

COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT
DEPARTMENT XXVII

By

Martina Bauhaus



Personal Information

1.	Full Name	Bauhaus, Martina
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.	Lupear, Martina – married name August 1996 to August 1998 Geinzer, Martina – married name May 2006 to May 2017
3.	How long have you been a continuous resident of Nevada?	Since August 1994
4.	City and county of residence	Las Vegas, Clark County
5.	Age	52

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	Las Vegas Metropolitan Police Department
Phone	(702) 828-3310
Physical Address & Website	400 S. Martin Luther King Blvd., Las Vegas, NV 89106 www.lvmpd.com
Date(s) of Employment	September 2015 to present
Supervisor's Name and Title	Liesl Freedman, General Counsel
Your Title	Assistant General Counsel
Describe Your Key Duties	<ul style="list-style-type: none"> • Provide legal advice to the Detention Services Division; • Assist in reviewing proposed ordinances and changes in the laws for compliance by LVMPD; draft proposed changes for adoption by LVMPD Executive Staff; prepare explanatory information concerning legal issues and changes; • Assist in providing counsel and advice to the Sheriff and Executive Staff on all legal issues affecting the LVMPD; • Review proposed policy and procedure manual changes, suggest changes as appropriate, and make comments as appropriate;

	<ul style="list-style-type: none"> • Research legal questions to evaluate the impact on LVMPD policies and procedures; • Prepare, review and revise contracts/interlocal agreements; • Contribute to the development of strategies for legislative action, and participate in public hearings as required; • Represent LVMPD on criminal and civil matters as assigned by General Counsel;
Reason for Leaving	N/A

Previous Employer	Las Vegas Metropolitan Police Department
Phone	(702) 828-3310
Address & Website	400 S. Martina Luther King Blvd., Las Vegas, NV 89106 www.lvmpd.com
Date(s) of Employment	September 2007 to September 2015
Supervisor's Name and Title	Liesl Freedman, General Counsel
Your Title	Litigation Manager/Assistant General Counsel
Describe Your Key Duties	<ul style="list-style-type: none"> • Oversaw and supervised the Litigation Detail, including all claims and/or litigation filed against the Las Vegas Metropolitan Police Department (LVMPD) and/or its officers and employees; • Supervised and directed office staff • Handled and/or oversaw litigation in federal and state courts, and before administrative bodies; • Assisted in coordination and oversight of private legal counsel and claims adjusters for LVMPD; monitor legal work product; directed internal legal holds, including obtaining discovery; • Attended Early Neutral Evaluation Conferences, Settlement Conference and Mediations on behalf of LVMPD; • Provided legal advice on all legal issues, including pending litigation and settlements; • Drafted policies and procedures;

	<ul style="list-style-type: none"> • Conducted legal research and rendered legal opinions on a variety of issues; • Prepared, reviewed and revised contracts.
Reason for Leaving	Assigned to different section

Previous Employer	State of Nevada – Office of the Nevada Attorney General Litigation Division
Phone	(702) 486-3420
Address & Website	555 E. Washington Ave., Suite 3900 www.AG.nv.gov
Date(s) of Employment	August 2005 to August 2007
Supervisor's Name and Title	Daniel Wong, Chief Deputy Attorney General
Your Title	Deputy Attorney General/Senior Deputy Attorney General
Describe Your Key Duties	<ul style="list-style-type: none"> • Responsible for the defense of lawsuits in small claims, state and federal courts from their beginning through Ninth Circuit or Nevada Supreme Court briefing and/or oral arguments; • Handled cases which cover a spectrum of civil defense of the State of Nevada, its agencies, employees (including State District Court Judges and Constitutional Officers, such as the Governor), and boards from all types of lawsuits for damages and injunctive relief; • Provided advice and counsel for the Nevada Department of Corrections, including guidance on and draft policies and procedures; • Managed legal researchers;
Reason for Leaving	Accepted Position with Las Vegas Metropolitan Police Department

Previous Employer	Alverson Taylor Nelson Mortenson & Sanders
Phone	(702) 384-7000
Address & Website	7401 W. Charleston Blvd, Las Vegas, NV 89117 www.alversontaylor.com
Date(s) of Employment	January 2004 to July 2005
Supervisor's Name and Title	Diane Carr-Roth, Partner
Your Title	Law Clerk/Associate Attorney

Describe Your Key Duties	<ul style="list-style-type: none"> • Represented various clients in state and federal Court in civil litigation matters, including medical malpractice claims and employment related claims; • Prepared and argued motions, defended depositions, drafted settlement conference briefs, and jury trials.
Reason for Leaving	Accepted Position with the Nevada Attorney General's Office

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.

Gymnasium Am Loehrtor, Oranienstrasse 27, Siegen, Germany

Dates Attended:

Degree: Abitur (equivalent to high school degree)

Reason for Leaving: Graduated

Philipps Universitaet Marburg/Lahn, Biegenstrasse 10, 35037 Marburg, Germany

Dates Attended:

Degree: Vordiplom (equivalent to and Associates degree)

Reason for Leaving: Graduated

University of Nevada, Las Vegas, 4505 Maryland Parkway, Las Vegas, NV 89154

Dates Attended: August 1994 to December 1995

Degree: Bachelor of Arts – Political Science

Reason for Leaving: Graduated

University of Nevada, Las Vegas, 4505 Maryland Parkway, Las Vegas, NV 89154

Dates Attended: January 1996 to December 1998

Degree: Master of Public Administration

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 activities included working various part-time and summer jobs. I started working at age 14 at a construction company issuing bills to their customers. At age 16 I started working in a bistro/bar (legal in Germany). I also worked in a ladder factory making ladders during the summer. After I turned 18 until I moved to the U.S. in 1994, I worked in a dynamite factory every summer making bazookas and landmines.

After moving to Las Vegas, while studying at UNLV, I became involved in various clubs. One was the International Student Association. It was comprised of students from all over the world. It tremendously shaped my view and how I interact with people from different countries

and backgrounds. I became Vice President of the organization and subsequently President. We had several events throughout the year to showcase the different cultures to the entire community.

I was also invited to join Phi Sigma Alpha – Political Honor Society. I volunteered for several campaigns as part of this society. I also became Vice President of the Honor Society.

I further worked part time at the student union, assisting with various intramurals and provided information to students about the campus. This gave me a lot of exposure to various students and issues that concerned them.

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.

University of Nevada, Las Vegas, Boyd School of Law, 4505 Maryland Parkway, Las Vegas, NV 89154

Dates Attended: August 2000 to December 2003

Degree: J.D., not ranked

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.

I started law school in the part-time program as I worked full time as a waitress at a local casino. In 2001, I started working as a paralegal in an insurance defense law firm full time. My last year in law school, I switched to part-time work as a law clerk at a Plaintiff's personal injury firm to attend law school full time in order to graduate earlier.

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

I participated in the Death Penalty clinic during my 3L year. We worked with an inmate that had been sentenced to death. I was sworn in as a student attorney, wrote motions and assisted with appearances to overturn the sentence.

I further participated in the Landlord-Tenant Clinic, assisting individuals with housing issues.

Law Practice

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

2005

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

N/A

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.

My work approximately has been 30 percent trial court litigation. However, because my client is usually only a special party, I am not involved in the cases from start to finish.

16. Estimate percentage of time spent on:

Legal Discipline	Percentage of Practice
Domestic/family	1%
Juvenile matters	2%
Trial court civil	7%
Appellate civil	0%
Trial court criminal	30%
Appellate criminal	0%
Administrative litigation	0%
Other: Please describe In-house counsel work as described in Employment History	60%

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

Due to the nature of my position, I don't litigate per se. In most cases I appear for my client as a special party in interest. As such, I appear before the court in certain matters that are set for trial.

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.

None.

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

Justice Court, Las Vegas Township, Clark County, Nevada
Justice Court, North Las Vegas Township, Clark County Nevada

Eighth Judicial District Court, Clark County, Nevada
 United States District Court for the District of Nevada

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: Clark K. v. Governor Guinn et. al., 2006
Court and presiding judge and all counsel: U.S. District Court, District of Nevada, Judge Jones, Martina Bauhaus, Linda Anderson, Gloria Sturman, Bruno Wolfenzon
Importance of the case to you and the case's impact on you: This was a complex litigation case where the Plaintiffs sought class certification. I was chosen to defend the governor in this matter by the Chief Deputy Attorney General. The underlying facts were rather sad as they involved children in Nevada's foster care system and the problems the system. This case thought me that although I might get a good outcome for my client, the overall problems do not get solved with the system.
Your role in the case: counsel for one of the State Defendant's

Case 2
Case name and date: State v. Eric Christian, 2016
Court and presiding judge and all counsel: Justice Court Las Vegas Township, Judge Eric Goodman, Eighth Judicial District Court, Judge Douglas Smith, Frank LoGrippo, Eric Christian (pro se)
Importance of the case to you and the case's impact on you: In this case I was the victim. As such, I was in the unique position to be part of a criminal case from the other side of the counsel table from start to trial. It had a profound impact on how I deal with witnesses.
Your role in the case: Victim/Witness

Case 3
Case name and date: Michael Leon, 2022
Court and presiding judge and all counsel: Judge Wiese, Martina Bauhaus
Importance of the case to you and the case's impact on you: This is a "High Risk Protection Order" case. The individual was mentally ill and threatened himself and others with guns. As such, I filed a protection order to obtain all of the guns from the individual. This case again highlighted to me the balance a judge has to strike between an individuals rights such as the Second Amendment and the law that allows to protect individuals from violence.

Your role in the case: Lead counsel

Case 4
Case name and date: Boykin v. Bainbridge et.al., 2006
Court and presiding judge and all counsel: U.S. District Court for the District of Nevada, Judge Pro, Martina Bauhaus, Anthony Boykin (pro se))
Importance of the case to you and the case's impact on you: This case involved a pro per litigant that was incarcerated in the Nevada Department of Corrections. He filed countless motion in the matter, as he had nothing but time while serving his sentence. I filed a successful motion to have him declared a vexatious litigant in the action and did no longer respond to the countless motions. The intricate nature of the litigation challenged me to delve deeper into legal intricacies, expand my understanding and refining my analytical skills.
Your role in the case: Lead defense counsel

Case 5
Case name and date: Daniel DeLaCruz, 2014, 2015, 2020
Court and Presiding judge and all counsel: Eighth Judicial District Court, Judge Linda Bell, (competency court judge), various defense counsel
Importance of the case to you and the case's impact on you: This is one of the many cases where I filed a Motion for forced psychotropic medications due to the mental illness of the individual. Under certain circumstanced this is crucial to ensure the safety and well-being of the inmate who poses as a danger to himself or others due to severe mental illness. These cases always are difficult as it highlights on how mental illness robs individuals of their ability to enjoy life, maintain relationships and causes suffering not only for the inmate but also their victims.
Your role in the case: counsel for party in interest

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.

I volunteer as a mock trial judge as well as the Friends of the Las Vegas Metropolitan Police Department Foundation.

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.

State Bar of Nevada (no office held)

Hispanics in Politics (no office held)

Southern Nevada Association of Women Attorneys (no office held)

The Howard McKibben American Inn of Court (no office held)

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?

Yes, I am in compliance. Please see the attached continuing legal education print out from the State Bar of Nevada. (Exhibit 1).

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

Yes.

Cocktail Waitress 1999-2001

Socioeconomic Analyst 1996-1998

Convention Model/Translator 1995-2000 (part-time, as needed)

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:

- a. the nature of the business
- b. the nature of your duties
- c. the extent of your involvement in the administration or management of the business
- d. the terms of your service
- e. the percentage of your ownership

N/A

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.

N/A

Civic Professional & Community Involvement
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29. Have you ever held an elective or appointive public office in this or any other state?

Yes

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.

I was appointed as Deputy Attorney General and subsequently as Senior Deputy Attorney General by different Nevada Attorney Generals. I served in the office from 2005 to 2007.

I was appointed as Litigation Manager and subsequently as Assistant General Counsel by different Sheriff's of Clark County. I have been with the Las Vegas Metropolitan Police Department since 2007.

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

N/A

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

During my time at the Nevada Attorney General's Office, I taught In-Service training classes to State of Nevada, Department of Corrections Officers. The course went over general liability of officers and explained the process in case of litigation.

At the Las Vegas Metropolitan Police Department I teach classes relating to legal issues for law enforcement and corrections officers. In addition, I have taught those classes in other states for the National Sheriff's Association.

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

I was a Board Member for the Friends of the Las Vegas Metropolitan Police Department Foundation.

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

Dean's Honor Roll.

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.

Martina Bauhaus (1998) "The Ring Around the Valley" [Master's thesis, University of Nevada, Las Vegas]

Martina Bauhaus, Matthew Christian, "Current State of Law in Areas Involving Police Conduct", Nevada Lawyer, (January 2021).

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.

My daughter and I enjoy obedience and agility training with our dogs. One of them is now a service animal. I am a big fan of the Vegas Golden Knights and enjoy going to the games.

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 recuse or disqualify myself from hearing any cases in which my ex-husbands would be involved in, as well as my child. I also would consider on a case-by-case basis any matter that involved my current employer.

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.

N/A

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).

Please see attached. (Exhibit 2)

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.

I immigrated from Germany to the United States in 1994 by myself. I am the first person to go to college and also the first to obtain an advanced degree in my family. I was raised by a single mother who instilled in me that hard work will get you anywhere you want to go. I am now a single mother myself and am teaching my daughter the same ethics. I was also raised with the belief that you treat everyone with respect, regardless of their position, race or background.

My diverse legal background provides me knowledge of both civil and criminal law. I have been in my current position almost 17 years. During this time, I have been given unique opportunities. Each day presents another opportunity, and I learn something new every day.

I have also been a victim in a criminal case. Having to testify as a witness in front of a criminal defendant that threatened to kill me has given me tremendous insight of what witnesses on the stand go through. The same applies for having testified in my divorce case. It is a different perspective than being behind the counsel table.

As a lawyer, I am not just an advocate, I am a problem-solver and a guardian of rights. Being a lawyer is unique in its opportunities to allow to shape laws, defend the vulnerable, and navigate complex challenges. I would love to extend my profession to contribute to a fairer and more equitable society from the bench.

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.

See Exhibit 3

EXHIBIT 1

STATE BAR OF NEVADA

Courses Taken

Date	Course Name	Provider	General	Ethics	AAMH
12/14/2023	Constitutional Law with Professor Chemerinsky 2023	State Bar of Nevada	3.00	0.00	0.00
09/06/2023	2023 Nevada Government Civil Attorneys Conference	State Bar of Nevada	9.00	3.00	1.00
05/04/2023	How Wellness Impacts Attorneys' Ethical Obligations	State Bar of Nevada	0.00	0.00	1.00
12/15/2022	Constitutional Law with Professor Chemerinsky 2022	State Bar of Nevada	3.00	0.00	0.00
12/07/2022	Ethics Year in Review 2022	State Bar of Nevada	0.00	2.00	1.00
12/01/2022	Holistic Mental Health for Lawyers		0.00	0.00	1.00
05/17/2022	2022 District Conference - The Business of Law	United States District Court District of Nevada	6.50	1.00	0.00
12/16/2021	Constitutional Law with Professor Chemerinsky (2021), 3.0 CLE's	State Bar of Nevada	3.00	0.00	0.00
10/13/2021	2021 Nevada Government Civil Attorneys Conference	State Bar of Nevada	10.00	2.00	1.00

Date	Course Name	Provider	General	Ethics	AAMH
12/15/2020	Constitutional Law with Professor Chemerinsky (2020) 2.0 CLE	State Bar of Nevada	2.00	0.00	0.00
10/05/2020	Nevada Government Civil Attorneys Conference, 13.0 CLE Hours	State Bar of Nevada	10.00	2.00	1.00
12/18/2019	Constitutional Law with Professor Chemerinsky	State Bar of Nevada	3.00	0.00	0.00
12/11/2019	Ethics Year in Review	State Bar of Nevada	0.00	2.00	1.00
03/07/2019	Summary of Changes to the Nevada Rules of Civil Procedure	Southern Nevada Association of Women Attorneys	1.00	0.00	0.00
01/10/2019	Substance Abuse Disorders & Impairment & the Duty to Report Impaired	Southern Nevada Association of Women Attorneys	0.00	0.00	1.00
12/13/2018	Constitutional Law with Professor Chemerinsky	State Bar of Nevada	3.00	0.00	0.00
03/01/2018	Guardianship Bill of Rights	Southern Nevada Association of Women Attorneys	1.00	0.00	0.00
01/04/2018	Treatment of Addiction	Southern Nevada Association of Women Attorneys	0.00	0.00	1.00
01/01/2018	Introduction to the Official Nevada Law Library	Legislative Counsel Bureau	0.00	2.00	0.00

EXHIBIT 2

Personal Statement

The position of a judge comes with tremendous responsibility. It not only requires understanding of the system but most importantly the ability to make decisions based on the facts and the law, as well as with empathy. The decisions have to be impartial and fair. My prior experiences have provided me with a unique understanding of the law and the judicial system and as such given me not only the necessary knowledge but also the required commitment to justice. I believe I possess these attributes and the necessary experience to excel as judge.

The commitment to fairness and impartiality is paramount. A great judge must possess the ability to set aside personal biases and make decisions solely based on the law and evidence presented. That dedication to fairness ensures that all parties receive equal treatment under the law, one of the tenants of the United States Constitution. This treatment fosters trust and the confidence in the judicial system.

Furthermore, analytical and critical skills are required for evaluating complex legal issues. They are essential to interpreting laws, applying precedents, and weighing arguments in order to reach a well-reasoned decision. Objectivity and attention to detail are paramount.

A judge must also have a strong sense of integrity and ethics serves as a guiding principle in upholding the rule of law. Unwavering commitment to honesty and ethical conduct ensures that decisions are guided by principles of justice rather than personal gain or influence. And although impartiality is important, ethical conduct may require recusal from a case. I would recuse myself if there could be any reasonable doubt of bias to any of the parties.

Throughout my years of practice, I have learned that temperament and demeanor are crucial in maintaining courtroom decorum and fostering respect for the judicial process. A great judge

remains composed and respectful towards all individuals in the courtroom, regardless of the circumstances. The ability to remain calm under pressure and treat everyone with dignity and respect contributes to a fair and dignified legal process.

Furthermore, strong communication skills are invaluable in effectively conveying legal concepts and reasoning behind your decisions. A judge needs to articulate complex legal principles in a clear and understandable manner, both in written opinions and oral rulings. Communicating effectively ensures that parties understand the basis of your decisions and facilitates transparency in the judicial process.

I am experienced not only in civil but criminal court, as well as various specialty courts. I know the Nevada Rules of Civil Procedure, the few Nevada Rules of Criminal Procedure that are in place as well as the Rules of Evidence. I furthered that skill as a Mock Trial judge. As a litigator I had to evaluate cases. Some of these cases were extremely complex. That evaluation slightly changed when I was placed in the position of not simply litigating the cases but to evaluate them to manage.

As a young lawyer winning every motion and arguments was the most important goal. It was all about my ego. With experience, I learned that getting the best outcome for my client is actually the goal and learned to set my ego aside for the benefit of my client. That might mean a settlement. And everyone knows that a settlement is something both sides are often not happy about but can live with. I also learned that the practice of law is not a game. Rather it involves real people with real problems. As such, it not only requires legal knowledge but also empathy when appropriate.

In conclusion, I possess dedication to fairness, analytical prowess, integrity, temperament, and communication skills which make me well-suited to excel as a judge. As an immigrant, I have an unique background and understanding not only of the law but also about life. Nothing came easy and I had to work hard for every accomplishment. By upholding the principles of justice and applying the law impartially with real life experience, I have the potential to make a significant and positive impact on the legal system to uphold the rule of law.

EXHIBIT 3



1 **OPPS**
LIESL FREEDMAN
2 General Counsel
Nevada Bar No. 5309
3 MARTINA BAUHAUS
ASSISTANT GENERAL COUNSEL
4 Nevada Bar No. 9337
Las Vegas Metropolitan Police Department
5 400 S. Martin Luther King Blvd.
Las Vegas, Nevada 89106
6 Tel: (702) 828-3310
Fax: (702) 828-3191
7 Email: m10172b@lvmpd.com
Attorneys for Sheriff Kevin McMahon and
8 The Las Vegas Metropolitan Police Department

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

13 THE STATE OF NEVADA,)
14)
Plaintiff,)
15) CASE NO.)
16 vs.) DEPT. NO.)
17 CHRISTIAN STEPHON MILES,)
18)
Defendant.)

19
20 **SPECIALLY APPEARING INTERESTED PARTY SHERIFF KEVIN McMAHILL'S**
OPPOSITION TO MOTION FOR PHYSICAL ACCESS TO A LAW LIBRARY AND
21 **ACCURATE MEANS OF DUPLICATION**

22 COMES NOW, Sheriff Kevin McMahon, (making a special appearance as an interested
23 party), by and through his attorneys Liesl Freedman, General Counsel, and Martina Bauhaus,
24 Assistant General Counsel, and hereby submits this Opposition to Motion for Physical Access to a
25 Law Library and Accurate Means of Duplication (hereinafter "Motion"). This Opposition is
26 made and based upon the following Memorandum of Points and Authorities, the attached exhibits
27 and all the papers and pleadings on file herein.
28

OFFICE OF GENERAL COUNSEL
Las Vegas Metropolitan Police Department
400 S. Martin L. King Blvd.
Las Vegas, Nevada 89106
(702) 828-3310

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Sheriff Kevin McMahon is charged with managing and operating the county jail in Clark
4 County. "The sheriff is the custodian of the jail in his or her county, and of the prisoners therein,
5 and shall keep the jail personally, or by his or her deputy, or by a jailer or jailers appointed by the
6 sheriff for that purpose, for whose acts the sheriff is responsible." NRS 211.030; NRS 248.050.
7 As custodian of the jail and the prisoners therein, Sheriff Kevin McMahon "has charge and control
8 over all prisoners committed to his [...] care." NRS 211.140(1). Accordingly, Sheriff Kevin
9 McMahon has charge and control over the Detention Services Division (DSD) that operates the
10 Clark County Detention Center (CCDC) and its inmates.

11 On June 13, 2023, Defendant filed his pro per Motion, which appears to request being
12 transported to a law library and more copies of documents. The legal research opportunities
13 provided are within what is constitutionally required. Therefore, Sheriff Kevin McMahon
14 requests that this honorable Court deny the Motion.

15 **II. ARGUMENT**

16 **A. DEFENDANT CHOSE TO REPRESENT HIMSELF AND ALL OF THE
17 CONSEQUENCES THAT RESULT**

18 **1. Defendant has the right to represent himself.**

19 Under the Sixth Amendment, criminal defendants have a right to be represented by an
20 attorney. U.S. Const. amend. VI. The right to counsel has been interpreted to encompass "an
21 independent constitutional right" of the accused to represent himself at trial, and thus waive the
22 right to counsel. *Faretta v. California*, 422 U.S. 806, 806 (1975). Such waiver, however, must be
23 "knowing, voluntary, and intelligent[.]" *Iowa v. Tovar*, 541 U.S. 77, 88 (2004) (citing *Faretta*,
24 422 U.S. at 806); *Faretta*, 422 U.S. at 835 ("the accused must knowingly and intelligently forgo"
25 the right to counsel) (citing *Johnson v. Zerbst*, 304 U.S. 458 (1938)) (internal quotation marks
26 omitted). Although a defendant need not himself have the skill and experience of a lawyer in
27 order to competently and intelligently choose self-representation, he should be made aware of the
28 dangers and disadvantages of self-representation, so that the record will establish that "he knows
what he is doing and his choice is made with eyes open." *Faretta*, 455 U.S. at 835.

1 Importantly, *Faretta* does not establish a right to law library access and, in fact, "says
2 nothing about any specific legal aid that the State owes a *pro se* criminal defendant[.]" *Kane v.*
3 *Garcia Espitia*, 546 U.S. 9, 10 (2005) (*per curiam*); *see also United States v. Wilson*, 690 F.2d
4 1267, 1271 (9th Cir. 1982) ("Nowhere did the *Faretta* Court suggest that the Sixth Amendment
5 right to self-representation implies further rights to materials, facilities, or investigative or
6 educational resources that might aid self-representation."); *Reed v. Schriro*, 290 F. App'x 982, 984
7 (9th Cir. 2008) ("The Supreme Court has never established a clear Sixth Amendment right of
8 access to legal materials for *pro se* defendants.").

9 **2. Defendant does not have a constitutional right to a law library or extra copies.**

10 In *Bounds v. Smith*, 430 U.S. 817 (1977), the Supreme Court considered whether a
11 prison's failure to supply prison inmates with an adequate law library, in absence of some
12 reasonable state-supported alternative legal assistance program, violated prisoner's constitutional
13 right of access to the courts. The Court ruled that prisoners' need for legal assistance was equally
14 compelling in both *habeas corpus and civil rights actions*. *Id.* at 825 (emphasis added). The case
15 did not apply to criminal proceedings. *Id.*; *see also Simmons v. United States*, 142 S. Ct. 23
16 (2021).

17 Specifically, the Supreme Court held:

18 ...the fundamental constitutional right of access to the courts
19 requires prison authorities to assist inmates in the preparation and
20 filing of meaningful legal papers by providing prisoners with
21 adequate law libraries *or* adequate assistance from persons trained
22 in the law.

22 *Bounds*, 430 U.S. at 828 (emphasis added).

23 It is clear that *Bounds* **only applies to a civil matter, not criminal**, because access to an
24 adequate law library would never be a constitutionally permissible replacement for the right to
25 assistance of an attorney under the Sixth Amendment. *See United States v. Smith*, 907 F.2d 42
26 (6th Cir. 1990). This notion is further supported by the subsequent Supreme Court cases. *See*
27 *Lewis v. Casey*, 518 U.S. 343 (1996). The *Casey* Court rejected the notion that prisoners should
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1 have access to courts for legal matters beyond habeas corpus and civil rights actions. *Id.* at 355. is
2 relying on *Bounds v. Smith*, 430 U.S. 817 (1977).

3 “*Bounds* does not guarantee inmates the wherewithal to transform
4 themselves into litigating engines capable of filing everything from
5 shareholder derivative actions to slip-and-fall claims. The tools it
6 requires to be provided are those that the inmates need in order to
7 attack their sentences, directly or collaterally, and in order to
8 challenge the conditions of their confinement. Impairment of any
9 other litigating capacity is simply one of the incidental (and
10 perfectly constitutional) consequences of conviction and
11 incarceration.”

12 *Lewis v. Casey*, 518 U.S. 343, 355 (1996).

13 Defendant relies on *Toussaint v. McCarthy*, 801 F.2d 1080 (9th Cir. 1986) and *Linguist v.*
14 *Idaho State Bd. of Corrections*, 776 F.2d 851 (9th Cir. 1985). Both cases are civil cases and are
15 based upon *Bounds*, however, as stated, they do not apply to this criminal case. 430 U.S. 817
16 (1977). Furthermore, *Bounds* was clarified by *Casey*, 518 U.S. 343 (1996). Similar, *McKaskle v.*
17 *Wiggins*, 465 U.S. 168 (1984), cited by Defendant is irrelevant, as it simply explains the role of
18 court-appointed standby counsel. The other two cases cited by Defendant are also easily
19 distinguishable. The Defendant cites *Milton v. Morris*, 767 F.2d 1143 (9th Cir. 1985), which
20 involves a petition for a writ of habeas corpus under 28 U.S.C.S. section 2253. In this *Milton*
21 case, the Defendant went to trial without having any access to research materials, no advisory of
22 counsel, no means to serve subpoenas or use of a telephone. *Id.* Similar, *Taylor v. List*, (880 F.2d
23 1040 (9th Cir. 1989), a civil rights matter. reiterated *Milton*. Therefore, Defendant’s cited cases
24 are not applicable to this matter.

25 In *Faretta, supra*, the United States Supreme Court held that a state could not
26 constitutionally force a lawyer upon a defendant who insists that he wants to conduct his own
27 defense, especially if he was literate, competent, and understanding, and voluntarily exercised his
28 informed free will. “*Faretta* says nothing about any specific legal aid that the State owes a pro se
criminal defendant,” such as access to the law library. *Kane v. Garcia Espitia*, 546 U.S. 9, 10
(2005). Even though the Constitution guarantees defendant the right to represent himself in a
criminal proceeding, the Constitution does not guarantee a right of access to the law library or
other legal aid while he represented himself during the criminal proceedings. *Kane v. Garcia*

1 *Espitia*, 546 U.S. 9,(2005). When a defendant waives his right to counsel, he may destroy any
2 meaningful access to the court that he may have had. *United States v. Smith*, 907 F.2d 42, 45 (6th
3 Cir. 1990). The Supreme Court specifically stated in *Faretta* that “[w]hen an accused manages his
4 own defense, he relinquishes, as a purely factual matter, many of the benefits associated with the
5 right to counsel.” *Faretta*, 422 U.S. at 835. By knowingly and intelligently waving the right to
6 counsel, the defendant also relinquishes his access to a law library. *Smith* at 45.

7 Furthermore, the Ninth Circuit and other courts have uniformly held that the right of
8 access to the courts cannot be violated when an inmate is offered the assistance of court-appointed
9 counsel, regardless of whether he accepts the offer. *United States v. Robinson*, 913 F.2d 712, 717
10 (9th Cir. 1990) (“[T]here is nothing constitutionally offensive about requiring a defendant to
11 choose between appointed counsel and access to legal materials; the sixth amendment is satisfied
12 by the offer of professional representation alone.”); *United States v. Wilson*, 690 F.2d 1267, 1272
13 (9th Cir. 1982); *accord Degrate v. Godwin*, 84 F.3d 768, 769 (5th Cir. 1996) (per curiam)
14 (“having rejected the assistance of court-appointed counsel, [the defendant] had no constitutional
15 right to access a law library in preparing the *pro se* defense of his criminal trial”); *United States*
16 *v. Smith*, 907 F.2d 42, 45 (6th Cir. 1990) (“principles of due process are not violated when a
17 defendant waives his right to counsel, even though by doing so he destroys any meaningful access
18 to the court that he may have had”).

19 Although Defendant decided to represent himself, it appears he was nevertheless provided
20 with stand-by counsel who can assist him in obtaining the materials he is seeking. *See United*
21 *States v. Taylor*, 183 F.3d 1199, 1204 (10th Cir. 1999) (“By ordering standby counsel, the trial
22 court provided [defendant] with expert legal assistance which included access to any relevant
23 legal materials obtainable through counsel.”). Again, the United States Supreme Court has not
24 established a constitutional right of access to legal materials for criminal *pro se* defendants. *Kane*,
25 546 U.S. at 10.

26 Defendant chose to represent himself in his criminal case. This Court determined that
27 Defendant “competently and intelligently” waived his right to assistance of counsel. The court
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1 provided “stand-by counsel” to shadow and assist Defendant. As such, Defendant has additional
2 resources and assistance from persons trained in the law.

3 As for the demand for “physical access to a law library”, DSD does not have a physical
4 law library. All of the legal research is done through the inmate kiosks. If an inmate would like a
5 print-out of a specific case, they can request the same through the legal library service.
6 Defendant, like all of the other inmates, has access to the law library kiosk during his free time,
7 which does allow him to access cases and statutes. The access is just limited due to DSD
8 regulations. DSD regulations regarding law library access and the limitation on copies were
9 implemented in order to serve all inmates and pursuant to the limited staff and resources
10 available. Defendant is experiencing the restrictions that are common to incarceration. Each
11 Defendant has out-of-cell time slated for them every day¹.

12 Defendant does have access through his stand-by counsel or through the DSD law library.
13 He did give up his right to counsel willingly and knowingly. He could certainly request that his
14 stand-by counsel copy paperwork for him and/or provide additional research to him. The
15 limitations he is currently experiencing are normal limitations due to his incarceration and due to
16 his choice. This Court should deny Defendant’s Motion.

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26 ¹ The Ninth Circuit has declined to determine that the Constitution requires a specific minimum
27 amount of free time for pretrial detainees. See *Pierce v. County of Orange*, 526 F.3d 1190, 1212
28 (9th Circ. 2008). see also *Candler v. Santa Rita Cty. Jail Watch Commander*, No. 11-CV-01992-
CW, 2015 U.S. Dist. LEXIS 8766, 2015 WL 333298, at *9 (N.D. Cal. Jan. 26, 2015) (holding
that, under *Pierce*, providing two hours of recreation weekly met constitutional standards).

