IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Feb 03 2026 09:39 AM
Elizabeth A. Brown
Clerk of Supreme Court

THE STATE OF NEVADA, Appellant, v. BILLY HINES, Respondent.	Case No. 91419

APPELLANT'S APPENDIX

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

AARON D. FORD
Nevada Attorney General
Nevada Bar #007704
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Appellant

ANNA L. STONE
Deputy Public Defender
Nevada Bar #015652
Clark County Public Defender
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685

Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 3rd day of February, 2026. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

ANN L. STONE
Deputy Public Defender

KAREN MISHLER
Chief Deputy District Attorney

/s/ J. Hall
Employee, Clark County
District Attorney's Office

Electronically Filed
12/20/2023 9:22 AM
Steven D. Grierson
CLERK OF THE COURT

IND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL D. ALLMON
Deputy District Attorney
Nevada Bar #015169
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BILLY HINES, aka,
Billy Joe Hines, #1998975

Defendant.

CASE NO: C-23-379479-1

DEPT NO: II

INDICTMENT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The Defendant above named, BILLY HINES, aka, Billy Joe Hines, accused by the Clark County Grand Jury of the crime(s) of THIRD DEGREE ARSON (Category D Felony - NRS 205.020 - NOC 50416), and BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE (Category C Felony - NRS 205.274, 193.155 - NOC 57916), committed at and within the County of Clark, State of Nevada, on or about the 4th day of January, 2021, as follows:

COUNT 1 - THIRD DEGREE ARSON

did willfully, unlawfully, maliciously, and feloniously set fire to, burn, and/or cause to be burned, unoccupied personal property, to wit: a 2004, E320 Mercedes Benz VIN ending in 5670, belonging to BILLY HINES, located at 952 Auto Show Drive, Henderson, Clark County Nevada, having a value of $25.00 or more, by use of open flame and flammable and/or combustible materials, and/or by manner and means unknown.

Case Number: C-23-379479-1

COUNT 2 - THIRD DEGREE ARSON

did willfully, unlawfully, maliciously, and feloniously set fire to, burn, and/or cause to be burned, unoccupied personal property, to wit: a 2020 Mercedes GTRA 5000 bearing VIN ending in 9239, belonging to JEFF KRETZ, located at 952 Auto Show Drive, Henderson, Clark County Nevada, having a value of $25.00 or more, by use of open flame and flammable and/or combustible materials, and/or by manner and means unknown.

COUNT 3 - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE

did willfully, unlawfully, and feloniously, break, injure, tamper with, or remove any part of a 2020 Mercedes GTRA 5000 bearing VIN ending in 9239, belonging to JEFF KRETZ, for the purpose of injuring, defacing and/or destroying said vehicle, temporarily or permanently preventing its useful operation, and/or for any purpose against the will or without the consent of said owner, or in any manner willfully or maliciously interfere with or prevent the running or operation of said vehicle, by state acts, the value of said damage being $5,000.00 or more.

COUNT 4 - THIRD DEGREE ARSON

did willfully, unlawfully, maliciously, and feloniously set fire to, burn, and/or cause to be burned, unoccupied personal property, to wit: a 2018 Mercedes GLC300W bearing VIN ending in 9138, belonging to MERCEDES-BENZ OF HENDERSON, located at 950 Auto Show Drive, Henderson, Clark County Nevada, having a value of $25.00 or more, by use of open flame and flammable and/or combustible materials, and/or by manner and means unknown.

//

//

//

//

//

//

//

COUNT 5 - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE

did willfully, unlawfully, and feloniously, break, injure, tamper with, or remove any part of a 2018 Mercedes GLC300W bearing VIN ending in 9138, belonging to MERCEDES-BENZ OF HENDERSON, for the purpose of injuring, defacing and/or destroying said vehicle, temporarily or permanently preventing its useful operation, and/or for any purpose against the will or without the consent of said owner, or in any manner willfully or maliciously interfere with or prevent the running or operation of said vehicle, by state acts, the value of said damage being $5,000.00 or more.

COUNT 6 - THIRD DEGREE ARSON

did willfully, unlawfully, maliciously, and feloniously set fire to, burn, and/or cause to be burned, unoccupied personal property, to wit: 2020 Mercedes GLE350W bearing VIN ending in 6177, belonging to MERCEDES-BENZ OF HENDERSON, located at 950 Auto Show Drive, Henderson, Clark County Nevada, having a value of $25.00 or more, by use of open flame and flammable and/or combustible materials, and/or by manner and means unknown.

COUNT 7 - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE

did willfully, unlawfully, and feloniously, break, injure, tamper with, or remove any part of a 2020 Mercedes GLE350W bearing VIN ending in 6177, belonging to MERCEDES-BENZ OF HENDERSON, for the purpose of injuring, defacing and/or destroying said vehicle, temporarily or permanently preventing its useful operation, and/or for any purpose against the will or without the consent of said owner, or in any manner willfully or maliciously interfere with or prevent the running or operation of said vehicle, by state acts, the value of said damage being $5,000.00 or more.

//

//

//

//

//

COUNT 8 - THIRD DEGREE ARSON

did willfully, unlawfully, maliciously, and feloniously set fire to, burn, and/or cause to be burned, unoccupied personal property, to wit: 2021 Mercedes E350W bearing VIN ending in 1839, belonging to MERCEDES-BENZ OF HENDERSON, located at 950 Auto Show Drive, Henderson, Clark County Nevada, having a value of $25.00 or more, by use of open flame and flammable and/or combustible materials, and/or by manner and means unknown.

COUNT 9 - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE

did willfully, unlawfully, and feloniously, break, injure, tamper with, or remove any part of a 2021 Mercedes E350W bearing VIN ending in 1839,, for the purpose of injuring, defacing and/or destroying said vehicle, temporarily or permanently preventing its useful operation, and/or for any purpose against the will or without the consent of said owner, or in any manner willfully or maliciously interfere with or prevent the running or operation of said vehicle, by state acts, the value of said damage being $5,000.00 or more.

COUNT 10 - THIRD DEGREE ARSON

did willfully, unlawfully, maliciously, and feloniously set fire to, burn, and/or cause to be burned, unoccupied personal property, to wit: 2005 Mercedes ML350 bearing VIN ending in 3296 , belonging to CHARLES DEICHERT, located at 950 Auto Show Drive, Henderson, Clark County Nevada, having a value of $25.00 or more, by use of open flame and flammable and/or combustible materials, and/or by manner and means unknown.

COUNT 11 - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE

did willfully, unlawfully, and feloniously, break, injure, tamper with, or remove any part of a 2005 Mercedes ML350 bearing VIN ending in 3296 , belonging to CHARLES DEICHERT for the purpose of injuring, defacing and/or destroying said vehicle, temporarily or permanently preventing its useful operation, and/or for any purpose against the will or without the consent of said owner, or in any manner willfully or maliciously interfere with or

//

//

//

prevent the running or operation of said vehicle, by state acts, the value of said damage being $5,000.00 or more.

DATED this 19th day of December, 2023.

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

BY _____
MICHAEL D. ALLMON
Deputy District Attorney
Nevada Bar #015169

ENDORSEMENT: A True Bill

_____
Foreperson, Clark County Grand Jury

Names of Witnesses and testifying before the Grand Jury:

ALVAREZ, BLAKE – C/O CCDA

LURENZ, SHANNON – HPD

MCGINNIS, JOEL –HENDERSON – ARSON INV

Additional Witnesses known to the District Attorney at time of filing the Indictment:

CUSTODIAN OF RECORDS - HPD

CUSTODIAN OF RECORDS - HPD COMMUNICATIONS

CUSTODIAN OF RECORDS - HPD RECORDS

23AGJ168X/22CRH000972/ac-GJ
EV# 2100149
(TK)

Electronically Filed
7/22/2024 3:41 PM
Steven D. Grierson
CLERK OF THE COURT

NANCY M. LEMCKE, PUBLIC DEFENDER
NEVADA BAR NO. 5416
ANNA L. STONE, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 15652
PUBLIC DEFENDER'S OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Anna.Stone@ClarkCountyNV.gov
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. BILLY HINES, Defendant.	CASE NO. C-23-379479-1 DEPT. NO. VIII Hearing Date Requested: DATE: August 5, 2024 TIME: 9:30 a.m.

DEFENDANT'S MOTION TO DISMISS FOR PROHIBITED PROSECUTION

COMES NOW, the Accused, BILLY HINES, by and through counsel ANNA L. STONE, Deputy Public Defender, and hereby moves this Honorable Court to dismiss this case pursuant to the prohibition against another prosecution as set forth in NRS 178.562.

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

DATED this 22nd day of July, 2024.

NANCY M. LEMCKE
CLARK COUNTY PUBLIC DEFENDER

By: */s/ Anna L. Stone*
ANNA L. STONE, #15652
Deputy Public Defender

Case Number: C-23-379479-1

DECLARATION

ANNA L. STONE makes the following declaration:

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

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

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

EXECUTED this 22nd day of July, 2024.

/s/ *Anna L. Stone*
ANNA L. STONE

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION TO DISMISS FOR PROHIBITED PROSECUTION

BRIEF STATEMENT OF FACTS AND PROCEDURAL HISTORY

The State is accusing Billy Hines of committing six counts of Arson, Third Degree (Category D Felony) by allegedly setting a fire that spread to various cars at a Mercedes car dealership in Henderson on January 4, 2021.[1]

The State originally charged Mr. Hines with this offense in the Henderson Justice Court by way of a criminal complaint filed on October 3, 2022. Exhibit A, Docket Information for 22CRH000972-0000 State of Nevada vs. Hines, Billy, at 1. Mr. Hines was arrested on the justice court warrant on December 18, 2022, and his bail was set at $5,000. *Id*. at 2. Counsel for Mr. Hines invoked his right to a preliminary hearing within fifteen days pursuant to NRS 171.196 on his behalf, and the preliminary hearing was set for January 4, 2023. *Id*. Unable to afford the bail, Mr. Hines remained in custody in the Clark County Detention Center for more than two weeks until the preliminary hearing. *See id*.

On January 4, 2023, the preliminary hearing commenced. The defense invoked the exclusionary rule, and the State called its first witness. Exhibit A at 2. In the middle of its direct examination of its first witness, the State announced, "[s]o today the State is going to serve an oral Marcum notice on the defendant and the State is going to voluntarily dismiss pursuant to statute." *Id*.; Exhibit B, Reporter's Transcript of Preliminary Hearing for 22CRH000972 on January 4, 2023, at 26:11-13. At the court's request, the defense agreed to accept the Marcum notice, and the court stated, "[it's] been dismissed pursuant to statue today." Id. at 26-27. The State did not specify which statute it was dismissing pursuant to, nor did the State provide a reason for the dismissal.

On December 20, 2023, the State obtained a grand jury indictment for the same offense. The case is presently set for a jury trial on August 5, 2024, in District Court, Department XIII. This motion follows.

///

[1] Although the indictment originally included five counts of Break, Injure, or Tamper with Motor Vehicle (Category C Felony), those charges were dismissed by the court on July 10, 2024.

ARGUMENT

NRS 178.554, 178.562, and 174.085 set forth the law concerning when the prosecuting attorney may dismiss an action and when such dismissal serves as a bar to further prosecution. As set forth below, the State's dismissal of the original case in justice court in the middle of the preliminary hearing serves as a bar to another prosecution for the same offense. This prosecution is prohibited under NRS 178.562, and the case should be dismissed.

NRS 178.554 provides, in relevant part:

> The district attorney…may by leave of court file a dismissal of an indictment, information or complaint and the prosecution shall thereupon terminate. Such a dismissal may not be filed during the trial without the consent of the defendant.

When the State dismissed the original case in justice court, the prosecuting attorney did not state which statute they were dismissing the case pursuant to. For the sake of argument, this motion presumes the dismissal was pursuant to NRS 178.554.

Next, NRS 178.562 provides:

> **1. Except as otherwise provided in NRS 174.085, an order for the dismissal of the action, as provided in NRS 178.554 and 178.556, is a bar to another prosecution for the same offense.**
>
> 2. The discharge of a person accused upon preliminary examination is a bar to another complaint against the person for the same offense, but does not bar the finding of an indictment or filing of an information.

[emphasis added] Subsection (2) does not apply here, since the justice court did not discharge the case after a preliminary hearing. Rather, the case was dismissed in the middle of the hearing at the prosecuting attorney's request.

Accordingly, the court must look to subsection (1) to determine whether the prior dismissal is a bar to another prosecution. As set forth in subsection (1), in the justice court there was "an order for the dismissal of the action, as provided in NRS 178.554." Thus, the only question remaining is whether any exception set forth in NRS 174.085 may save the prosecution from the provision that "an order for the dismissal of the action…is a bar to another prosecution for the same offense."

///

///

The relevant portions of NRS 174.085 state:

> 5. The prosecuting attorney, in a case that the prosecuting attorney has initiated, may voluntarily dismiss a complaint:
>
> (a) Before a preliminary hearing if the crime with which the defendant is charged is a felony or gross misdemeanor; or
>
> (b) Before trial if the crime with which the defendant is charged is a misdemeanor,
>
> → without prejudice to the right to file another complaint, unless the State of Nevada has previously filed a complaint against the defendant which was dismissed at the request of the prosecuting attorney. After the dismissal, the court shall order the defendant released from custody or, if the defendant is released on bail, exonerate the obligors and release any bail.
>
> 6. If a prosecuting attorney files a subsequent complaint after a complaint concerning the same matter has been filed and dismissed against the defendant:
>
> (a) The case must be assigned to the same judge to whom the initial complaint was assigned; and
>
> (b) A court shall not issue a warrant for the arrest of a defendant who was released from custody pursuant to subsection 5 or require a defendant whose bail has been exonerated pursuant to subsection 5 to give bail unless the defendant does not appear in court in response to a properly issued summons in connection with the complaint.
>
> 7. The prosecuting attorney, in a case that the prosecuting attorney has initiated, may voluntarily dismiss an indictment or information before the actual arrest or incarceration of the defendant without prejudice to the right to bring another indictment or information. After the arrest or incarceration of the defendant, the prosecuting attorney may voluntarily dismiss an indictment or information without prejudice to the right to bring another indictment or information only upon good cause show to the court and upon written findings and a court order to that effect.

None of these subsections provides authority for "another prosecution for the same offense" under the circumstances of this case. Subsection (5) allows the prosecuting attorney to voluntarily dismiss a complaint charging a felony "*before* a preliminary hearing," but it does not provide any authority to dismiss in the middle of a preliminary hearing, let alone do so and then later prosecute the same matter again via an indictment or information. Subsection (6) permits the filing of a subsequent complaint in justice court under certain circumstances, but that does not apply to this case where the State instead sought an indictment. And lastly, subsection (7)

permits the filing of a subsequent indictment or information under certain circumstances, but that does not appear to apply to this case where the State originally brought charges by way of a criminal complaint. Therefore, NRS 178.562(1) prohibits this prosecution.

CONCLUSION

With none of the exceptions in NRS 174.085 applicable to this case, NRS 178.562 effectively states, "an order for the dismissal of the action, as provided in NRS 178.554…is a bar to another prosecution for the same offense." This prosecution is barred by NRS 178.562, and the State's decision to prosecute Mr. Hines again, without legal authority to do so, demonstrates conscious indifference to important procedural rules and constitutional rights. This prosecution ought to be dismissed.

DATED this 22nd day of July, 2024.

NANCY M. LEMCKE
CLARK COUNTY PUBLIC DEFENDER

By: /s/ *Anna L. Stone*
ANNA L. STONE, #15652
Deputy Public Defender

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 5th day of August, 2024, at 9:30 a.m.

DATED this 22nd day of July, 2024.

NANCY M. LEMCKE
CLARK COUNTY PUBLIC DEFENDER

By: /s/ *Anna L. Stone*
ANNA L. STONE, #15652
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountydanv.gov on this 22nd day of July, 2024.

By: /s/ Jennifer Interiano
An employee of the
Clark County Public Defender's Office

EXHIBIT A

22CRH000972-0000 STATE OF NEVADA VS HINES, BILLY CLOSED

- Case Type:
- CRIMINAL COMPLAINT HND
- Case Status:
- CLOSED
- File Date:
- 10/13/2022
- DCM Track:
-
- Action:
- ARSON, 3RD DEGREE
- Status Date:
- 10/13/2022
- Case Judge:
- JUDGE
- Next Event:
-

All Information | Party | Charge | Ticket/Citation # | Event | Docket | Disposition

Docket Information

Date	*Docket Text*	Amount Owed
10/03/2022	COMPLAINT FILED	
10/13/2022	SET FOR COURT APPEARANCE Event: ARRAIGNMENT SUMMONS Date: 11/17/2022 Time: 9:00 am Judge: BATEMAN, SAM Location: DEPARTMENT 1 Result: CRIMINAL HEARING HELD	
10/13/2022	SUMMONS IN LIEU OF ARREST ISSUED, FILED AND MAILED	
11/17/2022	S. BATEMAN, JP P. THUNELL, DDA K. ZICHA, CLK L. BRENSKE, CR	
11/17/2022	INITIAL ARRAIGNMENT DEFENDANT NOT PRESENT COURT ALERTS DEPUTY PUBLIC DEFENDER A. STONE THEIR OFFICE REPRESENTS DEFENDANT IN CASE 22CR002688 IN LAS VEGAS JUSTICE COURT, MATTER SET FOR PRELIMINARY HEARING 12-5-22 MATTER CONTINUED FOR DEFENDANT'S PRESENCE, CONTINUED ARRAIGNMENT PUBLIC DEFENDER TO TRY AND CONTACT DEFENDANT NO BAIL POSTED	
11/17/2022	HEARING HELD The following event: ARRAIGNMENT SUMMONS scheduled for 11/17/2022 at 9:00 am has been resulted as follows: Result: CRIMINAL HEARING HELD Judge: BATEMAN, SAM Location: DEPARTMENT 1	
11/17/2022	SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT HND Date: 12/12/2022 Time: 9:00 am Judge: BATEMAN, SAM Location: DEPARTMENT 1	
12/12/2022	CRIMINAL BENCH WARRANT FTA The following event: FELONY ARRAIGNMENT HND scheduled for 12/12/2022 at 9:00 am has been resulted as follows: Result: CRIMINAL BENCH WARRANT FTA Judge: Location:	
12/12/2022	INITIAL ARRAIGNMENT: Defendant NOT PRESENT. BENCH WARRANT ISSUED 12/05/2022 22CR002668 PUBLIC DEFENDER OBJECTS TO BENCH WARRANT BEING ISSUED AS FRIEND OF COURT Motion by State to Issue BENCH WARRANT. Motion GRANTED.	
12/12/2022	ALERT INFORMATION BENCH WARRANT - CRIMINAL issued on: 12/12/2022 For: HINES, BILLY Bond Amt: $5,000.00 TOTAL CASH OR SURETY	
12/12/2022	S. BATEMAN, JP C. PANDELIS, DDA K. ZICHA, CLK L. BRENSKE, CR	

Date	Docket Text	Amount Owed
12/19/2022	ALERT INFORMATION BENCH WARRANT - CRIMINAL served on: 12/18/2022 For: HINES, BILLY	
12/19/2022	SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT HND Date: 12/21/2022 Time: 9:00 am Judge: BATEMAN, SAM Location: DEPARTMENT 1 Result: ARRAIGNMENT HEARING HELD	
12/21/2022	S. BATEMAN, JP A. BEAUMONT, DDA D. KEANE, DPD T, VAUGHN, CLK A. CAMPAGNA, CR	
12/21/2022	INITIAL ARRAIGNMENT: DEFENDANT NOT PRESENT IN CUSTODY - REFUSED ADVISED. REQUESTS PUBLIC DEFENDER. DEFENSE COUNSEL APPOINTED IN ABSENTIA & ACKNOWLEDGES WAIVED READING OF THE COMPLAINT BY AND THROUGH HIS ATTORNEY, DEFENDANT ASKED FOR DATE CERTAIN FOR HEARING INVOKED 15 DAY RULE PRELIMINARY HEARING DATE SET BAIL STANDS: $5,000 TOTAL CASH OR SURETY BOND REMAND TO METRO	
12/21/2022	ARRAIGNMENT HEARING HELD The following event: FELONY ARRAIGNMENT HND scheduled for 12/21/2022 at 9:00 am has been resulted as follows: Result: ARRAIGNMENT HEARING HELD Judge: BATEMAN, SAM Location: DEPARTMENT 1	
12/21/2022	SET FOR COURT APPEARANCE Event: PRELIMINARY HEARING HND Date: 01/04/2023 Time: 9:30 am Judge: BATEMAN, SAM Location: DEPARTMENT 1	
01/04/2023	S. BATEMAN, JP M. ALLMON, DDA A. STONE, DPD K. ZICHA, CLK L. BRENSKE, CR	
01/04/2023	PRELIMINARY HEARING DEFENDANT PRESENT IN CUSTODY EXCLUSIONARY RULE INVOKED STATE'S WITNESS JOEL MGINNIS STATE'S EXHIBIT #4 OFFERED, OBJECTED, ADMITTED ORAL MARCUM NOTICE ANNOUNCED STATE WILL EMAIL PUBLIC DEFENDER WITH FORMALIZED MARCUM NOTICE CASE DISMISSED STATE'S EXHIBIT #4 KEPT BY COURT - REMAINING EXHIBIT'S #1-16 RETURNED TO STATE	
01/04/2023	Called as witness by State. Sworn in by Clerk. Direct. Witness ID Defendant. State Rests. The following event: PRELIMINARY HEARING HND scheduled for 01/04/2023 at 9:30 am has been resulted as follows: Result: PRELIMINARY HEARING HELD Judge: BATEMAN, SAM Location: DEPARTMENT 1	
01/04/2023	CASE CLOSED	
06/24/2024	EX PARTE ORDER FOR TRANSCRIPT AND JAVS FOWARDED TO CHAMBERS	
06/25/2024	EX PARTE ORDER FOR TRANSCRIPT AND JAVS-SIGNED AND FILED	

EXHIBIT B

TRAN

CASE NO.

IN THE JUSTICE'S COURT OF HENDERSON TOWNSHIP

COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA, Plaintiff, vs. BILLY HINES, Defendant.	CASE NO. 22CRH000972

REPORTER'S TRANSCRIPT

OF

PRELIMINARY HEARING

BEFORE THE HONORABLE SAMUEL G. BATEMAN

JUSTICE OF THE PEACE

WEDNESDAY, JANUARY 4, 2023

APPEARANCES:

For the State: MICHAEL ALLMON
Deputy District Attorney

For the Defendant: ANNA STONE
Deputy Public Defender

Reported by: Lisa Brenske, CCR #186

W I T N E S S E S

JOEL MCGINNIS
Direct Examination by Mr. Allmon 5

INDEX OF EXHIBITS

Exhibit	Description	Admitted
STATE'S 4	REGISTRATION	13

HENDERSON, NEVADA, JANUARY 4, 2024

* * * * * * * * * * * *

9:40AM THE COURT: All right. We have Billy Hines.

How many witnesses do you have, State?

22CRH972.

MR. ALLMON: Just one, your Honor.

9:40AM THE COURT: All right. Are you Mr. Hines?

THE DEFENDANT: Yes, sir.

THE COURT: You want him down by you?

MS. STONE: I do.

THE COURT: I will invoke the exclusionary

9:40AM rule. Doesn't sound like it matters.

MR. ALLMON: Before we do that I'd like to mark some exhibits. The State calls Investigator McGinnis.

THE COURT: Jump up on the witness stand,

9:45AM remain standing and raise your right hand for me.

THE CLERK: Do you solemnly swear that the testimony that you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?

9:45AM THE WITNESS: Yes.

THE CLERK: Please be seated.

Please state your first and last name and spell each for the record.

THE WITNESS: Joel McGinnis. J-O-E-L. M-C-G-I-N-N-I-S.

THE COURT: Thank you.

Go ahead, State.

MR. ALLMON: Thank you.

JOEL MCGINNIS,
having been first duly sworn, did testify as follows:

DIRECT EXAMINATION

BY MR. ALLMON:

Q. Investigator McGinnis, how are you employed?

A. I am a Senior Fire Investigator for the City of Henderson Fire Department.

Q. How long have you been a fire investigator?

A. Since 1999.

Q. And how long have you been with the fire department?

A. Since 1995.

Q. So over 20 years' experience as a fire investigator?

A. Yes, sir.

Q. When you're assigned a call do those typically involve the fire department responding first for a fire?

A. Yes.

Q. And then will they call you after that to come and investigate it if they expect it's criminal or they suspect that it's criminal?

A. Yes.

Q. Do you remember working on January 4th, 2021?

A. Yes.

Q. Did you get a call out to an alarm that went off at approximately 4:43 a.m. that day?

A. Yes.

Q. And what was the location of that?

A. 925 Auto Show at the Mercedes Benz of Henderson dealership.

Q. And that's in Henderson, Clark County, Nevada?

A. Yes.

Q. Did you ultimately identify a suspect that you arrested for that case?

A. Yes.

Q. Do you see that person here today?

A. Yes.
Q. Can you identify them for the Court.
A. Yes.
MS. STONE: Objection.
THE COURT: What's the objection?
MS. STONE: Foundation.
THE COURT: Why don't we talk a little bit about how you came into contact with him first. So I'll sustain it but I'll allow you to make more foundation.
Go ahead.
BY MR. ALLMON:
Q. So let's start at the beginning. Did you respond to that fire at the Auto Show?
A. Yes.
Q. And what did you see when you got there?
A. Multiple burnt vehicles in the back lot of the facility.
Q. And were these at the Mercedes Benz dealership?
A. Yes.
Q. Now, these vehicles, were they burned?
A. Yes.
MS. STONE: Objection.
THE COURT: What's the objection?

MS. STONE: Nonspecific question. Burn is a term of art and he's not describing specifically what he's seen.

THE COURT: Well, I think he's going to get there so I'll overrule it.

Go ahead, Mr. Allmon.

MR. ALLMON: Thank you.

BY MR. ALLMON:

Q. The vehicles that had fire damage to them, were there more than one?

A. Yes.

Q. Within those vehicles did you identify or did you find a registration belonging to anyone you developed as a suspect?

A. Yes.

Q. That registration you found, who did it belong to?

MS. STONE: Objection.

THE COURT: What's the objection?

MS. STONE: Hearsay and foundation. And best evidence.

THE COURT: Are you offering it for the truth? Where are we going?

MR. ALLMON: I am offering it for the truth, your Honor. The fact that the witness observed

a registration that belonged to the defendant.

THE COURT: Where?

MR. ALLMON: In one of the vehicles, your Honor, that was there.

MS. STONE: Objection. Relevance.

THE COURT: It sounds like you're offering -- the question is did you find a document that led you to a particular person. Is that kind of your question?

MR. ALLMON: Yes, your Honor.

THE COURT: Well, I don't think it's offered for the truth.

MR. ALLMON: Well, it's what he's going to do next.

THE COURT: If you're going to try to enter it in at some point to say that's his car or whatever, then that's a different story.

MR. ALLMON: Thank you.

BY MR. ALLMON:

Q. Did you identify a registration?

A. Yes.

Q. And did that belong to the defendant?

A. Yes.

MS. STONE: Objection. Hearsay.

MR. ALLMON: A document is not hearsay.

THE COURT: Well, the contents of the document could be hearsay depending on whether or not you're introducing it for the truth of the document.

MR. ALLMON: May I approach, your Honor?

THE COURT: Yes.

BY MR. ALLMON:

Q. Showing you State's Proposed Exhibit 4.

MS. STONE: Can we get a ruling on the objection?

THE COURT: Well, I guess I'm seeing it, but I'm not quite sure where -- I will let you ask additional questions, but I'm not sure where we're going.

BY MR. ALLMON:

Q. Do you see State's Proposed Exhibit 4?

A. Yes.

Q. Do you recognize it?

A. Yes.

Q. How do you recognize it?

A. The photo is of Billy Hines' registration for his Mercedes.

MS. STONE: Objection.

THE COURT: What's the objection?

MS. STONE: Hearsay. Best evidence rule.

THE COURT: So best evidence rule, I mean,

you're allowed to use a copy. So I'm not going to sustain it on that basis. The hearsay is the content of the form. I don't even know where this form is from. I'm confused.

MS. STONE: Lack of foundation as well.

THE COURT: So I don't know where it was found, I don't know which car, what were the circumstances.

MR. ALLMON: Well, if I could actually get through some things without all the objections.

THE COURT: Well, I know, but you're asking about that. So why don't we ask him how did he come upon that document, like which car was it, all that kind of stuff.

BY MR. ALLMON:

Q. This registration document here, where did you find it at?

A. I found that registration document in a burned Mercedes.

Q. At the dealership?

A. At the dealership, yes.

Q. And where in the Mercedes did you find it?

A. The glove box of that vehicle that was burned.

Q. Typically where people keep their

registration?

A. Yes.

Q. And the registration, do you recognize it as a Nevada DMV registration card?

A. Yes.

Q. Have you seen these before?

A. Yes.

Q. Do you have one yourself?

A. Yes.

Q. Have you seen them in your investigation?

A. Yes.

Q. And on here was this a fair and accurate depiction of the registration you found inside of the burned Mercedes at the Mercedes Benz of Henderson auto dealership?

A. Yes.

MR. ALLMON: State moves to admit Exhibit 4 into evidence.

MS. STONE: I'm objecting on the basis of the best evidence rule. There is no indication that the original could not be produced. There is also hearsay in there.

THE COURT: I'm overruling it on the best evidence. I'm admitting it as -- the only thing I'm admitting it for is that it is a document in a vehicle

with your client's name on it. That's what I'm admitting it for.

MR. ALLMON: Thank you, Judge.

THE COURT: Go ahead.

MS. STONE: I would additionally object on the basis of improper identification. It is not an official document.

THE COURT: I'm not treating it as -- at this point it's not proof of him being the registered owner of the vehicle. Simply that there's a document, that document that was in a car that has his name on it. So I'm going to admit it on that basis.

MS. STONE: Okay. So there was a paper with his name?

THE COURT: Correct.

MS. STONE: Okay.

THE COURT: Go ahead. So you're moving to admit it. State's Exhibit 4 is admitted.

MR. ALLMON: Thank you, Judge.

(State's Exhibit 4 was admitted.)

BY MR. ALLMON:

Q. Billy Hines, do you see the person you identified as Billy Hines here today?

A. Yes.

Q. Can you identify him for the Court?

MS. STONE: Objection. Foundation.

THE COURT: Well, I think you have to ask did he come in contact with Mr. Hines.

MR. ALLMON: That's fine, Judge.

THE COURT: Sustained.

BY MR. ALLMON:

Q. Did you ever interview Mr. Hines?

A. Yes.

Q. Did he give you his name?

A. Yes.

Q. How did you talk to him? Did he come talk to you about the vehicle?

A. Yes.

Q. He came and talked to you about the vehicle. What did you ask him?

MS. STONE: Objection.

THE COURT: What's the objection?

MS. STONE: Hearsay and leading.

THE COURT: Of Billy Hines?

MS. STONE: The question was leading and it calls for hearsay.

MR. ALLMON: It does not call for hearsay. A party opponent's statement is not hearsay and I'm asking did you interview him. It's not foundation and even if it was foundation -- it's foundation. So even

if it was leading, which it's not, it's foundation.

THE COURT: I'm going to overrule the objection. Go ahead.

BY MR. ALLMON:

Q. So did you interview Mr. Hines?

A. Yes.

Q. Now, you met him in person before this date?

MS. STONE: Objection. Leading.

THE COURT: Overruled. Go ahead.

BY MR. ALLMON:

Q. And is that correct?

A. Yes.

Q. Can you identify him for the Court today?

A. Yes. He's sitting right there, dark hair, facial hair and male subject.

MR. ALLMON: May the record reflect the in-court identification of the defendant?

THE COURT: It'll so reflect.

BY MR. ALLMON:

Q. When Mr. Hines came and talked to you, what did he ask you about?

A. His vehicle that was burned.

Q. Did he say he was having any problems with the dealership about it?

A. Yes.
Q. What did he say?
A. His vehicle was there and it had mechanical issues or issues with the vehicle, it wouldn't start.
Q. And --
THE COURT: Is there an objection?
MS. STONE: There is, Judge.
THE COURT: To what? The question or the answer because there wasn't a question.
MS. STONE: To the whole line of questioning I think. The testimony is that police conducted an interview with --
THE COURT: This individual conducted an interview?
MS. STONE: Yes.
THE COURT: The fire guy here?
MS. STONE: Actually I withdraw that.
THE COURT: You got it.
Go ahead, Mr. Allmon.
BY MR. ALLMON:
Q. So when you were interviewing Mr. Hines, were you interviewing him with another investigator?
A. Yes.
Q. Did you ask him if he would be in the area

of the dealership on January 4th at 4:43?

A. Yes.

Q. You or the other investigator?

A. Yes.

Q. What did the defendant say?

A. No.

Q. He said no, he would not be in the area?

A. That is correct.

Q. Did he provide you his phone number?

A. Yes.

Q. Now, based on that did you apply for a search warrant?

A. Yes.

Q. What search warrant did you apply for with relationship to the phone records of the defendant?

A. Please repeat the question.

Q. With respect to the phone records of the defendant what did you apply for in a search warrant?

A. The mapping and location --

MS. STONE: Objection. Hearsay.

THE COURT: What's the hearsay?

MS. STONE: He's testifying as to what he put in the search warrant.

THE COURT: What he was requesting via the search warrant?

MS. STONE: Yes.
THE COURT: Okay.
MS. STONE: Which is information from the document.
THE COURT: I think he's testifying my understanding is he created the search warrant.
Is that correct?
THE WITNESS: Yes.
THE COURT: And he did the affidavit?
THE WITNESS: Yes.
THE COURT: So you're objecting to what he is describing as creating the search warrant?
MS. STONE: My understanding of the testimony is that he's testifying to the words in the search warrant.
THE COURT: What he put in there?
MS. STONE: Which is hearsay.
THE COURT: Overruled.
Go ahead, State.
MR. ALLMON: Thank you, Your Honor.
BY MR. ALLMON:
Q. What did you apply for in the search warrant?
A. Call data records.
Q. Can you explain those?

MS. STONE: Objection.

THE COURT: What's the objection?

MS. STONE: The objection is that the answer calls for expert testimony, and if we are going to be testifying about some search warrant, I would move to strike any testimony concerning it given that I have not received any search warrant. And the district attorney is required to provide that to me at least five judicial days in advance of the preliminary hearing and I have seen no such thing.

THE COURT: Hang on.

Do you have a copy of the search warrant?

MR. ALLMON: I don't. So by law I'm not required to turn it over. At preliminary hearing I'm not required to turn over anything that's not in my possession.

Additionally, if we are going to get into discovery issues, yesterday I spoke to defense counsel, I asked them if they wanted a continuance for additional discovery issues and I was told no, leave it on. So defense cannot now show up, sandbag the issue and claim that they don't have discovery when I gave the opportunity for a continuance which is the only remedy under this.

THE COURT: Hang on one second. I'm

assuming you're asking him did you draft the search warrant for a particular thing, did you execute that search warrant and did you obtain that particular thing. Is that what you're asking him?

MR. ALLMON: Yes, your Honor.

THE COURT: Are you asking him anything else about the search warrant at that point?

MR. ALLMON: No.

THE COURT: Just that he did it and he got the documents?

MR. ALLMON: And then we are going to admit those documents.

THE COURT: And then you're going to go into the documents which I think is a separate objection than what you're making. Specific to the search warrant he hasn't asked those questions I think just yet. I'm just kind of getting ahead of the game.

Do you have an objection to those questions that I'm anticipating Mr. Allmon asking?

MS. STONE: Not as posed by your Honor.

THE COURT: Mr. Allmon, why don't you ask the questions that I just asked.

BY MR. ALLMON:

Q. Did you apply for a search warrant?

A. Yes.

Q. And was that for historical data records?
A. Yes.
Q. Did you receive those?
A. Yes.
Q. Showing you State's Proposed Exhibit 5. Do you recognize State's Proposed Exhibit 5?
A. Yes.
Q. How do you recognize it?
A. Those are the records that I received regarding Billy Hines' phone number.
Q. And that was --
MS. STONE: Objection. Foundation as to ownership.
THE COURT: There was a question earlier about did he obtain a phone number from your client. Am I remembering that accurately?
MR. ALLMON: Correct, your Honor.
MS. STONE: Yes.
THE COURT: And he said he did. Do you want that phone number into the record?
MS. STONE: I will withdraw.
THE COURT: Okay. Next question.
BY MR. ALLMON:
Q. Now, per that record that you requested, Exhibit 5 here, are these the T Mobile records that you

received in the search warrant?

A. Yes.

Q. And can you explain what they are?

MS. STONE: Objection.

THE COURT: What is your objection?

MS. STONE: Calling for either hearsay or improper expert testimony.

THE COURT: I will let him testify as to what he thinks that it is and you may -- I don't think we've quite got there yet. I don't know whether this witness is going to be able to testify as to the contents of that record. We're not quite there yet. So I will let him ask an additional question to ask about these and then you make your objection.

So what was your question?

BY MR. ALLMON:

Q. Are these the call data records that you received?

A. Yes.

Q. And then what is in them?

A. Historical --

MS. STONE: Objection.

THE COURT: Your objection is that this witness --

MS. STONE: My objection --

THE COURT: -- can't testify as to the contents of that document is what your objection is, correct?

MS. STONE: Correct. On the basis of foundation, expert testimony, hearsay and discovery violations.

THE COURT: I think at this point it would be foundational. I will let you ask questions if you can establish that this witness can testify as to the contents of that document that seems to be a document that comes from T Mobile. And so if the contents probably would that he's reading off of, unless you can establish them as a business record, I don't know that this gentleman can testify to that or how those records work. He might be able to testify "I looked at these documents and based on these documents I did this further investigation." But I don't think he can testify as to whether those records are accurate. You need the Custodian of Records at some point.

So make that record and I'll let you ask your next question.

BY MR. ALLMON:

Q. Now, within these records do they contain a GPS coordinate?

A. Yes.

10:02AM
MS. STONE: Objection.
THE COURT: I will let him testify as to what he is reading in the record, what he looked at. I don't know that -- I mean, he can't testify as to its accuracy or anything.
MR. ALLMON: Your Honor, these were testified to as business records that were subpoenaed that were received in a response to that subpoena and that is the foundation for the business record.
10:02AM
THE COURT: Is there a certificate authenticating the records?
MR. ALLMON: There is not, but the witness has testified to the fact that he received those records on a search warrant.
10:02AM
THE COURT: I allowed him to testify to that, but if you are going to explain what the contents of it are, I don't know that he has any -- he has no knowledge that those are accurate or inaccurate. Do you know what I'm saying? So I don't think he can
10:03AM
authenticate that record. He can say I received it and then I relied on that information and did X, Y and Z. But I don't think he can testify as to the contents of it as though it's true. Or that it is what it purports to be because he didn't create it and he's not
10:03AM
technically a Custodian of Records or a qualified

person under NRS 50 -- I'd have to look it up.

MR. ALLMON: Thank you.

THE COURT: But he can testify that he did something in relation to it after reading it. I don't know what that might be.

BY MR. ALLMON:

Q. Based on that is there a latitude and longitude?

A. Yes.

MS. STONE: Objection.

THE COURT: I'm going to let him testify as to what he's reading on the document, but I'm not admitting it for -- I mean, did he do something with the longitude and latitude?

MS. STONE: My concern is I suspect that the district attorney intends to admit this for the truth and have him opine.

THE COURT: But I've already made a ruling on that. So I'm going to let him ask a couple questions about it and see where he's going with it. That document is not coming in unless he's got a Custodian of Records.

So if you want to ask him some specific questions about what he read on that, I'm okay with that. But I'm not admitting it as though it's

absolutely accurate. Does that make sense?

MR. ALLMON: It does, your Honor.

THE COURT: All right. So go ahead.

BY MR. ALLMON:

Q. So based on that did you determine the latitude and longitude of the tower that the cell phone pinged to was in the vicinity of the dealership?

THE COURT: You guys want to approach real quick.

(At the bench discussion.)

MR. ALLMON: So today the State is going to serve an oral Marcum notice on the defendant and the State is going to voluntarily dismiss pursuant to statute.

THE COURT: All right. Do you have Marcum with you?

MR. ALLMON: I don't, your Honor. So I will give an oral Marcum notice today and I will email defense counsel with the formalized version.

THE COURT: Miss Stone, you will agree to accept Marcum, will you not?

MS. STONE: Yes, Judge.

THE COURT: Thank you for your testimony today.

Do you want these exhibits back? If you

decide to refile, we'll have it in the box.

MS. STONE: I'm sorry?

THE COURT: I'm just asking about the documents that he had marked as proposed exhibits and the one that's been admitted. So we are going to keep it all in the file. It's been dismissed pursuant to statute today. He can either refile, we'll have it in this file or Grand Jury or whatever he wants to do.

THE CLERK: What about the disk?

THE COURT: I will give you the disk back. I don't want to hang onto anything.

MR. ALLMON: Anything that wasn't admitted I intend to keep.

THE COURT: We only have one thing admitted.

I'm assuming you're not objecting?

MS. STONE: I'm not.

(The proceedings concluded.)

* * * * *

ATTEST: Full, true and accurate transcript of proceedings.

/S/Lisa Brenske

LISA BRENSKE, CCR No. 186

ATTEST: [1] 27/21
BY MR. ALLMON: [20]
MR. ALLMON: [31]
MS. STONE: [49]
THE CLERK: [3] 4/21 5/1 27/9
THE COURT: [77]
THE DEFENDANT: [1] 4/11
THE WITNESS: [4] 4/25 5/4 18/8 18/10

/

/S/Lisa [1] 27/24

1

186 [2] 1/25 27/25
1995 [1] 5/23
1999 [1] 5/20

2

20 [1] 5/24
2021 [1] 6/11
2023 [1] 1/18
2024 [1] 4/1
22CRH000972 [1] 1/9
22CRH972 [1] 4/8

4

4:43 [1] 17/1
4:43 a.m [1] 6/14
4th [2] 6/10 17/1

5

50 [1] 25/1

9

925 [1] 6/17

A

a.m [1] 6/14
able [2] 22/11 23/15
about [15]
absolutely [1] 26/1
accept [1] 26/21
accuracy [1] 24/5
accurate [5] 12/12 23/18 24/18 26/1 27/21
accurately [1] 21/16
actually [2] 11/9 16/18
additional [3] 10/12 19/20 22/13
additionally [2] 13/5 19/17
admit [5] 12/17 13/12 13/18 20/12 25/16
admitted [6] 3/2 13/18 13/20 27/5 27/12 27/15
admitting [5] 12/24 12/25 13/2 25/13 25/25
advance [1] 19/9
affidavit [1] 18/9
after [2] 6/6 25/4
agree [1] 26/20
ahead [11]
alarm [1] 6/13
all [7] 4/5 4/10 11/10 11/13 26/3 26/15 27/6
ALLMON [5] 1/21 8/6 16/20 20/19 20/21
allow [1] 7/9
allowed [2] 11/1 24/15
already [1] 25/18
also [1] 12/21
am [3] 5/16 8/24 21/16
ANNA [1] 1/23
another [1] 16/23
answer [2] 16/10 19/4
anticipating [1] 20/19
any [4] 15/24 19/6 19/7 24/17
anyone [1] 8/13
anything [5] 19/15 20/6 24/5 27/11 27/12
APPEARANCES [1] 1/19
apply [5] 17/11 17/14 17/18 18/22 20/24
approach [2] 10/4 26/8
approximately [1] 6/14
are [18]
area [2] 16/25 17/7
arrested [1] 6/23
art [1] 8/2
as [26]
ask [13]
asked [3] 19/19 20/16 20/22
asking [7] 11/12 14/24 20/1 20/4 20/6 20/19 27/3
assigned [1] 6/2
assuming [2] 20/1 27/16
at [20]
attorney [3] 1/21 19/8 25/16
authenticate [1] 24/20
authenticating [1] 24/11
auto [3] 6/17 7/14 12/14

B

back [3] 7/17 26/25 27/10
based [4] 17/11 23/16 25/7 26/5
basis [5] 11/2 12/19 13/6 13/12 23/4
BATEMAN [1] 1/16
be [13]
because [2] 16/10 24/24
been [5] 5/10 5/18 5/21 27/5 27/6
before [4] 1/16 4/16 12/6 15/7
beginning [1] 7/13
being [1] 13/9
belong [2] 8/17 9/22
belonged [1] 9/1
belonging [1] 8/13
bench [1] 26/10
Benz [3] 6/17 7/19 12/14
best [5] 8/21 10/24 10/25 12/20 12/23
BILLY [7] 1/10 4/5 10/20 13/22 13/23 14/19 21/10
bit [1] 7/7
box [2] 11/23 27/1
Brenske [3] 1/25 27/24 27/25
Burn [1] 8/1
burned [5] 7/22 11/19 11/24 12/14 15/23
burnt [1] 7/17
business [3] 23/13 24/7 24/9
but [13]

C

call [6] 6/2 6/6 6/13 14/22 18/24 22/17
Calling [1] 22/6
calls [3] 4/17 14/21 19/4
came [3] 7/8 14/14 15/21
can [16]
can't [2] 23/1 24/4
cannot [1] 19/21
car [4] 9/16 11/7 11/13 13/11
card [1] 12/4
case [3] 1/2 1/9 6/23
CCR [2] 1/25 27/25
cell [1] 26/6
certificate [1] 24/10
circumstances [1] 11/8
City [1] 5/17
claim [1] 19/22
CLARK [2] 1/5 6/19
client [1] 21/15
client's [1] 13/1
come [4] 6/7 11/13 14/3 14/11
comes [1] 23/11
coming [1] 25/21
concern [1] 25/15
concerning [1] 19/6
concluded [1] 27/19
conducted [2] 16/13 16/14
confused [1] 11/4
contact [2] 7/8 14/3
contain [1] 23/23
content [1] 11/2
contents [7] 10/1 22/12 23/2 23/10 23/11 24/16 24/22
continuance [2] 19/19 19/23
coordinate [1] 23/24
copy [2] 11/1 19/12
correct [7] 13/15 15/12 17/8 18/7 21/17 23/3 23/4
could [3] 10/2 11/9 12/21
counsel [2] 19/18 26/19
COUNTY [2] 1/5 6/19
couple [1] 25/19
court [5] 1/4 7/2 13/25 15/14 15/18
create [1] 24/24
created [1] 18/6
creating [1] 18/12
criminal [2] 6/7 6/8
Custodian [3] 23/19 24/25 25/22

D

damage [1] 8/9
dark [1] 15/15
data [3] 18/24 21/1 22/17
date [1] 15/8
day [1] 6/14
days [1] 19/9
dealership [8] 6/18 7/20 11/20 11/21 12/15 15/25 17/1 26/7
decide [1] 27/1
defendant [9] 1/11 1/23 9/1 9/22 15/18 17/5 17/15 17/18 26/12

D

Defender [1] 1/23
defense [3] 19/18 19/21 26/19
department [3] 5/17 5/22 6/3
depending [1] 10/2
depiction [1] 12/13
Deputy [2] 1/21 1/23
describing [2] 8/2 18/12
Description [1] 3/2
determine [1] 26/5
developed [1] 8/14
did [46]
didn't [1] 24/24
different [1] 9/17
DIRECT [1] 5/12
discovery [4] 19/18 19/20 19/22 23/5
discussion [1] 26/10
disk [2] 27/9 27/10
dismiss [1] 26/13
dismissed [1] 27/6
district [3] 1/21 19/7 25/16
DMV [1] 12/4
do [25]
document [17]
documents [6] 20/10 20/12 20/14 23/16 23/16 27/4
does [3] 14/22 26/1 26/2
Doesn't [1] 4/15
don't [20]
down [1] 4/12
draft [1] 20/1
duly [1] 5/10

E

each [1] 5/3
earlier [1] 21/14
either [2] 22/6 27/7
else [1] 20/7
email [1] 26/18
employed [1] 5/15
enter [1] 9/16
establish [2] 23/9 23/13
even [3] 11/3 14/25 14/25
ever [1] 14/7
evidence [6] 8/21 10/24 10/25 12/18 12/20 12/24
EXAMINATION [1] 5/12
exclusionary [1] 4/14
execute [1] 20/2
Exhibit [9] 3/2 10/7 10/15 12/18 13/18 13/20 21/5 21/6 21/25
Exhibit 4 into [1] 12/18
Exhibit 4 is [1] 13/18
Exhibit 5 [2] 21/5 21/6
Exhibit 5 here [1] 21/25
exhibits [4] 3/1 4/17 26/25 27/4
expect [1] 6/7
experience [1] 5/24
expert [3] 19/4 22/7 23/5
explain [3] 18/25 22/3 24/16

F

facial [1] 15/16
facility [1] 7/18
fact [2] 8/25 24/13
fair [1] 12/12
file [2] 27/6 27/8
find [4] 8/13 9/7 11/17 11/22
fine [1] 14/4
fire [10]
first [4] 5/2 5/10 6/3 7/8
five [1] 19/9
follows [1] 5/10
form [2] 11/3 11/3
formalized [1] 26/19
found [4] 8/16 11/7 11/18 12/13
foundation [12]
foundational [1] 23/8
Full [1] 27/21
further [1] 23/17

G

game [1] 20/17
gave [1] 19/22
gentleman [1] 23/14
get [5] 6/13 8/5 10/8 11/9 19/17
getting [1] 20/17
give [4] 4/22 14/9 26/18 27/10
given [1] 19/6
glove [1] 11/23
go [11]
God [1] 4/24
going [20]
got [5] 7/16 16/19 20/9 22/10 25/21
GPS [1] 23/24
Grand [1] 27/8
guess [1] 10/10
guy [1] 16/17
guys [1] 26/8

H

had [3] 8/9 16/3 27/4
hair [2] 15/15 15/16
hand [1] 4/20
hang [3] 19/11 19/25 27/11
has [4] 13/11 24/13 24/17 24/17
hasn't [1] 20/16
have [19]
having [2] 5/10 15/24
he [45]
he's [13]
hearing [3] 1/15 19/10 19/14
hearsay [16]
help [1] 4/23
HENDERSON [6] 1/4 3/4 5/17 6/18 6/19 12/14
here [6] 6/25 11/16 12/12 13/23 16/17 21/25
him [23]
HINES [11]
Hines' [2] 10/20 21/10
his [8] 9/16 10/21 13/11 13/14 14/9 15/23 16/3 17/9
historical [2] 21/1 22/21
Honor [12]
HONORABLE [1] 1/16
how [10]

I

I'd [2] 4/16 25/1
I'll [4] 7/9 7/9 8/5 23/20
I'm [29]
I've [1] 25/18
identification [2] 13/6 15/18
identified [1] 13/23
identify [6] 6/22 7/2 8/12 9/20 13/25 15/14
if [14]
improper [2] 13/6 22/7
in [33]
in-court [1] 15/18
inaccurate [1] 24/18
INDEX [1] 2/4
indication [1] 12/20
individual [1] 16/14
information [2] 18/3 24/21
inside [1] 12/13
intend [1] 27/13
intends [1] 25/16
interview [5] 14/7 14/24 15/5 16/13 16/15
interviewing [2] 16/22 16/23
into [5] 7/8 12/18 19/17 20/14 21/20
introducing [1] 10/3
investigate [1] 6/7
investigation [2] 12/10 23/17
investigator [7] 4/17 5/14 5/16 5/19 5/25 16/23 17/3
invoke [1] 4/14
involve [1] 6/3
is [47]
issue [1] 19/21
issues [4] 16/4 16/4 19/18 19/20
it [62]
It'll [1] 15/19
it's [12]
its [1] 24/4

J

J-O-E-L [1] 5/4
JANUARY [4] 1/18 4/1 6/10 17/1
JANUARY 4 [1] 1/18
January 4th [2] 6/10 17/1
Joel [2] 5/4 5/10
Judge [5] 13/3 13/19 14/4 16/8 26/22
judicial [1] 19/9
Jump [1] 4/19
Jury [1] 27/8
just [6] 4/9 20/9 20/17 20/17 20/22 27/3
JUSTICE [1] 1/17
JUSTICE'S [1] 1/4

K

keep [3] 11/25 27/5 27/13
kind [3] 9/8 11/14 20/17
know [10]
knowledge [1] 24/18

L

Lack [1] 11/5

L

last [1] 5/2
latitude [3] 25/7 25/14 26/6
law [1] 19/13
leading [4] 14/18 14/20 15/1 15/9
least [1] 19/8
leave [1] 19/20
led [1] 9/8
let [8] 10/11 22/8 22/13 23/8 23/20 24/2 25/11 25/19
let's [1] 7/13
like [4] 4/15 4/16 9/6 11/13
line [1] 16/11
Lisa [3] 1/25 27/24 27/25
little [1] 7/7
location [2] 6/16 17/19
long [2] 5/18 5/21
longitude [3] 25/8 25/14 26/6
look [1] 25/1
looked [2] 23/15 24/3
lot [1] 7/17

M

M-C-G-I-N-N-I-S [1] 5/5
made [1] 25/18
make [4] 7/9 22/14 23/20 26/1
making [1] 20/15
male [1] 15/16
many [1] 4/7
mapping [1] 17/19
Marcum [4] 26/12 26/15 26/18 26/21
mark [1] 4/17
marked [1] 27/4
matters [1] 4/15
may [3] 10/4 15/17 22/9
McGinnis [4] 4/18 5/4 5/10 5/14
me [2] 4/20 19/8
mean [3] 10/25 24/4 25/13
mechanical [1] 16/4
Mercedes [7] 6/17 7/19 10/21 11/19 11/22 12/14 12/14
met [1] 15/7
MICHAEL [1] 1/21
might [2] 23/15 25/5
Miss [1] 26/20
Miss Stone [1] 26/20
Mobile [2] 21/25 23/11
more [2] 7/9 8/10
move [1] 19/6
moves [1] 12/17
moving [1] 13/17
Mr [4] 8/6 16/20 20/19 20/21
Mr. [6] 4/10 14/3 14/7 15/5 15/21 16/22
Mr. Hines [6] 4/10 14/3 14/7 15/5 15/21 16/22
Multiple [1] 7/17
my [5] 18/5 18/13 19/15 22/25 25/15

N

name [5] 5/2 13/1 13/11 13/14 14/9
need [1] 23/19
NEVADA [5] 1/5 1/7 4/1 6/20 12/4
next [3] 9/14 21/22 23/21
no [10]
Nonspecific [1] 8/1
not [29]
nothing [1] 4/23
notice [2] 26/12 26/18
now [6] 7/22 15/7 17/11 19/21 21/24 23/23
NRS [1] 25/1
number [4] 17/9 21/10 21/15 21/20

O

object [1] 13/5
objecting [3] 12/19 18/11 27/16
objection [33]
objections [1] 11/10
observed [1] 8/25
obtain [2] 20/3 21/15
off [2] 6/14 23/12
offered [1] 9/12
offering [3] 8/22 8/24 9/7
official [1] 13/7
okay [5] 13/13 13/16 18/2 21/22 25/24
on [27]
one [7] 4/9 8/10 9/3 12/8 19/25 27/5 27/14
only [3] 12/24 19/23 27/14
onto [1] 27/11
opine [1] 25/17
opponent's [1] 14/23
opportunity [1] 19/23
or [15]
oral [2] 26/12 26/18
original [1] 12/21
other [1] 17/3
out [1] 6/13
over [3] 5/24 19/14 19/15
overrule [2] 8/5 15/2
Overruled [2] 15/10 18/18
overruling [1] 12/23
owner [1] 13/10
ownership [1] 21/13

P

paper [1] 13/13
particular [3] 9/8 20/2 20/3
party [1] 14/23
PEACE [1] 1/17
people [1] 11/25
per [1] 21/24
person [5] 6/25 9/8 13/22 15/7 25/1
phone [7] 17/9 17/15 17/17 21/10 21/15 21/20 26/6
photo [1] 10/20
pinged [1] 26/7
Plaintiff [1] 1/8
Please [3] 5/1 5/2 17/16
point [5] 9/16 13/9 20/7 23/7 23/19
police [1] 16/12
posed [1] 20/20
possession [1] 19/16
preliminary [3] 1/15 19/9 19/14
probably [1] 23/12
problems [1] 15/24
proceedings [2] 27/19 27/22
produced [1] 12/21
proof [1] 13/9
proposed [5] 10/7 10/15 21/5 21/6 27/4
provide [2] 17/9 19/8
Public [1] 1/23
purports [1] 24/23
pursuant [2] 26/13 27/6
put [2] 17/23 18/16

Q

qualified [1] 24/25
question [12]
questioning [1] 16/12
questions [7] 10/12 20/16 20/19 20/22 23/8 25/20 25/24
quick [1] 26/9
quite [3] 10/11 22/10 22/12

R

raise [1] 4/20
read [1] 25/24
reading [4] 23/12 24/3 25/4 25/12
real [1] 26/8
receive [1] 21/3
received [7] 19/7 21/9 22/1 22/18 24/8 24/13 24/20
recognize [5] 10/17 10/19 12/3 21/6 21/8
record [10]
records [16]
refile [2] 27/1 27/7
reflect [2] 15/17 15/19
regarding [1] 21/10
registered [1] 13/9
registration [12]
relation [1] 25/4
relationship [1] 17/15
Relevance [1] 9/5
relied [1] 24/21
remain [1] 4/20
remedy [1] 19/24
remember [1] 6/10
remembering [1] 21/16
repeat [1] 17/16
Reported [1] 1/25
REPORTER'S [1] 1/13
requested [1] 21/24
requesting [1] 17/24
required [3] 19/8 19/14 19/15
respect [1] 17/17
respond [1] 7/14
responding [1] 6/3
response [1] 24/8
right [6] 4/5 4/10 4/20 15/15 26/3 26/15
rule [4] 4/15 10/24 10/25 12/20
ruling [2] 10/8 25/18

S

said [2] 17/7 21/19

S

SAMUEL [1] 1/16
sandbag [1] 19/21
say [5] 9/16 15/24 16/2 17/5 24/20
saying [1] 24/19
search [19]
seated [1] 5/1
second [1] 19/25
see [5] 6/25 7/16 10/15 13/22 25/20
seeing [1] 10/10
seems [1] 23/10
seen [4] 8/3 12/6 12/10 19/10
Senior [1] 5/16
sense [1] 26/1
separate [1] 20/14
serve [1] 26/12
show [3] 6/17 7/14 19/21
Showing [2] 10/7 21/5
Simply [1] 13/10
Since [2] 5/20 5/23
sir [2] 4/11 6/1
sitting [1] 15/15
so [31]
solemnly [1] 4/21
some [6] 4/17 9/16 11/10 19/5 23/19 25/23
something [2] 25/4 25/13
sorry [1] 27/2
sound [1] 4/15
sounds [1] 9/6
specific [2] 20/15 25/23
specifically [1] 8/2
spell [1] 5/3
spoke [1] 19/18
stand [1] 4/19
standing [1] 4/20
start [2] 7/13 16/5
state [11]
State's [6] 10/7 10/15 13/18 13/20 21/5 21/6
statement [1] 14/23
statute [2] 26/14 27/7
STONE [2] 1/23 26/20
story [1] 9/17
strike [1] 19/6
stuff [1] 11/14
subject [1] 15/16
subpoena [1] 24/8
subpoenaed [1] 24/7
such [1] 19/10
sure [2] 10/11 10/12
suspect [4] 6/8 6/22 8/14 25/15
sustain [2] 7/9 11/2
Sustained [1] 14/5
swear [1] 4/21
sworn [1] 5/10

T

talk [3] 7/7 14/11 14/11
talked [2] 14/14 15/21
technically [1] 24/25
term [1] 8/2
testified [2] 24/7 24/13
testify [14]
testifying [4] 17/22 18/5 18/14 19/5
testimony [8] 4/22 16/12 18/14 19/4 19/6 22/7 23/5 26/23
than [2] 8/10 20/15
Thank [9] 5/6 5/8 8/7 9/18 13/3 13/19 18/20 25/2 26/23
that [99]
that's [7] 6/19 9/16 9/17 13/1 14/4 19/15 27/5
their [1] 11/25
them [6] 7/2 8/9 12/10 19/19 22/20 23/13
then [7] 6/6 9/17 20/11 20/13 22/14 22/20 24/21
there [20]
there's [1] 13/10
these [11]
they [8] 6/6 6/7 6/8 7/22 19/19 19/22 22/3 23/23
thing [5] 12/24 19/10 20/2 20/4 27/14
things [1] 11/10
think [12]
thinks [1] 22/9
this [15]
those [12]
though [2] 24/23 25/25
through [1] 11/10
today [7] 6/25 13/23 15/14 26/11 26/18 26/24 27/7
told [1] 19/20
tower [1] 26/6
TOWNSHIP [1] 1/4
TRAN [1] 1/1
transcript [2] 1/13 27/22
treating [1] 13/8
true [2] 24/23 27/21
truth [8] 4/22 4/23 4/23 8/23 8/25 9/12 10/3 25/17
try [1] 9/15
turn [2] 19/14 19/15
typically [2] 6/3 11/25

U

ultimately [1] 6/22
under [2] 19/24 25/1
understanding [2] 18/6 18/13
unless [2] 23/12 25/21
up [3] 4/19 19/21 25/1
upon [1] 11/13
use [1] 11/1

V

vehicle [8] 11/23 12/25 13/10 14/12 14/15 15/23 16/3 16/4
vehicles [5] 7/17 7/22 8/9 8/12 9/3
version [1] 26/19
via [1] 17/24
vicinity [1] 26/7
violations [1] 23/6
voluntarily [1] 26/13

W

want [6] 4/12 21/20 25/23 26/8 26/25 27/11
wanted [1] 19/19
wants [1] 27/8
warrant [19]
was [22]
wasn't [2] 16/10 27/12
we [11]
we'll [2] 27/1 27/7
we're [2] 10/12 22/12
we've [1] 22/10
WEDNESDAY [1] 1/18
well [9] 8/4 9/11 9/13 10/1 10/10 11/5 11/9 11/11 14/2
went [1] 6/14
were [9] 7/19 7/22 8/10 11/7 16/22 16/23 24/6 24/7 24/8
what [35]
What's [7] 7/5 7/25 8/19 10/23 14/17 17/21 19/2
whatever [2] 9/17 27/8
when [5] 6/2 7/16 15/21 16/22 19/22
where [10]
whether [3] 10/2 22/10 23/18
which [7] 11/7 11/13 15/1 18/3 18/17 19/23 20/14
who [1] 8/16
whole [2] 4/23 16/11
why [3] 7/7 11/12 20/21
will [14]
withdraw [2] 16/18 21/21
within [2] 8/12 23/23
without [1] 11/10
witness [6] 4/19 8/25 22/11 22/24 23/9 24/12
witnesses [1] 4/7
words [1] 18/14
work [1] 23/15
working [1] 6/10
would [6] 13/5 16/25 17/7 19/5 23/7 23/12
wouldn't [1] 16/5

Y

years' [1] 5/24
yes [57]
yesterday [1] 19/18
yet [3] 20/17 22/10 22/12
you [114]
you're [13]
your [25]
yourself [1] 12/8

Electronically Filed
4/16/2025 2:03 PM
Steven D. Grierson
CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #1565
MICHAEL ALLMON
Deputy District Attorney
Nevada Bar #15169
200 Lewis Avenue
Las Vegas, NV 89155
PH: (702) 671-2500
FAX: (702) 868-2412
DAInfo@clarkcountydanv.gov
Attorney for the Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BILLY JOE HINES, #1998975

Defendant.

CASE NO. **C-23-379479-1**

DEPT NO. **VIII**

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR PROHIBITED PROSECUTION

DATE OF HEARING: **APRIL 17, 2025**
TIME OF HEARING: **10:00 AM**

The State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MICHAEL ALLMON, Deputy District Attorney, hereby submits the attached Points and Authorities in this State's Opposition to Defendant's Motion to Dismiss for Prohibited Prosecution.

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

//

POINTS AND AUTHORITIES

NRS 178.562 permits the State to indict a defendant, even when the complaint or information has been dismissed.

NRS 178.562 states that:

> 1. Except as otherwise provided in NRS 174.085, an order for the dismissal of the action, as provided in NRS 178.554 and 178.556, is a bar to another prosecution for the same offense.
>
> 2. **The discharge of a person accused upon preliminary examination** is a bar to another complaint against the person for the same offense, but **does not bar the finding of an indictment** or filing of an information**.** (emphasis added). [1]

In Turpin, the Supreme Court analyzed NRS 178.562 in the context of the State dismissing an information and proceeding with the indicted charges. Turpin v. Sheriff, Clark County, 87 Nev. 236, 238, 484 P.2d 1083, 1084 (1971). In Turpin, the Court noted that the route of charges being filed in district court by a criminal complaint that results in an information as opposed to an indictment are two separate vehicles for prosecution. Id. at 238. The Court in coming to this conclusion relied in part upon Hall v. Sheriff, 86 Nev. 456, 470 P.2d 422 (1970), which dealt with the similar issue but a complaint and not yet an information. Id.

Here, the prohibition of NRS 178.562(1) against "another prosecution" is not violated when the state pursues a prosecution by indictment after dismissing an information and similarly a criminal complaint, which precedes an information.

The plain language of 178.562(2) is the law of the land: "The discharge of a person accused upon preliminary examination…does not bar the finding of an indictment."

//

//

//

//

//

[1] For an information to be filed after discharge upon preliminary examination, the prosecuting attorney would need to file an information by affidavit under NRS 173.035.

CONCLUSION

Because the plain language of NRS 178.562(2) permits an indictment, Defendant's motion should be denied.

DATED this 16th day of April, 2025.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #1565

BY */s/ Michael Allmon*
MICHAEL ALLMON
Deputy District Attorney
Nevada Bar #15169

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 16th day of APRIL 2025, to:

ANNA STONE, DPD
anna.stone@clarkcountynv.gov

BY */s/ Howard Conrad*
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

Electronically Filed
4/22/2025 4:08 PM
Steven D. Grierson
CLERK OF THE COURT

NANCY M. LEMCKE, PUBLIC DEFENDER
NEVADA BAR NO. 5416
ANNA L. STONE, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 15652
PUBLIC DEFENDER'S OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Anna.Stone@ClarkCountyNV.gov
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. BILLY HINES, Defendant.	CASE NO. C-23-379479-1 DEPT. NO. VIII DATE: April 23, 2025 TIME: 9:30 a.m.

SUPPLEMENTAL BRIEFING IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS FOR PROHIBITED PROSECUTION

COMES NOW, the Defendant, BILLY HINES, by and through ANNA L. STONE, Deputy Public Defender, and hereby submits this supplemental briefing in support of his Motion to Dismiss for Prohibited Prosecution.

DATED this 22nd day of April, 2025.

NANCY M. LEMCKE
CLARK COUNTY PUBLIC DEFENDER

By: /s/ *Anna L. Stone*
ANNA L. STONE, #15652
Deputy Public Defender

DECLARATION

ANNA L. STONE makes the following declaration:

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

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

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

EXECUTED this 22nd day of April, 2025.

/s/ *Anna L. Stone*
ANNA L. STONE

MEMORANDUM OF SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS

I. QUESTION PRESENTED

Where the district attorney dismissed a case pursuant to NRS 178.554 in the middle of a preliminary hearing in justice court, is that dismissal a bar to another prosecution for the same offense pursuant to NRS 178.562?

II. ARGUMENT SUMMARY

NRS 178.562(1) provides that "[e]xcept as provided in NRS 174.085, an order for the dismissal of the action, as provided in NRS 178.554 and 178.556, is a bar to another prosecution for the same offense. On January 4, 2023, in the middle of the preliminary hearing, the district attorney dismissed the complaint against Mr. Hines pursuant to NRS 178.554. *See* Motion to Dismiss, Exhibit B, Reporter's Transcript of Preliminary Hearing. None of the exceptions in NRS 174.085 apply to the circumstances of this case, nor does NRS 178.562(2) apply, since the court did not "discharge[] [Mr. Hines] upon preliminary examination." Therefore, the district attorney's previous dismissal of this case is a bar to another prosecution for this offense, and the indictment must be dismissed. NRS 178.562(1).

III. WHERE THE LANGUAGE OF THE STATUTE IS CLEAR, THE COURT MAY NOT LOOK BEYOND THE PLAIN LANGUAGE.

When interpreting a statute, legislative intent "is the controlling factor": "The goal of statutory interpretation is to give effect to the Legislature's intent." *Robert E. v. Justice Court,* 99 Nev. 443, 445, 664 P.2d 957, 959 (1983); *Williams v. State, Dep't of Corr*., 133 Nev. 594, 596, 402 P.3d 1260, 1262 (2017) (internal quotations omitted). The starting point for determining legislative intent is the statute's plain meaning; when a statute "is clear on its face, a court can not go beyond the statute in determining legislative intent." *Robert E. v. Justice Court, supra; see also State v. Catanio,* 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004) ("We must attribute the plain meaning to a statute that is not ambiguous.").

NRS 178.562 is clear on its face. Subsection (1) unambiguously bans repeat prosecutions after a case is dismissed pursuant to NRS 178.554 unless an exception in NRS 174.085 applies. Here, the case was dismissed pursuant to NRS 178.554, and none of the exceptions in NRS

174.085 applies. Subsection (2) prohibits the filing of another complaint but permits the finding of an indictment or filing of an information after the accused is "discharge[d]…upon preliminary examination." To discharge someone upon preliminary examination is a power held by the magistrate, not by the district attorney. NRS 174.085 and NRS 178.554 discuss the district attorney's power to "dismiss" cases. By contrast, NRS 171.206, concerning the "[p]rocedure following preliminary examination," provides:

> If from the evidence it appears to the magistrate that there is probable cause to believe that an offense has been committed and that the defendant has committed it, the magistrate shall forthwith hold the defendant to answer in the district court; *otherwise the magistrate shall discharge the defendant*. …

(emphasis added). *See also, e.g.,* NRS 178.566 ("(1) If the party injured appears before the court…and acknowledges in writing that the party has received satisfaction for the injury, the court may…order all proceedings to be stayed upon the prosecution, and the defendant to be *discharged* therefrom… (2) The order shall be a bar to another prosecution for the same offense"); NRS 176.105 ("(2) If the defendant is found not guilty, or for any other reason is entitled to be *discharged*, judgment must be entered accordingly"); NRS 176.211 ("(5) Upon completion of the terms and conditions of the deferred judgment…the court shall *discharge* the defendant and dismiss the proceedings. …"); NRS 176A.840 ("(1) The Division [of Parole and Probation] *shall petition the court to recommend the early discharge* of a person from probation…") (all emphasis added). Here, Mr. Hines was not discharged upon preliminary examination, so NRS 178.562(2) does not apply.

Where the plain language of the statute is clear, the court may not look beyond that language in interpreting the statute. As the district attorney stated, "[t]he plain language of 178.562(2) is the law of the land." State's Opposition to Defendant's Motion to Dismiss for Prohibited Prosecution, filed April 16, 2025, at 2:21. That law is clear: this prosecution is barred.

IV. THE CASE WOULD NOT NECESSARILY HAVE REACHED DISTRICT COURT *EVEN IF* THE DISTRICT ATTORNEY HAD DISMISSED THE CASE BEFORE THE PRELIMINARY HEARING.

At oral argument, the court asked whether this case would still have reached a trial setting in district court if the district attorney had dismissed the case before the preliminary hearing

began rather than in the middle of the preliminary hearing. Upon reflection, defense counsel feels clarification about this question is needed.

If the district attorney had dismissed the case before the preliminary hearing, their only avenue to resurrect the prosecution would have been through NRS 178.562(1)—specifically, through the exception for circumstances "as provided in NRS 174.085." NRS 174.085(5)(a) provides in relevant part, "the prosecuting attorney…may voluntarily dismiss a complaint…[b]efore a preliminary hearing…without prejudice to the right to file another complaint." Thus, the district attorney could have tried to resurrect the prosecution by filing another complaint in justice court, but they still would not have been permitted to take the case to the grand jury.[1]

In justice court, the 're-do' case would have had to be assigned to the same judge who was presiding over the preliminary hearing that began during the first prosecution. NRS 174.085(a). There is doubt whether the district attorney would have succeeded on its 're-do' preliminary hearing. Additionally, the justice court would not have been permitted to issue another warrant for Mr. Hines' arrest on the 're-do' case unless Mr. Hines "[did] not appear in court in response to a properly issued summons in connection with the complaint." NRS 174.085(6)(b). By contrast, when Mr. Hines did not appear for the indictment return in district court, without a properly issued summons, the district attorney requested a warrant for Mr. Hines' arrest. *See* Clark County District Court Case No. C-23-379479-1 Court Minutes for January 17, 2024 ("Court ordered, bench warrant will issue, no bail").

Furthermore, "when once the meaning [of a statute] is plain, it is not the province of a court to scan its wisdom or its policy." Antonin Scalia, *Reading Law: The Interpretation of Legal Texts* 353 (2012) (internal citations omitted). The question before the court is whether NRS 178.562 bars this prosecution; it does.

///

[1] The inapplicability of NRS 178.652(2) is also why the district attorney's post-dismissal statement that he would serve *Marcum* does not change the analysis here. Stating an intent to serve *Marcum* and actually obtaining an indictment are two different things. The issue of a second, prohibited prosecution did not become judicable until the indictment was returned and the instant district court proceedings began.

V. CONCLUSION

At oral argument, the court asked the district attorney to identify the provision of NRS 174.085 that permits this prosecution. The district attorney did not do so. He could not, because it does not exist. This prosecution is barred by the plain language of NRS 178.562. The indictment must be dismissed.

DATED this 22nd day of April, 2025.

NANCY M. LEMCKE
CLARK COUNTY PUBLIC DEFENDER

By: /s/ *Anna L. Stone*
ANNA L. STONE, #15652
Deputy Public Defender

NOTICE OF SUPPLEMENTAL BRIEFING

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing SUPPLEMENTAL BRIEFING on for hearing before the Court on the 23rd day of April, 2025, at 9:30 a.m.

DATED this 22nd day of April, 2025.

NANCY M. LEMCKE
CLARK COUNTY PUBLIC DEFENDER

By: /s/ *Anna L. Stone*
ANNA L. STONE, #15652
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing SUPPLEMENTAL BRIEFING was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountydanv.gov on this 22nd day of April, 2025.

By: /s/ *Anna L. Stone - PD*
An employee of the
Clark County Public Defender's Office

Electronically Filed
4/23/2025 9:26 AM
Steven D. Grierson
CLERK OF THE COURT

RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #1565
MICHAEL ALLMON
Deputy District Attorney
Nevada Bar #15169
200 Lewis Avenue
Las Vegas, NV 89155
PH: (702) 671-2500
FAX: (702) 868-2412
DAInfo@clarkcountydanv.gov
Attorney for the Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BILLY JOE HINES,
#1998975

Defendant.

CASE NO. C-23-379479-1

DEPT NO. VIII

STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL BRIEFING IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS FOR PROHIBITED PROSECUTION

DATE OF HEARING: APRIL 23, 2025
TIME OF HEARING: 9:30 AM

COMES NOW, The State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MICHAEL ALLMON, Deputy District Attorney, hereby submits the attached Points and Authorities in Response to Defendant's Supplemental Briefing in Support of Defendant's Motion to Dismiss for Prohibited Prosecution

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

//

Case Number: C-23-379479-1

POINTS AND AUTHORITIES

Under NRS 174.085, the State is permitted to voluntarily dismiss a criminal complaint in justice court with the ability to re-file the criminal complaint before completing the preliminary hearing.

> 5. The prosecuting attorney, in a case that the prosecuting attorney has initiated, may voluntarily dismiss a complaint:
> (a) Before a preliminary hearing if the crime with which the defendant is charged is a felony or gross misdemeanor.
> without prejudice to the right to file another complaint, unless the State of Nevada has previously filed a complaint against the defendant which was dismissed at the request of the prosecuting attorney. After the dismissal, the court shall order the defendant released from custody or, if the defendant is released on bail, exonerate the obligors and release any bail.

The state may then re-file the criminal complaint. When the State dismisses a complaint pursuant to statute in justice court, it means with the intention or at least ability to re-file. The record makes clear that all parties understood that at the time, including Defense Counsel. The justice court even referenced the State's ability to re-file charges:

> It's been dismissed pursuant to statute today. He can either refile, we'll have it in this file or Grand Jury or whatever he wants to do. Preliminary Hearing Transcript, 27:6-8.

Defense urges in its motion that the State dismissed the case pursuant to NRS 178.554. See, Def's Supplement Brief 3:9-11. Defense in its initial motion presumed that for the sake of argument. See, Def's Mot. 4:10:11. But the record from the preliminary hearing does not support that assertion; it contradicts it.

The state may re-file the criminal complaint, but it is also not bound to continue by criminal complaint. The state may instead start a new case by indictment if the state previously dismissed the case voluntarily. See, Gathrite v. Eighth Jud. Dist. Ct. In & For Cnty. of Clark, 135 Nev. 405, 410, 451 P.3d 891, 895 (2019), citing NRS 178.562(1); Tellis v. Sheriff of Clark Cnty., 85 Nev. 557, 561, 459 P.2d 364, 366 (1969); or even if it was discharged at preliminary hearing. 178.562(2).

//

Here, Defense urges the Court to find that the State was bound to re-file the criminal complaint and that therefore supports Defense's claim that the State was not permitted to indict the case separately. This analysis of the statutes is simply wrong. The case law above demonstrates that Defense's proposed interpretation is wrong.

CONCLUSION

Because the State was free to either re-file the criminal complaint or indict and start a new case, the Defendant's motion should be DENIED.

DATED this 23rd day of April, 2025.

Respectfully submitted,

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #1565

BY */s/ Michael Allmon*
MICHAEL ALLMON
Deputy District Attorney
Nevada Bar #15169

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was made this 23rd day of April, 2025, by Electronic Filing to:

ANNA STONE, DPD.
anna.stone@clarkcountynv.gov

BY: */s/ Selma Rodriguez*
SELMA RODRIGUEZ
Secretary for the District Attorney's Office

MA/sar/SVU

ELECTRONICALLY SERVED
9/24/2025 12:14 PM

Electronically Filed
09/24/2025 12:13 PM
CLERK OF THE COURT

ORDR
NANCY M. LEMCKE, PUBLIC DEFENDER
NEVADA BAR NO. 5416
ANNA L. STONE
NEVADA BAR NO. 15652
PUBLIC DEFENDER'S OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Anna.Stone@ClarkCountyNV.gov
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, v. BILLY HINES, Defendant.	CASE NO. C-23-379479-1 DEPT. NO. VIII

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

THIS CASE having come on for hearing before the Honorable Jessica K. Peterson, District Court Judge, on April 23, 2025, the Defendant being present, represented by ANNA L. STONE, Deputy Public Defender, the Respondent being represented by MICHAEL D. ALLMON, Deputy District Attorney, and the Court having considered Defendant Billy Hines' Motion to Dismiss for Prohibited Prosecution, the State's Opposition, the parties' supplemental filings, and oral argument held, the Court hereby GRANTS Hines' Motion to Dismiss.

///

///

///

///

I. Relevant Facts

On October 3, 2022, the State of Nevada filed a criminal complaint against Billy Hines in Henderson Justice Court alleging six counts of Arson, Third Degree (Category D Felony).

The matter proceeded to a preliminary hearing on January 4, 2023.

The preliminary hearing commenced when the State called its first witness, Senior Fire Investigator Joel McGinnis.

Over the course of Mr. McGinnis' direct examination, Hines lodged several objections to documents and exhibits proposed by the State and referenced during Mr. McGinnis' testimony. Several of these objections were sustained or, if overruled, Mr. McGinnis' testimony was frequently limited to avoid the admission of improper evidence or testimony.

Prior to completing its direct examination of Mr. McGinnis, the State voluntarily dismissed the case and provided an oral *Marcum* notice to Hines' counsel.

Thereafter, on December 23, 2023, the State obtained a grand jury indictment for the same offense, resulting in the instant case.

On July 22, 2024, Hines filed a motion to dismiss for prohibited prosecution. He argued that under NRS 178.562(1), the State's voluntarily dismissal barred another prosecution for the same offense unless an enumerated statutory exception applied; further, because the State did not dismiss before the preliminary hearing as provided in NRS 174.085(5)(a) and because Hines was not discharged by the magistrate upon preliminary hearing as provided in NRS 178.562(2), no statutory exception applied to permit another prosecution for the same offense.

The State opposed the motion to dismiss on April 16, 2025. The State argued that its grand jury indictment was permissible under NRS 178.562(2), which provides that the

"discharge of a person accused upon preliminary hearing… does not bar the finding of an indictment."

Thereafter, Hines filed a supplemental brief in support of the motion to dismiss, arguing why the State's voluntary dismissal did not amount to a discharge upon preliminary hearing; the State filed its response to Hines' supplemental brief, arguing that case law provides the State may generally start a new case via indictment if the State previously dismissed the case voluntarily. However, while this Court reviewed both supplemental pleadings, this Court finds that neither Hines' supplemental brief nor the State's response was helpful to either parties' respective position.

II. Relevant Law

The State's authority to voluntarily dismiss a complaint is set forth in NRS 178.554. The statute provides, in relevant part, that "[t]he district attorney… may by leave of court file a dismissal of an indictment, information or complaint and the prosecution shall thereupon terminate."

The determination of whether such a voluntary dismissal acts as a bar to re-prosecution for the same offense is governed by NRS 178.562. The statute states, in its entirety:

> 1. Except as otherwise provided in NRS 174.085, an order for the dismissal of the action, as provided in NRS 178.554 and 178.556[1], is a bar to another prosecution for the same offense.
> 2. The discharge of a person accused upon preliminary examination is a bar to another complaint against the person for the same offense, but does not bar the finding of an indictment or filing of an information.

[1]NRS 178.556 is not at issue in the instant case, as that statute provides for dismissal by the court for unnecessary delay.

NRS 174.085, the statute cross-referenced in subsection (1) above as an exception the bar to another prosecution for the same offense, provides, in relevant part:[2]

> 5. The prosecuting attorney, in a case that the prosecuting attorney has initiated, may voluntarily dismiss a complaint:
> (a) Before a preliminary hearing if the crime with which the defendant is charged is a felony or gross misdemeanor; or
> (b) Before trial if the crime with which the defendant is charged is a misdemeanor,
> without prejudice to the right to file another complaint, unless the State of Nevada has previously filed a complaint against the defendant which was dismissed at the request of the prosecuting attorney...
> 6. If a prosecuting attorney files a subsequent complaint after a complaint concerning the same matter has been filed and dismissed against the defendant:
> (a) The case must be assigned to the same judge to whom the initial complaint was assigned; and
> (b) A court shall not issue a warrant for the arrest of a defendant who was released from custody pursuant to subsection 5...
> 7. The prosecuting attorney, in a case that the prosecuting attorney has initiated, may voluntarily dismiss an indictment or information before the actual arrest or incarceration of the defendant without prejudice to the right to bring another indictment or information. After the arrest or incarceration of the defendant, the prosecuting attorney may voluntarily dismiss an indictment or information without prejudice to the right to bring another indictment or information only upon good cause shown to the court and upon written findings and a court order to that effect.

III. Conclusions of Law and Order

Because the State voluntarily dismissed the matter in the Henderson Justice Court during the preliminary hearing, whether the State may lawfully initiate another prosecution for the same offense is governed by NRS 178.562.

Subsection (2) does not permit the State to seek an indictment in the instant case because Hines was not discharged upon preliminary examination; only the presiding

[2]Subsections (1)-(4) of NRS 174.085 are not at issue here, as they only concern when the defendant is convicted or acquitted, NRS 174.085(1)-(3), or when a jury is discharged or prevented from giving a verdict, NRS 174.085(4).

magistrate, not the State of Nevada, may discharge a defendant. *See, e.g.,* NRS 171.206 (providing that following preliminary examination, if the magistrate finds there is not probable cause that an offense has been committed and that the defendant has committed it, "the magistrate shall discharge the defendant."); NRS 176.105(2) ("If the defendant is found not guilty, or for any other reason is entitled to be discharged, judgment must be entered accordingly."); NRS 178.566(1).

As the term "discharge" consistently appears in various Nevada Revised Statutes as an action commenced by the presiding judge, this Court presumes that the term "discharge" as used in NRS 178.562(2) carries the same meaning. *See Savage v. Pierson*, 123 Nev. 86, 94, 157 P.3d 697, 702 (2007) ("[W]hen the same word is used in different statutes that are similar with respect to purpose and content, the word will be used in the same sense, unless the statutes' context indicates otherwise.").

As relevant here, the magistrate presiding over Hines' hearing did not discharge him upon preliminary examination. Rather, the State voluntarily dismissed the case, which statutorily has the result terminating the prosecution. NRS 178.554 ("[T]he prosecution shall thereupon terminate."). The State's voluntary termination of prosecution is legally distinct from a magistrate's discharge upon preliminary examination. Therefore, this Court finds that NRS 178.562 did not permit the State to seek the indictment resulting in the instant case.

Thus, as provided in NRS 178.562(1), the State's voluntary dismissal "is a bar to another prosecution for the same offense" unless as provided otherwise in NRS 174.085.

None of the relevant provisions of NRS 174.085 permit the State's re-prosecution in the instant case. At the outset, NRS 174.085(6) is a procedural statute in the event the prosecuting attorney files a subsequent complaint after a complaint "concerning the same matter has been filed and dismissed against the defendant." Aside from the fact that this

procedural statute does not confer a substantive right to re-file, it is facially inapplicable here because the State obtained an indictment, rather than filing a subsequent complaint. Similarly, NRS 174.085(7) is inapplicable on its face because it addresses the State's voluntary dismissal of "an indictment or information," whereas in this case the State voluntarily dismissed a complaint.

Therefore, the only applicable provision is NRS 174.085(5). However, the plain language of the statute provides that a prosecuting attorney may voluntarily dismiss a case without prejudice to re-file "[b]efore a preliminary hearing if the crime with which the defendant is charged is a felony or gross misdemeanor."

When interpreting a statute, legislative intent "is the controlling factor." *Robert E. v. Justice Court,* 99 Nev. 443, 445, 664 P.2d 957, 959 (1983). If a statute "is clear on its face, a court cannot go beyond the statute in determining legislative intent." *Id.; see also State v. Catanio*, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004) ("We must attribute the plain meaning to a statute that is not ambiguous."). A statute is only ambiguous when it is susceptible to more than one reasonable interpretation. *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011) ("[W]hen the statutory language lends itself to two or more reasonable interpretations, the statute is ambiguous, and we may then look beyond the statute in determining legislative intent.") (internal quotation marks omitted).

The language in NRS 174.085(5)(a) permitting re-prosecution for the same offense when a case is voluntarily dismissed "before a preliminary hearing" is not ambiguous because it is not susceptible to more than one reasonable interpretation. The statutory language is clear on its face. Therefore, the plain language controls. In this case, the State did not voluntarily dismiss the case before a preliminary hearing, but rather after the hearing had commenced. Therefore, this Court finds that NRS 174.085(5) also does not apply here.

Because no exception in NRS 174.085 permits the State to initiate a prosecution for the same offense under these circumstances, the State's voluntary dismissal "is a bar to another prosecution for the same offense." NRS 178.562(1). Therefore, the State was prohibited from initiating another prosecution for the same offense via indictment, and the instant prosecution is statutorily prohibited.

Based on the foregoing, this Court ORDERS Hines' Motion to Dismiss for Prohibited Prosecution is GRANTED.

IT IS SO ORDERED.

DATED this _____ day of _____, 2025.

Dated this 24th day of September, 2025

DISTRICT COURT JUDGE
CB4 104 76DE 044B
Jessica K. Peterson
District Court Judge

Submitted by:

NANCY M. LEMCKE
CLARK COUNTY PUBLIC DEFENDER

By */s/ Anna L. Stone*
ANNA L. STONE, #15652
Deputy Public Defender

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada	CASE NO: C-23-379479-1
vs	DEPT. NO. Department 8
Billy Hines	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 9/24/2025

ANNA STONE	anna.stone@clarkcountynv.gov
Michael Allmon	michael.allmon@clarkcountydanv.gov
DA Motions	motions@clarkcountydanv.gov
Jennifer Interiano	jennifer.interiano@clarkcountynv.gov
Dept 8 LC	dept08lc@clarkcountycourts.us
Dan Cho	dan.cho@clarkcountynv.gov

Electronically Filed
10/6/2025 2:04 PM
Steven D. Grierson
CLERK OF THE COURT

NOASC
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
200 Lewis Street
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
v.
BILLY HINES,
#1998975,
Defendant(s).

Case No. C-23-379479-1
Dept. No. VIII

NOTICE OF APPEAL

TO: BILLY HINES, Defendant; and

TO: ANNA L. STONE, Deputy Public Defender; and

TO: JESSICA PETERSON, District Judge, Eighth Judicial District Court, Dept. No. VIII

NOTICE IS HEREBY GIVEN THAT THE STATE OF NEVADA, Plaintiff in the above-entitled matter, appeals to the Supreme Court of Nevada from the Order the district court filed September 24, 2025, granting Defendant's Motion to Dismiss.

Dated this 6th day of October, 2025.

STEVEN B. WOLFSON,
Clark County District Attorney

BY */s/ Karen Mishler*
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 6th day of October, 2025, by electronic transmission to:

ANNA L. STONE
Email: Anna.Stone@ClarkCountyNV.gov

JUDGE JESSICA PETERSON
Email:Dept08LC@clarkcountycourts.us;
lordr@clarkcountycourts.us

BY */s/ J. Hall*
Employee, District Attorney's Office

KM//jh

Electronically Filed
5/23/2025 12:01 PM
Steven D. Grierson
CLERK OF THE COURT

RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. BILLY HINES, Defendant.	CASE NO, C-23-379479-1 DEPT. NO. VIII

BEFORE THE HONORABLE JESSICA K. PETERSON,

DISTRICT COURT JUDGE

WEDNESDAY, APRIL 23RD, 2025

RECORDER'S TRANSCRIPT OF PROCEEDING:

STATUS CHECK

APPEARANCES:

For the State: Michael D. Allmon, ESQ.
Deputy District Attorney

For the Defendant: Anna L. Stone, ESQ.,
Deputy Public Defender

RECORDED BY: Shannon Grimes-Feldman, COURT RECORDER

Las Vegas, Nevada; Wednesday, April 23rd, 2025

[Proceeding commenced at 10:33 a.m.]

THE COURT: *State of Nevada versus Billy Hines, case number C379479*. Appearances, please.

MR. ALLMON: Michael Allmon for the State.

MS. STONE: Anna Stone on behalf of Mr. Hines who is present in custody.

THE COURT: All right. So I got the supplemental and I just read the State's reply. I don't really think that that helps either side and plus, neither side asked for leave to file a supplemental response or -- I mean, they would obviously have a right if the Court were going to go with your supplemental response but I actually don't think that it's helpful to either side's position.

I did some of my own research as well. There is a new case that came out. It's out of the Nevada District Court. It's called *Guy versus Henley, West Law 4349555, 2024.*

MS. STONE: I'm -- would Your Honor mind repeating that? I'm sorry.

THE COURT: Sure. *Guy*, G-U-Y, *versus Henley, West Law 4349555, 2024.* In that case the defendant claimed that the indictment was invalid because there was insufficient evidence to support it and what they talked about in that case was the fact that the original complaint was dismissed in Justice Court is not proof that the evidence was insufficient to support the subsequent indictment.

NRS 178.562(2) specifically authorizes a prosecutor to seek an indictment after the dismissal of a prior complaint. Guy's claim that there was no probable cause to indict him is further belied by the fact that a jury found him guilty beyond a reasonable doubt. Guy also claims that the indictment was barred by collateral estoppel. However, NRS 178.562(2) specifically authorizes the State to seek an indictment following the dismissal of a criminal complaint at a preliminary hearing and this Court has previously concluded that the statute does not offend any constitutional prescription, *State of Nevada versus District Court 114 Nevada 739, 1998.*

Pursuant to NRS 178.562, if a Defendant is not bound over the State may seek leave to file an information by affidavit in the District Court pursuant to NRS 173.035(2) or seek and indictment by grand jury. However the State may not refile the original charges in Justice Court if the Defendant was not bound over. To the extent that *Murphy, Cipriano*, and *Feole* differ from this scheme they are expressly overruled. That is *State versus Sixth Judicial District Court in and for the County of Humboldt, 114 Nevada 739, 1998*.

There is also a case called *Tetrault* in which it was held in that specific case there was a one line in that case that basically said that the State had dismissed during the preliminary hearing and were allowed go forward with an indictment. Now the distinction between that case and what we have in front of us is worth noting because from everything that I read, and you all know that I like to go down rabbit holes, so from everything that I read it appears like you can actually -- the State could

actually file an indictment and a complaint at the same time. They can almost be two tracked.

And it looked like every single one of the of the cases where the State had dismissed the complaint and went forward with an indictment was on that two track system and essentially what all of the cases have held is that it doesn't violate if they -- if you dismiss the complaint and go forward with the indictment because it's on that two track system. But when we look at the statute in this case it very clearly says before the preliminary hearing.

Now, if the State would have had a companion indictment at the time that you dismissed the complaint, I think that all of those other cases would have stood for the proposition that the State could go forward. But because you didn't and because the statute is clear on its face and the Court is not allowed to change the meaning of words and the legislature is deemed to know what it means when it says what it says. It clearly says before a preliminary hearing. And that allows you to go forward with an indictment if it's before a preliminary hearing that you dismiss. Or based on all the case law if there would have been this two track system.

But I don't think that you are allowed to go forward with the preliminary hearing and then half-way through the preliminary hearing stop, dismiss, and then go forward with the indictment. I don't think that the statute provides for that. And so in this case, I'm going to grant the writ.

MR. ALLMON: Well, Your Honor, if you're granting the writ

then procedurally it's not a writ. The writ has passed. The [indiscernible] has passed.

THE COURT: Well I'm granting the motion to dismiss.

MR. ALLMON: Well okay. And noted, Your Honor. Of course, we will be appealing. Notice there was supplemental filed today. I appreciate the Court's ruling today. Thank you.

THE COURT: Thank you.

MS. STONE: Thank you, Judge.

[Proceeding concluded at 10:39 a.m.]

* * * * * *

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



Shannon Grimes-Feldman
Court Recorder/Transcriber