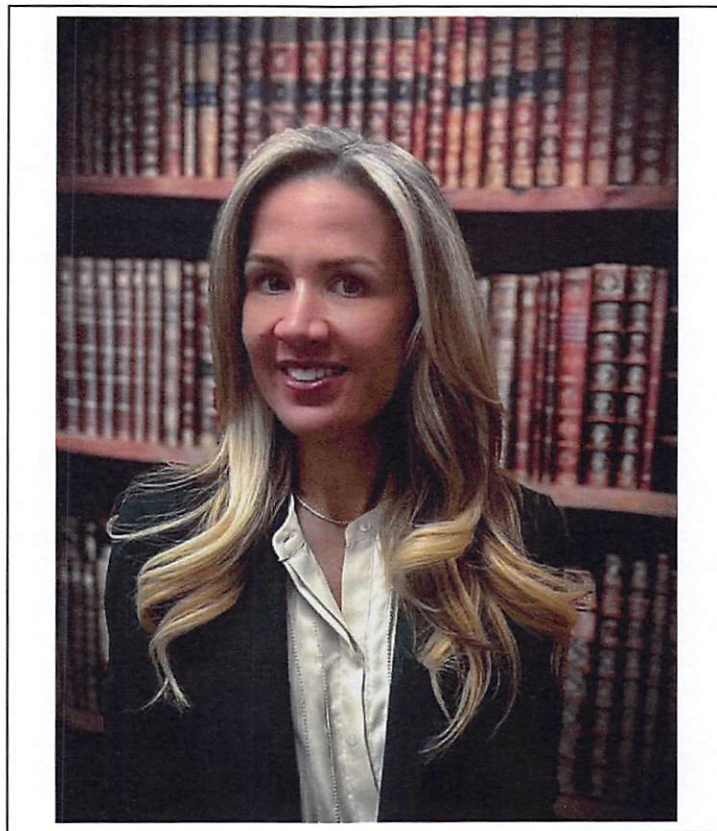


COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT  
DEPARTMENT XXVII

**By**

Erika Mendoza



Personal Information
----------------------

1.	Full Name	Erika Lyn Mendoza
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	Maiden name Wiborg. Changed to Mendoza in 2015 after marriage.
3.	How long have you been a continuous resident of Nevada?	18 years (with the exception of 3 months in 2011)
4.	City and county of residence	Las Vegas, Clark County
5.	Age	42

Employment History
--------------------

6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current or Last Employer	Clark County District Attorney's Office – Gun Crimes Unit
Phone	702-671-2500
Physical Address & Website	200 Lewis Avenue, Las Vegas NV 89101 <a href="http://Clarkcountynv.gov/government/departments/district_attorney/index.php">Clarkcountynv.gov/government/departments/district_attorney/index.php</a>
Date(s) of Employment	April 2023 through present
Supervisor's Name and Title	Major Violators Unit Team Chief – Chief Deputy District Attorney Pamela Weckerly
Your Title	Chief Deputy District Attorney – Team Chief Gun Crimes Unit
Describe Your Key Duties	<p>As the team chief I supervise and evaluate three (3) attorneys, review and assign all Gun Crimes cases, document the team caseload, arrange for coverage when attorneys are unavailable, manage staff issues via coordination with staff supervisors, handle administrative matters, and assist attorneys new to the team transition from their previous positions. This process includes helping them adjust from their prior team to Gun Crimes policies, procedures, and standards. I also seek out and coordinate additional trainings related to firearms prosecutions for our attorneys.</p> <p>I act as the lead liaison between the DA's Office and many LVMPD personnel, most commonly, the Robbery Unit. I regularly consult with detectives, sergeants, and lieutenants regarding search issues, sufficiency of the evidence, investigative leads, and strategic considerations. I am also the DA's Office liaison between LVMPD, federal law enforcement, and the AUSA's office regarding cases</p>

	<p>considered for federal prosecution via the federal Project Safe Neighborhoods (“PSN”) program. I am part of the Clark County District Attorney’s Office Legislative Committee. While the legislature is in session we have regular meetings regarding the status of various proposed pieces of legislature, provide feedback thereon, and strategize regarding how to respond to various legislative issues.</p> <p>These supervisory duties are in addition to maintaining my own caseload, described in sections below.</p>
Reason for Leaving	N/A

Previous Employer	Clark County District Attorney’s Office – Gun Crimes Unit
Phone	702-671-2500
Address & Website	Same as above
Date(s) of Employment	June 2018 through April 2023
Supervisor’s Name and Title	Gun Crimes Unit Team Chiefs – Chief Deputy District Attorneys Tim Fattig and Elizabeth Mercer
Your Title	Chief Deputy District Attorney – Gun Crimes Unit
Describe Your Key Duties	<p>Prosecute complex felony gun crimes using vertical prosecution, meaning the case is assigned to me from arraignment to sentencing. I handle all court appearances, hearings, trial, and post-conviction arguments. Gun Crimes cases generally involve multiple defendants and/or multiple events, usually robberies and/or shootings.</p> <p>Since joining Gun Crimes, I have handled at least three hundred and fifty (350) cases. I am assigned approximately seventy (70) new cases every year. Unlike a General Litigation team, the majority of cases on Gun Crimes do not resolve at the Justice Court level. I am therefore presenting witnesses and evidence before a Justice Court or Grand Jury for the majority of my cases, which are then set for trial in District Court. I issue subpoenas, coordinate witness and victim scheduling, collect discovery, consult with detectives, prepare exhibits, request forensics, and interview witnesses and victims before ultimately presenting the case. I am the primary person who handles all discovery matters for my cases – from collecting, organizing, documenting, and providing this information to the defense. Once a case is in District Court, I am responsible for continued discovery, continued consultation with law enforcement, witnesses, and victims, filing notices of witnesses, handling pretrial motion work, and handling the subsequent trial. Throughout the duration of the case, I work with detectives and the defense attorney to try and find middle ground to resolve cases appropriately.</p>

	<p>The Gun Crimes Unit is part of the Major Violators Unit (“MVU”), comprised of the Homicide Unit, Gun Crimes Unit, and Gang Unit. Major Violators Unit has additional heightened responsibilities unique to this segment of the office. We are among the only attorneys who can review and approve PEN Register applications and we also rotate on call 24/7 for officer involved shootings (“OIS”). The on call MVU DA responds to the scene of any OIS where an individual is struck with gunfire. The assigned DA assists the LVMPD Force Investigation Team (“FIT”) at the scene, reviewing evidence and body worn camera footage. At the conclusion of the FIT investigation the assigned DA reviews the case to determine whether the DA’s Office should pursue charges against any person involved, to include the officer. If the OIS is fatal and the DA’s Office does not to pursue charges against the shooting officer, the DA prepares a written public report and leads a public presentation explaining the facts of the event to the community. This is a very important process as it provides transparency to the community at large.</p>
Reason for Leaving	Promoted to Team Chief
Previous Employer	Clark County District Attorney’s Office – General Litigation Team
Phone	702-671-2500
Address & Website	Same as above
Date(s) of Employment	April 2012 through June, 2018
Supervisor’s Name and Title	Team Chiefs – Chief Deputy District Attorneys Tim Fattig, Frank Coumou, Giancarlo Pesci, Brad Turner, Richard Scow, Christopher Laurent, and Bernie Zadrowski
Your Title	Deputy District Attorney, promoted to Chief Deputy District Attorney in 2017
Describe Your Key Duties	<p>On the General Litigation teams, I handled cases involving almost every type of crime, including, but not limited to, murder, sexual abuse, physical abuse, crimes against children, hate crimes, robbery, shootings, drug offenses, burglary, property offenses, domestic violence, and financial crimes.</p> <p>I was assigned daily calendars in Justice and District Court. I was the State’s primary representative in the assigned Justice Court or District Court department on the assigned calendar day, handling arraignments, bail arguments, status checks, preliminary hearings, sentencing, probation revocations, etc. I was also assigned lead counsel on trials for a wide range of offenses and called on as co-counsel for specialty team cases with more senior deputies acting as lead counsel. Duties related to trials were similar to those described in above section.</p>
Reason for Leaving	Reassigned to Gun Crimes

Previous Employer	Clark County District Attorney's Office – Appellate Unit
Phone	702-671-2500
Address & Website	Same as above
Date(s) of Employment	September 2011 through April 2012
Supervisor's Name and Title	Team Chiefs – Chief Deputy District Attorneys Steve Owens, Nancy Becker, Leon Simon
Your Title	Law Clerk
Describe Your Key Duties	Legal research and writing in response to criminal post-conviction matters to include direct appeals, petitions for writs of habeas corpus, and motions to modify sentences. Successful appellate practice required reading, comprehending, and summarizing entire case histories from arrest through trial, critical legal analysis skills, consulting with trial attorneys for feedback, and managing workload to comply with strict deadlines.
Reason for Leaving	Promoted to Deputy District Attorney

Previous Employer	Law Office of Dorothy Ferguson
Phone	585-362-4747
Address & Website	115 Sullys Trail Suite 9 Pittsford NY 14534
Date(s) of Employment	July 2011 through September 2011
Supervisor's Name and Title	Dorothy Ferguson, attorney and owner
Your Title	Law Clerk/Assistant
Describe Your Key Duties	Assist real estate attorney with research projects and reviewing and preparing documents related to matters of property law focusing mainly on acquisitions, sales, and leases of commercial property.
Reason for Leaving	This was a temporary position as I awaited results from the Nevada bar exam. At the time I was considering returning to New York to be closer to family as my father had recently passed away. Also, I initially went to law school to become a prosecutor, however, the Clark County DA's Office had a hiring freeze for several years. In September of 2011 the hiring freeze was finally lifted, and I was offered a job so I returned to Las Vegas.

Previous Employer	Las Vegas City Attorney's Office
Phone	702-229-6629
Address & Website	495 S. Main Street Las Vegas NV 89101 lasvegasnevada.gov/Government/Departments/City-Attorney
Date(s) of Employment	January 2011 through May 2011
Supervisor's Name and Title	Chief Deputy City Attorney – Martin Orsinelli criminal division Chief Deputy City Attorney – Bryan Scott, civil division
Your Title	Extern
Describe Your Key Duties	Assisted attorneys in both the criminal and civil divisions with research tasks and writing projects. Accompanied attorneys to City Council meetings and Municipal Court hearings. Assisted criminal attorneys with motion work, hearing arguments, and trial preparation.
Reason for Leaving	Temporary position

Previous Employer	Clark County District Court Department 3 – Judge Douglas Herndon (now Supreme Court Justice)
Phone	702-671-4312
Address and Website	200 Lewis Avenue Las Vegas NV 89101 clarkcountycourts.us
Date(s) of Employment	May 2010 through August 2010
Supervisor's Name and Title	Justice Douglas Herndon
Your Title	Extern
Describe Your Key Duties	Assisted law clerk to prepare civil and criminal calendars, review motions and pleadings, summarize issues to assist Judge in preparing, and researched legal issues.
Reason for Leaving	Temporary position

Previous Employer	Balboa Pizza
Phone	702-407-5273
Address & Website	2265 Village Walk Drive Henderson NV 89052 balboapizzalv.com
Date(s) of Employment	Approximately May 2009 through August 2009
Supervisor's Name and Title	General Manager Mona Guerrero
Your Title	Server
Describe Your Key Duties	Take guests' orders, communicate said order to the kitchen and bar, ensure guests' needs are met throughout their visit and they are satisfied with their experience, manage multiple tables at the same time including anticipating guests' needs for effective management, maintain cleanly work environment, assist other team members in all positions when necessary.
Reason for Leaving	Temporary position during summer break from school

Previous Employer	Fort Apache Lodge
Address and Website	5790 S. Fort Apache Rd Las Vegas NV 89148 Website N/A
Date(s) of Employment	Approximately August 2007 through October 2008
Supervisor's Name and Title	General Manager Jason Pierera
Your Title	Bartender
Describe Your Key Duties	All duties as described above re: Balboa Pizza, but additionally handle all gaming matters at the bar, maintain and balance multiple cash drawers, consult with supervisor regarding guest markers, run reports regarding sales and gaming, reconcile drawers, contact gaming company for technical assistance and payouts of a certain amount, prepare proper tax documents for payouts, develop and promote gaming and beverage specials, and market outside the restaurant to elicit additional gaming clientele.
Reason for Leaving	Stopped working to focus on law school full time

Previous Employer	Chicago Brewing Company
Address and Website	2201 S. Fort Apache Road Las Vegas NV 89117 chicagobrewinglv.com
Date(s) of Employment	Approximately September 2005 through August 2007
Supervisor's Name and Title	General Manager Noel Hubbard
Your Title	Bartender
Describe Your Key Duties	All duties as described above re: Balboa Pizza, but additionally act as lead bartender in lounge. Unique position in that the lounge is very secluded from the rest of the restaurant and bar and the bartender is the only employee in the area. This includes late night hours with the potential for rowdy patrons. It was therefore imperative that I maintain control of customers, their needs, and any potential problems at all times. When problems arose, I had to quickly strategize, adjust, and respond. Also filled in as needed at gaming bar with duties similar to those described above for Fort Apache Lodge.
Reason for Leaving	More lucrative offer from Fort Apache Lodge

Previous Employer	California Dreaming
Address and Website	3241 Washington Road, Augusta GA 30907 californiadreaming.rest
Date(s) of Employment	Approximately May 2004 through September 2005 (with temporary leave for below position with STS)
Supervisor's Name and Title	General Manager Crystal Gately
Your Title	Bartender
Describe Your Key Duties	All duties as described above re: other bartending positions without the gaming
Reason for Leaving	Moved to Las Vegas



Previous Employer	Student Travel Services
Address and Website	Main Office – 2431 Solomons Island Road Suite 302 Annapolis MD 21401 Assigned Location – Miramar Hotel, Cancun Mexico Ststravel.com
Date(s) of Employment	February 2005 through April 2005
Supervisor's Name and Title	Cancun Site Manager Sonorak Ieng
Your Title	On Site Agency Representative
Describe Your Key Duties	Assisted travelers to ensure their trips ran smoothly, acted as a liaison between travelers and local businesses, to include hotels, restaurants, nightclubs, and excursion providers, greet groups at the hotel upon arrival to assist with check in, negotiate disputes between travelers and businesses, and promote company sponsored events.
Reason for Leaving	Seasonal position

### Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

Brockport High School – 40 Allen Street, Brockport NY 14420  
 Dates Attended – September 1996 through June 2000  
 Degree – High School Diploma  
 Reason for Leaving – Graduated

The Ohio State University – 281 W Lane Ave, Columbus OH 43210  
 Dates Attended – August 2000 to December 2000  
 Degree – N/A  
 Reason for Leaving – I struggled with the transition away from home. As described below, I had previously taken college courses at a university in my hometown so I transferred back there temporarily to reassess a more permanent solution.

State University of New York at Brockport – 350 New Campus Drive, Brockport NY 14420  
 Dates Attended – August 1999 through May 2000 (enrolled in college courses while still in high school); January 2001 through May 2001  
 Degree – N/A  
 Reason for Leaving – SUNY Brockport was a temporary measure when I decided to leave Ohio State. Since I had previously attended SUNY Brockport as a high school student, I was able to easily transfer back without going through the full admissions process. During the 2001 Spring semester I took time to find the right permanent solution and ultimately found that in University at Buffalo.

University at Buffalo – 12 Capen Hall, Buffalo NY 14260  
Dates Attended – August 2001 through May 2004  
Degree – B.A. Interdisciplinary Studies – Legal Studies  
Reason for Leaving – Graduated

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

During high school my main source of activity outside of school was cheerleading. Prior to high school I was an avid gymnast, but an injury stalled my progress so, in my freshman year I turned to cheerleading for what I expected to be a temporary outlet. Soon cheerleading became my passion. After one season on junior varsity my freshman year I advanced to varsity and excelled in tumbling, stunting, and choreographing.

My high school cheerleading experience was particularly formative due to a coach who was an incredible mentor. She was strict and intimidating and often held our team members to standards we thought were unreasonable and unfair at the time, but taught me invaluable lessons about personal accountability, integrity, and hard work. To maintain my position on the team I was required to meet academic standards and abide by a strict moral code of conduct.

While I loved my coach, I eventually outgrew the program and wanted to cheer at a more advanced competitive level. My senior year I was offered a spot on a travel competition All Star team in its inaugural season. Cheering alongside the best athletes in the city pushed me outside my comfort zone and allowed my skills and talent to further develop. The coach had a drastically different style than my high school coach, but this transition taught me how to adapt to a new style of leadership. We had more independence and were forced to work problems out with one another. This team was comprised of athletes from a much more diverse set of backgrounds, so it taught me to work with others who did not always think the same as me in pursuing a common goal. Our team travelled to several states for competition and the season culminated in a national cheerleading championship competition.

During my high school career serious competitive cheerleading was only beginning to gain traction outside the southeast United States. While it was incredibly unusual for a cheerleader from upstate New York to pursue cheerleading in college, I was undeterred. I continued to cheer through my freshman year of college and returned to the national championships once again with my college team. Beyond freshman year I had difficulty finding a school that fit all my needs including cheerleading, so I made one of the most difficult, but responsible, decisions of my life and chose to move on to a school where I did not want to cheer, but the overall environment was best for me.

Throughout high school and college I worked different jobs in several industries. The most formative experiences came from the hospitality industry and coaching cheerleading.

As for the hospitality industry, I worked in multiple “front of the house” positions in restaurants and also in the luxury suites at a minor league baseball stadium. Working in restaurants taught me how to multitask, prioritize responsibilities, anticipate problems, and connect with people

from all walks of life. The hospitality industry strengthened the lessons of teamwork I learned through athletics. In an efficient restaurant, there is no task that is “not my job”.

During college I also coached a local high school cheerleading team, and it was one of the most rewarding experiences of my life. I was hesitant at first as I thought it would be difficult for me to stand on the sidelines rather than the competition floor. However, mentoring and molding the athletes was fulfilling in a completely different way. Prior to my involvement, the team had not placed in a competition in recent history. I started working with them by identifying each athlete’s strengths and weaknesses, mixing and editing music, choreographing full routines, and teaching them advanced stunting. After a few years they were winning championships. With these girls I learned how to assess different personalities and identify different strategies for effectively motivating and mentoring each one. This past year their head coach contacted me and told me their most recent routine was inspired by a routine I choreographed for them over twenty (20) years ago. In those years, not only did I help them, but they helped me adjust to my new life off the competition floor which had started out as such a sad transition.

In college I thought law school might be in my future but was not certain. However that was confirmed when I took classes such as Civil Liberties, Sociology of Punishment, Law & the Environment, Constitutional Law, Criminal Justice, and Family & the Law. These were some of my most academically challenging, but also inspiring classes. I was particularly motivated by Professor Barbara Howe, who was simultaneously seated as a New York State Surrogate Court Judge. Judge Howe was a great influence as an example of a successful woman in law and helped cement my decision that law school was my future. Judge Howe subsequently provided me with a letter of recommendation for law school.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

UNLV Boyd School of Law – 4505 S. Maryland Parkway Las Vegas NV 89154  
Dates Attended – August 2008 through May 2011  
Degree – J.D., not ranked.  
Reason for Leaving – Graduated

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

As described above in response to Question 6, I participated in externships with Judge Douglas Herndon and the Las Vegas City Attorney’s Office during law school.

The majority of my law school career I focused on school and did not have paid employment. While in law school, the state of the economy led to very few law firms being able to offer paid employment to students. In the summer of 2009, I worked as a server as described above in response to Question 6.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

I was a member of the Public Interest Law Association.

I also worked with a team of students and the Legal Aid Center of Southern Nevada to present free legal education classes open to the public. The students were required not only to be familiar with the law, but to develop engaging presentations for the participants. One significant challenge beyond teaching the curriculum was understanding, and complying with, our ethical obligations regarding legal information versus legal advice.

As described above in response to Question 6, I also participated in externships with Judge Douglas Herndon and the Las Vegas City Attorney's Office.

Law Practice

12. State the year you were admitted to the Nevada Bar.

I was admitted to the Nevada State Bar in 2011.

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

I am not admitted to practice in any states outside of Nevada.

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the five years directly preceding your appointment or election to the bench.

Close to 100% of my work in the past five (5) years involved trial litigation. I also assist our appellate attorneys respond to appellate briefings related to my trial cases and handle any resulting oral arguments at the Nevada Court of Appeals and the Nevada Supreme Court.

16. Estimate percentage of time spent on:

Legal Discipline	Percentage of Practice
Domestic/family	0
Juvenile matters	0
Trial court civil	0
Appellate civil	0
Trial court criminal	99
Appellate criminal	1
Administrative litigation	0
Other: Please describe	0

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

In the past five (5) years 100% of my cases were poised for jury trial rather than non-jury trials.

18. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

In the past five (5) years I have tried four (4) felony jury trials to conclusion as lead counsel. Those cases included co-defendant cases, cases involving multiple events, and charges including Robbery With Use of a Deadly Weapon, Burglary With a Deadly Weapon, Attempt Murder With Use of a Deadly Weapon, Battery With a Deadly Weapon Resulting in Substantial Bodily Harm, Discharging a Firearm From or Within a Vehicle, Assault With Use of a Deadly Weapon, Possession of Stolen Vehicle, Grand Larceny Automobile, Malicious Destruction of Property, Battery With Use of a Deadly Weapon Resulting in Substantial Bodily Harm Victim 60 Years of Age or Older, and Conspiracy. See additional information in response to Questions 6, 20, and 47 regarding additional trial and case work.

The past five (5) years have been slower than usual for trials where I was lead counsel for several reasons as discussed further in response to Question 47. However, in my career I have tried approximately thirty (30) felony trials to conclusion. Further, again as discussed in response to Question 47, I have used the past five (5) years to refine my practice and have grown into a stronger trial attorney.

I have not tried any non-jury cases as this is incredibly uncommon in the criminal justice arena.

19. List courts and counties in any state where you have practiced in the past five years.

Justice Courts – Las Vegas, Henderson, and North Las Vegas  
 Eighth Judicial District Court – Clark County, Nevada  
 Nevada Supreme Court

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

Case 1
Case name and date: State v. Johnny Terrell and Marquan Jackson C332622 – underlying offenses April 2018, trial September 2022
<p>Court and presiding judge and all counsel:</p> <p>Eighth Judicial District Court, Department 21 – Judge Tara Clark Newberry  Clark County Deputy District Attorneys – Erika Mendoza and Parker Brooks  Defense Counsel – Kendall Stone and Ozzie Fumo (Marquan Jackson) and Anthony Goldstein (Johnny Terrell)</p>
<p>Importance of the case to you and the case’s impact on you:</p> <p>This case involved a series of violent robberies across the Las Vegas strip over the course of several days. In each event the defendants stole a car from one strip location, drove it to a nearby strip parking garage, attacked unsuspecting victims in the parking garage, threatened them with firearm(s), sometimes beat them, took their property, fled the area, then abandoned the stolen car at another location. The series culminated in an encounter with LVMPD in a parking garage where the defendants drove a stolen vehicle directly at officers, crashed into a patrol vehicle, then into civilian vehicles, engaged in a foot pursuit before ultimately being taken into custody.</p> <p>The victims were innocent civilians just trying to go to work or enjoy their vacations. One of the robbery events involved three (3) generations of Russian women – a grandmother, mother, and preteen daughter. They were on vacation in the U.S. road tripping through the western states. They had just arrived in Las Vegas and parked in the Treasure Island garage. As they were gathering their luggage the defendants attacked them, severely beating them. The grandmother and mother were at the trunk of the car while the daughter was still in the backseat. Once the defendants fled the preteen daughter found her mother and grandmother knocked unconscious covered in blood on the ground in the parking garage. The mother and grandmother were treated at the hospital for injuries to include fractured facial bones.</p> <p>The case involved international witnesses, audio visual testimony, forensic evidence, GPS tracking evidence, extensive video surveillance, and body worn camera footage. The trial lasted almost a month, involved approximately forty (40) witnesses, and over 800 exhibits.</p> <p>The defendants were ultimately convicted of a litany of offenses related to multiple events to include Grand Larceny Auto, Possession of Stolen Vehicle, Burglary While in Possession of a Deadly Weapon, Conspiracy to Commit Robbery, Robbery With Use of a Deadly Weapon, Robbery With Use of a Deadly Weapon Victim 60 Years of Age or Older, Battery Resulting in Substantial Bodily Harm Victim 60 Years of Age or Older, Assault With Use of a Deadly Weapon, and Malicious Destruction of Property. Considering the egregious</p>

nature of the underlying offenses and the defendants' extensive violent history the Court sentenced Defendant Jackson to 103-272 years and Defendant Terrell to 68-186 years.

This case was important to me for several reasons. First, the egregious nature of the offenses and the defendants' violent character. Defendant Jackson in particular, as he was on parole for another violent robbery when he committed the charged offenses. Second, as the offenses occurred on the Las Vegas strip and targeted employees and tourists the crimes threatened the livelihood of our community. I believe it is especially important to take offenses on the Las Vegas strip seriously as we must ensure tourists and locals alike feel safe on the strip to continue to allow our community to thrive. This case is an excellent example of why the subsequent creation of "Corridor Court" – specifically for crimes occurring in the tourist corridor – is so beneficial to our community. Third, the size of the case from the standpoint of number of events, witnesses, evidence, and exhibits, was among the largest I have ever seen taken to trial since I started in the DA's office. Undertaking that level of responsibility and successfully executing it is an example that I can truly handle any challenge. Fourth, while cases of this size often resolve without trial it is important to make sure cases of these size proceed to trial at times because it sets the bar for other similar cases. Defense attorneys know we can and will try cases of such magnitude and the results of the trial give both sides a tangible example of what a defendant is facing if he or she goes to trial on such a case. Trying these cases therefore help prosecutors and defense attorneys alike come to negotiations beneficial to both sides in future cases.

Your role in the case: lead prosecutor

#### Case 2

Case name and date: State v. Emilio Arenas, Peyton Hemingway, and Theresa Allen C293029 – underlying offense 2013, trial January 2019

Court and presiding judge and all counsel:

Eighth Judicial District Court, Department 12 – Judge Michelle Leavitt ultimately handled the trial. At earlier points in the proceeding Departments 6 (now Supreme Court Justice Elissa Cadish) and 3 (now Supreme Court Justice Douglas Herndon) also presided over the case.

Clark County Deputy District Attorneys – Erika Mendoza, Marc DiGiacomo, Frank Coumou, Giancarlo Pesci, and Christopher Hamner (see below for further explanation).  
Defense Counsel – Randy Pike, Charlie Cano, Susan Bush, and Gabriel Grasso

Importance of the case to you and the case's impact on you:

The was a murder case where the State sought the death penalty as to Defendant Arenas. LVMPD were initially notified when a man found a suitcase containing a dead body in a dumpster. LVMPD connected the victim to Defendant Allen's apartment and the investigation uncovered that the offense began with the three (3) defendants and the victim hanging out doing drugs in Defendant Allen's apartment. At some point during the night the

murder victim left to get more drugs. While he was gone, Defendant Hemingway realized some of his property was missing and he believed the victim took it. Further, after a while the defendants, particularly Defendants Allen and Hemingway, became angry as the victim took much longer than the defendants expected to return with the drugs. They therefore started to think maybe he would not return. The defendants eventually found the victim in the parking lot of the apartment complex and brought him back to the apartment. While Defendants Allen and Hemingway were fueled by rage over the missing items, Defendant Arenas' motivation was of true joy in committing violent acts. Defendants Hemingway and Arenas beat, stabbed, and tortured the victim over an extended period of time. Defendant Arenas lamented that "he just won't die" before they stuffed him in a suitcase, put him in the bathtub, and filled it up with water. Defendant Allen later reported that as this was going on she helped clean up the scene while they all listened, and sang along to, Ozzy Osborne's Crazy Train. Defendant Allen also reported that Defendant Arenas took a break from beating the victim and forced her (Defendant Allen) to perform oral sex on him because he was so turned on by what they were doing. Defendant Arenas loaded the suitcase into his vehicle, drove it away, and discarded it in a dumpster. Defendant Arenas subsequently fled town, drove to Tijuana, abandoned his vehicle, and was then arrested when he attempted to walk back across the border to the U.S.

Defendant Allen ultimately pled guilty and agreed to testify against Defendants Hemingway and Arenas. This was my first case where I sat in on a proffer and subsequently "flipped" a defendant. A proffer is when prosecutors meet with a Defendant and their counsel to provide the Defendant an opportunity to give their version of the events that transpired during the commission of the crime. The experience was unique and eye opening as it was a window into a world I had not seen. Defendant Allen was an older woman addicted to heroin who had spent her life trying to find whatever way she could to scrape together money so she could manage her drug addiction and health problems. The woman I met did not have much capacity to care for others. However, while sitting there with her it became clear to me that at one point she may have been a person capable of kindness and empathy towards others. However, due to the twists and turns life had thrown at her, she had become hardened. Aside from humanizing defendants, the experience taught me about how to communicate more effectively with them. Defendant Allen's ability to effectively communicate had obviously been affected by years of drug abuse. However, sitting in and listening to her speak taught me that just because she communicated differently than me, did not mean she was evasive or untruthful. This process was a sobering experience because while the crime itself was so egregious, it really illustrated to me the impact that drugs can have on a person. While it wasn't an excuse for Defendant Allen's actions or decisions, it provided a glimpse as to the "why" of how we all got to that moment.

The impact of this case is unique to me as I actually did not try the case. After working on it for close to six (6) years it finally went to trial a few weeks after I had my first child so I was on maternity leave. However, this case is an example of what is unique about the Clark County DA's Office. Due to crime levels within our community and the number of prosecutors we have, very young lawyers are given opportunities to work on the most serious matters very quickly in our careers. In 2013 the case was assigned to Homicide attorney Marc DiGiacomo, who asked me to assist as co-counsel when the case started in Justice



Court. I graciously accepted the opportunity and, despite the seriousness of the offense, was not intimidated or deterred and took on every assignment. I assisted in preparing and presenting the case before the death penalty committee and, given Defendant Arenas' history and involvement in the murder, the committee approved the case for presentation to jury in that manner. In the years that followed personnel changes on the Homicide team resulted in case reassignment to different Homicide deputies multiple times. I, however, was the constant. Every time the case was reassigned to a new homicide attorney I brought them up to speed and advised them on the case as a whole. Even during trial when I was on maternity leave I repeatedly consulted with the trial attorneys via phone.

Despite being a new attorney and only being second chair on this capital murder case, I independently researched, wrote, responded to, and argued numerous motions related to the case. These motions included traditional issues such as search and seizure, admissibility of co-conspirator statements, and sufficiency of the evidence, but also novel issues including whether the constraints of the U.S. Constitution apply to actions of a foreign government. I also extensively investigated and researched Defendant Arenas' out of state criminal history and gathered information imperative to the penalty phase. I managed to obtain reports and contact witnesses from a decades old robbery in rural Georgia, as well as offenses from Miami. I compiled a years long timeline of offenses, including reports, evidence, and witnesses related thereto, for a period of time when Defendant Arenas terrorized the city of Las Cruces, New Mexico. I contacted the mother of some of his children who established an extensive history of domestic violence. I contacted a police sergeant in Las Cruces who distinctly remembered Defendant Arenas from years prior due to the repeated acts of violence he brought to the community. I prepared the Notice of Evidence in Aggravation outlining all of the evidence the State intended to present and rely upon in seeking the death penalty and responded to litigation related thereto.

While I ultimately did not try this case due to the timing, my involvement in this case shaped my growth in the office and still benefits me today. I learned to have the confidence to take on the most serious but unfamiliar tasks and to trust my ability to research and analyze my case to present it effectively to the Court. Further, it taught me to think outside the box and solve problems independently. Tracking down out of state records and witnesses from decades earlier is a daunting task but I found ways to do it myself. Moreover, this case helped pave my way in the office and establish my reputation amongst my colleagues as a smart, hard-working, competent peer as each time the case was reassigned amongst homicide attorneys I proved myself to each one of them.

Ultimately Defendant Arenas was convicted of Conspiracy to Commit Murder, Conspiracy to Commit Kidnapping, Conspiracy to Commit Robbery, First Degree Kidnapping With Use of a Deadly Weapon Resulting in Substantial Bodily Harm, and First Degree Murder With Use of a Deadly Weapon. Defendant Arenas was sentenced to life without the possibility of parole. Defendant Hemingway was convicted of Conspiracy to Commit Murder, Conspiracy to Commit Kidnapping, Conspiracy to Commit Robbery, Second Degree Kidnapping, and Second Degree Murder With Use of a Deadly Weapon. Defendant Hemingway was sentenced to an aggregate sentence of 28 years to life.

Your role in the case: second chair prosecutor pretrial
---

<b>Case 3</b>
---------------

Case name and date: State v. Donte Sudduth C347248, underlying offense 2020, guilty plea 2022
---

Court and presiding judge and all counsel:
--

Eighth Judicial District Court, Department 12 – Judge Michelle Leavitt Clark County Deputy District Attorney – Erika Mendoza Defense Counsel – Layla Medina
---

Importance of the case to you and the case's impact on you:
---

Defendant Sudduth was involved in two (2) robberies of cell phone stores. At the time of the robberies Defendant Sudduth was out of custody awaiting sentencing on a theft offense. Defendant Sudduth was ultimately sent to prison on the theft case and then was released on parole while the robbery case was still pending. The defense attorney asked if, considering Defendant Sudduth had gone to prison on the theft case following the robberies and was now out of custody on parole, I would consider a negotiation with probation. I was incredibly hesitant considering the violent nature of the underlying offenses and the fact that Defendant Sudduth committed the robberies while the theft case was pending. The defense attorney had a unique proposal and suggested that I meet with Defendant Sudduth and talk to him about the changes he had made in his life and why he deserved a chance at probation. I agreed. When I met with Defendant Sudduth I was immediately impressed by his confidence in speaking with me. He answered all my questions thoughtfully and directly. He talked with me about his commitment to his new baby and plans he had in motion to establish a career. He discussed in depth the changes he had made in his life and how I could be assured that our community would be safe if he were released to the streets.

After many conversations and suggestions, the defense attorney and I worked out a negotiation where Defendant Sudduth pled guilty to two (2) counts of Robbery, agreed to an 8-20 year suspended sentence, and in turn he would be placed on probation with the condition of the Hope for Second Chances program. The negotiation was beneficial to the State as there was a significant suspended sentence and, as a result of the Robbery charges, Defendant Sudduth would be eligible for mandatory violent habitual treatment, a minimum 10-25 year sentence, if he committed another violent offense in the future. The negotiations were also beneficial to Defendant Sudduth and the community as a whole, as the Hope for Second Chances program (similar to, and under the same leadership as, the Hope for Prisoners program) is incredibly successful at long lasting rehabilitation to assist offenders build productive lives.

Defendant Sudduth's path since adjudication has not been without incident, but throughout the duration of the case I have witnessed his demeanor and attitude before the court change for the positive. Following the plea it was not uncommon for Defendant Sudduth to bring

his baby to Court as he was responsible for child care on certain days. He did not use the baby as an excuse to miss court, even if they needed to manage public transportation together, and he always has a backpack full of everything the baby needed. Defendant Sudduth impacted me as he was an example of someone who, even with a significant charged offense, was able to put in the work and turn his life around. He reminded me that whatever a person’s story might be on paper and whatever someone’s apparent future may hold, there is always an exception, so it is important to give the right people a chance to prove themselves. This also showed me the importance of sitting down and meeting with defendants in situations where it is appropriate. There will be years where each of us go to court and sit at tables across from one another and never say one word to each other. The misgivings and judgment that may occur in those scenarios is unfortunate but understandable. However, sitting down and actually having the opportunity to hear him out, and vice versa, I believe showed us both that we are both humans, trying to do the best we can, and strive for what we see as justice. Fortunately, in this situation we both saw it the same way.

Your role in the case: lead prosecutor

Case 4

Case name and date: State v. Jerry Pough C281031, underlying offense 2009, trial 2014

Court and presiding judge and all counsel:  
  
Eighth Judicial District Court, Department 3 – now Supreme Court Justice Douglas Herndon  
Clark County Deputy District Attorneys – Frank Coumou and Erika Mendoza  
Defense Counsel – Defendant represented himself (“pro se”)

Importance of the case to you and the case’s impact on you:

The underlying offense in this case involved Defendant Pough shooting and killing his adult son. The pair had been out drinking with some friends and, as the victim was driving them home, Defendant Pough became angry in the front passenger seat, and shot and killed the victim while they were stopped at a red light. The friends who were in the back seat fled the vehicle, ran to a nearby convenient store, and called 911. Defendant Pough managed to push the victim out of the way, get into the driver’s seat, and drive to the victim’s nearby residence. Defendant Pough fled the state and was subsequently apprehended in California after a dangerous vehicle pursuit.

The procedural history of the case was long and tortured mostly due to issues connected to Defendant Pough’s mental health and his desire to represent himself. Defendant Pough ultimately did represent himself at trial and through the penalty phase. He was convicted of First Degree Murder With Use of a Deadly Weapon and sentenced to life without the possibility of parole.

The unique impact of the case was two (2) fold. First, this was my first experience dealing with a pro se defendant in a significant proceeding. While pro se defendants are not legally

entitled to any special accommodations, my duty as the prosecutor is not to get a conviction, but to achieve justice. I therefore hold the rights of the defendant in the utmost regard, especially when he does not have his own representative in Court. The prosecutor must be on heightened alert with pro se defendants and even at times help them with the logistics of presenting their case. The difficulty of this balancing act is exacerbated by the fact that the defendant, especially one with a history of mental health issues like Defendant Pough, does not always communicate his needs and desires effectively. As the prosecutor with a pro se defendant you must figure out how to communicate and work with the defendant as co-counsel, just as you would with a traditional defense attorney, despite a complete absence of legal training. Second, this case was significant for me as I handled oral argument on appeal at the Nevada Supreme Court. The appeal involved unique issues of first impression particularly related to whether a defendant with mental health issues but an honest desire to represent himself should be permitted to do so. Ultimately, the Supreme Court agreed with my argument that Defendant Pough was properly allowed to represent himself and affirmed the conviction. I think this decision is important because the right to representation is important, but the right to represent yourself is also important and this decision stands for that premise.

Your role in the case: second chair prosecutor

#### Case 5

Case name and date: State v. Jesse Grano C346035, C345289, and C346037, offenses 2019, adjudication 2022

Court and presiding judge and all counsel:

Eighth Judicial District Court: Department 10 – Judge Tierra Jones (C345289); Department 18 – Judge Mary Kay Holthus (C346037); and Department 12 – Judge Michelle Leavitt (C346035)

Clark County Deputy District Attorney –Erika Mendoza  
 Defense Counsel – Phil Brown, Maria Cleveland, Jeffery Maningo

Importance of the case to you and the case's impact on you:

Defendant Grano went on an incredibly egregious crime spree and was ultimately charged in three (3) separate cases over the course of a few months in 2019. In October 2019 Defendant Grano broke into some commercial vehicles and stole a substantial amount of tools. He was captured on video, but not identified until later events unfolded. About a week later he robbed a random victim sleeping in his car at gunpoint. Defendant's fingerprints were on the victim's car and Defendant was on video using the victim's credit card a few hours later. A few days later he stole a truck and attached trailer from the Silverton parking lot. The truck and trailer belonged to an elderly couple moving from Colorado to Pahrump and therefore contained essentially their entire life's belongings. The next day a trailer containing a SEMA show car valued at close to \$200,000 was stolen from Main Street Station. Around the same time, Defendant was captured on video surveillance in the area of

Main Street Station driving the truck stolen previously from the Silverton. The Main Street Station trailer was subsequently located abandoned, but the SEMA car was missing. A few hours after the Main Street Station trailer was located an NHP officer saw Defendant driving the SEMA car in the Rio parking garage. The officer attempted to stop Defendant and Defendant rammed the SEMA car into the patrol car and engaged the officer in a high speed vehicle pursuit through the garage, across the Rio property, and over Las Vegas Boulevard. Defendant drove recklessly through pedestrians on the Rio property and drove through a red light at Spring Mountain and Las Vegas Boulevard before the NHP officer stopped the pursuit out of concern for citizen safety. Officers found the vehicle abandoned at the Boulevard mall and collected video showing Defendant leaving the vehicle and getting onto a public bus. In the video he was wearing the same unique clothes as shown on video for the first auto burglary event. Four (4) days after the SEMA vehicle event Defendant shot a random man in a grocery store parking lot. The man, who was walking through the parking lot, reported that Defendant, who was driving by him, stopped and started yelling at him for "looking at him", then shot him. Video surveillance captured the incident. NLVPD found the suspect vehicle, Defendant, his girlfriend, and multiple young children at an apartment nearby. Defendant's girlfriend admitted she and the children were in the car at the time of the shooting and Defendant had shot the man. Officers executed a search warrant at the apartment and located the firearm, which they discovered came from the trailer stolen from the Silverton. As they continued their search they located a substantial amount of stolen property from the Silverton victims and the initial commercial auto burglaries.

I meticulously analyzed each event and presented them to the Grand Jury as three (3) separate cases. I prepared the cases for trial but ultimately worked out a global plea negotiation that achieved my goal of protecting the community with a substantial prison sentence while avoiding the expenses and risks of a trial. Defendant Grano ultimately pled guilty in each case and was convicted of numerous felonies to include Grand Larceny Automobile, Stop Required on Signal of Police Officer, Assault With Use of a Deadly Weapon, Robbery With Use of a Deadly Weapon, and Battery With Use of a Deadly Weapon.

Defendant Grano's cases, handled globally, are a classic example of the Gun Crimes Unit and lessons I've learned therefrom. First, obviously Defendant Grano posed an incredible threat to the community and I am proud to have gained a beneficial result for the community with substantial prison time. Second, handling all these events, which initially had little relevance to one another, but later had a common scheme, is incredibly complex. There are strategic questions and legal issues to analyze to determine which events can and/or should be combined into one case for prosecution. Further, the logistics of coordinating with multiple different investigating agencies to determine who is going to handle follow up issues and how to ensure each task is completed is daunting. Doing so requires confidence, assertiveness, and leadership. Third, cases like this taught me the importance of a strict detail oriented system of organization. Having such system in place helps me assess a case's strengths and weaknesses, avoids becoming intimidated by the massive quantity of information, and aids to determine the value of the case for plea bargaining purposes. Being so organized leads to far fewer discovery disputes as I can easily determine what pieces of discovery were turned over to what attorney when. This all ultimately helps defense

attorneys as they receive the discovery in an organized manner and they can quickly sort through it and determine the value of the case. Once the defense attorneys see that I have such an obvious full command of the facts and evidence case it leads to a more beneficial, honest, collaborative relationship and discussion regarding proper negotiations. The ultimate outcome of my meticulous preparation and organization is more cases can resolve sooner and the terms of the negotiations are greatly beneficial to the State and Defendant.

Your role in the case: lead prosecutor

21. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

No

22. Describe any pro bono or public interest work as an attorney.

100% of my work has been dedicated to serving the people of Clark County as a Deputy District Attorney. Unfortunately ethical rules prohibit us from handling traditional pro bono work.

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

Nevada State Bar Association (2011-present)  
Clark County Prosecutor's Association (2011-present)

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

I am currently in compliance with continuing legal education requirements. The courses I attended in the past five years include –

2023

Empowering Ethical Prosecutions  
Wellness for Lawyers  
Search Warrants  
Lessons from Appeals  
2023 Legislative Update  
An Updated Approach to Voir Dire  
Bail, Bond, and Surety Basics  
Pretrial Services

Everyday Ethics for Prosecutors  
New DDA Intro to Experts

### 2022

Understanding & Handling DNA Evidence  
LVMPD Drone Enforcement and Investigation  
LVJC Drug Court and Why to Consider it for Cases  
Prosecutorial Misconduct and Lessons from Appeals  
Updates on Batson and the Law of Jury Selection  
Into to At Ease  
Gangs in Clark County  
Forensic Y-STR Testing

### 2021

What DAs Need to Know About Air Force Prosecutions  
Qualified & Prosecutorial Immunity  
Specialty Court Training  
Real Talk Youth Impact Program and Panel of Rehabilitated Offenders  
Oral Advocacy Part 1  
Facial Recognition – Update from LVMPD  
The Criminal Defense Attorneys' Duty to Advise Non Citizens  
Trauma Informed Approaches Working With DV Survivors in the Courtroom  
New DDA Prosecutor Wellness  
2021 Legislative Update  
Implicit Bias Part II

### 2020

Search and Seizure Update: The Legal Landscape Post Carpenter  
Capital Case Litigation Initiative: Jury Selection  
PAGV: Prosecutors Respond to COVID 19  
Considerations When Using Informants  
Pharmacology, Symptoms, and Complications of Commonly Abused Substance  
ASU National Panel: Prosecuting in a Pandemic

### 2019

Restorative Justice  
Veteran Trial Lawyer's Trial Tips  
Department of Parole and Probation – The PSI Report  
Batson  
LVMPD DNA Lab Updates & How to Explain DNA to a Jury  
Sovereign Citizens: Updates and Current Trends in Clark County  
Top 10 Things Defense Attorneys Wish We Understood  
Mindfulness for Attorneys  
Legislative Update 2019

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

I do not have Professional Liability Insurance as I work for a governmental agency.

### Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

My position as a Chief Deputy District Attorney is the only career position I've ever held. Prior to law school I worked various jobs, mostly in the hospitality industry as described in response to Questions 6 and 8.

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

I have never served as a manager, officer, or director to any business enterprise.

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

I do not have experience as an executor, trustee, or in any other fiduciary position.

### Civic Professional & Community Involvement

29. Have you ever held an elective or appointive public office in this or any other state?

No

Have you been a candidate for such an office?

No

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

2023 – Clark County District Attorney Mentorship Program – in 2023 I was partnered with a new deputy district attorney to mentor. The program involves providing guidance and advice to new attorneys in both formal and informal ways. We work with these new attorneys by bringing them on cases, teaching them to consider strategic perspectives, as well as helping them make the life transition from law school to their career in the courtroom.



2018 – present – my position on the Major Violators Unit and as the Gun Crimes Unit team chief has led to a number of significant leadership duties beyond traditional prosecution work in the courtroom. My response to Question 6 provides additional information about those activities.

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

Between 2016 and 2018 I taught courses on Crimes Against the Person and/or Property Crimes on multiple occasions to Juvenile Parole and Probation officers. During the same time frame I also taught classes on Search and Seizure at the Nevada Post Academy on several occasions.

As discussed above in response to Question 6, as part of the Gun Crimes Unit, I act as one of the main liaisons between the District Attorney's Office and the LVMPD Robbery Unit. I provide assistance and counseling to ensure those detectives understand the law related to search and seizure, probable cause, and evidentiary concerns. I also routinely review applications for search warrants and PEN registers and provide feedback and/or approval.

Also as discussed in Question 6, the Major Violators Unit of the DA's Office responds to all officer involved shootings where an individual is struck by officer gunfire. The assigned attorney assesses the conduct of the officer to determine whether the officer should be charged with a crime. If the shooting is fatal and the DA's Office does not pursue criminal charges the attorney prepares a formal report for public release and presents the cases for a Police Fatality Public Fact Finding Review. I have handled five (5) officer involved shooting events, two (2) of which were fatal. I prepared reports, which can be found on the Clark County website, regarding the following –

Police Fatality Public Fact Finding Review Surrounding the Death of Jorge Gomez, June 1 2020

Police Fatality Public Fact Finding Review Surrounding the Death of Jason Dunkel, September 26, 2022

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

While balancing my current position and my life at home with two small children I do not have a lot of extra time for activities. However, when presented I always take opportunities to volunteer in connection with my childrens' extracurricular activities and pursue charitable endeavors.

33. List honors, prizes, awards, or other forms of recognition.

The most significant forms of recognition to this position are included in the above responses.

34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

As described in response to Question 31, I authored two (2) Police Fact Finding Review reports related fatal police shootings, which can be found on the Clark County website, regarding the following –

Police Fatality Public Fact Finding Review Surrounding the Death of Jorge Gomez, June 1 2020

Police Fatality Public Fact Finding Review Surrounding the Death of Jason Dunkel, September 26, 2022

36. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

37. List avocational interests and hobbies.

I enjoy being active and engaging in most fitness related activities, especially running. I love spending time with my husband and two (2) young sons, particularly riding bikes, playing sports, and teaching them to love Buffalo Bills football. Several times a year we enjoy taking trips to see our extended family in Santa Barbara, California and upstate New York. My husband and I also enjoy taking advantage of the world class entertainment and restaurants on Las Vegas Boulevard.

Conduct
---------

38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?

Yes

39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.

No

40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to the corresponding question in the confidential section.

No

41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No

42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

No

44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

I would be disqualified from any cases I previously prosecuted.

Other
-------

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

I have never previously submitted a questionnaire or Application to this or any other judicial nominating commission.

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

Attached.

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

As to additional information relevant to my candidacy I would like to outline my intent and plans as a District Court judge and explain why the position is important to me.

Nevada is a special place unlike any other. Our community has so much to offer its citizens and people from all around the world. As our community continues to grow we must work together to uphold values and standards to allow Nevada to continue to thrive. While I am a native of New York state, I have been in Las Vegas since 2005. I moved to Las Vegas for the excitement and to escape the cold. I had aspirations to become a prosecutor, but wanted to take some time to determine whether Las Vegas was the right fit for my forever home. In the years following, I worked in the heartbeat of our community – the hospitality industry – before enrolling in law school at UNLV. While I considered opportunities elsewhere ultimately Las Vegas had my heart.

I started law school in 2008 to become a prosecutor. The first year progressed smoothly until just a week before finals spring semester. My mom called me on the evening of Friday April 24, 2009 and told me my father was killed in a head on vehicle collision by a young man driving in excess of 100 miles per hour on a country road. My parents had recently moved to Texas from New York and had no family or friends nearby. I dropped everything and went to Texas to help my mom. We spent the next couple weeks managing affairs in Texas and New York. The man who killed my dad faced felony charges. Over the next year we worked with law enforcement and the Denton County District Attorney's office and the case eventually proceeded to trial. A jury convicted the man and sentenced him to prison. However, the Court of Appeals overturned the case due to an issue in the penalty phase of the trial and the man was released on probation.

The experience shaped me as an attorney. While the outcome was disappointing, the law enforcement officers and attorneys from the Denton County District Attorney's Office treated us

with the utmost respect and care. They were sensitive, kept us involved, considered our opinions, answered all our questions, while also being honest and managing expectations. Their compassion continues to influence my conversations with witnesses and victims. Further, during the trial several eye witnesses from the community testified. A young man driving nearby recounted the collision and broke down realizing that it could have been him who did not go home to his young children. A woman described seeing the collision, rushing to my dad's car, holding his hand in his final moments, seeing his wedding ring, and talking to him about his family. These witnesses, one by one, after they were finished testifying reached out to our family. Despite being excused from the trial they returned and sat with us for the remainder of the trial. At the conclusion of the trial we invited them to our family home for a celebration of my dad's life and they brought their own families. To this day many of my family members are still connected to those witnesses via social media. As this unfolded it strengthened my desire to be a prosecutor. The way the community rallied around my family in its darkest hour kept us going. I knew I wanted to do the same for others.

Some people think being a prosecutor is about sending people to prison and winning trials. Nothing could be further from the truth, being a prosecutor is about defining justice. There is no one in the courtroom more powerful than a prosecutor, not even the judge, which is why that position must also be handled in the most humble manner possible. The prosecutor chooses what, if any, negotiation should be made in a case. Without a prosecutor meaningfully evaluating a case and looking at it globally from all sides, justice cannot be had. A prosecutor, if they choose to, could move forward on any and every case giving no negotiations and just taking it to trial. However, a prosecutor who is true in their pursuit of justice treats the process with dignity and respect. They view it in the lens, not of winning and losing, but what does justice mean for all participants and the State of Nevada. The situation with my dad's case taught me about the impact prosecutors can make beyond just winning, before I ever set my foot in a courtroom as an attorney.

After the bar I temporarily returned to New York to evaluate my options as the Clark County DA's Office had not hired attorneys in several years. Almost as soon as I returned, I received word that the DA's Office had lifted a years long hiring freeze. I headed back to Las Vegas in September 2011 to begin my dream career. In the years that followed outside the office I met my husband, a born and raised Las Vegan and local business owner, and had two (2) beautiful boys. My older son is now involved in community activities and enrolled in school which has further strengthened my connection to the community.

In the years that followed in the office, as discussed in response to Question 47, I matured into a reasoned, methodical, attorney. While defense attorneys often joke with me about my zealous practice in my early career, I believe I have earned their respect and maintain amicable relationships with most. They know that today I can identify what cases are worthy of substantial prison time and I will put in whatever work is necessary to obtain an outcome favorable to the pursuit of justice, whether it be via negotiation or trial.

As much as I love my job, I can only take a case so far. Once the defendant is adjudicated the responsibility turns to the judge. In 2024, in Clark County, I can no longer help the people of the community the way I want to help from the DA's Office. The current District Court bench has several seasoned judges providing an excellent example for the future generation. District Court also has numerous judges embarking on their careers who will mold the future of the

judiciary. I would like to be a part of that group. I have spent 12 years at the DA's Office pushing to uphold community standards and am ready to take my commitment to the bench for a greater impact.

I will make decisions to push our community forward while keeping it safe – imposing substantial sentences for violent and repeat offenders, identifying defendants who are amenable to effective rehabilitative programming, quickly issuing thoughtful decisions on civil cases, and improving efficiency.

Delays and case backlog are increasingly common and painfully detrimental to the community. I plan to address as much in two (2) significant ways. First, by enforcing timing rules and limiting unnecessary continuances. Second, by working with all parties to mitigate discovery issues. Discovery issues are a constant source of strain, delay, misunderstanding, and confusion in litigation. As someone who collects, organizes, and documents discovery for large cases I believe a lot of the issues arise from confusion about how the process works and failure to keep pace with an ever evolving and expanding realm. In recent years the District Court created a streamlined system to address the backlog of murder cases and created assigned murder departments. The murder program is a great success as those departments are amongst the most efficient in the District Court. I would apply what they do – in holding parties accountable by tracking discovery issues, requiring compliance with deadlines, and encouraging collaboration between the parties – to all cases.

Throughout my life I have successfully managed many difficult and intimidating tasks, both long and short term. The constant is I find a way to make it work and I do not cut corners – whether it is competing at national cheerleading competitions, coaching athletes to championships, successfully mediating disputes between angry travelers and hotel staff in another country, maintaining control of a bar full of drunken patrons, moving across the country by myself, abandoning a financially lucrative position at a gaming establishment to pursue law school, navigating law school following the sudden death of a parent, then ascending to the position of Team Chief of a team on the Major Violators Unit. Whatever the challenge, once I have set my sights, I will achieve my goal. I can and will do the same as a District Court judge.

49. Attach a sample of no more than ten pages of your original writing in the form of a decision, "points and authorities," or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

Attached.

## Question 47 – Qualifications for District Court Judge

I can promise the members of this committee, as well as the Governor, that I will make an excellent District Court judge who protects and supports Clark County. As a prosecutor, I have tried approximately thirty (30) felony jury trials related to every type of crime. I currently take on average seventy (70) new cases with felony firearms related charges a year and appear in court almost every day.

My career as a prosecutor is divided into two (2) parts. I started on a General Litigation team, aka a “triage” team. Each day I went to Justice Court, a clerk provided me stacks of new files, and the judge started calling cases for argument. Files for District Court arrived in my office the day before calendar and I learned the history of each case and defendant to prepare for all the sentencings, status checks, and revocations. Senior attorneys would call on a Thursday looking for someone to start a trial the next week and I learned and prepared the whole trial in a matter of days. I had to adjust in a minute’s notice, think on my feet, and soak up opportunities to learn from attorneys and judges around me. During this time I sought out every opportunity to take cases to trial to become a successful litigator.

I then moved to the Gun Crimes Unit and refined my practice. On Gun Crimes my cases are larger, consistently more egregious, and more complex. Gun Crimes are the most complex in the office as they often involve robbery series which include multiple conspirators, events, scenes, victims, investigations, and prosecutions. The cases involve more motion work, legal analysis, and strategic decisions. Since I’ve been on Gun Crimes there have been a series of circumstances leading to fewer trials, but this allowed me to slow down and manage cases with a more methodical approach. I built my own case load from initial arraignment. The procedure from arraignment to jury trial often takes several years, but having responsibility for a case for its duration reinforced a new level of responsibility, taught me to look at the bigger picture, and helped me identify and anticipate potential pitfalls. Moreover, between 2020 and 2022 trials were extremely limited due to COVID. During those

years, cases stalled as defendants were not pressured by looming trials. Instead of looking at this time as a vacation, I dove deeper into my cases which allowed me to move my cases with results beneficial to the State, but also proving a fair outcome for both sides. The defense attorneys saw my work product and could tell I would be more prepared when trials returned.

What distinguishes me from most as a prosecutor, will equally make me a great judge - the ability to effectively manage a tremendous case load with an organized working knowledge of the facts and evidence connected to each case. My organization and attention to detail allows both sides to quickly evaluate a case for possible resolution and to seamlessly transition to trial when necessary. The combination of my trial experience, plus my meticulous practice with complex cases, is the ideal background for a District Court judge. I understand procedure, I adapt and respond quickly without losing sight of the big picture, I identify issues before they arise, and I can analyze intricate detailed issues. Furthermore, my experience with these complex cases is invaluable as a judge in trial. Trials are incredibly fast paced, there is not time to stop, break, and research. The judge must make educated, well thought out decisions at the drop of a hat. With the complex courtroom and trial experience that I have, I am confident and comfortable in the courtroom to handle any type of trial.

My appellate experience is also important to my fitness for District Court judge. In the Appellate Unit my sole job was to review post-conviction cases and respond to allegations of error. As an attorney I continue to review the briefs alleging I committed errors, offer feedback, and handle any resulting oral arguments or hearings. This experience would be helpful to me as a judge because I can identify and address potential issues at the District Court level to ensure fairness and limit appellate issues.

While my experience with civil law is limited it provides a foundation for me to quickly catch on to civil issues. In my externship with Justice Herndon I assisted in preparing and observing the civil calendars. During my externship with the City Attorney I sat in on City Council meetings, observed consultations with Mayor Oscar Goodman, and provided guidance on pending legal matters for the



City. After law school I spent time in a law office focused on transactional commercial property matters. All of these positions required extensive research and writing on unfamiliar legal issues and I quickly produced comprehensive informative legal analysis.

To prepare for the civil matters that are new to me I will use the same skills and experience that has allowed me to succeed thus far – perseverance, determination, confidence, and organization. I have already engaged in conversation with judges and civil attorneys about their concerns in civil practice and begun to review the rules of civil procedure. Leading up to an appointment I will continue those conversations and sit in on civil calendars to develop a greater understanding of the issues and procedure. Upon receiving civil calendars, I will review the facts and filings of each case to understand the history. I will carefully read and research the issues and case law related to each brief. What is unfamiliar I will investigate further until I understand. I will have the confidence to admit what I do not know and follow up with the attorneys to clarify any issues. What I lack in experience I make up for with my work ethic.

Prosecutors are uniquely situated to transition to the bench as we do not represent the interests of one client – we seek justice. In so doing, we analyze the same issues a judge considers – the needs of all parties, the system, and the community as a whole. For over twelve (12) years I have had the discretion and autonomy to make virtually all strategic and negotiation decisions on my cases. A constant judicial criticism is that judges are hesitant and/or slow to make a decision. I do that everyday and people do not always agree with my decisions. I face pressure and inquiry regarding my decisions from victims, law enforcement, defense attorneys, judges, and administration. Even when my decisions are not popular, they are carefully made, I am confident in them, and I take ownership of them. As a District Court judge on every case and issue before me I will inform myself, ask questions, swiftly make decisions, and take ownership of said decisions.

1 Writing Sample - below is a State's Return to Writ of Habeas Corpus I wrote in November  
2 2020.

3 **POINTS AND AUTHORITIES**

4 **STATEMENT OF FACTS**

5 Defendant is charged in connection with four (4) armed business robberies. The State  
6 charged Defendant with Kidnapping counts in connection with one (1) of the robbery events.  
7 The sole issue in Defendant's Petition relates to the Kidnapping counts. As such, the  
8 following synopsis relates only to the event with the Kidnappings. The evidence consisted of  
9 witness testimony and video surveillance of the event<sup>1</sup>.

10 On June 13, 2020 at approximately 8:00pm, Yanet Villabos-Gomez was working at  
11 Vitamin Shoppe located at 230 N. Nellis with Passyon Love. Grand Jury Transcript, 9/3/20,  
12 p.22-23. Yanet and Passyon were preparing to close the store for the evening when two (2)  
13 men approached the door. Id. Passyon met the men at the door and told them the business  
14 was closed. Id., GJ Ex. 7 (video surveillance). One of the men said "no you're not", put his  
15 hand on the door, and opened it. Id. Both of the men wore sunglasses, gloves, masks, and  
16 hoodies pulled over their heads. GJ Ex. 7. One of the men, later identified as Defendant  
17 Miles Sr, had a gun. GJT, p.24, GJ Ex. 7. The other man was later identified as Defendant  
18 Anthony Miles Jr.

19 The men instructed Yanet and Passyon to go into a back hallway. Id. at 25, GJ Ex. 7.  
20 Yanet and Passyon complied. Id. Miles Sr briefly talked to the victims in the back hallway,  
21 then followed Passyon back out to the front. GJ Ex. 7. Passyon locked front door, then they  
22 returned to the back hallway with Miles Sr again following Passyon. Id. When they returned  
23 to the hallway Defendants directed the victims from the entry way of the hallway further  
24 down to the very end of the hallway. Id. Miles Sr asked Passyon where the safe was and  
25 Passyon described that it was up front. GJT p.25-26. Passyon and Miles Sr went up to the  
26 front and Miles Sr directed Miles Jr to stay in back with Yanet. Id. at 26-27. Miles Jr  
27 instructed Yanet to face the wall with her hands up and she complied. Id. at 27-28.

28 

---

<sup>1</sup> The State will provide the Court with a copy of the video surveillance.



1 criminal charge '[m]ay be based on slight, even 'marginal' evidence . . . because it does not  
2 involve a determination of the guilt or innocence of an accused.'" Sheriff v. Steward, 109  
3 Nev. 831, 835, 858 P.2d 48, 51 (1993) (quoting Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d  
4 178, 180 (1980)).

5 "Probable cause" exists where there is "more evidence for than against, or supported  
6 by evidence which inclines the mind to believe, yet, leaves room for doubt; or, a state of facts  
7 which would lead a man of ordinary caution and prudence to believe and conscientiously  
8 entertain a strong suspicion." Ex Parte Kline, 71 Nev. 124, 130, 282 P.2d 367 (1955).  
9 Therefore, "[t]o commit an accused for trial, the State is...only [required] to present enough  
10 evidence to support a reasonable inference that the accused committed the offense." Kinsey  
11 v. Sheriff, 87 Nev. 361, 363, 487 P.2d 340, 341 (1971); see also, Sheriff v. Milton, 109 Nev.  
12 412, 851 P.2d 417 (1993). Likewise, "The accused's explanation for the [events], being in the  
13 nature of a defense, whether true or false, is for the trier of facts to consider at trial," and it is  
14 not appropriately considered when determining the issue of probable cause. State v. Fuchs,  
15 78 Nev. 63, 68, 368 P.2d 869, 871 (1962). The full and complete exploration of facts is  
16 reserved for trial and is not the function of a probable cause hearing. Robertson v. Sheriff,  
17 Clark County, 85 Nev. 681, 462 P.2d 528 (1969).

18 **I. The State Presented Sufficient Evidence to Establish the Kidnapping Was Not**  
19 **Incidental to the Robbery**

20 The State charged with First Degree Kidnapping With Use of a Deadly Weapon for  
21 both victims, specifically alleging that Defendant did "seize, confine, inveigle, entice, decoy,  
22 abduct, conceal, kidnap, or carry away" the victims "with the intent to hold or detain" them  
23 "for the purpose of committing robbery". Defendant alleges the State failed to establish  
24 probable cause for the Kidnapping counts because moving the victims to the back of the store  
25 was incidental to the robbery. Defendant's position is inconsistent with the law.

26 For First Degree Kidnapping, the State must show a defendant: willfully seizes,  
27 confines, inveigles, entices, decoys, abducts, conceals, kidnaps, or carries away another person  
28

1 by any means whatsoever with the intent to hold or detain; or holds or detains the person for  
2 ransom, or reward, or for the purpose of committing robbery or other enumerated crimes<sup>2</sup>.

3 In Mendoza v. State, 122 Nev. 267, 130 P.3d 176 (2006), the Nevada Supreme Court  
4 specifically addressed the restraint and/or asportation issue as it relates to cases, such as  
5 Defendant's, involving a kidnapping and an associated offense, such as robbery. Where the  
6 State seeks to charge a defendant with kidnapping and robbery arising out of the same event,  
7 the evidence must show either: 1) the movement or restraint of the victim stands alone with  
8 independent significance from the act of robbery itself; 2) the movement or restraint of the  
9 victim creates a risk of danger to the victim substantially exceeding that necessarily present in  
10 the crime of robbery; or 3) involve movement, seizure, or restraint of the victim was  
11 substantially in excess of that necessary to complete the robbery. Id.; Guerrina v. State, 134  
12 Nev. Adv. Rep. 45, 419 P.3d 705 (2018). Movement or restraint which is inherent in the  
13 robbery a defendant is already committing does not provide liability for an additional charge  
14 of kidnapping. Id.

15 In Mendoza, defendant Mendoza was convicted of kidnapping and robbing the victim.  
16 The victim arrived at a residence where Mendoza was in the middle of committing a robbery.  
17 Id. When Mendoza and his co-conspirators saw the victim outside, they brought him inside,  
18 beat him, and took his keys and wallet. Id. The Nevada Supreme Court found Mendoza was  
19 properly convicted of both robbery and kidnapping because the seizure and restraint involved  
20 an increased danger to the victim. Id. Similarly, in Guerrina v. State, 134 Nev. Adv. Rep. 45,  
21 419 P.3d 705 (2018), defendant Guerrina approached the victim as she was entering her place  
22 of employment, a payday loan store. Guerrina accompanied the victim inside, locked the door,  
23 stood with his back to it, and ordered the victim to "get the money". Id. Once Guerrina had the

---

24 <sup>2</sup> NRS 200.310 (1): A person who willfully seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or  
25 carries away a person by any means whatsoever with the intent to hold or detain, or who holds or detains, the person for  
26 ransom, or reward, or for the purpose of committing sexual assault, extortion or robbery upon or from the person, or for  
27 the purpose of killing the person or inflicting substantial bodily harm upon the person, or to exact from relatives, friends,  
28 or any other person any money or valuable thing for the return or disposition of the kidnapped person, and a person who  
leads, takes, entices, or carries away or detains any minor with the intent to keep, imprison, or confine the minor from his  
or her parents, guardians, or any other person having lawful custody of the minor, or with the intent to hold the minor to  
unlawful service, or perpetrate upon the person of the minor any unlawful act is guilty of kidnapping in the first degree  
which is a category A felony.

1 property, he forced the victim to disconnect the phone and took her phone and keys. Id.  
2 Guerrina then poured liquid around the front door, exited, and locked the door behind him  
3 using the victim's keys. Id. The Court found such was sufficient to allow for kidnapping and  
4 robbery convictions for several separate reasons. First, bringing the victim from a public place  
5 to a secluded private place substantially increased the risk of harm. Id. Second, as Guerrina  
6 could have robbed the victim outside the store, the movement into the store substantially  
7 exceeded that necessary to commit the robbery. Id. Third, pouring the liquid around the door  
8 and locking the victim inside the store was restraint substantially in excess of that necessary  
9 to complete the robbery. Id.

10 Further, in Gonzales v. State, 131 Nev. Adv. Rep. 49, 354 P.3d 654 (2015), the Court  
11 explained one set of circumstances can separately meet several of the Mendoza factors to allow  
12 for dual convictions. Defendant Gonzales approached the victim in her open garage and forced  
13 her into the house and from room to room at gunpoint. Id. The Court explained that bringing  
14 the victim inside was not incidental to the robbery as the suspects could have completed the  
15 robbery inside while she was still out in the garage. Id. Additionally, bringing the victim inside,  
16 to a concealed area, both increased the danger to her and allowed the crime to continue for  
17 much longer than it would have had they left her in the garage. See also, Stewart v. State, 133  
18 Nev. Adv. Rep. 20, 393 P.3d 685 (2017)(dual convictions proper where victim accosted as she  
19 entered residence, taken to bedroom, guarded at gunpoint while suspects rummaged through  
20 house).

21 Defendant cites to Wright v. State, 94 Nev. 415, 581 P.2d 442 (1978) and Jefferson v.  
22 State, 95 Nev. 577, 599 P.2d 1043 (1979) to suggest the instant facts do not amount to  
23 Kidnapping. However, Wright and Jefferson were prior to Mendoza. Mendoza specifically  
24 addressed dual culpability because Wright and subsequent case law created confusion as to  
25 the necessary requirements for dual culpability<sup>3</sup>. Mendoza therefore clarified and reconciled

26 <sup>3</sup> “Reading Wright and Hutchins together, an issue of semantics arises over the use of the term “incidental.” Wright  
27 seems to indicate that incidental action in aid of a robbery only implicates the kidnapping statute when the action  
28 increases the risk of harm to the victim. Hutchins seems to indicate that physical restraint is never merely incidental to  
the underlying charge.” Mendoza, 122 Nev. at 274. “In Jefferson, we noted that the test for dual culpability for second-  
degree kidnapping and robbery differed from the test for dual culpability for first-degree kidnapping and robbery under  
Wright. In short, the Wright test focuses upon increased danger while the Jefferson test focuses upon unnecessary

1 the prior case law, including Wright. Moreover, Jefferson was explicitly overruled on this  
2 exact issue in Guerrina v. State, 134 Nev. 338, 419 P.3d 705 (2018). Thus, Mendoza, not  
3 Wright or Jefferson, sets forth the proper legal standard for dual culpability.

4 Here, the victims were in the front of the store near the cash registers and safe when the  
5 suspects entered. Defendant threatened the victims with a firearm and ordered them into a back  
6 hallway. Defendant then accompanied Passyon to the front so she could lock the front door.  
7 Defendant returned to the back hallway with Passyon, then once again accompanied her to the  
8 front to take money from the store while directing Defendant Miles Jr and Yanet to stay in the  
9 back hallway. Once Defendant had the money from the store, he brought Passyon back to the  
10 back hallway where he zip tied Passyon and Yanets' hands together and directed them into  
11 another back room and shut the door.

12 Defendant argues the State presented insufficient evidence to support the Kidnapping  
13 charges because moving the victims to the back rooms was incidental to the robberies.  
14 Defendant's argument has several flaws. First, the victims were standing next to the cash  
15 registers and the safe when Defendants first arrived. Defendants could have completed the  
16 robberies when they first arrived by demanding the money from the safe where the victims  
17 were standing, which they did end up taking, and leaving. Defendants did not even attempt to  
18 take any items from the back area where they held the victims. The instant facts are even more  
19 persuasive than Gonzalez and Guerrina, where the victims were approached outside, then  
20 suspects ordered them inside. The Supreme Court found the movement was not incidental  
21 because the suspects could have robbed the victims where they initially found them. The facts  
22 here are even more compelling in support of the Kidnapping charge because there was nothing  
23 for Defendants to steal in the back hallway or back stock room. Thus, moving them to the back  
24 hallway or back stock room was completely unrelated to completing the robbery. Second, as  
25 in Mendoza, Guerrina, and Gonzalez, bringing the victims from the front of the store, visible  
26 to the public, into the back concealed area, increased the danger to the victims and allowed the  
27 crime to continue for longer than if they had just taken the property from the front of the store.

28 \_\_\_\_\_  
movement or personal seizure. We conclude that the distinctions between these tests are only semantical. Both involve  
legitimate considerations in determinations of dual criminality under Nevada's kidnapping statutes." Id.

1 Third, is the physical restraint of zip tying the victims' hands together was completely  
2 unnecessary to complete the robbery. The sole purpose of zip tying the victims' hands together  
3 was to delay their ability to report the robbery and allow for an easier escape.

4 Finally, the Nevada Supreme Court has repeated again and again, that whether  
5 movement or restraint is incidental to the robbery is a factual question for the jury. Sheriff,  
6 Clark County v. Medberry, 96 Nev. 202, 606 P.2d 181 (1980); Stewart v. State, 133 Nev. Adv.  
7 Rep. 20, 393 P.3d 685 (2017), citing Curtis D. v. State, 98 Nev. 272, 646 P.2d 547 (1982),  
8 Gonzales v. State, 131 Nev. Adv. Rep 49, 354 P.3d 654 (2015). The State could not find a  
9 single case where the appellate courts found the evidence presented for probable cause was  
10 insufficient to present the State's argument to the jury as to whether the kidnapping was  
11 incidental to a robbery. The State presented slight or marginal evidence as to the Kidnapping.  
12 Defendant's claim must be denied.

13 **II. The State Presented Sufficient Evidence that Defendant Possessed the Requisite Intent**  
14 **for Kidnapping**

15 Defendant argues the State failed to present sufficient evidence to establish he acted  
16 with criminal intent when he held the victims in the back hallway and/or restrained them  
17 with zip ties and/or held them in the back stock room to amount to Kidnapping. However,  
18 the totality of circumstances demonstrates Defendant did in fact have a criminal intent.

19 A general intent crime requires "the intent to do that which the law prohibits. It is not  
20 necessary for the prosecution to prove the defendant intended the precise harm or the precise  
21 result which eventuated." Bolden v. State, 121 Nev. 908, 124 P.3d 191 (2005)(subsequently  
22 abrogated on other grounds), citing to Black's Law Dictionary. A specific intent crime, by  
23 contrast, requires intent to accomplish the precise act which the law prohibits. Id. For  
24 example, in State v. Second Judicial District Court, 462 P.3d 671, 136 Nev. Adv. Op. 23  
25 (2020), the Court considered whether arson was a specific or general intent crime. The Court  
26 discussed that if arson were a general intent crime, the only intent required would be the  
27 intent to start a fire. Id. Arson as a specific intent crime, by contrast, would require an intent  
28 to start a fire with a corresponding intent or purpose. Id. The Court ultimately found arson



1 was a specific intent crime as the statute requires the person “maliciously set fire” and  
2 “malice” equates with an evil intent to cause harm. Id.

3 Pursuant to NRS 200.310(1), a person who willfully seizes, confines, inveigles,  
4 entices, decoys, abducts, conceals, kidnaps or carries away a person by any means  
5 whatsoever with the intent to hold or detain, or who holds or detains, the person [] for the  
6 purpose of committing [] robbery upon or from the person [] is guilty of kidnapping in the  
7 first degree. As the statute specifically describes the intent someone must have while holding  
8 and detaining a victim, kidnapping is a specific intent crime. As explained in Jensen v.  
9 Sheriff, White Pine County, 89 Nev. 123, 508 P.2d 4 (1973) in the context of kidnapping,  
10 intent is seldom susceptible of proof by direct evidence and therefore may be inferred from a  
11 series of acts and circumstances. See also, NRS 193.200.

12 Defendant mischaracterizes the intent issue and suggests the State must demonstrate  
13 Defendant had the specific intent to seize, confine, inveigle, entice, decoy, abduct, conceal,  
14 kidnap, or carry away. However, what makes Kidnapping a specific intent crime is the  
15 requirement that Defendant seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap,  
16 or carry away with the intent to commit robbery. Here, the issue of specific intent is whether  
17 Defendant had the intent to rob the victims when they were held in the back of the store  
18 and/or tied up.

19 Regardless of whether the issue is construed as Defendant’s intent to seize, confine,  
20 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away vs. Defendant’s intent to rob,  
21 Defendant’s intent can be inferred from his acts as circumstances. Defendant, acting alone,  
22 wore the same clothes to commit the Cashland robbery, ten (10) days later and his DNA was  
23 recovered from a zip tie he is seen dropping in the store on video surveillance. Thus, while  
24 there are two (2) suspects at Vitamin Shop, the evidence establishes Defendant is the suspect  
25 who threatened the victims with the firearm while escorting them into the back, Defendant is  
26 the suspect who accompanied Passyon up to the front and collected money from the safe,  
27 Defendant is the suspect who put zip ties around the victims’ hands, then Defendant  
28 accompanied the ziptied victims into the back stock room. Even if the evidence was unclear

1 as to which suspect was Defendant, the evidence similarly demonstrates an intent to rob on  
2 behalf the second suspect as he acted as a lookout and kept an eye on Yanet while holding  
3 her in the back hallway, then took possession of the stolen property while the other suspect  
4 zip tied the victims. Thus, the totality of circumstances amount to slight or marginal evidence  
5 that Defendant restrained and/or confined the victims for the purpose of committing robbery.  
6 Defendant's claim must be denied.

7 **CONCLUSION**

8 In light of the foregoing, the State respectfully request that the Court deny  
9 Defendant's Petition for Writ of Habeas Corpus.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28