion to Sever on October 12, 2017 and in subsequent discussions on redactions. He then recites case law already argued in the written Motion to Sever. Denial of a Motion to Sever is not a basis for a new trial. This is an issue to be raised on appeal and is not within the limited scope of exceptions allowed for by NRS 176.515. Furthermore, it should be noted that Defendant had no challenges to the Court's redactions of Hudson's statements nor did Defendant Turner object at all to the introduction of the redacted statements of Hudson during trial. Defendant Turner does not get a new trial now simply because he disagrees with the Court's prior ruling. As this is an issue for appeal, the instant Motion should be denied.

Discovery in the Case:

Defendant next claims that he is entitled to a new trial based on "newly discovered" evidence. It appears that Defendant claims there may be some NIBIN report in existence which is a report used to compare shell casings from a firearm or casings found at a scene to other shell casings in a database. Defendant claims that some NIBIN report "may be exculpatory" as it may relate the Berretta handgun found in this case. However, Defendant acknowledges

that the Berretta handgun was never fired in this case. Defendant's claim is without merit and should be denied.

As an initial matter, there is nothing in Defendant's Motion that alludes to any type of "newly discovered" evidence. In fact, the opposite is true. Defendant and Defense Counsel have had the firearms report including all comparisons made to any shell casings found at the scene and all firearms examined for years. In Burton v. State, the Nevada Supreme Court held: "To satisfy NRS 175.535, there must be a factual showing that the newly discovered evidence could not have been obtained through due diligence prior to trial, and that it would have the probable effect of a different verdict on retrial." Burton v. State, 84 Nev. 191, 437 P.2d 861 (1968). In McLemore v. State, 94 Nev. 237 (1978), the Nevada Supreme Court held

> This Court has required that such ***HN1*** newly discovered evidence comply with additional criteria. The evidence must be (1) newly discovered, (2) material to movant's defense, (3) such that it could not with reasonable diligence have been discovered and produced for the trial, (4) not cumulative, (5) such as to render a different result probable upon retrial, (6) that it does not attempt only to contradict a former witness [***4] or impeach or discredit him, unless the witness to be impeached is so important **[*240]** that a different result must follow, and (7) that these facts be shown by the best evidence the case admits.

See also Sanborn v. State, 107 Nev. 399 (1991). Counsel has made nothing other than a bare bones statement that any NIBIN report would be exculpatory in any manner to Defendant Turner. In fact as correctly stated by defense counsel, the purpose of an NIBIN form is to compare unknown cartridges at a scene to a data base of similar cartridges or firearms to see if there is a match. As noted by defense counsel and the witnesses at trial, the Beretta handgun was never fired. As such, there would be no casings at the scene to compare to the Beretta or any other handgun.

In fact, there were only 15 cartridge cases found at the scene plus wadding and shells. Of these 15 casings fired, 12 of them returned to Officer Greco-Smith's gun. Three of them were similar in comparison to the SKS rifle at the scene. The shotgun pellets and wads were also compared examined. No other casings were recovered. The one bullet recovered was

similar to the bullets fired by Officer Greco-Smith. All of this was testified to at trial by firearms expert Anya Lester. Furthermore, all of this information was contained in the firearms report prepared by Anya Lester and provided to Defendant months and months in advance of trial. See Exhibit 1.

Finally, Defendant Turner cannot request a new trial based on newly discovered evidence when the evidence does not exist. In this case there is no NIBIN report. The State confirmed with one of the lead case agents in this case that the report does not exist. The reason for that is that all three guns recovered at the scene, Officer Greco-Smith's weapon, all cartridge cases and wads, bullets and fragments were submitted to the actual forensic laboratory for testing. As noted on Defendant's own exhibit F to his Motion, even if there is an NIBIN hit, it still has to be confirmed by actual forensic testing. That testing was already done in this case. As such, even if an NIBIN report existed, it would be cumulative. Defendant has made no showing that any non-existent NIBIN report would render any different result upon retrial. Defendant has failed to meet any of the requirements under McLemore for a new trial based on "newly discovered" evidence. As such, this claim should be denied.

CONCLUSION

Based upon the foregoing points and authorities, the State respectfully requests that Defendant's Motion for New Trial be denied.

DATED this 8th day of May, 2018.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY /s/ LEAH BEVERLY
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556

///

///

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Opposition to Defendant's Motion for New Trial, was made this 8th day of May, 2018, by Electronic Filing to:

DEPUTY PUBLIC DEFENDER
E-Mail: pdclerk@clarkcountynv.gov

BY: /s/ J. MOSLEY
Secretary of the District Attorney's Office

EXHIBIT "1"

Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination Firearms & Toolmarks		Distribution Date: December 29, 2015 Agency: LVMPD Location: Homicide & Sex Crimes Bureau Primary Case #: 150904-0516 Incident: OIS Requester: Craig Jex Lab Case #: 15-09456.3
Subject(s):	Steven Turner (Suspect) Clemon Hudson (Suspect)	

The following evidence was examined and results are reported below.

Lab Item #	Impound Pkg #	Impound Item #	Description
1	008177-1	1	One Yugo Model 59/66 7.62 x 39mm caliber semiautomatic rifle, serial number: M478852
2	008177-1	1A	One magazine (fits and functions in Lab Item 1)
3	008177-1	1B	Five "Tulammo" 7.62 x 39mm cartridges One "71 93" 7.62 x 39mm cartridge
4	008177-1	1C	One "71 93" 7.62 x 39mm cartridge
5	008177-2	2	One Mossberg Model 500A 12 Gauge pump shotgun, serial number: P081210
6	008177-2	2A	Four unfired "WINCHESTER" 12 Gauge shotshells (disassembled one for exam)
7	008177-2	2B	One fired "WINCHESTER" 12 Gauge shotshell
8	008177-2	2C	One metal fragment
9	008177-3	3	One Beretta Model 950BS .25 Auto caliber semiautomatic pistol, serial number: BR21889V
10	008177-3	3A	One magazine (fits and functions in Lab Item 9)
11	008177-3	3B	Eight "FC" .25 Auto cartridges
12	008177-3	3C	One "FC" .25 Auto cartridge
13	008177-4	4	One magazine
14	008177-4	4A	Five "Super-X" .22 Long Rifle cartridges
22	005158-2	2	One Glock Model 17 9 x 19 (9mm Luger) caliber semiautomatic pistol, serial number: MGS941 equipped with a Streamlight TLR-1 flashlight
23	005158-2	3	One magazine (fits and functions in Lab Item 22)
24	005158-3	4	One "SPEER" 9mm Luger +P cartridge
25	005158-3	5	Seventeen "SPEER" 9mm Luger +P cartridges
26	005158-4	6	One magazine (fits and functions in Lab Item 22)
27	005158-4	7	One magazine (fits and functions in Lab Item 22)
28	005158-5	8	Seventeen "SPEER" 9mm Luger +P cartridges
29	005158-5	9	Seventeen "SPEER" 9mm Luger +P cartridges
30	014402-4	8	One "SPEER" 9mm Luger +P cartridge case
31	014402-4	9	One "SPEER" 9mm Luger +P cartridge case
32	014402-4	10	One "SPEER" 9mm Luger +P cartridge case
33	014402-4	11	One "SPEER" 9mm Luger +P cartridge case
34	014402-4	12	One "SPEER" 9mm Luger +P cartridge case
35	014402-4	13	One "SPEER" 9mm Luger +P cartridge case
36	014402-5	14	One "SPEER" 9mm Luger +P cartridge case
37	014402-5	15	One "SPEER" 9mm Luger +P cartridge case
38	014402-5	16	One "SPEER" 9mm Luger +P cartridge case
39	014402-5	17	One "SPEER" 9mm Luger +P cartridge case
40	014402-5	18	One "SPEER" 9mm Luger +P cartridge case
41	014402-5	19	One "SPEER" 9mm Luger +P cartridge case
42	014402-6	20	Shot pellets
43	014402-6	21	Shot pellets
44	014402-6	22	One partial wad
45	014402-6	23	One partial wad
46	014402-7	24	One bullet
47	014402-8	25	One "Tulammo" 7.62 x 39mm cartridge case
48	014402-8	26	One "Tulammo" 7.62 x 39mm cartridge case

Lab Item #	Impound Pkg #	Impound Item #	Description
49	014402-8	27	One "Tulammo" 7.62 x 39mm cartridge case
50	014402-9	28	One metal fragment
51	014402-9	29	One metal fragment
52	014402-9	30	One metal fragment
53	014402-9	31	One metal fragment
54	014402-13	35	One metal fragment

Results and Conclusions:

Firearms and Magazines

The Yugo rifle was examined, test fired and found to be operational with no noted malfunctions. This rifle has a barrel length of approximately 24 ¼ inches, an overall length of approximately 42 ¾ inches and a trigger pull of 4 ¾ - 5 ¼ pounds. The submitted magazine (Lab Item 2) has a capacity of twenty-one cartridges.

The Mossberg shotgun was examined and was noted to have an area of damage, consistent with a bullet impact, to the fore-end and magazine tube. This damage rendered the shotgun inoperable and unable to be test fired.

The Beretta pistol was examined, test fired and found to be operational with no noted malfunctions. This pistol has a barrel length of approximately 2 $^{3}/_{8}$ inches, an overall length of approximately 4 ¾ inches and a trigger pull of 5 ¼ - 5 ¾ pounds. The submitted magazine (Lab Item 10) has a capacity of 8 cartridges.

The Glock pistol was examined, test fired and found to be operational with no noted malfunctions. This pistol has a barrel length of approximately 4 ½ inches, an overall length of approximately 8 inches and a trigger pull of 6 ¼ - 6 ¾ pounds. The submitted magazines (Lab Items 23, 26 & 27) each have a capacity of 17 cartridges.

The magazine (Lab item 13) has a capacity of 8 .22 Long Rifle cartridges and does not fit or function in any of the firearms submitted in this case.

Comparisons

The evidence cartridge cases and bullets were examined and microscopically compared to the test fired cartridge cases and bullets with the following results:

- The twelve cartridge cases (Lab Items 30 - 41) were identified as having been fired by the submitted Glock pistol.
- The three cartridge cases (Lab Items 47 – 49) shared a similar general overall appearance and some limited corresponding microscopic information with the test fired cartridge cases from the submitted Yugo rifle; however, insufficient microscopic detail precludes a conclusive identification to this rifle.
- The bullet (Lab Item 46) shared similar general rifling characteristics with the test fired bullets from the submitted Glock pistol; however, damage to this item precludes any further comparisons. This bullet was not fired by any of the other firearms submitted in this case.
- The metal fragments (Lab Items 8, 50 – 54) bear no markings of value for microscopic comparisons.

Shot and Wads

- The submitted shot pellets (Lab Items 42 and 43) were determined to be consistent in size, weight and composition with number 6 steel shot.
- The submitted wad pieces (Lab Item 44 & 45) were determined to be consistent in size, appearance and composition with the wad contained in the disassembled evidence shotshell (Lab Item 6).

NIBIN

Representative images of a test fired cartridge case from the Yugo rifle and the Beretta pistol were entered into and searched in the National Integrated Ballistic Information Network (NIBIN). Notifications will be made if there are any associations to these entries.

The fired shotshell (Lab Item 7) did not meet the minimum acceptance criteria (breechface and firing pin marks) for entry into the NIBIN.

The evidence is returned to secure storage.

---This report does not constitute the entire case file. The case file may be comprised of worksheets, images, analytical data and other documents.---

Anya Lester

Anya Lester, #13771 12/23/2015
Forensic Scientist II

- END OF REPORT -

PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. STEVEN TURNER, Defendant.	CASE NO. C-15-309578-1 DEPT. NO. XVIII DATE: JUNE 19, 2018 TIME: 9:00 A.M.

SUPPLEMENTAL BRIEFING FOR MOTION FOR NEW TRIAL

COMES NOW, the Defendant, STEVEN TURNER, by and through ASHLEY L. SISOLAK, Deputy Public Defender and hereby file this Supplemental Briefing For Motion For New Trial.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 14th day of June, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ ASHLEY L. SISOLAK
ASHLEY L. SISOLAK, #13958
Deputy Public Defender

DECLARATION

ASHLEY L. SISOLAK makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 14th day of June, 2018.

/s/*Ashley L. Sisolak*
ASHLEY L. SISOLAK

ARGUMENT

Purpose and Relevance of the NIBIN report

The National Integrated Ballistics Identification Network (NIBIN) is designed to assist law enforcement in tying firearms and shell casings from known cases to cold or unknown cases. It is managed by the ATF and provided as a resource to agencies across the country and has been utilized since 1990 to assist law enforcement.

The state misunderstands the relevance of the NIBIN report as it relates to this case. The Defense does not contend that the state cannot tie the firearms in question to THIS case; the Defense contends that we cannot know if the firearms are tied to any OTHER cases, and therefore if the firearms can be tied any other individuals.

Las Vegas Metropolitan Police Department's Policy on NIBIN

The state contended that it is Metro's NEW policy that casings and firearms be entered into NIBIN. While it may be accurate that this policy is addressed in the most recent Metro policy manual, the state's assertion is plainly inaccurate.

The policy manual implemented in August of 2015, approximately thirty-five days prior to the incident in question, addresses NIBIN and its uses extensively. (Attached, in pertinent part, as Exhibit A) In fact, the Metro policy manual plainly states that our police department has been participating in NIBIN since 2002 based on many successes resulting in numerous "hits." The policy states that, "For the database to be successful, it is important that both cartridge cases from crime scenes and test fired cartridges be entered." The policy further lays out what is "appropriate" for NIBIN, as follows:

- Cartridge Cases
    - Recovered from crime scenes such as homicides, robberies, gun assaults
    - Which may be associated with a series of robberies or shootings
    - Recovered from incidents (such as drive-by shootings), vehicles, residences or person that may be tied to criminal activities

- Crime Related Guns
    - Collected during crime investigations that either automatically or semi-automatically eject fired cartridge cases (This includes semiautomatic, fully automatic, pump action, lever action, bolt action, and any other firearms that eject fired cartridge cases)
    - Recovered from suspected criminals such as ex-felons, suspected gang members or drug dealers
    - Possibly used in a series of shootings, robberies, etc.
    - Collected in search warrants or recovered under suspicious circumstances which are thought to be associated with criminal activity
      NOTE: revolvers are not appropriate for NIBIN entry.
- Evidence/Safekeeping Guns
    - In the possession of suspected criminals such as ex-felon, a suspected gang member or drug deal
    - Where the owner is unable to produce the gun registration/concealed weapon permit, proof of Nevada residency, or legitimate identification
    - Which are brandished during a domestic disturbance
    - Guns which, based on officer discretion, may be associated with criminal activity

Most alarming to the Defense is that outside of ANY of the other factors listed above, the officers on the scene of the incident believed at their own discretion that entry of these firearms into NIBIN was appropriate and warranted, yet the Defense was never made aware if any link to these firearms could be made or not.

Proof of NIBIN compliance during the time period in question

In the Defense's initial motion we referenced another case in which a NIBIN hit was found, the state retorted that the existence of NIBIN was a consequence of the fact that the Metro's current requirements are stringent on the issue of shell cases and that this was a newly filed case. However, it is important to note that while the case referenced is, in fact, a new case, the incident linked to the firearm in the example case was a shooting that occurred on September 1, 2015, three days prior to the instant event. This proves that, outside of the statements made in the policy

manual, Metro was in fact using the database at the time this event occurred in September 2015. (Redacted reports attached as Exhibit B)

Delay in entering of the data could have also been a concern on behalf of the state, however it is proven that any delay would have been overcome prior to the trial in the instant matter. It is important to remember that there were multiple settings in this case and that the time between the event and that of trial was extensive, amounting to more than two years.

State's assertions

The state alleged in their opposition that no such NIBIN report exists. It is also in the state's opposition, specifically page two of exhibit one, where it is expressly stated that entries were made into NIBIN for both the rifle and the handgun in this case. Remember, the handgun in this case was never fired during this event; the issue at hand is that the handgun could have been fired in any other event leading us to potentially more suspects in this matter through the association to the gun itself. (Please see LVMPD Forensic Laboratory Report attached as Exhibit C, specifically pg 2)

It logically follows that if a search is run through any database and there is a match a report is generated. Common sense dictates that if there is a means by which a positive result occurs there must be a means by which a negative result also occurs. For example if you search on Amazon for a product to purchase there is either a listing to purchase that product or a notification that noting satisfies your query. The same concept applies here, if there is a report generated from a "hit" in the database there must also be a non-"hit" notification. At the very least, someone entered the data and saw that there were, or were not results.

Prejudice

The Defense has asserted from the beginning that there were more than two people present at the scene the day of this incident. The states failure to disclose potential NIBIN results relating

to this case created an inability to prove the handgun was not tied to another crime or another individual, where if present, leaves doubt as to who could have been present at the scene of this event.

The existence or nonexistence of a "hit" in NIBIN materially affects the defense that was used at trial. Had the Defense known that the gun on scene could affirmatively NOT be linked to any other incident the Defense may have chosen a different strategy by which to defend Mr. Turner.

DATED this 14th day of June, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ ASHLEY L. SISOLAK
ASHLEY L. SISOLAK, #13958
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

A COPY of the above and foregoing was sent via electronic to the District Attorney's Office at Motions@clarkcountyda.com on this 14th day of June, 2018.

By: /s/ KONIE BALDWIN
An employee of Clark County Public Defender's Office

EXHIBIT A

INSTRUCTION NO. 7

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

The order in which the instructions are given has no significance as to their relative importance.

INSTRUCTION NO. 3

An Amended Indictment is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Amended Indictment that on or about the 4th day of September, 2015, the Defendants committed the offenses of CONSPIRACY TO COMMIT BURGLARY, ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON, ATTEMPT MURDER WITH USE OF A DEADLY WEAPON, AND BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada as follows:

COUNT 1 - CONSPIRACY TO COMMIT BURGLARY

did willfully and unlawfully conspire with each other and/or an unknown co-conspirator to commit a burglary, by the defendants committing the acts as set forth in Count 2, said acts being incorporated by this reference as though fully set forth herein.

COUNT 2 - ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON

did then and there willfully, unlawfully, and feloniously attempt to enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain residence occupied by ERIC CLARKSON and/or WILLOUGHBY GRIMALDI, located at 6729 Oveja Circle, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession of a firearm during the commission of the crime and/or before leaving the structure, by the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the following

manner, to wit: by entering into a course of conduct whereby one or more of the defendants and/or unknown co-conspirator went to the residence of ERIC CLARKSON and/or WILLOUGHBY GRIMALDI to steal marijuana, repeatedly knocked on the front door of the residence, rang the doorbell and pounded on the security door to the residence, one or more of the defendants and/or unknown co-conspirators ran into the backyard of the residence, thereafter Defendant STEVEN TURNER shot at Las Vegas Metropolitan Police Department Officers J. ROBERTSON and M. GRECO-SMITH with an SKS rifle, striking Officer J. ROBERTSON in the right leg, Defendant CLEMON HUDSON fired one round from a shotgun toward said officers, striking the doorway of the residence, Defendants acting in concert throughout.

COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought attempt to kill J. ROBERTSON, Las Vegas Metropolitan Police Department, a human being, with use of a deadly weapon, to-wit: a firearm, by shooting at the body of the said J. ROBERTSON; the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course of conduct whereby one or more of the defendants and/or unknown co-conspirators repeatedly knocked on the front door of the residence of ERIC CLARKSON and/or WILLOUGHBY GRIMALDI, rang the doorbell and pounded on the security door to the residence, one of more of the defendants and/or unknown co-conspirators ran into the backyard of the residence, thereafter Defendant STEVEN TURNER shot at Las Vegas Metropolitan Police Department Officers J. ROBERTSON and M. GREGO-SMITH with a SKS rifle, striking Officer J. ROBERTSON in the right leg, Defendant CLEMON HUDSON fired one round from a shotgun toward said officers,

striking the doorway of the residence, Defendants acting in concert throughout.

COUNT 4 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought attempt to kill M. GREGO-SMITH, Las Vegas Metropolitan Police Department, a human being, with use of a deadly weapon, to-wit: a firearm, by shooting at the body of the said M. GREGO-SMITH; the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course of conduct whereby one or more of the defendants and/or unknown co-conspirators repeatedly knocked on the front door of the residence of ERIC CLARKSON and/or WILLOUGHBY GRIMALDI, rang the doorbell and pounded on the security door to the residence, one of more of the defendants and/or unknown co-conspirators ran into the backyard of the residence, thereafter Defendant STEVEN TURNER shot at Las Vegas Metropolitan Police Department Officers J. ROBERTSON and M. GREGO-SMITH with a SKS rifle, striking Officer J. ROBERTSON in the right leg, Defendant CLEMON HUDSON fired one round from a shotgun toward said officers, striking the doorway of the residence, Defendants acting in concert throughout.

COUNT 5 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

did willfully, unlawfully, and feloniously use force or violence upon the person of another, to-wit: J. ROBERTSON, Las Vegas Metropolitan Police Department, with use of a deadly weapon, to-wit: a firearm, by shooting into the body of the said J. ROBERTSON with said firearm, resulting in substantial bodily harm to J. ROBERTSON, Las Vegas Metropolitan Police Department, by the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this

crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course of conduct whereby one or more of the defendants and/or unknown co-conspirators repeatedly knocked on the front door of the residence of ERIC CLARKSON and/or WILLOUGHBY GRIMALDI, rang the doorbell and pounded on the security door to the residence, one of more of the defendants and/or unknown co-conspirators ran into the backyard of the residence, thereafter Defendant STEVEN TURNER shot at Las Vegas Metropolitan Police Department Officers J. ROBERTSON and M. GREGO-SMITH with a SKS rifle, striking Officer J. ROBERTSON in the right leg, Defendant CLEMON HUDSON fired one round from a shotgun toward said officers, striking the doorway of the residence, Defendants acting in concert throughout.

It is the duty of the jury to apply the rules of law contained in these instructions to the facts of the case and determine whether or not each Defendant is guilty of one or more of the offenses charged.

Each charge and the evidence pertaining to it should be considered separately. The fact that you may find either defendant guilty or not guilty as to one of the offenses charged should not control your verdict as to any other Defendant or offense charged.

INSTRUCTION NO. 4

In this case, the State has charged the defendants under three (3) theories of liability:

(1) By directly committing the crimes charged;

(2) By aiding or abetting in the commission of the crimes charged; or

(3) Pursuant to a conspiracy to commit the crimes charged.

If you do not find, beyond a reasonable doubt, that a defendant is guilty under any one of these theories for a specific count charged, you must find that defendant not guilty of that count. In other words, whether each defendant is guilty or not guilty of each individual count charged in this case is a separate determination for you to make.

INSTRUCTION NO. 5

To prove that a defendant directly committed a crime, the State must prove, beyond a reasonable doubt, each element of a charged offense.

INSTRUCTION NO. 60

A conspiracy is an agreement between two or more persons for an unlawful purpose. To be guilty of conspiracy, a defendant must intend to commit, or to aid in the commission of, the specific crime agreed to. The crime is the agreement to do something unlawful; it does not matter whether it was successful or not.

A person who knowingly does any act to further the object of a conspiracy, or otherwise participates therein, is criminally liable as a conspirator. However, mere knowledge or approval of, or acquiescence in, the object and purpose of a conspiracy without an agreement to cooperate in achieving such object or purpose does not make one a party to conspiracy. Conspiracy is seldom susceptible of direct proof and is usually established by inference from the conduct of the parties. In particular, a conspiracy may be supported by a coordinated series of acts, in furtherance of the underlying offense, sufficient to infer the existence of an agreement.

A conspiracy to commit a crime does not end upon the completion of the crime. The conspiracy continues until the co-conspirators have successfully gotten away and concealed the crime.

INSTRUCTION NO. 7

It is not necessary in proving a conspiracy to show a meeting of the alleged conspirators or the making of an express or formal agreement. The formation and existence of a conspiracy may be inferred from all circumstances tending to show the common intent and may be proved in the same way as any other fact may be proved, either by direct testimony of the fact or by circumstantial evidence, or by both direct and circumstantial evidence.

INSTRUCTION NO. 8

Evidence that a person was in the company or associated with one or more other persons alleged or proven to have been members of a conspiracy is not, in itself, sufficient to prove that such person was a member of the alleged conspiracy. However, you are instructed that presence, companionship, and conduct before, during and after the offense are circumstances from which one's participation in the criminal intent may be inferred.

INSTRUCTION NO. 9

A conspirator can withdraw from a conspiracy by (1) disavowing the unlawful goal of the conspiracy; (2) affirmatively acting to defeat the purpose of the conspiracy; or (3) taking definite, decisive and positive steps to disassociate himself from the conspiracy. However, he remains liable for actions taken before withdrawing from the conspiracy.

The State has the burden to prove beyond a reasonable doubt that the Defendant did not withdraw from the conspiracy.

INSTRUCTION NO. 10

A defendant aids and abets the commission of a crime if he knowingly and with criminal intent aids, promotes, encourages or instigates by act or advice, or by act and advice, the commission of such crime with the intention that the crime be committed.

Every person concerned in the commission of a crime, whether he directly commits the act constituting the offense or aids or abets in its commission is guilty as a principal. Nevada law does not distinguish between an aider or abettor to a crime and an actual perpetrator of a crime; both are equally culpable.

The State is not required to prove precisely which defendant actually committed the crime and which defendant aided and abetted.

INSTRUCTION NO. 11

Mere presence at the scene of a crime or knowledge that a crime is being committed is not sufficient to establish that a defendant is guilty of an offense, unless you find beyond reasonable doubt that the defendant was a participant and not merely a knowing spectator.

However, the presence of a person at the scene of a crime and companionship with another person engaged in the commission of the crime and a course of conduct before and after the offense are circumstances which may be considered in determining whether such person aided and abetted the commission of that crime.

INSTRUCTION NO. 17

The elements of an attempt to commit a crime are:

1) the intent to commit the crime;

2) performance of some act towards it commission; and

3) failure to consummate its commission.

INSTRUCTION NO. 13

Every person who, by day or night, enters any shop, warehouse, store or other building, with the intent to commit Larceny, and/or Robbery, therein is guilty of Burglary.

Force or a "breaking" is not a necessary element of the crime.

INSTRUCTION NO. 14

Every person who commits the crime of Burglary, who has in his possession or gains possession of any firearm at any time during the commission of the crime, at any time before leaving the structure, or upon leaving the structure, is guilty of Burglary While in Possession of a Firearm.

"Firearm" includes:

1. Any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.
2. Any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

A firearm is a deadly weapon whether loaded or unloaded, operable or inoperable.

INSTRUCTION NO. 12

Attempt murder is the performance of an act or acts which tend, but fail, to kill a human being, when such acts are done with express malice, namely, with the deliberate intention unlawfully to kill.

Express malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

INSTRUCTION NO. 16

The intention to kill may be ascertained or deduced from the facts and circumstances of the attempted killing, such as the use of a deadly weapon, the manner of its use, and the attendant circumstances characterizing the act.

INSTRUCTION NO. 17

A defendant's state of mind does not require the presentation of direct evidence as it existed during the commission of a crime. The jury may infer the existence of a particular state of mind of a party from the circumstances disclosed by the evidence.

INSTRUCTION NO. 18

In this case, the Defendants are accused of attempted murder under three theories of liability. In order to find either Defendant guilty of attempted murder, the State must prove beyond a reasonable doubt that:

(1) With the deliberate intention to unlawfully kill the victim, the Defendant committed an act which tended, but failed, to kill the victim; or

(2) With the deliberate intention to unlawfully kill the victim, the Defendant aided, abetted, counseled, or encouraged another person to kill the victim and that other person committed an act which tended, but failed, to kill the victim; or

(3) With the deliberate intention to unlawfully kill the victim, the Defendant conspired with another person to kill the victim and that the other person committed an act which tended, but failed, to kill the victim.

INSTRUCTION NO. 19

Battery means any willful and unlawful use of force or violence upon another person. As used in this instruction, the word "willfully", when applied to the intent with which an act is done or omitted, implies simply a purpose or mere willingness to commit the act or to make the omission in question. The word does not require in its meaning any intent to violate law, or to injure another, or to acquire any advantage.

INSTRUCTION NO. 20

You are instructed that if you find either defendant guilty of Battery, you must also determine whether or not substantial bodily harm resulted.

If you find beyond a reasonable doubt that substantial bodily harm resulted in the commission of such an offense, then you shall return the appropriate guilty verdict reflecting "Resulting in Substantial Bodily Harm".

If, however, you find that substantial bodily harm did not result in the commission of such an offense, but you find that it was committed, then you shall return the appropriate guilty verdict reflecting that substantial bodily harm did not result.

You must find a defendant not guilty of Battery, with or without resulting substantial bodily harm, if the State fails to prove each element of the offense beyond a reasonable doubt.

INSTRUCTION NO. 51

Substantial bodily harm means:

1. Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ; or

2. Prolonged physical pain.

"Prolonged physical pain" encompasses some physical suffering or injury that lasts longer than the pain immediately resulting from the wrongful act.

INSTRUCTION NO. 28

You are instructed that if you find the defendant guilty of Attempt Murder or Battery, you must also determine whether or not a deadly weapon was used in the commission of this crime.

If you find beyond a reasonable doubt that a deadly weapon was used in the commission of such an offense, then you shall return the appropriate guilty verdict reflecting "With Use of a Deadly Weapon".

If, however, you find that a deadly weapon was not used in the commission of such an offense, but you find that it was committed, then you shall return the appropriate guilty verdict reflecting that a deadly weapon was not used.

You must find a defendant not guilty of Attempt Murder or Battery, with or without use of a deadly weapon, if the State fails to prove each element of the offense beyond a reasonable doubt

INSTRUCTION NO. 23

A "deadly weapon" is either: 1) any instrument, which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death; or 2) any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death.

A firearm is a deadly weapon.

INSTRUCTION NO. 24

If more than one person commits a crime, and one of them uses a deadly weapon in the commission of that crime, each may be convicted of using the deadly weapon even though he did not personally himself use the weapon if you find that he aided and abetted or conspired to commit the offense.

An unarmed offender "uses" a deadly weapon when the unarmed offender is liable for the offense under aiding and abetting or conspirator liability, another person liable for the offense is armed with and uses a deadly weapon in the commission of the offense, and the unarmed offender had knowledge of the use of the deadly weapon.

INSTRUCTION NO. 25

Attempt Burglary and Attempt Murder are specific intent crimes. A defendant cannot be liable under conspiracy and/or aiding and abetting theory for Attempt Burglary or Attempt Murder for acts committed by a co-conspirator, unless the individual Defendant also had the requisite specific intent.

Battery is a general intent crime. As such, a defendant may be liable under conspiracy theory for Battery for acts committed by a co-conspirator which are one of the probable and natural consequences of the object of the conspiracy.

Counts 1-4 of the Indictment are specific intent crimes. Count 5 of the Indictment is a general intent crime.

INSTRUCTION NO. 26

Specific intent is the intent to accomplish the precise act which the law prohibits. General intent is the intent to do that which the law prohibits. It is not necessary for the prosecution to prove that the defendant intended the precise harm or the precise result which eventuated if a crime is a general intent crime. Counts 1-4 of the Indictment are specific intent crimes.

INSTRUCTION NO. 21

You are instructed that the doctrine of transferred intent provides that where a person unlawfully attempts to kill a person and, by mistake or inadvertence during such attempt, commits a Battery With Use of a Deadly Weapon against another person, the law nevertheless holds the assailant responsible for his felonious intent, merely transferring its direction from the original object to the person battered.

INSTRUCTION NO. 28

If you believe that at the time of the shooting in this case a defendant intended to kill any person, or to aid and abet his co-defendant with the deliberate intention to unlawfully kill any person, it is of no legal consequence that he or his co-defendant mistakenly injured a different person. His intent to kill transfers to the person actually harmed.

INSTRUCTION NO. 29

During an attack upon a group, a defendant's intent to kill need not be directed at any one individual. It is enough if the intent to kill is directed at the group. The State is not required to prove that a Defendant intended to kill a specific person in the group.

INSTRUCTION NO. 30

Justifiable battery is the battery of a human being, which does not result in death and is necessary for self-defense against one who manifestly intends to commit a felony by using violence or surprise, or when there is reasonable ground to apprehend a design on the part of the person injured to do some great personal injury to the person inflicting the injury.

INSTRUCTION NO. 31

The battery of another person in self-defense is justified and not unlawful when the person who does the battery actually and reasonably believes:

1. That there is imminent danger that the assailant will either batter him or cause him great bodily injury; and

2. That it is absolutely necessary under the circumstances for him to use in self-defense force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to himself.

INSTRUCTION NO. 38

A bare fear of death or great bodily injury is not sufficient to justify a battery. To justify battery of another in self-defense, the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person battering must act under the influence of those fears alone and not in revenge.

INSTRUCTION NO. 33

The right of self-defense is not available to an original aggressor, that is a person who has sought a quarrel with the design to force a deadly issue and thus through his fraud, contrivance or fault, to create a real or apparent necessity for making a felonious assault.

However, where a person, without voluntarily seeking, provoking, inviting, or willingly engaging in a difficulty of his own free will, is attacked by an assailant, he has the right to stand his ground and need not retreat when faced with the threat of deadly force.

INSTRUCTION NO. 34

Actual danger is not necessary to justify a battery in self-defense. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person battering is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that he is about to be killed or suffer great bodily injury; and
2. He acts solely upon these appearances and his fear and actual beliefs; and
3. A reasonable person in a similar situation would believe himself to be in like danger.

The battery is justified even if it develops afterward that the person killing was mistaken about the extent of the danger.

INSTRUCTION NO. 35

If evidence of self-defense is present, the State must prove beyond a reasonable doubt that the defendant did not act in self-defense. If you find that the State has failed to prove beyond a reasonable doubt that the defendant did not act in self-defense, you must find the defendant not guilty.

INSTRUCTION NO. 34

Although your verdict must be unanimous as to the charge, you do not have to agree on the theory of liability. Therefore, even if you cannot agree on whether the facts establish that the defendant is liable as a principal, aider and abettor, or co-conspirator, so long as all of you agree that the evidence establishes the defendant's guilt of the offense, you shall find him guilty of the offense.

However, if you do not find, beyond a reasonable doubt, that a defendant is guilty under any theory of liability for a charged offense, you must find that defendant not guilty of that charge.

INSTRUCTION NO. 31

In this case, you must decide separately whether each of the two defendants is guilty or not guilty. If you cannot agree upon a verdict as to all the defendants, but do agree upon a verdict as to one of them, you must render a verdict as to the one upon which you agree.

It is your duty to give separate, personal consideration to the case of each individual defendant. When you do so, you should analyze what the evidence shows with respect to that individual, leaving out of consideration entirely any evidence admitted solely against some other defendant or defendants. Each defendant is entitled to have his case determined from his own acts and statements and the other evidence in the case which may be applicable to him.

INSTRUCTION NO. 38

The flight of a person immediately after the commission of a crime, or after he is accused of a crime, is not sufficient in itself to establish his guilt, but is a fact which, if proved, may be considered by you in light of all other proved facts in deciding the question of his guilt or innocence. The essence of flight embodies the idea of deliberately going away with consciousness of guilt and for the purpose of avoiding apprehension or prosecution. Whether or not evidence of flight shows a consciousness of guilt and the significance to be attached to such a circumstance are matters for your deliberation.

INSTRUCTION NO. 39

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

INSTRUCTION NO. 40

The Defendant is presumed innocent unless the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every element of the crime charged and that the Defendant is the person who committed the offense.

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

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

INSTRUCTION NO. 41

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the defendant on the advice and counsel of his attorney. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 48

You are here to determine if each Defendant is guilty or not guilty based on the evidence in the case. You are not called upon to return a verdict as to the guilt of any other person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more persons are also guilty.

INSTRUCTION NO. 43

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

INSTRUCTION NO. 44

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

INSTRUCTION NO. 45

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

INSTRUCTION NO. 46

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

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

INSTRUCTION NO. 47

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of whether the State has proven that the Defendant is guilty beyond a reasonable doubt.

INSTRUCTION NO. 48

When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

JERABEK, JOSEPH - LVMPD P#13352

JEX, CRAIG – LVMPD P#5597

JOHNSON, G. – LVMPD P#10208

JONES, RICHARD - LVMPD P#8876

KABBANI, JOSEPH - LVMPD P#15078

KELLER, THOMAS – LVMPD P#12750

KERNS, ERIC - LVMPD P#4331

KOWALSKI, JOHN – LVMPD P#13399

KRUEGER, MICHAEL - LVMPD P#13512

KRYLO, JAMES – LVMPD P#5945 (or designee) - He is expected to testify regarding the collection, comparison and analysis of firearms, ammunitions, ballistics and toolmark evidence as it relates to this case.

KUNZ, PAUL - LVMPD P#10047

KYGER, KYLE – LVMPD P#13430

LANDERS, JEREMY – LVMPD P#8073

LEAMAN, VIRGIL - LVMPD P#9628

LEDOGAR, JAMES - LVMPD P#7411

LEE III, BERNARD - LVMPD P#9072

LESTER, ANYA "SANKO" – LVMPD P#13771 (or designee): FIREARMS/TOOLMARK EXAMINER with the Las Vegas Metropolitan Police Department. She is an expert in the field of firearm and toolmark comparisons and is expected to testify thereto.

LEVASSEUR, BRETT - LVMPD P#14163

LINDBERG, ERIK - LVMPD P#14824

LINDSEY-THAYER, JOHN - LVMPD P#9171

LIPINSKI, JONATHAN - LVMPD P#15004

MAAS, STEVEN - LVMPD P#13015

MADLAND, MICHAEL - LVMPD P#9978

MARIN, JASON - LVMPD P#15026

MARLOW, MATTHEW - LVMPD P#6204

MARQUEZ, ALEX - LVMPD P#6240

MARSHALL, LUCAS - LVMPD P#13755

MARTINE, DARREN - LVMPD P#4751

MCCARTHY, MATHEW - LVMPD P#4431

MCHALE, SHANNON - LVMPD P#4750

MCLAUGHLIN, RANDAL - LVMPD P#4170

MCMAHILL, KELLY - LVMPD P#5307

MCMAHILL, KEVIN - LVMPD P#3948

MCMURTRY, TRAVIS - LVMPD P#8375

MCPHAIL, RANDALL – LVMPD P#3326

MECKLER, KRISTEN – LVMPD P#14402

MELWAK, JOHN - LVMPD P#8060

MILLER, MONA - LVMPD P#8378

MITCHELL, DREXEL – LVMPD P#643

MOSES, MARC – LVMPD P#13637

MOSS, JOHN - LVMPD P#9212

MOYER, JASON - LVMPD P#7905

NELSON, R. – LVMPD P#14002

NEVILLE, PATRICK - LVMPD P#2949

NIEVES, GEORGE - LVMPD P#13213

NOGLE, KENNETH - LVMPD P#8051

NOLAN, MICHAEL - LVMPD P#8794

O'CONNOR, MATTHEW - LVMPD P#14817

O'NEILL, TIMOTHY – LVMPD P#6067

ORTEGA, EDWARD - LVMPD P#6747

OSCAR, STEVEN - LVMPD P#14325

OVERSON, CORD – LVMPD P#6035

OWENS, JAMES - LVMPD P#3409

PANNULLO, JOSEPH – LVMPD P#5455

PARRISH, STEPHAN - LVMPD P#12899

PATTON, JOSEPH – LVMPD P#8289

PAZOS, EDUARDO – LVMPD P#6817

PELLETIER, JOHN - LVMPD P#6433

PLUMMER, ROBERT - LVMPD P#4042

POULSEN, JOHN - LVMPD P#9023

PRALL, JEFFREY - LVMPD P#8714

QUILES, ANDRE - LVMPD P#7433

QUINN, PETER - LVMPD P#4377

RACE, KYLE - LVMPD P#9196

RALYEA, CHARLES - LVMPD P#13357

RAVELO, ERIC - LVMPD P#6538

REDMANN, KATHRYN - LVMPD P#6478

RENFER, EDWARD - LVMPD P#13122

ROBERTSON, JEREMY – LVMPD P#7626

RODRIGUEZ, MICHAEL - LVMPD P#12717

ROGERS, JESSICA - LVMPD P#13525

ROSE, DANNY - LVMPD P#9830

ROSE, MATTHEW - LVMPD P#13114

ROWBERRY, JOSHUA – LVMPD P#13894

ROWE, MATTHEW – LVMPD P#13114

ROYBAL, JESSE - LVMPD P#7523

RUMERY, FRANK - LVMPD P#5817

RUSSO, LOUIS – LVMPD P#14737

RYNDAK, ERIC - LVMPD P#13245

SCHMITT, RUSSEL - LVMPD P#14000

SCHULTZ, GREGORY - LVMPD P#4132

SCHUMAKER, STEPHEN - LVMPD P#9076

SCOTT, JJEFFREY – LVMPD P#9618

SHANNON, JR., GILBERT - LVMPD P#4111

SHARK, ANDREW - LVMPD P#14815

SHATRAW, BRANDON - LVMPD P#7304

SHEAHAN, JOHN - LVMPD P#3989

SINK, JAMES - LVMPD P#8757

SKENANDORE, STEVEN - LVMPD P#13341

SMINK JR., JEFFREY - LVMPD P#6556

SMITH, JEFFREY – LVMPD P#8177

SMITH, JOSEPH - LVMPD P#13218

SOKOLOWSKI, ERIC - LVMPD P#14190

STEPHENS, EBONY – LVMPD P#6650

STODDARD, DAVID - LVMPD P#7419

TOMAINO, DANIEL - LVMPD P#8278

TOMPKINS, SCOTT - LVMPD P#13223

TRUAX, MARIANNE – LVMPD P#13752

TURNER, STEVEN – ID #2717636 – CCDC

UMC TRAUMA DOCTORS - Will testify as a medical expert and to his/her observations, treatment, diagnosis and prognosis of the injuries sustained by the victim Officer Jeremy Robertson on September 9, 2015.

VALLE, ELVIN-RON - LVMPD P#12932

VANCE, JEREMY – LVMPD P#9004

VAUGHN, TERRENCE – LVMPD P#8417

VELICESCU, JAMES – LVMPD P#8410

VIDAL, LUIS - LVMPD P#14802

VIGIL, CODY - LVMPD P#14100

VILLAGRANA, Officer – LVMPD P#8426

VIRAY, PAUL-MICHAEL - LVMPD P#9981

WALKER, DARRIN - LVMPD p#8533

WALLACE, MARK A. – 6913 Acorns Ct., LV, NV 89145

WALT, MARK - LVMPD P#9828

WATKINS, GREGORY - LVMPD P#5471

WATTS, DAVID - LVMPD P#8463

WHEATLEY, DAVID - LVMPD P#5298

WOOLARD, BRYAN - LVMPD P#7558

WOOSNAM, JOHN - LVMPD P#6236

WRIGHT, RONALD - LVMPD P#7560

These witnesses are in addition to those witnesses endorsed on the Information or Indictment and any other witness for which a separate Notice of Witnesses and/or Expert Witnesses has been filed.

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

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

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY /s/ LEAH BEVERLY
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556

///

///

///

CERTIFICATE OF SERVICE

I certify that on the 4th day of April, 2018, I e-mailed a copy of the foregoing State's Third Supplemental Notice of Witnesses and/or Expert Witnesses, to:

DEPUTY PUBLIC DEFENDER
pdclerk@clarkcountynv.gov

CRAIG MUELLER, ESQ.
cmueller@muellerhinds.com

BY: /s/ J. MOSLEY
Secretary for the District Attorney's Office

NOTC
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
ASHLEY L. SISOLAK, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 13958
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. STEVEN TURNER, Defendant,	CASE NO. C-15-309578-1 DEPT. NO. XVIII

DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234

TO: CLARK COUNTY DISTRICT ATTORNEY:

You, and each of you, will please take notice that the Defendant, STEVEN TURNER, in addition to any and all witnesses noticed by the State of Nevada and/or Defendant Clemon Hudson, STEVEN TURNER intends to call the following witness in his case in chief:

Gayland Seaberry, Investigator C/O Public Defender's Office

Toni A. Worthman, Investigator C/O Public Defender's Office

Bruce McAllister, Investigator C/O Public Defender's Office

Custodian of Records Animal Foundation, 655 North Mojave Rd. Las Vegas NV 89101

Custodian of Records Converse Factory Store, 875 S. Grand Central Pkwy #2179 Las Vegas NV 89106

DATED this 9th day of April, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ *Ashley L. Sisolak*
Ashley L. Sisolak, #13958
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com on this 9th day of April, 2018.

By: __/s/*Roxana A Valladares*_____
An employee of the
Clark County Public Defender's Office

Case Name: Steven TUrner
Case No.: C-15-309578-1
Dept. No.: District Court, Department XVIII

AIND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #012556
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT
APR 15 2018
BY, ALAN PAUL CASTLE, SR. DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER, #2717636
CLEMON HUDSON, #7025101

Defendant(s).

CASE NO: C-15-309578-1/2
DEPT NO: XVIII

AMENDED
INDICTMENT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The Defendant(s) above named, STEVEN TURNER, CLEMON HUDSON, accused by the Clark County Grand Jury of the crime(s) of CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor - NRS 205.060, 199.480 - NOC 50445); ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON (Category C Felony - NRS 205.060.4 - NOC 50443); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031) and BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226), committed at and within the County of Clark, State of Nevada, on or about the 4th day of September, 2015, as follows:

///

///

C-15-309578-1
AIND
Amended Indictment
4738352

COUNT 1 - CONSPIRACY TO COMMIT BURGLARY

did willfully and unlawfully conspire with each other and/or an unknown co-conspirator to commit a burglary, by the defendants committing the acts as set forth in Count 2, said acts being incorporated by this reference as though fully set forth herein.

COUNT 2 - ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON

did then and there willfully, unlawfully, and feloniously attempt to enter, with intent to commit larceny and/or a felony, to-wit: robbery, that certain residence occupied by ERIC CLARKSON and/or WILLOUGHBY GRIMALDI, located at 6729 Oveja Circle, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession of a firearm during the commission of the crime and/or before leaving the structure, by the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course of conduct whereby one or more of the defendants and/or unknown co-conspirator went to the residence of ERIC CLARKSON and/or WILLOUGHBY GRIMALDI to steal marijuana, repeatedly knocked on the front door of the residence, rang the doorbell and pounded on the security door to the residence, one or more of the defendants and/or unknown co-conspirators ran into the backyard of the residence, thereafter Defendant STEVEN TURNER shot at Las Vegas Metropolitan Police Department Officers J. ROBERTSON and M. GRECO-SMITH with an SKS rifle, striking Officer J. ROBERTSON in the right leg, Defendant CLEMON HUDSON fired one round from a shotgun toward said officers, striking the doorway of the residence, Defendants acting in concert throughout.

///

///

COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought attempt to kill J. ROBERTSON, Las Vegas Metropolitan Police Department, a human being, with use of a deadly weapon, to-wit: a firearm, by shooting at the body of the said J. ROBERTSON; the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course of conduct whereby one or more of the defendants and/or unknown co-conspirators repeatedly knocked on the front door of the residence of ERIC CLARKSON and/or WILLOUGHBY GRIMALDI, rang the doorbell and pounded on the security door to the residence, one of more of the defendants and/or unknown co-conspirators ran into the backyard of the residence, thereafter Defendant STEVEN TURNER shot at Las Vegas Metropolitan Police Department Officers J. ROBERTSON and M. GREGO-SMITH with an SKS rifle, striking Officer J. ROBERTSON in the right leg, Defendant CLEMON HUDSON fired one round from a shotgun toward said officers, striking the doorway of the residence, Defendants acting in concert throughout.

COUNT 4 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought attempt to kill M. GREGO-SMITH, Las Vegas Metropolitan Police Department, a human being, with use of a deadly weapon, to-wit: a firearm, by shooting at the body of the said M. GREGO-SMITH; the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this

crime be committed, Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course of conduct whereby one or more of the defendants and/or unknown co-conspirators repeatedly knocked on the front door of the residence of ERIC CLARKSON and/or WILLOUGHBY GRIMALDI, rang the doorbell and pounded on the security door to the residence, one of more of the defendants and/or unknown co-conspirators ran into the backyard of the residence, thereafter Defendant STEVEN TURNER shot at Las Vegas Metropolitan Police Department Officers J. ROBERTSON and M. GREGO-SMITH with an SKS rifle, striking Officer J. ROBERTSON in the right leg, Defendant CLEMON HUDSON fired one round from a shotgun toward said officers, striking the doorway of the residence, Defendants acting in concert throughout.

COUNT 5 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

did willfully, unlawfully, and feloniously use force or violence upon the person of another, to-wit: J. ROBERTSON, Las Vegas Metropolitan Police Department, with use of a deadly weapon, to-wit: a firearm, by shooting into the body of the said J. ROBERTSON with said firearm, resulting in substantial bodily harm to J. ROBERTSON, Las Vegas Metropolitan Police Department, by the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course of conduct whereby one or more of the defendants and/or unknown co-conspirators repeatedly knocked on the front door of the residence of ERIC CLARKSON and/or WILLOUGHBY GRIMALDI, rang the doorbell and pounded on the security door to the residence, one of more of the defendants and/or unknown co-conspirators ran into the backyard of the residence, thereafter Defendant STEVEN TURNER shot at Las Vegas Metropolitan Police Department Officers J.

ROBERTSON and M. GREGO-SMITH with an SKS rifle, striking Officer J. ROBERTSON in the right leg, Defendant CLEMON HUDSON fired one round from a shotgun toward said officers, striking the doorway of the residence, Defendants acting in concert throughout.

DATED this _____ day of April, 2018.

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY _____
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #012556

15AGJ055A-B/15F13307A-B/jm/L2
LVMPD EV# 1509040516; 1508271259
(TK8)

JURL

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR 17 2018

BY, _____
ALAN PAUL CASTLE, SR. DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA

VS

STEVEN TURNER

CLEMON HUDSON

CASE NO.: C-15-309578-1 & 2

DEPARTMENT 18

JURY LIST

1. RICKY BULLARD
2. CYNTHIA LENETT
3. BEATRIZ CRUZ
4 ROSA REYES
5. SUSAN PHILLIPS
6. KRISTI FELDMAN
7. ERIC LIMBACHER
8. JASON WRIGHT
9. TAMIKO KEYES
10. ERIC GEISLER
11 JAMES ROY
12. LISA MILLER-ROCHE
13. PAMELA ADAMS
14. JACQUELINE JOHNSON

ALTERNATES

SECRET FROM ABOVE

C-15-309578-1
JURL
Jury List
4738655

JURL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR 27 2018

BY, _____
ALAN PAUL CASTLE, SR. DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA

VS

STEVEN TURNER

CLEMON HUDSON

CASE NO.: C-15-309578-1 & 2

DEPARTMENT 18

AMENDED JURY LIST

1. RICKY BULLARD
2. CYNTHIA LENETT
3. BEATRIZ CRUZ
4 ROSA REYES
5. SUSAN PHILLIPS
6. KRISTI FELDMAN
7. ERIC LIMBACHER
8. JASON WRIGHT
9. TAMIKO KEYES
10. ERIC GEISLER
11 JAMES ROY
12. LISA MILLER-ROCHE

ALTERNATES

1. PAMELA ADAMS
2. JACQUELINE JOHNSON

C-15-309578-1
AJUR
Amended Jury List
4741915

INST

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR 27 2018

1:36pm

BY, _____
ALAN PAUL CASTLE, SR, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER
CLEMON HUDSON,

Defendant.

CASE NO: C309578

DEPT NO: XVIII

INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I)

MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

C-15-309578-1
INST
Instructions to the Jury
4741916

1368, 1370 (4th Cir. 1992)) (internal quotations omitted). The Nevada Supreme Court has concluded that, "when there has been an objection to admissibility of a text message, *see* NRS 47.040(1)(a), the proponent of the evidence must explain the purpose for which the text message is being offered and provide sufficient direct or circumstantial corroborating evidence of authorship in order to authenticate the text message as a condition precedent to its admission." *See id.* at 849 (citing NRS 52.015(1), NRS 47.060; NRS 47.070). Specifically, the Rodriquez Court held that the trial court's admission of ten (10) text messages sent from a victim's cell phone, which was taken during the crime, was an abuse of discretion because the State could not further authenticate the author of the texts. *See id.* at 849-50. Only two (2) text messages were found to be properly authenticated by the State – the two sent during a time when the Defendant was seen in the possession or the phone on a surveillance video recovered by the State. *Id.*

In this case, the State has not produced any evidence that Mr. Turner was the person who sent the text messages. The number is not his (although he was in possession of a phone and police have pulled phone records relating thereto – without locating anything associating these messages with him), and Mr. Turner does not typically go by "Steve." Notably, the complainant did not even associate the messages with Mr. Turner until after seeing that a "Steven Turner" was arrested in relation to the robbery.

Because the messages cannot be authenticated, they are devoid of probative value. Further, they continue to be incredibly prejudicial to Mr. Turner, as their content includes stated animosity towards the complaining witness in this case.

RELIEF REQUESTED

Based on the foregoing, Mr. Turner requests that the Court preclude the State and co-defendant's counsel from introducing the messages at trial.

DATED this 23rd day of February, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/*Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Chief Deputy Public Defender

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION IN LIMINE will be heard on March 6, 2018, at 9:00 a.m. in District Court, Department XVIII.

DATED this 23rd day of February, 2018.

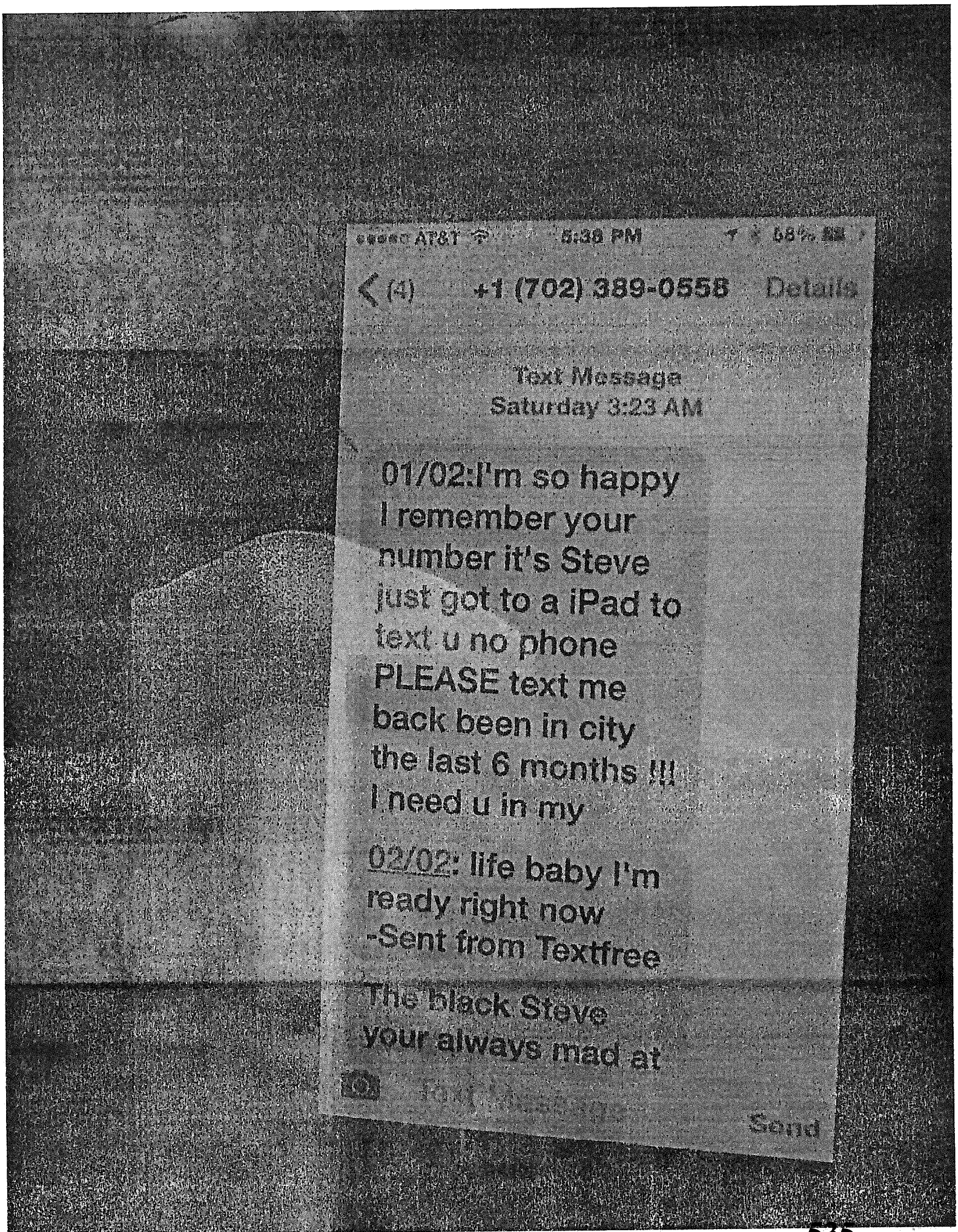
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

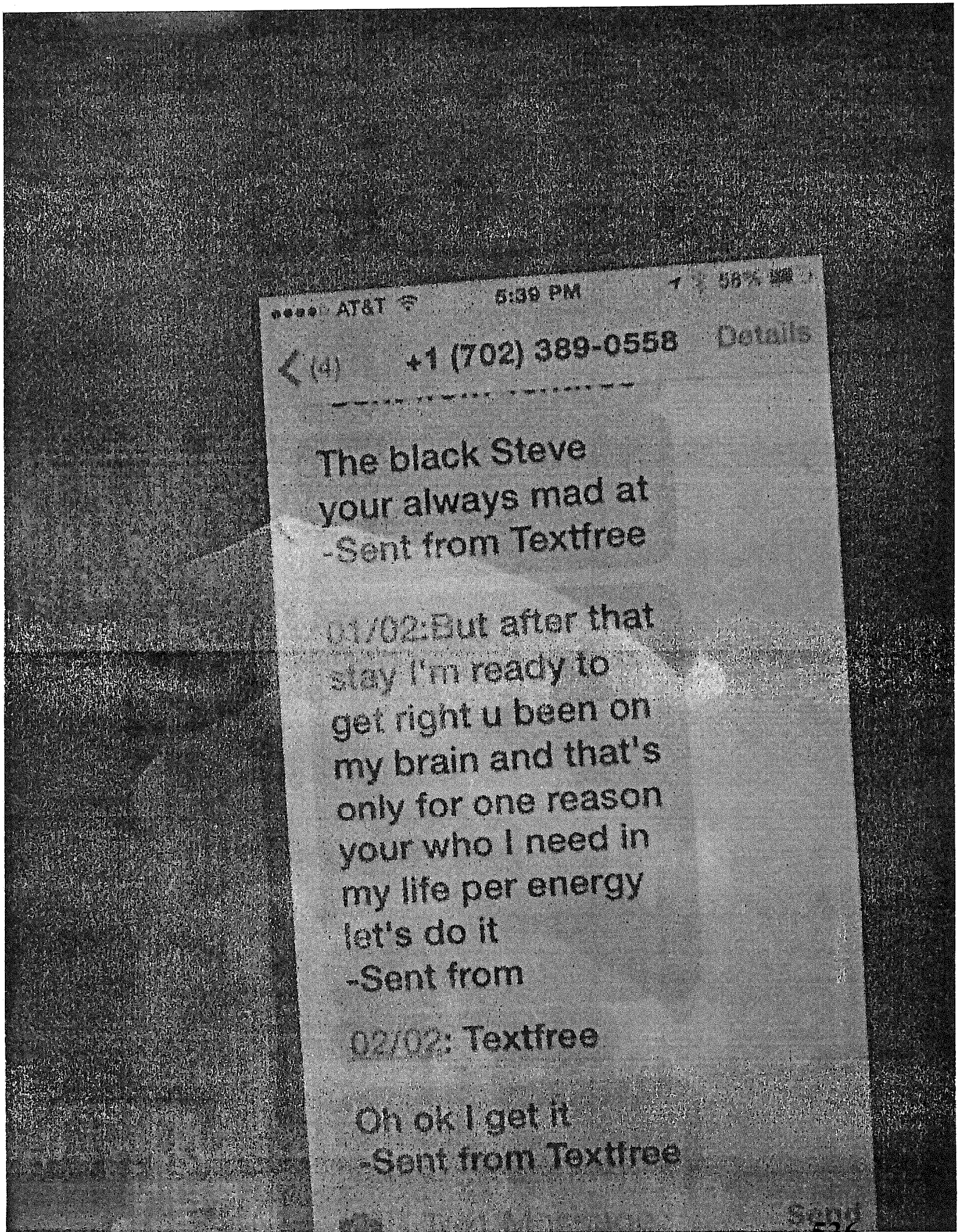
By /s/*Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Chief Deputy Public Defender

CERTICATE OF ELECTRONIC SERVICE

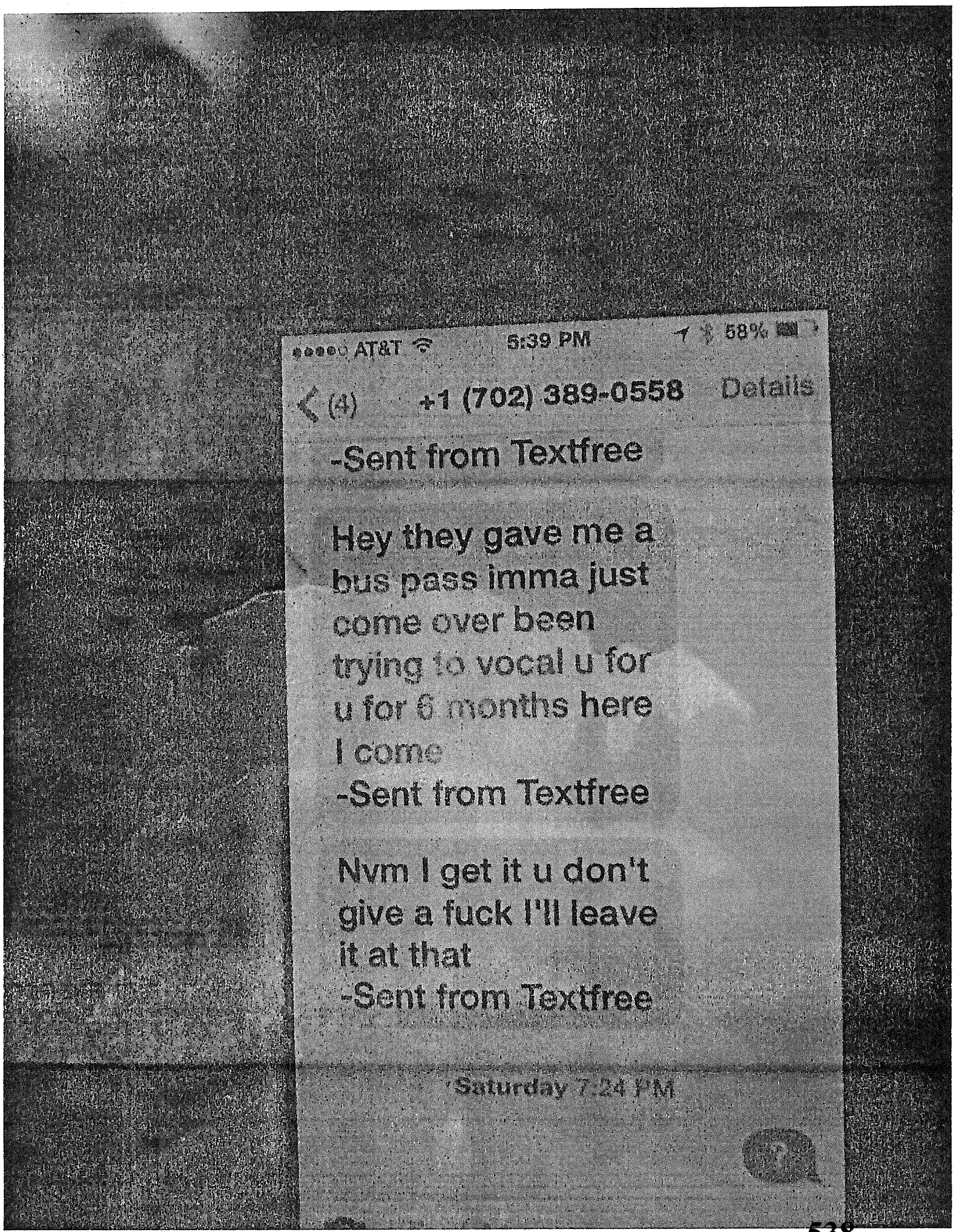
I hereby certify that service of the above and foregoing motion was served via e-mail to the Clark County District Attorney's Office at Motions@clarkcountyda.com on this 27th day of February, 2018.

By /s/ Annie McMahan
Annie McMahan – Employee of the Clark County Public Defender's Office


AT&T
6:39 PM
(4)
+1 (702) 389-0558
Details
Text Message
Saturday 3:23 AM
01/02:I'm so happy
I remember your
number it's Steve
just got to a iPad to
text u no phone
PLEASE text me
back been in city
the last 6 months !!!
I need u in my
02/02: life baby I'm
ready right now
-Sent from Textfree
The black Steve
your always mad at
Send


AT&T
5:39 PM
+1 (702) 389-0558
Details
The black Steve
your always mad at
-Sent from Textfree
01/02:But after that
stay I'm ready to
get right u been on
my brain and that's
only for one reason
your who I need in
my life per energy
let's do it
-Sent from
02/02: Textfree
Oh ok I get it
-Sent from Textfree


AT&T
5:39 PM
58%
(4) +1 (702) 389-0558 Details
02/02: Textfree
Oh ok I get it
-Sent from Textfree
Please respond
-Sent from Textfree
Hey they gave me a bus pass imma just come over been trying to vocal u for u for 6 months here I come
-Sent from Textfree
Nvm I get it u don't give a fuck I'll leave
Send


AT&T
5:39 PM
58%
(4)
+1 (702) 389-0558
Details
-Sent from Textfree
Hey they gave me a bus pass imma just come over been trying to vocal u for u for 6 months here I come
-Sent from Textfree
Nvm I get it u don't give a fuck I'll leave it at that
-Sent from Textfree
Saturday 7:24 PM

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556
200 Lewis Ave
Las Vegas, Nevada 89155-2211
(702) 671-2600
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- STEVEN TURNER, #2717636 Defendant.	CASE NO. C-15-309578-1 DEPT NO. XVIII

STATES OPPOSITION TO DEFENDANT'S MOTION IN LIMINE

DATE OF HEARING: March 22, 2018
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney, through LEAH BEVERLY, Chief Deputy District Attorney, and files this State's Opposition to Defendant's Motion in Limine.

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

///

///

///

STATEMENT OF THE CASE:

An Indictment was filed on September 23, 2015 charging Steven Turner (hereinafter "Defendant") as follows: Count 1: Conspiracy to Commit Burglary; Count 2: Attempt Burglary While in Possession of Firearm or Deadly Weapon; Count 3-4: Attempt Murder with Use of a Deadly Weapon; Count 5: Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm; and Count 6: Discharging Firearm At or Into Occupied Structure, Vehicle, Aircraft or Watercraft. Trial is currently set for April 16, 2018. Defendant filed the instant Motion on February 27, 2018. The State's Opposition follows:

STATEMENT OF FACTS:

On September 4, 2015, at approximately 3:45AM, the Defendant and his co-defendant, armed with multiple firearms, startled the victims awake in their home. The residents of the home, Eric Clarkson and Willoughby Grimaldi, were sleeping when they heard suspicious noises in their backyard. They observed two figures, who were later identified as the two defendants, running across the backyard. The police were notified and dispatched and Officers Robertson and Greco-Smith arrived to investigate. Officer Robertson spotted the co-defendants in the backyard and began to open the back door when Defendant Turner fired three rounds from an AK-47 rifle. One of the rounds hit Officer Robertson in the leg and immediately after, Defendant Hudson fired a round at the officers from his shotgun, hitting the doorway next to them. Officer Greco-Smith returned fire at Defendants Hudson and Turner. Defendant Turner dropped his rifle and fled the scene while Hudson hid in the backyard. A canine police dog from the K9 unit had to physically remove Defendant Hudson from where he was hiding because he would not respond to Officers when ordered to surrender.

Officer Robertson was extracted from the residence and was transported to UMC Trauma to be treated for his shattered right femur. He was taken into surgery where he required a titanium rod and plates to be inserted into his broken femur. Defendant Turner was later apprehended by police.

///

POINTS AND AUTHORITIES

I. THE TEXT MESSAGES TO THE VICTIM ARE ADMISSIBLE

In the instant case, Defendant claims that the State should be prevented from introducing photos related to text messages sent from Defendant Turner to the victim Eric Clarkson shortly before the crime in this case. Defendant claims that the text messages cannot be authenticated and therefore are inadmissible. This claim is without merit and should be denied.

NRS 48.025 states that "All relevant evidence is admissible." In Rodriguez v. State, the Nevada Supreme Court indicated:

> Establishing the identity of the author of a text message through the use of corroborating evidence is critical to satisfying the authentication requirement for admissibility... Circumstantial evidence corroborating the sender's identity may include the context or content of the messages themselves such as where the messages contain factual information or references unique to the parties involved...Other jurisdictions similarly have focused on the sender's identity and looked to the context and content of the text messages for sufficient circumstantial evidence identifying the sender....We note that once a text message is admitted into evidence, the opponent may rebut its authentication, and it is for the jury to decide whether the proponent sufficiently proved his or her claims regarding the text message.

Rodriguez v. State, 128 Nev. 155 (2012).

In the instant case, identification is an issue. Defendant claims he had a friendship with the victim Eric Clarkson. That is not entirely accurate. In fact, Defendant and Clarkson had a sexual relationship where, prior to the instant crime, Defendant would come to Clarkson's home where they would engage in sexual acts. Several days before the instant crime, Clarkson received text messages from Defendant on Saturday August 29, 2015. While, Defendant claims the messages cannot be authenticated, this is not accurate. While the messages did come from a "text free" number not associated with a phone, victim Clarkson can authenticate the messages based on the content of the messages and personal knowledge.

///

Clarkson can testify that the messages indicate they are from "the black Steve". Clarkson will testify that he only knows one black Steve who would have his phone number- the Defendant Steven Turner. Furthermore, the text messages state "I need you in my life baby, I'm ready right now". Clarkson will testify that he only knows one black Steve who would be calling him "baby" or saying "I need you in my life" based on their prior sexual relationship. As the text messages can be sufficiently authenticated based on the content of the messages, they should be admitted.

CONCLUSION

For the forgoing reasons, the State respectfully requests that this Court deny the Motion in Limine.

DATED this 7th day of March, 2018.

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY /s/ LEAH BEVERLY
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #0012556

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Opposition to Defendant's Motion in Limine, was made this 7th day of March, 2018, by Electronic Filing to:

DEPUTY PUBLIC DEFENDER
E-Mail: pdclerk@clarkcountynv.gov

BY: /s/ J. MOSLEY
Secretary of the District Attorney's Office

EXMT
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER, #2717636
CLEMON HUDSON, #7025101

Defendants.

CASE NO. C-15-309578-1/2

DEPT NO. XVIII

EX PARTE MOTION and ORDER FOR RELEASE OF MEDICAL RECORDS

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through LEAH BEVERLY, Chief Deputy District Attorney, and moves this Honorable Court for an Order Releasing evidence which includes protected health information being held by UNIVERSITY MEDICAL CENTER consisting of any and all medical records for patient: STEVEN TURNER, DOB: 12/23/1990, concerning diagnosis, prognosis and/or treatment given or provided on or about 09/04/2015, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case charging the crimes of CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor - NRS 205.060, 199.480 - NOC 50445); ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON (Category C Felony - NRS 205.060.4 - NOC

50443); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226) and DISCHARGING FIREARM AT OR INTO OCCUPIED STRUCTURE, VEHICLE, AIRCRAFT, OR WATERCRAFT (Category B Felony - NRS 202.285 - NOC 51442).

Pursuant to 45CFR164.512(f), Movant represents that the information sought is relevant and material to a legitimate law enforcement inquiry; that the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used.

NOW THEREFORE, pursuant to 45CFR164.512(f), and GOOD CAUSE APPEARING, UNIVERSITY MEDICAL CENTER, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all medical records concerning diagnosis, prognosis, and/or treatment of STEVEN TURNER, whose date of birth is 12/23/1990, for the time period 09/04/2015.

IT IS HEREBY ORDERED.

DATED this 22 day of ~~February~~ March, 2018.

DISTRICT JUDGE

STEVEN B. WOLFSON
Clark County District Attorney
NEVADA BAR #001565

BY
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556

jm/L2

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER, #2717636
CLEMON HUDSON, #7025101

Defendants.

CASE NO: C-15-309578-1/2

DEPT NO: XVIII

STATE'S THIRD SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES
[NRS 174.234]

TO: STEVEN TURNER and CLEMON HUDSON, Defendants; and

TO: DEPUTY PUBLIC DEFENDER and CRAIG MUELLER, ESQ., Counsel of Record:

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

***Indicates additional witnesses and/or modifications**

ABDAL-KARIM, SHAKEEL - LVMPD P#13724

ADKISSON, JONATHAN – LVMPD P#14314

ADCOX, MICHAEL - LVMPD P#8416

AGUILOS, JOSEPH - LVMPD P#15042

ALBERSON JR., WILLIAM – LVMPD P#8562

ALSUP, TREVER - LVMPD P#5782

ASHE JR., JAMES - LVMPD P#7302

BAKER, STEPHEN - LVMPD P#9136

BALDASSARRE, BENJAMIN - LVMPD P#13977

BARNETT, JOHN - LVMPD P#8733

BASILOTTA, EUGENIO - LVMPD P#8447

BASS JR., RICHARD - LVMPD P#6259

BATES, ANDRE - LVMPD P#6892

BECK, KEVIN J. - LVMPD P#9629

BELL, KENDALL - LVMPD P#6752

BELL, LEVAR - LVMPD P#13591

BELT, CHRISTIAN - LVMPD P#13694

BITSKO, JOSHUA – LVMPD P#6928

BONAGUIDI, JOSEPH - LVMPD P#7967

BORDEN, BRANDON - LVMPD P#7519

BOWERS, JEFFREY - LVMPD P#13419

BOWMAN, STUART - LVMPD P#10030

BRADSHAW, SARA - LVMPD P#4998

BRANDON, JOHN - LVMPD P#9631

BREWER, MICHAEL - LVMPD P#7426

BRICKER, ANTHONY - LVMPD P#6941

BROOKS, DAVID - LVMPD P#7947

BROWN, BOYD - LVMPD P#13080

BROWN, JAIR - LVMPD P#9182

BRUMAGHIN, ANTHONY – LVMPD P#13756

BUCHANAN, RUSSELL - LVMPD P#15094

BURNETT, ANDREW – LVMPD P#4907

BYRD, TRENT - LVMPD P#13958

CAINE, JASON - LVMPD P#6593

CALLEJA, ANTHONY - LVMPD P#9185

CARREON, ALBERT - LVMPD P#9025

CARRILLO, SAMUAL - LVMPD P#7165

CHIO, NATHAN – LVMPD P#5109

CHURCHES, JAMES - LVMPD P#6184

CLARKSON, ERIC – 6729 Oveja Cr., LV, NV 89107

COATES, LAURA - LVMPD P#8717

COLLINS, JOHN - LVMPD P#9322

COLLINS, MAURICE - LVMPD P#4719

COLON, MARC – LVMPD P#7585

CONAWAY, KEVIN – LVMPD P#8402

CONNELL, STEPHEN - LVMPD P#6991

CONOVER, JONATHAN - LVMPD P#9344

CORDERO JR., DANNY - LVMPD P#13963

CROSBY, HOWARD - LVMPD P#6827

CRUZ, JOHN - LVMPD P#14742

CUSTODIAN 0F RECORDS – Cricket Communications

CUSTODIAN OF RECORDS - LVMPD Dispatch

CUSTODIAN OF RECORDS – AT&T

*CUSTODIAN OF RECORDS; UMC HOSPITAL

DAHN, ROBBIE – LVMPD P#5947

DALLEY, MICHAEL - LVMPD P#4218

DANNENBERGER, K. – LVMPD P#13772

DAVIDEIT, SHAWN – LVMPD P#6246

DIEBOLD, JUSTIN – LVMPD P#8790

DITMAR, SHAUN - LVMPD P#6404

DONALDSON, MATTHEW - LVMPD P#12935

DONEGAN, CARMEN– LVMPD P#5591

DOWLER, CHRISTOPHER - LVMPD P#13730

DOWNING, MATTHEW - LVMPD P#8260

DRURY, ERIC - LVMPD P#15143

DUKES, JASON - LVMPD P#5656

ELLIS, JAMES - LVMPD P#9298

FARESE, NICHOLAS - LVMPD P#7313

FERNANDEZ, JOSEPH - LVMPD P#15132

FERNANDO, SHIRAN – 6805 White Sands Ave., LV, NV 89145

FETHERSTON, MONTY - LVMPD P#15022

FIELDS, EARNEST – LVMPD P#14799

FITZ, MARKUS - LVMPD P#8564

FLETCHER, RICHARD - LVMPD P#4511

FLETCHER, STEPHANIE – LVMPD P#6650

FONBUENA, RICHARD - LVMPD P#6834

FOSTER, MICHAEL - LVMPD P#13221

FRASER, DOUGLAS - A medical doctor with the University Medical Center. He is an expert in the area of emergency medicine and will give scientific opinions related thereto. He is expected to testify regarding the observations, treatment, diagnosis and prognosis of injuries sustained by the victim Officer Jeremy Robertson on September 9, 2015.

GARNER, DARRIS - LVMPD P#7077

GOMEZ, JASON – c/o Clark County DA's Office

GRAMMAS, KRISTIN - LVMPD P#7808

GRANTHAM, ROBERT - LVMPD P#9841

GREGO-SMITH, MALIK – LVMPD P#13451

GRIMALDO, WILLOUGHBY – 6729 Oveja Cir., LV, NV 89107

GUYER, JEFFREY - LVMPD P#7430

HADFIELD, LAWRENCE - LVMPD P#7171

///

HAKKI, NASER –- A medical doctor with the University Medical Center. He is an expert in the area of emergency medicine and will give scientific opinions related thereto. He is expected to testify regarding the observations, treatment, diagnosis and prognosis of injuries sustained by the victim Officer Jeremy Robertson on September 9, 2015.

HANSBARGER, NEVIN - LVMPD P#5965

HANOFF, KEITH - LVMPD P#13739

HANSEN, JASON – LVMPD P#7071

HARDWICK, JASON – LVMPD P#6056

HARPER, JEFF - LVMPD P#6471

HARRIS, JOSEPH - LVMPD P#9801

HASKINS, ROGER - LVMPD P#5774

HEMSEY, THOMAS – LVMPD P#14040

HENRY, JACOB – LVMPD P#14753

HERNANDEZ, JOSE - LVMPD P#5850

HERRING JR., JOSEPH - LVMPD P#5241

HERRING, NOELLE - LVMPD P#9725

HEWES, JEFFREY - LVMPD P#6797

HIESTAND, RAMON - LVMPD P#15115

HINKEL, PATRICK - LVMPD P#15074

HOPSON, BEAUMONT - LVMPD P#8906

HORSLEY, RAY - LVMPD P#4652

HOWELL, THOMAS - LVMPD P#8907

HUBBARD, ALVIN - LVMPD P#13980

HUDSON, CLEMON – ID #7025101 – CCDC

HUDSON, KAREN – c/o Clark County DA's Office

HUGHES, PATRICK - LVMPD P#9084

JACKSON, BRIAN - LVMPD P#9690

JAEGER, RYAN – LVMPD P#5587

ST: At a gun range with my uncle, like, a while ago. We went to the gun range and we were shootin' it up there but, other than that, no. That was the only time I've ever shot it was at that gun range. That's what I'm tellin' you right now, Officer, like, man, I don't - that's - that SK, like I said, my uncle's gonna be pissed off at me anyway, but I'm not - plus it's registered to my uncle. The SKS is registered to my uncle, so why would I do that? Why would I go shoot at a police - at the police and shoot at somebody with my uncle's registered SKS? If anything I'm gonna use Lamar's...

CJ: Okay. Okay, you gotta think about that, dude. You're - you're - you're headed to a house that you're gonna want - you're wantin' to intimidate somebody for drugs with.

ST: Right. Yeah, but it's not - just to intimidate. I'm not gonna - I'm not comin' there plannin' on killin' nobody.

CJ: Hey, we're - we got an officer that's been shot.

ST: Right. And - and which I feel t- totally terrible about. You know what I mean? Like, if I woulda never even did that none of this woulda been happenin', but, at the same time, I can't control what other people do. If I get shot and I run and - and leave, I don't know what - what Lamar was doin' back there or how he left or nothin' because I was not stickin' around.

CJ: We know the SK was shot.

ST: Okay.

CJ: It was fired.

ST: Okay.

CJ: And it wasn't by Lamar.

ST: Then who fired - I s- man, on my mom, bro, you're sittin' here tryin' to tell me I shot a rifle at some - at a police officer at that. Now, if you was...

CJ: Who's fightin' for...

ST: ...talkin' about somebody...

CJ: Who's fightin' for his life right now.

ST: Man, I did not shoot that gun, man. I did not shoot that - when I got shot I ran. There was no point of me even - like I said, it's hella dark. I don't see nothin'. I don't see nobody. I just hear gunshots and somebody sayin', "Yeah, yeah, what the fuck? Get the fuck outta here." I know it's not the police because, like I said, police, they tell you to freeze. They tell you the shit that police do, so when that happened, I - I ran that soon. You don't stick around if you get shot because then afterwards is when the police came, obviously, after he shot out - shot at both of us, obviously that's when the police came 'cause those first round of fires that were shot at us was not the police, obviously, because they shot me and I - I ran. There was no lights in the house. It was - everything was dark. It wasn't no - it was no police officers in sight when I left and I sw- if I had a Bible, man, on my - on my grandma, man, on everything I love, man, I did not shoot no gun at all. When I got shot I ran. I'm not fittin' to sit there and try to play Mr. Big Bad and shoot back, especially if i- if I know it's the police. But I - it wasn't the police. That's what I'm sayin'. But if - even if I

knew it was the police I'm not gonna shoot at the police. That makes no sense. You're not gonna win.

CJ: Okay. All right. Okay. Anything else?

ST: No, man, I just wanna say I do - I really am apo- I apologize for everything that's happened, for this last couple hours and I'm sorry about, you know what I mean, your officer, sorry about the officer that's - that's down. I really do apologize. You know what I mean? But I just want you to know I did not pull no trigger. I did not shoot at no police officer. That is somethin' - I would never do that, like, period. I just want you to know that. Like, once I got shot, man, it was, like - it was dark in the house. Like, that's how I know the police weren't there because it was him yellin' and sayin' "Hey, fuck you. Get the fuck outta here," him shootin'. And then now if I would've stayed, that's when the police came, obviously if I would've stayed. I ran and took off. That's why they ended up findin' me way up the street because as soon as I got shot I left. By the time they got to me my blood and everything on my legs was all dried up because I was sittin' there next to the - next to the - on this little couch thing, just sittin' there, hella nervous and shit, for about a good hour. And then you can - like, the blood was all drawn up - dr- however you wanna say it. It was dry. And then I fuckin' - I start walkin' and then that's when the police officers pulled up on me, but I never, ever pulled - I never, ever shot - I never shot a gun. I left it there. I dropped everything. I - i- if I shot him, I woulda took it with me. If I'm shootin' at whoever I'm gonna take it with me. I don't j- I'm not gonna just shoot at you and then just drop it and leave. Like, I dropped every- like as soon - I panicked as soon as I felt this bullet

hole hit me, I completely panicked, and dropped everything and bumped out. I went, and ran, and hopped over the wall and left. I was, like, bro, I did not want it to go down like that.

CJ: How many times have you used that SK to do robberies?

ST: Never. That was the - that's the first time. I swear to god I've never - I don't - I'm - I'm - I have a job, man. It was stupid on my part for even goin' to do this shit.

CJ: How many times have you done robberies?

ST: I've never done a robbery.

CJ: Never before?

ST: No.

CJ: Tell me about your arrest history here?

ST: I got a DUI when I first turned 21 and then after that it was just traffic tickets, like, driving with a suspended license, driving with no insurance or speeding. And...

CJ: You been to jail before?

ST: I did, like, three days at City. That was it.

CJ: With the DUI?

ST: Yeah, with the DUI.

CJ: You've never been here?

ST: Never been to County, no. That was the fir- that's the only time was just that DUI. That was the only time. I'm tellin' you, man, like, I didn't - that's what - that's what got my mi- my - my brain is racing. And my mom is tellin' me, once I talked to her, she's, like, "Yeah, Lamar's mom is doing this and doing that." I'm, like, but why - what - when I left there he was on the - he was, like, layin' there. Like I said, I dropped everything and hopped over the wall, so if anything, you got - you got the SK and you got the shotgun all right there because I ran.

CJ: Okay. All right. Operator, Detective Jex. The Event# on this is 150904-0516. I'm at CCDC in the interview room in booking area. Just completed an interview with Steven Turner. What's your date of birth, Steven?

ST: 12-23-90.

CJ: 12-23-90. The, um, starting time was at 1535. The ending time now is 1630.

THIS VOLUNTARY STATEMENT WAS COMPLETED AT THE CLARK COUNTY DETENTION CENTER, 330 S. CASINO CENTER BOULEVARD, LAS VEGAS, NV 89101, ON THE 4TH DAY OF SEPTEMBER 2015 AT 1630 HOURS.

CJ: (NET TRANSCRIPTS)
FIT2015-032

CJ: REVIEWED 09-15-15

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH C. BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556
200 Lewis Ave
Las Vegas, Nevada 89155-2211
(702) 671-2600
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, -vs- STEVEN TURNER, #2717636 Defendant.	Case No.	C-15-309578-1
	Dept No.	XVIII

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND REQUEST FOR JACKSON V. DENNO HEARING

DATE OF HEARING: March 6, 2018
TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney, through LEAH C. BEVERLY, Chief Deputy District Attorney, and files this Opposition to Defendant's Motion to Suppress Statements and Request for Jackson v. Denno Hearing.

///

///

///

///

///

///

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

DATED this 5th day of March 2018.

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY _____
LEAH C. BEVERLY
Chief Deputy District Attorney
Nevada Bar #12556

STATEMENT OF THE CASE:

An Indictment was filed on September 23, 2015 charging Steven Turner (hereinafter "Defendant") as follows: Count 1: Conspiracy to Commit Burglary; Count 2: Attempt Burglary While in Possession of Firearm or Deadly Weapon; Count 3-4: Attempt Murder with Use of a Deadly Weapon; Count 5: Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm; and Count 6: Discharging Firearm At or Into Occupied Structure, Vehicle, Aircraft or Watercraft. Trial is currently set for April 16, 2018. Defendant filed the instant Motion on February 27, 2018. The State's Opposition follows:

STATEMENT OF FACTS:

On September 4, 2015, at approximately 3:45AM, the Defendant and his co-defendant, armed with multiple firearms, startled the victims awake in their home. The residents of the home, Eric Clarkson and Willoughby Grimaldi, were sleeping when they heard suspicious noises in their backyard. They observed two figures, who were later identified as the two defendants, running across the backyard. The police were notified and dispatched and Officers Robertson and Greco-Smith arrived to investigate. Officer Robertson spotted the co-defendants in the backyard and began to open the back door when Defendant Turner fired three rounds from an AK-47 rifle. One of the rounds hit Officer Robertson in the leg and immediately after, Defendant Hudson fired a round at the officers from his shotgun, hitting the doorway next to them. Officer Greco-Smith returned fire at Defendants Hudson and Turner. Defendant Turner dropped his rifle and fled the scene while Hudson hid in the backyard. A canine police dog from the K9 unit had to physically remove Defendant Hudson from where he was hiding because he would not respond to Officers when ordered to surrender.

Officer Robertson was extracted from the residence and was transported to UMC Trauma to be treated for his shattered right femur. He was taken into surgery where he required a titanium rod and plates to be inserted into his broken femur. Defendant Turner was later apprehended by police.

POINTS AND AUTHORITIES

I. DEFENDANT WAIVED HIS RIGHT TO COUNSEL DURING HIS THIRD INTERVIEW WITH POLICE.

In the instant Motion, Defendant claims that during his third interview with police on September 4, 2015 at 3:35 p.m., Defendant invoked his right to counsel. Defendant claims because Defendant invoked his right to counsel, all questioning should have ceased and because it did not, Defendant's third interview should be suppressed. This claim is without merit and should be denied. It should be noted that Defendant does not dispute the fact that he was given his Miranda warnings by police during his first interview. Defendant also does not dispute that he was reminded of his rights in subsequent interviews and informed that those rights still applied.

During Defendant's third interview on September 4, 2015 at 3:35, the following exchange occurred:

CJ: And understand that-I know he, uh- he Mirandized you earlier…

ST: Yeah

CJ: I-those laws- that still applies. Okay?

ST: All right….

ST: Do I gotta talk to you right now or can I wait 'till- 'cause my mom is talking on the phone, like, on an appointment with my attorney right now, so I don't wanna, you know what I mean, to say nothin'. You know what I mean? Shouldn't I wait for my attorney to be here..?

CJ: it- it's your call, man.

ST: Yeah, I'd rather wait for my attorney.

CJ: You don't wanna…

ST: Yeah.

CJ: …talk to me anymore?

ST: I mean, I'll- I'll talk to you. Fine, yeah.

///

///

While the State acknowledges that Defendant was in custody at the time of his third interview, Defendant waived his right to counsel and voluntary spoke to police. As such, his claim should be denied.

Where a defendant is fully advised of his Miranda rights and makes a free, knowing and voluntary statement to the police, such post-arrest statements are admissible at trial. See Miranda v. Arizona, 384 U.S. 436 (1966); Rowbottom v. State, 105 Nev. 472, 779 P.2d 934 (1989); Stringer v. State, 108 Nev. 413, 836 P.2d 609 (1992). Moreover, when the State seeks to introduce a statement obtained from a defendant by police, the State need only demonstrate, by a preponderance of the evidence, that the defendant's waiver of his fifth and sixth amendment rights was knowing and voluntary. Barren v. State, 99 Nev. 663 (1983); Laursen v. State, 97 Nev. 568, 634 P.2d 1230 (1981); Scott v. State, 92 Nev. 522, 554 P.2d 735 (1976); *see also* Sanchez v. State, 103 Nev. 166, 170, 734 P.2d 726, 728 (1977) (State need only prove the voluntariness of defendant's statement by a preponderance of the evidence).

In N. Carolina v. Butler, 441 U.S. 369, 99 S. Ct. 1755 (1979), the U.S. Supreme Court held that a defendant's waiver of rights need not be determined by a concrete "yes" or "no" response to the Miranda warning:

> The per se rule that the North Carolina Supreme Court has found in Miranda does not speak to these concerns. There is no doubt that this respondent was adequately and effectively apprised of his rights. The only question is whether he waived the exercise of one of those rights, the right to the presence of a lawyer. Neither the state court nor the respondent has offered any reason why there must be a negative answer to that question in the absence of an express waiver. This is not the first criminal case to question whether a defendant waived his constitutional rights. It is an issue with which courts must repeatedly deal. **Even when a right so fundamental as that to counsel at trial is involved, the question of waiver must be determined on "the particular facts and circumstances surrounding that case, including the background, experience, and conduct of the accused."**

441 U.S. at 374-75, 99 S. Ct. at 1758 (emphasis added, citations omitted).

///

///

///

///

The Nevada Supreme Court adopted this reasoning in Mendoza v. State, 122 Nev. 267, 130 P.3d 176 (2006):

> A valid waiver of rights under Miranda must be voluntary, knowing, and intelligent. "A waiver is voluntary if, under the totality of the circumstances, the confession was the product of a free and deliberate choice rather than coercion or improper inducement." **A written or oral statement of waiver of the right to remain silent is not invariably necessary. Rather, a waiver may be inferred from the actions and words of the person interrogated.** A detective read Mendoza his rights in Spanish, and Mendoza never expressed difficulty understanding the nature of his rights or the content of the subsequent questioning. Further, Mendoza never expressed a desire not to speak. A review of the totality of the circumstances reveals that Mendoza voluntarily, knowingly, and intelligently waived his Miranda rights.

122 Nev. at 276-77, 130 P.3d at 181-82 (emphasis added, citations omitted).

In the instant case, Defendant fails to differentiate between the invocation of the right to remain silent and the invocation of the right to counsel. Defendant claims in this case that he failed to waive his right to counsel. In Davis v. U.S, the United States Supreme Court specifically addressed the issue of the right to counsel before questioning. Davis v. U.S, 512 U.S 452 (1994). The Court noted:

> In considering how a suspect must invoke the right to counsel, we must consider the other side of the *Miranda* equation: the need [****17] for effective law enforcement. Although the courts ensure compliance with the *Miranda* requirements through the exclusionary rule, it is police officers who must actually decide whether or not they can question a suspect. The *Edwards* rule -- questioning must cease if the suspect asks for a lawyer -- provides a bright line that can be applied by officers in the real world of investigation and interrogation without unduly hampering the gathering of information. But if we [***373] were to require questioning to cease if a suspect makes a statement that *might* be a request for an attorney, this clarity and ease of application would be lost. Police officers would be forced to make difficult judgment calls about whether the suspect in fact wants a lawyer even though he has not said so, with the threat of suppression if they guess wrong. We therefore hold that, after a knowing and voluntary waiver of the *Miranda* rights, law enforcement officers may continue questioning until and unless the suspect clearly requests an attorney.***LEdHN[1D]*** [1D] ***LEdHN[2C]*** [2C]***Of course, when a suspect makes an ambiguous or equivocal statement it will often be good police practice for the interviewing officers to***

> ***clarify [****18] whether or not he actually wants an attorney. That was the procedure followed by the NIS agents in this case. Clarifying questions help protect the rights of the suspect by ensuring that he gets an attorney if he wants one, and will minimize the chance of a confession being suppressed due to subsequent judicial second-guessing as to the meaning of the suspect's statement regarding counsel.*** But we decline to adopt a rule requiring officers to ask clarifying questions. If the suspect's statement **[*462]** is not an unambiguous or unequivocal request for counsel, the officers have no obligation to stop questioning him.To recapitulate: We held in *Miranda* that a suspect is entitled to the assistance of counsel during custodial interrogation even though the Constitution does not provide for such assistance. We held in *Edwards* that if the suspect invokes the right to counsel at any time, the police must immediately cease [**2357] questioning him until an attorney is present. But we are unwilling to create a third layer of prophylaxis to prevent police questioning when the suspect *might* want a lawyer. Unless the suspect actually requests an attorney, questioning may continue. [****19] ***The courts below found that petitioner's remark to the NIS agents -- "Maybe I should talk to a lawyer" -- was not a request for counsel, and we see no reason to disturb that conclusion. The NIS agents therefore were not required to stop questioning petitioner, though it was entirely proper for them to clarify whether petitioner in fact wanted a lawyer.***

The Court specifically noted that is perfectly acceptable and preferable for police to ask clarifying questions about whether or not Defendant wants an attorney or not. In this case, that is exactly what occurred. Defendant had already spoken to police freely and voluntarily two times before the third interview after waiving his right to counsel. During the third interview, Defendant made an ambiguous statement about a lawyer. Defendant asked Detectives about whether he should wait for an attorney. Then he indicated that he would *rather* wait for his attorney. In an effort to clarify and be clear whether or not Defendant wanted a lawyer, Detectives asked him whether or not he wanted to talk. At that point, Defendant indicated he did want to talk and the interview continued. Detectives did not ask any substantive questions about the case after Defendant made the ambiguous statement about a lawyer. Furthermore, at no other point in the interview did Defendant make any mention of a lawyer. It was perfectly

rational, as the Court noted in Davis, for Detectives to clarify Defendant's statements. This is true especially considering the fact that Defendant had freely spoken with officers previously.

Defendant's reliance on Dewey v. State in reference to "relevant factors" is misplaced. The section of Dewey that Defendant references in his Motion refers to a Defendant's invocation of the right to remain silent, not the invocation of a right to counsel. Davis is the controlling case on the right to counsel. *See also* Kaczmarek v. State, 120 Nev. 314 (2004).

With respect to Defendant's request for a Jackson v. Denno hearing regarding the allegations in the instant motion, the State opposes this request because the current available record is sufficient for this Court to decide the motion.

CONCLUSION

For the forgoing reasons, the State respectfully requests that this Court Deny the Motion to Suppress.

DATED this 5th day of March, 2015.

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

BY _____
LEAH C. BEVERLY
Chief Deputy District Attorney
Nevada Bar #0012556

///
///
///
///
///
///
///

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Opposition to Defendant's Motion to Suppress Statements and Request for Jackson V. Denno Hearing, was made this 5th day of March, 2018, by Electronic Filing to:

TEGAN MACHNICH, Dep. Public Defender
E-Mail: Tegan.Machnich@clarkcountynv.gov
E-Mail: pdclerk@clarkcountynv.gov

JESS MARCHESE, ESQ.
E-Mail: marcheselaw@msn.com

BY: _____
C. Jimenez
Secretary of the District Attorney's Office

LCB/cmj/L2

0071
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
TEGAN C. MACHNICH, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11642
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DEPARTMENT XVIII
NOTICE OF HEARING
DATE 3/6/18 TIME 9 AM
APPROVED BY JEA
DIC 18

THE STATE OF NEVADA,

Plaintiff,

v.

STEVEN TURNER,

Defendant,

CASE NO. C-15-309578-1

DEPT. NO. XVIII

DATE: March 6, 2018
TIME: 9:00 a.m.

MOTION IN LIMINE

COMES NOW, the Defendant, STEVEN TURNER, by and through TEGAN C. MACHNICH, Deputy Public Defender and hereby requests that this Honorable Court prevent the State or co-defendant's counsel from introducing certain unauthenticated text messages at trial.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 23rd day of February, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: */s/Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Chief Deputy Public Defender

DECLARATION

TEGAN C. MACHNICH makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 23rd day of February, 2018.

/s/*Tegan C. Machnich*
TEGAN C. MACHNICH

PERTINENT FACTS

Defendant Turner is facing six charges relating to alleged attempted home burglary incident occurring on September 4, 2015, during which a police officer sustained a gunshot wound to the lower body. As part of the investigation in this case, police learned that Mr. Turner had a past relationship (friendship) with one of the complaining witnesses (homeowners). Upon information and belief, Mr. Turner and the homeowner had not spoken in months.

Following Mr. Turner's arrest, the homeowner provided police with some messages from "black Steve" relating to wanting to meet up (attached hereto as **Exhibit A**). The messages come from a "text free" number that is not associated with Mr. Turner and do not identify him in particular. They also do not reference the exact date or the incident in question.

Given the fact that they cannot be authenticated, or tied to Mr. Turner in any way through the source or content (beyond the "black Steve" identifier that could be used by anyone), the State must be precluded from offering them as evidence at trial.

ARGUMENT

This Court should preclude the State from introducing the text messages, or any testimony relating thereto[1], as State's evidence in this case without proper authentication. Any reference to or presentation of the text messages is irrelevant and unfairly prejudicial. Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence." NRS 48.015. "Evidence which is not relevant is not admissible." NRS 48.025(2). Additionally, "[a]lthough relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury." NRS 48.035(1).

"Authentication represents a special aspect of relevancy, in that evidence cannot have a tendency to make the existence of a disputed fact more or less likely if the evidence is not that which its proponent claims." *Rodriguez v. State*, 273 P. 3d 845 (citing *U.S. v. Branch*, 970 F.2d

[1] This includes recollection of the text messages, as this would violate the Best Evidence Rule.

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN TURNER, Appellant, v. THE STATE OF NEVADA, Respondent.	No. 76465

APPELLANT'S APPENDIX VOLUME III PAGES 473-721

DARIN F. IMLAY
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

AARON FORD
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

INDEX
STEVEN TURNER
Case No. 76465

PAGE NO.

Amended Indictment filed 04/15/18 558-562

Amended Jury List filed 04/27/18 564

Defendant's Exhibit A dated 04/18/18 2359-2360

Defendant's Exhibit B dated 04/18/18 2361-2362

Defendant's Motion for Additional Discovery (Hudson)
Date of Hrg: 04/05/18 2263-2265

Defendant's Motion to Suppress Statements and Request for Jackson v. Denno Hearing
Date of Hrg: 03/06/18 478-520

Defendant's Notice of Witnesses filed 04/09/18 556-557

District Court Minutes from 09/23/15 through 06/21/18 709-742

District Court Minutes (Hudson) from 05/17/16 through 04/05/18 2301-2312

Exhibits in Support of Sentencing Memorandum (Hudson) filed 06/20/18 2280-2300

Ex Parte Motion for Release of Medical Records filed 04/15/16 216-217

Ex Parte Motion and Order for Release of Medical Records filed 03/23/18 543-544

Indictment filed 09/23/15 1-6

Indictment Warrant filed 09/23/15 7-8

Indictment Warrant Return filed 09/24/15 9-10

Instructions to the Jury filed 04/27/18 565-617

Judgment of Conviction (Jury Trial) filed 07/02/18 701-703

Joinder to Co-Defendant Clemon Hudson's Motion to Sever
Date of Hrg: 10/12/17 276-472

Jury List filed 04/17/18 563

Letters in Support of Sentencing
Date of Hrg: 06/21/18 681-700

Media Request and Order Allowing Camera
Access to Court Proceedings filed 10/01/15 181-184

Motion for Bail Reduction
Date of Hrg: 11/10/15 185-187

Motion for Bail Reduction (Hudson)
Date of Hrg: 05/17/16 2193-2195

Motion for Bail Reduction (Hudson)
Date of Hrg: 06/14/16 2203-2214

Motion for Bail Reduction (Hudson)
Date of Hrg: 01/24/17 2223-2229

Motion for New Trial
Date of Hrg: 05/15/18 620-647

Motion for Production of Discovery
Date of Hrg: 06/12/16 227-254

Motion in Limine
Date of Hrg: 03/06/18 530-538

Motion to Continue Trial Date
Date of Hrg: 11/02/17 474-477

Motion to Sever (Hudson)
Date of Hrg: 09/07/17 2247-2252

Notice of Appeal filed 07/18/18 704-707

Notice of Appearance of Counsel (Hudson) filed 05/30/18 2274-2275

Notice of Motion and Motion for Discovery (Hudson)
Date of Hrg: 05/16/17 2241-2246

Notice of Witnesses and/or Expert Witnesses filed 04/14/16 192-213

Order filed 09/05/18 709

Order Releasing Medical Records filed 04/15/16 214-215

Receipt of Copy filed 10/18/17 473

Second Supplemental Notice of Witnesses and/or
Expert Witnesses filed 11/08/16 261-275

Sentencing Memorandum (Hudson) filed 06/20/18 2276-2279

State's Exhibit 6 dated 04/19/18 2313-2314

State's Exhibit 90 dated 04/23/18 2317-2358

State's Exhibit 400 2315-2316

State's Opposition to Defendant's Motion for Bail Reduction
Date of Hrg: 11/10/15 188-191

State's Opposition to Defendant's Motion for Bail Reduction (Hudson)
Date of Hrg: 05/17/16 2196-2202

State's Opposition to Defendant's Motion for Bail Reduction (Hudson)
Date of Hrg: 06/14/16 2215-2222

State's Opposition to Defendant's Motion for Bail Reduction (Hudson)
Date of Hrg: 01/24/17 2230-2237

State's Opposition to Defendant's Motion for New Trial
Date of Hrg: 05/15/18 648-657

State's Opposition to Defendant's Motion for Production of Discovery
Date of Hrg: 07/26/16 255-260

State's Opposition to Defendant's Motion in Limine
Date of Hrg: 03/22/18 539-542

State's Opposition to Defendant's Motion to Suppress
Statements and Request for Jackson v. Denno Hearing
Date of Hrg: 03/06/18 521-529

State's Opposition to Motion to Sever (Hudson)
Date of Hrg: 10/12/17 2253-2262

State's Supplemental Opposition to Defendant's Motion for New Trial
Date of Hrg: 06/19/18 676-680

State's Response to Defendant's Motion for Additional Discovery (Hudson)
Date of Hrg: 04/05/18 2267-2273

State's Third Supplemental Notice of Witnesses
and/or Expert Witnesses filed 04/04/18 545-555

Stipulation and Order to Reconstruct the Record filed 01/30/19 2363-2365

Stipulation and Order to Reconstruct the Record filed 01/31/19 2366-2402

Substitution of Attorney (Hudson) filed 02/09/17 2238-2240

Supplemental Briefing for Motion for New Trial
Date of Hrg: 06/19/18 658-675

Supplemental Notice of Witnesses and/or Expert Witnesses filed 04/19/16 218-226

Verdict filed 04/27/18 618-619

TRANSCRIPTS

Recorder's Transcript
JURY TRIAL DAY 1
Date of Hrg: 04/16/18 868-020

Recorder's Transcript
JURY TRIAL DAY 2
Date of Hrg: 04/17/18 1021-1243

Recorder's Transcript
JURY TRIAL DAY 3
Date of Hrg: 04/18/18 1244-1371

Recorder's Transcript
JURY TRIAL DAY 4
Date of Hrg: 04/19/18 1372-1536

Recorder's Transcript
JURY TRIAL DAY 5
Date of Hrg: 04/20/18 1537-1672

Recorder's Transcript
JURY TRIAL DAY 6
Date of Hrg: 04/23/18 1673-1800

Recorder's Transcript
JURY TRIAL DAY 7
Date of Hrg: 04/24/18 1801-1952

Recorder's Transcript
JURY TRIAL DAY 8
Date of Hrg: 04/25/18 1953-1976

Recorder's Transcript
JURY TRIAL DAY 9
Date of Hrg: 04/26/18 1977-2108

Recorder's Transcript
JURY TRIAL DAY 10
Date of Hrg: 04/27/18 2109-2122

Recorder's Transcript
Calendar Call
Date of Hrg: 05/03/16 756-760

Recorder's Transcript
Calendar Call
Date of Hrg: 11/29/16 769-772

Recorder's Transcript
Calendar Call
Date of Hrg: 07/06/17 773-779

Recorder's Transcript
Calendar Call
Date of Hrg 04/10/18 863-867

Recorder's Transcript
Defendant's Motion for Bail Reduction
Date of Hrg: 11/10/15 753-755

Recorder's Transcript
Defendant's Motion for New Trial
Date of Hrg: 05/31/18 ..... 2123-2139=

Recorder's Transcript
Defendant's Motion for New Trial
Date of Hrg: 06/19/18 2140-2148

Recorder's Transcript
Defendant's Motion for Production of Discovery
Date of Hrg: 07/12/16 761-762

Recorder's Transcript
Defendant's Motion for Production of Discovery
Date of Hrg: 07/26/16 763-765

Recorder's Transcript
Defendant's Motion for Production of Discovery
Date of Hrg: 08/04/16 766-768

Recorder's Transcript
Defendant's Motion to Continue Trial Date:
Status Check: Negotiations/Trial Setting
Date of Hrg: 11/02/17 817-825

Recorder's Transcript
Grand Jury Indictment Returns
Date of Hrg: 09/23/15 743-745

Recorder's Transcript
Initial Arraignment; Indictment Warrant Return
Date of Hrg: 10/01/15 746-752

Recorder's Transcript
Pretrial Conference and Decision: Defendant's Motion to
Suppress Statements and Request for Jackson v. Denno Hearing
Date of Hrg: 03/29/18 860-862

Recorder's Transcript
Pretrial Conference; Defendant's Joinder to Co-Defendant
Clemon Hudson's Motion to Sever
Date of Hrg: 10/12/17 780-807

Recorder's Transcript
Pretrial Conference; Defendant's Motion in Limine; Defendant's
Motion to Suppress Statements and Request Jackson v. Denno Hearing
Date of Hrg: 03/06/18 841-846

Recorder's Transcript
Pretrial Conference; Defendant's Motion in Limine; Defendant's
Motion to Suppress Statements and Request Jackson v. Denno Hearing
Date of Hrg: 03/22/18 847-859

Recorder's Transcript
Sentencing
Date of Hrg: 06/21/18 2149-2192

Recorder's Transcript
State's Request: Status Check to Address Bruton
Issues with the Defendant's Statements
Date of Hrg: 10/31/17 808-816

Recorder's Transcript
Status Check: Status of Case-Redactions
Date of Hrg: 11/16/17 826-831

Recorder's Transcript
Status Check: Status of Case-Redactions
Date of Hrg: 11/30/17 832-836

Recorder's Transcript
Status Conference-Redactions
Date of Hrg: 12/14/17 837-840

Reporter's Transcript
Grand Jury
Date of Hrg: 09/22/15 11-180

ROC
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
GIANCARLO PESCI
Chief Deputy District Attorney
Nevada Bar #007135
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN TURNER,
#2717636

Defendant.

CASE NO: C-15-309578-1

DEPT NO: II

RECEIPT OF COPY

RECEIPT OF COPY of the attached CD is hereby acknowledged this 18 day of October, 2017.

TEGAN C. MACHNICH
ATTORNEY FOR DEFENDANT

BY _____
309 S. THIRD STREET #226
Las Vegas, NV 891055

15F13307A/jlh/MVU

0026
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
TEGAN C. MACHNICH, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11642
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. STEVEN TURNER, Defendant,	CASE NO. C-15-309578-1 DEPT. NO. XVIII DATE: November _____, 2017 TIME: 9:00 a.m.

MOTION TO CONTINUE TRIAL DATE

COMES NOW the Defendant, STEVEN TURNER, by and through his attorney, TEGAN C. MACHNICH, Deputy Public Defender, and respectfully moves this court for an order vacating the November 13, 2017 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 23rd day of October, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/*Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Deputy Public Defender

DECLARATION

TEGAN C. MACHNICH makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. The jury trial in this case is currently set for November 13, 2017, with calendar call on November 7, 2017.

3. With the Thanksgiving holiday, there would only be eight (8) trial days available if the trial went through the Wednesday of Thanksgiving week. It is my understanding that Your Honor does afternoon trial days on Tuesdays, Wednesdays and Thursdays, with full days possible on Mondays and Fridays. That would put our trial at five "half days" and three "full days."

4. The State has previously quoted this trial as 2-3 weeks. With over 225 witnesses noticed by the State alone, this seems conservative.

5. I will be out of the jurisdiction the week after Thanksgiving. Specifically, November 27 – December 1.

6. As of the date of this motion, there are also ongoing questions concerning what part of the Defendants statements that will be admissible at trial. Those issues are set to be heard by His Honor on October 31, 2017, and it is anticipated that the Defendants will renew their requests for severance.

7. The State provided the underlying forensic data pursuant to Defendant Turner's request. However, given the delay between the issuance of the defense subpoena and receipt of those materials (which is of no fault of the deputy district attorneys on this case, but of the process LVMPD labs use to respond to defense subpoenas), there may be further analysis required.

8. Based on the foregoing, Defendant Turner requests a brief continuance of the trial date into the New Year. Defense Counsel reached out to Co-Defendant's counsel and

the State in advance of filing this motion. The State responded that they will not oppose the continuance.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 23rd day of October, 2017.

/s/*Tegan C. Machnich*
TEGAN C. MACHNICH

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO CONTINUE TRIAL DATE will be heard on November 02, 2017, at 9:00 a.m. in District Court, Department XVIII.

DATED this 23rd day of October, 2017.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/*Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com on this 23rd day of October, 2017.

By: /s/ *Erin Prisbrey*
An employee of the
Clark County Public Defender's Office

0071
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
TEGAN C. MACHNICH, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 11642
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DEPARTMENT XVIII
NOTICE OF HEARING
DATE 3/6/18 TIME 9 Am
APPROVED BY SF-JEA
DIC 18

THE STATE OF NEVADA,

Plaintiff,

v.

STEVEN TURNER,

Defendant,

CASE NO. C-15-309578-1

DEPT. NO. XVIII

DATE: March 6, 2018
TIME: 9:00 a.m.

DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND REQUEST FOR JACKSON V. DENNO HEARING

COMES NOW, the Defendant, STEVEN TURNER, by and through TEGAN C. MACHNICH, Deputy Public Defender and hereby requests that this Honorable Court suppress any statements Defendant made following his invocation of his right to counsel.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 23rd day of February, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: */s/Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Deputy Public Defender

DECLARATION

TEGAN C. MACHNICH makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 23rd day of February, 2018.

/s/Tegan C. Machnich
TEGAN C. MACHNICH

PERTINENT FACTS

Defendant Turner is facing six charges relating to alleged attempted home burglary incident occurring on September 4, 2015, during which a police officer sustained a gunshot wound to the lower body. Mr. Turner was arrested the same day and interviewed multiple times in the subsequent hours – 07:29 to 07:50, 09:13 to 09:34 and 15:35 to 16:30. During the third interrogation, Mr. Turner engaged in the follow invocation of his right to counsel

ST: Do I gotta talk to you right now or can I wait 'til – 'cause my mom is talking on the phone, like, on an appointment with my attorney right now, so I don't wanna, you know what I mean, to say nothin'. You know what I mean? Shouldn't I wait for my attorney to be here to…?

CJ: T-it-it's your call, man.

ST: Yeah, I'd rather wait for my attorney.

CJ: You don't wanna…

ST: Yeah.

CJ: …talk to me anymore?

ST: [*pause*] I mean, I'll – I'll talk to you. Fine, yeah….

The interview continued for approximately thirty (30) additional transcribed pages. Because his invocation was clear, and questioning should have ceased immediately, Mr. Turner now moves to suppress the remainder of the final statement he gave to police pursuant to Nevada law.

ARGUMENT

A person's right not to incriminate himself is protected by the Fifth Amendment to the United States Constitution and Article 1, Section 8 of the Nevada Constitution. Holyfield v. Townsell, 101 Nev. 793; 711 P.2d 845 (1985). "[T]he accused must be adequately and effectively apprised of his rights and the exercise of those rights must be fully honored." Miranda v. Arizona, 384 U.S. 436, 467; 16 L.Ed.2d 694, 719 (1966). (Emphasis added). The Supreme Court went on to say:

> "[W]e hold that when an individual is taken into custody or otherwise deprived of his freedom by the authorities in any significant way and is subjected to questioning, the privilege against self-incrimination is jeopardized. Procedural safeguards must be employed to protect the privilege, and unless other fully effective means are adopted to notify the person of his right of silence and to assure that the exercise of the right will be scrupulously honored, the following measures are required. He must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he was the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires. Opportunity to exercise these rights must be afforded to him throughout the interrogation. After such warnings have been given, and such opportunity afforded him, the individual may knowingly and intelligently waive these rights and agree to answer questions or make a statement. But unless and until such warnings and waiver are demonstrated by the prosecution at trial, no evidence obtained as a result of interrogation can be used against him."
>
> Miranda v. Arizona, 384 U.S. 436, 478-479 (1966).

In order for a Defendant's statements to be admissible at trial, Miranda warnings must be provided prior to any custodial interrogation. "Custodial interrogation" takes place when a suspect is (1) in custody, (2) being questioned by an agent of the police, and (3) subject to interrogation. Boehm v. State, 113 Nev. 910, 913; 944 P.2d 269, 271 (1997). An individual is deemed "in custody" for purposes of Miranda where "...there has been a formal arrest, or where there has been a restraint on freedom of movement of the degree associated with a formal arrest so that *a reasonable person would not feel free to leave*." State v. Taylor, 114 Nev. 1071, 1082; 968 P.2d 315, 323 (1998) (emphasis added); also see United States v. Bengivenga, 845 F.2d 593, 598 (5th Cir. 1998); United States v. Moya, 74 F.3d 1117, 1119 (11th Cir. 1996). Additionally, "a suspect incarcerated on other charges is 'in custody' for purposes of the above test." Boem, 113 Nev. at 913, 944 P.2d at 271. "[T]he term 'interrogation' under Miranda refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to

elicit an incriminating response from the suspect. Koza v. State, 102 Nev. 181, 186, 718 P.2d 671, 674-75 (1986)(quoting Rhode Island v. Innis, 446 U.S. 291, 301-02 (1980)).

Nevada law requires "[p]reliminary hearings on the admissibility of confessions or statements by the accused or evidence allegedly unlawfully obtained" to be carried out outside the presence of the jury. NRS 47.090. In addition, the accused may testify at such a hearing without subjecting "himself to cross-examination as to other issues in the case" and that testimony is "not admissible against him on the issue of guilt at trial." Id. A hearing to determine if a statement is voluntary and if Miranda requirements were complied with, a Jackson v. Denno hearing, must be requested by the defendant. Wilkins v. State, 96 Nev. 267 (1980).

If the statement was involuntary, it ceased to exist legally and is inadmissible for any purpose. See, Mimey v. Arizona, 437 U.S. 385; 98 S.Ct. 2408 (1978). If it was voluntary but Miranda was violated, it can be used only for impeachment if the Defendant testifies and contradicts the statement. Harris v. New York, 401 U.S. 222; 91 S.Ct. 643 (1971) and Oregon v. Hass, 420 U.S. 714; 95 S.Ct. 1215 (1975). If the statement was voluntary and the result of proper Miranda warnings, it can be used for all purposes in Court. Where the Court permits the Defendant's statements to be heard by the jury, the jury still has an opportunity to decide the voluntariness of the confession. This is the "Massachusetts Rule" which was adopted by Carlson v. State, 84 Nev. 534; 445 P.2d 157 (1968). See also, Dawson v. State, 108 Nev. 112; 825 P.2d 593 (1992). The State must prove by a preponderance of the evidence that the statement was voluntary. Brimmings v. State, 93 Nev. 434; 567 P.2d 54 (1977); Falcon v. State, 110 Nev. 530; 874 P.2d 772 (1994) and Colorado v. Connelly, 479 U.S. 157; 107 S.Ct. 515 (1986).

With respect to the Mr. Turner, he was clearly in custody for purposes of Miranda, and his Miranda warnings were read to him before his first interview and further reiterated during the

subsequent interviews. The concern the defense now has is with Mr. Turner's invocation of his right to counsel.

"Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation **must** cease." Miranda, 384 U.S. at 473-74 (emphasis added). In order to invoke a person's Fifth Amendment right to remain silent, a suspect need not utter some precise, magical words, such as "I invoke my right to silence under the Fifth Amendment." Arnold v. Runnels, 421 F.3d 859, 866 (9th Cir. 2005); Hurd v. Terhune, 619 F.3d 1080, 1089 (9th Cir. 2010) ("Yet a suspect still need not utter a 'talismanic phrase' to invoke his right to silence.").

To the contrary, a suspect seeking to invoke his right to silence doesn't have to "provide any statement more explicit or more technically-worded than 'I have nothing to say.'" Arnold, 421 F.3d at 865; U.S. v. Poole, 794 F.2d 462, 465 (9th Cir. 1986) (Defendant invoked his *Miranda* right to silence when he asserted that he had "nothing to talk about.").

> Further, in Carter v. State, 129 Nev. 244, 371 (2013), the Nevada Supreme Court was clear: The Supreme Court has strongly repudiated consideration of a suspect's subsequent statements in order to cast doubt on the clarity of an initial request. *Smith,* 469 U.S. at 100, 105 S.Ct. 490 (1984) ("We hold only that, under the clear logical force of settled precedent, an accused's *postrequest* responses to further interrogation may not be used to cast retrospective doubt on the clarity of the initial request itself."). "[o]nce a suspect requests an attorney, *Miranda* and its progeny do not allow police officers to subtly interrogate the suspect under the guise of clarifying intentions that are already clear. "In the absence of such a bright-line prohibition, the authorities through 'badger[ing]' or 'overreaching'—explicit or subtle, deliberate or unintentional—might otherwise wear down the accused and persuade him to incriminate himself notwithstanding his earlier request for counsel's assistance." *Id.* at 98, 105 S.Ct. 490 (alteration in original) (quoting *Oregon v. Bradshaw,* 462 U.S. 1039, 1044, 103 S.Ct. 2830, 77 L.Ed.2d 405 (1983))."

Here, Mr. Turner explicitly told detectives that he wanted to wait for his attorney. This statement was neither ambiguous nor equivocal. In determining whether the police "scrupulously honored" Mr. Turner's right to remain silent, the Nevada Supreme Court has stated that trial courts must look at certain "relevant factors." Dewey, 123 Nev. at 491. Factors to be considered when analyzing whether or not the police scrupulously honored a defendant's right to remain silent include: (1) Whether the police immediately ceased questioning once the defendant asked to end the interrogation; (2) Whether the police resumed questioning only after the passage of a significant period of time; (3) Whether the police focused on a different crime in the second interrogation; and (4) Whether the police administered new *Miranda* warnings before the second interrogation. *See id.*; Mosley, 423 U.S. at 105-06. Of these four factors, the most important or crucial factor "is the provision of fresh set of *Miranda* rights." U.S. v. HSU, 852 F.2d 407, 411 (9th Cir. 1988). None of these happened here. The questioning continued, unabated.

Here, the detectives failed to cease questioning Mr. Turner after he invoked his right to remain silent. Thus, no time—let alone "a significant period of time"—passed. *See* Dewey, 123 Nev. at 491 (Court held that the police "scrupulously honored" defendant's right to remain silent when the "police waited two hours before they initiated the next interview."). Additionally, the detectives continued to question Mr. Turner about the exact same crime that they had questioned him about prior to him invoking his right to counsel. Under the totality of the circumstances, the police failed to "scrupulously honor" Mr. Turners right to counsel. Consequently, any and all statements given by Mr. Turner following his assertion of the right to counsel must be suppressed.

////

////

////

CONCLUSION

For the reasons set forth above, Defendant Turner requests that this court suppress any statements he made to police after his invocation of right to counsel during the third interrogation. If this Court requires further information prior to suppression, Mr. Turner hereby requests a Jackson v. Denno hearing be scheduled prior to trial so that these important voluntariness issues may be addressed.

DATED this 23rd day of February, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/*Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Chief Deputy Public Defender

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO SUPPRESS will be heard on March 6, 2018, at 9:00 a.m. in District Court, Department XVIII.

DATED this 23rd day of February, 2018.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/*Tegan C. Machnich*
TEGAN C. MACHNICH, #11642
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing Motion to Suppress was served via electronic e-filing to the Clark County District Attorney's Office Clark County District Attorney's Office at Motions@clarkcountyda.com on this 23rd day of February, 2018.

By: /s/ Annie McMahan
An employee of the
Clark County Public Defender's Office

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT#: 150904-0516

SPECIFIC CRIME: OFFICER-INVOLVED SHOOTING (NON-FATAL)

DATE OCCURRED: 09-04-15 TIME OCCURRED: 0343 HOURS

LOCATION OF OCCURRENCE: 6729 OVEJA CIR
LAS VEGAS, NV 89107

CITY OF LAS VEGAS CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: STEVEN TURNER

DOB: [redacted]	SOCIAL SECURITY #:
RACE:	SEX:
HEIGHT:	WEIGHT:
HAIR:	EYES:
HOME ADDRESS:	PHONE 1:
	PHONE 2:
WORK ADDRESS:	

The following is the transcription of a tape-recorded interview conducted by DETECTIVE C. JEX, P# 5597, LVMPD FORCE INVESTIGATION TEAM, on 09-04-15, at 1535 hours.

CJ: Okay. I know that, uh, my partner's talked to ya a couple of times and the - uh, operator, I'm here with Steven Turner at CCDC. Tell me your date of birth.

ST: [redacted]

CJ: [redacted] And understand that - I know he, uh - he Mirandized you earlier...

ST: Yeah.

CJ: I - those laws - that still applies. Okay?

ST: All right.

CJ: A couple of things I want to talk to you about. Okay?

ST: All right.

CJ: We know that, uh - that you were, uh - we know you were at the scene. Right?

ST: Right.

CJ: Uh, that's no big secret, all that kinda stuff. And, uh, we know you were in the backyard.

ST: Right.

CJ: Right? We know you had the rifle. Right?

ST: Right.

CJ: And, uh, tell me where this rifle came into play. Where did it come from?

ST: Do I gotta talk to you right now or can I wait 'til - 'cause my mom is talking on the phone, like, on an appointment with my attorney right now, so I don't wanna, you know what I mean, to say nothin'. You know what I mean? Shouldn't I wait for my attorney to be here to...?

CJ: T- it - it's your call, man.

ST: Yeah, I'd rather wait for my attorney.

CJ: You don't wanna...

ST: Yeah.

CJ: ...talk to me anymore?

ST: I mean, I'll - I'll talk to you. Fine, yeah. But I was back there, man, and the rifle, I didn't know he had it or I figured he did. You know what I mean? 'Cause it was in the backseat, and I looked and I seen it back there. And I'm, like, all right, he has the rifle. You feel me? So, I hopped over the wall. Like I said, we was just lookin', you know what I mean, wasn't - I didn't hear no sirens, no noth- I - on my mom, like, I didn't even know it was the police. All I - all I heard was gunshots. That's when I got shot. I - he fell to the ground. I stumbled and...

CJ: Who - who's he fell to the ground?

ST: L- uh, Lamar. He fell and then, like, I stumbled and I was, like, oh shit, and I just heard somebody yellin'. I didn't hear no po- not police. I know what police sound like or freeze or put the gun down. I didn't hear none of that. I heard the gunshots and the homeowner that's in the house is screamin'. And then they're shootin', shoots me in my leg. That's when I turn around, and run, and I hop over the wall. I just run up the street and I was sittin' there. Like, there was, like, a couch or somethin' right there, like, and I was, like, layin' right there on the couch. And then that's when I left, and then started walkin' up the street and then ran into them.

CJ: Okay. Where'd you park your car?

ST: Honestly, I don't remember. I think, like, on the other street or somethin'. I wasn't drivin'. He was drivin'.

CJ: You were driving?

ST: No, he was driving, Lamar.

CJ: So, you - you were ridin' with Lamar?

ST: Yeah.

CJ: Okay. You didn't bring your car?

ST: I don't own a car.

CJ: What car do you use to get around?

ST: The bus.

CJ: Okay. Okay. So who's - I'm - I'm - I'm lookin' for a third person.

ST: That's what I'm sayin', I don't understand where a third person comes in the party. As far as my knowledge, from what I know, everything I - look, when we got there, there was me and him. There was two people. Anybody else that was there I had no clue about. There was nobody there. It was only me and him because, like I said, once we was in the back, and once I got shot and I just took off runnin'. And then after that I - I didn't - like I was tellin' the officer at first when - he was, like - I told him I didn't even know the severity - I didn't even know there was a police officer there. I didn't even know there was police on the scene until I started hearin' helicopters and everything like that. But when I was back there I didn't hear not a - wasn't freeze, police, nothin'. I just heard the homeowner yellin', like, "Get the fuck-" or somethin'. I heard boom, boom, boom, and then he shot me in my leg and I ran. Now, whatever Lamar did afterwards or if there was somebody in the car with him or whatever the

case may be, after that, I don't know. But I know when me and him got there it was two people. It wasn't three people. It was me and Lamar.

CJ: Okay, you ca- you're saying you came in his car or your car?

ST: In his car.

CJ: Okay. Do you have access to cars that you use?

ST: Nah, I...

CJ: Where you livin' at?

ST: I live on Jones and Lake Mead.

CJ: Okay, what's the address?

ST: 5904 Eugene Avenue.

CJ: 5904 Eugene?

ST: Yeah.

CJ: Who lives there?

ST: Just my mom.

CJ: Okay, what does she drive?

ST: My mom doesn't drive either. She walks to work. She works on Smoke Ranch and Decatur. She walks to work.

CJ: Are there any cars in your driveway?

ST: There's a car in my driveway.

CJ: What is it?

ST: It's a green Toyota, I think, or somethin' that my uncle bought from my cousin a minute ago that the alternator and everything is fixed.

CJ: So, is it, like, a car, a sedan, SUV or what?

ST: It's just a car, regular little car...

CJ: Okay.

ST: ...that don't run. It been sittin' there for, like, the past two months.

CJ: Okay.

ST: That's why I'm sayin' I don't understand, like - really, and then to come - and then to come to find out that I'm bein' charged with attempted murder of a police officer, like, that's crazy to me. I didn't even shoot no guns. That's when I asked the officer, too, like, "Well, can you test my hands or something, you know what I mean, to see if there's -" but - but he said it was too late and he couldn't do it 'cause it was past that time. But, like, I'm not gonna - if - if you look at my record - my record, yeah, I got DUI and I have traffic stuff. I don't have no - I wouldn't - I would not just flip just to go and shoot at a police officer. Like, that's one thing I'm not gonna do. Now my mom is at home by herself. I just lost my job - I'm about to lose my job over this, and it's, like, man.

CJ: Where do you work?

ST: I work at Converse at the South Outlet Malls.

CJ: South Outlet Malls, where is...?

ST: Like, off of Warm Springs and Las Vegas...

CJ: Okay.

ST: ...Boulevard.

CJ: All right.

ST: I just got a promotion there. I was a full-time associate, just got a raise and everything, like...

CJ: So why do you wanna go there with a rifle and hit some house? Wh-...

ST: Nah, it wasn't...

CJ: Why were you goin' there?

ST: It wa- it wasn't - it wasn't even a...

CJ: What - what was the purpose of goin' there?

ST: Like, just to go - I'm not gonna lie, just to see if there was some weed around, to be honest with you.

CJ: How do you know that house?

ST: Because I've gotten weed from that house before.

CJ: From that house you went to?

ST: Yeah. From the person that lives in that house.

CJ: So you go up there with a - with a rifle and your buddy, Lamar, what's he carryin'?

ST: I don't even know. I think he had a shotgun, to be honest with you.

CJ: Okay, what about the other gun?

ST: You said the other guy?

CJ: Other gun.

ST: Oh, the other gun was a SK, I believe it...

CJ: Okay, what about any other guns?

ST: That was it.

CJ: So, you're carryin' the SK?

ST: For a while, yeah.

CJ: Okay, and - and Lamar's - you're tellin' me Lamar's got the shotgun.

ST: Yeah.

CJ: Okay. Let's draw a picture. Okay? I wanna draw you a quick picture here. This is that cul-de-sac, okay?

ST: Yeah.

CJ: How did you get into that - point on there where you - where you - how you got into that cul-de-sac. The house - the house is right up here.

ST: So, I think he parked on the other side of the street over here and then - no, no, no, he did. He parked on the street and then we came through that side wall right there, I think, yeah, and then came over from that way. 'Cause we was right here in the middle of the backyard once he started shootin' through the glass. 'Cause he shot through the glass and that's when I took off through the back - over that back wall and across the street from Rainbow and just took off runnin'.

CJ: How many times you shoot?

ST: I didn't shoot at all. That's what I'm sayin'. I've ne- I never shot a gun.

CJ: So, when you're in the backyard, what gun do you have?

ST: I don't remember what gun I had.

CJ: Oh, come on, don't...

ST: I...

CJ: Okay, just don't...

ST: I think it's the S - it was the SK. Yeah, it was the SK I had but I had ended up settin' it down 'cause we was sittin' there tryin' to figure out how do we get in the house. So, I'm not gonna just walk around with a big ass gun tryin' to figure out how to get in the house. So, once I set it down, and then we sittin' there lookin', and then that's when we come back around. We walkin' - come back and we're walkin' straight behind - behind the do- glass door right there. That's when all of a sudden I hear boom, boom, boom through the window. And as soon as I hear it through the window it hit

me in my leg. And then that's when I dropped everything. I dropped everything and just ran. And I was, like - then I hopped over the wall. That's why I was, like, I never shot a gun. I swear on everything I love, I've never - that's why I went ahead and - I wish I woulda known that earlier so that way I coulda got tested just to prove myself. Like...

CJ: So, where did that gun come from, that SK?

ST: I - I stole it. I took it from...

CJ: Where'd you steal it from?

ST: I took it from my uncle. It's a registered gun I took from my uncle.

CJ: Who's your uncle?

ST: Lawrence Robinson.

CJ: Lawrence Robinson?

ST: Yeah.

CJ: What's his moniker?

ST: What's his mon-...?

CJ: Is - is he running - running with a gang?

ST: Nah, my uncle is not. He's not at all. He's a hardworking man. That's why I feel bad about this 'cause he's a hardworking man. He's in St. Louis right now for, like - he gonna be out there for, like, a week. Like, I'm tellin' you right now though, Detective,

I'm tellin' you right now, I don't know what Lamar did when he fell. Like, I - I didn't even see - see him. I didn't even know he got shot until I seen him walkin' past me with Band-Aids on his arm when I'm - when I'm here. But when we was there, when it was me and him in that dark backyard, and all I hear is, "Hey, what the fuck," boom, boom, boom, and then my le- I just felt pressure on my leg. And it just - adrenaline off top, I just ran. It was, like, I went and - I - there's no point in me just shootin' at somethin'. I'm not gonna just shoot at somethin' if I don't know where it's at, if Lamar's right here. I'm not gonna just do that recklessly. I mean, I'm - I just wouldn't that. You know what I mean? When I got shot I just ran. That was it. That's why I'm, like - when once the officers told me, uh - told me the severity of it I was, like - like, "What the fuck?" Like, I didn't - I didn't even know that the police were there. You know what I mean? From when I took off - took off running, I - wasn't no lights, flashlights around. There wasn't no freeze. There wasn't no put the guns down. It was whoever was in that house was there and then they start shootin' in the house, I mean, shootin' out the house. And then that's when I just ran. Everything - I left everything and I just ran. That's why - 'cause, I mean, I didn't shoot nothin'. I didn't shoot nobody so I just took off runnin'.

CJ: Was the door open or closed?

ST: The door was - I don't even know. I think it was closed. I couldn't tell the slidin' door 'cause it was dark as fuck in there, so it was, like, I couldn't see.

CJ: So, did you try the door?

ST: The door? No. It's, like, a - it's, like, a window right here, like, that had a fan and I, like, lifted up the fan real quick and then that was it. I didn't try to open up the door. I just checked the fan like that and I was, like, oh the fan is open. But then that's when I was, like, kinda getting' nervous. You know what I mean? I didn't wanna do it 'cause I'm thinkin' about my job and everything like that, so that's why we just started walkin' through the backyard and then right then and there it was boom. It was, like, three gunshots, three or four. It was a couple of 'em that came out. Like I said, it sh- hit me right in my leg and then I took off runnin'. I turned around, hopped over the - hopped over the wall and then went across Rainbow and went across the street to those streets right there. Didn't shoot no gun at all or nothin'. That's what I'm sayin'. I don't understand why - I don't understand how that happened. Once he told me that - that - that was the charge, I was, like, attempted murder of a pol- a police officer. I didn't even know the police was there. Like, f- from when I left, there wasn't no police over there. 'Cause if that was the - if that was the case it woulda been police all on that back street on Rainbow right there too where I hopped over the wall at. They woulda been behind back there too. So, I s- I know it wasn't no police there because, by the time I left, I was outro. I don't know what Lamar did when he was layin' there or what happened while he was there. I really - I can't speak on that because I was outro. That's why they had him first and I was gone. I was across the street, like, by some random house just layin' there. And I was layin' right there just, like, damn, just waitin' for the helicopters, like, you know what I mean, to go away. 'Cause, by that point, is when I hear helicopters. So, I'm, like, all right, damn. You

know what I mean? It's breakin' into somebody house, like, this is fuckin' retarded. You know what I mean? And then - then I got up and once - once I s- wa- started walkin', officers came. And, like I said, yeah, I did, I lied to the officers at first. That was my mistake. And, like I said, that was before I knew the severity of the case. I had told them that my name was Devonte. I did do that. That was my little - that's my little brother's name but that's because I didn't know the severity until - once he told me that and once I knew that - what I was dealin' with, that's when I was, like, "All right, look, my name is Steven Anthony Turner." You know what I mean? "I - I apologize." You know what I mean? That's when I did do that, like, and I am wrong for that but I did not - I didn't shoot nobody. I didn't - that's what I'm sayin'. I - that's what's crazy to me is that a police officer is shot, but I never shot a gun, like, at all, like, on my mom. Like, as soon as I got shot in my leg I ran. It wasn't no time to even think about where - who's - where's the police and let's shoot and w- I mean, like, nah. As soon as I get hit and I hear somebody yellin' I'm outro. Lamar layin' on the floor, now, Lamar was still layin' there when I hopped over the wall. I don't know what he did once I hopped over that wall and ran. I can't speak on that because I wasn't there, but once I hopped over that wall I was just gone.

CJ: So, let me tell you what Lamar - what Lamar told me.

ST: That's what I wanna know

CJ: Okay. And, uh, just so you know, you're takin' the hit on everything.

ST: That's crazy to me, man. Like, that's - that's crazy. For - for - I didn't even - for - I didn't even shoot a gun though. For me to get charged with that...

CJ: You had a gun in your hand.

ST: Yeah, 'til I got shot, and I dropped it and ran. When I - as soon as I got shot I dropped it and ran. I hopped over the wall and dipped out. I - it wasn't no who shot me and - no, I mean, I've never been shot before in my life so, yeah, I'm - I'm surprised, like, it's - I'm shot, like, what the fuck. And that's why I dropped everything, and I ran and took off. I did not shoot nothin' at nobody. As soon as I got shot I dropped it. I - I even remember Lamar 'cause Lamar was layin' down right there, and I dropped it right there where he was layin' at in the backyard. I dropped that motherfucker, and hopped over the wall and left.

CJ: So, did Lamar shoot?

ST: I - man, I mean, sh- it only makes sense. I mean, I left. I d- I'm tellin' you right now, I didn't...

CJ: So, after you left you're sayin' that Lamar picked up your rifle and shot...

ST: I can't say that.

CJ: ...(unintelligible)?

ST: I can't that that's what he did because I wasn't there. All I can say is that what I did, from when I got shot, from the owner shootin' through the door or shootin' through the door or shootin' however - wherever he was shootin' from and shot me in my leg,

I turned around and ran. It wasn't no I'm about to be Superman, and try to kill everybody and oh, I'm about to shoot them. Nah, because I didn't really want it to go down like that anyway. You know what I mean? Like, it was just - I was supposed to just go - it was just supposed to go...

CJ: So, okay, you go - okay, let's be real here, man.

ST: Yeah.

CJ: You go to this house with guns.

ST: but that wasn't - I didn't...

CJ: You've got a rifle.

ST: Yeah, but it wasn't - it wasn't - it was for intimidation factor. It wasn't even like I was about to just go in here and just - it was just to - just intimidation and once I seen...

CJ: Tell me the story about what you were goin' there for.

ST: I was goin' over there to get some weed, man.

CJ: From who?

ST: From the person, whoever - whoever lived there, so...

CJ: How did you know that you're - that they had weed?

ST: Because I knew them from a long, long time ago.

CJ: You've been to that house before?

ST: Yeah, a long, long time ago.

CJ: How long is a long, long time ago?

ST: Psh, two years, maybe.

CJ: Okay.

ST: Yeah, like, two, three years. And like I'm tellin' you right now...

CJ: You haven't been there since?

ST: And I have not been there since. And in two, three years I stop - like I said, I - I knew there was a bunch of weed in there. That's the only reason why I knew that. So, I - that's when I told Lamar, like, about, you know, she be havin' hella weed or whatever whoopee wham, and he was, like, "Oh, well -" he was, like, "Shit, well, oh, you think it's gonna be easy? You think we can do it? Whoopee wham wham." I'm, like, "I don't know, bro, I don't - maybe. I mean, shit, we can try. I mean, fuck it." That was stupid on my part. But we went and, like I s- I can't regret it - regret it now. We went. We parked - we parked the car, hopped over the wall. We was walkin' through that backyard, like I said, and somebody started shootin'. And I - it wasn't the police 'cause if the p- if it was the police that started, that shot me in the leg, then they would've been - it would've been noticeable. They woulda been sayin' freeze, you know what I mean, or, like, hands up. There woulda been flashlights. It wouldn't have just been pitch black in the backyard with somebody yellin' and start shootin'. That don't - I mean, as soon as - as soon as they shot me, I'm outro. I'm runnin'. I - I leave everything. I don't even care 'cause I - I just ran. I never been shot before so the adrenaline was - was fuckin' with me. But I'm tellin' you right now, I can look at

you, I mean, I'm sure you hear this 1,000 times from everybody, but the type of person I am, I'm not gonna shoot a police officer, especially everything that they got goin' on right now. CNN and everywhere you turn it's either an officer killin' somebody or somebody killin' an officer. I'm not - I don't wanna be a part of that at all. You know what I mean? It was a dumb decision on my part last night. Yes, it was a very dumb decision on my part to even try to go get some weed. It wasn't even that serious. You know what I mean? I - my payday was today. You know what I mean? Like, that was just retarded of me to do somethin' like that, but as far as shooting a gun, I never shot a gun. That's the thing about it. As soon - as soon - as soon as I got shot I ran. You g- I mean, shit, you can look at the wall. I'm sure it might be my - might be blood on the wall from where I hopped that back there. And I hopped and I ran across the street 'cause by the time I left the side of the house is - the sun was comin' up by then. When we first got there the sun wasn't up, so I was - I was, like - once I hopped over the wall I was gone, like, right there by that - like I said, by that house there for a minute. You know what I mean? And then that's when I left and then ran into the officers and everything like that. But when I was there at that - when I left, I left Lamar there. That's what I said. I didn't know what happened to Lamar. I didn't know what bro was doin', nothin'. You know what I mean? I'm not gonna lie, it was at that point, when I started hearin' gunshots, it's like every man for himself. You know what I mean? I just dropped everything and I just ran. You feel me? I don't know what - what he did after I - once I hopped over that wall and left. I can't speak on that because I was gone.

CJ: Who was with you in the car when - when, uh, you got in the car?

ST: Lamar. It was me and Lamar.

CJ: And where did he get - where'd you - where'd you guys meet up or where'd he pick you up or what?

ST: He just picked me up from the house and everything.

CJ: From this, uh, 5904 Eugene?

ST: Yeah, and then we drove over there.

CJ: You guys hang out a lot together or what?

ST: Yeah, we hang out. I mean, we - like, we was hangin' out a lot and then we had, like, got into it a little bit. He was talkin' about, like - talkin' about my music and everything like that, so we had got into it, like, just words, nothin' physical, nothin' like that, and then we stopped talkin' to each other for, like, a month. And then I ended up hittin' him up, like, I wanna say a few weeks ago 'cause I just lost one of my homeboys back in San Diego, so I'm, like, time is too short. So, I called him and was apologizin' to him, tellin' him, you know what I mean, how, I mean, "I'm sorry, bro. It's - the world too short," you know what I mean, " for people to - for us to be even beefin' like this when we used to be homies and listen to beats together and everything." And he ended up squashin' it. He was, like, "it's good." You know what I mean? And, shit, we was chillin'. He would come through and we would smoke together and some bullshit. And then that's when he hit me with that, like, "Oh, what's up with that -

what's up with that lady? Don't you got a lady? You - you - you - what's up with that house over there?" And I - I had mentioned it to him, like, a long time ago. I was, like, but (unintelligible) 'cause we was just smokin' and (unintelligible) over there. And he was, like, "All right." So, that's when he asked me, like, and I'm, like, "I don't know, man." And that's - I - I - it was a dumb decision on my part, period. I shoulda never even entertained the thought or nothin'. It's, I mean, I'm wrong for that. You know what I mean? Like, and it is, it's all - it's my fault. You know what I mean? I shouldn't - I shouldn't have did that. But me and Lamar, like, we been cool. He hang out with my uncle. You know what I mean? He call my uncle and everything. He come through and we barbecue, all kinds of shit. That's why I be, like, I don't understand this. And then - then it comes to me bein' back there with him. I'm tellin' you, I get shot and I run. I just took off, man. I didn't stay. Now, I- like, if the police were there and the police - if the police - they not just gonna start shootin'. The police gonna tell you, they gonna give you orders to follow before they just start shootin', so that's how I know the police weren't there when I was there because there was no orders. There was no fl- I heard somebody inside yellin', "Yeah, what the fuck? What the fuck," boom, boom, boom. And then that's when I was, like, "Oh, shit," and I felt - like, I just felt pressure on my leg, and then that's when I just went. I turned around and just hopped over that fence, man, uh, up the wall on Rainbow and just took off across the street. And then Lamar was still, like, well, when we got hit he fell down and he was layin' there. And then I just ran. I dropped everything and just ran right over the wall. And say - if he sayin' that - somethin' different than that he

lyin' like a motherfucker because he know - I looked at him. He - he seen - I - I seen him. Like, he fell and it was, like, "Brother," I'm, like, "Come on, Nigger," and I'm runnin'. So, anything after that, whatever happened after that is - I wasn't there. Like I said, I was layin' on that couch for I don't even know how long, but I know the sun was up by the time I started walkin' to the store. It was that long, and then that's when I seen the police, and that's when I was, like, "Damn," and I seen everybody was still outside. That's when I was, like, this - this is a big deal, like, I wonder - I mean, what - I be, like, they really doin' this for that right there. And then that's when the officer - the officer didn't even tell me that until I got to the hospital. That's why I told him, bein' stupid, like, "My name is Devonte." I was, like, "No, I wasn't over there." I did, I lied to the officer at first and told him I wasn't - I told him I was walkin' to my homeboy house that stay up the street. You know what I mean? And then he was, like, uh - that's when we got to the hospital and I'm, like, "Well, what's my charges?" You know what I mean? He was, like, "attempted murder on a police officer." That's no - I was, like, "Wait, what? A police officer?" He said, "Yeah," and, like, you know, "Why you think all the news cameras is around?" I'm, like, "Are you serious?" Like, I didn't even know the police were even - I - well, I figured they was there afterwards but as far as attempted murder with - with me and him, like, that's - I don't understand that. It's not even - I been sittin' here thinkin' to myself, like, "How the fuck - how the fuck did the police officer get shot?" 'Cause I didn't even shoot a gun. I'm tellin' everybody. I got shot. I'm not even - this is my first time I ever got shot so I'm not thinkin' oh, let's shoot back, I'm gonna shoot back. Like, nah, I'm

panicked. I get scared, you know, I'm gonna run away, period. And that's exactly what happened, no BS. I never, ever pulled a trigger of no gun, period. When I got shot, I ran.

CJ: How did you and, uh, Lamar - uh, did he just come over to the house? Did he call ya, text ya or what that he was comin'?

ST: He had just...

CJ: How did you get hooked up?

ST: He just pulled up to the house. No, I think he called me. He called me and then he was, like, "Hey, I'm at the side door," or whatever, and I was, like, "All right. For sure. I'm at the house." 'Cause I had just gotten off of work and, like, I had got off work 8:00. I got over there by my house, 'cause I ride the bus, so I don't get home 'til, like, 9:45. So then when I got there and then that's when he ended up pullin' up when I was at the house. I was smokin' out - I was outside smokin' a cigarette, and then that's when he pulled up. Then he hopped out and we was just t- talkin' like we regularly be talkin'. And he was, like, "Hey, what's up," you know what I mean, "Let's go see what's up with that shit." I'm, like - like I said, it was a dumbass - dumbass decision and I completely...

CJ: Tell me about the, uh - the white Nissan Maxima you guys were hangin' around.

ST: White Nissan Maxima?

CJ: A white Nissan Maxima.

ST: Hangin' out around where?

CJ: Right there in that cul-de-sac.

ST: I don't know a white Nissan.

CJ: And this is - this is - this is what I've got. I've got you standin' at the back of a white Nissan M- uh, Maxima with the trunk up.

ST: By a white Nissan Maxima? I was never in a white Nissan Ma- we was in his car. It was a beige Camry that he drive. I wasn't - a white Nissan Maxima? I don't know no white Nissan Maxima. That's on everything I love. When I got - I'm tellin' you the truth, bro. He came and picked me up in his car. Where - why would there be a white Nissan Maxima?

CJ: Well, that's what I'm askin' 'cause I've got - there's, like, what, five or six homes right around that cul-de-sac.

ST: Yeah, yeah.

CJ: I mean, homes down the side of the street gettin' into that cul-de-sac, and I've got you in a car right there with the trunk open standin' at the back of the trunk with Lamar and one other guy.

ST: And one other guy? There wasn't nobody else with us. It was me and - unless I'm fuckin' - unless I'm really fuckin' delusional right now, there was nobody else with us. It was me and Lamar.

CJ: Tell me about the guns.

ST: Like I said, he had whatever he had and that was the SK that my - that I took out the house.

CJ: What about the little handgun?

ST: I don't know about a little handgun.

CJ: 'Cause...

ST: Like I said, 'cause it was only me and him so I don't know about...

CJ: Okay, so there's a little handgun and he's - the - the and, uh - uh, Lamar's tellin' me you had the handgun and gave it to him.

ST: Are you serious?

CJ: I'm serious, dude.

ST: No, he - I - he had a - he has a handgun that he showed me, like, two weeks ago and that...

CJ: Tell me about it.

ST: ...was a little .22. A little small .22 pistol that he had.

CJ: Okay.

ST: He showed me a small .22 pistol, like, two, three weeks ago, and I was, like, oh okay or it's a .25 or somethin'. I'm, like, oh, okay, that's what's up. You know what I mean? And...

CJ: Where did he say...

ST: And - and...

CJ: ...he got it?

ST: Beats me. I didn't ask him where he got it but I'm sure he bought it off the street somewhere. You feel me? That's what I took it as was he just bought it off the street. But he came and showed me and was, like, "Yeah, look. I got this right here." Then he tried to get the other homie up the street, John, took him to go take him to the gun show. Like, and this was, like, not even a month ago when they had the gun show at, um -- what's that -- Santa Fe Station. They had a gun show over there. He had the homie, John, go take him over there. He bought bullets for - he bought shotgun bullets, I guess, and .25 bullets is what John told me. This is when I wasn't talkin' to him when he did this. And then John was, like, "Oh, yeah, you know he just went and bought a gang of bullets," like, tryin' to be funny, like, "He fittin' to come get ya." I'm, like, "Man, I'm not worried about that." You feel me? But I said - other - another handgun or whatever that I gave to him or whatever, that's bullshit, period. That is not the truth, period.

CJ: So, when you got up to that - when you got into the cul-de-sac and he parked, you said he - if you're drivin' up into the cul-de-sac, you're sayin' he parked over here?

ST: Yeah, he parked, like - I can't really remember but I know it was on this side of the street somewhere.

CJ: Okay, and that's, uh - that's Lamar.

ST: Yeah. Now, this white Maxima or whatever that is, I really don't know where a white Maxima is comin' from...

CJ: Okay.

ST: ...unless I'm delusional.

CJ: Did you guys open the trunk of that car?

ST: Um, I can't remember if they were in the backseat or not.

CJ: It - that wasn't that long ago, dude.

ST: I know it was just last night but I done ha- fuckin' sittin' in jail with a fuckin' attempted murder charge. I'm not about to get shit straight, like - but I wanna say they were in the backseat.

CJ: Okay. You go get in the backyard of this house, right?

ST: Right.

CJ: How'd you get into that backyard?

ST: We hopped over the wall.

CJ: Did you guys exchange guns or just throw your gun over and...

ST: Nah.

CJ: ...climb over the fen-...

ST: Just set it over - yeah, clim- hopped over.

CJ: Okay. Now you get in the backyard.

ST: Yeah.

CJ: And you told my partner everything about what you did in the backyard?

ST: Yeah, pretty - yeah, I told him I was back there. We was tryin' to see if they're - I'm lookin'. I see it was dark, see if there was anybody in there. And I said that little - that little fan that's right here on the window, I see that that lifts up or whatever. And then that's when I'm, all right, then we walk around. I wanna say we went to the - nah, we didn't even go back to the car. We walked and checked the other side of the backyard, and then we were walkin' straight across the backyard. As we're walkin' straight across the backyard is when I hear the homeowner goin', "What the fuck? What the -" and starts shootin'. It's me and Lamar. I swear if it was somebody else you damn right I'm about to tell who it is and they gonna be sittin' here dealin' with this with me, like, period. I'm not gonna be dealin' with this by myself and knowin' there's some other - some other dude that's out there that probably is the one that was shootin' back, you know what I mean, and was out there. I don't know. It was me and Lamar 'cause I know me and Lamar were walking together, side by side in the backyard. And then I got hit right here on my calf and I think - I just seen the bandage, I think he got hit on his wrist. But we're walkin' right next to each other, boom, boom, and as soon as I see him, he drops. He fell - he fell right there in front of me and was, like, "Oh, shit. Oh, shit." And then that's when I hear the person in the house, and then that's when I turn around, and I run and I hop over the wall. On me, you can go back to that house and check that back wall. There's gonna be blood somewhere on that back wall from my leg bleedin', and I hopped over it.

CJ: Okay. So you're sayin' there's not a third person.

ST: No, I...

CJ: And you're sayin' that, uh, Lamar picked you up at your house on Eugene.

ST: Yeah.

CJ: And you came out the house with your SK, right?

ST: Yeah.

CJ: Yeah? And you say you stole your SK from who?

ST: I stole it from my uncle.

CJ: Where's your uncle live?

ST: He's - right now he's stayin' with us right now.

CJ: So was it at your house or?

ST: Yeah, it was at our house.

CJ: So you took it out the house, went and got in the car with Lamar.

ST: Went and got in the car with Lamar.

CJ: Okay, Lamar had a - uh, what was - describe Lamar's gun.

ST: He had a - he had a shotgun. I think he had a .12 gauge 'cause he'd been buyin' - tellin' me he be buyin' shotgun shells. Well, John told me that one time so, you know...

CJ: Do you know where - do you know where he lives?

ST: Who? John?

CJ: Lamar.

ST: Lamar? Kinda sorta. I know he don't stay far from me, like, around the corner and to the left. Yeah, I know where his house, like, kinda sorta is.

CJ: Okay. So, you pull up to the house together.

ST: Together?

CJ: You leave - you leave Lamar's house or you leave your house...

ST: My house together.

CJ: ...and there's just the two of you in that car?

ST: It's just the two of us. My mom - I think my - yeah, my fiancé was outside and my aunt. They were all outside for a minute.

CJ: They saw you walk out with the rifle?

ST: Nah, they didn't - they didn't see me walk out with the rifle 'cause I'm out there just talkin' to 'em while they was outside. And then while we just talkin' then they go inside. My mom go in her room and do - go to sleep and whatever, get ready for work. My auntie and my fiancé, they go in my room 'cause they just go in there usually and listen to music and shit while they spendin' time together, thinkin' I'm out here just talkin' with him. So - so I see them I'm, like, "All right." So we go inside. He's, like, "You gonna grab it?" So, I'm, like, "All right, fuck it. I'll grab it." 'Cause at

first I was, like, "But you got a shotgun," like, "you don't even - what you - that - that should be intimidation enough." You know what I mean? Just to scare somebody. You feel me? He's, "Well, you gonna grab it?" I'm, like, "All right, well, fuck it." Then I ended up -- dumbass decision -- and I brought it with me. Like I said, once we got there it was me - me and Lamar left together and we pulled up to that house together. If he's tellin' you it was a third person or whatever or you see it on camera or whatever, that's not - that - either that - that's not me - that's not us on there that you lookin' at by that white Maxima because we came there in the Camry. 'Cause his car was there, right, when y'all got there? That's the car I rode in with Lamar.

CJ: Talkin' about the SK, how'd you know whether it was loaded or not?

ST: I just popped it off and then once I popped it off, and then I seen it, and I was, like, all right, and I thought it was to...

CJ: You're - you're talkin' about the magazine? You popped...

ST: Yeah.

CJ: ...the magazine?

ST: The magazine part off. And I looked and then I was, like, damn it look kinda full, so I had took some out when I was at the house and I put it back in. And then that's when we got in the car.

CJ: Okay, um, you ever shot that rifle before?