

COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT
DEPARTMENT 24

By

Colleen Brown



Personal Information

1.	Full Name	
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.	Yes. I was known as Colleen Baharav between September 2014 and December 2025. Baharav is my married name.
3.	How long have you been a continuous resident of Nevada?	16 years
4.	City and county of residence	Henderson, Clark County, Nevada
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	Office of the Clark County District Attorney, Clark County, Nevada
Phone	(702) 671-2500
Physical Address & Website	200 Lewis Avenue, 3 rd Floor, Las Vegas, Nevada 89101 https://www.clarkcountynv.gov/government/departments/district_attorney/
Date(s) of Employment	August 3, 2009 to Present
Supervisor's Name and Title	Alexander Chen and Pamela Weckerly, Assistant District Attorneys
Your Title	Chief Deputy District Attorney
Describe Your Key Duties	<p>I am responsible for managing a team of six others. I review all cases that come to our unit and assign cases to my deputy where appropriate. I am also responsible for handling my own caseload. This includes filing pre-trial motions and appropriate notices, responding to and arguing motions in both the District Court and Justice Court levels, preparing and handling any preliminary hearings or grand jury presentments that arise, meeting with victims and witnesses, and preparing cases for trial through in-depth review.</p> <p>I regularly meet with our law enforcement partners regarding the prosecution of our cases, answer any questions they may have, and work to facilitate a better working relationship through more consistent communication.</p>

	<p>I provide yearly trainings to each Clark County Grand Jury on Fraud and Elder Abuse and have also trained them on vehicular crimes. These trainings are an integral part in ensuring that our Grand Jury is instructed properly.</p> <p>As a Team Chief, I am also responsible for mentoring young deputies to help them to grow in the practice of law. I do this through review of proper procedures, explanations of nuances in the law, and review of concerns they have. I similarly mentor the college and law student interns assigned to the Major Fraud/Elder Abuse Unit. I assign them motions and oppositions, review same, and supervise any oral arguments.</p> <p>Finally, I am responsible for administrative tasks such as performance reviews, approval of leave, and providing coverage whenever necessary.</p>
Reason for Leaving	I am currently employed with the Office of the Clark County District Attorney.

Previous Employer	McDonald's (Then operated by Missoula Mac, Inc.)
Phone	(608) 254-7472
Address & Website	1200 Wisconsin Dells Parkway South, Baraboo, Wisconsin 53913 https://www.mcdonalds.com/us/en-us/location/wi/baraboo/1200-wisconsin-dells-pkwy-s/2976.html
Date(s) of Employment	November 2008 to July 2009
Supervisor's Name and Title	Jeff Lurvey, Store Manager
Your Title	Swing Manager
Describe Your Key Duties	I was responsible for assigning staff to stations throughout the store and supervising all staff on shift. I would fill in for staff during their breaks, make hourly spot checks throughout the store and grounds to ensure cleanliness and appropriate stocking levels, cash staff out at the end of their shifts, total shift sales, and make bank deposits. I was also required to ensure that all staff complied with McDonald's cleanliness and food safety standards, train staff where necessary, and reassign staff when appropriate.

Reason for Leaving	During my last year of law school and right after graduation, I needed to earn enough money to move to Nevada. I had previously worked at McDonald's from June of 1999 to July of 2005, and they had always worked with my school schedule. They hired me back instantly and I was able to work on weekends and over school breaks. This was right during the economic downturn of 2008 when many of my friends were losing their offers. I was lucky to be able to continue to work during this time for substantially more than minimum wage. I was also able to earn enough money to move across the country to start my job at the Clark County District Attorney's Office.
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Previous Employer	Borgelt, Powell, Peterson & Frauen S.C.
Phone	(414) 276-3600
Address & Website	1243 N. 10 th Street, Suite 300, Milwaukee, Wisconsin 53205 https://borgelt.com/
Date(s) of Employment	May 2008 to August 2008
Supervisor's Name and Title	Dennis Marano, Administrator
Your Title	Law Clerk
Describe Your Key Duties	Borgelt, Powell, Peterson & Frauen is a Milwaukee-based insurance defense firm. As a law clerk, I was tasked with completing research and writing assignments and reviewing documents for the firm's attorneys. I was also tasked with providing whatever assistance was asked of me when they went to trial.
Reason for Leaving	My clerkship ended at the end of the summer.

Previous Employer	Wisconsin Historical Foundation
Phone	(608) 261-9590
Address & Website	P.O. Box 260050, Madison, Wisconsin 53726-0050 wisconsinhistory.org/whf
Date(s) of Employment	February 2007 to August 2008

Supervisor's Name and Title	Trent Nichols
Your Title	Office Assistant
Describe Your Key Duties	<p>The Wisconsin Historical Foundation is the fundraising arm of the Wisconsin Historical Society.</p> <p>As an office assistant I was tasked with organizing documents and other information, assisting in planning and staffing fundraising events, and other clerical duties as required.</p>
Reason for Leaving	During my third year of law school, I had to cut my hours so I could participate in the International Law Journal, Moot Court, and Mock Trial. They needed someone who could work greater hours, so I resigned.

Previous Employer	Foley & Lardner, LLP
Phone	(414) 271-2400
Address & Website	777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 https://www.foley.com/
Date(s) of Employment	May 2004 to January 2008
Supervisor's Name and Title	Judy Osborne, Legal Support Supervisor
Your Title	Office Assistant
Describe Your Key Duties	<p>I was tasked with assisting attorneys with document preparation, conducting research into international patent and trademark law, and maintaining the international patent and trademark law database.</p> <p>I also operated as a substitute legal assistant. I covered one desk for several months while the full-time legal assistant was out on medical leave. I helped the partner I worked for draft legal correspondence, organize case files, and comply with filing and other deadlines.</p>
Reason for Leaving	I went to law school.

Previous Employer	Office of the Staff Judge Advocate, Trial Defense Service
Phone	(502) 791-6476
Address & Website	ATTN: ATCC-KNX-TDS, 50 Third Avenue, Building 1310, Fort Knox, Kentucky 40121 https://home.army.mil/knox/about/Garrison/legal-assistance-office/trial-defense-services
Date(s) of Employment	May 2007 to July 2007
Supervisor's Name and Title	Linda Luckett, Paralegal
Your Title	Summer Intern
Describe Your Key Duties	I assisted the attorneys in preparing for courts-martial proceedings and motions hearings, including researching and writing motions and oppositions. I also conducted Chapter 10 separation meetings.
Reason for Leaving	My internship ended at the end of the summer.

Previous Employer	Marquette University, Alumni Memorial Union, Event Management
Phone	(414) 288-7202
Address & Website	1442 West Wisconsin Avenue, Milwaukee, Wisconsin 53233 https://www.marquette.edu/event-services/
Date(s) of Employment	August 2002 to May 2006
Supervisor's Name and Title	Annette Conrad, Associate Director
Your Title	Student Manager
Describe Your Key Duties	I was responsible for supervising, training, and scheduling between eight and ten student employees. This job required significant human resources duties such as payroll, hiring and firing employees, completing performance reviews, instituting a training procedure for new staff, developing policies to facilitate efficiency in our communications with clients, and working cooperatively with the differing departments to give our guests the best possible event. I was also tasked with mediating disputes

	<p>between staff and working with the full-time staff to address any issues.</p> <p>I assisted student, faculty, and alumni groups in scheduling their meetings, organizing their catering needs, reserving their event space, and facilitated communication with a full-time event coordinator where appropriate.</p>
Reason for Leaving	I graduated from college.

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.

La Crosse Central High School

Address: 1801 Losey Boulevard South, La Crosse, Wisconsin 54601

Dates Attended: September 1998-June 1999

Degrees Awarded: N/A

Reason for Leaving: My family moved to a different city

Wisconsin Dells High School

Address: 1501 Brew Farm Road, Wisconsin Dells, Wisconsin 53965

(Former Address 520 Race Street, Wisconsin Dells, WI 53965)

Dates Attended: September 1999-May 2002

Degrees Awarded: High School Diploma

Reason for Leaving: Graduated

Marquette University

Address: 1250 West Wisconsin Avenue, Milwaukee, Wisconsin 53233

Dates Attended: August 2002 to May 2006

Degrees Awarded: Bachelor of Arts Degree in History and Political Science

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.

Since I was a child, I have sought out experiences that would help me learn new skills, make new friends, or see new places. During my freshman year of high school, I participated in my high school band and orchestra programs where I played the tuba and cello, respectively. Being a small woman playing the tuba in a historically male-dominated section taught me early on how to stand up for myself. It also helped me learn that preparation can overcome inexperience. During my first year of high school, I also participated in the cross country and track teams where I developed strong relationships with my teammates. I further participated

in the Debate Club, which helped me to learn how to support my position with citation to facts and law.

I moved to a new school for my sophomore through senior years. Since I was the new kid in a new school, I once again sought to join more activities. I joined the band program, including the marching band, where I rose up to become the drum major during my senior year. The drum major is tasked with assisting the Band Director with commanding, conducting, and directing the ensemble band. It was a great way to practice leading a group of contemporaries. I again participated in the cross-country program, the Forensics Team, joined the choir, and when I was a senior, tried out for the school play. As I was much more comfortable playing instruments than singing, I figured it would be a good way to develop a skill I was lacking. I ended up being cast as one of the leads of the play, a musical.

When I went to college, I joined the Marquette University Crew Team where I acted as a coxswain for the men's rowing team. While I only had about a year and a half in this program, I learned how to direct another group of contemporaries and how to motivate those same athletes during our races. I was also able to travel while a part of this team.

My second year of college I learned about the Marquette Mock Trial program. We regularly competed at regional and national competitions. Since I worked in Marquette's Event Management Office, I was also able to facilitate organizing and hosting the Milwaukee Regional Competition, which we did for three or four years after that. In 2005 and 2006 I received awards for "Outstanding Attorney" and was deemed an "All-American Attorney" by the American Mock Trial Association. Mock Trial provided a crash-course in evidence, supporting your arguments with citations to the rules of evidence, and communicating effectively with the judging lawyers scoring the rounds. My participation in the Mock Trial program was the primary reason I was prepared to stand before our local courts as an advocate.

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 Wisconsin Law School

Address: 975 Bascom Mall, Madison, Wisconsin 53706

Dates Attended: August 2006 to May 2009

Degrees Awarded: Juris Doctorate

Reason for Leaving: Graduated

Rank in Graduating Class: Middle 20%

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 was employed as outlined above in Question 6.

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

As a first-year law student, I auditioned for and was accepted to the University of Wisconsin Law School Moot Court Board. I was assigned to compete in the John Marshall Law School International Moot Court Competition in Information and Technology Law in the Spring of 2007 in Chicago, Illinois.

Following my own competition as a first-year law student, as a third-year student, I was assigned to coach another team of first-year students. I coached the team that competed in the Jerome Prince Memorial Evidence Competition at Brooklyn Law School in the Spring of 2009, in Brooklyn, New York.

In addition to competing and coaching in the Moot Court program, I also auditioned for and was accepted to compete for the University of Wisconsin Law School Mock Trial Team. My first semester of my first year I was chosen as an alternate for the University at Buffalo Law School Mock Trial Competition in November of 2006. I was later chosen as the Vice President of the Buffalo-Niagara Mock Trial Competition responsible for assisting the competitors and coaches in their competition.

My second year I was chosen as a competitor in the Texas Young Lawyers Association Mock Trial Competition hosted by Washington University in Kansas City, Missouri. We competed in February of 2008.

My third year I was again chosen as a competitor in the Texas Young Lawyers Association Mock Trial Competition, this time the competition took place in Des Moines, Iowa. Following several rounds of competition, my team was declared the regional champions. We subsequently competed in San Antonio, Texas in the Texas Young Lawyers Association National Trial Competition later in the Spring of 2009.

In addition to my participation in Moot Court and Mock Trial, I also applied for and was invited to join the Wisconsin International Law Journal as a first-year law student. My third year I was chosen as a Senior Managing Editor responsible for checking citations in Notes and Comments that ultimately made it into our published journal.

Law Practice

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

I was admitted to practice in Nevada in May of 2010. My Bar Number is 11777.

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

I was admitted to practice in Wisconsin in June of 2009. My Bar Number is 1074289. My license is current but inactive as I practice full-time in 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 15-19 for the five years directly preceding your appointment or election to the bench.

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

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

I spend between 95 and 100% of my time on litigation matters inclusive of cases set for both jury and non-jury trials. This includes appearing in District Court on motions, for sentencings, and for trial. This also includes appearing in Justice Court on motions, for bench trials, and for preliminary hearings. The remaining time involved preparation for hearings and/or preparing cases to be litigated, meetings with law enforcement and witnesses to discuss cases, and preparing for post-conviction evidentiary hearings. Currently, I have twenty (20) cases set for jury trial.

In addition, in the last five years I have presented approximately 70 cases to the Clark County Grand Jury. Overall, I have presented over 130 cases to the Clark County Grand Jury. Some of these cases were presented over several days due to the complex nature of the charges. I have also conducted over 50 preliminary hearing examinations.

In the last five years I have also spent substantial time mentoring young deputies and interns, and administrative tasks that are the responsibility of the Team Chief.

17. 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 years I have tried approximately seven (7) jury cases to a conclusion with me as lead counsel. I have concluded approximately 320 other cases where I was the lead counsel during this same period. This included cases that were resolved through negotiations. I have not participated in a bench trial in the last five years.

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

Las Vegas Justice Court, Clark County, Nevada
 Henderson Justice Court, Clark County, Nevada
 Mesquite Justice Court, Clark County, Nevada
 Boulder City Justice Court, Clark County, Nevada
 North Las Vegas Justice Court, Clark County, Nevada
 Eighth Judicial District Court, Clark County, Nevada

19. 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 of Nevada v. Aaron Kaplan – C-13-293130-1/C-14-295751-1 September 2013 to March 2017
Court and presiding judge and all counsel: Eighth Judicial District Court, Department 3, Judge Douglas Herndon
Importance of the case to you and the case's impact on you: <p>This case was assigned to me shortly after the complaint was filed on September 19, 2013. It is a significant case to me because it was one of my first serious cases and demonstrated the importance of preparation and making a good record.</p> <p>The Defendant was charged with Battery Constituting Domestic Violence-Strangulation and Coercion. I conducted the preliminary hearing on October 3, 2013. The Defendant had gotten into an argument with our victim after she had attempted to end the relationship. He threatened her and placed hands around her neck causing her to have difficulty breathing. He subsequently took her phone and car keys away and prevented her from contacting the police.</p> <p>Following the preliminary hearing, the Defendant and his family were able to convince the victim that the Defendant was not violent normally and his behavior was out of character. She consequently permitted the Defendant to have contact with her, though she again attempted to end the relationship shortly thereafter. On November 11, 2013, the victim woke up to the sound of someone banging on her door and ringing her doorbell repeatedly. She crept downstairs and was watching on a landing as the Defendant broke her side window and jumped through.</p>

The victim was able to send a text for help before she was dragged upstairs, tied to the toilet in the bathroom, and beaten by the Defendant. He head-butted her, beat her about the face and body with a towel rod, and punched her repeatedly with his fists. The Defendant's family member had received the text for help and arrived to intervene. The family member dropped the victim off at the hospital. As the result of Defendant's attack upon her, she had several facial fractures, multiple areas of stitches, and significant and painful swelling.

For the second attack, the Defendant was charged with Burglary, Home Invasion, First Degree Kidnapping Resulting in Substantial Bodily Harm, Domestic Battery with Substantial Bodily Harm, and Domestic Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm. The second case went to preliminary hearing on February 4, 2014. Ultimately, the cases were consolidated before Judge Herndon in September of 2014.

We later learned that the Defendant had previously been convicted of Assault Causing Injury with a Deadly Weapon in Colorado in 2009. The State consequently filed a motion to admit evidence of other crimes on August 4, 2015. While preparing for this hearing we learned of yet another victim of violence at the hands of the Defendant and sought to add her as well.

On January 21, 2016, the Defendant entered into negotiations with the State wherein he agreed to plead guilty to Second Degree Kidnapping with Use of a Deadly Weapon, Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm Constituting Domestic Violence, Invasion of the Home, and Battery Constituting Domestic Violence. Both parties retained the right to argue at sentencing.

Sentencing was delayed for the next year as the Defendant repeatedly changed counsel. He ultimately filed a motion to withdraw his plea on January 27, 2017. This motion was denied on February 21, 2017, following an evidentiary hearing. Defendant retained new counsel just prior to the sentencing on March 24, 2017. Nevertheless, the Court proceeded with sentencing on that date. The Court sentenced Defendant to an aggregate total of 18 to 50 years in the Nevada Department of Corrections. He is eligible for parole in October 2031.

After sentencing, the victim approached me and thanked me for supporting her throughout the long process. She was happy with the outcome and looking forward to moving on with her life.

Your role in the case:

I was the lead in the originating case and then worked as partners with my co-counsel when the second case came in. I have taken the lead on post-conviction hearings.

Case 2

Case name and date:

State of Nevada v. Pasqual McMurry, C-14-297388-1/Nevada Supreme Court Case 72805

March 2014 to April 2019

Court and presiding judge and all counsel:

Eighth Judicial District Court, Department 25, Judge Kathleen Delaney

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

This case was mine since its inception in our office on March 17, 2014. This case is significant to me not only because of its serious nature, but also because I presented oral arguments to the Nevada Supreme Court.

The Defendant was charged with Battery with Intent to Commit Sexual Assault, Battery Constituting Domestic Violence, First Degree Kidnapping, and three counts of Sexual Assault. This complaint was later amended to include Coercion and Battery Constituting Domestic Violence-Strangulation. I conducted the preliminary hearing on April 16, 2014.

Our victim had been attacked by her boyfriend, the Defendant, after they had gotten into a disagreement while staying at a hotel on the Las Vegas Strip. The Defendant was angry about his gambling losses and was blaming the victim. He left the hotel they were staying in, only to return later that night. After the victim allowed him back into their room, he beat her, strangled her, and sexually assaulted her for several hours. She was only able to escape after he had fallen asleep.

Defendant's jury trial took place between November 14, 2016, and November 21, 2016. I did the opening statement and rebuttal closing. I also conducted the direct examination of the State's expert on strangulation, a crime scene analyst, and three other lay witnesses. Following the presentation of evidence, the jury found the Defendant guilty of all charges. He was sentenced to an aggregate total of 20 years to life in the Nevada Department of Corrections. The Defendant is eligible for parole in 2036.

The case was ultimately appealed and set for oral argument before the Supreme Court of Nevada. On appeal, the Defendant argued that the State had abdicated its obligations to uncover *Brady* material and the District Court erred by permitting the State to impeach him with his prior felony convictions. I presented the argument for the State in November of 2018. I explained that our office policy required the prosecutor assigned to the case to conduct a *Brady* search each time the case was set for trial. Since this occurred twice and the case was assigned to me, I conducted this search twice. Ultimately, Defendant's convictions were affirmed in February of 2019.

Your role in the case:

I was the lead counsel for all preparatory stages of the case. I then worked with my team-chief for the jury trial. I argued the State's position during the oral arguments before the Nevada Supreme Court.

Case 3

Case name and date:

State of Nevada v. Lance Kaanoi, Jr., C-17-328281-1
July 2017 to July 2022

Court and presiding judge and all counsel:

Eighth Judicial District Court, Department 12, Judge Michelle Leavitt

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

This case was reassigned to me in August of 2017 after another deputy left the office. This case is significant to me because it demonstrates how the actions of the lawyers in the courtroom, the judge on the bench, and the testifying witnesses can have a significant impact on how the public sees the judicial system.

The Defendant was charged with Leaving the Scene of an Accident and Reckless Driving for a collision that had occurred on July 5, 2017, and resulted in the death of a young woman. When the file came into our office the evidence supporting the charges appeared to be lacking. Without knowing that there was substantial evidence on the way, the deputy had communicated concern about proving the case to the family of the victim. They were understandably upset and concerned as a result.

I had spent my time on the Vehicular Crimes Unit developing relationships with the Fatal Teams of the Las Vegas Metropolitan Police Department and the Nevada State Police. I immediately contacted the assigned investigator and asked about the evidentiary concerns of the prior deputy. He told me about the additional information that was forthcoming, and I was able to assuage the fears and concerns of our victim's family.

This case proceeded to preliminary hearing on November 27, 2017. The victim's family was present for the entire hearing. As they watched, they observed the *pro tem* sitting on the bench make what they believed to be snide comments regarding the State's case and watched as the *pro tem* appeared to have a more friendly relationship with the defense counsel than he did with the State. Following the case being bound over to District Court, the victim's family approached me flabbergasted at the behavior they had observed from the bench. I did my best to explain that sometimes contentious hearings can appear unfair, and that we had won the hearing. This exchange reminded me that the public watches everything that we do, and it is important to remain professional at all times.

I moved teams in September of 2019, and the case was assigned yet again to another prosecutor. When that prosecutor left our office, the victims reached back out to my prior team chief and explained their dismay in what they believed was a revolving door of prosecutors assigned to their case. The new prosecutor assigned asked if I would come back to do the trial with him and I readily agreed. When we told the victim's family, they told us they were happy that someone they knew and had seen advocate for their family would be back on the case.

The jury trial in this case took place between May 12, 2022, and May 19, 2022. I presented the opening statement and rebuttal closing argument. I conducted the direct examination of the State's digital forensics expert along with the direct examination of the State's accident reconstruction expert. I also questioned multiple other lay persons involved in the case. Finally, I conducted the cross-examination of the defense expert. During the examination, I was able to lay sufficient foundation for the State's theory that the Defendant did not have post-concussive syndrome, but rather heat exhaustion from fleeing the scene of the collision on foot in the beginning of July.

Following the presentation of evidence, the jury convicted Defendant on all charges. He was sentenced on July 28, 2022, to eight (8) to twenty (20) years in the Nevada Department of Corrections. He is eligible for parole in 2030.

The sentencing was originally scheduled for the anniversary of the victim's death. However, it was moved following the request of the victim's family. After the sentencing,

<p>the family thanked us for working so hard to ensure a fair trial not just for the Defendant but also for their daughter. They had seen how professional the defense counsel and the Court were throughout the proceedings and knew that whatever occurred with the verdict, their daughter had received justice.</p>
<p>Your role in the case: I was the original prosecuting attorney before being moved teams. I agreed to assist the new trial counsel as their co-counsel for the trial.</p>

<p>Case 4</p>
<p>Case name and date: State of Nevada v. Sean Malia, C-20-351349-1 April 2020 to June 2021</p>
<p>Court and presiding judge and all counsel: Eighth Judicial District Court, Department 19, Judge William Kephart Eighth Judicial District Court, Department 3, Judge Monica Trujillo</p>
<p>Importance of the case to you and the case's impact on you: This case was mine from its inception in our office in April of 2020. This case is significant to me because it demonstrates that justice should remain blind, no matter who the parties are that are appearing in front of you. The Defendant was charged with 12 counts of Theft and one (1) count of Embezzlement for stealing approximately \$16,380.28 from the Friends for Las Vegas Police K-9s Charity between September 2017 and September 2019. The Defendant, who had been a police officer for almost two decades, had been the treasurer of the K-9 charity and used his position to help himself to the funds meant to assist the K-9 unit and the animals in their care. Whenever anyone would question him, he would get aggressive, which helped his theft go undetected for so long. The Defendant used the stolen funds to cover the deficit he needed to support his lifestyle. This case went before the Clark County Grand Jury in October of 2020. The State presented 11 witnesses over three days. This included many law enforcement officers who had to testify about someone they had worked with over a long period of time. I also presented a forensic auditor to discuss the financial transactions in the case and to better help the Grand Jurors understand the charges. Surprisingly, the Defendant also chose to testify at the Grand Jury. I conducted his examination. Following the presentation of evidence, the Grand Jurors returned a True Bill against Defendant on all charges. After he was indicted, the Defendant decided to plead guilty. He was given probation as he had paid all of the restitution back prior to his sentencing. This case remains significant to me because it demonstrates that no one is above the law and the law must be applied fairly in all cases.</p>
<p>Your role in the case: I was the lead prosecutor.</p>

Case 5
<p>Case name and date: State of Nevada v. Leroy Freeman, Cornelius Johnwell, Fredrick Dotson, and Deonte Daniels, C-22-366439-1, 2, 3, and 4 February 2022 to June 2023</p>
<p>Court and presiding judge and all counsel: Eighth Judicial District Court, Department 6, Judge Jacqueline Bluth Eighth Judicial District Court, Department 3, Judge Monica Trujillo</p>
<p>Importance of the case to you and the case's impact on you:</p> <p>In February of 2022, I was filling in for another deputy in Henderson Justice Court when a case involving multiple burglaries was set on a quick preliminary hearing setting. I assisted the assigned deputy in subpoenaing the case and realized in the process that the case was larger than it originally appeared. What originated as a complaint involving nine (9) burglaries in Henderson snowballed into a valley-wide case involving a burglary ring that resulted in a 157-count Indictment.</p> <p>This case is significant to me due to the amount of effort expended to place it in the best possible position to resolve and get closure for the victims. It is also an example of the complex prosecutions my team handles while I have been the Team Chief.</p> <p>I presented this case to the Grand Jury over four days and examined over 60 witnesses. I spent months communicating with multiple law enforcement agencies, gathering all related events and the discovery for every related event, identifying and subpoenaing the witnesses for each event, and speaking with the witnesses prior to their testimony. The case involved motion work at the Justice and District Court levels at a time when I was the sole deputy assigned to the Major Fraud and Elder Abuse Unit's large caseload.</p> <p>Between August of 2021 and February of 2022, the Henderson Police Department and multiple area commands of the Las Vegas Metropolitan Police Department responded to a slew of burglaries with a similar <i>modus operandi</i>. The homes were all burglarized through a rear door or window that was broken, the homes were ransacked, and valuables were stolen, the perpetrators left through the front door, and all had similar getaway cars and suspects. All of these cases were tied together using surveillance video from the residents, registrations of the identified vehicles, and cellular telephone records that demonstrated that the suspects were at the residences when they were burglarized. Sometimes the makeup of the entry team was different, but overall, the four co-defendants were connected to these events.</p> <p>This crew was responsible for 92 home burglaries throughout Las Vegas and Henderson. Though the State only prosecuted just over 60 events based upon witness availability, I was able to prevent piecemeal prosecution of individual burglaries from different area commands by building one comprehensive case.</p> <p>In the end, three (3) of the four (4) defendants requested a Settlement Conference. I have had good experiences at these conferences and agreed to participate on behalf of the State and the named victims of these residential burglaries. Following the settlement conference on October 11, 2022, Defendant Freeman pled guilty to Conspiracy to Commit Burglary, Residential Burglary While in Possession of a Firearm, Invasion of the Home</p>

While in Possession of a Firearm, Theft, and Ownership or Possession of Firearm by Prohibited Person. He was sentenced on February 7, 2023, to an aggregate sentence of four (4) to ten (10) years in the Nevada Department of Corrections.

Defendant Dotson pled guilty to Conspiracy to Commit Burglary, Residential Burglary While in Possession of a Firearm, Invasion of the Home While in Possession of a Firearm, and Theft. He was sentenced to four (4) to fifteen (15) years in the Nevada Department of Corrections.

Defendant Daniels pled guilty to Conspiracy to Commit Burglary, Residential Burglary While in Possession of a Firearm, Invasion of the Home While in Possession of a Firearm, Theft, and Possession of Stolen Property. He was sentenced to just over five (5) years to thirteen and a half (13.5) years in the Nevada Department of Corrections.

Defendant Johnwell committed an additional burglary while he was pending trial in this case, so his case resolved differently. He decided to plead guilty on March 9, 2023, to Conspiracy to Commit Burglary, Residential Burglary While in Possession of a Firearm, Invasion of the Home While in Possession of a Firearm, Theft, and Ownership or Possession of a Firearm by a Prohibited Person. In his new case, he also pled guilty to Conspiracy to Commit Burglary and Residential Burglary While in Possession of a Firearm. Defendant Johnwell was sentenced to eight (8) to twenty (20) years in the Nevada Department of Corrections.

Building a complex case with many moving pieces requires a lot of focus and organization. This is especially true when you have to handle the case alone. This case was a good example of how hard work and determination can lead to a good result for all parties.

Your role in the case:

I was the lead prosecutor.

20. 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.

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

Because I represent the State of Nevada in criminal matters, I am not able to take any clients that could cause a conflict. Unfortunately, that precludes most pro bono matters.

However, I have participated in legal education for young people as well as law enforcement officers. I am also assigned a mentee in each hiring class of the Clark County District Attorney's Office.

22. 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, Member since May 6, 2010.

State Bar of Wisconsin, Member since May 9, 2009

Clark County Bar Association, Member in 2023 and 2026

Southern Nevada Association of Women Attorneys, Member since 2026

23. 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 with the continuing legal education requirements applicable to me as a lawyer. Please see the table below for the list of courses I have attended during the past five years.

Date	Course Name	Provider
05/07/2026	District Court Judges Speak on Offers of Judgment	H&P Law, PLLC
02/27/2026	High School Mock Trial	State Bar of Nevada
12/17/2025	Paper Cases: What Are They and How Do We Prove Them?	Clark County DA
12/16/2025	Overview of Brady and Other Disclosure Requirements	Clark County DA
12/16/2025	Prison Math	Clark County DA
10/01/2025	2025 Spring TIP Mentor Program	State Bar of Nevada
12/10/2024	Trial Prep Nuts & Bolts	Clark County DA
11/07/2024	The Truth About Competency Proceedings	Clark County DA
11/06/2024	Effective Legal Writing	Clark County DA
11/06/2024	APA: Ensuring Ethical Preservation & Protection of Victims' Rights in Capital Punishment Cases	Clark County DA
09/27/2024	Nevada Prosecutor's Conference	Attorney General
04/11/2024	Prosecuting Fraud Cases: Tips and Tricks	Clark County DA
11/06/2023	Grand Jury	Clark County DA

Date	Course Name	Provider
10/31/2023	Coping with Depression	Clark County DA
10/31/2023	Emerging Legal Trends Every Prosecutor Must Know	Clark County DA
10/20/2023	Doggett Issues Post-Inzunza	Clark County DA
10/12/2023	Prosecutorial Misconduct & Lessons from Appeals	Clark County DA
10/04/2023	Lessons from Appeals	Clark County DA
08/28/2023	2023 Legislative Update	Clark County DA
11/10/2022	The Criminal Defense Attorneys' Duty to Advise Non-citizens:	Clark County DA
11/09/2022	What DAs Need to Know About Air Force Prosecutions	Clark County DA
11/09/2022	Qualified & Prosecutorial Immunity	Clark County DA
11/09/2022	Specialty Court Training	Clark County DA
11/01/2022	Forensic Y-STR Testing	Clark County DA
10/05/2022	Implicit Bias Part II	Clark County DA
10/05/2022	Updates on Batson and the Law of Jury Selection	Clark County DA
06/29/2022	Intro to At Ease	Regional Justice Center
11/23/2021	New DDA Prosecutor Wellness	Clark County DA

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

I work for a governmental agency, so we do not carry Professional Liability Insurance.

Business & Occupational Experience

25. 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.

Since I graduated from law school I have not been engaged in any occupation, business or profession other than as a judicial officer or in the practice of law.

Prior to graduating from law school, I worked at various places that did not constitute being a judicial officer or practicing law. Between 1995 and 1999 I delivered papers for the La Crosse Tribune. Between June of 1999 and July of 2009, I worked at McDonald's in Lake Delton, Wisconsin as a Crew Trainer then a Swing Manager. In the summer of 2001, I worked as a lifeguard at Noah's Ark in Wisconsin Dells Wisconsin. In the fall of 2001, I worked as a lifeguard at Great Wolf Lodge, in Lake Delton, Wisconsin. During law school I also worked as an office assistant for the Wisconsin Historical Foundation.

26. 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:
- the nature of the business
 - the nature of your duties
 - the extent of your involvement in the administration or management of the business
 - the terms of your service
 - the percentage of your ownership

Besides the administrative duties of a Team Chief at the Clark County District Attorney's Office, I have not ever served as a manager, officer, or director of any business enterprise.

27. 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.

Not applicable.

Civic Professional & Community Involvement

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

No.

29. Have you been a candidate for such an office?

Yes.

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

I filed for election on January 5, 2026, for District Court Judge in the Eighth Judicial District Court, Department 24. I did not draw an opponent. Since no election has occurred as of yet, I am still a “candidate” for that position.

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

On August 10, 2015, I was appointed by Governor Brian Sandoval to the Nevada Commission for Women (NRS 233I.010). The Commission for Women had been dormant for almost two decades before it was reinstated by Governor Sandoval in late 2014. My term began on August 24, 2015, and ended on June 30, 2017.

As a member of the Commission, we regularly met to discuss, study, promote, advise, and inform the government and the public on issues pertaining to women. Since its reinstatement, the Commission has made great strides in promoting the causes of women throughout Nevada including authorizing a study on issues affecting women, recommending proposed legislation to target issues affecting women, and advancing women towards full equality in all areas. I greatly enjoyed my work on this Commission.

In addition to the Commission for Women, for four (4) years I coached the Faith Lutheran Mock Trial Team. I coached the freshman team twice and was the co-varsity coach with Nancy Becker and Michelle Jobe during my last two (2) years. Michelle Jobe and I took our team to State where they performed very well. As a mock trial coach, I also provided the evidence lecture to new teams and coaches at the mock trial meeting at the beginning of the season. I was further responsible for teaching our students the rules of procedure and the rules of evidence. I have likewise volunteered to judge the Mock Trial competitions that occur at the Regional Justice Center and the Nevada District Court and have even been able to act as the presiding judge on several occasions.

Since 2024, I have been the secretary of the Nevada Vulnerable Adult Fatality Review Committee. The VAFRC was established by the Nevada Legislature in 2023 to address deaths of vulnerable adults that may have been caused by abuse or neglect. The VAFRC is tasked with reviewing referrals and identifying gaps in existing systems to determine what could have been handled differently. The VAFRC is then required to provide recommendations to law enforcement, state agencies, service providers, victim advocates, and the public. These recommendations aim to improve services and prevent future fatalities.

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

Throughout my time in the Clark County District Attorney’s Office, I have volunteered to represent our office at various schools and cadet academies. I have had the opportunity to speak at Chaparral High School to a group of students who wanted more information on what we do. I also presented at UNLV on behalf of our office at both a Spanish class that was discussing the American justice system as well as a Crime and Film class.

I have further taught classes on the Fourth Amendment to the Henderson Police Department Academy and the Division of Parole and Probation Academy. I have taught laws regarding domestic violence and stalking multiple times at the Juvenile Probation Academy, and I have taught at the Corrections Officer Academy twice. I also presented on criminal law generally to the Las Vegas Metropolitan Police Department Crime Scene Analysts during their training.

Internally, I have conducted multiple training courses on fraud cases, prosecuting DUI cases, and presenting Direct Examinations to our new class of deputies during their training sessions.

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

In my early practice, I spent a lot of time coaching and mentoring high school students in Mock Trial. I often took on extracurricular appearances for our office as an ambassador for our office. I am very proud of the work that I did with the Faith Lutheran Mock Trial program as well as the judging I was able to volunteer for during the regional and state competitions. I enjoyed the extra teaching and mentoring, in developing and playing a part in helping the next generation of lawyers grow.

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

In 2024 the Nevada Organized Retail Crime Association named me Prosecutor of the Year.

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.

Not applicable.

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

I have not published any books, articles, speeches or provided public opinions on legal topics. Since I indicated my intention to run for election, I have been asked to appear on the following podcasts: The Middle Ground (December 2025), Tangled Rights (January 2026), Veterans in Politics Talk (February 2026), and Our Nevada Judges Candidate Interviews (April 2026).

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

Yes.

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

Yes.

38. List avocational interests and hobbies.

When I am not working or parenting, I like to read and bake.

Conduct

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

Yes.

40. 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.

41. 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.

42. 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.

43. 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.

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

No.

45. 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.

46. 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 need to recuse myself from the cases I worked on personally and substantially as a prosecutor.

Other

47. 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 submitted an application for the Henderson Justice of the Peace, Department 3 position on July 19, 2023. I was chosen as one of the five candidates interviewed by the Judicial Selection Commission, but I was not chosen as one of the candidates who were forwarded to the Clark County Commission.

48. 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 district court judge. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

Please see attached.

49. 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 have the honor of running unopposed for this seat in the 2026 General Election. While I had anticipated closing more of my cases before I take office in January, I am ready and willing to serve my community now.

50. 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.

Please see attached.

Question 48. 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 district court judge. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

I know first-hand how the legal system can impact, improve, destroy, or restore the peace of mind of families involved on both sides of a case. I know how the actions of the police, prosecutors, and judges in that system can change the course of an entire family in a split-second. I know this because the legal system had this impact on my very own family.

Some of my earliest memories are of my father's battle with alcoholism; trips to bars with my siblings having fun playing arcade games interspersed with my father's angry and violent exchanges with my mother. One of my first memories is my father burning our house down after he drank too much while I was down the street at a sleepover. After my father was convicted of arson, we then had weekend visits at my grandparents' house when my father got a weekend pass from his minimum-security prison. I watched my father's attempts to rebuild his life when he was done with his sentence only for it all to come crashing down again when the alcoholism reared its ugly head. We as his children bore witness to it all because the legal system required my mother to drive from our new home every weekend so my father could have visitation, even when he was abusive or in prison.

In the midst of my father's struggle with alcoholism and his own trouble with the law, I watched my mother's attempts to overcome the legal challenges she had been dealt at the hands of my father. My mother was burdened with the family debt and received no child support from my father in their divorce. My mother had to spend a day in jail when she chose to pay for something we needed and did not pay her traffic ticket on time.

Despite all of this, my mother never gave up. She instilled in all four of her children an overwhelming desire to be independent. My mother worked four jobs so she could support her children. She demonstrated perseverance and hard work, even when faced with

terrible odds. She did what she could when my brothers started down the path of addiction and ended up in juvenile detention for crimes committed against others.

It was my mother's constant drive to succeed that gave me my determination to find a solution when confronted with a problem. I learned early on that school was the only way to escape the road my family was traveling down and the only way I could break the cycle.

I went to school and did my very best to get good grades because I knew I could get scholarships that would help me stay in school. I moved out of my mother's home when I was 14. I initially moved in with a neighbor before eventually making my way to my grandmother's house where I lived until I went to college. I had been working since I was 11 so I could afford the shoes, instruments, and lessons I needed for sports and music. I kept working until I graduated from high school. I bought a car which gave me freedom and independence, and I learned the best path forward was the path I made for myself.

The path I forged was followed by my sister and later by both of my brothers. We were all lucky enough to break the cycle of abuse and poverty that can plague families for generations, but we did not come out unchanged.

I have a deep appreciation and respect for the laws that we have in place and the role that judges, lawyers, and police officers play within that system. I believe that my personal experiences will make me a good District Court Judge because a judge should not only have a thorough understanding of the law, but also a thorough understanding of how the decisions they make impact our communities. Judges need to remember how important it is to interpret and apply the law fairly to both sides in all cases.

After I graduated from law school, I came to work for the Clark County District Attorney's Office in the Appellate Division. I spent two years reviewing appellate records and seeing the mistakes and issues that can arise when a full and complete record is not made. I spent the next year and a half prosecuting in Justice Court weekly, before I added prosecuting in District Court. I then spent more than two years on the Domestic Violence

Unit where I observed again how the justice system impacts families. Following a short ten-month stay on a general litigation track, I was then assigned to the Vehicular Crimes Unit where I prosecuted DUIs and other cases involving vehicles. This assignment again entailed spending time weekly in a Justice Court. Finally, I was assigned to the Major Fraud and Elder Abuse Unit in September of 2019 and have remained on that unit since that time.

I have prosecuted thousands of cases, spoken to hundreds of families, and learned how the justice system is supposed to operate. I have litigated motions in Justice Court and followed those cases through to District Court. I have personal experience prosecuting almost every type of criminal case that could come before a District Court during my time at the Clark County District Attorney's Office. I am also familiar with the civil rules of practice and the motion practice that occurs in those cases through my time on the Major Fraud Unit. Many of our cases involve concurrent civil suits between our victims and our defendants so I must know and understand how one impacts the other.

During my time at the Clark County District Attorney's Office, I have fostered a reputation for fairness and honesty with the defense bar and the courts, because I have shown myself to be fair and honest. I can empathize with many and sympathize with more. But, most importantly, I understand that the law is here to be followed and enforced and justice must be meted out fairly. I believe I am a well-rounded candidate and will bring that well-rounded perspective to the bench.

51. 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.

My writing sample follows.

1 ARGUMENT

2 Petitioner makes three claims of error in the instant petition. Petition for Writ of Habeas
3 Corpus (“PWHC”), September 23, 2019, at pp 4-17. He specifically claims that: 1) the State
4 violated doctor-patient privilege; 2) the State introduced inadmissible blood test results
5 because of an alcohol swab used to clean the area where two IVs were inserted into Petitioner;
6 and 3) the State failed to present sufficient evidence of substantial bodily harm on Victim 4 to
7 sustain Counts 4 and 8 in the Indictment. PWHC, at pp 4-17.

8 Petitioner’s claims are without merit and demonstrate a misunderstanding of Nevada
9 law. The State and Ms. Doe were relying upon a lawfully obtained Court order for the release
10 of Petitioner’s medical records in this case when Ms. Doe testified about her interactions and
11 treatment of Petitioner. Indeed, despite noticing he was inappropriately jovial and cracked a
12 joke when he initially arrived at the hospital after dismembering Victim 1 and injuring Victim
13 2, Victim 3, and Victim 4, Ms. Doe did not testify as to any statements made by Petitioner for
14 purposes of treatment. She testified only as to the timing of her blood draw and her treatment
15 of Petitioner until he was sober enough to leave the hospital.

16 In addition, Petitioner’s conclusory allegation that the State is somehow precluded from
17 using a blood sample that was taken by a hospital is without legal support. While Mr. Doe
18 testified that he used an alcohol swab to clean the area where he inserted IVs into Petitioner’s
19 arms, Ms. Doe testified that she purposely wasted 10 ccs of Petitioner’s blood before having
20 his blood drawn for testing. She did this to account for any saline or other concerns in the
21 insertion of the IVs into Petitioner’s arm.

22 Finally, Petitioner claims Victim 4 did not suffer substantial bodily harm as a result of
23 his actions on May 30, 2019. In support of this assertion, he claims that Victim 4 only testified
24 that he had “cuts, bruises, and [was] sore in the neck, arm and shoulder area.” PWHC at pp 4.
25 Conveniently, Petitioner fails to mention the other supporting facts that Victim 4 testified to
26 including the ongoing pain he is suffering and the protracted loss of the full use of his hands.
27 Victim 4 meets the statutory definition of substantial bodily harm and the State presented
28 sufficient evidence in this regard.

1 Petitioner’s claims are without merit and his petition should be denied. The State will
2 address these claims in turn.

3 **I. STANDARD OF REVIEW**

4 The function of the Grand Jury is to inquire into offenses against the State of Nevada
5 committed or triable within Clark County. NRS 172.085. An Indictment that is returned by a
6 legally constituted and unbiased grand jury is presumed to be founded on competent evidence
7 and the burden is on the challenger to overcome that presumption. Costello v. United States,
8 350 U.S. 359, 363, 76 S.Ct. 406, 408 (1956). A criminal defendant is entitled to a fair but not
9 perfect consideration before the grand jury. Franklin v. State, 89 Nev. 382, 389, 513 P.2d
10 1252, 1257 (1973). In fact, in order to warrant dismissal of an indictment the defendant must
11 show substantial prejudice. Lay v. State, 110 Nev. 1189, 1198, 886 P.2d 448, 454 (1994). A
12 defendant shows prejudice only when there is a reasonable probability that the outcome would
13 have been different absent the alleged issue. Lay, 110 Nev. at 1198, 886 P.2d at 454.

14 “In grand jury proceedings, the State need only show that a crime has been committed
15 and that the accused probably committed it.” Sheriff v. Miley, 99 Nev. 377, 379, 663 P.2d
16 343, 344 (1983). As in a preliminary hearing before a Magistrate, the State does not need to
17 produce the quantum of proof that is necessary to establish the guilt or innocence of the
18 defendant. Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980). A trial, not a
19 preliminary hearing, is the place for the “full and complete exploration of all facets of the
20 case.” Marcum v. Sheriff, 85 Nev. 175, 178-179, 451 P.2d 845, 847 (1969). Accordingly, at
21 a Grand Jury proceeding, the State need only provide enough evidence to show that probable
22 cause exists for each charge, and this can be shown by a reasonable inference that the
23 Defendant committed the crime. Abbott v. Sheriff, 87 Nev. 397, 400, 487 P.2d 1067, 1068-
24 1069 (1971). ““The finding of probable cause may be based on slight, even ‘marginal’
25 evidence, because it does not involve a determination of the guilt or innocence of an accused.””
26 Id. at 435, 851 P.2d at 432 (quoting Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180
27 (1980) (citations omitted)).

28 NRS 172.155(1) provides: “The grand jury ought to find an indictment when all the

1 evidence before them, taken together, establishes probable cause to believe that an offense has
2 been committed and that the defendant has committed it.” Probable cause requires that the
3 evidence be weighed toward guilt, though there may be room for doubt. Graves v. Sheriff, 88
4 Nev. 436, 439, 498 P.2d 1324, 1326 (1972). The facts must be such as would lead a person of
5 ordinary caution and prudence to believe and conscientiously entertain a strong suspicion.
6 State v. von Brincken, 86 Nev. 769, 476 P.2d 733 (1970); Ex parte Kline, 71 Nev. 124, 282
7 P.2d 367 (1955). Finally, “to commit an accused for trial, the State is not required to negate
8 all inferences which might explain his conduct, but only to present enough evidence to support
9 a reasonable inference that the accused committed the offense.” Kinsey v. Sheriff, 87 Nev.
10 361, 363, 487 P.2d 340, 341 (1971).

11 In pre-trial habeas corpus proceedings, the Court presumes that the restraint of the
12 criminal defendant is proper, and the burden is on the defendant to demonstrate otherwise. See
13 Application of Johnson, 75 Nev. 329, 330, 340 P.2d 585, 586 (1959).

14 **II. THE STATE DID NOT VIOLATE DOCTOR-PATIENT PRIVILEGE OR** 15 **HIPAA**

16 Petitioner complains that the State requested *Ex Parte Motions and Orders for Release*
17 *of Certified Medical Records and Authorization for Related Witness Testimony* and then relied
18 upon these certified orders in presenting evidence and testimony at the Grand Jury. PWHC at
19 pp 4-9. Without citing any Nevada case law that supports this claim, Petitioner claims that
20 these orders and Ms. Doe’s testimony regarding her treatment of Petitioner somehow violated
21 the Health Insurance Portability and Accountability Act (“HIPAA”) and any testimony related
22 to the treatment of Petitioner must be stricken. PWHC at pp 4-8. Petitioner also appears to be
23 claiming that the State is somehow precluded from continuing its investigation into a case
24 without his permission when it received these *ex parte* orders after he had retained counsel.
25 PWHC at pp 8-9. Finally, Petitioner claims that the State could not continue with seeking out
26 orders in the court that had original jurisdiction over the case since it ultimately went to the
27 Grand Jury. PWHC at pp 9. Petitioner’s claims are without merit.

28 **i. Ex Parte Orders in Justice Court**

1 Petitioner complains that the State received *ex parte* orders for medical records after he
2 had retained counsel, and did so in Justice Court despite ultimately completing its probable
3 cause hearing at the Grand Jury. Petitioner fails to present any legal authority that indicates
4 this is improper.

5 Nevada law permits the State to concurrently proceed with its case through the
6 preliminary hearing process as well as at the Grand Jury. Moore v. Sheriff, 89 Nev. 288, 511
7 P.2d 1046 (1973); Tetrou v. Sheriff, 89 Nev. 166, 509 P.2d 970 (1973); Hall v. Sheriff, 86
8 Nev. 456, 470 P.2d 422 (1970); Tellis v. Sheriff, 85 Nev. 557, 459 P.2d 364 (1969). This
9 means that the State is permitted to seek orders and other legal process through its Justice
10 Court case, even if it ultimately decides to finalize the prosecution to District Court through
11 the Grand Jury. Id.; *see also* State v. Maes, 93 Nev. 49, 559 P.2d 1184 (1977). Thus, there is
12 no legal bar to receiving an order for evidence from the court with jurisdiction over the case,
13 as long the State does not go to the Grand Jury for investigative purposes after the case is in
14 District Court. NRS 172.107.

15 As noted above, Petitioner had been arraigned in Justice Court on June 4, 2019. His
16 preliminary hearing was not scheduled until October 28, 2019, despite the ordinary course
17 setting in that department being less than 90 days. A mere three days later, June 7, 2019, the
18 State requested *ex parte* orders to gather medical records for Petitioner, Victim 2, Victim 3,
19 and Victim 4. These motions were signed by the undersigned on June 7, 2019 and forwarded
20 to the Court immediately. Exhibit 2. While the State did inform counsel that it may also seek
21 to present the case to the Grand Jury, at no point did the State inform counsel that it would
22 exclusively be litigating this case through the Grand Jury.

23 Inexplicably, the Justice Court did not acknowledge receipt of the *ex parte* orders until
24 June 12, 2019. Exhibit 2. They were subsequently signed and filed the following day. Exhibit
25 2. The State served these orders on UMC immediately and waited almost a month for the
26 records.

27 In the interim, the State presented members of Petitioner's golf foursome to the Grand
28 Jury since they refused to speak to police about Petitioner's actions on May 30, 2019. As these

1 three individuals spent the majority of the day with Petitioner, it was clear that they would
2 have had the best chance to observe him and if he had imbibed any alcoholic beverages.
3 Nevertheless, they claimed no memory of Petitioner having any alcohol during their time with
4 him on May 30, 2019.

5 The State had no intention of presenting the remainder of its case until July 18, 2019.
6 Just prior to Ms. Doe’s testimony on July 11, 2019, the State received the medical records for
7 Petitioner, Victim 2, Victim 3, and Victim 4. Since the records were provided to the State
8 through its Justice Court case, and thus available at the time of the Grand Jury presentation,
9 the State utilized them and a substantial amount of other evidence in its possession in assisting
10 the Grand Jury with its probable cause determination. The reason it was able to gather the
11 evidence is immaterial to the fact that it was possessed at the time the State went forward with
12 Ms. Doe’s testimony and the remainder of the presentation in this case.

13 Up to and including July 19, 2019, the State’s case against Petitioner was active in
14 Justice Court. In light of the substantial evidence presented, including nineteen witnesses,
15 three videos, and several photographs, the State determined it no longer needed to proceed at
16 the Justice Court level and dismissed the case at the Grand Jury Return on July 19, 2019.

17 Despite counsel’s apparent understanding to the contrary, the State is not required to
18 seek his permission nor to seek his approval before it continues investigating its case. Nor is
19 the State required to seek counsel or Petitioner’s approval when it utilizes Justice Court or the
20 Grand Jury process. Any claims of “irregularities” are without merit and should be
21 disregarded.

22 ***ii. Doctor-Patient Privilege and HIPAA***

23 Petitioner seeks to exclude the testimony of Ms. Doe as well as any bloodwork done on
24 him at UMC pursuant to HIPAA and the “Doctor-Patient” privilege as codified in NRS 49.225.
25 Petitioner seems to be claiming that this “Doctor-Patient” privilege precludes a witness from
26 testifying regarding any treatment provided or actions taken with regards to a patient
27 altogether, not just confidential communications. PWHC, at pp 4-8. This argument is
28 overbroad and unsupported by Nevada Law.

1 As is required by law where, as here, the patient has not signed a release, the State
2 applied for and received Court orders for the release of medical records and for the attendance
3 of a witness at the Grand Jury. The orders that were provided to the Court in this and almost
4 all other instances were drafted with the assistance of the legal counsel from local hospitals to
5 provide a legal basis for doctors and/or other personnel to provide records and testify as to the
6 treatment provided should it become relevant to a criminal case. Accordingly, they are HIPAA
7 and Nevada law compliant.

8 **A. HIPAA**

9 The release of these records was permissible under HIPAA. The State is a law
10 enforcement agency that was obtaining this information for a lawful purpose – namely the
11 prosecution of Petitioner for driving under the influence and killing Victim 1 and substantially
12 injuring Victim 2, Victim 3, and Victim 4. The State also requested and received a warrant
13 for the collection of blood from UMC for purposes of conducting further evidentiary testing.
14 Exhibit 4. This is clearly “process” as required by HIPAA.

15 45 C.F.R. § 164.512(f) permits disclosure of medical records for law enforcement
16 purposes. It provides in pertinent part:

17 (1) Permitted disclosures: Pursuant to process and as otherwise
18 required by law. A covered entity may disclose protected health
19 information:

20 [. . .]

(ii) In compliance with and as limited by the relevant
requirements of:

21 (A) A court order or court-ordered warrant, or a
22 subpoena or summons issued by a judicial officer;

23 (B) A grand jury subpoena; or

24 (C) An administrative request, including an
25 administrative subpoena or summons, a civil or an
26 authorized investigative demand, or similar process
27 authorized under law, provided that:

(1) The information sought is relevant and
material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in
28 scope to the extent reasonably practicable in light

of the purpose for which the information is sought;
and

(3) De-identified information could not
reasonably be used

The State received certified Court orders directing the release of this medical information to assist in the prosecution of Petitioner for the crimes of Driving Under the Influence Resulting in Death, Driving Under the Influence Resulting in Substantial Bodily Harm, and Reckless Driving. Exhibit 2. UMC subsequently chose to disclose the requested materials and validly did so pursuant to HIPAA. 45 C.F.R. § 164.512(f).

Petitioner's treatment, his bloodwork near in time to the collision, and his demeanor at the hospital were certainly relevant sufficient to satisfy 45 C.F.R. § 164.512(f)(1)(ii)(C)(1). He is accused of being under the influence of alcohol at the time he sped through his neighborhood, hit multiple trees, and ultimately caused the death of Victim 1 and the injuries to Victim 2, Victim 4, and Victim 3. To date, the State is not aware of Petitioner agreeing that he was impaired at the time of driving. Thus, any evidence that would support the contention that he was under the influence at the time, or within close proximity to the collision, would be relevant to the charges.

Secondly, the request was specifically related to the charges of Driving Under the Influence Resulting in Death, Driving Under the Influence Resulting in Substantial Bodily Harm, and Reckless Driving on or about May 30, 2019. Exhibit 2. The State did not request any records from before or after this date. Thus, this request was limited in scope to what was reasonable based upon the nature of this case. 45 C.F.R. § 164.512(f)(1)(ii)(C)(2)

Finally, The State is not aware of any other de-identified information that could assist in the prosecution of this case. Petitioner also fails to provide any example of de-identified information that could have reasonably been used. Therefore, as the State indicated in its original request for the *ex parte orders*, de-identified information could not have reasonably been used. 45 C.F.R. § 164.512(f)(1)(ii)(C)(3).

Since the requirements of HIPAA are satisfied, Petitioner fails to explain how it was error for UMC to provide the records to the State. He further fails to explain how it was error

1 for the State to rely upon these records in its Grand Jury presentation. Consequently, this claim
2 fails.

3 **B. DOCTOR-PATIENT PRIVILEGE**

4 NRS 49.215 through NRS 49.245 govern Doctor-Patient Privilege. Generally, a patient
5 has a privilege to refuse to disclose and to prevent any other person from disclosing
6 “confidential communications” among the patient, the patient’s doctor or persons who are
7 participating in the diagnosis or treatment under the direction of the doctor, including members
8 of the patient’s family. NRS 49.225. The privilege as codified in NRS 49.225 deals with
9 confidential communications alone, not with the actual treatment of an individual, and permits
10 the patient to assert the privilege as to his communications with not only the doctor, but also
11 anyone participating in the diagnosis and treatment at the direction of the doctor. NRS
12 49.215(1).

13 A doctor is defined by NRS 49.215(2) as follows:

14 “Doctor” means a person licensed to practice medicine, dentistry
15 or osteopathic medicine in any state or nation, or a person who is
16 reasonably believed by the patient to be so licensed, and in
17 addition includes a person employed by a public or private agency
18 as a psychiatric social worker, or someone under his or her
guidance, direction or control, while engaged in the examination,
diagnosis or treatment of a patient for a mental condition.

19 Ms. Doe does not qualify as a doctor under Nevada law. She testified herself that she is a
20 nurse at UMC and works with the trauma team that includes a physician and other residents.
21 Accordingly, this privilege would only apply if Ms. Doe was working at the direction of a
22 doctor and learned some confidential communications through her treatment of Petitioner. In
23 addition, the privilege would only apply where the information was acquired in attending the
24 patient and necessary to enable the doctor to prescribe or act for the patient. Skidmore v. State,
25 59 Nev. 320, 327, 92 P.2d 979, 982 (1939). (“It will be noted that the prohibition against a
26 physician testifying exists only as to information acquired in attending the patient *which was*
27 *necessary to enable the physician to prescribe or act for the patient*”) (emphasis in original).
28

1 As Petitioner points out, Ms. Doe testified that Petitioner’s intoxication and her
2 observations of these signs and symptoms played no part in her treatment of him. GJT Vol. 2
3 at pp 28-29. Thus, under Skidmore, her testimony regarding her observations is not prohibited.
4 In addition, Petitioner fails to point to any actual statements testified to by Ms. Doe or what
5 could arguably be deemed “confidential communications.” Consequently, Petitioner fails to
6 demonstrate that the privilege was violated at all.

7 Nonetheless, as Petitioner briefly mentions, there are exceptions to the “Doctor-Patient”
8 privilege and the disclosure of “confidential communications.” The most relevant exception
9 is codified in NRS 49.245(4). NRS 49.245(4) provides:

10 As to written medical or hospital records relevant to an issue of the
11 condition of the patient in any proceeding in which the condition
12 is an element of a claim or defense.

13 The State did not admit Petitioner’s medical records into evidence, although it certainly could
14 have done so per NRS 49.245(4). The State did not seek to admit any confidential
15 communications at all in fact. Rather, the State admitted testimony by Ms. Doe detailing her
16 actions in treating Petitioner. Since Petitioner is facing charges relating to his intoxication on
17 May 30, 2019, Ms. Doe’s testimony regarding her ability to interact with him and her drawing
18 of his blood would certainly be relevant the charges or his defense.

19 Ms. Doe testified that Petitioner arrived at UMC at 6:24 p.m. GJT Vol. 2, at pp 27. She
20 testified that he appeared intoxicated in that he was inappropriately jovial and did not seem to
21 grasp the impact of the accident he had been in. GJT Vol. 2, at pp 27-28. She testified that he
22 even cracked a joke when he first arrived at the hospital. GJT Vol. 2, at pp 28. Clearly, this
23 joke was not made to help his doctor or Ms. Doe assist in his care and therefore cannot be
24 deemed a “confidential communication.” Nevertheless, Ms. Doe did not state what the actual
25 words of the joke allegedly were.

26 Ms. Doe indicated that Petitioner was also chuckling and had difficulty following
27 instructions. GJT Vol. 2, at pp 28. She had to hold Petitioner’s hand because he was so
28 animated in his gestures and impulsive that she was having a hard time getting his blood

1 pressure. GJT Vol. 2, at pp 28. Ms. Doe also smelled the odor of alcohol on Petitioner. GJT
2 Vol. 2, at pp 28. None of this testimony was in the form of statements made by Petitioner to
3 assist with his treatment.

4 Ms. Doe caused Petitioner’s blood to be drawn at 6:30 p.m. GJT Vol. 2, at pp 29. She
5 provided a syringe to the lab personnel who then retrieved the blood and put it into the
6 appropriate tubes, before walking the blood to the lab. GJT Vol. 2, at pp 30. Prior to this
7 blood draw, Ms. Doe indicated that 10 ccs of Petitioner’s blood were drawn and then
8 discarded, to make sure the saline given to Petitioner by the EMTs did not impact the sample
9 of blood taken. GJT Vol. 2, at pp 31. Then, a second vial of 10 milliliters was taken that was
10 later separated into different tubes by the lab technicians. GJT Vol. 2, at pp 31. Again, no
11 statements were testified to during this part of her testimony.

12 Ms. Doe finally indicated that Petitioner had to remain at UMC until 10:00 p.m. when
13 Dr. Doe determined that he was in a satisfactory condition to leave. GJT Vol. 2, at pp 33.
14 Again, no statements made by Petitioner or Dr. Doe were testified to.

15 Clearly, there were no “confidential communications” conveyed to the Grand Jury and
16 thus the “Doctor-Patient” privileged as codified in NRS 49.225 was not violated. Indeed, all
17 of the Nevada cases Petitioner cites to deal with “communications” that were conveyed, not
18 the treating actions taken by the health-care provider. Hetter v. Eighth Judicial District Court,
19 110 Nev. 513, 516, 874 P.2d 762 (1994) (Disclosure of plastic-surgeon’s patient’s name did
20 not necessarily violate doctor-patient privilege; but it could rise to the level of a confidential
21 communication where the disclosure of the name necessarily discloses the nature of the
22 problem or the treatment in this case public disclosure that the patient had or was considering
23 plastic surgery); and Rogers v. State, 127 Nev. 323, 255 P.3d 1264 (2011) (“Doctor-Patient”
24 privilege does not apply to communications between an EMT or paramedic and the patient
25 that did not occur in the presence, or at the direction, of a doctor). To the extent that Petitioner
26 relies upon other jurisdictions to support his claims regarding Nevada law, his citation to cases
27 in Iowa and Illinois are inapposite to this Court’s determination of the facts at issue where
28 there is mandatory case authority in Nevada. Petitioner’s claim should be denied.