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IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN TURNER,)	No. 76465
)	
Appellant,)	Electronically Filed
)	Feb 04 2019 12:31 p.m.
v.)	Elizabeth A. Brown
)	Clerk of Supreme Court
THE STATE OF NEVADA,)	
)	
Respondent.)	
)	

APPELLANT’S APPENDIX VOLUME IV PAGES 722-867

DARIN F. IMLAY	STEVE WOLFSON
Clark County Public Defender	Clark County District Attorney
309 South Third Street	200 Lewis Avenue, 3 rd Floor
Las Vegas, Nevada 89155-2610	Las Vegas, Nevada 89155
Attorney for Appellant	AARON FORD
	Attorney General
	100 North Carson Street
	Carson City, Nevada 89701-4717
	(702) 687-3538
	Counsel for Respondent

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STEVEN TURNER
Case No. 76465

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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.

Felony/Gross Misdemeanor

COURT MINUTES

November 30, 2017

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

November 30, 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:

Alexander J. Hubert Attorney for Defendant

Leah C Beverly Attorney for Plaintiff

Public Defender Attorney for Defendant

State of Nevada Plaintiff

Steven Turner Defendant

JOURNAL ENTRIES

Mr. Hubert present on behalf of Ms. Machnich. Co-Defendant and counsel also present. Court advised parties that redactions and Court's proposed redaction incorporated into one collective set. Copies provided to all counsel for review. COURT ORDERED, matter set for hearing on redactions.

CUSTODY

12/14/17 9:00 a.m. Pretrial Conference - In Re: Redactions

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

Felony/Gross Misdemeanor

COURT MINUTES

March 06, 2018

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

March 06, 2018 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:

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

Pretrial Conference ... Defendant Turner's Motion to Suppress Statements and Request for Jackson v. Denno Hearing ... Defendant Turner's Motion in Limine

Co-Defendant and counsel also present. State having filed opposition to Defendant's motions, COURT ORDERED, CONTINUED for Defendant's response.

CUSTODY

CONTINUED TO:
03/22/18 9:00 a.m.

Felony/Gross Misdemeanor

COURT MINUTES

March 22, 2018

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

March 22, 2018 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:

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

Pretrial Conference ... Defendant's Motion in Limine ... Defendant's Motion to Suppress Statements and Request for Jackson v. Denno Hearing

There being no opposition to admission with foundation and proper authentication, COURT ORDERS, ruling on Defendant's Motion in Limine DEFERRED until time of trial; before text messages will be admitted, proper authentication must be made.

Arguments by counsel, Court continued matter to chambers for further consideration and to review the audio of third police interview that State will provide to chambers. MATTER SET FOR DECISION.

Co-Defendant's and counsel present. Parties anticipate ready for trial and estimate 1 1/2 to 2 weeks. Colloquy regarding scheduling priority on stack. Following conference at the bench, Court anticipates being able to give parties a firm trial setting and will review trial stack. COURT ORDERED, Pretrial Conference is CONTINUED.

State advised regarding negotiations and intends to revoke the offer on both Defendants if Mr. Hudson is not taking the offer. Conference at the bench. Ms. Beverly stated the offer was for a plea to one count of attempt murder with use of a deadly weapon and one count of conspiracy to commit burglary; State retains right to argue, but State would not ask for more than ten years on the deadly weapon enhancement. Upon Court's inquiry, Mr. Turner wanted to accept the plea, but State notes the offer is contingent. Defendant Hudson rejected State's plea offer on the record. State formally withdrew offer to Defendants Turner and Hudson.

Colloquy regarding pretrial. Court advised trial instructions will be announce at calendar call; and motions need to be filed and heard by calendar call.

CUSTODY

03/29/18 9:00 a.m. Decision - Defendant Turner s Motion to Suppress Statements and Request for Jackson v. Denno Hearing

Printed Date: 3/30/2018

Page 1 of 2

Minutes Date:

March 22, 2018

Prepared by: Alan Castle

Felony/Gross Misdemeanor

COURT MINUTES

March 29, 2018

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

March 29, 2018 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:

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

Decision - Defendant's Motion to Suppress Statements and Request for Jackson v. Denno Hearing ..
Pretrial Conference

Court having reviewed the audio from the third interview with Las Vegas Metropolitan Police Department (LVMPD) and the pleadings FINDS Defendant made an unequivocal statement that he wished to invoke his right to counsel; and, the interview should have terminated at that point. COURT ORDERED, Defendant's Motion to Suppress Statements is GRANTED. FURTHER, Defendant's Request for Jackson v. Denno Hearing is MOOT. Ms. Machnich to prepare the order.

Co-Defendant and Defendant's counsel present. Court advised FIRM Setting on trial stack. Parties announced ready.

CUSTODY

Felony/Gross Misdemeanor

COURT MINUTES

April 10, 2018

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

April 10, 2018 09:00 AM Calendar Call - Firm

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Public Defender Attorney for Defendant

State of Nevada Plaintiff

Steven B Wolfson Attorney for Plaintiff

Steven Turner Defendant

Tegan Machnich Attorney for Defendant

JOURNAL ENTRIES

Counsel for Co-Defendant also present. Parties announced ready for trial and estimated 3 WEEKS for trial. Court advised parties of trial schedule and ORDERED, trial date set.

CUSTODY

04/16/18 1:00 p.m. Jury Trial (Courtroom TBD)

Felony/Gross Misdemeanor

COURT MINUTES

April 16, 2018

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

April 16, 2018 01:00 PM Jury Trial - FIRM

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY Amended INDICTMENT FILED IN OPEN COURT. Prospective Jury present.

Jury Selection CONTINUED. Evening recess.

CUSTODY

CONTINUED TO:
04/17/18 9:00 a.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 17, 2018

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

April 17, 2018 11:00 AM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

Jury selected and sworn. Evening recess.

CUSTODY

CONTNUED TO:
04/18/18 1:00 p.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 18, 2018

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

April 18, 2018 01:00 PM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

JURY PRESENT. Court instructed Jury on trial proceedings. Indictment read to the Jury and Defendant's pleas stated thereto. Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE OF THE JURY Evidentiary hearing held. Testimony and exhibits presented. (See worksheets) Arguments by counsel. Court Finds relationship is established that Defendant knows Victim and that Defendant has been to Victim's home on prior occasion. Court limits line of questioning.

JURY PRESENT. Further testimony and exhibits presented. (See worksheets) Evening recess. Trial continues.

CUSTODY

CONTINUED TO:
04/19/18 11:00 a.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 19, 2018

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

April 19, 2018 11:00 AM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

JURY PRESENT. Further testimony and exhibits presented. (See worksheets) Evening recess. Trial continues.

CUSTODY

CONTINUED TO:
04/20/18 11:00 a.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 20, 2018

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

April 20, 2018 11:00 AM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

JURY PRESENT. Further testimony and exhibits presented. (See worksheets) Jury admonished and excused for the weekend. Evening recess. Trial continues.

CUSTODY

CONTINUED TO:
04/23/18 11:00 a.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 23, 2018

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

April 23, 2018 11:00 AM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

JURY PRESENT. Further testimony and exhibits presented. (See worksheets) Evening recess. Trial continues.

CUSTODY

CONTINUED TO:
04/24/18 1:00 p.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 24, 2018

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

April 24, 2018 01:00 PM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

JURY PRESENT. Further testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY hearing and argument by counsel regarding scope of expert Witness testimony and 'stippling' referenced by Witness. Defendant admonished regarding his right not to testify Evening recess. Trial continues.

CUSTODY

CONTINUED TO:
04/25/18 1:00 p.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 25, 2018

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

April 25, 2018 01:00 PM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

OUTSIDE THE PRESENCE OF THE JURY argument by counsel regarding scope of expert Witness testimony and 'stippling'; request for judicial notice of stippling from medical dictionary. JURY PRESENT. Jury admonished and excused for the day. OUTSIDE THE PRESENCE OF THE argument by counsel regarding 'stippling'. Evening recess. Trial continues.

CUSTODY

CONTINUED TO:
04/25/18 1:00 p.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 26, 2018

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

April 26, 2018 01:00 PM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

JURY PRESENT. State rests. Defendant Turner rests. Defendant Hudson rests. Court instructs the Jury. Closing arguments by counsel. Evening recess. Trial continues.

CUSTODY

CONTINUED TO:
04/26/18 1:00 p.m.

Felony/Gross Misdemeanor

COURT MINUTES

April 27, 2018

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

April 27, 2018 09:30 AM Jury Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

JURY PRESENT. Marshall and Matron sworn and given charge of the Jury. At the hour of 9:30 a.m. the Jury Retired to Deliberate.

At the hour of 1:36 p.m. the Jury returned with VERDICTS of: COUNT 1 - GUILTY OF CONSPIRACY TO COMMIT BURGLARY (F); COUNT 2 - GUILTY OF ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON (F); COUNT 3 - GUILTY OF ATTEMPT MURDER WITH DEADLY WEAPON (F); COUNT 4 - GUILTY OF ATTEMPT MURDER WITH A DEADLY WEAPON (F); COUNT 5 - GUILTY OF BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (F). Jury polled. Court Thanked and Excused the JURY. DEFENDANT REMANDED to CUSTODY; NO BAIL. OUTSIDE THE PRESENCE OF THE JURY COURT ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for sentencing.

CUSTODY

06/21/18 9:00 a.m. Sentencing (Jury Verdict)

Felony/Gross Misdemeanor

COURT MINUTES

May 31, 2018

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

May 31, 2018 09:00 AM Defendant's Motion for New Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

Leah C Beverly Attorney for Plaintiff

Public Defender Attorney for Defendant

State of Nevada Plaintiff

Steven Turner Defendant

JOURNAL ENTRIES

Ms. Plunkett confirmed as counsel for Co-Defendant, who is not on calendar. Court notes no motion or Joinder filed. Arguments by counsel. COURT FINDS State responded that NIBIN report does not exist. Further arguments by counsel. Ms. Sisolak advised she has evidence that refutes State's claim. Court suggested State to obtain LVMPD procedural history regarding the report. At the request of parties, Court ORDERED, Defendant Turner's Motion for New Trial is CONTINUED for supplemental pleadings. Defendant's supplement DUE 6/14/18; State's supplement DUE 6/18/18 with courtesy copies to chambers and matter set for further proceedings.

CUSTODY

CONTINUED TO:
06/19/18 9:00 a.m.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 19, 2018

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

June 19, 2018 09:00 AM Defendant's Motion for New Trial

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak Attorney for Defendant

John Giordani Attorney for Plaintiff

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

Further arguments by counsel. COURT ORDERED, Defendant Turner's Motion for New Trial is DENIED based on the record before the Court.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 21, 2018**

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

June 21, 2018 09:00 AM Sentencing

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

COURT CLERK: Castle, Alan

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Ashley L. Sisolak	Attorney for Defendant
John Giordani	Attorney for Plaintiff
Public Defender	Attorney for Defendant
State of Nevada	Plaintiff
Steven Turner	Defendant
Tegan Machnich	Attorney for Defendant

JOURNAL ENTRIES

By virtue of the Jury's Verdicts and pursuant to Statute, DEFT TURNER ADJUDGED GUILTY of COUNT 1 - CONSPIRACY TO COMMIT BURGLARY (GM); COUNT 2 - ATTEMPT BURGLARY WHILE IN POSSESSION OF A FIREARM OR DEADLY WEAPON (F); COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F); COUNT 4 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F); and COUNT 5 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (F). Witnesses sworn and testified (See worksheet.) Arguments in mitigation and aggravation of sentence. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee including testing to determine genetic markers, \$3.00 DNA Collection fee, and \$9,099.98 Restitution (VC2253860-JEREMY ROBERTSON) JOINTLY AND SEVERALLY WITH CO-DEFENDANT, Deft. SENTENCED as to COUNT 1 to 364 DAYS in the Clark County Detention Center; SENTENCED as to COUNT 2 to a MAXIMUM of SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT WITH COUNT 1; SENTENCED as to COUNT 3 to a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and MINIMUM of FORTY EIGHT (48) MONTHS in NDC, PLUS a CONSECUTIVE MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and MINIMUM of THIRTY SIX (36) MONTHS in NDC for Use of a Deadly Weapon, CONCURRENT WITH COUNT 2; SENTENCED as to COUNT 4 to a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and MINIMUM of FORTY EIGHT (48) MONTHS in NDC, PLUS a CONSECUTIVE MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and MINIMUM of THIRTY SIX (36) for Use of a Deadly Weapon, CONSECUTIVE TO COUNT 3; SENTENCED as to COUNT 5 to a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS and MINIMUM of THIRTY SIX (36) MONTHS in NDC, CONCURRENT WITH COUNT 2; COURT FINDS an AGGREGATE TOTAL SENTENCE of a MAXIMUM of FOUR HUNDRED EIGHTY (480) MONTHS and MINIMUM of ONE HUNDRED SIXTY EIGHT (168) MONTHS NDC with 1,022 DAYS credit for time served. CASE CLOSED.

NDC



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,)
8 Plaintiff,)

CASE#: C-15-309578-1
C-15-309578-2

9 vs.)

DEPT. XVIII

10 STEVEN TURNER,)
11 CLEMON HUDSON,)

12 Defendants.)

13 BEFORE THE HONORABLE DAVID BARKER, SENIOR DISTRICT COURT JUDGE
14 WEDNESDAY, SEPTEMBER 23, 2015

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
16 **GRAND JURY INDICTMENT RETURNS**

17 APPEARANCES:

18 For the State:

TINA TALIM, ESQ.
Chief Deputy District Attorney

19
20 For Defendants:

No Appearances

21 ALSO PRESENT:

ANN KLING
Grand Jury Foreperson

22
23
24
25 RECORDED BY: CHERYL CARPENTER, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, September 23, 2015

2
3 [Proceedings began at 11:45 a.m.]

4 MS. TALIM: Your Honor, yesterday the Grand Jury met on
5 Grand Jury case number 15AGJ055A and B, and by a vote of 12 or
6 more returned a true bill against Steven Turner and Clemon Hudson on
7 one count conspiracy to commit burglary; one count attempt burglary
8 while in possession of a firearm or deadly weapon; two counts attempt
9 murder with use of a deadly weapon; one count battery with use of a
10 deadly weapon resulting in substantial bodily harm, and one count
11 discharge firearm at or into occupied structure, vehicle, aircraft, or
12 watercraft.

13 THE COURT: Ms. Kling, did 12 or more members of the
14 Grand Jury concur in finding a true bill as to each count on these
15 Defendants?

16 THE FOREPERSON: They did, Your Honor.

17 THE COURT: Very well. It will be assigned case number
18 309578. Tracking is to Department II.

19 What is the request, warrant or summons?

20 MS. TALIM: Your Honor, the State is requesting a warrant in
21 the amount of \$500,000. That was the amount set down in Justice
22 Court VIII.

23 THE COURT: So the action's pending out of Justice Court.
24 \$500,000 bench warrant issued as to each. Both, per Court staff, are in
25 custody?

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MS. TALIM: Yes, Your Honor.

THE COURT: So one week return in Department II.

THE COURT CLERK: October 1st at 9 a.m.

THE COURT: Is there a case to be dismissed?

MS. TALIM: Yes, Your Honor, 15F13307A and B. Prelim in Justice Court VIII on -- pardon me, September 24th.

THE COURT: The case is dismissed. Exhibits 1 through 59 have been lodged with the Clerk of the Court.

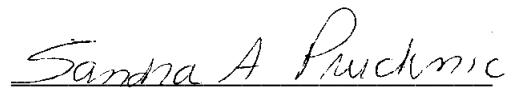
MS. TALIM: Thank you.

THE COURT: Thank you.

[Proceedings concluded at 11:46 a.m.]

* * * * *

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


SANDRA PRUCHNIC
Court Recorder/Transcriber

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


Jessica Kirkpatrick
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

STEVEN TURNER,
CLEMON HUDSON,
Defendants.

S.C. CASE#: 76465
D.C. CASE#: C-15-309578-1
D.C. CASE#: C-15-309578-2

DEPT. 2

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
THURSDAY, OCTOBER 1, 2015

**RECORDER'S TRANSCRIPT OF HEARING:
INITIAL ARRAIGNMENT; INDICTMENT WARRANT RETURN**

APPEARANCES:

For the State: LEAH C. BEVERLY, ESQ.
Deputy District Attorney

For Defendant Turner: TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

For Defendant Hudson: JESS R. MARCHESE, ESQ.

RECORDED BY: ELSA AMOROSO, COURT RECORDER

1 Las Vegas, Nevada, Thursday, October 1, 2015

2

3 [Hearing began at 9:15 a.m.]

4 THE COURT: If all counsel are present, this is State of
5 Nevada versus Steven Turner, C309578-1, and State of Nevada
6 versus Clemon Hudson, C309578-2. Looks like the Defendants are
7 present and in custody. Mr. Steven Turner, which one -- is that you,
8 sir?

9 DEFENDANT TURNER: Yes.

10 THE COURT: Alright, hello, sir.

11 DEFENDANT TURNER: Doin' alright.

12 THE COURT: And then we also have Clemon Hudson. Is
13 that you, sir?

14 DEFENDANT HUDSON: Yes, sir.

15 THE COURT: Alright, hello, sir.

16 DEFENDANT HUDSON: Hello.

17 THE COURT: Alright, Defendants are present, in custody.
18 And who are their counsels?

19 MS. MACHNICH: Your Honor, Tegan Machnich here on
20 behalf of Mr. Turner who is present and in custody.

21 MR. MARCHESE: And Jess Marchese on behalf of Mr.
22 Hudson, he's present in custody.

23 THE COURT: Counsel, I understand -- is this the time for
24 initial arraignment?

25 MS. MACHNICH: It is, Your Honor. Today Mr. Turner

1 and, I believe, Mr. Hudson as well will be pleading not guilty,
2 waiving the reading of the Information and asking to set the trial in
3 the ordinary course; so waiving the rights to a speedy trial.

4 Obviously I'll confirm with Mr. Hudson's attorney.

5 MR. MARCHESE: It's all correct, Your Honor.

6 THE COURT: Excellent. Well, let's check with the
7 Defendants and see what they want to do.

8 Mr. Turner, sir, I need to canvas you briefly, ask you some
9 questions to confirm to find out what your plea is in this case and to
10 make sure you understand the charges against you. So, first of all,
11 sir, please state your full name.

12 DEFENDANT TURNER: Steven Anthony Turner, Junior.

13 THE COURT: Sir, how old are you?

14 DEFENDANT TURNER: I'm 24.

15 THE COURT: How far did you go in school?

16 DEFENDANT TURNER: Eleventh grade.

17 THE COURT: Do you read, write and understand the
18 English language, sir?

19 DEFENDANT TURNER: Yes, sir.

20 THE COURT: Sir, have you received a copy of the
21 indictment that was filed on September 23, 2015 in this case
22 charging you with conspiracy to commit burglary, a gross
23 misdemeanor, attempt burglary while in possession of a firearm or
24 deadly weapon, a Category C felony, attempt murder with use of a
25 deadly weapon, a Category B felony, battery with use of a deadly

1 weapon resulting in substantial bodily harm, a Category B felony,
2 and discharging firearm at or into occupied structure, vehicle, aircraft
3 or watercraft, a Category B felony? Have you, in fact, received a
4 copy of that indictment, sir?

5 DEFENDANT TURNER: Yes, sir.

6 THE COURT: Have you had an opportunity to read it, sir?

7 DEFENDANT TURNER: Yes, sir.

8 THE COURT: And have you had an opportunity to discuss
9 that indictment and your case with your attorney?

10 DEFENDANT TURNER: Yes, sir.

11 THE COURT: Sir, how do you -- let me ask your counsel.
12 Counsel, do you waive the reading, I think you said that on the
13 record, let's say it again. Do you waive the reading of the
14 indictment as well as the list of witnesses that's attached to the
15 indictment?

16 MR. MACHNICH: Yes, Your Honor.

17 THE COURT: Alright. Then, sir, Mr. Turner, how do you
18 plead to the charges against you in the indictment?

19 DEFENDANT TURNER: Not guilty.

20 THE COURT: A not guilty plea shall be entered. Sir, you
21 have a right to a trial within 60 days. Do you wish to waive your
22 right to a speedy trial, sir?

23 DEFENDANT TURNER: Yes.

24 THE COURT: The Court will set a trial date in the ordinary
25 course.

1 MS. BEVERLY: Your Honor, I'm sorry. We're asking if
2 possible, if it's convenient with the Court's schedule, and this is Mr.
3 Coumou's case and mine as well as we are asking if possible for
4 some time in the beginning of March or later in April into May, if
5 Your Honor can accommodate that.

6 THE COURT: Ms. Machnich, what is your preference on
7 trial?

8 MS. MACHNICH: If Your Honor -- whatever Your Honor
9 has in stack in that time period is fine.

10 THE COURT: Alright, what about the co-defendant?

11 MR. MARCHESI: Ms. Beverly brought up that issue to
12 me. We have no objection. I mean, our hope is to resolve the case
13 but you never know.

14 THE COURT: Well, let's check and see what my stack
15 looks like in that time period.

16 THE COURT CLERK: You're good for March 7th, Your
17 Honor.

18 THE COURT: March 7th, it looks like will work. Does that
19 work for everybody?

20 MS. MACHNICH: It sounds like Mr. Coumou needs a little
21 bit later than that date because of his trial schedule.

22 MS. BEVERLY: Actually March -- do you have anything in
23 late April or early May?

24 THE COURT: We're checking.

25 MS. BEVERLY: Thank you.

1 THE COURT CLERK: May 9th.
2 MS. BEVERLY: That's perfect.
3 THE COURT CLERK: Okay, calendar call is May 5th at 9
4 a.m., jury trial is May 9th at 10 a.m.
5 MS. BEVERLY: Thank you.
6 THE COURT: So, Mr. Turner, you heard that your trial will
7 be May 9 at 9 a.m. and calendar call is May 5th at 9 a.m. You
8 understand that, sir?
9 DEFENDANT TURNER: Yes, sir.
10 THE COURT: Is there bail set in this case yet?
11 MS. BEVERLY: It's at 500,000 for each defendant.
12 THE COURT: Alright.
13 MS. MACHNICH: Yea, --
14 THE COURT: Alright, the Court's not going to modify bail
15 at this time and will consider any modification if a written motion is
16 filed; alright?
17 Anything else as to Mr. Turner:
18 THE COURT CLERK: State, can I get your name?
19 MS. BEVERLY: Leah Beverly, Bar number 12556.
20 THE COURT CLERK: Thank you.
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1 THE COURT: Counsel, anything else for Mr. Turner? Ms.
2 Machnich?

3 MS. MACHNICH: No, there's nothing further.

4 THE COURT: Okay, very good.

5 [Further proceedings for Defendant Hudson, not transcribed.]

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18 [Hearing concluded at 9:20 a.m.]

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

23 
24 DALYNE EASLEY
25 Court Recorder/Transcriber

CLERK OF THE COURT
Albert B. Hanson

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.

STEVEN TURNER,
Defendant.

S.C. CASE#: 76465
D.C. CASE#: C-15-309578-1
DEPT. 2

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
TUESDAY NOVEMBER 10, 2015

**RECORDER'S TRANSCRIPT OF HEARING:
DEFENDANT'S MOTION FOR BAIL REDUCTION**

APPEARANCES:

For the State: NOREEN C. DEMONTE, ESQ.
Chief Deputy District Attorney

For the Defendant: TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

RECORDED BY: ELSA AMOROSO, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, November 10, 2015

2

3 [Hearing began at 9:09 a.m.]

4 MS. MACHNICH: Tegan Machnich here on behalf of Mr.
5 Turner.

6 THE COURT: So, Page 23, State versus Steven Turner,
7 C309578.

8 MS. MACHNICH: Yes.

9 THE COURT: Alright and Mr. Turner is present and in
10 custody. Hello, sir.

11 THE DEFENDANT: How you doin'?

12 THE COURT: I'm doing fine, thank you. So Ms.
13 Machnich, this is a hearing on Defendant's Motion for Bail
14 Reduction. Would like to argue further?

15 MS. MACHNICH: Your Honor, I believe all of the
16 information that we have is presented in the briefing papers. So we
17 would submit on the briefing.

18 THE COURT: Any argument from the State, additional?

19 MS. DEMONTE: The State already reviewed the State's
20 opposition -- I mean, sorry, has the Court already reviewed the
21 State's opposition?

22 THE COURT: Yes, I have.

23 MS. DEMONTE: Then, State will submit on that as well.

24 THE COURT: Alright, so I've carefully reviewed the papers
25 filed by the parties and I've reviewed the standards for bail and bail

1 reduction. I read specifically NRS 178.498 and 178.4853. The
2 circumstances of this case do not warrant a bail reduction at this
3 time based on what the information that's available to the Court. So
4 I am denying this motion.

5 I want to remind the party's, looks like we have a trial date
6 set on May 9, 2016. Do you still anticipate keeping that?

7 MS. MACHNICH: I think so. This is Mr. Coumou's case
8 for the D.A.s. I will be working out with him. There's also another
9 co-defendant, so we certainly wouldn't be asking to change any
10 dates at this time.

11 THE COURT: Alright, well we'll keep it on calendar for
12 now and you'll let me know if something happens.

13 MS. MACHNICH: Thank you, I appreciate it, Your Honor.


14 THE COURT: Thank you.

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18 [Hearing concluded at 9:11 a.m.]

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

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24 DALYNE EASLEY
25 Court Recorder/Transcriber

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1 Las Vegas, Nevada, Tuesday, May 3, 2016

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3 [Hearing began at 9:21 a.m.]

4 THE COURT: Steven Turner, C309578.

5 MR. COUMOU: Good morning, Your Honor, Frank Coumou
6 on behalf of the State. There's also a co-defendant by the name of
7 Hudson on calendar.

8 THE COURT: Good, we'll call that as well. State versus
9 Clemon Hudson, C309578-2, attorney Wildeveld.

10 MR. HUBERT: Judge, we're waiting for Ms. Machnich on
11 the Turner matter.

12 THE COURT: Oh, right. So we will trail Pages 7 and 8.
13 Go ahead and sit down, gentlemen.

14 MR. COUMOU: Thank you, Judge.

15 [Hearing trailed at 9:21 a.m.]

16 [Hearing recalled at 10:14 a.m.]

17 THE COURT: Page 7, State versus Steven Turner,
18 C309578-1 and Page 8, State versus Clemon Hudson, C309578-2.
19 Those two go together?

20 MS. MACHNICH: Yes, Your Honor, they're co-defendants,
21 Tegan Machnich here on behalf of both. I'm standing in for Mr.
22 Hudson's counsel as well who was present; just a few minutes ago
23 had to run to another courtroom. We've spoken and we've all
24 agreed on a continued trial date.

25 THE COURT: Excellent, thank you. Alright, well, why

1 don't you speak to that, Ms. Machnich.

2 MS. MACHNICH: Your Honor, I believe that the date that
3 counsel's all agreed upon is December 5th.

4 MR. COUMOU: Well --

5 THE COURT: You said --

6 MR. COUMOU: Either December 5th or December the 12th,
7 one of those two.

8 MS. MACHNICH: And either of those were fine with both
9 defense counsel.

10 THE COURT: Hold on, December 5th or 12th? Is that -- my
11 criminal stack starts --

12 MR. COUMOU: Clerk is saying no.

13 THE COURT: Hold on.

14 THE COURT CLERK: They're full.

15 THE COURT: They're full?

16 THE COURT CLERK: They're full but stack them up.

17 THE COURT: Well wait a minute. Wait, those are criminal
18 stacks?

19 THE COURT CLERK: Yes.

20 THE COURT: The 5th and the 12th?

21 THE COURT CLERK: Yes.

22 THE COURT: I thought my criminal stack started on
23 November 14th. One, two, three, four, five, okay. And then civil
24 begins on the 20th. Yep. Okay, you take your pick.

25 MR. COUMOU: Can I have the 12th, Your Honor?

1 December the 12th?

2 MS. MACHNICH: That's fine.

3 THE COURT: Alright, the 12th. How long do you
4 anticipate trial being because --

5 MR. COUMOU: Judge --

6 THE COURT: Because the 19th, were closed on the 19th.
7 That's the second week. So I got the 12th, 13th, 14th, 15th, and 16th
8 and you know I start on Tuesday, Wednesday, Thursday we start at
9 one.

10 MR. COUMOU: Let's do the 5th then.

11 MS. MACHNICH: Yea, we should do that.

12 MR. COUMOU: I think we would be better. Judge, I think
13 it's going to probably be about a week trial. We've noticed a lot of
14 witnesses however, a lot of these witnesses were perimeter officers
15 that 90 percent chance that they're not gonna be testifying.

16 THE COURT: I don't need details, the 5th.

17 MS. MACHNICH: Yea, no, I've never seen a witness list
18 this long that's why I'm deferring to Frank on that.

19 THE COURT: Alright, gentlemen, we'll see you back here
20 December 5th and the calendar call date is going to be.

21 THE COURT CLERK: November 29th at 9 a.m., jury trial
22 December 5th at 10 a.m.

23 THE COURT: Alright.

24 MS. MACHNICH: Thank you, Your Honor.

25 MR. COUMOU: Thanks, Judge.

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THE COURT: Great.

[Hearing concluded at 10:27 a.m.]

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DALYNE EASLEY
Court Recorder/Transcriber

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S.C. CASE#: 76465
D.C. CASE#: C-15-309578-1
DEPT. 2

**RECORDER'S TRANSCRIPT OF HEARING:
DEFENDANT'S MOTION FOR PRODUCTION OF DISCOVERY**

For the State: LEAH C. BEVERLY, ESQ.
Deputy District Attorney

For the Defendant: STEVEN M. LISK, ESQ.
Deputy Public Defender

RECORDED BY: ELSA AMOROSO, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, July 12, 2016

2
3 [Hearing began at 9:38:23 a.m.]

4 THE COURT: Page 16, State versus Steven Turner,
5 C309578. I had a note that the parties wanted to continue that, is
6 that correct.

7 MR. LISK: Yes, that's my understanding, Your Honor.
8 This is Ms. Machnich's case. I'm just filling in for her. My
9 understanding is the State is requesting an opportunity to respond to
10 Ms. Machnich's motion. She has no opposition.

11 MS. BEVERLY: Yes Judge, thank you.

12 THE COURT: Alright, two week continuance. The State
13 will get its opposition in as soon as they can but we'll have this set
14 down for a hearing in two weeks.

15 MS. BEVERLY: We will.

16 THE COURT: Clerk will give you the date.

17 THE COURT CLERK: July 25th at 9 a.m.

18 [Hearing concluded at 9:38:54 a.m.]

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

23 
24 DALYNE EASLEY
25 Court Recorder/Transcriber

CLERK OF THE COURT
Albert B. Hanson

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.

STEVEN TURNER,
Defendant.

S.C. CASE#: 76465
D.C. CASE#: C-15-309578-1
DEPT. 2

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
TUESDAY JULY 26, 2016

**RECORDER'S TRANSCRIPT OF HEARING:
DEFENDANT'S MOTION FOR PRODUCTION OF DISCOVERY**

APPEARANCES:

For the State: ERIKA MENDOZA, ESQ.
Deputy District Attorney

For the Defendant: STEVEN J. YEAGER, ESQ.
Deputy Public Defender

RECORDED BY: ELSA AMOROSO, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, July 26, 2016

2
3 [Hearing began at 9:09 a.m.]

4 THE COURT: Page 7, State versus Turner.

5 MR. YEAGER: Good morning, Your Honor, Steve Yeager
6 standing in for Ms. Machnich today.

7 THE COURT: Great. This is a motion for production of
8 discovery. I've studied the motion and the --

9 MR. YEAGER: Your Honor, I'm sorry, I didn't want to
10 interrupt.

11 THE COURT: Yes, go ahead.

12 MR. YEAGER: Ms. Machnich is in a jury trial today.

13 THE COURT: Okay.

14 MR. YEAGER: And she had asked if the Court would mind
15 just passing this a week for her to be here to handle it. Now I had
16 spoken to the District Attorney about that and they didn't have any
17 opposition. If the Court would be willing, that would be my request
18 this morning for a one week continuance.

19 THE COURT: Not a problem.

20 MS. MENDOZA: That is correct, Your Honor.

21 THE COURT: State's shaking your head so that's fine.
22 We'll go ahead and move it one week, alright? So, Mr. Turner,
23 we're gonna bring you back here in a week and go over there. Your
24 attorneys are trying to get some documents from the State and
25 we're gonna discuss whether they've been turned over or not,

1 alright? Thank you.

2 The Clerk will give you the date.

3 THE COURT CLERK: August 4th 9 a.m.

4 MR. YEAGER: Thank you.

5 THE COURT: August 4th, yes, I will be here that date.

6 Thank you.

7 MR. YEAGER: Great, thank you.

8 [Hearing concluded at 9:10 a.m.]

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20 ATTEST: I do hereby certify that I have truly and correctly transcribed
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23 *Dalayne Easley*
24 DALYNE EASLEY
25 Court Recorder/Transcriber

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Case Number: C-15-309578-1

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Las Vegas, Nevada, Thursday, August 4, 2016

[Hearing began at 9:26 a.m.]

MS. MACHNICH: Your Honor, would it be possible to call Mr. Turner?

THE COURT: What page?

MS. MACHNICH: It should be relatively quick; page 6.

THE COURT: Alright, State versus Steven Turner, C309578.

MS. BEVERLY: Good morning.

MS. MACHNICH: Ms. Beverly is here for the State. My client is present and in custody.

I don't think we actually have any discovery dispute at this time. We'd ask that you grant the Defense's motion to the extent of statute and *Brady*. And I would bring thing to Your Honor's attention. I filed it at this time in advance of trial because there's a CD that was missing. I've now spoken to Ms. Beverly about that. She's going to get me that CD. It holds the bulk of the discovery. So we were missing a lot but they're going to remedy that situation in the very near future. And that was our largest concern at this time so I can get that to my client and let him review it in advance of preparing for trial.

THE COURT: Ms. Beverly.

MS. BEVERLY: Yes, that's correct, Judge. I had originally sent it a while ago but I was just informed that the CD that I sent

1 apparently wasn't working. So I'm gonna go ahead and recopy that
2 today and get it to counsel.

3 THE COURT: Alright, based on representation of counsel
4 and good cause appearing therefore, the Court grants the
5 Defendant's Motion for Production of Discovery consistent with or
6 to the extent that the State has the obligation to provide the
7 documents requested pursuant to *Brady* and *Giglio* and their prodigy.

8 MS. BEVERLY: Thank you.

9 MS. MACHNICH: Thank you, Your Honor.

10 THE COURT: Thank you.

11 MS. MACHNICH: Thank you, Your Honor.

12 [Hearing concluded at 9:27 a.m.]

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

23 
24 DALYNE EASLEY
25 Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

STEVEN TURNER,
CLEMON HUDSON

Defendants.

S.C. CASE#: 76465
D.C. CASE#: C-15-309578-1
D.C. CASE#: C-15-309578-2

DEPT. 2

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
TUESDAY NOVEMBER 29, 2016

**RECORDER'S TRANSCRIPT OF HEARING:
CALENDAR CALL**

APPEARANCES:

For the State: LEAH C. BEVERLY, ESQ.
Deputy District Attorney

For Defendant Turner: STEVEN M. LISK, ESQ.
Deputy Public Defender

For Defendant Hudson: DANIEL R. GILLIAM, ESQ.

RECORDED BY: SANDRA PRUCHNIC, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, November 29, 2016

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3 [Hearing began at 9:24 a.m.]

4 THE COURT: Alright, Page 4, State versus Clemon
5 Hudson.

6 MS. BEVERLY: Good morning, Your Honor.

7 THE COURT: Good morning, welcome back.

8 MS. BEVERLY: Thank you. We are waiting on Ms.
9 Machnich --

10 MR. LISK: No you're not.

11 MS. BEVERLY: -- and there's a co-defendant. Oh, we're
12 not? Then never mind, just kidding.

13 THE COURT: Alright.

14 MS. BEVELRY: There's a co-defendant, Mr. Hudson --

15 THE COURT: So, I'm gonna also call Page 3 which is
16 State versus Steven Turner, C309578, both set for calendar call.
17 So, are we ready for trial?

18 MR. GILLIAM: Good morning, Judge, Dan Gilliam standing
19 in for Mr. Marchese on behalf of Mr. Hudson.

20 Judge, the defense is asking for a continuance on this
21 case.

22 THE COURT: Are you, Mr. Lisk, asking for it too?

23 MR. LISK: Ms. Machnich is, yes, I'm covering for her.

24 THE COURT: You're here for Ms. Machnich?

25 MR. LISK: Correct.

1 THE COURT: Okay.

2 MR. GILLIAM: I don't believe the State has an objection. I
3 think there's some negotiations in the works. It looks like it may
4 come to pass but at this point in time I think both parties have
5 agreed that it should be reset in the ordinary course; of course, with
6 your permission.

7 MS. BEVERLY: That's correct, Your Honor. And it's not
8 overflow eligible so just keeping that in mind when setting the trial.

9 THE COURT: Alright, very good. The Court will vacate
10 the December 5, 2016 trial date for both Defendants in this case,
11 will be reset. We can find a date in February if this case doesn't
12 settle.

13 MS. BEVERLY: Um --

14 MR. LISK: I believe Ms. Machnich was actually looking,
15 with her schedule and everything, actually towards the summer.
16 Maybe even in August if that can be accommodated.

17 MS. BEVERLY: That's fine with the State.

18 THE COURT: So that would put us back around June 26th.
19 Or we can go into the first couple of weeks in July.

20 MS. BEVERLY: I'm very open in the summertime so
21 whenever.

22 MR. GILLIAM: Mr. Marchese had no preference so
23 whatever the Court and other counsel --

24 MR. LISK: If we could do July, Your Honor, I think that
25 would be preferable for Ms. Machnich.

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THE COURT: July 10th?

MS. BEVERLY: That's fine.

THE COURT: Will that work? Madam Clerk, does that work? Alright thank you.

MR. GILLIAM: Thank you, Judge.

THE COURT CLERK: Calendar call, July 6th at 9:00, trial date July 10th at 10:00.

MS. BEVERLY: Thank you.

MR. GILLIAM: Thank you, Judge.

MR. LISK: Thank you, Your Honor.


THE COURT: Thank you, counsel.

[Hearing concluded at 9:26 a.m.]

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


DALYNE EASLEY
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

STEVEN TURNER,
CLEMON HUDSON

Defendants.

S.C. CASE#: 76465
D.C. CASE#: C-15-309578-1
D.C. CASE#: C-15-309578-2

DEPT. 2

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE
THURSDAY, JULY 6, 2017

**RECORDER'S TRANSCRIPT OF HEARING:
CALENDAR CALL**

APPEARANCES:

For the State:

LEAH C. BEVERLY, ESQ.
Deputy District Attorney

For Defendant Turner:

JEFFREY M. BANKS, ESQ.
Deputy Public Defender

For Defendant Hudson:

LESTER M. PAREDES, ESQ.

RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 Las Vegas, Nevada, Thursday, July 6, 2017

2
3 [Hearing began at 10:38 a.m.]

4 THE COURT: Let's go to Page 3, State versus Clemon
5 Hudson, C309578.

6 MR. PAREDES: Good morning, Your Honor.

7 THE COURT: Hello. Calendar call.

8 MS. BEVERLY: Good morning, Your Honor, Leah Beverly
9 for the State.

10 THE COURT: Morning, Ms. Beverly.

11 MR. BANKS: Judge, I'm on Page 2, co-defendant.

12 THE COURT: Okay, we'll call that. The co-defendant is
13 State versus Steven Turner, C309578-1. Then Hudson is C309578-
14 2. Defendants are both in custody and have both waived speedy
15 trial rights. We've had two or three prior continuances. What do
16 you guys want to do?

17 MS. BEVERLY: It looks like Mr. Mueller's office subbed in
18 on Mr. Hudson --

19 MR. PAREDES: Yes, Your Honor.

20 MS BEVERLY: -- recently.

21 THE COURT: Oh, okay. Well, let's hear from whether
22 their office is ready or needs more time.

23 MR. PAREDES: I think we need more time, Your Honor.
24 We did receive a large amount of discovery and so we're asking
25 for -- we're announcing not ready.

1 MS. BEVERLY: And Judge, if that's the case that's fine
2 but I want to make a record of the offer and the fact that they're
3 rejecting it. Because Mr. Turner, its my understanding, wants the
4 offer but its contingent so if Mr. Hudson is rejecting it then I'm going
5 to revoke it for both of them.

6 THE COURT: Let's put it on the record then.

7 MS. BEVERLY: Okay, thank you, Judge. The offer in this
8 case was for both Mr. Hudson and Mr. Turner to plead guilty to one
9 count of conspiracy to commit burglary, a gross misdemeanor and
10 Count 2 attempt murder with use of a deadly weapon. The State
11 would retain the full right to argue including for a concurrent and
12 consecutive time however, the State would not argue for more than
13 ten years on the top end of the deadly weapon enhancement for the
14 attempt murder. So, that's been the offer for a while. I know --

15 THE COURT: Is that offer still open or has that expired?

16 MS. BEVERLY: It expires today if they're not going to take
17 it.

18 THE COURT: At the close of business today?

19 MS. BEVERLY: Well, I mean since we're in court they can
20 tell us now --

21 THE COURT: Expires right now ?

22 MS. BEVERLY: -- if they're gonna take it or not.

23 THE COURT: Alright, so you guys taking the offer or
24 asking for a continuance?

25 MR. PAREDES: We're asking for a continuance, Your

1 Honor.

2 THE COURT: Alright, very good. How much time -- how
3 much of a continuance do you need to prepare?

4 MR. PAREDES: What is your -- what's your court's
5 calendar look like?

6 MS. BEVERLY: Judge, I'm so sorry, can we actually have
7 the Defendants say that they are rejecting that on the record? Just
8 for purposes of *Lafler*, I want to make sure that if we go forward
9 with trial we have a clear record.

10 THE COURT: I don't mind asking. Is there any objection
11 to me asking your client?

12 MR. PAREDES: I have no objection, Your Honor.

13 THE COURT: Alright, Mr. Hudson, which one is Mr.
14 Hudson? Are you Mr. Hudson [no audible response]?

15 So you heard the offer presented by the District Attorney's
16 office. Do you want to accept that offer or reject the offer, sir?

17 DEFENDANT HUDSON: No, I reject the offer.

18 THE COURT: You reject it?

19 DEFENDANT HUDSON: Yep, reject the offer.

20 THE COURT: So do you want to go to trial? Do you want
21 to have your opportunity to go to trial and hold the State to their
22 burden of proof?

23 DEFENDANT HUDSON: Yes, sir.

24 THE COURT: Alright, very good. That is your right and
25 we'll do that with your trial date.

1 So, let me look at my schedule. So, that was just Mr.
2 Hudson. Let me talk to --

3 MR. BANKS: Your Honor, as to Mr. Turner, he's very open
4 to negotiations.

5 THE COURT: Very good, I appreciate that. And I
6 appreciate that and sounds like this is a contingent offer and so we
7 don't need to hear from your client given that Mr. Hudson's rejecting
8 the offer.

9 MR. BANKS: Yes, sir, thank you.

10 THE COURT: Until and unless the State wants to make a
11 separate independent offer to your client.

12 MR. BANKS: Right.

13 THE COURT: Mr. Banks, looks like I have --

14 MR. BANKS: Judge, I'm standing in for Ms. Machnich and
15 I think the parties are contemplating three to four month
16 continuance, if that works for everybody.

17 MS. BEVERLY: Yes.

18 THE COURT: Oh, three, four months continuance, oh.

19 MR. BANKS: Yes.

20 MS. BEVERLY: We're asking some time for in the
21 November December stack, preferably.

22 THE COURT: Yea, I do have middle of November is when I
23 open up again; the week of the 13th, the week of the 20th, the week
24 of the 27th, perhaps. We'll have the Court Clerk check. I think
25 those are three weeks that are possibilities.

1 MS. BEVERLY: Do you -- I think I called your Clerk --

2 THE COURT: Sometime Thanksgiving's in there.

3 MS. BEVERLY: Right and I think this trial will go at least a
4 week and a half. It's not overflow eligible.

5 THE COURT: We start on the 13th and if we end it on
6 Tuesday the 22nd it'd be before Thanksgiving. I don't know if you
7 want to try to do that.

8 MR. PAREDES: That'd be our preference, Your Honor.

9 MS. BEVERLY: That's fine with the State if that's okay
10 with Ms. Machnich, Mr. Banks.

11 MR. BANKS: Sounds good.

12 THE COURT: The 13th and the 17th of that first week we'll
13 have two full days and then the Monday of the 20th another full day
14 and then some half days in there, do you think that would be
15 enough?

16 MS. BEVERLY: I think that's fine.

17 THE COURT: Alright, well let's try it then. Let's try to set
18 it for November 13th. There's no firm settings on the 13th?

19 THE COURT CLERK: No, Your Honor.

20 THE COURT: Alright, very good.

21 MS. BEVERLY: Thank you, Judge.

22 THE COURT: So that's when you guys are gonna have
23 your trial.

24 THE COURT CLERK: And so calendar call November 7th, 9
25 a.m., jury trial November 13th, 10 a.m.


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MS. BEVERLY: Thank you.
MR. PAREDES: Thank you.
MR. BANKS. Thank you.

[Hearing concluded at 10:43 a.m.]

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


DALYNE EASLEY
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 STEVEN TURNER,
12 CLEMON HUDSON,

13 Defendants.

CASE#: C-15-309578-1
C-15-309578-2

DEPT. II

14 BEFORE THE HONORABLE NANCY M. SAITTA SENIOR DISTRICT COURT JUDGE
15 THURSDAY, OCTOBER 12, 2017

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
17 **PRETRIAL CONFERENCE; DEFENDANT'S JOINDER TO CO-**
18 **DEFENDANT CLEMON HUDSON'S MOTION TO SEVER**

19 APPEARANCES:

20 For the State:

MICHAEL DICKERSON, ESQ.
Deputy District Attorney
GIANCARLO PESCI, ESQ.
Chief Deputy District Attorney

21 For Defendant Turner:

22 TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

23 For Defendant Hudson:

24 CRAIG A. MUELLER, ESQ.

25 RECORDED BY: ROBIN PAGE, COURT RECORDER

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Las Vegas, Nevada, Thursday, October 12, 2017

[Case called at 9:47 a.m.]

THE COURT: Let's call page 2. State of Nevada versus Turner, 309578.

MS. MACHNICH: Your Honor, Tegan Machnich.

THE COURT: Good morning.

MS. MACHNICH: Good morning. Tegan Machnich from the Public Defender's Office here on behalf of Mr. Turner. We're actually waiting for someone from Mr. Mueller's office. This is a co-defendant case --

THE COURT: Yes, Hudson.

MS. MACHNICH: -- with page 3. And Co-Defendant's counsel, Mr. Mueller, was the person who actually filed the motion.

THE COURT: You just joined it; right?

MS. MACHNICH: I did just join it. Also the DA who is handling the case today has asked that I text him when we're ready for him. I could certainly do that at this point, but I have not seen Mr. Mueller yet.

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

THE COURT: Okay.

MR. DICKERSON: Pesci from my office will be handling this.

THE COURT: We'll trail it until a reasonable period of time. Has somebody called Mr. Mueller's office?

MS. MACHNICH: I don't have that information, Your Honor.

1 THE COURT: Because that's what I'm going to ask you to do.
2 If you would please -- you know, I'm sure that we have a book -- one of
3 the directory books here that we could get, but let's find out what's going
4 on.

5 MS. MACHNICH: Okay.

6 THE COURT: Okay.

7 MS. MACHNICH: And, Your Honor, actually I'm looking at the
8 top in the header of his motion and it does have a contact number.

9 THE COURT: Great.

10 MS. MACHNICH: So I'll make a phone call now and text Mr.
11 Pesci.

12 THE COURT: Thanks so much.

13 MS. MACHNICH: Thank you, Your Honor.

14 THE COURT: Mm-hmm.

15 [Proceedings trailed at 9:48 a.m.]

16 [Proceedings recalled at 10:43 a.m.]

17 THE COURT: Let's go to page 2. State versus Turner,
18 309578.

19 Good morning.

20 MR. PESCI: Good morning, Your Honor, and I apologize for
21 being late.

22 THE COURT: No worries.

23 MS. MACHNICH: Good morning again, Your Honor. Tegan
24 Machnich here on behalf of Steven Turner who is present and in
25 custody.

1 THE COURT: Very --

2 MR. MUELLER: Good morning, Your Honor.

3 THE COURT: Good --

4 MR. MUELLER: Craig Mueller on behalf of Mr. Hudson.

5 THE COURT: Good morning to all.

6 We are here both on State versus Turner as well as the Co-
7 Defendant, who's Hudson.

8 MR. MUELLER: Yes, Judge. And if I have the procedural
9 history right it was my motion to sever that brought us -- initially started
10 the pleadings.

11 THE COURT: I've read the pleadings in this case and the
12 opposition. I have both before me. You may make brief argument to
13 support -- let me also note both Defendants of course are present in
14 custody. You may make brief argument, Mr. Mueller, to support to your
15 motion knowing that I've read everything.

16 MR. MUELLER: Thank you, Judge. And I will be very brief.

17 My colleague cites the *Chartier* case. Both you and I actually
18 participated in the *Chartier* case. I argued it and was trial counsel in
19 front of Judge Bell that led to you and the Court overturning the
20 conviction. This is exactly the same circumstances.

21 In the *Chartier* case I had a defendant who was guilty as -- the
22 evidence against his guilt was overwhelming. I was representing a client
23 for which there was literally almost no evidence. The -- I had one team
24 of prosecutors, had a theory of liability that Mr. *Chartier* had been at the
25 murder scene. I had another series of co- -- I call them co-counsel, but

1 they were actually a second set of prosecutors at the Public Defender's
2 Office who was trying to get Mr. *Chartier* involved. So no matter --

3 THE COURT: Typical co-d situation.

4 MR. MUELLER: I was literally in a legal foxhole. I could not
5 pick up my head, say a word without somebody in the courtroom calling
6 me a liar. And I mean me in the generic sense; Mr. Chartier a liar.

7 THE COURT: Understood.

8 MR. MUELLER: The joinder was improper. There was no
9 way we could have a fair trial. Judge Bell was -- and you guys saw the
10 argument and overturned it. That's the identical case we have here.

11 Mr. Turner is -- has some serious legal issues. I don't want to
12 be a team of prosecutors here. He has some very serious legal issues.
13 Mr. Hudson's liability, if any, is significantly less. Mr. Turner's
14 statements to the police and subsequently presumably be presented on
15 the -- would have to be presented on the stand, are indeed going to be
16 self-serving and going to inculcate [10:45:44] Mr. Hudson. We have
17 limited, if any, ability to confront and cross-examine under those
18 circumstances as under the *Bruton* problem. I've got a colleague -- and
19 I respect my colleague death. She's going to do a great job
20 representing Mr. Turner, but I'm back in the same spot.

21 Mr. Pesci's going to have one theory of liability. The Public
22 Defender is going to have another theory of liability. And the minute I
23 pick up my head, a very experienced trial attorney, no matter what fact I
24 assert is going to be calling me a liar on behalf of Mr. Hudson. The --
25 this is almost a Xerox copy of the case but for the underlying charges.

1 That's the exact same legal [indiscernible] 10:46:29. I discovered that
2 when I sat down and seriously started preparing a defense and I
3 recognized this same problem almost immediately which is why I put this
4 motion on to sever. I believe severance is appropriate here and I cannot
5 -- the parallel between here and *Chartier* is identical.

6 THE COURT: As co -- as a joiner -- joinder to the motion to
7 sever, counsel, do you wish to be heard?

8 MS. MACHNICH: Just very, very briefly, Your Honor.

9 Just noting in response, in the State's opposition motion citing
10 -- let's see. On page 6 they cite *Richardson* where they specifically
11 state that it must be established that the statements in question
12 expressly implicate the Defendant are powerfully incriminating. And we
13 are talking about in the case, among other issues, who pulled the trigger
14 -- trigger that shot the police officer. And I'm guessing that the Co-
15 Defendant and myself we have different points of view on that fact.

16 We're also talking about two co-defendants, so when we look
17 at the statements, which I did submit with my joinder, we're looking at --
18 even if they were to make it generic, the other person, he, it's
19 necessarily the other person whereas our theory of defenses will be
20 different in that manner.

21 So we would request joinder first -- or severance first and
22 foremost. That the cases be tried separately to preserve the rights of
23 the confrontation clause of both Defendants. If Your Honor is not
24 inclined to sever the case as we would like an explicit ruling that
25 pursuant to *Richardson* the non-testifying co-defendant's confession

1 only be allowed with the proper limiting instruction which it would include
2 redactions to eliminate not only a defendant's name but any reference to
3 their existence, which is a cite to the *Richardson* case cited on page 7 of
4 the opposition. It would have to be complete because we have so many
5 instances where both co-defendants -- in my case, Mr. Hudson saying
6 Mr. Turner did this; Mr. Turner shot this; Mr. Turner had the guns, it
7 would literally have to be wiping those out -- off the face of the reality
8 that's at trial, and I don't know how the State would feel about that in
9 relation. And so obviously, first and foremost, severance of the trials
10 would be appropriate. Thank you.

11 THE COURT: Thank you.

12 On behalf of the State, Mr. Pesci.

13 MR. PESCI: Thank you very much, Your Honor.

14 I think the first step, if I could, would be to respond to *Chartier*.
15 I did not try that case so I don't have the intimate facts, but my memory
16 reading the decision was that the Courts spoke of a specific trial right
17 that had to be impeded. That -- it doesn't stand for the proposition that
18 all cases get severed, but if there's a specific trial right. And my
19 recollection was this Court found that in that decision that there was a
20 recording. That there was a piece of evidence that was impeded from
21 admission that was a basis of severing or the fact that it should've been
22 severed. I don't hear that here. What I hear in this case is just fingers
23 being pointed at each other, as opposed to in that case, my memory is
24 it's a recording. It's a actual physical piece of evidence that could've
25 come in, or arguably could've come in, and was prevented because it

1 had been sitting there.

2 This is just a question of whether we have two individuals and
3 if they point the finger at each other. It can be sanitized. It can be
4 cleaned and it can be presented in a fashion. We're not intending, nor
5 wanting to say, I want to introduce A statement where he says B did this.
6 We know we can't do that. And we can go through this and we can
7 clear that all up. It's not the basis to just okay sever the case. And I that
8 the -- my co-counsel who filed this opposition went through the different
9 cases that talk about how you can do that. That's the State's proposition
10 and short of actually severing -- doing that kind of a procedure.

11 THE COURT: So -- yes. I have familiarity with the case that
12 is the subject of -- at least the high point of the argument here this
13 morning. But, Mr. Mueller, would you agree with me that -- or agree, I
14 guess, with the State that the facts in *Chartier* can be distinguished?

15 MR. MUELLER: No, respectfully I don't. And if I could -- and
16 if I could be a little informal here for just a moment, Judge?

17 THE COURT: Sure.

18 MR. MUELLER: I ran into Justice Cherry after the *Chartier*
19 decision was announced. Maybe about ten days after it was. And we
20 actually were with Craig P. Kenny's party and we had a little discussion
21 and I wasn't -- the case was over so I wasn't ex parteing [sic] it. And we
22 went through the case and he says, yeah, we used get -- and it was
23 Justice Cherry's comment, I remember it very clearly, he said, yeah,
24 used to get con -- severances just for the asking because of the conflict
25 between co-defendants. And I remember that phrase because it struck

1 me. And I can't remember people's names, but for whatever reason my
2 brain collects ideas like a sponge. I remember where I hear ideas. And
3 I remember standing right there at the front of the door and he says,
4 yeah, we used to be able to get severances for the asking. Now that
5 was the exact phrase he used.

6 Now the practical problem with the *Chartier* case was there
7 was conflicting theories of liabilities so that nobody could present -- I
8 could not present in evidence where somebody wasn't going to be
9 attacking it in a legal crossfire.

10 THE COURT: And the evidence that you sought to have
11 admitted was?

12 MR. MUELLER: Well, there was a pract -- there was practical
13 problems. Our *Chartier* had a co-defendant -- was PTSD. He had an
14 extraordinarily complicated his. He had a history --

15 THE COURT: I remember the case very well.

16 MR. MUELLER: It's -- yeah, I guess it's going to be one of my
17 career cases. I remember it too for whatever reason. The guy was the
18 last guy out of the barracks in Vietnam that was pulled out -- or in
19 Lebanon. The barracks went down on him. He was in -- in rubble for
20 three or four days. They pulled him out. He was the last guy. He was
21 never the same since. He had the classic signs of PS -- PTSD which
22 was a tendency to violence and inability to control his impulses. Chartier
23 had said to him, he says, oh, my ex-wife is just driving me nuts in the
24 family court case, the one you were just talking about, and the next day
25 the wife and the father-in-law are dead.

1 Now the practical problem here was the State's theory was
2 that Chartier had been over there with the knifeman putting him put.
3 Chartier's defense, which I would've mounted [10:52:42] and he swore
4 to me -- I can't -- I can't go into confidences, but was, hey, the guy's
5 nuts. I didn't know he was going to go over and do that. I couldn't put
6 Chartier on the stand. I couldn't mount any meaningful [10:52:55]
7 defense because the State -- the Public Defender and their murder team
8 was trying to save -- what's the guy's -- the co-defendant's name. I
9 could see his face. I'm sorry, I don't recall his name. The co-
10 defendant's -- they were trying to save him the death penalty. I was
11 trying to get Mr. Chartier cleared of the liability. And that's the practical
12 problem here.

13 Now Mr. -- I don't want to prejudge the evidence. I read what
14 the police think happened. I want to point out very serious there was a
15 third individual out there that night and he was never accounted for. The
16 police --

17 THE COURT: Third or fourth from what I read. There may
18 have been others; yeah.

19 MR. MUELLER: Yes. And the -- the allegations are -- I mean
20 there's -- Mr. Turner made a remarkable series of statements to the
21 police that led to eventually Mr. Hudson being charged. I'm not going to
22 be able to confront or cross-examine that. I can't put Mr. Hudson on the
23 stand now. I've got -- my ability to give him a fair trial is materially
24 limited just like it was in *Chartier* because I'm going to have these folks,
25 and they're good lawyers, are going to be doing their level best to blame

1 everything on my client. They've got another theory of liability. And I
2 don't know -- I'm going to have to literally defend two different theories at
3 the same time and it's impossible. It will be legally impossible. I can't
4 do it in where -- a trial with these defendants joined defeats Mr.
5 Hudson's ability to have a fair trial, a guarantee under the State
6 Constitution and under the Federal Constitution, his right to confront and
7 cross-examine the witnesses and a right to a fair trial.

8 And you're an experienced trial court judge. You understand
9 what's going to happen trying to mount a defense. Say for example, just
10 hypothetically, Hudson's completely innocent. He was at home
11 watching TV and worked the defense up [10:54:41]. Now how do I get --
12 how do I confront and cross-examine Turner. Well, I can't. Well, how
13 about the other guy that was there? Well, I can't.

14 THE COURT: The other mystery guy.

15 MR. MUELLER: The mystery guy. Now -- I mean, just -- if
16 that were in fact the case, how do I mount the defense and I'm in a legal
17 crossfire again. And I'm sorry. That's probably a bad word these days,
18 but I've got two teams of lawyers going to be gunning for me at either
19 side and there's no way that that can go forward. I respectfully -- I don't
20 see any functional difference between this case and the *Chartier* case.

21 My colleague alludes and -- and I thank him. He did tickle my
22 memory. There was -- there was in fact a tape of some sort of the wife
23 -- Chartier's -- no, the co-defendant's wife was jealous of Chartier. It
24 sounded like they had a little -- and she had taped one conversation at
25 the end of the case. I don't remember it being very particularly important

1 to the outcome of the case. My point was the same as -- we got the
2 same legal crossfire. And if he really was home watching TV that night,
3 how can I mount that defense? And just as a hypothetical, with one set
4 of lawyers gunning for me one theory, and another set of lawyers
5 gunning me on another theory, because any evidence I put off
6 [10:56;05] I've got somebody who's going to be standing in the jury
7 saying -- and if he was in -- the evidence -- or questioning the evidence.

8 Now, it's a difficult case. It's going to be an emotional case.
9 It's going to be a very serious case. Charges couldn't be a lot more
10 serious. I guess they could be, but not by much. And I believe that his
11 right to a fair trial is guaranteed by State Constitution needs -- this case
12 needs to be severed.

13 MR. PESCI: Judge, if I could, could I speak --

14 THE COURT: Of course.

15 MR. PESCI: -- to that? Thank you very much, Your Honor.

16 Wilcox was the co-defendant.

17 MR. MUELLER: Wilcox. Thank you.

18 MR. PESCI: The eavesdropping recording was between
19 Wilcox and Chartier. And that's a distinction that has meaning because
20 it's me and co-counsel speaking to each other, or some sort of
21 recording, and then someone's seeking to introduce it, as opposed to
22 defendants speaking to police officers giving a statement and saying A
23 did this, B did that. There's a huge distinction there.

24 And it's somewhat baffling that he said it wasn't that critical to
25 the case because that was one of the big basis for the reversal was that

1 that recording was prevented from coming in. And that changes the
2 footing upon which to make this decision in my opinion because their
3 statements to the police are different from a recorded statement
4 between two people. And I think that we can sanitize it. But obviously
5 this is your discretion and we defer to yours.

6 MR. MUELLER: Well -- I'm sorry.

7 THE COURT: Final comment.

8 MR. MUELLER: Well, one of the -- I -- actually reason **by**
9 **analogy [10:57:26 ?????]** There were comments -- and I'm sorry I have
10 to bring this up in open court, that Mr. Turner that Mr. Turner had been
11 having homosexual affair with the members of the house. There are in
12 fact conversations between these parties that are almost identical in
13 nature in the context between the -- the full conversation. I -- I
14 appreciate my colleagues efforts to try to distinguish this case, but I can
15 find no functional distinction between this and *Chartier*.

16 THE COURT: Let me start by saying that all of what we're
17 talking about arises from the case of *Bruton*. These are questions that
18 came before the Court with respect a violation of the confrontation
19 clause of the Sixth Amendment. As stated in that case -- or subsequent
20 cases thereto, the threshold question is whether the challenged
21 statement is testimonial. I don't think that we have to worry much about
22 that right here. It's relatively testimonial.

23 But here's what happened after *Bruton*. A number of circuits
24 have talked about redaction. Mr. Pesci referred to it as sanitizing. It has
25 been done in many circuits, including by the way the Ninth -- the Ninth

1 Circuit adopted the sanitizing process, which frankly just means that the
2 statement that Mr. Mueller is concerned about that implicates or
3 suggests an implication towards his Defendant -- his client, could be
4 redacted, a big term that we use here. It just means that we're going to
5 white out reference to names and we're going to use generic pronouns.

6 We also have to look at what *Bruton* and other cases talked
7 about with respect to fundamental fairness. That's what Mr. Mueller and
8 the co-d is talking about; whether or not allowing this case to go to trial
9 with two co-defendants will affect the fairness, the bedrock, if you will,
10 upon which our court system is resting. And that is everyone when they
11 go to court should have an opportunity to have a fundamentally fair trial
12 where nobody, either side, doesn't get to do anything that impedes the
13 fundamental fairness.

14 There's another side that we have to consider also. And that
15 is that joint trials, as they are charged here, generally serve to support, if
16 you will, the interest of justice because it avoids inconsistent results. It
17 certainly speaks to the reason that co-ds are tried together has to do
18 with the limited resources and the ability of the State to try the cases
19 together.

20 I got to tell you. This is a really difficult case for me to make a
21 decision on. I would note that I believe *Chartier* is distinguishable in this
22 instance. And I'm concerned that when we have the typical co-ds doing
23 the finger pointing at the other ones, although not having any authority,
24 with all due respect, Justice Cherry's out-of-court statements --

25 MR. MUELLER: And I'm sorry, Judge. I --

1 THE COURT: It's okay. Of course don't support a legal
2 conclusion here in any way. God bless him. But the fact of the matter
3 is that -- first and foremost, the State has actually acknowledged in their
4 opposition that they would have no problem cleaning up these
5 statements.

6 Is that a correct --

7 MR. PESCI: Yes, Your Honor.

8 THE COURT: And to what extent do you intend to use the
9 non-testifying Defendant's statements?

10 MR. PESCI: I got to be honest. I've inherited this from Frank
11 Coumou. Ms. Beverly, who did the opposition, has been on this from
12 the beginning, so I cannot intelligently respond to that question, but I'm
13 sure she could. But we would -- we could also say defense counsel give
14 us your proposed redactions and then we could sit down and go through
15 it and say we agree on this or we don't.

16 THE COURT: He's not going to -- Mr. Mueller's not going to
17 want any proposed redactions. He wants the whole thing --

18 MR. PESCI: Understood.

19 THE COURT: -- set aside.

20 MR. PESCI: I just assumed for the sake of argument you
21 were to rule, hey, we're going to do it. And, you know, if you want
22 something out tell the State and then we can try to either agree or bring
23 it to the Court and say here's the ones we agree on, here's the ones we
24 don't, please make a call.

25 THE COURT: So, Mr. Mueller, let me ask you this. In terms

1 of -- and I don't want -- I don't want to get into either sides trial strategy,
2 so I'm trying to be careful. And if I'm evading that very sacred **prevenge**
3 **11:02:07 [????]** please just tell me.

4 If these Defendants were tried separately, the same
5 statements would be used obviously, I presume; right?

6 MR. MUELLER: Yes. Yes, Judge.

7 THE COURT: Okay. So you also have -- and the reason that
8 I sort of emphasized -- or added emphasis to the -- the mystery other
9 person -- because when I read these reports it sounds to me like there --
10 could've been others around -- more than just one -- other people. And I
11 think that the statements also support that. Both statements talk about
12 others being involved.

13 If this case went to trial with co-defendants in the same room
14 at the same time, would you in any way be precluded from using the
15 mystery person, other people did it -- other guy did it defense?

16 MR. MUELLER: Well, absolutely I would be.

17 THE COURT: Why?

18 MR. MUELLER: The practical problem with this case, and the
19 reason it's like the *Chartier* case, is Mr. Turner is accused of shooting a
20 police officer with a AK-47. He's going to do anything he can and --
21 legally charged to try to diminish or void that liability. The logical thing to
22 do is try to blame someone else. The only other person that's going to
23 be in the room is going to be me client.

24 THE COURT: Okay. But didn't your client come over the
25 fence after?

1 MR. MUELLER: I -- respectfully, that's not my due diligence.
2 It disagrees with -- and now you're pulling me out from where I'm
3 comfortable going.

4 THE COURT: Okay.

5 MR. MUELLER: My investigation materially differs from what
6 the police officer's conclusions were. And I --

7 THE COURT: And you'd be able to cross-examine the police
8 officer on that, couldn't you?

9 MR. MUELLER: Yes, I could.

10 THE COURT: Okay.

11 MR. MUELLER: I would be able to cross-examine. But the
12 practical problem is the statements by the homeowners is unambiguous
13 that there was a third person and perhaps a fourth. Now who was
14 where and when is going to be the heart of this case at trial. Now, Mr. --

15 THE COURT: Why would you be precluded from presenting
16 that evidence if -- if the case went to -- as co-ds?

17 MR. MUELLER: I would. And that's what I tried to allude to
18 this earlier with my television hypothetical. If he's home watching TV,
19 they're going to try to put a gun in his hand so Turner doesn't get the --
20 get the -- go down for shooting the sentence -- or for shooting the officer.

21 THE COURT: Officer.

22 MR. MUELLER: What -- hypothetically, if my guy was the one
23 up front who just ran away panicked and then -- and then stayed at the
24 scene. What if the facts are he wasn't there at all?

25 THE COURT: And --

1 MR. MUELLER: How am I going to get that defense on?

2 THE COURT: Well, my question was sort of the opposite of
3 that. What precludes you from putting in evidence of different place,
4 different time, not hand -- no hands on the weapon, wasn't the shooter.
5 By -- if in fact sanitized statements were to be used at trial, what would
6 preclude you from nonetheless using that defense?

7 MR. MUELLER: You got me walking a fine line here, Judge.

8 THE COURT: Understood. Understood.

9 MR. MUELLER: I'm -- I'm trying very hard to answer your
10 question without tipping my cards through my due diligence in what I
11 found out so far through my investigator.

12 THE COURT: And I'm respectful of that.

13 MR. MUELLER: And I could get **[indiscernible] to consider**
14 **11:05:24?**

15 THE COURT: Of course. Here's the thing. This is a typical
16 co-d case. I mean, this is -- it's not unusual that this is what happens.
17 And I'll tell you. We got a whole bunch of state -- these are only tabs on
18 the statements that were made. So there's -- there's -- there was a lot of
19 talking that went on in this case. And as one might expect, there was a
20 lot of it was the other guy kind of stuff. But I have to do a balancing test
21 here basically. I have to determine whether or not -- and this is *Bruton* --
22 whether or not there's a substantial risk that the jury will use factually
23 incriminating confession of a non-testifying defendant as evidence of
24 guilty of his co-d. That's the essence. That's the capsulized version of
25 why a motion to sever is put before the Court. Fundamental unfairness

1 at the time of trial also a consideration.

2 For now, what I'm going to do, is to note for the record the
3 State's cooperation with respect to acknowledging the obvious in this
4 case. They can't just take this statement and put it before the jury. I'm
5 going to deny the motion to sever with a caveat. And that is exactly
6 what Mr. Pesci suggested. That is he will offer to both counsel an
7 opportunity to see the redacted version of the statements that they
8 intend to use. This is going to require the State to put their case out
9 there pretty much by saying this is what we're going to use and this is
10 how we're going to use it.

11 But I want to be very that the -- the denial is made, I think
12 appropriately so, without prejudice. Mean, Mr. Mueller, that if you see
13 what they propose and you still want to come back and say, Judge, I
14 can't adequately defend my client if they go together to trial, then I think
15 that you get another bite of the apple because I'm telling you I think this
16 is really close and really tight. And I am very mindful of *Chartier*, but I
17 think right now we have a well-established, accepted way to attempt to
18 alleviate the bias or the potential for fundamental unfairness.

19 So I want to be very clear. This is a tight denial with the -- a
20 clear statement in the record that the parties, most particularly Mr.
21 Mueller and the co-d, being given an opportunity to revisit this issue, if in
22 fact we get closer to trial and it looks like the redaction isn't going to
23 work. Because I -- and I do apologize for trying to pull out of you stuff,
24 Mr. Mueller, that obviously, as you said, tight -- I don't want to get you in
25 a place where you're revealing your defense strategy. But there may

1 come a time where you can reveal that in an appropriate way that would
2 lead the judge to make a different decision on a renewed motion. So I
3 want to be -- I hope that I covered all the legal issues in this case.

4 I want an order to be drafted that supports this decision
5 because I think it's important that we note the opportunity to come back
6 again. I very much want to protect -- I wrote that case. I get it. And so
7 this is a real schizophrenic decision for me to make, but I want to be
8 sure that the rights of the Defendants, plural, are protected, and the
9 ability of the State to proceed in their case in an appropriate manner are
10 also protected. So questions, comments, concerns?

11 MS. MACHNICH: Your Honor, might we have a date certain
12 where the State provides us with these redactions. Because what we
13 don't want to do is get close enough to calendar call next month where
14 we --

15 THE COURT: Yeah, you're right up --

16 MS. MACHNICH: -- haven't seen them.

17 THE COURT: -- on top of it aren't you.

18 MS. MACHNICH: Yeah.

19 MR. MUELLER: Yes.

20 THE COURT: Yeah. I'm going to give you a real short leash.
21 I want it provided to the co-defendants no later than Tuesday next week.
22 We got -- we got to get there. You got a jury trial coming up in a month

23 MR. PESCI: Is that the 17th?

24 THE COURT: I don't know. Yes. Six --

25 THE COURT CLERK: Yes.

1 MR. PESCI: Okay.

2 THE COURT: Yes, 17th.

3 MR. PESCI: Thank you, Your Honor.

4 THE COURT: 10-17.

5 MS. MACHNICH: That should allow us enough time to file

6 renewed motions --

7 THE COURT: Mm-hmm. Mm-hmm.

8 MS. MACHNICH: -- if necessary. Okay.

9 MR. PESCI: So the 17th is when we need to give to defense

10 counsel the proposed redactions?

11 THE COURT: Proposed redaction.

12 MR. PESCI: Yes, Your Honor.

13 THE COURT: And then -- you know, just to be fair, counsel

14 take your time looking at the redaction. Get it back to the State by the

15 end of the week. That would be Friday. Which must be -- 18, 19, 20.

16 THE COURT CLERK: The 20th.

17 THE COURT: Twentieth. Because if we have to revisit this

18 I'm not exactly sure how it's going to work. If they'll bring me back to

19 reconsider it, or if Judge Bailus will reconsider it, or the trial judge, or

20 what they'll do, but I want to be sure that we get that compacted so --

21 because you got a rapidly approaching trial date.

22 Do you know where you are in the stack by any chance?

23 MR. MUELLER: I -- the case has gotten a little older. We've

24 moved --

25 THE COURT: It's a 15 state.

1 MR. MUELLER: -- pretty close to the top.

2 THE COURT: You should be pretty -- okay, so you should be
3 pretty close to the top.

4 MR. PESCI: No idea.

5 MR. MUELLER: And a housekeeping matter, Justice. Are
6 you going to be -- I know Mark said he had to go up to Judicial College.
7 I remember that being six or eight weeks. Is he going to --

8 THE COURT: Well, he's -- it's actually I think three.

9 MR. MUELLER: Okay.

10 THE COURT: He is not -- I will not be -- let me put it this way.
11 A Senior Judge will be here not week; it will not be me. But if there's
12 any problems -- I'll make a note in the record. I've done this before. I
13 should -- I give both -- all parties permission to contact the Senior Judge
14 department for further consideration on these matters if need be.

15 MR. MUELLER: Okay.

16 THE COURT: Okay.

17 MS. MACHNICH: Okay.

18 THE COURT: And that's Ileen Spoor across the street. I
19 don't anticipate there'll be a problem, but just in case. That way we --
20 you keep it clean and you don't have to bring somebody else up to
21 speed.

22 MR. PESCI: Sure.

23 MR. MUELLER: All right. Thank you, Judge.

24 MS. MACHNICH: Your Honor, additionally -- one more
25 housekeeping matter. I had subpoenaed all of the forensic background

1 information on the case. All of the lab reports. More than just the final
2 reports, but all of their working documents. The lab sent me a letter
3 saying, Congratulations. We produced them to the State; they have to
4 give them to you. And that was over a week ago now. I haven't
5 received them. And I'm just concerned, as time goes on, if I don't
6 receive the documents, if we need to do something with them I won't be
7 able to.

8 THE COURT: So there's an oral motion to compel discovery
9 from the State?

10 MR. PESCI: We've gotten them.

11 MS. MACHNICH: Okay.

12 MR. PESCI: And I gave them to my secretary and asked to
13 have them provided to defense counsel, so it appears as if they didn't.

14 Mr. Mueller, did you get them?

15 MR. MUELLER: No, I did not.

16 MR. PESCI: Okay.

17 MR. MUELLER: And while we're on the subject. The
18 photographs from the scene, I would also like a disc from those if that's -
19 - it shouldn't be a big deal --

20 MR. PESCI: The --

21 MR. MUELLER: -- but I don't have them.

22 MR. PESCI: -- the Metro lab will respond to your request for
23 those. It's not something that you have to get from us. They do
24 routinely.

25 THE COURT: But -- but let's be clear. With respect to what

1 you have in your file, Mr. Pesci, currently, that can be provided to
2 counsel?

3 MR. PESCI: This is my best response, because like I said,
4 I'm coming into this late.

5 THE COURT: Understood. Understood.

6 MR. PESCI: But we received from the lab a disc, which
7 normally happens. When defense counsel asks for that --

8 THE COURT: Right.

9 MR. PESCI: -- underlying data they send --

10 THE COURT: It goes to you.

11 MR. PESCI: -- it to us. And they actually have a little sheet
12 that says have defense counsel sign saying that they got it. So I asked
13 my secretary, please make copies of this. Get in touch with defense
14 counsel; ask them to come pick it up. So I don't know where the ball's
15 dropped since there. I'll go find out.

16 THE COURT: Okay. So your request to compel that
17 production is granted.

18 MS. MACHNICH: Thank you.

19 THE COURT: The State has agreed to do so.

20 MR. PESCI: Yes.

21 THE COURT: Mr. Mueller, your request is for a photograph?

22 MR. MUELLER: For the disc of photographs. Normally Metro
23 these days just takes a thousand photographs and put them on a disc.
24 And we don't print them out any more like we used to and put --

25 THE COURT: Did you make a request to -- is it part of a

1 discovery motion early or no?

2 MR. MUELLER: No, no, Judge. I just wanted -- while he was
3 going through his file I said while -- basically while he's there can he get
4 me the disc -- the photographs.

5 THE COURT: Mr. Pesci.

6 MR. PESCI: We'll make a copy. I understand co-defense has
7 it already.

8 MS. MACHNICH: We have --

9 MR. PESCI: But -- so we'll make -- we'll make another copy.

10 MS. MACHNICH: I have --

11 THE COURT: Okay. Let's be sure that that gets exchanged.
12 In fact, if the co-d has it, let's get it to Mr. Mueller. So I'm going to make
13 both of you responsible, co-d and the State --

14 MS. MACHNICH: Okay.

15 THE COURT: -- to get that to Mr. Mueller.

16 MS. MACHNICH: Well, we requested it from Ms. Beverly, the
17 assigned attorney on the case, about a month ago and she got it right
18 over to us.

19 THE COURT: Great.

20 MS. MACHNICH: So it was a very timely manner --

21 THE COURT: Okay.

22 MS. MACHNICH: -- with respect to the photographs. We did
23 file a discovery motion years ago at this point that was ruled upon way
24 back then.

25 THE COURT: The standard motion to compel?

1 MS. MACHNICH: Yes.

2 THE COURT: Okay.

3 MS. MACHNICH: The standard as of 2015. Not the --

4 THE COURT: They've changed.

5 MS. MACHNICH: -- new standard.

6 THE COURT: They've changed.

7 MS. MACHNICH: As of today our office has changed. Yes.

8 But, yeah, that been --

9 THE COURT: Okay. Anything further that I can help with?

10 MR. PESCI: No. Thank you very much, You Honor.

11 THE COURT: Okay. Thank you.

12 MS. MACHNICH: Oh. Actually, one more thing. We had on

13 calendar today pretrial conference.

14 THE COURT: Oh.

15 MS. MACHNICH: I was informed by some of my teammates

16 from my old team because I'm not on this track anymore that Judge

17 Bailus liked to do sort of an informal where you at, and this is what I'd

18 like by calendar. And I heard he even requests our jury instructions by

19 calendar call. I don't know if that's actually the case, but I just wanted to

20 clarify there weren't any other marking orders for us at this time with

21 regard to preparations for trial.

22 THE COURT: Well, you can see that my hesitancy, or my

23 concern with respect to denying the motion and tightening things up, is

24 exactly what you're talking about. We are on the eve of trial as far as

25 I'm concerned. It is a pretrial conference today. I'm guessing that if I

1 asked Mr. Mueller at this point --

2 State, can you announce close to ready? That doesn't --

3 MR. PESCI: I anticipate. I have no idea, Your Honor.

4 THE COURT: Okay.

5 MR. PESCI: It's been subpoenaed, but I don't know the
6 returns because Ms. Beverly's been getting those. I've been --

7 THE COURT: Okay.

8 MR. PESCI: -- other trials.

9 THE COURT: And, Mr. Mueller, I suspect that my decision
10 today is -- is going to cause you to do a little bit more work; would that
11 be a fair statement?

12 MR. MUELLER: I suspect I'm going to have to go back and
13 re-read everything.

14 THE COURT: Okay.

15 MR. MUELLER: And I was -- was planning on doing it after I
16 get their proposed redactions.

17 MS. MACHNICH: Okay.

18 THE COURT: So other than that -- other than what happened
19 today and the need to get Mr. Pesci up to speed, and apparently
20 someone else from the PD's office up to speed, informally, are we on
21 track to proceed to a calendar call on the 7th. And if so, I would order
22 that proposed jury instructions be provided by that date, which is
23 October -- November 7th. I don't know if that's the Judge's practice or
24 not. It certainly was my practice when I sat. So let's get -- I mean, they
25 can be modified, you know, up to -- you know, before we send it to the

1 jury. But for now, let's get those sent over and have them ready for
2 calendar call.

3 MS. MACHNICH: And --

4 MR. PESCI: For all sides?

5 THE COURT: All sides.

6 MR. PESCI: Thank you very much.

7 MS. MACHNICH: For defense theory instructions may those
8 be submitted just to chambers?

9 THE COURT: Of course.

10 MS. MACHNICH: Thank you.

11 THE COURT: So -- and -- so that you know, November 7th is
12 your calendar call with a trial date of November 13th; okay?

13 Anything further?

14 MS. MACHNICH: No, Your Honor. Thank you.

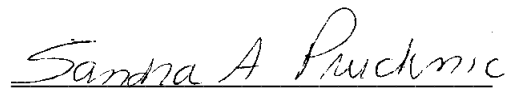
15 MR. PESCI: No. Thank you.

16 THE COURT: Thank you.

17 [Proceedings concluded at 11:15 a.m.]

18 * * * * *

19
20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed
22 the audio/video proceedings in the above-entitled case to the best of my
23 ability.

24 
25 SANDRA PRUCHNIC
Court Recorder/Transcriber



1 RTRAN

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3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 STEVEN TURNER,
12 CLEMON HUDSON,

Defendants.

CASE#: C-15-309578-1
C-15-309578-2

DEPT. XVIII

13 BEFORE THE HONORABLE MARK B. BAILUS DISTRICT COURT JUDGE
14 TUESDAY, OCTOBER 31, 2017

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
16 **STATE'S REQUEST: STATUS CHECK TO ADDRESS BRUTON**
17 **ISSUES WITH THE DEFENDANT'S STATEMENTS**

18 APPEARANCES:

19 For the State:

LEAH C. BEVERLY, ESQ.
Chief Deputy District Attorney

20 For Defendant Turner:

21 TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

22 For Defendant Hudson:

CRAIG A. MUELLER, ESQ.

23
24
25 RECORDED BY: ROBIN PAGE, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, October 31, 2017

2
3 [Case called at 9: a.m.]

4 THE COURT: On page 2, State versus Turner.

5 MS. BEVERLY: Your Honor, it's Turner and Hudson. They're
6 co-defendants.

7 THE COURT: And page 3. Hudson, case number C309578.
8 Counsel, state your appearances.

9 MS. BEVERLY: Leah Beverly for the State.

10 MS. MACHNICH: Good morning, Your Honor, Tegan
11 Machnich for Mr. Turner.

12 MR. MUELLER: Craig Mueller on behalf of Clemon Hudson.

13 MS. BEVERLY: Your Honor, --

14 THE COURT: And this is on at the State's request for a status
15 check to address the *Bruton* issues with the Defendant's statements.

16 MS. BEVERLY: Yes. Okay. So what happened was when
17 Your Honor wasn't here a couple of weeks ago, Ms. Machnich and Mr.
18 Mueller had filed a motion to sever. That motion was heard. It was
19 denied. But Judge Saitta, who was sitting for Your Honor, said for the
20 State to email both defense counsels with the State's proposed
21 redactions. Then defense counsel to email the State with their proposed
22 redactions to the statements, and if there was a dispute for us to come
23 before Your Honor.

24 I think it's probably something where we're going to have to
25 like -- the four of us sit down together, because I don't think it's

1 something that can be resolved like in a regular court calendar.
2 Because the state -- there's five statements from Mr. Turner, and there's
3 two statements from Mr. Hudson. So -- and there is some
4 disagreement. I received Ms. Machnich's redaction. I didn't receive Mr.
5 Mueller's. But I did send both them the State's proposed redactions.

6 So if this case were to go forward, it's something that I think
7 we're probably going to have to sit down in chambers, go through,
8 because it's probably going to take a couple of hours for Your Honor to
9 resolve the disputes. However, that's one issue.

10 The second issue is Mr. Mueller, this morning, was asking me
11 -- or speaking to his client, I believe, about negotiation. Ms. Machnich's
12 client, Mr. Turner, has always wanted the negotiation. It's been Mr.
13 Hudson's been the holdup. So I don't know what their conversations
14 had been, but I'm certain that I do have the GPAs and Amended
15 Information -- Indictments here right now if they want to enter their plea.

16 Third --

17 THE COURT: We're not going to rush this, counsel.

18 MS. BEVERLY: No, absolutely.

19 THE COURT: If they want to enter a plea I want to make sure
20 they have sufficient time to discuss any plea negotiations with their
21 attorneys.

22 MS. BEVERLY: Absolutely. I understand that. It's been the
23 same offer for over six months now. And --

24 THE COURT: And again, if --

25 MS. BEVERLY: I --

1 THE COURT: -- you know, I want to make sure that they
2 have sufficient time.

3 On the issue of the redactions, this is how we're going to
4 handle this. Submit your redactions. You -- you've advised me that they
5 have submitted to opposing counsel; correct? You were supposed to
6 submit them by October 17th.

7 MS. BEVERLY: I --

8 THE COURT: It sounds like you did it --

9 MS. BEVERLY: I did.

10 THE COURT: -- by that time. They were supposed to submit
11 their redacted version to you by -- I'm sorry, I said December. October
12 17th -- by October 20th. So it sounds like to some degree you've
13 exchanged redactions. If --

14 MS. BEVERLY: Well, I have with Ms. Machnich, not with Mr.
15 Mueller.

16 THE COURT: Okay. Well, Mr. Mueller may not have any
17 changes. He may just argue that he's not going to agree to any
18 redactions.

19 MS. BEVERLY: Okay.

20 THE COURT: I mean, that's a position he certainly could
21 take.

22 MS. BEVERLY: Okay.

23 THE COURT: If he -- in any event, if you can't come to an
24 agreement submit the redactions to me --

25 MS. BEVERLY: Okay.

1 THE COURT: -- and I'll go over them to see if they're neutral.
2 I mean, that's the standard on the --

3 MS. BEVERLY: Sure.

4 THE COURT: -- redaction. I have three choices. I can sever,
5 which I can redact, or you cannot use it at trial. You know, it appears --
6 and I thought I read in one of -- something I read that decision had been
7 made whether you were going to use the co-Defendant's statements or
8 not --

9 MS. BEVERLY: Well --

10 THE COURT: -- but I have alternatives.

11 MS. BEVERLY: Sure.

12 THE COURT: But one of the alternatives certainly is if the
13 statements could be redacted so they're neutral, that's typically what
14 courts do on a joint trial.

15 MS. BEVERLY: So what I can do is I can actually email you
16 the one --

17 THE COURT: Right.

18 MS. BEVERLY: -- the seven versions of the State. And I'll
19 email you Ms. Machnich's version that she emailed me and I --

20 THE COURT: Well, are you agreeable --

21 MS. BEVERLY: -- [indiscernible].

22 THE COURT: -- to them though?

23 MS. BEVERLY: Well, I don't -- I don't agree to them, but I
24 want Your Honor to see the differences in what the State feels should be
25 redacted and what Ms. Machnich feels should be redacted. So I will

1 send you both versions, the State's redactions and Ms. Machnich's, via
2 email. That way -- they are color coded as well, so hopefully that will
3 make it a little bit easier. Both of us color corded [sic] and then scanned
4 them in color, so hopefully that will make it easier for you to see what the
5 State wants redacted versus what Ms. Machnich wants redacted.

6 THE COURT: Right.

7 MS. BEVERLY: I think she agrees with all the State ones.
8 She just has additional ones that she wants that I don't agree with, so
9 that's kind of where we're at. And then if Mr. Mueller has any, I don't
10 know, but for now I'll send you mine and Ms. Machnich's via email to
11 your chambers.

12 THE COURT: And then -- I'm in a trial this week.

13 MS. BEVERLY: We have trial set for November the 13th. I
14 spoke with Ms. Machnich. I also emailed -- we're on a group email. I
15 haven't heard from Mr. Mueller. But given that the Thanksgiving holiday
16 is in that time period --

17 THE COURT: You're ahead of yourself.

18 MS. BEVERLY: Oh.

19 THE COURT: There's -- on November 2nd, I believe Mr.
20 Hudson has a motion to continue the trial date.

21 MS. MACHNICH: Mr. Turner. Yes, that's my --

22 THE COURT: I'm sorry. Mr. --

23 MS. MACHNICH: -- client, Your Honor.

24 THE COURT: -- I apologize.

25 MS. MACHNICH: Oh, of course. No problem.

1 We had filed that. We can certainly discuss the issue today,
2 Your Honor, since it is based on scheduling issue and not substantial
3 legal ground. I don't believe that it's going to be formally a written
4 opposition by either party. I know the State has no opposition and I
5 believe Mr. Mueller was going to oppose early. So we can deal with that
6 today, Your Honor, or we can come back on Thursday.

7 THE COURT: We're going to come back on Thursday.

8 MS. MACHNICH: Okay. That's fine.

9 THE COURT: Okay. And also -- it's going to be a status
10 check possible negotiations. So --

11 MS. BEVERLY: Okay.

12 THE COURT: -- I'll put it on for a status check.

13 I assume you provided a proposed Guilty Plea Agreement and
14 Amended Information to opposing counsel?

15 MS. BEVERLY: I will give that to them now.

16 THE COURT: Okay.

17 MS. MACHNICH: We previously -- we previously received it,
18 Your Honor.

19 THE COURT: And, Mr. Mueller, have you previously received
20 it?

21 MR. MUELLER: I got the email and I relayed the offer to Mr.
22 Hudson. And we thank the State but decline the offer.

23 THE COURT: Okay.

24 MS. BEVERLY: So do you want the GPA or no?

25 THE COURT: All right. Well --

1 MR. MUELLER: You can give it to me. I'll read it again, but
2 we decline.

3 THE COURT: All right. And if you negotiate as to Mr. Turner,
4 that resolves the *Bruton* issue quite frankly.

5 MS. BEVERLY: Well, it's a contingent negotiation.

6 THE COURT: Okay. And again, I'm not going to tell the State
7 how to negotiate their case. But in any event, I'll also put it on for a
8 status check on October 2. I'm sorry. November 2 --

9 MS. MACHNICH: Okay.

10 THE COURT: -- for a status check and Defendant's motion to
11 continue the trial date. If you want to send your redactions over before
12 then --

13 MS. BEVERLY: I --

14 THE COURT: -- I'll start looking at them.

15 MS. BEVERLY: I absolutely will. Thank you.

16 MS. MACHNICH: And, Your Honor, if it would be easier I
17 could just approach with a copy of the redactions from Mr. Turner.

18 THE COURT: That's fine. Hand them to my -- give them -- I
19 meant Alan. I'm sorry.

20 And, State, if you could provide them to chambers today I'd
21 appreciate it.

22 MS. BEVERLY: Yes. I will bring the hard copies this
23 afternoon.

24 THE COURT: Thank you, counsel.

25 MR. MUELLER: Thank you, Judge.

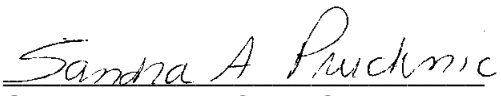
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MS. MACHNICH: Thank you, Your Honor.

[Proceedings concluded at 9:44 a.m.]

* * * * *

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


SANDRA PRUCHNIC
Court Recorder/Transcriber

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


Jessica Kirkpatrick
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

STEVEN TURNER,
CLEMON HUDSON,
Defendants.

CASE#: C-15-309578-1
C-15-309578-2

DEPT. XVIII

BEFORE THE HONORABLE MARK B. BAILUS DISTRICT COURT JUDGE
THURSDAY, NOVEMBER 2, 2017

**RECORDER'S TRANSCRIPT OF PROCEEDINGS
DEFENDANT'S MOTION TO CONTINUE TRIAL DATE;
STATUS CHECK: NEGOTIATIONS/TRIAL SETTING**

APPEARANCES:

For the State:	LEAH C. BEVERLY, ESQ. Chief Deputy District Attorney
For Defendant Turner:	TEGAN C. MACHNICH, ESQ. Deputy Public Defender
For Defendant Hudson:	CRAIG A. MUELLER, ESQ.

RECORDED BY: ROBIN PAGE, COURT RECORDER

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Las Vegas, Nevada, Thursday, November 2, 2017

[Case called at 9:23 a.m.]

THE COURT: On pages 2 and 3, State of Nevada versus Steven Turner and Clemon -- I'm sorry. On pages 2 and 13, State of Nevada versus Steven Turner and Clemon Hudson, case number C309578.

Counsel, state your appearances.

MS. BEVERLY: Leah Beverly for the State.

MS. MACHNICH: Tegan Machnich for Mr. Turner.

MR. MUELLER: Craig Mueller on behalf of Mr. Hudson.

THE COURT: And both Defendants are in custody and present.

This is on for Defendant -- Mr. Turner's motion to continue the trial date and a status check regarding negotiations or a trial setting.

MS. BEVERLY: Yes.

MR. MUELLER: Right. Thank you, Your Honor.

There is no negotiations. Defense is going to renew its motion to sever. I have engaged at the Court's invitation a good faith effort to go through the transcripts and to sort them out. I've had the advantage of being an aggressive prosecutor, as well as an aggressive defense attorney, and I know what I would do with my colleague's proposed redactions. They would beat Mr. Hudson left and right. It is a fatally flawed idea that those transcripts can be redacted.

I got five things I would use that first page unredacted for

1 before I gave up.

2 MS. BEVERLY: Your Honor.

3 MR. MUELLER: If I could.

4 MS. BEVERLY: I'm sorry.

5 MR. MUELLER: Defense is -- on behalf of Mr. Hudson, I
6 oppose the idea that we can redact those transcripts successfully. I
7 oppose the motion to continue and I am ready for trial.

8 THE COURT: Very good.

9 Counsel for Mr. Turner.

10 MS. MACHNICH: Your Honor, obviously we've submitted our
11 proposed redactions. If Your Honor is inclined to not sever the case we
12 would --

13 THE COURT: At this point I'm inclined not to sever the case.

14 MS. MACHNICH: Okay. So we've submitted those to Your
15 Honor and we would -- well, I guess not renew. We would ask Your
16 Honor to continue the trial at this time. We're looking at a two to three
17 week minimum trial. There's a lot of State's witnesses, much less
18 defense witnesses, and I personally am out of the jurisdiction the week
19 after Thanksgiving.

20 THE COURT: Okay.

21 MS. BEVERLY: Yes. And, Your Honor, if I could make a
22 record.

23 THE COURT: Sure.

24 MS. BEVERLY: First of all, I have no objection to Ms.
25 Machnich's request to continue. After speaking with her, we have had

1 multiple email conversations, where Mr. Mueller was included, when Ms.
2 Machnich actually contacted your chambers to figure out what the
3 schedule would be. I then looked at my -- compiled my notice -- or my --
4 what I think is going to be the number of witnesses I'm going to call, and
5 right now I'm at about 15 to 20. So with the half days and coming up
6 against Thanksgiving, not only do I think that -- with the half days we're
7 not going to have enough time, I also think that we're going to have a lot
8 of problems with jury -- getting a jury who are going to be going out of
9 town for Thanksgiving, so I have no objection to that.

10 In terms of Mr. Hudson and his objection to the motion to
11 continue, I would note that given the history of this case, all of the prior
12 continuances had been at the request of the defense. And specifically,
13 on May the 3rd of 2016, it was a defense request to continue. On
14 11/29/2016, it was Mr. Hudson's attorney's request to continue, as well
15 as on July the 7th of 2017 -- excuse me, July the 6th of 2017.

16 So he has -- he waived his 60 day trial right back on October
17 the 1st of 2015. I know that this case is about two years old, but that's
18 not uncommon given the nature of the charges and the amount of
19 discovery and witnesses in this case. So given that, I emailed Mr.
20 Mueller and Mr. -- and Ms. Machnich. If Your Honor was inclined to
21 continue with some particular dates -- availability based on your Court's
22 calendar. And so if Your Honor's inclined to continue, I'd be asking for
23 the week of April the 16th, which would give us two weeks of time, which
24 I think we could get it done in two weeks.

25 THE COURT: Mr. Mueller --

1 MR. MUELLER: Your Honor, I --

2 THE COURT: -- anything in reply?

3 MR. MUELLER: I'm ready to go. All ready -- I am prepared
4 and ready to go this time. The transcripts themselves are fatally flawed.
5 The idea that this case can be tried together fairly is not possible.

6 THE COURT: Okay.

7 MR. MUELLER: Mr. Hudson's -- Mr. Turner's statements put
8 Mr. -- and will not be subject to cross-examination, put him at the scene;
9 talks about discussions that I can't cross-examine. Even -- and my
10 colleague went and took only the most tedious and inflammatory quotes.
11 There's all sorts of information that I would use as a prosecutor to
12 convict Mr. Hudson. And without cross-examining Mr. Turner it won't be
13 a fair trial. This case needs to be severed.

14 THE COURT: Okay. At this point I'm going to deny your
15 renewed motion to sever without prejudice.

16 I have been provided with a copy by the State of a redacted
17 version, as well as a redacted version by Mr. Hudson's attorney. What I
18 intend to do is take both those copies and see if I can make my own
19 redactions. I will -- let me finish, counsel.

20 MR. MUELLER: No, I'm sorry. I wasn't -- that's not what I
21 was going to say.

22 THE COURT: Okay. Well, you were taking a deep breath, so
23 I --

24 MR. MUELLER: I was taking a deep breath. I was -- I was
25 thinking. Sorry, Judge.

1 THE COURT: I am then going to provide my redactions to
2 counsel. You will have an opportunity then to object to the redactions
3 that I provide. Then you will also have the opportunity after you had -- to
4 renew your motion to sever if you don't believe the Court's redactions
5 are neutral and you believe that your client will be denied a fair trial if a
6 severance is denied.

7 Because there are still -- I'm going to continue this for two
8 weeks to do that. I am also going to vacate the calendar call and the
9 jury trial. The basis is that there's pending pretrial matters that need to
10 be addressed prior to the trial and also the Court's congested calendar.
11 So I am going to grant Defendant's -- Turner's motion to continue the
12 trial date, noting Mr. Mueller's objection to the same. I'll continue this
13 matter to -- what was the date?

14 THE LAW CLERK: April 16th.

15 MS. BEVERLY: Can we have April the 16th?

16 THE COURT: April --

17 THE LAW CLERK: Sixteenth.

18 THE COURT: April 16th.

19 Clerk, provide them with a pretrial conference date, a calendar
20 call date and a trial date. The trial date being April 16th.

21 [Colloquy between the Court and the Court Clerk]

22 THE COURT CLERK: It's April 17th.

23 MS. BEVERLY: Oh, okay. Sorry.

24 THE COURT: Okay. Announce the dates.

25 Also, I need a two week date for -- on the redactions.

1 THE COURT CLERK: All right. The two week date is
2 November 16th, 9 a.m.

3 MR. MUELLER: November 16th?

4 THE COURT CLERK: November 16.

5 MR. MUELLER: Okay.

6 THE COURT CLERK: Calendar call April 17, 9 a.m.

7 MS. BEVERLY: Oh, I'm sorry. I thought the trial date was
8 April 17th.

9 THE COURT CLERK: No.

10 THE COURT: Hold on.

11 MS. BEVERLY: We can't have a -- that's what the JEA gave
12 me as dates.

13 THE COURT CLERK: Okay. Well -- okay.

14 THE COURT: Wait a minute.

15 THE COURT CLERK: Jury trial April 16 --

16 THE COURT: Hold on a second. Let me just make sure of
17 something.

18 [Colloquy between the Court and the Law Clerk]

19 [Colloquy between the Court and the Court Clerk]

20 THE COURT: April 16th for the trial date.

21 MS. BEVERLY: Thank you.

22 [Colloquy between the Court and the Law Clerk]

23 MS. BEVERLY: What's the calendar call date?

24 THE COURT CLERK: Okay. Let's try it again.

25 Pretrial conference March 6th, 9 a.m. Calendar call April 10th,

1 9 a.m. Jury trial April 16, 11 a.m.

2 MS. BEVERLY: Thank you.

3 THE COURT: And the pretrial conference is for trial
4 readiness.

5 MS. MACHNICH: Okay.

6 MS. BEVERLY: Okay.

7 THE COURT: Advise the Court if you still think we're going to
8 be able to hold onto that April date.

9 MS. BEVERLY: I think that will give us a two week block of
10 time --

11 MS. MACHNICH: Yes.

12 MS. BEVERLY: -- which would be --

13 THE COURT: Also, I would like any pretrial motions, motions
14 in limine -- obviously, I'd like to take care of them around the time of the
15 pretrial conference if you anticipate --

16 MS. BEVERLY: Sure.

17 MS. MACHNICH: That's absolutely fair.

18 MR. MUELLER: Thank you, Judge.

19 THE COURT: -- anything like that.

20 MS. BEVERLY: Okay. Thank you.

21 MS. MACHNICH: All right.

22 THE COURT: And just so you know, in my court, when you
23 come to calendar call I expect you to bring your jury instructions with
24 you.

25 MS. MACHNICH: Yes.

1 THE COURT: And if you stipulated to any facts or exhibits,
2 provide me with a list. That doesn't mean you have to stipulate to
3 anything. It just means if you do, and if there's any special
4 accommodations that you anticipate, like a witness issue that can only
5 travel on a certain day, things of that nature, that would be the time to
6 bring it to my attention --

7 MS. BEVERLY: Sure.

8 THE COURT: -- at calendar call.

9 MS. BEVERLY: Okay.

10 MS. MACHNICH: Okay.

11 MS. BEVERLY: Thank you.

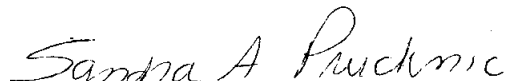
12 MS. MACHNICH: Thank you, Your Honor.

13 MR. MUELLER: Thank you, Judge.

14 [Proceedings concluded at 9:33 a.m.]

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

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25 SANDRA PRUCHNIC
Court Recorder/Transcriber

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THE STATE OF NEVADA,
Plaintiff,
vs.
STEVEN TURNER,
CLEMON HUDSON,
Defendant.

DEPT. XVIII

STEVEN TURNER,
CLEMON HUDSON,

Defendant.

**RECORDER'S TRANSCRIPT OF HEARING:
STATUS CHECK: STATUS OF CASE - REDACTIONS**

For the State:

For the Defendants:
Steven Turner

Clemon Hudson

CRAIG A. MUELLER, ESQ.

Page 1

1 Las Vegas, Nevada, Thursday, November 16, 2017

2

3 [Hearing began at 9:31 a.m.]

4 THE COURT: Are you ready?

5 MR. MUELLER: I believe so.

6 MS. BEVERLY: I don't think Ms. Machnich is here yet. Um --

7 THE COURT: As soon as she gets here let me know.

8 MR. MUELLER: All right. Thank you, Judge.

9 MS. BEVERLY: Oh, Mr. Logan, is Ms. Machnich coming on
10 Hudson and Turner?

11 MR. LOGAN: I -- I've got that.

12 MS. BEVERLY: Oh, okay. We can actually call it then, I'm
13 sorry. I thought she was coming.

14 THE COURT: This is on page 4, State versus Turner and on
15 page 5, State versus Hudson, case number C309578.

16 This is on for a status check regarding the redactions, --

17 MS. BEVERLY: Yes, Your Honor.

18 THE COURT: -- proposed redactions. Counsel state your
19 appearances.

20 MS. BEVERLY: Leah Beverly for the State.

21 MR. MUELLER: Craig Mueller for Clemon Hudson.

22 MR. LOGAN: Geordan Logan on behalf of Steven Turner,
23 who's present in custody.

24 THE COURT: I've reviewed the redactions submitted by the
25 District Attorney's Office and the redactions submitted by the Public

1 Defender's Office.

2 Mr. Mueller felt he -- the statement cannot be redacted and
3 therefore did not submit any.

4 MR. MUELLER: Thank you.

5 THE COURT: He felt they couldn't be redacted as to be
6 neutral. I have made a determination. I will tell counsel I'm more
7 inclined to go with what the Public Defender has submitted. I am making
8 my own changes to it.

9 MS. BEVERLY: Okay.

10 THE COURT: I -- they're going to be more extensive than
11 what the DA has submitted to me. I --

12 MS. BEVERLY: Okay.

13 THE COURT: I'm not going strictly with what the PD, but I will
14 tell you it's going to be a more extensive redaction than what you have
15 given me.

16 What I'm going to do and I was hoping to have them done by
17 today, but they're not finished yet. I wanted to be able to provide you
18 with my copy of my redactions.

19 MS. BEVERLY: Okay.

20 THE COURT: But I'm not going to sever. I am going to go --
21 but I will tell counsel that once you see my redactions you're not
22 precluded from then re-raising the severance issue so you have a
23 record.

24 MR. MUELLER: Thank you, Judge. And for the record I'm
25 not being flippant, I got in the office early this morning again about 4:00,

1 reread everything again. Mr. Hudson's statement goes to -- Mr. Turner's
2 statement goes to 27 pages. There was the first 3 pages where they
3 introduced themselves and they asked how he got his leg injured are
4 about the only pages that don't have something I wouldn't use as a
5 prosecutor, against Mr. Hudson.

6 And I understand completely, and I just need to make a full
7 record here.

8 THE COURT: And quite frankly Mr. Mueller, I'm going to give
9 you that opportunity once you -- because right now you're arguing in a
10 vacuum.

11 MR. MUELLER: Okay, fair enough.

12 THE COURT: Because my redactions -- and I completely
13 understand what you're saying, that's why I denied the motion to sever
14 without prejudice. So once you see the redactions I have proposed, if
15 you still have objections to them, which it sounds like you will, based on
16 your earlier argument to me, that you felt that there -- that there wasn't
17 any redactions that would be neutral. And so I obviously want to make
18 sure you have a full record on this issue.

19 MR. MUELLER: Right. Thank you, Judge.

20 THE COURT: So because of the holidays and everything I'm
21 going to continue this two weeks. At that time, I'll supply counsel with
22 my redactions and then give you the opportunity to file a motion to sever,
23 or if you're satisfied with them, we'll go with them.

24 MR. MUELLER: All right. Thank you, Judge.

25 MS. BEVERLY: Just a question. I --

1 THE COURT: I don't know if that came out as clear as I
2 meant it to be. But I'm going to give you an opportunity to re-raise your
3 motion to sever if you're not satisfied with the proposed redactions by
4 the Court.

5 MR. MUELLER: All right. Thank you, Judge.

6 MS. BEVERLY: Just a question. Can Mr. Mueller -- are you
7 going to give the redactions before the next court date, so Mr. Mueller
8 can then argue when we come to the next court date, if possible?

9 THE COURT: If I can get them to you before the next court
10 date --

11 MS. BEVERLY: Okay.

12 THE COURT: -- that would be fine. Or you might want to file
13 a whole new motion, counsel, if really want to protect the record.

14 MR. MUELLER: All right. Thank you, Judge. I --

15 THE COURT: I'll give you that opportunity. If you just want to
16 argue it --

17 MR. MUELLER: In the spirit --

18 THE COURT: -- I'll give you that opportunity too.

19 MS. BEVERLY: And I think you can just argue it, but --

20 MR. MUELLER: I -- is the spirit of the Court -- if the Court's
21 going to the extra effort I will consider it full and fairly. I have a fairly full
22 view of what needs to happen, but I'm open to reviewing it on behalf of
23 protecting Mr. Hudson's rights.

24 THE COURT: And just so you know, I'm willing to go line by
25 line.

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MR. MUELLER: Okay.

THE COURT: I'll take the time. I'll put it at the end of my calendar and you can argue line by line, or you can argue in total that the whole thing is not neutral.

MR. MUELLER: All right. Thank you, Judge. I can't -- you can't be more fair than that. I will accept the offer and I will see what you've got proposed.

THE COURT: All right. Thank you, counsel.

THE CLERK: November 30th, 9:00 a.m.


MR. LOGAN: Thank you, Judge.

MR. MUELLER: Thank you, Judge.

[Hearing concluded at 9:36 a.m.]

* * * * *

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


Gail M. Reiger
Court Recorder/Transcriber

Albert B. Hanson

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.

STEVEN TURNER,
CLEMON HUDSON,

Defendant.

CASE#: C309578-1
C309578-2

DEPT. XVIII

BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE
THURSDAY, NOVEMBER 30, 2017

**RECORDER'S TRANSCRIPT OF HEARING:
STATUS CHECK: STATUS OF CASE - REDACTIONS**

APPEARANCES:

For the State:

LEAH C. BEVERLY, ESQ.
Chief Deputy District Attorney

For the Defendants:
Steven Turner

ALEXANDER J. HUBERT, ESQ.
Deputy Public Defender

Clemon Hudson

CRAIG A. MUELLER, ESQ.

RECORDED BY: ROBIN PAGE, COURT RECORDER

1 Las Vegas, Nevada, Thursday, November 30, 2017

2

3 [Hearing began at 9:05 a.m.]

4 THE COURT: Good morning, ladies and gentleman.

5 On page 3 and 4, State versus Turner, case number

6 C309578,

7 MR. MUELLER: Good morning, Your Honor. Craig Mueller,
8 on behalf of Mr. Hudson.

9 MS. BEVERLY: And we need Mr. Turner.

10 THE COURT: Do we have counsel for Mr. Turner?

11 MS. BEVERLY: Yes, it's you.

12 MR. HUBERT: It threw me when he jumped up here.

13 THE COURT: Can counsel state their appearances?

14 MS. BEVERLY: Leah Beverly for the State.

15 MR. HUBERT: Alex Hubert, on behalf of the Public Defender.

16 THE COURT: And let the reflect -- record reflect Mr. Turner
17 and Mr. Hudson are present in custody.

18 This is on for a status check. Counsel for the defense, Mr.
19 Mueller, had filed a motion to sever. I denied that motion as an
20 alternative. The State had submitted redactions as well as the Public
21 Defender's Office. What I did was went through both parties redactions
22 and then I did some of my own redactions.

23 MS. BEVERLY: Okay.

24 THE COURT: The way I did it is, I think, we did it on one
25 statement. It's Mr. Turner's statement that you're seeking to bring in, is

1 that correct?

2 MS. BEVERLY: Well, it's both, I -- the State --

3 THE COURT: You're both? But we did it on both, but I wasn't
4 sure --

5 MS. BEVERLY: Right. The State submitted redactions on all
6 -- both of their statements.

7 THE COURT: Right.

8 MS. BEVERLY: Ms. Machnich only submitted on her client,
9 because she didn't have --

10 THE COURT: All right.

11 MS. BEVERLY: -- a basis to make redactions to the
12 co-Defendant's statements.

13 THE COURT: Here's what I did. I took the -- I took one
14 statement and then I -- the dark portion of that statement is the District
15 Attorney's redactions. Then in green we did the Public Defender's
16 redactions.

17 MS. BEVERLY: Okay.

18 THE COURT: In yellow, I did my suggested redactions.

19 MS. BEVERLY: Okay.

20 THE COURT: So on one -- on one statement you'll see
21 multiple redactions in different colors because that's -- trying to --

22 MR. MUELLER: Well I know I -- I'm actually very impressed,
23 Judge. I'm not sure I would have done that.

24 THE COURT: So --

25 MR. MUELLER: Put the time in for that, so thank you.

1 THE COURT: -- now these are, again, I'm trying to make this
2 as neutral as I can, but still, you know, make it a readable form.

3 MS. BEVERLY: I understand.

4 THE COURT: So, I'm in trial right now and my calendar's
5 probably gonna go -- bump right up until the time I have to go in trial. I
6 was going to continue this two weeks --

7 MS. BEVERLY: Okay.

8 THE COURT: -- for a pretrial conference.

9 MS. BEVERLY: Okay.

10 THE COURT: I told Mr. Mueller that, you know, even though I
11 denied his motion to sever, he could renew it after he sees the
12 redactions. That's my expectation, but if I do deny it, I want input from
13 the State and the Defense as to the redacted statements that may be
14 admitted at a joint trial.

15 MS. BEVERLY: Okay.

16 THE COURT: So I'm going to set it down for two weeks.
17 Contact my Law Clerk later today and he'll provide you each with copies
18 of both statements with the redactions. And then when we come back
19 for a pretrial conference you can tell me your objections, or you can file
20 written objections, either one. And then I'll make a determination as -- if
21 I deny Mr. Mueller's motion to sever, what redactions will be provided
22 during the trial.

23 MS. BEVERLY: Okay.

24 MR. MUELLER: Thank you, Judge, and I sincerely appreciate
25 the extra effort. I know what -- that I'm -- I've been through the

1 statements a few times myself. I sincerely appreciate that.

2 THE COURT: All right. Thank you, counsel.

3 MS. BEVERLY: Thank you.

4 THE COURT: So two weeks for a pretrial conference
5 regarding the redactions.

6 THE CLERK: December 14th, 9:00 a.m.

7 MR. MUELLER: And we -- if I have my paralegal call over
8 we've got a -- I can get a copy today? I'm not -- okay so have him call
9 today?

10 THE COURT: Yeah, he --

11 MS. BEVERLY: Can I just come to chambers after --

12 THE COURT: If you could do it in the afternoon though,
13 because we're going to be in Court most of the morning.

14 MR. MUELLER: No problem, Judge. I'm on my way down to
15 Henderson, I'll give them your regards.

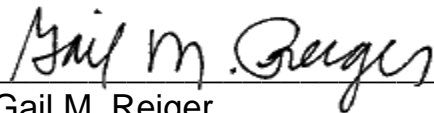
16 THE COURT: All right. Thank you, counsel.

17 MS. BEVERLY: Thank you.

18 [Hearing concluded at 9:09 a.m.]

19 * * * * *

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

24 
25 Gail M. Reiger
Court Recorder/Transcriber

CLERK OF THE COURT
Albert B. Hanson

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.

STEVEN TURNER,
CLEMON HUDSON,

Defendant.

CASE#: C309578-1
C309578-2

DEPT. XVIII

BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE
THURSDAY, DECEMBER 14, 2017

**RECORDER'S TRANSCRIPT OF HEARING:
STATUS CONFERENCE - REDACTIONS**

APPEARANCES:

For the State:

LEAH C. BEVERLY, ESQ.
Chief Deputy District Attorney

For the Defendants:
Steven Turner

TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

Clemon Hudson

CLAY A. PLUMMER, ESQ.

RECORDED BY: ROBIN PAGE, COURT RECORDER

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Las Vegas, Nevada, Thursday, December 14, 2017

[Hearing began at 9:23 a.m.]

THE COURT: On page 3, State versus Turner, case number C309578. Is Mr. Mueller here?

MS. MACHNICH: I believe we have someone standing in for him?

MR. PLUMMER: Clay Plummer from -- with Mr. Mueller's office, Your Honor.

MS. MACHNICH: And good morning, Your Honor. Tegan Machnich, Public Defender's Office for Mr. Turner.

MS. BEVERLY: Leah Beverly for the State.

THE COURT: And is the co-Defendant present, Mr. Hudson?

MS. BEVERLY: Yes.

THE COURT: So Mr. Turner and Mr. Hudson are present.

All right. This is on for a status check regarding the redactions of the statement, I believe it's Mr. Turner's statement, is that correct?

MS. BEVERLY: It's both of their statements, Judge. Last time we were here your Law Clerk gave me copies of the Court's redactions. I then emailed them to both Ms. Machnich and Mr. Mueller and then we were just here, you know, if that's what the Court's redactions are, the State's fine with that. I will make those adjustments appropriately if I even decide to play the statement, that's still up in the air. But I appreciate the Court going through and making those redactions and that's -- it's not fine with the State, but I accept --

1 THE COURT: I understand.

2 MS. BEVERLY: -- what the Court's asking me to do.

3 THE COURT: And my position is this, counsel, and I
4 understand that Mr. Mueller has filed a motion to sever, which I denied
5 without prejudice. I wanted to give counsel the opportunity to see the
6 suggested redactions that I was going to give if -- if there is a joint trial.
7 This doesn't preclude either counsel from filing additional motions
8 related to this. Whether you think there should be additional redactions
9 or whether you think a motion for severance is still appropriate.

10 But at this point, I've denied the motion to sever and unless
11 you can convince me of additional redactions, or if you think I -- some of
12 the redactions are unhelpful and you want that information to come in.
13 But these are my suggested redactions if there is a joint trial.

14 MS. MACHNICH: Your Honor, on behalf of Mr. Turner, I did
15 receive the redactions proposed and reviewed especially in detail the
16 ones of Mr. Hudson's statements, which would be the ones that we
17 would be challenging.

18 THE COURT: Mm-hmm.

19 MS. MACHNICH: Because obviously Mr. Turner's statements
20 are admissible against him. And based on Your Honor's redactions, we
21 have no challenge to the statements on those grounds, at this point. On
22 *Brutton* grounds as opposed to -- we may have some additional motion
23 practice in the case.

24 THE COURT: And you're not precluded from filing any
25 additional motions. And again, I think I -- I advised Mr. Mueller, I denied

1 his motion to sever without prejudice. So if after reviewing the proposed
2 redactions you still feel it's an appropriate motion or you want to make
3 additional redactions, you're not precluded from doing so.

4 MR. PLUMMER: Understood, Your Honor, I believe Mr.
5 Mueller will be filing that motion.

6 THE COURT: Okay. I'm -- I would not be surprised. In any
7 evate -- in any event we have a pretrial conference scheduled for March
8 6th, 2018. A calendar call for April 10, 2018, and jury trial scheduled for
9 April 16th, 2018.

10 MS. BEVERLY: Thank you.

11 MS. MACHNICH: Thank you, Your Honor.

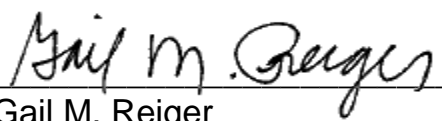
12 THE COURT: Thank you, counsel.

13 MR. PLUMMER: Thank you, Your Honor.

14 [Hearing concluded at 9:26 a.m.]

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22 the audio/video proceedings in the above-entitled case to the best of my
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25 Gail M. Reiger
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

STEVEN TURNER,
CLEMON HUDSON,
Defendant.

CASE#: C309578-1
C309578-2

DEPT. XVIII

BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE
TUESDAY, MARCH 6, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
PRETRIAL CONFERENCE; DEFENDANT'S MOTION IN LIMINE;
DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND
REQUEST FOR JACKSON v. DENNO HEARING**

APPEARANCES:

For the State:

LEAH C. BEVERLY, ESQ.
Chief Deputy District Attorney

For the Defendants:
Steven Turner

TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

Clemon Hudson

CLAY A. PLUMMER, ESQ.

RECORDED BY: ROBIN PAGE, COURT RECORDER

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Las Vegas, Nevada, Tuesday, March 6, 2018

[Hearing began at 9:18 a.m.]

THE COURT: On page 1, case number C309578, State versus Turner and State versus Steven Turner and Clemon Hudson.

MS. BEVERLY: Judge, I think we're waiting on Mr. Mueller for Mr. Hudson.

THE COURT: That's fine. As soon as he arrives let me know and I'll recall the case.

MS. BEVERLY: Thank You.

MS. MACHNICH: Thank you, Your Honor.

[Hearing trailed at 9:19 a.m.]

[Hearing resumed at 9:28 a.m.]

MS. BEVERLY: Can we recall Mr. Tuner and Mr. Hudson?

THE COURT: I can.

MS. BEVERLY: Thank you.

THE COURT: On page 1, case number C309578, State versus Steven Turner and on page 2, State versus Clemon Hudson.

MS. BEVERLY: Leah Beverly for the State.

MS. MACHNICH: Good morning, Your Honor. Tegan Machnich, for Mr. Turner.

THE COURT: Is Mr. Mueller here?

MR. PLUMMER: Good morning, Your Honor. Clay Plummer, with Craig Mueller's office.

THE COURT: Thank you counsel. And let the record reflect

1 the Defendants are present in custody.

2 This is on for a pretrial conference, Defendant's motion in
3 limine, and Defendant's motion to suppress statements and request for
4 a *Jackson v. Denno* hearing.

5 Apparently these motions were set on a very short setting.

6 MS. BEVERLY: Yes, that's what I was going to say, Your
7 Honor. And I spoke with Ms. Machnich about this because our motions
8 got set pretty quick, even though she did inform me that she was going
9 to be filing them. So I really appreciate that from her. But then
10 whenever, I guess the Court set them on the calendar they got set really
11 short. I have managed to file an opposition to the motion to suppress,
12 but I'm still -- I need a couple of days to file --

13 THE COURT: And I was going to give you an opportunity,
14 counsel.

15 MS. BEVERLY: Okay. Thank you so much.

16 THE COURT: And then I was going to give Defense counsel
17 an opportunity to file an optional reply brief if they think it's necessary.
18 Are you satisfied with your opposition or did you want to supplement it in
19 any way?

20 MS. BEVERLY: No, I'm fine with my opposition to the motion
21 to suppress.

22 THE COURT: So you just need to file an opposition to
23 Defendant's motion in limine? When --

24 MS. BEVERLY: Correct.

25 THE COURT: -- when do -- how much time do you need

1 counsel?

2 MS. BEVERLY: It's not very long, so no more than a week at
3 all.

4 THE COURT: A week?

5 MS. BEVERLY: Yes. But -- oh, I'm sorry, go ahead.

6 THE COURT: Okay. Is a week going to be sufficient?

7 MS. BEVERLY: Yes, that's plenty of time.

8 THE COURT: And does counsel want to file a -- the
9 opportunity to file an optional reply?

10 MS. MACHNICH: Almost certainly not. We'll be able to
11 respond orally. Again, it's a discrete issue, so.

12 THE COURT: Okay. I'm talking as to both of them though, to
13 your motion to suppress statements and request for *Jackson v. Denno*
14 hearing and a motion in limine.

15 MS. MACHNICH: Your Honor, I don't believe we need the
16 opportunity to file a reply on either of those. I believe we can respond
17 orally on both and hear them today or at a later date.

18 THE COURT: And Mr. -- sir, do you need a reply? To file a
19 reply, time to file a reply?

20 MS. MACHNICH: He didn't file any motions.

21 MR. PLUMMER: We didn't --

22 MS. BEVERLY: He didn't do anything.

23 THE COURT: This is not your motion?

24 MR. PLUMMER: We didn't -- we -- This is not our motion,
25 Your Honor.

1 THE COURT: You didn't joined in?
2 MS. MACHNICH: No.
3 MS. BEVERLY: No.
4 MR. PLUMMER: We did not.
5 THE COURT: Okay. That's fine.
6 MR. PLUMMER: I didn't know they were filed.
7 MS. BEVERLY: It applies to her client's statement, so it's
8 not --

9 THE COURT: Okay. Two weeks?

10 MS. BEVERLY: Yes.

11 MS. MACHNICH: That's fine, Your Honor.

12 THE COURT: All right. So we'll continue the pretrial
13 conference and the motions for two weeks.

14 THE CLERK: March 22nd at 9:00 a.m.

15 MS. BEVERLY: Your Honor, one last thing. Over the last six
16 months to a year I have been continuously extending offers to both of
17 these Defendants. And yesterday I once again, for the last time,
18 extended the same offer that I've been extending for the last six to nine
19 months to these Defendants, which is for them to plead, both of them,
20 contingent, for them to plead guilty to attempt murder with use of a
21 deadly weapon plus conspiracy to commit burglary, full right to argue.
22 However, the State would not argue for more than ten years on the top
23 of the deadly weapon enhancement on the attempt murder.

24 Mr. Turner, Ms. Machnich's client, has said multiple times that
25 he wants to take the offer. I have extended the same offer to Mr.

1 Mueller's client over and over and over again, and I'm giving them one
2 last opportunity as I told them yesterday. So can we have a few minutes
3 for him to speak to him about that, because I -- multiple counsels have
4 talked to him about this offer. So I just want to be clear, because I'm
5 going to revoke it today.

6 THE COURT: Well, I'm not going to do that because I don't
7 think a few minutes will be a sufficient record if he were to accept it.
8 What I'll do is, I'd request that you leave the offer open to the next court
9 hearing which is going to be two weeks.

10 MS. BEVERLY: Okay.

11 THE COURT: Thank you, counsel.

12 Counsel be sure to convey the offer to your client.

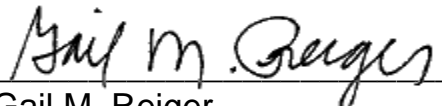
13 MR. PLUMMER: Yes, Your Honor.

14 THE COURT: Thank you.

15 [Hearing concluded at 9:32 a.m.]

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

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25 Gail M. Reiger
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

STEVEN TURNER,
Defendant.

CASE#: C309578-1
DEPT. XVIII

BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE
THURSDAY, MARCH 22, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
PRETRIAL CONFERENCE; DEFENDANT'S MOTION IN LIMINE;
DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND
REQUEST FOR JACKSON v. DENNO HEARING**

APPEARANCES:

For the State:

LEAH C. BEVERLY, ESQ.
Chief Deputy District Attorney

For the Defendant:

TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

RECORDED BY: ROBIN PAGE, COURT RECORDER

1 Las Vegas, Nevada, Thursday, March 22, 2018

2
3 [Hearing began at 10:22 a.m.]

4 MS. BEVERLY: Your Honor, can you call Mr. Turner.

5 THE COURT: Are all of the -- are all counsel here on this
6 case?

7 MS. BEVERLY: I think one of them stepped out, but really this
8 is Ms. Machnich's motion, so I know there's only one thing aside the
9 motion I need to say about Mr. Hudson. So we can start with Mr. --

10 THE COURT: Because it's on for also a pretrial conference.
11 There's another -- no other counsel here?

12 MS. MACHNICH: We're missing Mr. Plummer with regard to
13 the pretrial conference stuff. Perhaps if we could start with the motion --

14 THE COURT: Why don't I just call your case at this time --

15 MS. MACHNICH: Perfect.

16 THE COURT: -- and then if other counsel appear I'll call it
17 jointly.

18 MS. BEVERLY: Thank you.

19 THE COURT: Thank you, counsel. On page 2, case number
20 C309578, State versus Turner. This is on for Defendant's motion in
21 limine and Defendant's motion to suppress statements and request for
22 *Jackson v. Denno* hearing, as to Mr. Turner.

23 My understanding no other parties have joined in your motion,
24 is that correct?

25 MS. MACHNICH: Correct, Your Honor.

1 THE COURT: Okay. So we'll go forward on those --

2 MS. MACHNICH: Okay.

3 THE COURT: -- two matter at this time. Counsel state your
4 appearances, please.

5 MS. MACHNICH: Tegan Machnich, Public Defender's Office,
6 11642 on behalf of Mr. Turner, who is present and in custody.

7 MS. BEVERLY: And Leah Beverly, for the State.

8 THE COURT: Are counsel ready to go forward on the
9 pending motions?

10 MS. BEVERLY: Yes.

11 MS. MACHNICH: We are, Your Honor, whichever you'd like
12 to start with.

13 THE COURT: Let's start with the motion -- I'm sorry
14 Defendant's motion in limine.

15 MS. MACHNICH: Okay. So, Your Honor, with regards to the
16 motion in limine, I know Your Honor has read the motion and the
17 opposition in this case.

18 THE COURT: I have read the motion and opposition and
19 quite frankly you both seemed to be taking the same position, that I
20 shouldn't let it in without proper authentication.

21 MS. BEVERLY: Right. Can we approach on this really quick?

22 THE COURT: Sure.

23 [Bench conference -- not transcribed]

24 MS. BEVERLY: Judge, based on our conversation at the
25 bench, I think both parties have agreed that we will have a little hearing

1 outside the presence of the jury regarding authentication of the text
2 messages. And at that point, Your Honor can make his ruling.

3 MS. MACHNICH: And the Defense is in agreement that it is
4 appropriate that those text messages only come in if they are properly
5 authenticated. And based on the State's representations at this point
6 and Your Honor's anticipated ruling, we are fine with going forward in
7 that manner.

8 THE COURT: Thank you, counsel.

9 At this time it will be the Court's ruling that before the text
10 messages are introduced by the State there must be a proper -- proper
11 authentication must be laid. I think the State indicated that we would do
12 that outside the presence of the jury. That would be fine, but again, my
13 ruling is before the text messages will be admitted into evidence there
14 must be proper authentication.

15 MS. BEVERLY: Absolutely, thank you.

16 MS. MACHNICH: Thank you, Your Honor.

17 THE COURT: Thank you, counsel.

18 Now as to Defendant's motion to suppress statements and
19 request for a *Jackson v. Denno* hearing.

20 MS. MACHNICH: Yes.

21 THE COURT: Does counsel want to be heard in argument on
22 this?

23 MS. MACHNICH: Very briefly, Your Honor. As both the State
24 and the Defense included in their statement of facts, it is clear from the
25 transcript that my client reaffirmed not once, but at least twice, that he

1 wanted an attorney. It wasn't ambiguous or equivocal and he shouldn't
2 have been asked any further questions after his invocation of right to
3 counsel at that point.

4 And if Your Honor is not inclined to suppress that section of
5 the third statement, at this time we would renew our request for a
6 *Jackson v. Denno* hearing.

7 THE COURT: I do have a couple of clarification questions,
8 counsel.

9 MS. MACHNICH: Okay.

10 THE COURT: It was unclear to me in reading your motion, it's
11 my understanding that what you are arguing is that they -- under the
12 *Edwards* decision he violated -- they didn't honor his right to counsel.

13 MS. MACHNICH: Correct.

14 THE COURT: Correct, you're not arguing the right to remain
15 silent --

16 MS. MACHNICH: Yes.

17 THE COURT: -- because you went back and forth in your
18 briefing --

19 MS. MACHNICH: Yes.

20 THE COURT: -- on the right to remain silent and right to
21 counsel. You're -- just so I'm clear --

22 MS. MACHNICH: Right to counsel.

23 THE COURT: -- what you're arguing is the violation was right
24 to counsel?

25 MS. MACHNICH: Correct.

1 THE COURT: Okay. And then --

2 MS. BEVERLY: I'm sorry, are you done with --

3 THE COURT: Just so you know, I did read the -- your

4 attachment which is the actual transcripts --

5 MS. MACHNICH: Thank you.

6 THE COURT: -- of the hearing of the third.

7 And State you're conceding that this was a custodial -- both

8 parties are agreeing that this was a -- I shouldn't use the word concede,

9 so --

10 MS. BEVERLY: Okay. I was like uh --

11 THE COURT: You're acknowledging -- both parties are

12 acknowledging that this was a custodial interrogation, correct?

13 MS. MACHNICH: Correct.

14 MS. BEVERLY: Yes.

15 THE COURT: Okay.

16 MS. BEVERLY: Yes, yes he was in custody, yes.

17 THE COURT: Very good.

18 MS. BEVERLY: Okay.

19 THE COURT: And this a -- and the Defendant you are not

20 contesting that he wasn't properly mirandized, correct?

21 MS. MACHNICH: Correct.

22 THE COURT: Okay. Anything else from the Defense?

23 MS. MACHNICH: We'll submit.

24 MS. BEVERLY: Just briefly, Your Honor, I think we -- I

25 outlined it very well I think in that -- in my opposition that the United

1 States Supreme Court has made it very clear that the officers are
2 allowed to ask clarifying questions. In this particular case we had two
3 statements prior to this statement on where he freely talked with the
4 officers over an extended period of time. And so, I think it was
5 absolutely proper for the officers to ask him clarifying question. There
6 were no questions regarding the substance of the case or anything like
7 that and immediately he indicated, okay, I'll talk to you guys.

8 So with that, I will submit the rest of my opposition.

9 THE COURT: Thank you, counsel.

10 Also I wanted to -- do you want any rebuttal argument?

11 MS. MACHNICH: No, we'll submit it.

12 THE COURT: I just need another clarification. You're asking
13 for a *Jackson v. Denno* hearing. Typically a *Jackson v. Denno* hearing
14 is for the purpose of voluntariness. You know, where you're claiming
15 your client was misled, or coerced, or fatigued, or things like that. I
16 didn't really see that in your briefing. As to -- what is -- what is it -- why
17 are you requesting the *Jackson v. Denno* hearing?

18 MS. MACHNICH: I think more with regard to voluntariness. If
19 Your Honor, is not fully satisfied with the transcripts of the actual
20 interrogation itself and Your Honor is aware of the surrounding
21 circumstances as to was the third statement that was given by Mr.
22 Turner, third interrogation by police. And our request for a *Jackson v.*
23 *Denno* hearing would be with regard to the voluntariness of what the
24 State is saying is the waiver of the right to counsel and his decision to go
25 forward or whether that was a voluntary decision --

1 THE COURT: All right.

2 MS. MACHNICH: -- or whether he was coerced into that. And
3 instead, our position is that it would not necessarily be required to have
4 a hearing. Because we think it is clear from the transcripts, that he
5 invoked his right to counsel and should not have been questioned further
6 at that point.

7 THE COURT: All right. And I understand the clarification.

8 MS. MACHNICH: Okay.

9 THE COURT: I will -- anything further from counsel?

10 MS. MACHNICH: No.

11 MS. BEVERLY: No.

12 THE COURT: I will tell counsel in preparation of your
13 argument today I did review *Davis v. U.S.*, 512 U.S., 452, 1990 -- United
14 States Supreme Court, decision 1992. I also reviewed *United States*
15 *versus Rodriguez*, 518 F.3d 1072, March 10, 2008, decision from the
16 Ninth Circuit Court of Appeals, as well as *People versus Saucedo-*
17 *Contreras*, 282 P.3d 279, the California decision rendered August 13,
18 2012, and *Noh versus State*, 230 So.3d 603, from the District Court of
19 Appeal for the State of Florida, filed on November 15, 2017.

20 In looking at the *People versus Saucedo-Contreras*, I thought
21 it was an interesting decision because it had many of the same factors
22 present in our case. Or in your case actually. And it sets forth a little bit
23 of a standard that the Court's supposed to apply when reviewing this. In
24 that case the statement that was the subject of the motion was, if you
25 can bring me a lawyer that way I can -- with who -- that way I can tell you

1 everything that I know and everything that I need to tell you and
2 someone to represent me.

3 In that case they said that that was not an unequivocal
4 invocation, and they said the standard is an objective standard. What
5 was -- what would a reasonable police officer have understood when he
6 hears the statement? I mean, that's the standard that they applied,
7 which was an objective standard and it's from an objective standpoint a
8 reasonable officer under these circumstances would not only have
9 understood this Defendant's response to be clear and unequivocal
10 request for counsel. And they said in this decision they also said, you
11 just can't look at the plain meaning of the words used. You have to look
12 at the totality of the circumstances.

13 So when looking at this case, and you both have cited the
14 portion correctly. So, the question was, tell me where the rifle came into
15 play, where did it come from? The Defendant says: I gotta talk to you
16 right now or do I gotta talk to you right now or can I wait till -- cause my
17 mom is talking on the phone like on an appointment with my attorney
18 right now, so I don't want to know -- so I don't wanna. You know what I
19 mean, to say nothing. You know what I mean, shouldn't I wait for my
20 attorney to be here too. That's clearly equivocal [sic]. Clearly a
21 clarification question was called for at that point.

22 And the officer says, it's your call man. Okay, so again, that
23 appears to be clearly proper. And this is the phrase that's in
24 controversy: Yeah, I 'd rather wait for my attorney. Then this is where it
25 gets -- according to the transcripts that have been provided to me. Then

1 the officer says: Yeah, [Indiscernible] the officer says, you don't wanna.
2 And then it appears that they're talking over each other. Because
3 Defendant says, yeah and the officer: Talk to any -- talk to me anymore.
4 And the Defendant says: I mean, I'll talk to you, fine yeah.

5 So that's the key portion where he says I'd rather wait for my
6 attorney. The officer says, you don't wanna, and they appear to be
7 talking over, yeah talk to me anymore, I mean, I'll talk to you, fine, yeah.
8 What does the phrase I'd rather wait for my attorney? I actually looked
9 up what the word rather means in the dictionary and there's several -- it
10 can mean preference, things of that nature. And initially, if you just look
11 at a cold record you can't really tell the circumstances of how this was
12 made. There's nothing in there about his demeanor, his tone, his -- the
13 inflection of his words. If he says: Yeah, I'd rather have an attorney;
14 that's one way you could say it. Or he could say: Yeah, I'd rather have
15 an attorney. And then the officer then from an objective reasonable
16 state of mind the officer could interpret that to mean -- to be equivocal.

17 Where I'm going with this is I have to look at the totality of
18 circumstances and apply an objective standard. From the transcripts I
19 can't do that. Is there a video of the third interrogation?

20 MS. BEVERLY: We just have audio. I can email that to the
21 Court if you'd like.

22 MS. MACHNICH: Sure.

23 MS. BEVERLY: I don't think there's video.

24 THE COURT: Okay. There's not a video? They didn't do a
25 video?

1 MS. BEVERLY: I don't believe so. I think it's audio.
2 THE COURT: Okay.
3 MS. MACHNICH: I believe it's audio as well. I've never seen
4 a video.
5 MS. BEVERLY: Yeah, I've never seen a video.
6 THE COURT: All right. Because --
7 MS. BEVERLY: I can email it to, Your Honor.
8 THE COURT: I need to see it.
9 MS. BEVERLY: Okay.
10 THE COURT: If there's a video I want to see it. If it's just
11 audio I want to hear it.
12 MS. BEVERLY: No problem.
13 MS. MACHNICH: Okay.
14 THE COURT: Does either counsel have any problem with me
15 listening to it?
16 MS. MACHNICH: No, no absolutely not. Go ahead.
17 THE COURT: Okay.
18 MS. BEVERLY: I can --
19 THE COURT: Okay, because I'm going to look at it. I'm going
20 to -- I want to hear his inflection and I want to hear the officer's tone. If
21 he was stern, not stern.
22 MS. BEVERLY: Sure.
23 THE COURT: If the Defendant was, you know, I want to hear
24 his tone also.
25 MS. BEVERLY: Can I get a card that has the email address

1 where Your Honor would like it sent to?

2 THE COURT: Well you can just a --

3 MS. BEVERLY: I think it should be small enough to email.

4 MS. MACHNICH: Yeah, it should be.

5 THE COURT: Or if you want to just put it on one of those a --
6 and send it over.

7 MS. BEVERLY: Email is so easy, you know, the --

8 THE COURT: Email is fine.

9 MS. BEVERLY: Thank you.

10 THE COURT: Look at me, do I look like an email type of guy.

11 MS. BEVERLY: Thank you.

12 THE COURT: All right. What I'll do is continue this one week
13 for decision.

14 MS. BEVERLY: Okay.

15 MS. MACHNICH: Thank you.

16 THE CLERK: March 29th, 9:00 a.m.

17 MS. BEVERLY: And just a couple more things, Judge,
18 regarding Ms. Machnich's claim Mr. Turner. I had submitted a request to
19 Your Honor, for the medical records --

20 THE COURT: Right.

21 MS. BEVERLY: -- of Mr. Turner, because he was shot during
22 this incident. I spoke with Ms. Machnich and I don't think she has an
23 objection to me having those records. So I would ask that Your Honor
24 sign that order as soon as possible so I can get them from UMC.

25 THE COURT: Do we have that? Is that correct?

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MS. MACHNICH: That's correct.

THE COURT: All right. The I'll go ahead and find the ex parte application.

MS. BEVERLY: Thank you, Your Honor.


MS. MACHNICH: Okay, thank you, Your Honor.

THE COURT: Thank you, counsel.

[Hearing concluded at 10:39 a.m.]

* * * * *

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


Gail M. Reiger
Court Recorder/Transcriber

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THE STATE OF NEVADA,
Plaintiff,
vs.
STEVEN TURNER,
Defendant.

BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE
THURSDAY, MARCH 29, 2018

APPEARANCES:

For the Defendant: TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

RECORDED BY: ROBIN PAGE, COURT RECORDER

1 Las Vegas, Nevada, Thursday, March 29, 2018

2
3 [Hearing began at 9:30 a.m.]

4 THE COURT: On page 14, case number C309578, State
5 versus Turner. Counsel, state your appearances please.

6 MS. BEVERLY: Leah Beverly for the State.

7 MS. MACHNICH: Tegan Machnich, Public Defender's Office,
8 11642, for Mr. Turner.

9 THE COURT: And this is on for a pretrial conference, as well
10 as decision regarding Defendant's motion to express statements and
11 request for a *Jackson V. Denno* hearing.

12 I would advise counsel that I did have the opportunity to listen
13 to the audio recording of the statement. I also did supplemental
14 research. One of the cases that I reviewed was *Carter versus State*,
15 129 of Nevada reports 244 was decided April 25, 2013. And in the
16 *Carter* decision, the underlying statement was: Can I have an attorney?
17 In that particular case they did an analysis of the statement and the
18 context in which it was made and determined that it was an
19 unequivocal [sic] statement requiring that or evidencing the
20 Defendant's desire to have a right to counsel present.

21 As counsel's aware the standard is that if it -- under *Edwards*
22 *versus California* if it's an unequivocal statement the questioning must
23 stop. In this particular case, the statement was: Yeah, I'd rather have
24 an attorney. When taken in context, it was a response to the officer
25 statement, it's your call man. I determine that, that was an

1 unequivocal statement; that questioning should have stopped at that
2 point.

3 And I'm going to grant the motion to suppress statement and
4 the request for *Jackson V. Denno* hearing is moot.

5 MS. MACHNICH: Thank you, Your Honor.

6 MS. BEVERLY: Thank you.

7 THE COURT: Thank you.

8 [Hearing concluded at 9:32 a.m.]

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

24 

25 _____
Rubina Feda
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 STEVEN TURNER and CLEMON
12 HUDSON,
13 Defendants,

)
) CASE#: C309578-1, and -2
)
) DEPT. XVIII
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14 BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE
15 TUESDAY, APRIL 10, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **CALENDAR CALL**

18 APPEARANCES:

19 For the State: BERNARD ZADROWSKI, ESQ.
20 Chief Deputy District Attorney

21 For the Defendants:
22 Steven Turner: TEGAN C. MACHNICH, ESQ.
Deputy Public Defender

23 Clemon Hudson: CLAY A. PLUMMER, ESQ.
24

25 RECORDED BY: ROBIN PAGE, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, April 10, 2018

2 [Hearing began at 9:46 a.m.]

3 THE COURT: On page one and two, case number C309578,
4 State versus Steven Turner, and Clemon Hudson.

5 Counsel, state your appearances please.

6 MS. MACHNICH: Tegan Machnich Public Defenders office,
7 11642 for Mr. Turner who is present in custody.

8 MR. PLUMMER: Clay Plummer 6778 for Mr. Hudson who is
9 present and in custody.

10 THE COURT: This time set for calendar call. This was a firm
11 setting. Is this matter going forward?

12 MS. MACHNICH: Yes, Your Honor.

13 MR. PLUMMER: Yes, Your Honor.

14 THE COURT: Thank you, counsel. I would advise counsel
15 that at this time that I've been advised that this courtroom is -- the JAVS
16 are being updated and it'll take about a week. So I'm going to continue
17 calendar call over until Thursday, at which time I will advise you what
18 courtroom we will begin the trial in. I believe what we'll do is start, use
19 that courtroom for a week and then when this courtroom -- you advise
20 it's going to be about a two or three week trial?

21 MR. ZADROWSKI: Well a week-and-a-half is what trial
22 counsels advised me this morning.

23 THE COURT: Okay.

24 MR. ZADROWSKI: I don't know if that's --
25

1 THE COURT: Well this courtroom is going to be unavailable
2 for a week, so depending on how the trial goes we may just remain in
3 whatever courtroom we're assigned.

4 MS. MACHNICH: Your Honor, might we inquire how many
5 trial days a week we're having?

6 Mr. PLUMMER: Yeah.

7 THE COURT: I would do five days, but of those five days at
8 least three probably four will be half-days.

9 MS. MACHNICH: Okay, so Monday through Thursday half-
10 days, and Friday full day.

11 THE COURT: In all probability.

12 MS. MACHNICH: Okay. And that's very helpful, thank you.

13 THE COURT: That's correct.

14 MS. MACHNICH: And then, Your Honor, I got previously said
15 that you'd like, if at all practicable, our jury instructions, and any
16 stipulations, and exhibits to be worked out by noon this Friday?

17 THE COURT: That's correct. And certainly, again, there's no
18 requirement that you stipulate to any exhibits. Usually counsel will meet
19 and confer -- actually that's a bad choice of words. Usually counsel will
20 discuss the exhibits that are to be introduced into evidence, see if there's
21 going to be any that are going to be stipulated to. Obviously there's no
22 requirement that you stipulate to any exhibits or any stipulated facts. If
23 they are, I'd like to be notified prior to the trial.

24 As to jury instructions, I used to require them at calendar call.
25 I have become more relaxed on that issue. As long as I get them by 5

1 p.m. on Friday that'll be satisfactory. Also, I'd like courtesy copies, hard
2 copies, provided to me, not emails. And if you could provide the
3 courtesy copy to my chambers by 5 o'clock on Friday.

4 MS. MACHNICH: Of course.

5 THE COURT: And if there's any matters that you think that I
6 will need to make special accommodations on, taking witnesses out of
7 order, like typically in law enforcement or an expert or somebody like
8 that. I'd also like to be advised of that, if you anticipate having to take
9 somebody out of order. And this is for the State also.

10 MS. MACHNICH: Okay.

11 THE COURT: Is there anything further -- so I will continue
12 calendar call until Thursday, at which time I should have a courtroom
13 available to begin the trial on Monday.

14 MS. MACHNICH: Okay.

15 THE COURT: Thank you, counsel.

16 MS. MACHNICH: Thank you, Your Honor.

17 MR. PLUMMER: Can we have the time?

18 [Colloquy between The Court and court staff]

19 THE COURT: We're going to continue it until Thursday.

20 MS. MACHNICH: Okay.

21 THE CLERK: April 12th, 9 a.m.

22 THE COURT: But it's -- you've announced ready, so we're
23 going to go next week. I'm just going to advise you on Thursday what
24 courtroom we're going to go in.

25 MS. MACHNICH: Perfect.

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THE COURT: All right.

MS. MACHNICH: So just the courtroom assignment, okay.

THE COURT: Thank you, counsel.

MR. PLUMMER: Your Honor, do you want us to be present for that? Or can the Court just send us an email or notification on what courtroom?

THE COURT: I could do that.

MR. PLUMMER: Instead of bringing everybody in.

THE COURT: What's your preference?

I could do that. I could just send an email to all counsel advising you what courtroom. That'll be satisfactory. So you don't have to -- I won't continue the calendar call I'll just advise you what courtroom it begins in. And it will be 1 o'clock on Monday.

MS. MACHNICH: Okay, thank you.

MR. PLUMMER: Thank you, Your Honor.

THE COURT: Thank you, counsel.

[Hearing concluded at 9:50 a.m.]

* * * * *

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



Ruby Feda
Court Recorder/Transcriber

1
2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

3
4 STEVEN TURNER,) No. 76465
5)
6 Appellant,)
7 vi.)
8 THE STATE OF NEVADA,)
9 Respondent.)
10)

11 **APPELLANT'S APPENDIX VOLUME IV PAGES 722-867**

12 DARIN F. IMLAY
13 Clark County Public Defender
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14 Attorney for Appellant

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17 Counsel for Respondent

18 **CERTIFICATE OF SERVICE**

19 I hereby certify that this document was filed electronically with the Nevada
20 Supreme Court on the 4 day of February, 2019. Electronic Service of the foregoing
21 document shall be made in accordance with the Master Service List as follows:

22 AARON FORD
STEVEN S. OWENS

DEBORAH L. WESTBROOK
HOWARD S. BROOKS

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

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

28 BY /s/ Carrie M. Connolly
Employee, Clark County Public Defender's Office