

# EXHIBIT 263

# EXHIBIT 263

### DECLARATION OF OSVALDO FUMO

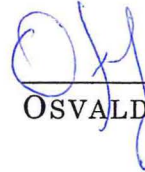
I, Osvaldo Fumo, do hereby declare as follows pursuant to 28 U.S.C. § 1746:

1. I am an attorney licensed to practice in the State of Nevada.
2. Along with Dustin Marcello, I represented Rickie Slaughter during his trial in the Eighth Judicial District Court in Case No. C204957.
3. I understand Mr. Slaughter is currently pursuing a federal habeas petition and has raised claims involving the photo lineups the police created in this case. I understand some of the claims involve a “second photo lineup” that included a picture of Mr. Slaughter along with a picture of an alternate suspect. A copy of the second photo lineup is attached to this declaration as Exhibit 1.
4. I don’t recall knowing in advance of trial whether any of the eyewitnesses identified Mr. Slaughter from the second photo lineup. I don’t recall our office attempting to contact the eyewitnesses before trial to ask them about the second photo lineup.
5. I don’t recall having any conversations with Marc DiGiacomo, Michele Fleck, or other members of the District Attorney’s office about the second photo lineup before, during, or after trial. Had the prosecutors told us before or during trial that some or all of the eyewitnesses failed to identify Mr. Slaughter’s photo from the second photo lineup, we would’ve cross-examined the eyewitnesses about their non-identifications during trial. We also would’ve given that information to our eyewitness identification expert in advance of his trial testimony.
6. I understand Mr. Slaughter has received certain documents through the discovery process in federal court, including the documents attached to this declaration as Exhibits 2 and 3.
7. I have reviewed Exhibits 2 and 3. I don’t recall receiving either of these exhibits as part of the discovery provided to our office by the State in Mr. Slaughter’s case.
8. Our office’s standard practice in criminal cases like Mr. Slaughter’s is to save any and all discovery we receive from the State to our client’s file. When a former client files a federal petition and counsel is appointed to assist the client in the federal case, our standard practice is to provide federal counsel with a complete copy of the client’s file. If Exhibits 2 and 3 aren’t part of that file, the State must not have turned them over to us before or during trial.

9. I recall arguing at Mr. Slaughter's trial that he had an alibi, specifically that he was picking his girlfriend up from work at about the same time as the charged crimes occurred. Had we received Exhibits 2 or 3 before or during trial, we would have used them as part of the alibi defense.

I declare under penalty of perjury that the foregoing information is true and correct to the best of my knowledge.

Executed on this 16 day of October, 2019, in Clark County, Nevada.

  
\_\_\_\_\_  
OSVALDO FUMO

# EXHIBIT 1

# EXHIBIT 1

## NORTH LAS VEGAS DETENTION/CORRECTIONS

## MUGSHOT PROFILE

BOOKING NAME: SLAUGHTER RICKIE  
TRUE NAME:

AKA #1: SLAUGHTER/RICKIE LAMONT

AKA #2:

AKA #3:

AKA #4:

SEX: Male RACE: Black PHOTO DATE: 06 / 29 / 2004  
HAIR: Black EYES: Brown PHOTO TIME: 02 : 47  
HEIGHT: 5'09" WEIGHT: 180 PHOTO NUMBER: 3065732  
BLD: Medium CMP: Dark



SCARS, MARKS, TATTOOS:

SCARS, MARKS, TATTOOS:

DATE OF BIRTH: 11 / 18 / 1984

AGE:

MF NUMBER: 89534

PLACE OF BIRTH:

BOOK NUMBER: 253034

SOCIAL SECURITY NUMBER: 530497827

FED ID NUMBER:

DRIVERS LICENSE/STATE:

EMPLOYER:

CS NUMBER: 1896569

OCCUPATION:

SID NUMBER:

FBI NUMBER:

ADDRESS:

TELEPHONE:

EMERGENCY CONTACT:

RELATION:

ADDRESS:

TELEPHONE:

PLACE OF ARREST:

DATE/TIME OF ARREST: / / :

ARRESTING OFFICER:

TRANSPORTING OFFICER:

VEHICLE:

IMPOUND:

BKG DATE:	06 / 29 / 2004	BKG TIME:	01 : 33	BKG OFF#:	BKG OFFICER:			
NO	ORIG	OC	PCN	WARRANTS/NRS	CTS	FGM	BAI	CASE NUMBER
1	PC P			200.030	01	F	100000	04015160
	ATT MURD WDW							
2	PC P			200.380	01	F	040000	04015160
	ROBB WDW							
3	PC P			205.060	01	F	040000	04015160
	BURG WDW							
4	PC P			200.460	01	F	010000	04015160
	FALSE IMPRISON WDW							
5								

The undersigned, Legal Keeper of Records, North Las Vegas Police Department, does hereby certify that the foregoing copy has been compared by me with the original and that it is a true and correct transcript therefrom and of the whole or of a specified part of said original as the same appears on file in my official care and custody.  
In testimony whereof, I have affixed my signature.  
Date 7-13-04 [Signature]  
North Las Vegas Police Dept.

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BOOKING NAME: SLAUGHTER RICKIE

TRUE NAME:

AKA #1: SLAUGHTER/RICKIE LAMONT

AKA #2:

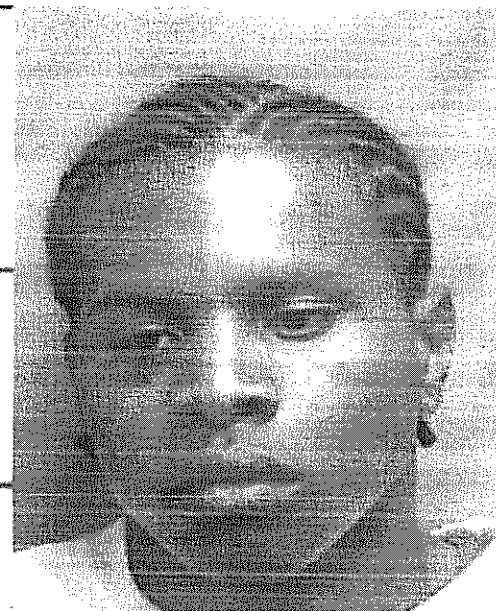
AKA #3:

AKA #4:

---

SEX:	Male	RACE:	Black	PHOTO DATE:	06 / 29 / 2004
HAIR:	Black	EYES:	Brown	PHOTO TIME:	02 : 47
HEIGHT:	5'09"	WEIGHT:	180	PHOTO NUMBER:	3065732
BLD:	Medium	CMP:	Dark		

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## PHOTO SPREAD

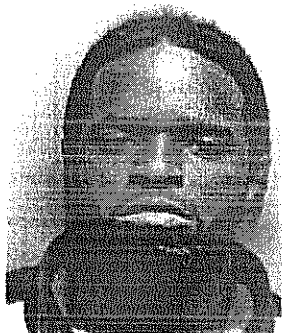
## WITNESS: PLEASE READ THESE INSTRUCTIONS CAREFULLY

Positions of persons in this photo spread are numbered left to right, beginning with Number One (1) on your left.

1. If previously you have seen one or more of the persons in this photo spread, write your initials in the "INITIALS" space(s) beside the photo(s) of the person(s) you have seen.

OFFENSE/INCIDENT No. \_\_\_\_\_

2. In "NOTES" space, tell briefly how/where/when you saw or met person(s) you identified.
3. If you never have seen any person in this line-up, write your initials in the "NONE OF THE ABOVE" space.
4. Sign your name in the "VIEWED BY" space, and fill in the time and date spaces.
5. Then hand this photo spread to the officer in charge.

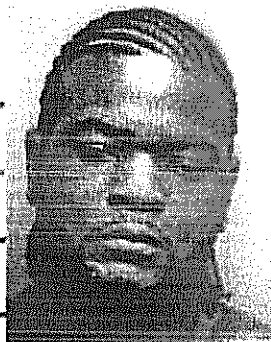


#1 PERSON

DATE \_\_\_\_\_

INITIALS \_\_\_\_\_

NOTES \_\_\_\_\_



#2 PERSON

DATE \_\_\_\_\_

INITIALS \_\_\_\_\_

NOTES \_\_\_\_\_



#3 PERSON

DATE \_\_\_\_\_

INITIALS \_\_\_\_\_

NOTES \_\_\_\_\_

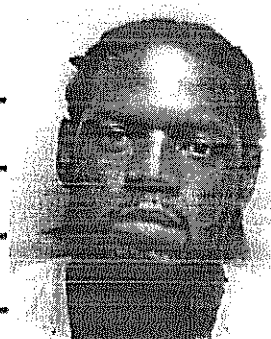


#4 PERSON

DATE \_\_\_\_\_

INITIALS \_\_\_\_\_

NOTES \_\_\_\_\_

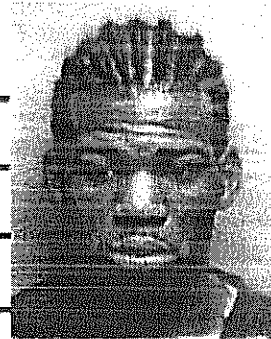


#5 PERSON

DATE \_\_\_\_\_

INITIALS \_\_\_\_\_

NOTES \_\_\_\_\_



#6 PERSON

DATE \_\_\_\_\_

INITIALS \_\_\_\_\_

NOTES \_\_\_\_\_

TIME PHOTO SPREAD SHOWN \_\_\_\_\_

NONE OF THE ABOVE \_\_\_\_\_

AGENCY \_\_\_\_\_

DATE PHOTO SPREAD SHOWN \_\_\_\_\_

VIEWED BY \_\_\_\_\_

OFFICER \_\_\_\_\_

Signature of witness to this viewing: \_\_\_\_\_

DATE OF OFFENSE \_\_\_\_\_

WITNESS \_\_\_\_\_

DATE \_\_\_\_\_

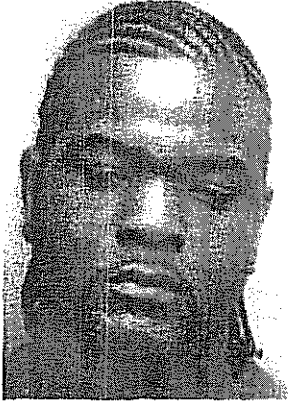
# NORTH LAS VEGAS POLICE

## WITNESS PHOTO LINEUP IDENTIFICATION

Case #: 04-15160

## TO WITNESS:

1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



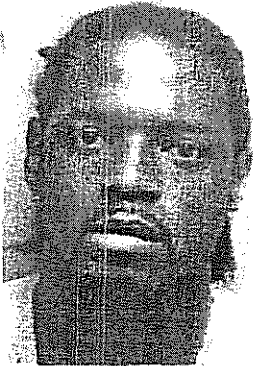
#1



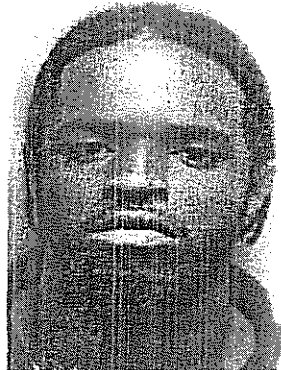
#2



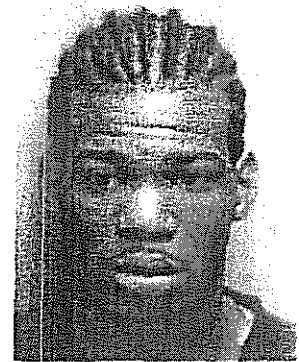
#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
Signature of Officer\_\_\_\_\_  
Signature of Witness\_\_\_\_\_  
Date & Time\_\_\_\_\_  
Signature of Officer\_\_\_\_\_  
Witness Name Printed



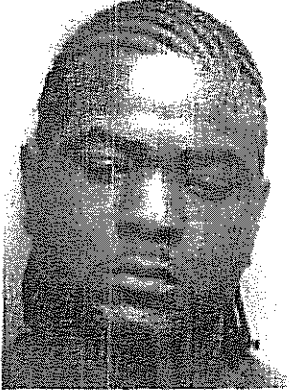
# NORTH LAS VEGAS POLICE

## WITNESS PHOTO LINEUP IDENTIFICATION

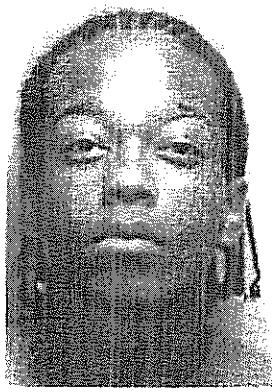
Case #: 04-15160

## TO WITNESS:

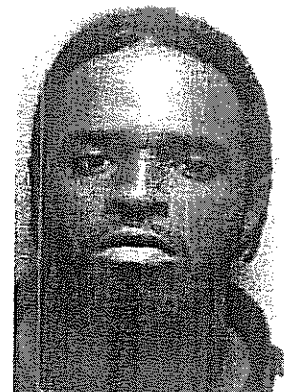
1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



#1



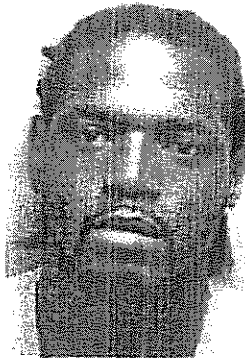
#2



#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
Signature of Officer\_\_\_\_\_  
Signature of Witness\_\_\_\_\_  
Date & Time\_\_\_\_\_  
Signature of Officer\_\_\_\_\_  
Witness Name Printed

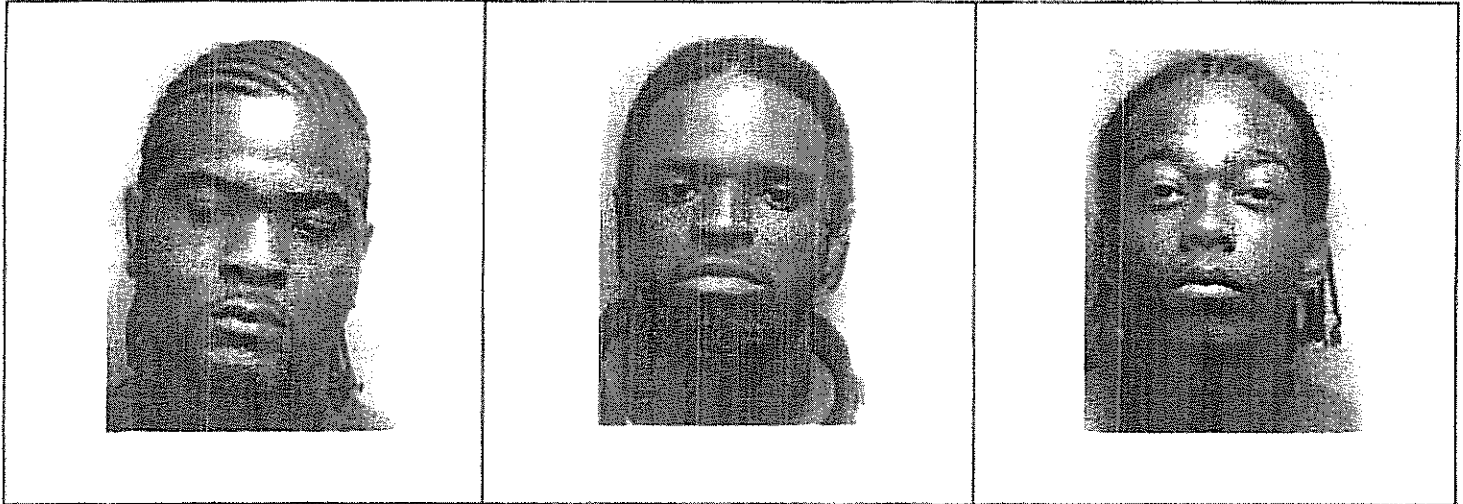
# NORTH LAS VEGAS POLICE

## WITNESS PHOTO LINEUP IDENTIFICATION

Case #: 04-15160

**TO WITNESS:**

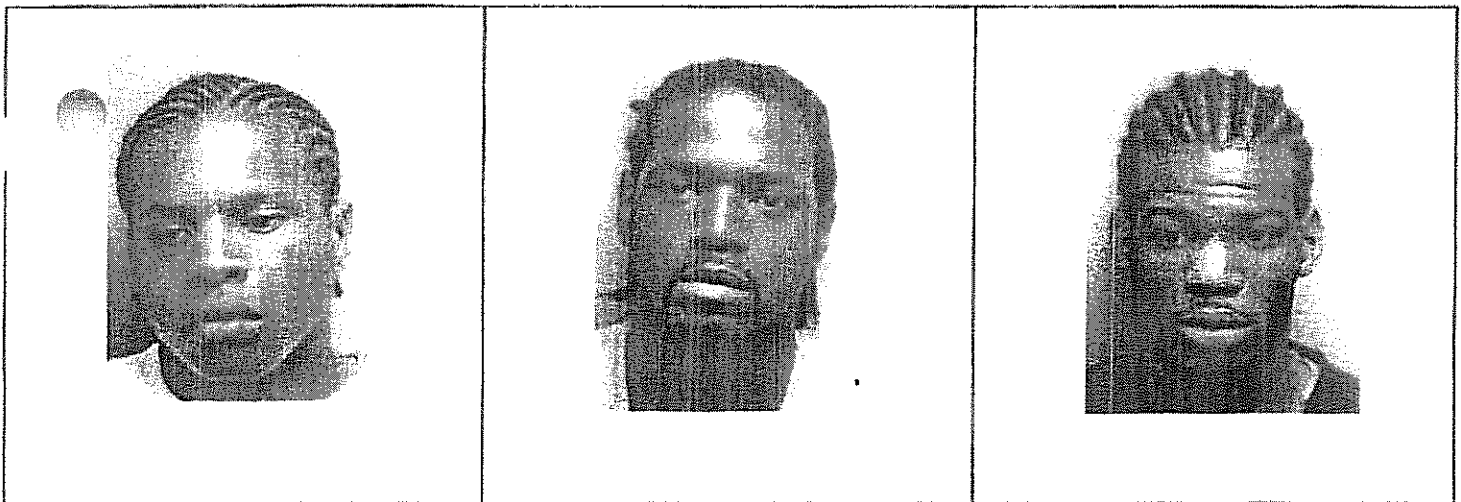
1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



#1

#2

#3



#4

#5

#6

ADDITIONAL WITNESS COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date & Time

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Witness Name Printed

# EXHIBIT 2

# EXHIBIT 2

LVMPD - COMMUNICATION CENTER  
EVENT SEARCH

EVT : LLV040603002698	TYPE: 416B	PRI : 1
LOC : ELDORADO CLEANERS	BLDG:	APT :
ADDR: 715 N NELLIS BL	XST : 5100 WALNUT AV	CITY : LV
CADD:	CNAM: JEFF/MNGR	CPHONE: 4591300
MAP : 0242919	S/B : G3	SRA : H952
P/U : 3F13	OFF1: 6029	OFF2 :
DATE: 2004/06/03	INIT: 18:40:30	AREA : NE
911 : NO	CLSE: 19:12:37	DISP : B

18:43:13	CM	IN FRNT OF BIZ REFSG TO LEAVE "RIKI SLAUGHTER"BMA,EARLY 20S,5'10,HVY BL	45	LV7672
18:43:13	CM	D,NFD SITTING IN GRN FORD TAURUS IN PLOT UNK 408/446/WEAPS	45	LV7672
18:43:13	CM	Original Location : ELDORADO CLEANERS	45	LV7672
18:50:08	USAS 3F13	715 N NELLIS BL	19	LV7017
18:50:14	USER 3F13	715 N NELLIS BL	00	LV6029
18:50:14	OM 3F13	Odometer: 0000.0	00	LV6029
18:52:36	USAS 3F11	715 N NELLIS BL	19	LV2465
18:52:42	USER 3F11	715 N NELLIS BL	00	LV6539
18:52:43	OM 3F11	Odometer: 0000.0	00	LV6539
18:55:23	OM 3F13	Odometer: 0000.0	00	LV6029
18:55:24	USAR 3F13	715 N NELLIS BL	00	LV6029
19:09:05	USCL 3F11		00	LV6539
19:09:05	OM 3F11	Odometer: 0000.0	00	LV6539
19:12:37	USCL 3F13		00	LV6029
19:12:37	OM 3F13	Odometer: 0000.0	00	LV6029

I HEREBY CERTIFY that this is a full, true  
and correct copy of the original on file with  
the Las Vegas Metropolitan Police Department,  
except for the information that is privileged  
and confidential by law

RESEARCH ASSISTANT Communications Bureau



# EXHIBIT 3

# EXHIBIT 3



## Incident Description for Ticket/Date:589729/20040626

Close

**Ticket Number:** 589729

**Date:** 6/26/2004

**Time Received:** 1911

**Unit:** 4B81

**Off1:** 1334 HOYT/MARK

**Incident:** 433 BATTERY

**Off2:**

**Pers Rptg:** 911/C/290 4223 JERMON

**Disp:** 1635 RANDOLPH/EIDRIS

**Location:** 2612 GLORY VIEW

**Call:** 1635 RANDOLPH/EIDRIS

**Nbhd:** APT AIRPORT

**AI** ADAM I

**Priority:** U

**Time - Received:** 1911 **Dispatch:** 0000 **Arrived:** 1915 **Completed:** 2120

**Case No:** 04015160 **Self Init:** N **Assisted:** N **Disposition:** 2

### Description

HMA WAS SHOT AS A RESULT OF A 407...LAYING ON THE BED INSIDE OF ABV...  
HOME EVASION...NO ONE KNOWS WHO THE SUBJS ARE..PR ADB HE WAS TIED UP AND  
PUT IN ANOTHER ROOM...T/L 5 MIN AGO...GRN VEH UNK PLATES PARKED FAR WAY LS  
HEADING EB ON GLORY VIEW...PR ADV SUBJ'S HAD 4 413'S..UNK DESCRIP ON 413'S  
FD ADV//SUBJ SHOT IN CHEEK///VEH IS DRK GRN 4DR POSS PONTIAC GRAND AM  
CODE RED 1914HRS MPD ADV 1919//1933 DEMARTINO ADV1936//MEL PRIETO PGD  
ID REQ 1914HRS///CODE GRN 1921 HRS///PIO PGD 1937 ADV 1939//1938H/PRIETO ADV  
CODE RED 2009HRS GRN 2012HRS -YOUNG/IVAN:05211973 [REDACTED] -