

## **FACT SUMMARY**

Detective Avery Zabriskie was a veteran member of the Red Rock Police Department. On June 8, 2015, Detective Zabriskie encountered Orson Hayes, a repeat criminal offender and suspected drug dealer. Zabriskie thwarted Hayes' attempt to rob a bank, but, ultimately, Hayes escaped arrest. The following evening, Orson Hayes was shot and killed in the alley of a local bar. According to eyewitness testimony from the victim's cousin, Casey Hayes, Avery Zabriskie was the murderer. Evidence analyzed by forensic specialist Kris Lee supports Hayes' claim, and Zabriskie's friend Hunter Beckstead confirms that Zabriskie was in the vicinity on the night of the murder and had the opportunity to commit the crime. Avery Zabriskie claims innocence, and fellow police officer and eyewitness Riley Torres supports Zabriskie's story. Testimony from Sam Maddox indicates that a third party may have been responsible for the victim's demise.

## **STIPULATIONS**

1. All exhibits included in the case materials are authentic and accurate. No objections to the authenticity of exhibits will be honored.
2. All signatures on witness affidavits and other documents are authentic. If asked, a witness must acknowledge signing the document(s) and must attest to the content of the document(s) and the date(s) indicated therein. The witness affidavits are deemed to be given under oath or affirmation.
3. No objections to the sufficiency of the indictment will be entertained.
4. Neither the prosecution nor the defense can ask any witness to demonstrate how Avery Zabriskie runs.
5. The defendant has entered a plea of not guilty to the charge.
6. The defendant voluntarily has waived his/her Fifth Amendment rights and will testify at trial.
7. Avery Zabriskie, defendant, waives his/her right to a trial by jury.
8. The State of Utah, prosecution, asks the Court to hold a bench trial to determine the guilt of the defendant.
9. There are no jurisdictional issues in this case.
10. The crime lab tests were all done following all necessary procedures, and all results are accurate, including DNA and fingerprint results. The accuracy of the results may not be contested.

11. The transcripts of the text messages are authentic and accurate representations of the communications exchanged, up until the time of their retrieval from the phone in question. There is no need to bring the actual phone and/or records to court, and the authenticity and accuracy of the transcripts may not be contested.
12. All exhibits included in the case materials are authentic and accurate in all respects, and no objections to the authenticity of the exhibits will be honored. There is no dispute as to the chain of custody for all evidence, and, accordingly, the chain of custody of the evidence may not be contested.

## **WITNESSES**

The following witnesses are available and must be called by the parties. *All witnesses may be female or male.*

### **For the Prosecution**

Casey Hayes (Victim's Cousin)  
Kris Lee (Forensic Specialist, Red Rock Police Department) Hunter  
Beckstead (Gym Owner)

### **For the Defense**

Avery Zabriskie (Detective/Defendant)  
Riley Torres (Police Officer, Red Rock Police Department)  
Sam Maddox (Utopia Zoo Employee)

## **EXHIBITS**

1. State's Offer on a Plea of Guilty
2. Text Messages on Cellular Phone found on Decedent
3. Map of portion of Red Rock
4. Ballistics Photos
5. Fingerprint Evidence
6. Curriculum Vitae of Kris Lee
7. Receipt from Bristlecone Sports Bar
8. Disciplinary Report
9. Text Messages on Cellular Phone from Bank

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**IN THE MOCK TRIAL COURT  
RED ROCK COUNTY, STATE OF UTAH**

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| <p style="text-align: center;"><b>STATE OF UTAH</b></p> <p style="text-align: center;">Prosecution,<br/>v.<br/><b>AVERY ZABRISKIE,</b><br/><br/>Defendant.</p> | <p style="text-align: center;"><b>INFORMATION</b></p> <p style="text-align: center;">Case No. 15cr01234</p> |
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The undersigned Prosecutor for Red Rock County, State of Utah, states on information and belief that the defendant, Avery Zabriskie, on or about June 9, 2015, within Red Rock County, State of Utah, committed the following:

**COUNT I**

**FIRST DEGREE MURDER**, a first degree felony, in violation of Utah Code Ann. §76-5-203 as follows: That at the time and place aforesaid, the defendant caused the death of Orson Hayes, a human being, by shooting him, (i) intending or knowing that s/he would cause Hayes' death, or (ii) acting under circumstances evidencing a depraved indifference to human life, the defendant knowingly engaged in conduct which created a grave risk of death to Hayes and, thereby, caused Hayes' death.

Or, in the alternative, the lesser included offense of:

**MANSLAUGHTER**, a second degree felony, in violation of Utah Code Ann. §76-5-205 as follows: That at the time and place aforesaid, the defendant recklessly caused the death of Orson Hayes, a human being, by shooting him.

**THIS INFORMATION IS BASED ON INFORMATION OBTAINED FROM THE FOLLOWING WITNESS(ES):** Casey Hayes, Kris Lee, and Hunter Beckstead.

**STATEMENT OF PROBABLE CAUSE:** The undersigned prosecutor is the Red Rock County Attorney and has probable cause to believe that the defendant, Avery Zabriskie, SSN: 073-89-2231, committed one or more criminal offenses, based upon credible information received from the Red Rock Police Department's forensic specialist, Kris Lee; and eye witness observations of Casey Hayes and Hunter Beckstead.

Authorized on June 16, 2015 for presentment and filing:

Glen S. Ruesch

GLEN S. RUESCH, Red Rock County Attorney

## LEGAL AUTHORITIES

### *Utah Code Annotated*

#### **Section 76-5-201. Criminal homicide-Elements-Designations of offenses-Exceptions.**

- (1)(a) . . . a person commits criminal homicide if the person intentionally, knowingly, recklessly, with criminal negligence, or acting with a mental state otherwise specified in the statute defining the offense, causes the death of another human being . . . .
- (2)Criminal homicide is aggravated murder, murder, manslaughter, child abuse homicide, homicide by assault, negligent homicide or automobile homicide.

#### **Section 76-5-203. Murder.**

- (2)Criminal homicide constitutes murder if:
- (a)the actor intentionally or knowingly causes the death of another;
- (b)intending to cause serious bodily injury to another, the actor commits an act clearly dangerous to human life that causes the death of another;
- (c)acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct which creates a grave risk of death to another and thereby causes the death of another;
- (3)(a) Murder is a first degree felony.
- (b)A person who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

#### **Section 76 5-205. Manslaughter.**

- (1)Criminal homicide constitutes manslaughter if the actor:
- (a)Recklessly causes the death of another;
- (2)Manslaughter is a felony of the second degree.

#### **Section 76-2-103. Definitions.**

A person engages in conduct:

- (1) Intentionally, or with intent or willfully with respect to the nature of his conduct or to a result of his conduct, when it is his conscious objective or desire to engage in the conduct or cause the result.
- (2)Knowingly, or with knowledge, with respect to his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or the existing circumstances. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.
- (3)Recklessly with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and

degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

**Section 76-2-104. Culpable mental state-Higher mental states included.**

(1) If acting recklessly is sufficient to establish the culpable mental state for an offense, that element is also established if a person acts intentionally or knowingly.

(2) If acting knowingly is sufficient to establish the culpable mental state for an offense, that element is also established if a person acts intentionally.

**BURDEN OF PROOF**

The burden of proof rests with the prosecution. The following are definitions and explanations that will assist you in either building your case against the defendant, or in defending Avery Zabriskie.

- (1) The defendant is presumed to be innocent of the charges. This presumption remains in effect unless and until, from all the facts/evidence presented at trial, the trier of fact is convinced beyond a reasonable doubt that the defendant is guilty of the alleged crime(s). Beyond a reasonable doubt is the highest standard of proof used in the United States court system.
- (2) The prosecution, State of Utah, has the burden of proving the guilt of the defendant beyond a reasonable doubt. Beyond a reasonable doubt means that no other logical explanation--or reasonable alternative-- can be drawn from the facts/evidence presented at trial except that Avery Zabriskie committed the crime, thereby overcoming the presumption that a person is innocent until proven guilty. It does not mean that no doubt exists as to the accused's guilt, but only that no reasonable doubt is possible from the evidence presented.
- (3) The defendant is not required to prove his/her innocence.
- (4) If the judge has a reasonable doubt as to the defendant's guilt, the judge will pronounce the defendant not guilty. If the judge has no doubt as to the defendant's guilt, or if his/her only doubts are unreasonable doubts, then the prosecutor has proven the defendant's guilt beyond a reasonable doubt, and the defendant should be pronounced guilty.

## **LESSER INCLUDED OFFENSE**

The crime of "murder" includes the lesser offense of "manslaughter." The judge may consider the lesser offense of "manslaughter" if:

- (1) He or she finds the defendant not guilty of "first-degree murder"; and
- (2) The evidence is sufficient to establish that the defendant committed only the lesser crime.

The defendant cannot be found guilty of the lesser-included offense of manslaughter unless the State has proven each element of the lesser-included offense beyond a reasonable doubt.

The difference between murder and manslaughter focuses on the defendant's mental state when committing the prohibited act. Manslaughter does not require that the defendant acted with the intent to kill the victim.

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**IN THE M O C K T R I A L C O U R T  
R E D R O C K C O U N T Y , S T A T E O F U T A H**

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**STATE OF UTAH**

Prosecution,

v.

**AVERY ZABRISKIE,**

Defendant.

**AFFIDAVIT OF  
CASEY HAYES**

Case No. 15cr01234

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CASEY HAYES, having been duly sworn, hereby states the following:

1. My name is Casey Hayes, and I was born May 20, 1992. Since 2000, I have lived in Red Rock, Utah. My parents are both journalists who work for *National Geographic*. They married after they met on safari in Africa. They're pretty famous and move frequently for their jobs. When I was little, they brought me along with them, but when I got to be school age, they wanted me to have a more stable home life. So my aunt and uncle have taken care of me since I was six.
2. My aunt and uncle are in the restaurant business. After years of working for others, in 2004, they finally bought a place of their own: the popular local hangout "Slickrock Diner." Unfortunately, as owners they work crazy hours and aren't home much.
3. The best part of living with them was growing up with my cousin Orson, who was three years older than me. Neither of us had siblings, so Orson basically became my older brother. When I used to get bullied at school because my parents "abandoned" me, Orson would beat up the kids responsible. He got suspended a few times because of that.
4. After Orson graduated high school in 2007, he did not have any concrete plans. Instead of attending college or settling on a career, he fell into a bad crowd. He moved out of the house because he didn't like being hassled by my aunt and uncle, and he didn't listen when I urged him to at least take classes at the community college.
5. I only rarely saw my parents as I got older. I guess those early adventures influenced me because I want to be a photojournalist and travel the world, too. Unfortunately, even with my family connections, that's easier said than done, as I found out when I graduated from Red Rock University, in May 2014, with a photojournalism degree.

6. I had never bothered to apply for internships because I thought for sure I could get a job with *National Geographic*. But the people in charge of hiring wouldn't even take my call. So I bombarded every newspaper and news magazine in the country with my resumes, but no one was interested.
7. Meanwhile, Orson seemed to be doing okay even without a college degree. We didn't see each other much after he moved out; but starting in 2009, whenever I talked to him, he always seemed to have plenty of cash. When I asked how he got it, he wouldn't answer. Yet, if I needed money to buy expensive cameras or photography equipment for college, he somehow knew about it and would give me what I needed.
8. Orson had always been there for me; he protected me growing up, and he provided for me when my parents couldn't. He was pretty much the only person I could rely on and the only true family I had.
9. By October of 2014, having failed in my job search and facing student loan repayments, I called Orson up and asked him if he knew of any job openings because I was kind of getting desperate for money. For weeks he put me off, saying he didn't want me involved in his line of work. I'm not stupid, though, and I knew he must be doing something that wasn't exactly legal.
10. Finally, I admitted to him that I suspected what he did for a living, but by this point, I didn't really care how he made his money. That's when he told me to meet him at Mountain Goat Pub the next afternoon, and we'd discuss me working for him.
11. Mountain Goat Pub is pretty much a "dive" filled with rough-looking guys, and a lot of them seemed to know Orson. We shared nachos in a corner booth; then, when no one was nearby, Orson leaned forward and said, "I had hoped you'd never have to be coming to me for a job. I know it's not much, but as you can see, I'm well-respected around here. That's because this whole part of town is my territory, and you could say I'm a mid-level manager."
12. Then he explained that he made his money by running a network of drug dealers. He said he also made money gambling on sports because he was pretty good at it, but his real income came from drugs. He offered me a chance to work with him "until you find something else. You're so clean-cut; no one will ever suspect you. Maybe you can help me expand into Red Rock University, too."
13. With no other options, I reluctantly agreed. Orson said he'd make sure I had an easy territory with no chance of getting hurt. He promised to take care of me, like always.
14. Even though I agreed, I was pretty scared. I'd always stayed far away from drugs in high school and college, and I hated to be involved with them in any way. Orson was not just dealing in marijuana. He also was involved with selling and recruiting others to sell methamphetamine.

15. Within the first few weeks, I managed to sell some marijuana at RRU, but I was so unsure of myself that I wasn't very good at it. Orson eventually gave up and said he'd use me as his "gofer" and driver when he had runs to make. I felt better about that and could almost make myself believe that I wasn't doing anything wrong. Thankfully, Orson paid me a ridiculous amount of money to help him, which eased the pressure of my student loans.
16. But on June 8, 2015, everything went horribly wrong. The date is burned into my memory because it was a few days after my birthday. Orson called me up around 8 a.m. and said he needed help with a problem. He didn't tell me details besides the fact I would be driving.
17. Soon he pulled up in his car and told me to take the wheel. Next thing I knew, Orson told me to park across the street from a bank downtown and to keep the engine running. I was a little surprised by the request, but I figured he needed to make a quick deposit or something.
18. While I was waiting in the car, I saw a police officer walking down the sidewalk toward the bank. It made me a bit nervous to see him/her. I didn't have any idea what was about to occur, but because Orson had been arrested a few times, we tried to keep away from cops as a general rule. I hadn't seen the cop before, but I know now that s/he was Detective Zabriskie.
19. The cop strolled into the bank. I had my windows down because it was such a nice day. The next thing I knew, I heard shouting and several rapid gun shots; then Orson came bolting out of the bank. He leaped in the car and told me to floor it. I hit the gas and looked in the rear view mirror. I saw Detective Zabriskie dash out of the bank and sprint toward our car, pointing his/her weapon toward us.
20. I remember being surprised both by how fast Zabriskie could move, as well as by the odd, jerky way in which s/he ran. With my photojournalism training, I pay attention to unusual scenes and movements, and Detective Zabriskie's motions were very distinctive. Fortunately for us, Zabriskie must have decided it was too dangerous to shoot at us because of all the people nearby, so we made a clean get away.
21. Orson told me to take him to a friend's house, ditch the car, and to make sure to get rid of any evidence pointing back to us, which I did. I left it in a parking lot near the mall, removed the license plate, used a cloth to wipe my prints off everything, and then caught a bus home.
22. When I heard on the news that a college student had been shot in the bank and was in critical condition, I almost called the cops to turn Orson in. I mean, selling drugs to willing customers is one thing, but shooting innocent bystanders in a bank is totally different. Yet, I was afraid I'd be charged and maybe even sent to jail, and I'd do anything to avoid that.

23. Going to jail is my biggest fear; I mean I'm not even "bad" enough to sell drugs to willing buyers, so there is no way I'd survive in lockup. Since the police hadn't come to get me, I figured maybe I'd just lay low and pray no one found out I was involved.
24. The next evening Orson called and asked me to meet him again at Mountain Goat Pub. I didn't recognize the phone number when it popped up on my "caller ID" because it was different than his usual number. When I mentioned it, Orson said he'd lost his phone during the robbery and was using a prepaid phone. He said he needed to skip town for awhile and wanted to talk with me before he left. He told me to get to the bar by 10:30 p.m.
25. When I arrived, Orson was watching the NBA playoffs on the big-screen TV. The Cleveland Cavaliers were playing the Golden State Warriors, and I suspected Orson had a lot of money riding on that game. Orson told me he'd recently lost a large amount of money gambling, and he didn't have the cash to pay his drug bosses. That's why he'd taken the extreme step of trying to rob the bank, before his bosses lost patience and "made an example out of him."
26. I'd never seen Orson look so stressed, and several times during the game, he checked his phone for texts. When the Cavaliers beat the Warriors after a close fourth quarter, Orson moaned and said, "Now I'm done for." Then he told me he needed to go outside for some fresh air.
27. By that time, it was almost midnight. But instead of going to the front of the bar, Orson went out the tiny side door to the alley. I wanted to make sure he was okay, so I waited a moment and followed him outside. I heard Orson exclaim, "Why are you here!?" I leaned against the dumpster and tried to listen, although they were talking pretty quietly.
28. At first, I couldn't see very well because there were no lights in the alley. But there was some moonlight, and after my eyes adjusted to the darkness, I could see better. Twenty feet away from me, a person the same height and build of Detective Zabriskie was standing opposite of Orson, with his/her right hand on the alley wall.
29. His/her left arm was raised towards Orson, and it looked like s/he was holding a large handgun. Then Orson begged loudly, "Please don't do this." The figure said: "You brought this on yourself; you should have known you were going to pay one way or the other. Now I get to make an example of you."
30. I'm not familiar with Detective Zabriskie's voice, so I couldn't identify the person by sound, even if I heard that person again today. Orson lunged at the figure and tried to grab his/her left arm, but the person blocked Orson with his/her right arm and immediately fired several shots. Orson clutched his side and fell to the ground, and the figure ran away, dropping something as s/he went.

31. I rushed over to Orson and tried to stop the flow of blood, yelling, "Call 911!" A security guard from the bar across the street ran over to me. I grabbed his/her arm and tried to tell him/her to chase the shooter, but the shooter had already disappeared.
32. The security guard said s/he was an off-duty police officer, Officer Torres. S/he quickly called an ambulance and then asked if I'd seen or heard what happened. I told him/her about seeing the person leaning on the wall before shooting Orson, and that the shooter dropped something as s/he fled. Torres searched the area and identified a cigarette pack in the spot where I'd seen an object fall.
33. The paramedics arrived shortly afterward, and I rode with Orson to the hospital. The paramedics kept telling me everything was going to be okay, but Orson died before the doctors could help him. By that time, Officer Torres had come to the hospital along with several other cops.
34. Before I knew what was happening, they started asking me questions. Officer Torres asked me if I knew who shot my cousin. I was so stunned by all that had occurred, I could hardly think. I couldn't even tell the officers about the shooter's gender or race.
35. The next morning, I was taken to the police station. The same cop, Officer Torres, had more questions for me. We were sitting in an interrogation room with windows that looked out on the main part of the station. After a few minutes, Detective Zabriskie walked by the window, and I was shocked to realize that Zabriskie was the shooter! When I told that to Officer Torres, s/he looked angry and told me I was crazy, but the other officer in the interrogation room started writing down my statement right away.
36. I thought I'd be free to go after I gave my statement. But before I could finish telling all that I knew, Officer Torres interrupted and started interrogating me about the bank robbery. Apparently, a security camera had caught my image on video, and they had connected me to the attempted robbery. I stopped talking until I could get a lawyer.
37. Even though I only drove Orson to and from the bank and didn't know what he was planning, I was charged with assault with a deadly weapon inflicting serious injury, and robbery with firearms.
38. For my testimony against Detective Zabriskie, the state has agreed to reduce my crimes to simple assault and accessory after the fact to robbery with firearms. The state also has agreed to recommend a maximum sentence of 13 months, to be served after I testify. I have been in the Red Rock County jail since I agreed to the deal.
39. I'm convinced that Zabriskie is responsible for Orson's murder, although I'll admit I'm not 100% sure because it was difficult to see that night. But the

person in the alley was exactly the same size as Detective Zabriskie, and the person ran exactly the same way as Detective Zabriskie ran when s/he dashed out of the bank: fast and with jerky, unusual motions.

40. What Orson did was wrong, but he didn't deserve to be shot down like a dog in the alley by a crazy cop.
41. Of the available exhibits, I am familiar with the following and only the following: Exhibits 1 and 3. Exhibit 1 is my guilty plea and plea deal.
42. I hereby attest to having read the above statement and swear or affirm it to be my own. I also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it should contain everything I knew that may be relevant to my testimony, and I followed those instructions. I also understand that I can and must update this affidavit if anything new occurs to me until the moment before opening statements begin in this case.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 8th day of September, 2015.

Casey Hayes

Casey Hayes

Subscribed and sworn before me on this, the 8th day of September, 2015.

Elizabeth Eckhardt

Elizabeth Eckhardt, Notary Public

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**IN THE MOCK TRIAL COURT  
RED ROCK COUNTY, STATE OF UTAH**

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| <p><b>STATE OF UTAH</b></p> <p>Prosecution,</p> <p>v.</p> <p><b>AVERY ZABRISKIE,</b></p> <p>Defendant.</p> | <p><b>AFFIDAVIT OF<br/>KRIS LEE</b></p> <p>Case No. 15cr01234</p> |
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KRIS LEE, having been duly sworn, hereby states the following:

1. My name is Kris Lee, and I live in Capital City, Utah. I am a forensic specialist at the Red Rock Police Department. I studied chemistry at Julian College in Albuquerque, New Mexico, because I was originally planning to attend medical school, but I was bitten by the CSI bug and decided to pursue forensics instead. I attended the University of New Mexico to earn my Masters in Forensic Science.
2. Because of my excellent grades, I was chosen for a fantastic summer internship with NCIS near D.C. I even had a chance to co-author a paper for the *Journal of Forensic Sciences* with two of the NCIS agents.
3. I graduated from the master's program in December of 2002, and after a brief training period, I started working as an assistant forensic specialist at the Albuquerque Police Department in March of 2005. In March of 2015, I moved to Capital City, Utah, and began working in my present position.
4. My job is nothing like the television shows. I don't do any crime-scene investigations myself; instead, I stay in the lab analyzing evidence collected from crime scenes by others. I have only testified in court in four previous cases ranging from kidnapping to armed robbery, but this is my first time testifying in a murder trial.
5. I spend most of my time in the lab, so I don't interact with many people at the department besides the other CSI staff. I had worked at the Red Rock PD for several weeks before I even saw Detective Zabriskie. But I had heard about him/her before we met. Most of my coworkers had great things to say about Zabriskie.
6. In 2005, Zabriskie had won an award for his/her excellent work, and it wasn't just a fluke. I was told that Zabriskie was responsible for more convictions than any other

detective in each of the previous three years. Yet, several officers didn't seem to be as enthusiastic, especially Officer Cochran. My coworkers told me Cochran was jealous because Zabriskie was promoted over Cochran, even though Cochran had been with the police force longer.

7. My first impression of Detective Zabriskie was less positive than his/her record would suggest. I specifically remember the day we met because I was geeking out over the delivery of our new mass spectrometer, and I came in to work early on Wednesday to check it out.
8. The officers were all in a buzz because a repeat offender named Orson Hayes had been shot and killed on Tuesday night. I'd heard that Detective Zabriskie often generated good case leads right away, and when Detective Zabriskie entered the station in the middle of the discussion, the chief asked Zabriskie who s/he thought might have murdered Hayes. Zabriskie rudely said, "I have no idea," and s/he turned abruptly and left the room.
9. From that point on, I didn't have any further interactions with Detective Zabriskie until I was officially put on the Orson Hayes case. Even though I had been hired by the Red Rock Police Department because of my outstanding work in New Mexico, I was a bit surprised to be named the lead forensic specialist on a big murder case so soon after joining the RRPD.
10. But when I was told that Zabriskie had been identified as the shooter by an eyewitness, it made sense to me: my lack of personal connections to Zabriskie would be an asset to the investigation. I have always been a facts person. I rely on evidence to draw inferences and conclusions. And after completing my investigation, the facts reinforce my gut feeling that Zabriskie is guilty.
11. From day one on the case, I was swamped. First, I had to analyze DNA samples. DNA is a biological molecule present in every cell in the body with the exception of red blood cells, and each person's DNA is unique (unless they are an identical twin). Every police officer in Red Rock must give a DNA reference sample when they begin employment. I compared the DNA sample from Detective Zabriskie to a swab taken from under the victim's nails.
12. I was able to complete a Short Tandem Repeat ("STR") analysis without incident. In this type of test, we examine 15 specific locations ("loci") on a DNA sample. At those locations, short segments of DNA repeat a specific number of times that varies among individuals. At each locus or marker, a person will have two "alleles" (genetic variants), one allele from each parent. Each person's pattern of alleles at these 15 locations is almost always unique. In addition to the 15 markers, the test also contains a special marker which is used to determine the person's gender.
13. The STR test produces a computer-generated graph called an "electropherogram" that uses "peaks" to represent the alleles. In forensic tests, we compare the

electropherogram from the evidence with electropherograms from reference DNA samples taken from possible suspects who might have contributed DNA to the crime scene sample. If the electropherograms match, we can calculate the random match probability (RMP). The RMP tells us the probability that a randomly chosen, unrelated person would happen to have the same DNA profile as the evidence sample.

14. As expected, the evidence sample contained a mix of DNA from two individuals: Orson Hayes himself, and the unknown person whose DNA was found under Hayes' fingernails. Detective Zabriskie's DNA sample was the same gender as the evidence sample, and it was identical to the unknown person's DNA in the evidence sample at 13 out of 15 markers.
15. The other alleles were missing, or "dropped," from the evidence sample as sometimes happens when the sample is amplified to conduct the test. I calculate that the RMP for this sample is one in one billion, which means that the chance of a random person's DNA matching the unknown person's DNA profile is one in one billion.
16. Now, I will admit that, with any DNA technique, jurors should not rely on DNA evidence alone if other factors raise doubt because sometimes contamination of samples can occur. I did not collect the DNA evidence for this case myself, so I cannot say with 100% certainty that no cross-contamination took place.
17. In any case, I followed the standard procedure for a DNA test, and it was successful. The samples from Zabriskie and the foreign skin cells collected from the victim were a match. Usually this scenario happens when the victim scratches the attacker in a struggle. Unfortunately, I have no context for how or when such a struggle occurred. It could be from the time of the murder or days earlier. But given that I have complete confidence in our crime scene investigators, I am certain that Zabriskie did have a violent encounter with the victim at some point before the victim's death.
18. Next, I examined the cigarette pack found at the scene where the fleeing criminal dropped an item. I first tested the pack for fingerprints, but no prints were complete enough for a usable result. I then tested the pack for DNA and again had a match for Zabriskie. Dozens of cigarettes were found in the alley, but I did not test them against Zabriskie or any other potential criminal in our own database or in the local, state, or federal levels of the national CODIS DNA database.
19. Unfortunately, I cannot determine exactly when Zabriskie dropped the cigarette pack. A DNA match can link a person to an item found at a scene but cannot prove exactly when the person was there. So if a person claims they were at a crime scene for a different reason, the DNA evidence alone is not sufficient to prove they committed the crime. But I do know that, at some point, Zabriskie dropped a cigarette pack in the vicinity of the crime scene, and it had to be close to the time frame of June 9, 2015. Otherwise, I would have been unable to extract DNA from the cigarette pack because the DNA would have degenerated too much to be analyzed.

20. The detectives lifted a clear, latent fingerprint from the alley wall where the victim's cousin said s/he saw the shooter leaning right before the murder. Fingerprint analysis involves comparing the friction ridge patterns (the swirled skin on a person's fingertip) between two sample prints, including the spacing, location, shape, and number of ridges. A person's friction ridge patterns don't change over his/her lifetime, and these ridge patterns are unique; even identical twins do not have identical fingerprints.
21. I was able to match six different points on the latent print from the alley wall with the same points on Detective Zabriskie's fingerprint. Given how many people use that well-traveled alley on a regular basis, and the excellent definition of the fingerprint, I concluded that it was deposited within a few days of the murder.
22. I must admit that questions have been raised recently about the validity and reliability of fingerprint analysis, especially when the number of points that match are in the single digits like here. Obviously, I would have preferred to have a 12 or 15 point match. But fingerprint analysis is still heavily used as a reliable method in Utah and other police departments around the country. Still, I admit that it is wise not to rely solely upon fingerprint analysis for a criminal conviction, especially in a case involving murder.
23. Next, I examined the bullet taken from the victim. I determined that the bullet, a .357 Magnum, came from a Colt Python with a 6-inch barrel. Normally, Colt Pythons are pretty rare, sort of a collector's item, because they are no longer manufactured. They're also large, nearly a foot long, including the barrel and handgrip. But the police chief told me that one of the local drug gangs uses them when enforcing gang "justice" against those who cross the gang in some way. Evidently, they think it's cool to use Pythons to keep people in line.
24. Unfortunately, I didn't have the murder weapon for my ballistics analysis because it has never been found. In fact, to do a test firing for ballistics analysis, I used three Pythons that we had in the evidence locker from a raid on the gang. I heard that we had collected at least four Pythons during that sweep, but I don't know where the other one is. Unfortunately, with every police officer having access to the evidence locker, things sometimes go missing.
25. I also examined a black leather "fanny pack" found in a trash can near Spaulding's Gym, two blocks from the crime. It was large enough to hold a Colt Python--over 14 inches long in all. Unfortunately, I was unable to obtain any usable fingerprints from the fanny pack as it was wiped clean, which I thought was rather unusual.
26. A disposable cell phone recovered on the victim's body contained several text messages that Orson had received right before he was killed. The texts had been sent using an unlisted number. They seemed to indicate a meeting had been arranged between Orson and a person trying to collect on a debt Orson owed. This evidence did not fit with the physical evidence implicating Detective Zabriskie, which caused me some concern.

27. But just as I was wrapping up my investigation, Officer Cochran brought me the cell phone that Orson Hayes dropped and Zabriskie recovered at the scene of Orson's attempted bank robbery on June 8. While most of the texts were unremarkable, one message stood out. It had been sent at 11:00 p.m. on June 7 and later deleted, but I was able to recover it.
28. The message said, "Meet me at Mountain Goat Pub on Tuesday at quarter to midnight. Bring what you owe me, or you'll be sorry." The message also was sent using an unlisted throw-away one-time use cell phone. I was unable to determine whether the text had been deleted by Orson immediately before the attempted bank robbery or by Detective Zabriskie before s/he put the phone into the evidence locker.
29. Overall, the evidence indicates that Zabriskie had a violent altercation with the victim in which the victim scratched Zabriskie. Zabriskie was almost certainly in the alley around the period when the murder occurred as revealed by the fingerprint on the alley wall and the dropped cigarette pack. Because of the bank cell phone text, Zabriskie had opportunity to know that Orson Hayes would be at Mountain Goat Pub around the time that Orson was murdered.
30. Unfortunately, I cannot conclusively tie Zabriskie to the bullet that killed Hayes. Zabriskie had access to the type of gun that was used in the murder, since such a gun is missing from the evidence locker. When considered as a whole, these facts, along with Zabriskie's unusual behavior, are enough to convince me that Detective Zabriskie committed the murder of Orson Hayes.
31. Of the available exhibits, I am familiar with the following and only the following: Exhibits 2, 4, 5, 6, and 9. Exhibit 2 is the transcript of the text messages on the disposable cell phone found on the deceased. Exhibit 4 shows the photographs from my ballistics report, and Exhibit 5 shows the fingerprints obtained at the scene. Exhibit 6 is my Curriculum Vitae, and Exhibit 9 is the transcript of the text messages I recovered from the phone that Detective Zabriskie brought to the station after the deceased's attempted bank robbery.
32. I hereby attest to having read the above statement and swear or affirm it to be my own. I also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it should contain everything I knew that may be relevant to my testimony, and I followed those instructions. I also understand that I can and must update this affidavit if anything new occurs to me until the moment before opening statements begin in this case.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 17th day of September, 2015.

Kris Lee

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Kris Lee

Subscribed and sworn before me on this, the 17th day September, 2015.

*Brandy Jo Wilson*

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Brandy Jo Wilson, Notary Public

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**IN THE MOCK TRIAL COURT  
RED ROCK COUNTY, STATE OF UTAH**

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| <p><b>STATE OF UTAH</b></p> <p>Prosecution,<br/>v.</p> <p><b>AVERY ZABRISKIE,</b></p> <p>Defendant.</p> | <p><b>AFFIDAVIT OF<br/>HUNTER BECKSTEAD</b></p> <p>Case No. 15cr01234</p> |
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HUNTER BECKSTEAD, having been duly sworn, hereby states the following:

1. My name is Hunter Beckstead. I was born in New York and spent my childhood there. When I was four years old, my parents enrolled me in tumbling lessons. To my teacher's amazement and my parents' delight, I was a natural. After years of grueling training in gymnastics, I entered the 1996 Olympics where I won a bronze medal.
2. Unfortunately, my athletic journey ended when I sustained a serious concussion in 1999. Because it's not a contact sport, most people don't realize that you can become seriously injured doing gymnastics. I was one of those people. Due to my injuries, pressures from my parents, and my waning interest in the Olympics, I quit competitive gymnastics.
3. I spent some time in New Mexico receiving treatment by renowned concussion expert Dr. Bevin Register. Although Dr. Register was able to help me a lot, I still have some lingering problems with short-term memory loss. That's one reason I don't drive without a friend in the car; I get lost too easily, even with a GPS. It's just easier to depend on friends to help direct me or to call a cab.
4. I also have a really hard time remembering dates and times now, too. If I didn't have alarms and reminders on my phone, I'd always be running late or be way early for my appointments--my sense of timing sucks.
5. In 2006, I decided to put my knowledge of gymnastics to use and opened my own gym--one which is unconventional, to say the least. To attract both adults and kids, I teach a blend of parkour and gymnastics. Parkour is a noncompetitive discipline, also known as free running, which involves acrobatics and movement over obstacles. A lot of college students come to the gym because they think parkour is cool, but I even have doctors, lawyers, and businessmen as members. I think they like pretending to be special agents or something.

6. I first met Avery Zabriskie in 2013 when s/he joined my gym. Avery was so friendly and polite, we really hit it off. We started going out after workouts to have a drink or watch a game. It turned out that we were both fans of the Golden State Warriors basketball team.
7. At first, I was surprised when Avery told me s/he was a police officer. I mean, Avery is very athletic, but his/her demeanor seemed more like that of a businessperson to me. Of course, I knew about Zabriskie Enterprises, the huge computer software company founded by Avery's family, and I originally figured Avery must work with computers.
8. But when Avery told me that s/he was a police detective, I could see how that made sense, too. Avery clearly loves his/her job; s/he often talks about how s/he feels the work is important because it gets criminals off the street and keeps "ordinary citizens" safer. Avery said parkour was really helpful for his/her job because it made it easier to catch the "perps."
9. Of course, just as with any other cop I've known, Avery got upset when lawyers would get the criminals off on a technicality. Yet, the intensity of Avery's emotions when one of the criminals got off "scot-free" seemed out of proportion to me on occasion, at least until I found out the reason behind Avery's passion.
10. One night when we were out at a bar and Avery was ranting about a drug dealer who had just gotten a plea deal, I asked why s/he was so worked up about it. That's when Avery told me that back in college, Avery's roommate was an innocent bystander who was shot and killed during a drive-by gang shooting. The shooter got off when he turned state's evidence on another gang member, and Avery was outraged by the injustice of it. In fact, that event prompted Avery to change his/her major from a Business degree to Criminal Justice.
11. Avery was sometimes busy with investigations, so his/her attendance at the gym was sporadic. Even so, Avery was an ideal student. S/he focused on the athletic elements to promote self-mastery and focused on the acrobatics to help apprehend criminals.
12. Avery could be pretty intense during workouts and sometimes got upset if s/he didn't learn a new skill right away. I told him/her to relax and not stress, but Avery would glare at me and say, "I need to get this right, so I can get those scum off the street."
13. It's almost like Avery could be two different people: really easy-going most of the time, and then, wham! This intense, almost scary persona would pop out of nowhere. Some of the other gym members even commented on it to me after they observed Avery's demeanor at the gym on such occasions.
14. But I never ended the friendship or voiced my concerns to anyone because, I have to admit, being friends with Avery had its benefits. We don't use computers very often for our gym, but Avery still gave us free software from Zabriskie Enterprises. S/he even secured some funds for my gym to start a proper advertising campaign. After

Avery's help, our gym's membership doubled! And Avery made sure that we had extra police patrols on nights that they had awful live bands at Mountain Goat Pub, so we didn't have to worry about vandalism from drunken patrons.

15. Whenever Avery was available, s/he and I would go grab some food and just hang out together. On June 9, 2015, Avery had the day off, so we had plans to watch the NBA playoff game. Avery seemed on edge during the workout, and when I asked if something was wrong, Avery just said, "I'm just tired of perps getting away with stuff," but wouldn't say any more.
16. After our workout, we went to Bristlecone Sports Bar, part of a chain that started in New Mexico. Even though Mountain Goat Pub is closer to the gym than Bristlecone, it draws a pretty rough crowd that's not much to our liking. We usually go to Bristlecone because it has bigger TV's and better food.
17. Often, we walk to Bristlecone because it's only a mile away and parking can be difficult, but Avery insisted on driving that night to save time. In fact, we were still in our workout clothes because we didn't want to take time to change and miss the game.
18. I had to move a large black "fanny pack" out of my way when I got in Avery's car, but I can't remember if it felt heavy or not; it may have. When we got to Bristlecone, Avery ordered dinner, and we both got several drinks, although I had more than Avery.
19. I cannot remember the Warriors' opponent in the game, although I remember being disappointed when Golden State lost. Sometime after 11:30 p.m., Avery went outside to smoke. Bristlecone has large plate-glass windows, and I saw Avery open the passenger-side door of the car when s/he went outside. I assumed s/he needed to get his/her cigarettes out of the car, and I went back to watching the post-game analysis.
20. I'm pretty sure s/he came back inside by midnight. Avery seemed slightly out of breath, but at the time, I assumed that it was a result of smoking. Avery also seemed kind of sweaty, but it was a muggy night for June, which is one reason I didn't mind driving to Bristlecone. Avery drove me home around 1:00 a.m. I don't remember seeing the fanny pack in the car during the ride home, but neither was I looking for it.
21. The next day I heard about Orson Hayes' murder on the news, and I remembered that Orson was one of the criminals Avery had mentioned as "getting away with stuff one time too many." It made me think again about the length of time Avery was gone from Bristlecone's and about Avery being sweaty and out of breath when s/he came back in. I know Avery's car didn't move while s/he was outside because I glanced out several times and saw it while Avery was gone.

22. But I had often heard Avery brag about how s/he could run a mile faster than any other cop on the force. Given Avery's great athletic condition and parkour training, Avery easily could have run to Mountain Goat and back in the twenty-five minutes s/he was outside and away from me.
23. Ordinarily, I never would have thought of such a thing, but when Avery came to the gym several days after Orson's murder, s/he seemed happier than I'd seen him/her in a long time. When I asked why, Avery said, "It's always great when a perp gets what's coming to them. Sometimes it's nice to see justice served, even if it doesn't happen in a court of law." It gave me the chills, and I decided I'd better come forward and tell the police what I knew.
24. Of the available exhibits, I am familiar with the following and only the following: Exhibits 3 and 7. Exhibit 3 is a map of part of Red Rock. Exhibit 7 is the receipt from Bristlecone Sports Bar, which Avery paid.
25. I hereby attest to having read the above statement and swear or affirm it to be my own. I also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it should contain everything I knew that may be relevant to my testimony, and I followed those instructions. I also understand that I can and must update this affidavit if anything new occurs to me until the moment before opening statements begin in this case.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 29th day of September, 2015.

**Hunter Beckstead**

Hunter Beckstead

Subscribed and sworn before me on this, the 29th day of September, 2015.

**Fran Chichester**

Fran Chichester, Notary Public

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**IN THE MOCK TRIAL COURT  
RED ROCK COUNTY, STATE OF UTAH**

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| <p><b>STATE OF UTAH</b></p> <p>Prosecution,</p> <p>v.</p> <p><b>AVERY ZABRISKIE,</b></p> <p>Defendant.</p> | <p><b>AFFIDAVIT OF<br/>AVERY ZABRISKIE</b></p> <p>Case No. 15cr01234</p> |
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AVERY ZABRISKIE, having been duly sworn, hereby states the following:

1. My name is Avery Zabriskie, and I am a lifelong resident of Utah. I am the first person in my family to work in law enforcement. My grandfather, Jon Zabriskie, started Zabriskie Enterprises, for which my family is known. Zabriskie Enterprises innovates, develops, and sells computer software throughout the southwest. You would have to travel outside the Four Corners states to find someone who doesn't know my family name.
2. My older brother and sister both entered the family business and have been promoted to high positions in the company. My dad urged me to study organizational management in college and join Zabriskie Enterprises, too, which I reluctantly agreed to do. As a kid, I had always dreamed of being an FBI agent, but I set my dream aside for a more "practical" career.
3. That all changed when I was a sophomore in college at Red Rock University. I was rooming with my best friend from high school; we had joined the same service clubs and played on intramural sports teams together. One evening s/he made a run to a late-night copy center to print flyers for an upcoming event, and on the way back to the dorm, s/he was gunned down in the street by a low-level drug dealer who was trying to kill a rival gang member.
4. S/he died on the way to the hospital. I couldn't believe it. They caught the shooter, but then they let him plead to a lesser charge in return for testifying against one of the gang leaders. Instead of going away for felony murder, the shooter only got five years for voluntary manslaughter and was paroled in just two years.
5. I couldn't believe it; my best friend was dead, and the shooter would be released before I would even graduate from college. I changed my major to Criminal Justice and never looked back.

6. My dad was disappointed at first, but eventually understood . I'm fortunate that my family has provided emotional and financial support throughout these proceedings, too. They know I would never do anything to embarrass the Zabriskie name.
7. I graduated cum laude with my degree in Criminal Justice in 2002. Immediately, I became a sworn officer at the Red Rock Police Department. I worked on patrol for two years before accepting a position as a vice squad detective. It was quite an honor to earn a promotion so soon.
8. Most of my coworkers were glad for me, but Officer Cochran seemed resentful. He's gone out of his way to make disparaging remarks about me at the station. I never did anything to earn that kind of response; I guess he was just jealous about my promotion.
9. Working vice was exhilarating and challenging work. I always felt like my efforts were making a difference. It seems that my superiors appreciated my hard work and passion because, in 2005, I won an award for my service. In fact, I'm known at the station for putting away more criminals than anyone else on the squad. I figured if I worked hard enough, I could get promoted to the Homicide Division and maybe be police chief one day. That way I could bring honor to the family name in my own way. After my name is cleared, I still hope to do that somewhere--if not in Utah, then somewhere else in the southwest.
10. I'll admit I've made a few mistakes along the way. In 2006, I led my first investigation and let the stress get to me. I didn't hurt anyone physically, but I was too intense during an interview and scared a potential witness. The only other time I was reprimanded was in 2009. Two drug informants became hostile and uncooperative during a sting operation, and I responded with force.
11. My partner at the time vouched for me and explained how my response was harsh but proportional and appropriate. My superiors disagreed after listening to Officer Cochran's version of events. Besides those two incidents, I've had a great working relationship with my past partners and Police Chief Skupin.
12. To help me deal with job stress, I decided to get involved in sports again. Specifically, I started learning basic gymnastics and parkour from former Olympian, Hunter Beckstead. Parkour is a great stress-reliever and lots of fun. It involves moving from place to place in the most efficient manner while dealing with obstacles, kind of like James Bond.
13. Hunter and I are both lefties, so s/he's able to show me some cool moves that right-handed trainers can't really demonstrate. Parkour takes a lot of balance and strength, and it comes in really handy when I have to chase down criminals on the job. It also helps me to excel in the annual physical fitness tests we have to pass as detectives on the force. Some people joke that I run funny, but last year I came in first out of the whole station in the mile run.

14. On the vice squad, we focus on apprehending drug dealers and stopping gambling and prostitution. That's how I first encountered Orson Hayes in 2010. My partner and I were working to disrupt the flow of drugs into the county. We started with apprehending dealers and distributors to gain information on the large-scale importers.
15. On March 17, 2010, we obtained a warrant to search the home of a suspected drug distributor. The suspect wasn't home, and we didn't find any drugs, but we did encounter Hayes passed out on the couch. Given Hayes' association with the suspect, we took him in for questioning, but, ultimately, we released him due to a lack of evidence.
16. Several months later, I encountered Hayes again when we stopped a car that was weaving on the road. He tested positive for marijuana; we also found small amounts of marijuana in the trunk. He was arrested, but, as a first-time offender, he got off with a slap on the wrist.
17. In June of 2011, Hayes was arrested selling marijuana downtown, and this time he served six months in jail. He seemed to "lay low" for a while, but was arrested in October of 2012 for trespassing at the Utopia Zoo after he climbed over the fence to get in. Sam Maddox, the zoo facility manager, told me s/he had seen Orson in April 2014 at the zoo, talking to a tall, scruffy looking guy in a secluded area and acting suspiciously.
18. When Sam yelled at them and started to approach, Orson managed to scale the fence and escape. The zoo security guard caught the other person when he lost his grip on the fence, and it turned out to be none other than Taylor Malcolm, who had recently lost a civil lawsuit against the zoo for injuries suffered on a tram ride. When the cops searched the area where Taylor and Orson had been meeting, they found several bags of methamphetamine. Taylor refused to implicate Orson in any way, but it seemed pretty clear that Taylor was only the "small fry."
19. We suspected that Orson was moving up in the local drug-gang hierarchy, but we had no solid proof. I determined to do all I could to get enough evidence to put him away before anyone got hurt. We tried to insert an undercover cop in the gang but were unsuccessful. And none of our attempts to bribe an informant paid off, either. It became clear that someone high up in the gang, higher than Orson, had really put fear into all of them.
20. The last time I saw Hayes was on the morning of Monday, June 8, 2015. I had just gotten off of a night shift and decided to stop by the bank on my way home. As I entered the bank, I saw Orson pointing a gun at a bank teller, demanding money be put into a bag. Other customers were cowering against the wall. Surprised, I hesitated for a split-second, just long enough for Orson to turn around and see me.

21. As he started to run, I lunged forward to grab him yelling, "Police! Drop your weapon!" Instead of dropping the gun, he panicked and tried to shoot me, firing three shots in quick succession. I kept dashing forward and tried to grab Orson's gun rather than risk shooting the bank teller, but Orson clawed at my hand, causing me to drop my gun for a second.
22. During the scuffle, Orson dropped his gun, and a cell phone fell out of his pocket. He dashed out of the bank while I grabbed up my gun and ran after him. I saw him jump into a car parked on the street, and, for a moment, I raised my gun to shoot at the car. But too many pedestrians were on the sidewalk, so I couldn't risk it.
23. Just then, I heard someone in the bank yelling that a customer had been shot. I radioed for help as I turned to run back in the bank. To my horror, I saw a college student lying on the ground in a pool of blood. It made me think of my college roommate's senseless death. Fortunately, the student was alive, but in a lot of pain, and going into shock. I put Orson's cell phone in my pocket, so no one would take it while I wasn't looking, and I stayed with the student until the paramedics arrived and loaded the student into an ambulance.
24. When the other officers arrived, I told them what had happened, although in the rush of adrenaline I totally forgot about Orson's cell phone. The officers secured Orson's gun, which turned out to be a Colt Python. The gun was put in the evidence locker and labeled as being connected to Orson's case.
25. After I gave my statement, I wanted to go out and help with the investigation, but the chief told me I had just finished my shift and had to get some rest, so I wouldn't make hasty decisions from fatigue. I admit I got a bit upset, and the chief put me on administrative leave and told me to take the next two days off.
26. It was hard to follow those orders as the whole bank scene brought back so many memories of my college roommate's murder, but, of course, I knew the chief was right. I went home and threw off my uniform, without thinking about the cell phone, and immediately fell asleep. Six hours later, I woke up and found the phone, so I took it to the station and went back home.
27. On Tuesday, I kept thinking about the shooting at the bank while I puttered around, wishing I weren't on administrative leave. That evening I met up with my trainer, Hunter Beckstead, at the gym just as we had already planned to do. I figured the exercise would help to settle my nerves.
28. Sometimes after workouts, we have a drink together, and we did so on that night. Around 9:30 p.m., I drove us to Bristlecone Sports Bar to watch the Cleveland Cavaliers versus the Golden State Warriors game. It was kind of hard to concentrate on the game, as I kept thinking about that poor student. The day didn't get any

better when the Warriors lost. It's a small thing, I know, but it didn't help lift my mood any, that's for sure.

29. At around a quarter to midnight, I went outside to smoke. I know it's not healthy, and I'm trying to stop. It's just a bad habit I picked up while undercover. I finished smoking by midnight and rejoined Hunter.
30. As I understand it, Orson Hayes was killed around the time I was smoking outside. If that's true, then it was physically impossible for me to be responsible. Bristlecone Sports Bar is nearly a mile away from Mountain Goat Pub, where Hayes was shot. There's no way I could run to that bar, shoot Hayes, and run back all within 15 minutes. Just like Hunter told the police, I visited the car to get out my cigarettes, but the car itself never moved.
31. I think I left the door unlocked, too, because I noticed the next day that the fanny pack I use as a concealed-carry case was missing. Good thing I didn't leave my gun in it at the time.
32. I am aware that my DNA was extracted from a cigarette pack that investigators found in the alley of Mountain Goat Pub. But the bar is right across the street from Hunter's gym, so I've gone to the alley to smoke on numerous occasions. The only crime that cigarette pack should link me to is littering.
33. I admit that I didn't like Orson Hayes, and I'm not sorry he's gone. I have a tendency to get frustrated with criminals, especially repeat offenders. But I would never murder someone. Hayes' murder was sloppy, public, and, most importantly, a heinous crime. I would never be involved with that. I became a police officer to stop criminals, not to become one!
34. Given that Hayes had escalated his crimes from being a drug dealer and cog in the gang machine to armed robbery of a bank, it seems like Hayes must have owed money to someone above him and was trying desperately to pay it off. Instead of wasting time with me, my colleagues should be trying to find the real murderer.
35. Of the available exhibits, I am familiar with the following and only the following: Exhibits 3, 7, and 8. Exhibit 3 is a map of part of Red Rock, and Exhibit 7 is my receipt from the food and drink that Hunter Beckstead and I ordered at Bristlecone Sports Bar. Exhibit 8 is the disciplinary report from 2009.
36. I hereby attest to having read the above statement and swear or affirm it to be my own. I also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it should contain everything I knew that may be relevant to my testimony, and I followed those instructions. I also understand that I can and must update this affidavit if anything new occurs to me until the moment before opening statements begin in this case.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty on the State of Utah, that the foregoing is true and correct.

DATED the 7th day of October, 2015.

Avery Zabriskie

Avery Zabriskie

Subscribed and sworn before me on this, the 7th day of October, 2015.

Patti Parrish

Patti Parrish, Notary Public

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**IN THE MOCK TRIAL COURT  
RED ROCK COUNTY, STATE OF UTAH**

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**STATE OF UTAH**

Prosecution,  
v.

**AVERY ZABRISKIE,**

Defendant.

**AFFIDAVIT OF  
RILEY TORRES**

Case No. 15cr01234

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RILEY TORRES, having been duly sworn, hereby states the following:

1. My name is Riley Torres. I have lived in Red Rock for over 20 years. I was educated at New Mexico State University, where I majored in Legal Studies with a minor in Cognitive Science. Immediately after receiving my undergraduate degree in 1992, I relocated to Red Rock, where I began working as a patrol officer for the Red Rock police department.
2. In 1998, I was promoted to staff sergeant and put in charge of training all of the new recruits. When Avery Zabriskie joined the force in 2002, I saw that s/he had real potential to be an outstanding officer. To speed up the process, I partnered us together from 2002 until 2004, when Zabriskie was promoted to vice squad detective.
3. The vice squad focuses on moral crimes like gambling, bookmaking, drugs, and prostitution. Admittedly, this promotion was exceedingly rapid, but Detective Zabriskie had demonstrated that s/he was one of our best officers, with a noteworthy ability to locate and arrest criminals.
4. In 2005, Zabriskie won an award for meritorious service. In fact, Detective Zabriskie was consistently at the top of the squad statistics in numbers of criminals arrested and percentage of those arrests that resulted in jail time for the criminal. Because of his/her excellent record, Detective Zabriskie had been first on the list for promotion to the Homicide Division when an opening became available.
5. When I started working with Zabriskie, s/he told me that s/he was related to the Zabriskies of "Zabriskie Enterprises," the renowned software company. S/he didn't want anyone to know s/he came from a wealthy family because s/he didn't want to be treated differently, so I didn't tell anyone else at the station. Zabriskie was the best partner I ever had, extremely courteous and charismatic, with terrific instincts as a cop.

S/he also was very athletic and could chase down even the fastest criminals. Admittedly, Zabriskie has an unusual way of running, but somehow it's effective.

6. One time, Zabriskie's quick reactions saved my life when s/he saw that a driver I had pulled over was about to draw a gun on me. Zabriskie grabbed the driver's arm, twisted it to make him release the gun, dragged him out of the car, and handcuffed him. I was thankful that Zabriskie had realized what was about to happen and embarrassed that I had put myself in danger by a moment's inattentiveness.
7. Admittedly, Detective Zabriskie was involved in a troubling incident in 2006. That summer, s/he led an important narcotics investigation. While performing standard street surveillance, Zabriskie harassed a potential witness by yelling and shining a blinding light in her eyes. The witness never pressed charges, but the police chief issued an official warning to Detective Zabriskie, even though other detectives have reacted similarly when placed under stressful situations.
8. In 2009, Detective Zabriskie was again disciplined, this time for roughing up a couple of drug dealers. To help channel his/her energy, Zabriskie took up sports as a way to vent frustration and stay physically and mentally healthy. S/he told me that s/he had joined a gym which taught parkour, and the physical outlet really seemed to help. I prefer martial arts myself, but to each his/her own. Whatever s/he is doing, it totally works; I haven't seen Zabriskie come close to being rough or overly aggressive since then. To me, Zabriskie is a model detective.
9. In 2012, my twin sons graduated high school and began attending Red Rock State University. To help pay for their tuition, I started moonlighting as a security guard at Thomas' Tavern. Thomas' is a British-themed tavern that caters to a fairly sophisticated clientele. The manager at Thomas' Tavern hires security guards to keep out the lowlifes from the Mountain Goat Pub across the street.
10. I was working security at Thomas' Tavern on the evening of June 9, 2015, prior to going on police duty at 1:00 a.m. It was a beautiful night with clear skies and a half moon. Mountain Goat Pub was packed with customers watching the NBA playoff game between the Cleveland Cavaliers and the Golden State Warriors. I'm not a big basketball fan myself, so I didn't mind missing the game.
11. At around 11:30 p.m., I had to keep out disgruntled fans leaving Mountain Goat after the Warriors lost, but thing died down pretty quickly. I had just checked my watch and noted that it was 11:45 when I heard someone cry out in fear in the alley beside Mountain Goat, followed right away by three rapid gunshots.
12. I ran across the street just in time to see a man lying on the ground with someone bending over him, and another person running rapidly away down the alley. The fleeing person ran in an awkward, unusual fashion, but from the brief glimpse I caught before the person turned the corner, I think the person's motions were distinctly different

from those of Detective Zabriskie. The person fleeing the scene moved like s/he was injured not like it was his/her natural running gait.

13. The person kneeling over the man on the ground urged me to follow the shooter, but I knew I'd never catch him/her, and I felt it was more important to attend to the injured person. As I bent closer, I was shocked to see that the victim was Orson Hayes, a well-known repeat offender who had served time for drug trafficking.
14. I dialed 911 to report that we needed the police and an ambulance, and then I tried to help Hayes, who was bleeding profusely. I asked Hayes if he knew who shot him, but he just said, "Why? Why? I can't believe this is happening! Casey, don't make the same mistakes I did."
15. I didn't know who Casey was until the person kneeling over Hayes said, "I won't, Orson, I won't. Hang in there; it'll be okay--just hang in there." Orson then lost consciousness. Since time is of the essence if arriving officers were to have a chance of catching the shooter, I asked Casey if s/he had seen what happened. S/he told me that the person who shot Orson had been leaning on the alley wall right before the shooting.
16. Casey also said the shooter had dropped something in the alley when s/he was running away. Casey told me where to look, and when I searched, I found a pack of cigarettes. I carefully draped my handkerchief over it to protect it until the police on duty could arrive to collect it as evidence. Then I spoke more with Casey, who told me that s/he was Orson's cousin. Casey seemed to be in shock and wasn't really making much sense; s/he couldn't seem to give many details at all about what had happened.
17. Officer Cochran and his partner arrived only a moment later, as did the paramedics. The paramedics quickly loaded Orson into the ambulance and let Casey ride with them to the hospital. I told the officers what I had seen and showed them the cigarette pack. By the time they finished interviewing me, it was nearly the end of my shift at Thomas' Tavern and time for me to go on duty. We decided it made sense for me to ride to the hospital with the other officers to question Casey. But when we tried questioning Casey, s/he seemed too shocked by all that had happened to remember anything else.
18. The next morning Officer Cochran picked up Casey and brought him/her to the station for more questioning. By that time, we had security video footage that showed Casey had driven the getaway car for Orson's attempted bank robbery two days before. We didn't reveal what we knew at first because we hoped to get more information about Orson's shooting.
19. Casey started talking about how the shooter ran funny, and, just then, Detective Zabriskie walked by the window of the conference room where we were talking. Casey saw Zabriskie and said, "That's the person! That's who shot Orson!" I will admit I got a bit upset because the accusation was so crazy, but Officer Cochran eagerly started writing down Casey's statement.

20. Cochran was always looking for ways to get back at Detective Zabriskie for being promoted over him, so he egged Casey on and almost coached him in his statement, volunteering specific information about the way Zabriskie runs and asking Casey to confirm the details. I got so disgusted that I cut the interview short by telling Casey we knew s/he was involved in the attempted bank robbery. Casey shut up in a hurry when I said that.
21. I wasn't worried by Casey's accusation, though, because I knew the evidence would reveal that Casey was making it all up. It's just crazy to think that an exemplary officer like Detective Zabriskie would murder Hayes in cold blood. That's why I couldn't believe it when Detective Zabriskie was charged with the crime.
22. I knew Cochran would be thrilled with what was happening, and indeed he was, but I couldn't understand why the police chief would believe such an outrageous claim. Maybe he felt threatened by Zabriskie's success? Several other officers seemed happy to join the bandwagon against Detective Zabriskie, too, but they were mainly the officers who have been jealous of Zabriskie's record. It's distressing to see, to say the least.
23. Casey Hayes has even been offered a plea deal to testify against Detective Zabriskie. I now can understand Detective Zabriskie's disgust at the way our legal system sometimes fails to pursue the truth in its zeal to punish someone for a crime.
24. I plan to stay here in Red Rock to support Detective Zabriskie and make sure everyone knows that s/he is innocent. But after this all finishes, I think I'll look for a position in New Mexico because I just can't stand the way some officers have turned on Zabriskie, like a pack of dogs attacking an injured member of the group. It's disgusting.
25. Of the available exhibits, I am familiar with the following and only the following: Exhibit 1, the plea deal offered to Casey Hayes, and Exhibit 3, the map of part of Red Rock.
26. I hereby attest to having read the above statement and swear or affirm it to be my own. I also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it should contain everything I knew that may be relevant to my testimony, and I followed those instructions. I also understand that I can and must update this affidavit if anything new occurs to me until the moment before opening statements begin in this case.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 15th day of October, 2015

*Riley Torres*

Riley Torres

Subscribed and sworn before me on this, the 15th day of October, 2015.

Beverly Bryson

Beverly Bryson, Notary Public



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**IN THE MOCK TRIAL COURT  
RED ROCK COUNTY, STATE OF UTAH**

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**STATE OF UTAH**

Prosecution,  
v.

**AVERY ZABRISKIE,**

Defendant.

**AFFIDAVIT OF  
SAM MADDOX**

Case No. 15cr01234

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SAM MADDOX, having been duly sworn, hereby states the following:

1. My name is Sam Maddox. I was born in Colorado in 1986, but my family moved to Utah when I was small. My parents have a farm where they grow organic vegetables and raise free-range chickens to sell to the gourmet restaurants in Red Rock.
2. I was very involved in 4 H as a child, raising my own goats and cattle for competition, so naturally when it came time for college, I went to the University of Utah to study Zoology. After graduating with my bachelor's degree in 2008, I was fortunate enough to get my "dream job" working as an animal trainer and facility manager at the Utopia Zoo.
3. Superintendent Jordan Hammond is a fantastic employer; he really cares about his employees as well as making sure the zoo visitors have a memorable experience. I have the chance to work with animals ranging from snakes, to otters, to gazelles, to gorillas! I get to work outside much of the time, which is perfect for me.
4. The zoo grounds are large, with nature paths that allow visitors to see the exhibits up close. Part of my job involves patrolling the paths, making sure that the fences are in good condition and no repair work is needed. Walking around the zoo also gives me a chance to interact with our visitors, which I enjoy most of the time.
5. However, in the last couple of years, we've had some issues with local gangs trying to infiltrate the outskirts of the zoo. It appears that they arrange meetings in secluded places for drug sales. I've had to call the police more than once to deal with the intruders or gather evidence on the ground after dealers have run away when they saw me approaching. It's a real concern, so I always keep my eyes and ears open when I'm patrolling.

6. In fact, one of those arrested for drug sales in April 2014 was none other than Taylor Malcolm, the rowdy college student who incited the gorillas on the tram ride awhile back. The gorillas attacked the tram, injuring Malcolm and dashing his hopes for an NBA basketball career. After Malcolm lost his lawsuit against Jordan Hammond--and rightfully so!--he evidently turned to drugs. I saw Malcolm in the woods in April of 2014 with a big guy, clearly exchanging drugs for money. Our own zoo security guard was nearby, so I called him on my cell phone, and he managed to nab Malcolm before he could escape.
7. The other guy got away; I didn't know who he was at the time. But I would soon find out he was Orson Hayes because he didn't stay away for long. After that incident in April of 2014, Jordan Hammond asked the Red Rock police if they could increase their patrols of the area surrounding the zoo. They did, which meant the police were able to respond more quickly when we called them about suspected gang activity.
8. I got to know several of the vice squad members, including Detective Zabriskie. S/he was always very courteous and professional when s/he responded to our calls. Detective Zabriskie expressed determination to do all s/he could to catch the drug dealers because, as Zabriskie said, "A zoo should be reserved for zoo animals for little kids to enjoy. It's our job to keep these other 'animals' away." I am in full agreement with that sentiment!
9. Even with the increased police presence, we still had problems with gangs infiltrating the zoo grounds. In October of 2014, I saw that same large guy back at the zoo again, about to climb over the zoo fence. I hid behind a tree taking photos with my cell phone of him climbing over the fence. I managed to keep the guy in my line of sight without being spotted, and I called the police.
10. Detective Zabriskie responded right away, and I was able to direct the detective to the guy when s/he got there. Zabriskie yelled, "Orson Hayes, you're under arrest!" When Hayes saw Zabriskie, he tried to run away, but Zabriskie ran like lightning and threw him to the ground! It was amazing!
11. Hayes struggled quite a bit and yelled and cursed a lot until the detective got him under control. Detective Zabriskie handcuffed him and frisked him, but didn't find any drugs, and hauled him off. Jordan Hammond pressed charges against Hayes for trespassing, which was all we could do. The next time I saw Detective Zabriskie s/he told me Hayes was let off with only a warning. S/he seemed pretty disgusted by the outcome, as was I.
12. I didn't see Hayes for awhile after that, and the gangs seemed to stay away from the zoo for a bit. But in late April of 2015, it started up again, with me chasing off gang members and finding evidence of drug sales in the outer areas of the zoo grounds. I started patrolling more often.
13. In early May of 2015, we started renovating a number of exhibits at the zoo, and I had to work several evenings in a row to get everything done. The zoo still kept its

normal business hours of 9 a.m. to 7 p.m.; we don't start opening later in the evening until the first weekend in June. It was actually kind of peaceful at the zoo after all the visitors left, so I didn't really mind the late hours too much.

14. On Thursday, May 28, at around 10 p.m., I finally finished for the day and was making one last sweep of the grounds. As I neared the corner of the building housing the snake exhibit, I heard angry voices coming from behind the building, and I quickly ducked into a dark shadow and listened.
15. I heard a man with a deep voice say in a threatening manner, "I've given you enough time! You owe me over 50 grand for the drugs you were supposed to sell through your dealers, and I want my money NOW!! Otherwise, you might find yourself at the bottom of the alligator pond in this zoo!!!"
16. I thought about trying to call the police, but I was afraid they would hear me, so I just kept listening. Then I heard the other guy respond, and I recognized his voice: it sounded just like Hayes! He sounded pretty shaken up, and he begged the other guy to give him more time. He said, "I'll get it to you before the end of the month; I promise! I'll get the money from my dealers, and I'm also set to clear a lot of money on the upcoming NBA playoff games. Just be patient; I'll get it for you!! If you hurt me now, you'll never see it."
17. The deep-voiced guy threatened him a bit more, but said he would give him until June 9 and not a day longer. Otherwise, he would send "Aaron" or "Erin" after Hayes. The names sound the same, so I'm not sure if he meant A-A-R-0-N or E-R-I-N. Aaron/Erin growled, "Yeah, that's right. If you don't pay up, I'll make you regret it!"
18. Then I heard them split up in different directions, and the angry guy started coming my way! Quickly, I ducked behind a trash bin, so he wouldn't see me in the dark. The angry guy had someone else with him, and they walked within 10 feet of me as I held my breath, hoping the sound of my heart pounding wouldn't give me away.
19. When they got under the dim lights in front of the snake house, I saw them more clearly. The angry guy was huge, much bigger than Detective Zabriskie; his "friend" Aaron/Erin was about the same size as Zabriskie and was holding a cigarette in his/her right hand, cursing under his/her breath. I couldn't tell the "friend's" gender, though, because s/he wore a baggy sweat suit and had a scratchy voice.
20. S/he seemed agitated and was flinging his/her arms around like a crazy person while s/he talked. It looked weird, like s/he'd been using some of their own products or something. I heard Aaron/Erin tell the big guy that s/he'd be glad to "take care of Hayes" if the big guy just gave the word. I must have made a noise because they both looked in my direction, and then the big guy said something like, "Let's go."

21. I kept watching as they climbed the perimeter fence to make sure it was safe to come out. The big guy was really agile and cleared it with ease, but Aaron/Erin seemed to be struggling--probably because s/he was strung out on their own drugs--and s/he went down hard when s/he landed on the ground. I heard him/her curse, and it looked like s/he was limping as they ran off. I don't know whether Aaron/Erin was permanently injured or anything, but s/he was definitely limping.
22. I called the police after they were gone, and Detective Zabriskie and his/her partner came right away because they were patrolling together nearby. They were upset to hear that such thugs were on the zoo grounds and promised to do all they could to catch them.
23. They asked for descriptions, and I told them that the guy who owed the money sounded like Hayes, although I didn't ever see him and couldn't be 100% positive. Zabriskie looked upset and said, "We have to get this guy before he does something desperate." I was able to give a general physical description of the other two people, but couldn't identify the gender of Aaron/Erin.
24. I have to say that I wasn't upset when I saw in the newspaper that Hayes had been shot and killed in an alley on June 9. Immediately, it made me think of that late-night meeting at the zoo. But when I heard that Detective Zabriskie was arrested for the murder, I couldn't believe it. Sure, Detective Zabriskie is "tough on crime," but from all of my interactions with Detective Zabriskie, I have to say that it's crazy to think s/he would gun down a criminal like that!
25. Detective Zabriskie is always talking about honor and integrity and how s/he wants to make his/her family proud. No way would Detective Zabriskie do anything outside the law. Clearly, Hayes was murdered when he couldn't pay this other guy the money that Hayes owed him. The police should be trying to find the real killer.
26. I hereby attest to having read the above statement and swear or affirm it to be my own. I also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it should contain everything I knew that may be relevant to my testimony, and I followed those instructions. I also understand that I can and must update this affidavit if anything new occurs to me until the moment before opening statements begin in this case.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 28th day of October, 2015.

**Sam Maddox**

Sam Maddox

Subscribed and sworn before me on this, the 28th day of October, 2015.

Kelly Owens

Kelly Owens, Notary Public

# **EXHIBITS**

# EXHIBIT 1

STATE OF UTAH  
v.  
CASEY HAYES

CASE NO.: 15cr01234  
COURT: Mock Trial  
COUNTY: Red Rock

## STATE'S OFFER ON A PLEA OF GUILTY

1. **Charges and Penalties**

Charge: Aggravated Assault

Penalty: 20 to 25 months

Charge: Armed Robbery

Penalty: 64 to 80 months

2. **Amended Charges (if any)**

Amended Charges: Assault; Accessory After the Fact to Armed Robbery

Penalty: 10 to 13 months

3. **Reason(s) for Amended Charges (if any)**

The defendant, Casey Hayes, has accepted responsibility for criminal actions and has agreed to assist the State by providing a statement of what the defendant Avery Zabriskie did that resulted in the death of Orson Hayes. This defendant also agrees to testify on behalf of the State at any future trial or hearing.

4. **Facts of the Case**

On June 8, 2015, in Red Rock County, Utah, the defendant arranged for Orson Hayes to be transported to and from the commission of an armed robbery with a firearm. The defendant was aware of the intentions of Orson Hayes. During the course of the armed robbery, a bystander was shot by Orson Hayes, inflicting serious injury.

5. **Recommendations in Exchange for a Plea of Guilty**

In the interest of justice, the State recommends as follows: Assault--Time Served. Accessory After the Fact to Armed Robbery--10 to 13 months. This offer comes with the express understanding that the defendant agrees to provide truthful testimony at any future trial or hearing involving the facts aforementioned. The truthfulness element of this agreement shall be determined by the trial judge using a preponderance of the evidence standard. The defendant's failure to satisfy the defendant's obligations under this agreement shall result in revocation of this agreement after which the defendant shall stand trial on the charges of Aggravated Assault and Armed Robbery.

6. Offered this day of August 14, 2015.

Casey Hayes  
DEFENDANT

Samuel J. Ertle  
ATTORNEY FOR THE STATE

Janet W. Craige  
ATTORNEY FOR THE DEFENDANT

## EXHIBIT 2

**Taken from cell phone retrieved on the victim (Orson Hayes)**

**Type of Report:** All text records between specified accounts.

**Date of Report:** 8/25/15 11:07 a.m.

**Search Parameters:**

**Dates:** 7-June-2015 to 9-June-2015

**Accounts:** 969-545-1928 (Subscriber: Orson Hayes; disposable phone)

969-555-2003 (Subscriber: unknown; disposable phone)

969-555-2009 (Subscriber: unknown; disposable phone)

| <b>From:</b> | <b>To:</b>   | <b>Date/Time:</b>  | <b>Content:</b>  |
|--------------|--------------|--------------------|--|
| 969-545-1928 | 969-555-2003 | 6/7/15; 9:06 p.m.  | Purged   |
| 969-555-2003 | 969-545-1928 | 6/8/15; 9:20 p.m.  | Purged   |
| 969-555-2009 | 969-545-1928 | 6/9/15; 10:48 p.m. | Tonight's the night.   |
| 969-545-1928 | 969-555-2009 | 6/9/15; 10:52 p.m. | Who is this?   |
| 969-555-2009 | 969-545-1928 | 6/9/15; 11:00 p.m. | Don't play games; you know who this is.                                |
| 969-545-1928 | 969-555-2009 | 6/9/15; 11:02 p.m. | I'll have the money this time.<br>I just need an hour.                 |
| 969-555-2009 | 969-545-1928 | 6/9/15; 11:11 p.m. | You're out of time. You're gonna regret it if I have to hunt you down. |
| 969-545-1928 | 969-555-2009 | 6/9/15; 11:38 p.m. | Okay; okay. I'm already here. But we need to talk.                     |
| 969-555-2009 | 969-545-1928 | 6/9/15; 11:41 p.m. | I'm almost there.  |



**EXHIBIT 4**



**Colt Python, 6 inch barrel**



.357 Magnum shells

(Left): from victim

(Center): new, not fired

(Right): test fire shell from Python in evidence locker

## EXHIBIT 5

Fingerprints have been enlarged for visibility.



Cigarette pack  
(insufficient to make  
a determination)



Alley Wall



Avery  
Zabriskie

## **EXHIBIT 6**

### **KRIS LEE**

(921) 111-5555 kLee@ppd.com  
3315 West Sage Avenue, Capital City, Utah 84053

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#### **EDUCATION**

University of New Mexico, Albuquerque, New Mexico. Master of Forensic Science, December 2002. Cumulative GPA, 3.75.

Julian College, Albuquerque, New Mexico. Bachelor of Science, Chemistry, May 2001. Cumulative GPA, 3.83.

#### **WORK EXPERIENCE**

Forensic Specialist

Red Rock Police Department, Red Rock, Utah, March 2015-present.

Assistant Forensic Specialist

Albuquerque Police Department, Albuquerque, New Mexico, March 2005-February 2015.

#### **AWARDS**

Gibbs Outstanding Forensic Science Award, New Mexico Division of the International Association for Identification, NCI AI Conference, Albuquerque, New Mexico, October 2012.

Delta Delta Epsilon (Forensic Honor Society), March 2002, University of New Mexico. Phi Beta Kappa, October 2000, Julian College, Albuquerque, New Mexico.

#### **PRESENTATIONS**

"The Use of Short Tandem Repeat DNA Analysis in Crime Scene Investigation." Presentation, American Academy of Forensic Sciences Fall Conference, October 5-7, 2012. San Diego, CA.

"Basic Evaluation and Comparison of Latent Print Workshop." Lead presenter for 40-hour workshop, NCI AI Conference, Albuquerque, New Mexico, October 2010.

#### **PUBLICATIONS**

"An Overview of Ballistic Analysis and GSR Testing for Attorneys." Abby Sciuto, Donald Mallard, and Kris Lee. *Journal of Forensic Sciences*, Volume 58, January 2003, pp. 200-23.

**EXHIBIT 7**

**BRISTLECONE SPORTS BAR**

1305 South Stratford Avenue  
Red Rock, Utah 84003  
(801) 112-4544

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|       |   |
|-------|---|
| TABLE | 2 |
|-------|---|

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|                       |       |
|-----------------------|-------|
| Super Caesar Burger   |       |
| Med. Rare, fries      | 9.00  |
| Rubicon Chicken Wrap  |       |
| Fruit, no fries       | 10.00 |
| Coors                 |       |
| 4x 3.00               | 12.00 |
| Whiskey & Ginger      | 3.00  |
| Whiskey-- Black Label | 8.00  |
| Whiskey & Ginger      | 3.00  |

Items: 9

|       |                |
|-------|----------------|
| Total | \$45.00        |
| Tip   | 11.00          |
| TOTAL | <u>\$56.00</u> |

X Avery Zabriskie

06/09/15                      Bill #0011  
12:30 a.m.  
CARD TYPE              ACCT NUMBER  
VISA                      xxxx xxxx xxxx 4001  
TRANSACTION APPROVED  
AUTHORIZATION              #00141  
REFERENCE                      321568799

## EXHIBIT 8

### Employee Disciplinary Report

Name: Avery Zabriskie

Position: Detective

Date of Incident: 11/18/2009

Nature of Incident (Code and Description):

(4) Threatening or Engaging in Violence

(13) Improper Conduct

Witnesses:

Phillip Cochran, Officer

Earl Johnson, Detective

Actions to be taken: Suspension Recommended

Timetable for Improvement: 60 days

Additional Comments:

Suspension was not instituted at this time but will be applied should further incidents occur.

Detective Zabriskie will be assigned to desk duty for 60 days with reevaluation at the end of that time.

Signature of Supervisor: M. Shupin

Date: 11/19/2009

Signature of Employee: Avery Zabriskie

Date: 11/19/2009

## EXHIBIT 9

**Taken from cell phone retrieved at bank by Detective Zabriskie**

**Type of Report:** All text records between specified accounts.

**Date of Report:** 8/25/15 11:10 a.m.

**Search Parameters:**

Dates: 07-June-2015

Accounts: 969-545-1937 (Subscriber: Orson Hayes)

969-555-2003 (Subscriber: unknown; disposable phone)

| <b>From:</b> | <b>To:</b>   | <b>Date/Time:</b>  | <b>Content:</b>  |
|--------------|--------------|--------------------|--|
| 969-555-2003 | 969-545-1937 | 6/7/15; 11:00 p.m. | Meet me at Mountain Goat Pub on Tuesday at quarter to midnight. Bring what you owe me, or you'll be sorry. |
| 969-545-1937 | 969-555-2003 | 6/7/15; 11:02 p.m. | I need more time.  |
| 969-555-2003 | 969-545-1937 | 6/7/15; 11:11 p.m. | No. This is it. Be there or else!  |

