

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREW YOUNG,)	NO. 83243	
)		Electronically Filed
Appellant,)		Mar 08 2022 08:43 a.m.
)		Elizabeth A. Brown
vs.)		Clerk of Supreme Court
)		
THE STATE OF NEVADA,)		
)		
Respondent.)		

APPELLANT'S APPENDIX

VOLUME VII – PAGES 1200-1353

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1 officer's report about his case. We did that officers report together,
2 but it's -- he did his section and I did the rest.

3 Q Okay. And what prompted this report, if you recall?

4 A Well, I'd learned the suspect was in -- I'd now identified
5 him, had been in custody, and I contacted the DA that was handling
6 his other case to say -- to ask, do you want me to rebook him? And
7 that's when I learned that she was going to consolidate some of his
8 cases into one huge case and take it to the grand jury. So she
9 asked if I could submit her some kind of report that would detail the
10 circumstances in my incidents. So I told her I could do an officers
11 report and I could provide her all the crime reports and related
12 reports and video that we have so she could submit that to the
13 grand jury.

14 Q Okay. And that was a prosecutor with the DA's office?

15 A Noreen DeMonte.

16 Q I think that's everything I wanted to ask, Detective. Thank
17 you for your time.

18 A You're welcome.

19 THE COURT: State?

20 **REDIRECT EXAMINATION**

21 BY MR. BROOKS:

22 Q Detective, I want to clear up something that we kind of
23 keep talking about here. Mary Campo provided you the last four
24 digits of her card as 1020?

25 A Correct.

1 Q You go to the 7-Eleven and search for transaction
2 for \$8.80 that went through, correct?
3 A I believe so, yes.
4 Q Showing you Exhibit 14, trying to do it this way so it's a
5 little clearer rather than --
6 A Yeah, I can --
7 Q -- a paper copy.
8 A I can see right in the middle left, you'll see it says credit
9 cards regular. It has an account number with a bunch of asterisks
10 and then that 1020, that's the last four digits of the card number
11 that was used.
12 Q So you found Mary Campo's last four digits of her card
13 number for the exact amount that she told you at a 7-Eleven
14 at 11:42?
15 A And that coincided with the video showing the same
16 purchase. Because you'll see on this journal, I believe it says what
17 was purchased. It does say Kool pack, right here, just below the
18 main --
19 Q Yes.
20 A -- header. So it's a package of Kool cigarettes.
21 Q And if I go --
22 A Which pack is what I see on video.
23 Q If I go to a screenshot, which is Exhibit 2A --
24 A Yep.
25 Q -- at 11:42 --

1 A In his left hand, you can see that white-and-green --
2 light-green rectangular package, that's a pack of cigarettes.

3 Q So that's the transaction for that receipt?

4 A Correct.

5 Q Now, we mentioned some time stuff right there.

6 A Right. So --

7 Q The time confusion that you were referring to, was that
8 some e-mail from BofA Corporate to Mary Campo?

9 A Yes. That she forwarded to me. I don't know if you have
10 it, but I'm pretty sure I turned it in to be scanned.

11 Q And when a corporate office like BofA or, for example, do
12 you have a lot of cases that sometimes have Sprint, T-Mobile, AT&T
13 cell phone records?

14 A Oh, yeah. They'll be in different time zones, like Universal
15 Time Code.

16 Q Does UTC make your life miserable occasionally?

17 A Yeah, because I always have to Google how to figure
18 out -- and then we have to figure out what time of the year it is to
19 make sure we're not off by that hour.

20 Q Because UTC is like --

21 A It can get confusing.

22 Q -- eight or seven?

23 A But, in general, for the banks, they're either on the East
24 Coast, some are in the Midwest. So they're -- I'm used to getting --
25 where times aren't matching up so well, I'll dig further, maybe more

1 than most detectives, because of my experience, knowing that the
2 time shown on -- from the victim providing me may not be the time
3 it actually occurred at.

4 Q So is this --

5 A Like this case.

6 Q -- 11:42 transaction we're looking at right here, the one
7 done with Mary Campo's card ending in 1020?

8 A Correct.

9 Q I want to show you briefly, because we were kind of
10 touching on Circle K or a gas-station-type commentary; do you
11 remember that?

12 A Correct.

13 Q I want to show you two quick video clips. I'm going to
14 fast-forward this to roughly, like, the 24-second margin -- or do you
15 see a car coming in there?

16 [Video played.]

17 A Yep, that car pulled in right now, if you continue watching
18 it, you're going to see it's a very distant shot, but you can see it
19 appears to be the same two males that come walking into the
20 casino.

21 Q The one backing in right here?

22 A Right. And this is looking out to the east. So that's -- the
23 screen up here is going to be Rampart.

24 Q And so it finishes backing in?

25 A Yes.

1 Q Okay. Showing you -- I'm going to fast-forward here a
2 minute-42 in.

3 [Video played.]

4 Q And is this roughly a few minutes after the taking occurs
5 that we talked about at 11:05?

6 A Correct. It should be pulling out here.

7 Q I'm going to come here to 11 --

8 A There we go.

9 Q -- yeah, they're at 1:42.

10 [Video played.]

11 A So it's not good enough to get a license plate. Can't really
12 even tell the specific color or even the make or model. But it just
13 drives off to the east and exits out.

14 Q And that was the --

15 A So I tried to get a --

16 Q That was the car when you said you sent information to
17 Circle K or Rebel?

18 A Right. So I captured a still shot of the car and the best
19 images I had of the males coming in, and I sent that to the manager
20 at the Rebel. And just told her, hey, if you spot them, contact me,
21 I'll come get that video. But she never contacted me.

22 Q Well, it's fair to say it wasn't very good photo of the car?

23 A Right. My hopes were not high to begin with.

24 Q Thank you.

25 MR. BROOKS: Nothing further.

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THE COURT: Anything based on that, Mr. Fischer?

MR. FISCHER: No, Your Honor. Thank you.

THE COURT: Anything from the jurors?

Sir, please don't share your testimony with anyone else involved in the case. But you are excused and free to go. Thank you very much.

THE WITNESS: Thank you, Your Honor.

THE COURT: State?

MR. BROOKS: State calls Detective Byrd.

And I apologize again, Your Honor. I'm going to fool around with this while you're --

THE COURT: Okay.

MR. BROOKS: -- starting.

TRENT BYRD,

[having been called as a witness and first duly sworn, testified as follows:]

THE CLERK: Please be seated. Will you please state your name and spell it for the record.

THE WITNESS: Trent Byrd, T-R-E-N-T, B-Y-R-D.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. BROOKS:

Q Detective, how are you employed?

A Detective with the Las Vegas Metropolitan Police Department.

1 Q How long have you been a detective?

2 A Detective for six years.

3 Q Prior to becoming a detective, what capacity did you work
4 at Metro?

5 A Patrol officer for the department.

6 Q And we've kind of done this, but could you also break
7 down the various area commands here in Las Vegas, which one
8 you're a part of, and then also, kind of, if you could take us through
9 different detective bureaus.

10 A Will do. Yes. There's about 10 -- there are 10 area
11 commands throughout the Las Vegas valley. I work for the
12 Convention Center Area Command. There's other area commands
13 such as Northeast, Northwest that cover the entire valley.
14 Throughout the area commands, there's also different sector beats,
15 which break down the area command into even smaller sections.
16 So, for example, the Strip, which is Convention Center, is broken
17 down into five sector beats, Mary 1 through 5. That helps with case
18 assignment, patrol response, also where crimes are being
19 committed throughout the valley.

20 Within the department, there's also several hundred
21 detectives that work in sections anywhere from homicide, robbery,
22 theft crimes, financial crimes, vice, the prostitution, our major
23 violators section, just to name a few. That is also stationed out of
24 our headquarters. Each area command also has patrol detectives,
25 which investigate everything from your petty larceny, misdemeanor

1 crimes, all the way up to attempt murder cases.

2 Within those area commands, there's so many detectives
3 and also throughout the valley, there's times where cases could be
4 assigned to one detective and even in the same area and not know
5 other detectives may be even investigating the same suspect of
6 type of crime.

7 Q In this investigation that we're here to talk about, do you
8 remember why we're here?

9 A Yes, I do.

10 Q And you recall various incidents that bring us here today?

11 A Yes, I do.

12 Q Fair to say that you weren't the primary detective
13 assigned to any individual incident?

14 A That's correct, I was not.

15 Q However, did there come a point in time where you
16 become involved in almost all the incidents?

17 A Yes, there was.

18 Q And in what capacity do you become involved,
19 specifically?

20 A Assisting with the identification of the person who I
21 believe to be the suspect.

22 Q And so I want to kind of direct your attention to that
23 middle of the summer, 2020. Fair to say you don't exactly
24 remember the first case or the first kind of photo that you were
25 shown?

1 A That's true.

2 Q But eventually you're shown some photos or videos of an
3 incident depicting a person?

4 A That's correct.

5 Q When that happens, do you initially believe that you know
6 who it is or have an identification for that person?

7 A Yes. I believed that person to be who I believed -- Andrew
8 Young.

9 Q When you have that belief, what is kind of just the first
10 thing that someone would do?

11 A Like I said before, when some of these cases come up,
12 there's cases that are assigned and other detectives may not even
13 know. So through my investigation, I wanted to look up different
14 incidents to find an Andrew Young. During my investigation, I was
15 able to locate an incident that occurred on July 8th at a Walmart on
16 East Serene.

17 Q And is that the incident that, essentially, Andrew Young
18 was given a citation for, so his identity is confirmed in that --

19 A That's correct.

20 Q In that situation, was there body cam and video
21 surveillance?

22 A Yes, there was.

23 Q Was that your starting point?

24 A Yes, it was.

25 Q Now, before we kind of look at some of this, when you

1 looked at the body cam and surveillance, were there things that
2 indicated to you that that was Andrew Young and certain aspects of
3 the video?

4 A Yes, there were.

5 Q What?

6 A Starting with the basics, Black male adult, 50s to 60s age
7 range, average build, approximately 6-foot tall, bald head. I'm
8 looking for any kind of clothing he may be wearing, any other
9 accessories he may be wearing, the type of walk that he has, also
10 other clothing that he carries, he had a black jacket that he would
11 carry, things like that.

12 Q I'm going to play a portion of Exhibit 4. I'm going to play
13 the first two minutes of this. If at any point during this video -- oh --
14 you see something that you ended up using or finding a particular
15 investigative significance, will you let me know?

16 A Yes.

17 [Video played.]

18 Q I'm sorry, Detective?

19 A It was a few frames back where the officers initially made
20 contact with him.

21 Q And what was it that you were going to alert us to?

22 A The shiny bald head, he had the headphones around his
23 neck, looked like he had glasses clipped to the front of his shirt. He
24 was -- also had a jacket that he had on his cart. He's wearing a blue
25 shirt, like a blue Polo-type shirt.

1 Q So I'm going to rewind it here.

2 [Video played.]

3 THE COURT: Sorry, I think it's hard for you to hear him.

4 He was asking you to go back further.

5 MR. BROOKS: Oh, yeah, I can't hear.

6 THE COURT: That's okay. Further for when the --

7 THE WITNESS: Right when the officers make contact.

8 THE COURT: When the female is pointing to where he is.

9 [Video played.]

10 THE WITNESS: Right there.

11 THE COURT: Parker.

12 THE WITNESS: So in that shot here, you can see he's
13 wearing, like a -- it's a grayish/bluish-type Polo shirt. Around his
14 neck, you can see some white-colored headphones with some black
15 accents, the shiny bald head. I think when the video plays a couple
16 of frames later, you can see he's got very distinct eyes, as well.
17 He's got a black jacket that is on the cart there, and he was wearing
18 some dark shorts with white-and-black shoes.

19 BY MR. BROOKS:

20 Q Do these headphones and that black jacket and those
21 black shoes become significant to you in almost every video
22 surveillance that we're going to deal with?

23 A Yes, they do.

24 Q And so those two shiny dots around the neck, is that what
25 you're referring to?

1 A That's correct.

2 [Video played.]

3 Q Right there?

4 A Right there. Yes.

5 [Video played.]

6 Q I'm going to fast-forward a bit to get to the walking
7 portion.

8 [Video played.]

9 Q Do you see something else that -- on his shirt that ends up
10 being seen in a lot of video surveillance?

11 A He's got the glasses clipped to the front of his shirt there,
12 as well. And as he's walking out, you can also notice he's got a
13 little bit of a limp or some kind of awkward movement to his walk,
14 as well.

15 Q You're moving kind of --

16 A To the side, correct.

17 Q You're swaying, is that what you're doing?

18 A Correct. It's not just a normal straight walk, he's moving a
19 little bit sideways.

20 Q I want to fast-forward to about the three-minute mark.
21 And I want to ask you about something specific with regard to his
22 face.

23 [Video played.]

24 Q Is there something distinct about Andrew Young's mouth?

25 A Yeah, as he's talking, his mask has come down a couple of

1 times and you can see he's got either one or two -- a couple of teeth
2 missing, as well. He's got, like, a salt-and-pepper-type mustache or
3 beard.

4 Q I want to -- because you kind of mentioned the walk, I
5 want to go to Exhibit 1.

6 [Video played.]

7 Q Do you see that hard, I guess, dip landing on the right side
8 that you were referring to?

9 A Yes.

10 Q Showing you a different angle.

11 [Video played.]

12 Q The shoes that you're going to be able to see here in this
13 Rampart video, do they become of significance?

14 A Yes, they do.

15 [Video played.]

16 Q Let's skip to a portion of the 7-Eleven video. I should have
17 asked you, who was it depicted in the video surveillance of the
18 Rampart incident right there?

19 A The person I believe to be Andrew Young.

20 Q Do you see that person here in court today?

21 A Yes, I do.

22 Q Could you please point to him and identify an article of
23 clothing he's wearing?

24 A In the back row wearing a white long-sleeve shirt with a
25 black or dark-colored tie.

1 MR. BROOKS: Your Honor, let the record reflect
2 identification of the defendant.

3 THE COURT: It will.

4 [Video played.]

5 BY MR. BROOKS:

6 Q I'm going to pause it right there. Although this is
7 June 29th and not that July 8th, the citation at Walmart, is there
8 something that is on Andrew Young's person or shirt?

9 A The glasses again are clipped to the front portion of his
10 shirt.

11 Q What kind of shoes is he wearing there?

12 A Looks like the same white-and-black tennis shoes.

13 Q Eventually, are those shoes impounded into evidence and
14 photographed when Andrew Young is taken into custody?

15 A Yes, they were.

16 Q What kind of shoes are they?

17 A Jordans.

18 Q And if I show you, without switching back and forth on the
19 monitor, because we don't have it, Exhibits 23, 24, and 25, can you
20 see that same distinct pattern of the black line and the rim around
21 the top of the back of the shoe?

22 A Yes, I can.

23 Q Are those the shoes that Andrew Young was wearing
24 when he was arrested?

25 A Yes, they are.

1 Q Now, this Jordan and the back frame, I want, at any point
2 in time where you see that, specifically in videos that I'm going to
3 play, let me know.

4 A Okay.

5 Q Additionally, in Exhibit 23, will you let me know if you see
6 kind of a black marking at the top of the, you know, bottom of the
7 tongue area?

8 A Yes.

9 [Video played.]

10 A In that clip that it was paused at, you can see the white.
11 It's underneath the -- right there.

12 Q So can you see in this one the black marking at the lower
13 portion of the tongue and the, I guess, black stripe where the
14 Jordan writing is?

15 A Yes.

16 [Video played.]

17 Q Eventually, do you become more intimately involved with
18 two cases involving elevators at the Strip?

19 A Yes, I do.

20 Q I want to show you Exhibit 5.

21 [Video played.]

22 Q Who's depicted in this video?

23 A A person I believe to be Andrew Young.

24 Q Tell me what characteristics on his body are similar to
25 what we've discussed.

1 A Appears to be wearing the same shirt, same black shorts,
2 black socks, the white-and-black shoes. He also has that jacket that
3 he's carrying on the left arm, and he has the glasses around the
4 front of his shirt, and you can also see the white headphones
5 around his neck. Same bald shiny head.

6 [Video played.]

7 Q We discussed the black jacket that you're referring to. I
8 want to show you what's been marked as State's Exhibit 22. Do
9 you recognize what's depicted therein?

10 A Yes, I do.

11 Q Does this photograph fairly and accurately depict the
12 black jacket that Andrew Young had on him when he was arrested?

13 A Yes, it does.

14 Q And was this photograph to document it for court
15 purposes here?

16 A Yes, it was.

17 MR. BROOKS: State moves for admission of Exhibit 22.

18 THE COURT: Mr. Fischer?

19 MR. FISCHER: No objection, Your Honor.

20 THE COURT: It'll be admitted.

21 [State's Exhibit Number 22 admitted.]

22 BY MR. BROOKS:

23 Q I am going to move to a Flamingo video. So this occurs
24 July 29th, a couple weeks later.

25 THE COURT: This is Exhibit 9?

1 MR. BROOKS: Yes, I'm sorry, Judge.

2 THE COURT: It's okay.

3 [Video played.]

4 BY MR. BROOKS:

5 Q Do you recognize anyone in this video?

6 A Yes, I do. Person I believe to be Andrew Young there on
7 the --

8 Q Right there, do you see anything around his neck of
9 significance?

10 A Appears to be the same headphones, the white with black
11 accents. Same shiny bald head, he's again carrying that black
12 jacket in his left arm, and the white-and-black shoes.

13 Q Now, just to kind of speed this up, I have various still
14 shots from the Flamingo exhibit. Could you please flip through
15 Exhibits 9E, 9F, 9G, 9H, and 9I. Do they fairly and accurately depict
16 screenshots of the video that we're watching right now?

17 A Yes, they do.

18 Q So I'm going to rewind and go through the video. I'm
19 going to do a few shots for you on this ELMO.

20 THE COURT: Mr. Brooks, are those in?

21 MR. BROOKS: Oh, Your Honor, I move Exhibits 9E, G, H --

22 MR. FISCHER: Stipulated.

23 MR. BROOKS: -- I and F in.

24 THE COURT: They'll be admitted.

25 [State's Exhibit numbers 9E through 9I admitted.]

1 BY MR. BROOKS:

2 Q So that right there is -- that's on the ELMO, Exhibit 22, is
3 that the black jacket that we were referring to that he had on when
4 he was arrested?

5 A That's correct.

6 Q Exhibit 9E, is that sort of exactly where we stopped in the
7 video?

8 A That's correct.

9 Q Tell me what we see right here in Exhibit 9F.

10 A The -- again, the Jordans, white-and-black, the black stripe
11 on the side, the black on the tongue, black jacket. And, again, you
12 can see the shiny bald head.

13 Q So do you see how that Jordan has kind of a two-tone, a
14 black around the top, and then in the back of the heel, there's kind
15 of a small spot where there's black?

16 A Correct.

17 Q I want to ask you if you see that in Exhibit 25, the shoes
18 that Andrew was wearing when arrested?

19 A Yes. Same design.

20 Q Showing you Exhibit 9G, and then 9H; is that a profile shot
21 of Andrew?

22 A Yes, it is.

23 Q After exiting this elevator, is this a screenshot -- what is it
24 of?

25 A Of who I believe to be Andrew Young getting into a taxi.

1 Q When we were looking at the side profile, was there
2 something as far as the shape of Andrew Young's head that you
3 matched with other incidents?

4 A Yeah, just the shiny bald head, and it's just -- it's a
5 distinct-type shape that was similar in all of the incidents.

6 Q So I want to move to Exhibit 7, a GameStop video. Did
7 you have an opportunity to review this?

8 A Yes.

9 Q I'm going to fast-forward to the end, and we're going to
10 watch it kind of a couple of times, because it's quick here.

11 [Video played.]

12 Q Who's depicted in this video?

13 A The person I believe to be Andrew Young there.

14 Q What in that video is significant that we have spoken
15 about here in other photos?

16 A There were several things. He is -- looks like he's wearing
17 the same headphones around his neck. He's got the glasses
18 clipped to the front of his shirt, the same shiny bald head. His mask
19 is pulled down slightly, appears to be missing teeth.

20 [Video played.]

21 Q So I'll see if I can pause it here.

22 A And even the walk as he's coming out, you can see the
23 very distinct dip as he's walking.

24 Q Do you see the headphones in this photo?

25 A Yes, you can see both of them there.

1 Q And the glasses?

2 A Correct.

3 Q It's not really clear, but when you were talking about the
4 mask dropping down, do you see what you were referring to?

5 A Yes. If you -- through some of the clips, you can see he's
6 missing some of his teeth.

7 Q Did you have the opportunity to review some Albertson's
8 surveillance?

9 A I did.

10 [Video played.]

11 Q Who is it that just entered Albertson's and why?

12 A Person I believe to be Andrew Young, again wearing the
13 same Jordan shoes, the black jacket, you can see the headphones
14 as well, same shiny bald head.

15 Q Were you able to see those headphones?

16 A Correct.

17 Q And the walk, side to side?

18 A Correct.

19 Q Detective, I want to go through one final event with you.
20 We'll turn to the Suncoast event, which was the last event, that
21 August 9th time period. And I might need to walk this photo up to
22 you. Let me walk up Exhibits 13D and 13C, because they'll go back
23 to the jury. I want you to look at them, though, and describe what it
24 is about those photographs that are of significance to you?

25 A So, again, when he's up at the overhead view, you can see

1 the white-and-black Jordan shoes, you can actually see it, nearly
2 says Jordan in the middle there. It's got the same black design on
3 the lower rear, as well as the black top. Again, a shiny bald head.

4 And as well on the exit, when -- the exit photo, he's
5 walking out. You can see the shoes again, as well as the
6 headphones around his neck there.

7 Q Thank you.

8 MR. BROOKS: One moment, Your Honor.

9 Pass the witness, Your Honor.

10 THE COURT: Mr. Fischer?

11 **CROSS-EXAMINATION**

12 BY MR. FISCHER:

13 Q Just one question, Detective Byrd, so your investigation
14 starts with an incident at -- on July 8th, 2020, that you learn
15 involves Andrew Young; is that correct?

16 A Yes.

17 Q And that resulted in a misdemeanor citation; is that
18 correct?

19 A Yes.

20 Q Thank you.

21 THE COURT: Anything from my jurors?

22 Thank you so much, Detective Byrd, for your testimony.
23 Please don't share it with anyone else involved in the case. But
24 you're free to leave. And you can just leave those there, we'll get
25 them. Thank you.

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State?

MR. BROOKS: Your Honor, absent a final review of the evidence and the admission of it, the State rests.

THE COURT: Okay. Thank you.

Ladies and gentlemen, we anticipate being done sometime tomorrow, so we're ahead of schedule, just so you know. But we're going to take our afternoon recess at this point in time.

During this recess you must not discuss or communicate with anyone, including fellow jurors, in any way regarding the case or its merits either by voice, phone, e-mail, text, Internet, or other means of communication or social media, read, watch or listen to any news or media accounts or commentary about the case, do any research, such as consulting dictionaries, using the Internet, or using reference materials, make any investigation, test a theory of the case, recreate any aspect of the case, or in any other way investigate or learn about the case or form or express any opinion on this matter until the case is formally submitted to you.

I'll see you tomorrow morning at 9:00 a.m. Thank you.

[Jury recessed at 4:31 p.m.]

THE COURT: All right. We are on the record outside the presence of the jury. The State has rested. At this point in time, I need to advise Mr. Young of his right to testify.

So, Mr. Young, under the Constitution of the United States and under the Constitution of the State of Nevada, you cannot be compelled to testify in this case; do you understand that.

1 THE DEFENDANT: Uh-huh.

2 THE COURT: You have to say yes or no.

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. You may, at your own request, give
5 up this right and take the witness stand and testify. If you do, you
6 will be subject to cross-examination by the deputy district attorney
7 and anything that you may say, be it on direct- or
8 cross-examination, will be the subject of fair comment when the
9 deputy district attorney speaks to the jury in his final argument; do
10 you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: If you choose not to testify, the Court will
13 not permit the deputy district attorney to make any comments to
14 the jury because you have not testified; do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: If you elect not to testify, the Court will
17 instruct the jury only if your attorney specifically request as follows:
18 The law does not compel a defendant in a criminal case to take the
19 stand and testify and no presumption may be raised and no
20 inference of any kind may be drawn from the failure of a defendant
21 to testify. Do you have any questions about these rights.

22 THE DEFENDANT: No, ma'am.

23 THE COURT: You are further advised that if you have a
24 felony conviction and more than 10 years has not elapsed from the
25 date you have been convicted or discharged from prison, parole, or

1 probation, whichever is later, and the defense has not sought to
2 preclude that coming before the jury, and you elect to take the
3 stand and testify, the deputy district attorney, in the presence of the
4 jury, will be permitted to ask you the following:

5 Number 1: Have you been convicted of a felony?

6 Number 2: What was the felony?

7 And Number 3: When did it happen?

8 Number 4: No other details may be able to go -- be gone
9 into.

10 Do you understand all of that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: State, if the defendant were to testify, what,
13 if any felonies do you believe would come in or other crimes under
14 this -- under these rights?

15 MR. STANTON: Judge, there would be, by my count, 16
16 prior felonies or various felony offenses, including multiple crimes
17 of violence.

18 THE COURT: Now, would those be underneath
19 the 10-year or under probation or parole rule, though?

20 MR. STANTON: The 10-year time period would
21 be 2017, 2019, battery with substantial bodily harm. There are two
22 different event numbers here in Las Vegas.

23 THE COURT: Okay. All right. So there's that.

24 Now let's turn to jury instructions, please.

25 THE DEFENDANT: Excuse me, ma'am.

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THE COURT: Yes, sir?

THE DEFENDANT: I'm not going to testify.

THE COURT: Okay. Yeah, I just have to advise you of those rights --

THE DEFENDANT: Oh, okay.

THE COURT: -- and then you have the right to think about it. But whatever you want to do is totally your choice.

THE DEFENDANT: Uh-huh.

THE COURT: All right. Okay. Go ahead and have a seat, Mr. Young.

THE DEFENDANT: Oh.

THE COURT: Mr. Young, did you want to be present while we settle the law on this matter or would you prefer to leave? You can do whichever you want.

THE DEFENDANT: I want to be present.

THE COURT: Okay. Sounds good.

All right. Let's go over the jury instructions then.

MR. BROOKS: Your Honor?

THE COURT: Yeah?

MR. BROOKS: Would you mind, while you're doing that, if I help your clerk --

THE COURT: Yeah, go for it. And Detective Byrd left two exhibits.

All right. So let's first go over just the State's packet first, if we can.

1 So Mr. Fischer, it's my understanding that the ones that
2 you would like to think about -- let me get your e-mail up.

3 MR. FISCHER: I have -- had them as page 11 and 14 in the
4 documents I had. It's just, essentially, the burglary definitions.

5 THE COURT: All right. Did -- you said 10 and 14 in your
6 e-mail. So do you know --

7 MR. FISCHER: Oh, my apologies, Judge.

8 THE COURT: That's okay.

9 MR. FISCHER: I think maybe it is -- it's either 10 or 11, I'll
10 have to find -- I don't have Internet connection in here, so I'm a little
11 bit prohibited. This is from lunch that I wrote that.

12 THE COURT: So it's the burglary one?

13 MR. FISCHER: That's correct. And I can make a record
14 of --

15 THE COURT: All right. Let me get there.

16 Every person who enters any business structure, that one?

17 MR. FISCHER: That's right, Your Honor. And I just think
18 the way it's worded, it misstates Nevada law. I'll have to go back
19 and double-check, but I thought it's with the intent to commit a
20 crime generally, not just specific to those two listed there. And
21 the -- in the separate burglary definition, it's even broader. So I
22 think it's -- the two together are misleading, confusion. I think they
23 also, both cases -- they don't misstate the law, but they
24 misrepresent it a little bit.

25 THE COURT: So, wait, when you say the second one --

1 MR. FISCHER: There's another one that I thought there
2 was three pages later. Burglary definition charges to include -- this
3 is just my own notes. I don't have the actual in front of me.

4 THE COURT: Yeah, I don't -- there isn't two of them.

5 MR. FISCHER: Well, Judge, then I'm going to have to
6 take a look at what it is, if the Court has a copy or the State? My
7 apologies. I don't have a hard copy and I can't get to it.

8 MR. BROOKS: Oh, this one?

9 MR. FISCHER: I thought you were giving me one.

10 MR. BROOKS: I don't have another one.

11 MR. FISCHER: Unless you'd like me to step out and be
12 able to get on the Internet.

13 THE COURT: Unless you're talking about the one that
14 says:

15 It is not necessary that the State prove the defendant
16 actually committed larceny and/or fraudulent use of debit/credit
17 card inside after he entered in order for you to find the
18 defendant guilty of burglary. The gist of the crime of burglary is
19 the unlawful entry with criminal intent.

20 MR. FISCHER: That's right. And I just want to make sure
21 it represents that statement, as long as it's in there. Then maybe I
22 was looking at the incorrect one, Your Honor.

23 THE COURT: Okay. So you, basically -- what you're
24 saying about every person who enters any business structure with
25 the intent of grand or petty larceny, fraudulently use -- you're

1 talking about you want the broader --

2 MR. FISCHER: Yes.

3 THE COURT: The broader, where it says any felony
4 therein or battery, petty larceny, blah, blah, blah.

5 MR. FISCHER: Yeah, I think it's -- with the intent to
6 commit a crime, unless I'm wrong about the statutory definition.
7 So I think --

8 THE COURT: No, it's specific felonies. It's enumerative
9 felonies.

10 Mr. Stanton, do you have the 205.060?

11 MR. STANTON: I do.

12 THE COURT: Can you read it to me?

13 MR. STANTON: Sure. It is: Business structure with the
14 intent to -- this is how it is after July 1st. The -- unfortunately, in
15 this case, we're on the cusp of crimes that -- burglaries that have
16 committed prior to July 1st, 2020, and then some after. So the
17 current law, effective July 1st, 2020, as it relates to this case,
18 is 205.060(1)(b), and it says:

19 A person by day or night --

20 I think the day or night is -- should never be included in
21 burglaries, because it's the adoption of common law language that
22 has no meaning anymore.

23 -- unlawfully enters or unlawfully remains in any business
24 structure with the intent to commit grand or petit larceny,
25 assault or battery, or any -- on any person or any felony is guilty

1 of burglary of a business.

2 THE COURT: Okay. So I think that's an accurate
3 representation. Would you agree with that, Mr. Fischer?

4 MR. FISCHER: Judge, I mean, I think so, from -- I did not
5 realize that they're going to change since July 1st. So I guess in
6 terms of the jury instructions, I'm -- I'll submit it to Your Honor. I
7 have no reason to question what Mr. Stanton's reading there. So.

8 THE COURT: Okay. So I think that that's an accurate
9 reflection of the law, especially post-July 1, 2020. And then -- which
10 would also be an accurate representation of the same one, it is not
11 necessary that the State prove the defendant actually committed
12 larceny and/or fraudulent use. The gist of the crime of burglary is
13 the unlawful entry with criminal intent. So those are both
14 admissible.

15 Now, Mr. --

16 MR. FISCHER: And, I guess, Judge, I just have -- maybe
17 this is a question or comment with respect to the change. So the
18 language that predates, we have incidents that predate July 2020,
19 so is the Court or the State taking the position that that's what
20 should apply to the entirety? In other words, if the law changed
21 with respect to dates that are affected by that law, I don't know if
22 that should be reflected in the jury -- in the verdict form or
23 instructions. So.

24 MR. STANTON: Well, prior to July 1st, the definition of
25 burglary and grand larceny, burglary was more a distinction of the

1 punishment as it was to the elements. And it says:

2 Except through -- any person by night -- day or night
3 enters any house, room, apartment --

4 And then it's just the laundry list of things.

5 -- with the intent to commit grand or petit larceny, assault,
6 or battery on any person or any felony or to obtain money or
7 property by false pretenses is guilty of burglary.

8 So to me, there is a distinction only in the way it's
9 statutorily set forth, but not as it's applied to this case.

10 THE COURT: Mr. Fischer --

11 MR. STANTON: So the intent to commit grand or petty
12 larceny, assault or battery, and that's why I had struck this from
13 both the charging document and the instructions, because that
14 does not apply in any count in this case -- or any felony, or to obtain
15 money or property by false pretenses is ability of burglary. That is
16 the pre-July 2020 law.

17 MR. FISCHER: So it's a little bit broader. Maybe that's
18 why -- that's where I'm coming from, Your Honor. I don't know if
19 that -- I know it could in and of itself confuse jurors. I don't know
20 how that applies under the circumstances. I know it's a little
21 unusual, so.

22 THE COURT: Yeah. I mean, I think it would be confusing
23 to the jury to say, all right, here's the law pre --

24 MR. FISCHER: Right.

25 THE COURT: -- and here's the law post, when I'm not sure

1 the overall effect is really worth -- there is --

2 MR. STANTON: And I saw the jury instructions from a
3 trial that Mr. Lexis did last week with another deputy in our office,
4 and they actually had on the verdict form, on the bold, for those
5 counts prior to July, this is the definition of burglary, and then
6 prior/after.

7 To me, there's no substantive distinction, because it all
8 comes down as to the statutory change about what is punishment.

9 THE COURT: Right.

10 MR. STANTON: And the legislature, in essence,
11 decriminalized or lessened the punishment in commercial
12 burglaries that we have here, all of them are commercial burglaries.
13 But they did it as to the sentence, not as to the elements.

14 THE COURT: Right.

15 MR. STANTON: At least I don't see any substantive
16 change in the elements. Once again, as applied to this case.

17 THE COURT: Right. Because the underlying crimes still fit
18 the bill underneath the statutory definition, basically.

19 MR. STANTON: Correct.

20 THE COURT: So I --

21 MR. FISCHER: And the only other comment, Your Honor,
22 is the difference in the law is also that the exposure has changed
23 from a B to a C felony, I believe.

24 MR. STANTON: That's correct.

25 THE COURT: Right. But that would be a sentencing issue,

1 though.

2 MR. FISCHER: And I'm just pointing that out, because the
3 indictment includes that information at the very front. I don't know
4 that that would cause confusion for the jury, I just want to point that
5 out. I don't know, it's maybe nothing we can do. But that -- looking
6 at that, you have Burglary B and then Burglary C. I may wonder
7 why.

8 THE COURT: Oh, so, generally, I take out the category
9 stuff.

10 MR. FISCHER: Okay.

11 THE COURT: The Category C, Category B. I mean, that's
12 something I can easily do on the Word document.

13 MR. BROOKS: Could you do that, especially in this case,
14 given Juror Number 2?

15 THE COURT: What was that?

16 MR. BROOKS: He was the one who worked at the parole
17 board.

18 THE COURT: Oh, yeah, yeah, yeah. Yeah, I -- we can just
19 take those out. They're not needed. So we'll just --

20 MR. STANTON: And once again, Judge, to my review of
21 both the statutory change, the prima facie elements once again, as
22 applied to this case, would only benefit the defendant as we want --
23 it was as we are suggesting to instruct, because it converts all his
24 burglaries to C felonies --

25 THE COURT: Right.

1 MR. STANTON: -- as opposed to a couple that are B, and
2 now the rest C.

3 THE COURT: Okay.

4 MR. STANTON: So the benefit is to the defendant,
5 because they're now all Cs.

6 THE COURT: Sure.

7 MR. STANTON: And the State's fine with that.

8 THE COURT: Okay. So I'll take the C, B, all that stuff in
9 the indictment. But we'll leave the language as it is, because I
10 agree that the substantive changes are more in regards to a
11 sentencing, not the definition of the underlying crime, okay?

12 So now let's go to Mr. Fischer's 27, 28, and 29, which he
13 refers to as the lesser-included.

14 MR. FISCHER: Uh-huh. Yes, Your Honor. And
15 specifically, with respect to -- I would like to include lesser-included,
16 as I list it there, trespass under burglary, and then, of course, the
17 under larceny, grand larceny of older -- over 60, what I provided --
18 does Your Honor have it? The proposed?

19 THE COURT: Yeah, yeah.

20 MR. FISCHER: Okay.

21 THE COURT: 27, 28, and 29. So you knocked burglary
22 down to a trespass, grand larceny down to a petty larceny, and
23 larceny from a person down to just larceny.

24 MR. FISCHER: That's right. That's my request. And the
25 instruction on what a lesser-included is in the definition of those.

1 THE COURT: Okay. State?

2 MR. BROOKS: Well, Judge, I haven't seen them. But off
3 the top of my head, if I were doing a *PEC v State* [phonetic] analysis
4 on a lesser-included, trespass is a lesser-related, I might mess up
5 the name right here, but I believe it's *Smith v State*, it's like a
6 generic-sounding name, but *Smith v State*, if I'm remembering
7 correctly, says that trespass is not a lesser-included of burglary.
8 They do an analysis, given, I think, that the statutory definition of
9 trespass is under circumstances not amounting to burglary. They
10 do a *Blockburger* analysis and say it's just not.

11 So under the *PEC v State*, he's not entitled to trespasses
12 of a lesser-included of burglary, because it's not, it's a
13 lesser-related.

14 THE COURT: Okay. But what about --

15 MR. FISCHER: Sounds like -- what that? Go ahead,
16 Judge.

17 THE COURT: Grand larceny, petty larceny, and larceny
18 from a person larceny.

19 MR. BROOKS: I think they are. I mean, again, I haven't
20 seen them, I'm doing this on the fly. But, yeah, why -- petty larceny
21 definitely is, because there's just a value amount.

22 MR. FISCHER: Right.

23 THE COURT: Right.

24 MR. BROOKS: And larceny from person, petty larceny,
25 the difference would -- it's still taking permanently, it's just whether

1 it's on the person's person or --

2 THE COURT: Just taking.

3 MR. BROOKS: -- just taking.

4 So guessing, yeah, they -- those do seem to need the
5 *Blockburger* test.

6 MR. STANTON: And, Judge, I can't add anything
7 intelligent, because it's never happened to me.

8 MR. FISCHER: *Blockburger's* always been a mystery, I'll
9 be honest, Judge. So I'll submit it.

10 MR. BROOKS: Was I correct on that *Smith v State*, Judge?

11 THE COURT: I think the burglary trespass one is correct.

12 MR. FISCHER: That was my understanding, yeah.

13 THE COURT: But the -- and the grand larceny, petty
14 larceny, that one's fine. The one that I'm a little bit struggling with,
15 though, is larceny from a person and larceny. So is --

16 MR. BROOKS: Would you mind reading the statutory
17 definition to us?

18 MR. STANTON: I've got it.

19 THE COURT: Oh, I don't have it -- sorry, I have the
20 instruction up.

21 MR. FISCHER: Judge, I guess -- I'm sorry to interrupt.
22 What I was trying to get at is we -- the distinction involved dollar
23 values, so that -- as to which is which, under whether it's a
24 misdemeanor, gross, or a felony. So that's --

25 THE COURT: But larceny -- I'm trying -- larceny from a

1 person is a what?

2 MR. FISCHER: C felony -- or I believe it can be a C, B, or
3 even a D, right? Or it's just a straight C? Okay. All right.

4 Mr. Brooks got it today. He's our legal --

5 THE COURT: So larceny from the person is a C, but
6 what's just larceny, a D?

7 MR. BROOKS: No, Judge. Larceny is a petty larceny, I'm
8 assuming.

9 MR. FISCHER: That's what I was getting at. You're right.

10 THE COURT: Okay. Then it needs to be petty, not just --

11 MR. FISCHER: Yeah, I think that --

12 THE COURT: It just is larceny.

13 MR. FISCHER: Yes, Judge. That was my error. But that's
14 the request, that that be a misdemeanor. Correct.

15 THE COURT: Okay. So do you care about petty?

16 MR. FISCHER: I mean, I think I would like it in there, yes.

17 THE COURT: No, I meant --

18 MR. FISCHER: Oh, State, yeah.

19 THE COURT: Oh, sorry, the jury instructions that your
20 guys's secretary submitted are for grand larceny, as:

21 Every person who, with intent to steal or appropriate to
22 his own use, takes from the person of another without his
23 consent, any money, property, or thing of value, is guilty of
24 larceny from the person.

25 MR. BROOKS: Do you by any chance see a definition of

1 just generally larceny there?

2 THE COURT: Not in here. I'm going to get it.

3 MR. BROOKS: I mean, I suppose if we had these things
4 called computers and I hadn't ripped my tie off and shut my
5 computer down, be able to --

6 MR. FISCHER: Tell me about it, I was -- would have had it
7 done too. So.

8 THE MARSHAL: You have your ascot on still.

9 MR. BROOKS: I actually have two, super safe.

10 THE COURT: All right. You guys look for one second, I
11 just need to grab a drink. I'll be right back.

12 [Pause in proceedings.]

13 MR. STANTON: Judge, we agree it's a lesser.

14 THE COURT: Okay. Do we need to -- so is the language
15 okay? Can you guys --

16 MR. STANTON: I have not seen it yet, but --

17 THE COURT: It should be in your e-mail. It was --

18 MR. FISCHER: Thank you, boss. Yeah, I sent it --

19 MR. STANTON: Yeah, I checked the --

20 MR. FISCHER: -- during lunch, I thought. Unless it didn't
21 go through.

22 THE COURT: Here, I'll re-send it.

23 MR. FISCHER: Sorry.

24 THE COURT: It's okay. All right. I just sent it, forwarded it
25 to you guys. And it's pages 27, 28, and 29.

1 MR. BROOKS: Judge.

2 THE COURT: Yes.

3 MR. BROOKS: Because we just are not getting anything,
4 would you mind reading it to us?

5 THE COURT: Yeah.

6 MR. BROOKS: And we'll just give you a verbal.

7 THE COURT: Sure. So, give me a sec. Why don't you
8 come up here and I'll turn the screen. Because it's actually kind of a
9 lot to read. So this one is out. That's probably what trespass -- this
10 one.

11 [Pause in proceedings.]

12 MR. BROOKS: No, because it's concluding -- that's the
13 definition of larceny from person, because see how it says takes
14 from the person of another, without his consent, any money?
15 That's not a petty larceny definition, I don't believe.

16 MR. STANTON: Yeah, that's larceny.

17 MR. BROOKS: That's a larceny --

18 MR. FISCHER: And that's possible I don't have that one
19 right, guys.

20 MR. BROOKS: Because it should -- there's no value
21 amount there. And so if you were doing a grand larceny and a
22 petty larceny, because June 29th is the grand larceny count Mary
23 Campo, that needs to be the 650 down to whatever amount, 250 I
24 think or something. Or just under 650.

25 MR. STANTON: Under 650.

1 MR. BROOKS: Yeah. So the lesser of that grand larceny
2 count, which is whatever count.
3 THE COURT: We just need the steps for a definition of
4 larceny.
5 MR. STANTON: The definition of larceny I think is in the
6 State's packet, Judge.
7 THE COURT: Petty 2?
8 [Pause in proceedings.]
9 MR. FISCHER: Yeah, I have it all at the office, but you'd be
10 faster probably.
11 [Pause in proceedings.]
12 THE COURT: No, I don't see larceny, Dave.
13 MR. STANTON: Here's the statutory grand larceny
14 definition.
15 THE COURT: Grand larceny I have.
16 MR. STANTON: Okay.
17 THE COURT: But do -- what's the differentiation with
18 petty?
19 MR. STANTON: I guess: A person commits grand larceny
20 if the person intentionally steals, takes, and carry away or drives
21 away, and then it's personal property, and then the valuation is the
22 distinction between grand and petit --
23 THE COURT: Okay.
24 MR. STANTON: -- and grand larceny. So --
25 THE COURT: So -- okay.

1 MR. STANTON: Essentially, steals, takes, carries away,
2 leads away, and drives away or entices away --

3 THE COURT: Personal goods or property with a value of
4 less than 650.

5 MR. STANTON: Correct.

6 THE COURT: Okay.

7 MR. STANTON: So within that is the definition of larceny
8 and the grand is the dollar value.

9 THE COURT: Why does this say effective through
10 June 30th of 2020, though? Does your statute -- my statute says
11 effective through June 30th of 2020.

12 MR. STANTON: Correct. And then after July 1st, 2020, is
13 the punishment. It's under 205.222. It's:

14 A person who commits grand larceny shall be punished to
15 the provisions of this section.

16 And then it says:

17 The value of the property, if less than 5,000 --

18 So it's from 650 to 5,000.

19 THE COURT: Okay. So it's the sentencing.

20 MR. STANTON: Yes. That's a D felony, 5 to 25K is a C
21 felony, 25 to 100K is a B felony.

22 THE COURT: Okay.

23 MR. STANTON: And 100k or more is a B with a
24 sentencing increase, 1 to 20 versus the 4 to 10. So
25 post-July 1st, 2020, I think the elements are the same. Certainly, the

1 definition of larceny is the same. The distinction of grand larceny
2 versus petit larceny is now a penalty structure based upon dollar
3 amount.

4 THE COURT: All right. So let me go into --

5 [Pause in proceedings.]

6 THE COURT: All right. So Mr. Stanton, read to me kind of
7 slowly the definition. I'm typing it in. So for petty?

8 MR. STANTON: Well, the definition of larceny in general,
9 so I think that would be the answer to the Court's question.

10 THE COURT: Okay.

11 MR. STANTON: Is --

12 THE COURT: Actually, hold on. Let me see --

13 MR. STANTON: -- intentionally steals, takes, and carries
14 away, then there's a comma, leads away, or drives away --

15 THE COURT: One second, because I'm typing it. Every
16 person who intentionally steals, takes away --

17 MR. STANTON: Takes and carries away, leads away, or
18 drives away personal goods or property --

19 THE COURT: Okay.

20 MR. STANTON: -- owned by another person.

21 THE COURT: Is guilty of?

22 MR. STANTON: Now, it's petty larceny if we inject the
23 dollar amount. And I think in this case, it's pre -- Campo is the one
24 that's charges as larceny from the person and grand larceny, and
25 that's \$650.

1 THE COURT: So is this: Every person who intentionally
2 steals, takes, and carries away, leads away, or drives away personal
3 goods or property owned by another person is guilty of larceny if
4 the amount of the property or goods is over \$650?

5 MR. STANTON: Then they're guilty of grand larceny. So
6 less than 650, it's petty larceny, 650 and above --

7 THE COURT: Okay. So is less than 650. And then the
8 same definition and over 650 is grand larceny?

9 MR. STANTON: Correct.

10 MR. FISCHER: Yes.

11 THE COURT: Okay. So we'll add those. And this was
12 before July, right? Ms. What's-her-name?

13 MR. STANTON: Ms. Campo? Yes, Judge.

14 THE COURT: Yeah.

15 MR. STANTON: That -- her date is --

16 MR. BROOKS: June 29th.

17 MR. STANTON: -- June 29th.

18 THE COURT: Now, with grand larceny, though, is there an
19 intention to permanently deprive?

20 MR. BROOKS: Yes.

21 THE COURT: Okay. So we need to add that.

22 MR. BROOKS: So, Judge, what did I miss while we were
23 gone? What are we stuck on?

24 THE COURT: We are -- we're just legally defining -- to
25 legally define larceny from a person, which I have, grand larceny,

1 and petty larceny.

2 MR. BROOKS: So petty larceny, isn't it always just we
3 move the value components, just larceny is defined as the stealing,
4 taking, carrying away of personal goods or property of another with
5 the intent to permanently deprive the owner thereof.

6 THE COURT: So the part that I'm reading from the
7 secretary, though, from your guys's stock --

8 MR. FISCHER: Uh-huh.

9 MR. BROOKS: And then there would be a subline under it
10 if the value is less than 650, the person is guilty of petty larceny.

11 MR. FISCHER: There you go.

12 THE COURT: Any person who steals, takes, and carries
13 away, leads away, or deprives away personal goods or property of
14 another having a value of \$650 or more, with a specific intent to
15 permanently deprive the owner thereof is guilty of grand larceny.

16 MR. BROOKS: Yes. And then right under it --

17 THE COURT: Right under it what?

18 MR. BROOKS: You do the -- if the value is less than \$650,
19 the person is guilty of petty larceny.

20 THE COURT: All right. The additional that you were given
21 a copy of, Mr. Fischer, is it says:

22 Property is being taken from the person of the victim, if
23 the property was in the victim's reach, inspection, observation,
24 disposition or control so that the victim could dispose of it if the
25 victim's will and power was not overcome.

1 For the definition of from the person, just so you know.
2 Okay?

3 MR. BROOKS: Judge, in the ones that we provided you,
4 did we provide you the definition of taking? The term taking, the
5 term carrying away, the taking element, is there a --

6 MR. FISCHER: I didn't see it.

7 THE COURT: It is in the ones provided. Yes.

8 MR. BROOKS: Okay. And is the -- sorry, is the one after it
9 the crime of larceny does not become one of attempted larceny
10 simply because?

11 THE COURT: No, that's -- the term taking is the last one.
12 That was provided by your secretary.

13 MR. BROOKS: All right. I'm going to send the three of
14 you guys an e-mail.

15 MR. FISCHER: Do you have it right there, Parker?

16 MR. BROOKS: Yeah. Yeah. It's --

17 MR. FISCHER: Because my e-mail doesn't work.

18 MR. BROOKS: It's my trial from last week.

19 MR. FISCHER: Yeah, let me see.

20 [Pause in proceedings.]

21 MR. BROOKS: All right. Judge, sending you an e-mail
22 with -- right now.

23 THE COURT: Okay. Oh, yeah, that makes sense. You saw
24 that, Mr. Fischer?

25 MR. FISCHER: Yes. Now, sounds great, I think it's a

1 correct statement of the law, Your Honor.

2 THE COURT: Okay. All right. So those are added. I've
3 added Mr. Fischer's, just with the correct definition of petty larceny.

4 MR. FISCHER: Thank you.

5 THE COURT: So let me now tell you a few changes.

6 State, if you want to go to -- and Mr. Fischer, if you want
7 to go to yours, if you want to read along. On the indictment,
8 instead of indictment, I put second-amended superseding, just so
9 you guys know to accurately reflect.

10 On the last page -- on Count 22, burglary --

11 MR. BROOKS: One second, Judge. We're trying to -- me
12 and Mr. Fischer are trying to get there. So your second-amended
13 wording went where? On page --

14 THE COURT: When you guys -- when the clerk is about to
15 read the indictment.

16 MR. BROOKS: Yeah.

17 THE COURT: So I'll be page -- they're not numbered, but
18 it'll be page 3. In this case, it is charged in a second superseding
19 indictment.

20 MR. BROOKS: Perfect.

21 THE COURT: Okay. And then Count 22 of that second
22 superseding, assault or battery is going to be taken out, because
23 that's not alleged here.

24 MR. BROOKS: Correct.

25 THE COURT: So keep going, keep going. I'll get you to

1 the next changes. On the credibility of believability of a witness, I
2 just changed his to his or hers.

3 MR. BROOKS: Okay.

4 THE COURT: Because -- just to make it proper, since we
5 had both sexes testifying.

6 I changed my recorder to a her, because it's a her, not a
7 him.

8 MR. BROOKS: Don't assume gender, Judge.

9 THE COURT: How do you identify? Is her okay? All right.
10 Then her it will be.

11 Okay. So now let's go to the lesser-includeds on the
12 verdict form.

13 MR. BROOKS: Okay.

14 THE COURT: So go to Count 2.

15 MR. BROOKS: Okay.

16 THE COURT: You guys need to add larceny. Because
17 that's what the lessers were, right? So --

18 MR. BROOKS: So on Count 2, it would theoretically be
19 guilty of grand larceny and then guilty of petty larceny.

20 THE COURT: Yes.

21 MR. BROOKS: And then I would assume that Your Honor
22 would then dismiss either 2 or 3, given that 2 and 3 would then be
23 duplicative. Because 3 is grand larceny for that conduct.

24 THE COURT: Yeah.

25 MR. BROOKS: And then 2, if they don't find it to be

1 larceny from person, find it to be grand larceny, it's also the same
2 underlying conduct.

3 THE COURT: Oh, yeah, but petty larceny.

4 MR. BROOKS: But I meant if they find grand larceny on --
5 larceny on 2.

6 MR. FISCHER: Yeah.

7 THE COURT: Yeah? What if they find petty larceny?

8 MR. BROOKS: Well, either way, if they find petty larceny
9 on 2 and petty larceny on 3, then --

10 THE COURT: Sorry, are you talking -- oh, wait.

11 MR. BROOKS: So I'm saying Count 2 is theoretically Mary
12 Campo. And if they don't find larceny from person, and you're
13 telling me they're going to find a lesser --

14 THE COURT: Yeah.

15 MR. BROOKS: -- then Count 3 is the same --

16 THE COURT: Oh, you did the lesser?

17 MR. BROOKS: Well, no, it --

18 THE COURT: Oh, yeah. I see what you're saying. Yeah.

19 MR. BROOKS: Yeah.

20 THE COURT: Yeah. Okay. That's fine.

21 MR. BROOKS: There might be an argument that Count 3,
22 you know, can or cannot stand afterwards regardless. So that's --

23 THE COURT: Got it. And then 4 you need trespass.

24 MR. BROOKS: You are giving trespass, Your Honor?

25 THE COURT: Oh, no, no. We decided against it, you're

1 right, you're right. Sorry.

2 8 would be the same as the ones we spoke about.

3 MR. BROOKS: Hold on, we're getting there. Yes.

4 MR. FISCHER: So just a clarification, Judge. So you agree
5 that trespass is a lesser-included, but it's not being included here?
6 I'm sorry --

7 THE COURT: Sorry, no. I looked up this -- it was the
8 *Smith* case, and it --

9 MR. FISCHER: Okay.

10 THE COURT: -- the Nevada Supreme Court does say that
11 trespass is not a lesser-included.

12 MR. FISCHER: Okay. Okay. Thank you.

13 THE COURT: 8 is the same, Count 8.

14 MR. BROOKS: Yes, Your Honor. Well, you -- we would
15 add -- we're not arguing that it's a grand larceny amount in that
16 situation. So there's no reason to provide that. The lesser, I
17 believe, would be the simple larceny, like we're talking about there.

18 THE COURT: Uh-huh.

19 MR. BROOKS: Okay. Yes.

20 THE COURT: But you see how there's nothing there, it
21 just says guilty of?

22 MR. BROOKS: Not in the copy that I'm looking at that you
23 sent me in Count 8.

24 THE COURT: On the verdict form that you guys sent in?

25 MR. BROOKS: Count 8, the one that you just forwarded to

1 me that I pulled up, it's grayed out, so someone must not have
2 tabbed through it.

3 THE COURT: Oh. Yeah.

4 MR. BROOKS: Because the --

5 THE COURT: The one printed isn't there.

6 MR. BROOKS: Oh, because what I'm looking at is what
7 you just sent me, it's there.

8 THE COURT: I guess when you print it doesn't do it.

9 MR. BROOKS: Okay.

10 THE COURT: So you're going to have to tab it out. Same
11 thing for 10. Is it on there on yours?

12 MR. BROOKS: Yes.

13 THE COURT: Same thing for 16. Is it on on yours?

14 MR. BROOKS: Yep.

15 THE COURT: Okay. So I'm going to have to have you
16 guys fix the verdict form. And then correctly spell the word
17 burglary. Because burglary is more of, like, a perfume.

18 MR. BROOKS: I gave you one job. Literally one job.

19 [Colloquy between all parties.]

20 THE COURT: Okay. So you guys do the -- all right. So
21 you guys do the verdict form. I'll make these changes that we've
22 agreed on today, and then I'll prepare a copy, send them to you
23 guys, and we'll go through them in the morning. Okay?

24 MR. BROOKS: What time did he say we're starting back
25 up?

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THE COURT: Jury will be here at 9:00, we need to be here at 8:30.

MR. STANTON: Okay.

MR. BROOKS: And we are closing?

THE COURT: Yeah. I mean, left -- I'm going to obviously --

MR. FISCHER: There's always the question, usually, but --

MR. BROOKS: Yeah, I understand.

THE COURT: And then close. Expect to read instructions and close at 9:00.

MR. FISCHER: It's a whole day. So closing will happen more than likely.

[Court recessed at 5:19 p.m.]

///

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


Shawna Ortega, CET*562

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LAS VEGAS, NEVADA, FRIDAY, APRIL 30, 2021

[Proceeding commenced at 8:51 a.m.]

[Outside the presence of the jury.]

THE COURT: We're on the record in C-350623-1, State of Nevada versus Andrew Young. We are outside the presence.

Mr. Stanton, is the State familiar with the Court's proposed Jury Instructions Number 1 through I believe it's 35?

MR. STANTON: Yes.

THE COURT: 30, actually. 30. Sorry.

And does the State object to the giving of any of those instructions?

MR. STANTON: No.

THE COURT: Does the State have any additional instructions to propose?

MR. STANTON: No.

THE COURT: Mr. Fischer, is the defense familiar with the Court's proposed Jury Instructions Number 1 through 30?

MR. FISCHER: Yes, Your Honor.

THE COURT: All right. And does the defense object to the giving of any of those instructions?

MR. FISCHER: We do not, Your Honor.

THE COURT: And does the defense have any additional instructions to propose?

MR. FISCHER: Not at this time, Your Honor.

1 THE COURT: All right. And then we should also state that
2 yesterday when I got back to my office, I realized we didn't have the
3 defendant not testifying instruction in there. And so I called the
4 State, I asked them to make contact with you, because I didn't have
5 your cell phone number. And then shortly after that, I received an
6 e-mail from you that you did want it included. So I have included it
7 in the packet.

8 MR. FISCHER: Thank you, Your Honor. My apologies. I
9 did receive a text from Mr. Brooks around 6:00. I was out just
10 having dinner with my wife. I saw it around 7:00.

11 THE COURT: No worries.

12 MR. FISCHER: So -- and that's when I responded and my
13 apologies for the delay, Your Honor.

14 THE COURT: No, that's okay. Besides that one, you don't
15 have any additional instructions to propose?

16 MR. FISCHER: I do not, Your Honor.

17 THE COURT: All right. And do either the State or the
18 defense object to the proposed verdict form of the Court?

19 MR. STANTON: No.

20 MR. FISCHER: No, Your Honor.

21 THE COURT: All right. So we -- these have been
22 numbered, we have made copies, and we will hand these out to the
23 jury when they get here so we can go off.

24 [Court recessed at 8:53 a.m., until 9:24 a.m.]

25 [In the presence of the jury.]

1 THE COURT: We're on the record in C-350623, State of
2 Nevada versus Andrew Young. Mr. Young is present with his
3 attorney Mr. Fischer, both chief deputy district attorneys,
4 Mr. Brooks and Mr. Stanton, are present on behalf of the State. Do
5 both parties stipulate to the presence of the jury?

6 MR. STANTON: Yes, Your Honor.

7 MR. FISCHER: Yes, Your Honor.

8 THE COURT: All right. And yesterday afternoon when we
9 were here, the State had rested subject to all of their exhibits being
10 admitted.

11 State, did you have the opportunity to go through those?

12 MR. BROOKS: Yes, Judge.

13 THE COURT: All right. Mr. Fischer?

14 MR. FISCHER: Yes, Your Honor.

15 At this time, the defense rests.

16 THE COURT: All right. Thank you.

17 Ladies and gentlemen, when you walked in just now, you
18 should see a copy of the law that is applicable to this case. At this
19 point in time, the evidence portion of the case has been closed. So
20 now I will read you the instructions on the law that applies to this
21 case, and then we will move into closing arguments.

22 So just like the notebook that you've been writing on, you
23 can also write on these jury instructions and you will be able to take
24 them back into the jury room with you. Okay?

25 [Jury instructions read.]

1 THE COURT: State, at this time, are you prepared to give
2 your opening/closing argument?

3 MR. BROOKS: Yes, Judge.

4 THE COURT: Whenever you're ready.

5 **CLOSING ARGUMENT FOR THE STATE**

6 MR. BROOKS: So before we get into some of the law,
7 because most of a closing argument is, essentially, taking all the
8 facts, taking some of the witness testimony, the exhibits, and
9 applying it to the law that Her Honor just read to you.

10 Now, in these slides, occasionally throughout it, it will be
11 exactly the wording like it is in the instructions. Those instructions
12 are what guide you. Those are the actual law. These PowerPoint
13 slides are, essentially, counsel taking various parts of the most
14 important or the elements or the easiest way to describe certain
15 things and putting it in kind of a light that's easier to understand.

16 Now, before we get into kind of the law and all the
17 instructions, I want to play a little bit of a game. And this isn't
18 interactive the same way the voir dire is. So I'm not actually asking
19 for a response. But because intent is going to be so heavily
20 touched on in these -- in this closing and in those instructions, and
21 it really is the crux of the case, and you'll kind of come to find out
22 that burglary is an intent-based crime.

23 Really quickly, if you were to see that man walking
24 towards that building, what do you think he would be doing?
25 What's his intent? He's got tools on him, a helmet.

1 If you were to see that man with the suitcase walking to
2 the courtroom, what would you think? I mean, if someone said,
3 hey, what's this guy's intent? What's he about to do? Those would
4 be easy to answer.

5 If you were to see this person walk into a hospital room,
6 what would be the intent of that? What would you expect him to be
7 about to do?

8 If you were to see this guy walking into a Gold's Gym,
9 what would be his intent?

10 And that's really common sense, and if someone asks you
11 that, then say, oh, bam, bam, bam, bam, and wouldn't think twice.
12 But now we're about to kind of go into instructions and so later on
13 I'm going to ask you to kind of come back to that common sense
14 approach of those examples.

15 Because what we learned over the last couple of days is
16 when this man enters certain buildings with and without a partner,
17 with his jacket, we know what he's about to do.

18 So the reason I touch on intent, because intent is a
19 question for the jury. That is a question of fact and it's up to you
20 guys to determine what someone's intent is. Because we don't
21 walk around with these little thought bubbles. You can't see
22 someone's thought bubble, Oh, I'm going to go into this building,
23 but only to use the bathroom. I'm going to go in this building to get
24 food. You've no idea.

25 So let's go over burglary. Burglary is a person who enters

1 any business structure with the intent to commit larceny and/or for
2 felony, he's guilty of burglary. And like I said, intention is a
3 question of fact which may be inferred from the defendant's
4 conduct and all other circumstances disclosed by the evidence. So
5 you get to use everything you've seen to determine what
6 someone's intent is. I've highlighted that yellow part, because that
7 is the crux of this.

8 Now, because it says you enter that business structure
9 with the intent to commit larceny and/or felony, what's larceny?
10 Larceny is also one of these specific intent crimes. It is the stealing,
11 taking, and carrying away of personal goods or property of another
12 with the intent to permanently deprive the owner thereof. That's a
13 fancy way of saying you take it, you don't expect to give it back.
14 You're not borrowing it, you're not borrowing one another's jury
15 instructions for a second, you're going to give it back after you
16 check page 8. No. You're taking something from someone and you
17 don't intend to give it back. You're permanently depriving them of
18 that. That's larceny.

19 Now, what is not necessary in a burglary? Because
20 oftentimes if someone were to ask you, hey, what's a burglary?
21 You would think of that hot prowl situation where a guy kicks down
22 a door at night, goes into someone's house. Sure, that is one
23 example. But that is not the definition of burglary. Burglary can be
24 many things.

25 Let's talk about what is not. It's not necessary to prove an

1 actual larceny occurred inside of a building. A burglary could be
2 complete upon entry if the requisite intent's there. So if the person
3 has that mindset when they're entering, the burglary's committed.
4 So it's no necessary to even finalize the larceny and/or the felony.
5 Unless they broke into someone's house to do something to
6 someone, kicked down the door and they're not home, legally,
7 you're still guilty of burglary, even though you didn't get to do
8 anything to that person because they just weren't there; you were
9 intending to do something had they been there.

10 The gist of this is the unlawful entry with criminal intent.
11 A burglary is committed regardless of whether it's that larceny is
12 committed or later on, we'll talk about, or a felony's committed.
13 Because some of the counts are a burglary for entering with the
14 intent to do fraudulent use of credit or debit card, not just the
15 larceny. That's why they're both in there.

16 Another thing, and this goes back to that mindset that we
17 all have from watching television where we think, oh, burglary can
18 just be going into someone's home. Consent to enter is not an
19 offense. So burglary can occur even when entries to the public
20 entrance during regular business hours, if you walk into that
21 T-Mobile store at 11:00 and while they're open and the clerks are
22 there serving customers, you're going in there to rob them, the
23 burglary is committed. You don't get to just go into businesses
24 with criminal intent. So being open to the public is not an offense.

25 And if you kind of think of it as that there's a public policy

1 rationale for all this, I mean, we want people to open businesses,
2 we want people to engage in interstate commerce, to sell things to
3 other people. And so as a social contract, we have decided, well,
4 we want businesses to be there, but we don't want people entering
5 with criminal intent. So we prohibit people from just going in to do
6 bad things.

7 So at 11:00 p.m. on June 29th, 2020, at the Rampart, the
8 defendant just committed burglary right there. Now, I know that
9 seems a little odd. As we go into more detail, it'll make more
10 sense. But right there, knowing what you know after the last couple
11 of days, you could look at that and let's say that he went on that
12 thermal scanner and had a temperature of 101 and during --
13 because it's COVID time, they say, hey, you can't come in here.
14 Legally, he would have still committed burglary.

15 Now, realistically, if you -- we'd be here, would anyone
16 ever know that if he was turned around? Hey, you can't come in.
17 And he took his jacket that's completely unnecessary in June and
18 drug it back out to the car that had been reversed and backed in,
19 even though it was a completely empty parking lot and no reason
20 to back a car in unless you wanted to make sure you can get away
21 quickly. So let's leave all that aside; if he'd been turned away, he
22 would still have committed burglary.

23 So let's look at -- and I grouped a lot of this. Let's look at
24 Counts 1 through 3. 1 through 3 is the [indiscernible] for entering
25 Rampart. It's the larceny from a person, victim over 60, on Mary

1 Campo. And it's the grand larceny for the fact that what he took
2 from Mary Campo was over \$650. Remember, it was roughly 1,400
3 in hundreds and then about another 200 in I think she had 20s
4 or 10s or 5s. So Rampart Casino, Mary Campo, and the victim of
5 the perp.

6 See why this didn't play along.

7 [Video played.]

8 MR. BROOKS: She's 72. Now, I would put in all the clips
9 of the ages of different victims. You heard the dates, you heard
10 how old they are. That's just an example that that's one of the
11 elements that has to be met.

12 If Mr. Stanton hadn't asked Mary Campo how old she was,
13 we couldn't stand up here and say, hey, you know, she looked
14 over 60. No, so that's why he asked some of those questions. And
15 more as we go into this closing argument, you'll say, Oh, that's
16 what he asked that, Did you remember giving them consent? Do
17 you know that person?

18 So larceny of a person, victim over 60 years of age. Every
19 person who, with the intent to steal or appropriate to his own use,
20 takes from the person of another, without his consent, any money,
21 property, or thing of value.

22 So what's from the person? Because we all kind of get
23 that initial thing, it's that you can't steal something from someone.
24 But what is from the person? From the person means property is
25 being taken from the person of the victim, if the property was

1 within the victim's reach, inspection, observation, disposition, or
2 control. So we kind of heard from Mary where she was seated and
3 we saw where that purse was.

4 [Video played.]

5 MR. BROOKS: She was sitting there, she knew where she
6 was. She was in familiar territory. But what happened? Two guys
7 saw her, two guys were walking around and they saw an old lady
8 sitting there with her bag right next to her.

9 [Video played.]

10 MR. BROOKS: Defendant looks down. They've done a
11 drive-by, so to speak. Talking it through. Both guys have jackets.
12 He's looking back. Oh, people are walking by. Not yet. Let's not do
13 it yet. All right. Let's go set it up. I'll talk to her, ask her about
14 some piece of paper, startle her a bit. When her direction is turned,
15 take it -- oh, I got it. Let me give the sign up there so he knows I've
16 got it. And all of a sudden, whatever question was just so
17 imperative has clearly either been answered or rendered irrelevant,
18 since Mary Campo's wallet's been taken.

19 And then you heard those guys left. They were gone
20 within a couple of minutes. Because the only reason they entered
21 Rampart that night was to do that.

22 So grand larceny. Not only was that a larceny from a
23 person for the taking of right there, on her purse right next to her,
24 within her control, observation. But it also was over the amount,
25 which was \$650 or more of that. So --

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[Video played.]

MR. BROOKS: So that's going to be one of the only times I really touch on value. Because, as you see, from the larceny of a person instructions, you don't see a value component. And think about that, we don't want people taking something off another person. So oh, that's a little different, you pick-pocketed that person? You went and took something out of their purse while it was on them? That's more of an infringement than if someone turns their back and you steal some money.

So grand larceny is -- had a value on it. Mary Campo's was above the 650, because it was \$1,400 and another 200. But the larceny from person you won't hear me go through details of how much it was, because it's just property. It's property, it's items, there's no value put on it.

What did we learn? 40 minutes later, roughly, those guys left Rampart and were over at the 7-Eleven on South Marilyn Parkway. Now, is it reasonable? Yeah, it was 11:40 at night, 11:30 at night, there's no one on the roads. And it's COVID time so no one was really on the roads to begin with.

And what happened at that 7-Eleven? So now this is another two groupings that I've put together. So Counts 4 and 5, this is a burglary and a fraudulent use of credit card. But the burglary has a different component to it. Because this burglary is the entry with the intent to commit a felony. Not necessarily to commit a larceny. So in this situation, you're not going to hear me

1 or even Mr. Stanton come up here and say, well, he went into
2 that 7-Eleven pick-pockets all the time. He had already done that,
3 gotten the goods, now he's entering that business in order to use
4 the cards and see what else he can get out of the cards he took
5 from Mary Campo.

6 7-Eleven and the fraudulent use of the credit card, Mary
7 Campo, ending in 1020. A person who enters any building with the
8 intent to commit a felony is guilty of burglary. So entering
9 the 7-Eleven with that intent to use her credit card -- or credit cards,
10 but in this one it's just one that was used, is the burglary.

11 Now, what's a fraudulent use of credit or debit card? A
12 person with the intent to defraud uses a credit or debit card to
13 obtain money, goods, property, or anything of value without the
14 cardholder's consent. So that's one of the reasons that --
15 remember Mr. Stanton, I'm going to say, and this seems weird, but
16 did you give anyone permission to use your card? She said, I don't
17 give my sister permission to use the card or my husband. And she
18 just kind of irritated with him. And then he said, Do you know of a
19 person named Andrew Young? No. Well, did you give him
20 permission to use your card? No, why would I? That's why you ask
21 that question, because it's without the cardholder's consent.

22 In this case, it was to obtain cigarettes. Notice there's no
23 nominal value component in this. It doesn't have to be \$400 of
24 value, \$200 of value. It was 800 -- it was \$8.80 in this case of
25 cigarettes.

1 Mary Campo's credit card was used at that 7-Eleven. And
2 let's look at the receipt. We see that it's this Kool 100-pack at 11:42.
3 At 11:42, the defendant's standing right there getting the cigarettes.
4 And he's wearing the same Jordan shoes that he wore in every
5 event, and the same Jordan shoes that he was arrested in and that
6 were impounded when he was arrested.

7 Petit larceny, now, this is going to be a further explanation
8 of kind of what I started with when we were talking about intent.
9 You had seen Mr. Fischer ask some of the witnesses the questions,
10 like, And didn't this all start with a petty Larceny? And they said,
11 yeah, it was a petty larceny on July 8th, 2020.

12 And I'm here to tell you if Mr. Fischer stands up in closing
13 and he says, That right there, where Defendant stole that -- those
14 items and wallet out of that shopping cart is petty larceny, he's
15 right, he's absolutely right. That is a petty larceny right there. What
16 you see right there is petty larceny. That citation was correct.

17 But that's not what the crime was. Larceny is the stealing,
18 taking, and carrying away the personal goods of property of
19 another with the intent to permanently deprive the owner thereof.
20 But what did we hear? We heard of a little more information, saw a
21 little more video. So look at this. This is petty larceny. He takes
22 that wallet and he doesn't intend to give it back.

23 Was that why Vianca called the police? What else did you
24 see? Police weren't called there. Police were called here. You
25 know because you watched. You sat there and you may have been

1 like, why are we watching it, 10, 11, 12 minutes of the defendant
2 pushing a shopping cart around the store? You see what he's
3 doing. This is the burglary. The burglary occurs earlier than petty
4 larceny. This just happens to be one where the larceny is finalized.
5 You see him get his jacket, fold it all nice and neatly there. In the
6 produce section, he goes back to the cart, it's completely empty. He
7 goes back to the woman leaning over checking different tomatoes.
8 Oh, he set it up, ready to go. And then you saw, remember, people
9 walk by, he kind of waves them by as though he was an air traffic
10 controller, Hey, hey, let's go. Let's go so I can have space. That's
11 the burglary.

12 [Video played.]

13 MR. BROOKS: Look at his eyes here, when he opens this
14 door for the milk. How many of you reach into an refrigerator to
15 pick out milk? Wait, we all know he's been there for 12 minutes at
16 least, maybe 15. So he's either a very diligent shopper, most
17 diligent ever, or he didn't care what the date on that milk was. He
18 had no concern if that was about to go rancid, oh, what's the date
19 on it? Because the only reason he opened that door was to look
20 into her purse. Is there a zipper? Is it open? That's the burglary.
21 He's in that store for one reason.

22 Now, I'm going to go through, just pick randomly some
23 different things to kind of show you more of this intent when he
24 enters buildings.

25 [Video played.]

1 UNIDENTIFIED JUROR: Can you turn the volume up?

2 THE COURT: Let's see if we increase the volume on the
3 laptop to maximum. Is it?

4 MR. BROOKS: The laptop is muted in order for it to go
5 through the speakers. Yeah, I keep the laptop on mute.

6 THE COURT: See -- will you just see if turning it up does
7 anything?

8 MR. BROOKS: Sure.

9 [Pause in proceedings.]

10 THE COURT: Do you see on the bottom right-hand, is that
11 a different volume? See where the minus and the plus; what's that?

12 MR. BROOKS: This?

13 THE COURT: Nope. A little bit up and to the right. Up.
14 Up. Yeah; what's that?

15 MR. BROOKS: No, that's the zoom of the screen.

16 THE COURT: Oh, okay. I'm so sorry, you guys. I don't
17 think we can, unless we get IT down here, right?

18 UNIDENTIFIED JUROR: That's fine.

19 THE COURT: Yeah, I'm sorry.

20 UNIDENTIFIED JUROR: That's fine.

21 THE COURT: But you will have -- go ahead.

22 MR. BROOKS: I know what's being said, I'll rephrase it if I
23 can.

24 THE COURT: Okay.

25 MR. BROOKS: So, but let's see if this messes up the

1 volume.

2 [Video played.]

3 THE COURT: Same.

4 [Video played.]

5 MR. BROOKS: So number one, I asked Vianca, I said, So
6 why -- what caused you concern? She said, you know, other than
7 the jacket when it was over 100 outside, the fact that he went
8 immediately to the produce aisle and kept taking the jacket in and
9 out, holding it nicely on his arm. Why the produce aisle? Well, the
10 produce aisle is different than the rest, because in the produce aisle,
11 you look, and pick and touch the fruit, oh, do I want this one? No.
12 Do I want this one? It's not just, like she said, mayonnaise or
13 Windex and you can pick it and put it in your cart.

14 Did you catch what Montho Boone said when she --
15 Mr. Stanton asked, So when did you realize something was wrong?
16 And she said that she was in the cantaloupe section, looking at
17 cantaloupe, turn around, and notice that her zipper was open.

18 [Video played.]

19 MR. BROOKS: Even the interpreter, when interpreting,
20 just that mentally started touching with his hands.

21 [Video played.]

22 MR. BROOKS: His jacket. One of his other tools. If you
23 remember this one, this was Tina Leigh. When she took the jacket
24 and just for show he did that nice spin move into the jacket and
25 then touched something on the shelf, as though that was necessary

1 in any respect, and then walked off.

2 Where was Barbara Bowen when it happened?

3 [Video played.]

4 MR. BROOKS: Is it any wonder her wallet went missing
5 when she was in the fruit aisle and her daughter went to relieve
6 herself? So her daughter leaves her exposed, the 80-year-old
7 woman, in the fruit aisle. And those are things that show you that
8 man's intent when he enters a store.

9 So now let's get back to the count. So we did 1 through 5,
10 the Mary Campo. Then we talked about the Walmart, the first one
11 where he's, essentially, cited for that.

12 Now, let's go through Counts 7 and 8. Counts 7 and 8 are
13 the Caesar's counts. So the burglary in that is the intent to enter
14 Caesar's or unlawfully remain in Caesar's to either commit petty
15 larceny and/or felony therein.

16 Larceny from a person, victim 60 years of age or older.
17 And that is Rhonda Kay Hatcher, 63 years old. So do you
18 remember what Rhonda said? It was a blue wallet. Now, look
19 closely here, you're going to watch the defendant pull that out of
20 her purse and then after, when she's out of elevator, he's going to
21 tuck that same blue wallet right into his jacket. And it's well done.

22 [Video played.]

23 MR. BROOKS: He gives that same sign. You've seen that
24 sigh before. And you've seen those shoes before. You've seen
25 those headphones around his neck before. You've seen those --

1 that clothing before.

2 Now we're going to look at the same elevator trip, but we
3 are going to see was there any other intent or reason for him to be
4 there? So that first -- we did this a lot or -- order, you just saw the
5 blue wallet get picked. That's the larceny from person.

6 Let's look at why he was in -- even in the elevator. I want
7 you to notice the floor. See that floor? It's the casino floor pattern.
8 As you can see from the elevator, it's a C. They enter. Rhonda's 63,
9 so you can take a guess at what her mother's age is.

10 [Video played.]

11 MR. BROOKS: Both of them have jackets on opposite
12 sides of the elevator. You heard Rhonda say, One of them said they
13 couldn't really see, they were blind or they don't see well. Did I get
14 the right button?

15 See the floor pattern? That's a floor of an actual hotel
16 room. It's weird that all of a sudden that vest went back on his
17 body. Just -- it must have gotten really chilly in the elevator. Either
18 that or the reason for that vest not being on his body was rendered
19 irrelevant, because the taking just occurred.

20 [Video played.]

21 MR. BROOKS: And notice that the round-trip is concluded
22 and they're back on the casino floor. Because that round-trip had
23 one and only one purpose. And you watched it occur.

24 July 22nd, 2020, this is Counts 9 and 10. So this is going
25 to be the Albertson's counts. So this is a burglary of Albertson's

1 with the intent to commit grand or petty larceny and/or a felony.
2 And the larceny of a person in this case is victim 60 years of age or
3 older, and it's Joanne Frank, 77 years old.

4 Now, this one, if you notice, is pled a little differently. But
5 you've seen this video, so you know it's a little different. So we'll
6 go over that. But I want you to notice that the defendant -- we're
7 going to talk about his intent when entering Albertson's. So he's
8 just entered Albertson's at 7:42:55. So 5 seconds into 7:42. Let's
9 go ahead and give the benefit of the doubt, say it's just 7:42.

10 His initial conduct -- contact with Joanne occurs at 7:45:37.
11 And then you've seen those shoes that he's wearing repeatedly.
12 Now let's see what occurs.

13 [Video played.]

14 MR. BROOKS: That's the defendant at the bottom. His
15 partner is up top taking out of her purse, takes out of her purse.
16 Got it. Say goodbye, and backpack is open. And you heard Joanne
17 say she didn't really notice anything was missing. She didn't buy
18 anything, she got back to her car and realized her backpack was a
19 little light. Look at the time here, 7:48:11. So the taking is
20 completed at 7:48:11. Well, it wasn't this.

21 [Video played.]

22 MR. BROOKS: Was it about shrimp? If it was about
23 shrimp, presumably, maybe there's another section they went to to
24 go pick up shrimp for a bar-be-cue later that night.

25 [Video played.]

1 MR. BROOKS: I want you to notice at 7:48:44, oh, look,
2 the defendant goes left, partner goes left. Oh, then they went the
3 wrong way, they're going right. If you think about it, they're all
4 going to a grocery store. This was during COVID. What do you
5 think happened right there? The entrance that they came in
6 through that was close, that they were going to make the quick exit
7 out of, well, every supermarket around town turned into that
8 one-way enter, one-way exit. So they went that way together, mind
9 you, and then all of a sudden, oh, that was close, let's go this way.

10 Or you think they'd both just don't know each other and
11 happened to both go left first and then mess up and go right and
12 leave the store by 7:49. And enter my 7:42 gaming, three-minute
13 interaction with one old lady and they're gone.

14 The larceny of a person in this case, you're going to see
15 there's three different theories. It could be by directly committing
16 the act. So maybe the defendant's the one who got something out
17 of the backpack. Or maybe, in this situation, he was the shield in
18 the distract, and that's why he was talking to her. So conspiring to
19 commit the act: Hey, let's agree to go in there together, do this,
20 we'll find someone. Or aiding and abetting an individual to commit
21 the act. So that's legal language.

22 Let me put this simply for you. The defendant could have
23 either done the act, agreed to do the act, or helped someone else
24 do the act. And you're still guilty of larceny from a person,
25 victim 60 years of age or older. Because you guys agreed,

1 intended, and assisted.

2 [Video played.]

3 MR. BROOKS: Wallet was missing, wallet and contents
4 gone. You heard there were some charges, they got reversed and
5 someone tried to use that.

6 Now, what happens the following day? The following
7 day, on July 23rd, 2020, this is kind of what we'll refer to as those
8 two cluster-type events. And why I say that is you have Barbara
9 Bowen and Montho Boone. And they're -- those events, where,
10 essentially, there's three locations. You have them at Walmart, you
11 have the GameStop, and you have the Walgreen's.

12 Now, did you hear a lot of evidence that Barbara
13 Bowen, 80 years old, 80 years of age, she goes shopping to that
14 Walmart at 5198 Boulder Highway between 1:00 and 2:00 p.m.
15 There was video surveillance for that.

16 Now, it is reasonable to conclude that the person who
17 took that is also the same person who used it at GameStop and
18 used it at Walgreen's? Yes. The State hasn't charged that Walmart,
19 because there was No video surveillance. So some of you asked
20 some really good questions and I think it was something to the
21 effect of, Do you know who took it at Walmart? Was there
22 anything -- trying to ask identification. That Walmart is not one of
23 the burglaries. So because there' no video surveillance and there's
24 not proof beyond a reasonable doubt that, essentially, who took
25 that in that Walgreen's, that's not charged.

1 But the aftereffects, and you heard Detective Liske say he
2 had to work backwards a little bit. So he had to work backwards,
3 because that's all he had. And so he goes to the GameStop and
4 there's a transaction at 2:02, and then there's the attempted
5 transaction at Walgreen's at 2:20.

6 And you saw the map, you know how long, based on the
7 testimony, it takes to walk from Walmart to that GameStop, isn't
8 very far at all. It's the same kind of share of parking lot. And
9 then 15, 20 minutes to get to that Walgreen's on foot.

10 Now, in this situation, because you've seen video in
11 GameStop and in Walgreen's, you know that the defendant's alone
12 in this situation. So reasonable to assume that in this situation he
13 was on foot, because it wasn't the same type thing that you saw at
14 Rampart.

15 The burglary for Count 11 at the GameStop is a person
16 who enters any building with the intent to commit a felony is guilty
17 of burglary. Now, it probably says in there grand larceny or petty
18 larceny. But I'm not standing here telling you he was going to
19 pickpocket or take from anyone in that GameStop. What he was
20 going to do, he entered GameStop with the intent to commit a
21 felony by using those fraudulently obtained cards from Barbara
22 Bowen.

23 And what happened? Barbara Bowen, last four of 4527,
24 the transaction's completed in the amount of \$455.95. It was 450,
25 but then with the activation fee. You also heard that, essentially, at

1 that point in time, 500 was the limit. So, hey, let's get pretty close
2 to that limit, maybe a little bit under, not really flag anything, and
3 get out.

4 So the fraudulent use, Count 12, GameStop, is this.
5 Barbara Bowen's Visa ending in 4527 at that GameStop. And what
6 is fraudulent use of a credit card? Well, it's a person with the intent
7 to defraud, using a credit or debit card, to obtain money, goods,
8 property, or anything of value, without the cardholder's consent.
9 Here's a vanilla Visa, 455.

10 I'm going to play some of the video. You'll have it back
11 there. But this is that July 23rd transaction.

12 [Video played.]

13 MR. BROOKS: You heard in this transaction it was
14 actually Kristen Trock, the person who came and testified, who was
15 waiting on the defendant right there. In his hand is the jacket, the
16 tool used at Walmart to take this. But he's, you know, walking, so
17 still got the jacket. But that time he wasn't entering there to use
18 that jacket.

19 Now, we're going to go to the next slide, even though,
20 essentially, the transaction's still going. And you have seen the
21 defendant walk out this store -- you've seen the defendant walk out
22 of this store and his masked drop a little bit, show his teeth,
23 wearing the headphones, and glasses hanging from his shirt. The
24 same headphones and glasses you've seen in all these videos.

25 Burglary Count 13 of Walgreen's. Similarly, he keeps

1 walking, 15 minutes later, and he enters the Walgreen's and what's
2 his intent? Well, now this is -- you have additional evidence in this
3 situation of his intent at this Walgreen's. Because he's just used
4 that card and it's worked. Let's go to another store.

5 7/23/2020 at 2:19 p.m. Now, here's the thing, we learn
6 right here, Barbara Bowen's last 4527, it's the first card that he tries
7 and he tries it twice. Now, we learned something, though, about
8 this transaction. We learned that it ended up being voided. And
9 you saw the other receipt where money kept coming off, but
10 because it didn't go all the way down to zero, the entire transaction
11 was voided.

12 Now, because that receipt was there and we get to ask
13 more questions in a trial and go through in detail, oh, okay, so the
14 whole thing was voided, even though we see all these swipes and
15 we see this transaction. He did not obtain anything of value in that
16 situation. So on this count right here, Count 14, I'm going to ask
17 you to find him not guilty of Barbara Bowen's Visa card ending
18 in 4527 for the Walgreen's.

19 Now, is he still guilty of the burglary? Absolutely. We
20 know why he entered that store. He entered that store to use
21 this 4527, that's why he tried it twice. But it did not go through. So
22 because that transaction didn't go through, I can't stand here and
23 say that a person with the intent to defraud uses a credit card or
24 debit card to obtain money, goods, property, or anything of value
25 without the cardholder's consent, because he didn't obtain

1 anything.

2 So this is exactly why that beginning instruction with
3 burglary -- burglary is committed regardless of whether the larceny
4 and/or the felony actually occurred inside that business structure.
5 So on 14, I want you to write not guilty.

6 Now, we're going to move into a different cluster. These
7 clusters are the Flamingo event, Counts 15 and 16. Burglary,
8 Flamingo. Intent to commit grand larceny, petty larceny, and/or a
9 felony inside. Larceny from a person, victim 60 years of age or
10 older. This is Serry Mello. It's the one guy that you saw here.

11 Now, I want you to watch this video. It's admitted. I don't
12 know that it was played during trial, but it's admitted. I don't think
13 you've seen this. There must be something really special about this
14 elevator.

15 [Video played.]

16 MR. BROOKS: Otherwise, Defendant must have some
17 other intent for being there. So Serry goes, presses the button.
18 Another guy comes up, another guy. Don't be confused by the 2 on
19 his back. There's a third man walking up there. Serry's wife. Oh,
20 someone with a jacket.

21 [Video played.]

22 MR. BROOKS: Had to be something special about that
23 elevator. Someone made sure they got on that elevator. Now,
24 what do you think it was? You heard something during Serry's
25 testimony. He was asked, Oh, so you just finished checking in?

1 Were you at the front counter? He said, no, no, I did a kiosk
2 check-in.

3 Now, you saw that man. You watched him walk in and
4 out, watched him with these bags pulling behind him. Do you think
5 that maybe, just maybe, that man checking himself into the kiosk,
6 opened his wallet and fumbled around or clearly showed what was
7 there. And then when putting it back away, now everyone knows
8 exactly where that was put. Maybe that's what was so special
9 about that elevator.

10 Let's watch.

11 [Video played.]

12 MR. BROOKS: You heard that Serry kept his wallet in that
13 left front pocket, and at \$302 were in his wallet at the time, because
14 he had \$300 prior to that, take that out, had 2. Oh, here, let me help
15 you. Oh, let me help you there. I got you.

16 So similar to the Caesar's elevator. We're going to look at
17 the end of this after, essentially, Serry's out of the elevator. And
18 this is going to show you also that, essentially, Defendant had a
19 singular intent when entering that. A larceny from person and the
20 burglary are going to be shown right here. Because you know he's
21 took the wallet. Serry told you 300 was gone. But he also told you
22 that within 30 minutes or so he got a notification that there was a
23 cab ride for \$18 and some change. He didn't take a cab ride, he was
24 up in the -- his hotel room.

25 [Video played.]

1 MR. BROOKS: Elevator's still going up. Pull out some
2 cigarettes. And we're going right back down to the ground floor.
3 Do you think Defendant went back down to maybe play some
4 Blackjack? Or did we learn that he left that elevator at 1624, he was
5 getting in a cab by 1626. Getting in a cab wearing the same shoes
6 that you've seen repeatedly. And lo and behold, Serry's credit card
7 has an unauthorized transaction for a cab ride.

8 Three days later this is going to be another one of those
9 cluster accounts, clusters with the counts. Montho Boone, 80 years
10 old, also goes shopping at the Walmart. And have you noticed that
11 the first Walmart was at East Serene Road, but then all of a sudden
12 he's at this new Walmart, this Boulder Highway one? Wonder why
13 he didn't go back to that Walmart that he had used.

14 GameStop occurs at 1:32, Walgreen's occurs at 1:47. And
15 you heard that Montho was shopping around 1:00 p.m. This is the
16 burglary for entering the GameStop with the intent to commit the
17 felony, that felony being fraudulently using Montho Boone's credit
18 cards. Right here, you're going to see that the transaction was
19 successful in the amount of \$480. Is there any wonder it got upped
20 a little bit? Well, 450 worked, let's see if we can do a little more.

21 Fraudulent use at the GameStop, Montho Boone's Visa
22 ending in 3609. Person with the intent to defraud, uses a credit card
23 to obtain money, goods, value, \$480 worth of goods and value.
24 This is Defendant again walking out on August 1st, 2020.

25 [Video played.]

1 MR. BROOKS: Not as good of a view of his face, but he's
2 wearing the same exact thing, same exact mannerisms, clothing,
3 and you can see those headphones.

4 Count 19, this is the Walgreen's. Now, again, guilty of the
5 burglary of walking into Walgreen's, because what did he intend to
6 do at that Walgreen's? Well, we know, because it worked last time.
7 At GameStop, let's try it again, maybe it'll work this time at
8 Walgreen's. And lo and behold, what's the first thing he runs? He
9 runs the card that just worked, the 3609. So why did he enter that
10 Walgreen's? He entered that Walgreen's to attempt to do that
11 transaction.

12 And what is it? Oh, it's cigarettes. We've seen that same
13 type of cigarettes, because people usually stick to habit and custom.
14 So is it shocking that, essentially, someone who likes Kools would
15 buy a pack of Kools?

16 Now, this is that receipt that we told you what we learned.
17 So on Count 20, I want you to mark that one not guilty. So
18 County 20 is not guilty of the Walgreen's on Montho Boone's Visa
19 card, because these transactions that appeared initially to go
20 down 25, go down and go down to 188, it got voided.

21 And if you think about it, what did we learn? We learned a
22 little bit about the process of how things get to court. We learned
23 that there's a grand jury thing. And you heard from the 7-Eleven
24 person who testified, Marcia, she was asked some questions. Oh,
25 well, you didn't say that. And then the video wasn't even played.

1 So this is the entirety of Marcia's testimony other than,
2 like, two lines when they talked about it on the next page, the
3 military time that she messes up and says the time. We're going to
4 go through this in the context of that receipt. Is it any wonder that
5 no one asked detailed questions of that Walgreen's, and so people
6 were left with, oh, so yeah, it must have gone, must have gone.

7 Ma'am, how are you employed?

8 I'm the manager at 7-Eleven.

9 And is the manager 7-Eleven located at 511 South Marilyn
10 Parkway?

11 Yes, ma'am.

12 Is that here in Las Vegas, Clark County, Nevada?

13 Yes, ma'am.

14 Were you contacted by detectives of the Las Vegas
15 Metropolitan Police Department regarding credit or debit card
16 transactions taking place on June 29th of this year?

17 Yes, I was.

18 And were you able to pull both a register receipt and
19 some video for the detectives?

20 Yes, I was.

21 Showing you Grand Jury Exhibit Number 7 up there on
22 the screen there. Is that the receipt you were able to pull? And let
23 me know if you need me to bring it to you.

24 Yes, it is.

25 And this involved a credit card transaction, what appears

1 to be some cigarettes?

2 Yes.

3 And showing you Grand Jury Exhibit Number 8, is this the
4 corresponding video of that?

5 Yes.

6 And ladies and gentlemen of the grand jury, once again,
7 in the interest of time, if the video player's taking some time, we do
8 have still photographs, putting up on the screen Grand Jury
9 Exhibit 9. Are these still photographs from that video -- were you
10 able to -- that you were able to obtain?

11 Yes, they are.

12 And was this the transaction done with actually two
13 gentlemen?

14 The gentlemen in the black vest is the one that did -- ran
15 the card.

16 And the second page of that:

17 Is this the other gentleman that entered with him?

18 Yes.

19 Were they together the entire time?

20 Yes, they were.

21 And this occurred on June 29th, correct?

22 Correct.

23 Okay. Up there on the screen is the actual time of the
24 transaction.

25 That's the extent of what Marcia was asked. So when that

1 back-and-forth, oh, you didn't say this at the grand jury, you never
2 mentioned this, did you mess up who it was? Well, yeah, the
3 question was: And was this the transaction done with actually two
4 gentlemen, the gentleman in the black vest is the one that ran the
5 card.

6 She didn't even answer the question asked. But she
7 messed up. Think of the difference between how long my
8 examination took with her showing video back and forth, going into
9 detail of the receipt, as opposed to what was in the grand jury. She
10 wasn't asked those questions.

11 Similarly, the Walgreen's receipt. That person wasn't
12 asked those questions and that is messed up. So not guilty on
13 Count 20. I just went back to the 7-Eleven just to show you the
14 example of, hey, that's why we have a trial. That's why the trial is
15 so extensive and why the standard is beyond a reasonable doubt,
16 so you can go into a lot of different things.

17 August 7th, 2020, Count 21. This is that same Walmart
18 that he's been successful in twice. Been successful and nothing's
19 happened, so let's go back to it. So the intent to commit grand
20 petty larceny, Tina Leigh incident.

21 So this is that incident where the art teacher had just
22 moved to Vegas. Going to see her right there.

23 [Video played.]

24 MR. BROOKS: And the defendant just walks down that
25 aisle, that man starts asking her about cleaning supplies. Do you

1 think it is any coincidence that that man started asking her cleaning
2 supplies at the exact moment the defendant started to walk down
3 the aisle? Do you think maybe that was planned? Oh, there's that
4 [indiscernible.] So that's an example of burglary, because he
5 entered that Walgreen's with his partner for one and only one
6 reason, with his tools, the jacket.

7 Our last count, August 9th, 2020. The burglary, Suncoast,
8 intent to commit grand or petty larceny, enter a building. And this
9 is the Barbara Angersbach incident.

10 Now, this photo right here is a little more clear than,
11 essentially, when we kept putting that one on the overhead. What
12 was their intent? Did they come prepared? Well, look right there.
13 It's August 10th. His boy has the jacket. What does he have? They
14 came with that intent or possibly, maybe there was a snowstorm in
15 Las Vegas in August. Either way, but I submit to you, based on
16 everything you've seen, that jacket is there for one and only reason.

17 [Video played.]

18 MR. BROOKS: There's Barbara, playing. You've seen this
19 pattern before. All of a sudden, guy starts talking to her, Defendant
20 comes to her left. Sees where her purse is. Leaning in. You can
21 see Barbara's hands going, she's still engaging in that conversation
22 with the man to the right.

23 [Video played.]

24 MR. BROOKS: You can see then he puts something in
25 that left pocket that's farthest away from Barbara. So why not get it

1 and don't make movement with the pocket that's right next to her.
2 The old lady might actually see something and turn to her left.
3 Instead, I'll put it in this far left pocket.

4 Now, last couple of slides I want to talk about goes back to
5 this intent, the jacket. Now, when showing you this, remember, the
6 Walgreen's the GameStop, they're walking distance. They're the
7 situation where, essentially, Defendant's by himself. He's not with
8 a partner. It's reasonable to assume that those are walking.

9 And so, like I said, that jacket wasn't with him to enter on
10 those two time -- those two places to commit a felony; it was
11 because he had just done it at the Walmart. So let's look at just a
12 still shot of his jacket in each one. Walmart -- or, sorry, the
13 Rampart, there's a jacket in his hand. Caesar's, jacket. Albertson's,
14 GameStop, Walgreen's, Flamingo, GameStop, Walgreen's,
15 Walmart, Suncoast.

16 So maybe he's got a really cold left arm. Maybe. Or do
17 we have one example where he didn't have his jacket? One
18 example where he had just taken property of \$1,400 and he's in a
19 car, so it's similar to leaving, because when he goes into this store,
20 he's not doing it to commit some pickpocket or larceny from
21 person. He's going to maybe use the cards that, essentially, he had
22 just taken from Mary Campo.

23 But did you notice the one and only one time that
24 Defendant didn't have this omnipresent jacket on? It is right when
25 he walks into a 7-Eleven. Because he just got away with a great

1 pull. And he knows let's just use these cards, let's get rid of them.
2 Leave my jacket in the car. His buddy's wearing his jacket, because
3 there's no plan to do anything. And that's the only time he doesn't
4 have it on.

5 [Video played.]

6 MR. BROOKS: And that right there shows his intent.

7 So the State asks you find Defendant guilty as charged on
8 everything except those two counts that I've told you that he's not
9 guilty of. Thank you.

10 THE COURT: Okay. Thank you.

11 I'm going to give Mr. Fischer a moment to set up --

12 MR. FISCHER: Thank you.

13 THE COURT: -- and the State a motion to -- or, excuse me,
14 a minute to take everything down. So we'll just take a quick
15 five-to-10-minute recess to allow them to do that.

16 During this recess you must not discuss or communicate
17 with anyone, including fellow jurors, in any way regarding the case
18 or its merits either by voice, phone, e-mail, text, Internet, or other
19 means of communication or social media, read, watch or listen to
20 any news or media accounts or commentary about the case, do any
21 research, such as consulting dictionaries, using the Internet, or
22 using reference materials, make any investigation, test a theory of
23 the case, recreate any aspect of the case, or in any other way
24 investigate or learn about the case on your own, and please do not
25 form or express any opinion on this matter until it's formally

1 submitted to you.

2 10 minutes, so about 10:50, 10:52.

3 [Court recessed at 10:42 a.m., until 10:54 a.m.]

4 [In the presence of the jury.]

5 THE COURT: We're back on the record in State of Nevada
6 versus Andrew Young, C-350623. Mr. Young is present with an
7 attorney, Mr. Fischer, both chief deputy district attorneys,
8 Mr. Stanton and Mr. Brooks, are present on behalf of the State. Do
9 the parties stipulate to the presence of the jury?

10 MR. STANTON: Yes, Your Honor.

11 MR. FISCHER: Yes, Your Honor.

12 THE COURT: All right. So Mr. Fischer, let's see, for some
13 reason it's on one of the modes. Can you exit out of --

14 MR. FISCHER: Yeah, that's what I just going to --

15 THE COURT: Yeah. Dean, do you how to work that? Just
16 need to exit out of it. There you go, perfect.

17 All right. Whenever you're ready, sir.

18 MR. FISCHER: Much better. Thank you, Judge.

19 **CLOSING ARGUMENT FOR THE DEFENDANT**

20 MR. FISCHER: So it's been -- we're on day four now? It's
21 been a long trial, you've heard a lot of evidence, heard a lot of
22 testimony. We appreciate the fact that you've taken the time to be
23 here. We went through a process to select juries, if you recall there
24 were a number of things that I addressed as general questions.

25 We talked about burden of proof, what the difference is in

1 the civil versus a criminal case. In a criminal case, which we have
2 here, beyond a reasonable doubt. You have a jury instruction, take
3 a look at what that means. Take a real close look and I'll talk a little
4 bit more about that.

5 I also talked about presumption of innocence, and that
6 that's something fundamental to our constitution, and that that's
7 something that needs to be decided once the jury is final and in the
8 jury deliberations making their decision, not before. Until
9 everything's been submitted, you've heard all the evidence, you've
10 given everybody a fair opportunity to be heard, including Mr.
11 Young, whom I represent.

12 So if you will, just indulge me for a few minutes.

13 We talked about witnesses and the type of credibility you
14 should place on one witness versus another witness. For example,
15 does law enforcement carry -- in their testimony carry greater
16 weight than somebody otherwise, a lay person, and about the
17 significance of that. Whether it's possible for law enforcement to
18 make mistakes. And we also talked about pressures to solve
19 crimes.

20 And then in my opening, I started, I said, don't give the
21 State a pass. Okay. And I talked very specifically about the July 8th
22 event, which you heard enough about now, I think you know what
23 we're referring to. And I told you that the evidence was going to
24 show that Mr. Young was there and that he was cited for a petty
25 larceny misdemeanor citation. Told you who that would involved,

1 Officers Cunningham, Wheeler. You saw the body cam footage.
2 You saw the interactions.

3 You heard from the Walmart security, Ms. Erickson -- or,
4 no, what was her last name? Veronica? I can't get it right, but
5 she -- I think you all know who I'm referring to, Walmart. She's the
6 lady that has the video control that was watching the petty larceny
7 occur in real time. You guys saw all of that. Okay.

8 I also said that you would hear about a series of thefts that
9 were occurring last summer, and that, obviously, law enforcement
10 has an interest to solve crimes. And there's pressures to solve
11 crimes.

12 I told you you would hear from witnesses, Mary Campo. I
13 told you some of the things she would say, for example, that she
14 wouldn't be able to identify, including statement from her,
15 indicating this. Montho Boone wouldn't be able to identify.
16 Barbara Angersbach. You heard from a number of them. And
17 those are just some examples that I gave in my opening of what
18 would happen, and that's exactly what you heard.

19 And I also told you that you would hear from various law
20 enforcement and that they would develop what they thought was
21 their suspect, Andrew Young, who sits here before you today, as
22 they worked together to solve crimes. Okay.

23 That's what I -- that's, essentially, what -- these are my
24 notes from my opening. I just sort of reviewed them a little bit
25 again. So that's what I told you before the trial started the evidence

1 would show. And that's what the evidence has shown.

2 You'll take a look here, hopefully everyone's familiar with
3 what's written on this paper. We hold these truths to be
4 self-evident that all men -- maybe we should change that, but that's
5 what it says now, all men I think would say all people are created
6 equal, that they are endowed by their creator with certain
7 unalienable rights, that among those are life, liberty, and the pursuit
8 of happiness. Now, does that mean everybody gets a pass? No, it
9 doesn't mean that. Okay?

10 But it also doesn't mean that Mr. Young doesn't get a fair
11 trial. Okay? It means that Mr. Young gets the opportunity to have
12 every piece of evidence weighed by a fair and impartial jury that
13 has not made up their mind before it's been finally submitted.
14 Why? Well, let's talk about some of these reasons. Besides the fact
15 that that seems to be something very fundamental to our country,
16 since that's right from the Declaration of Independence. It's
17 over 200 years old, 250, all men are created equal.

18 2020, that was the year I think many of us just want to
19 forget. Due to the -- why, we're still in it, world pandemic, we all
20 know, quarantine. It was a highly polarized election year. It doesn't
21 matter where you come in on the subject, but we can agree that
22 America's polarized. That that was very, very hard on top of a
23 pandemic we were going through.

24 Then we had mass demonstrations. And there are strong
25 feelings about law enforcement on the one side, and then race

1 relations with respect to law enforcement, and then sort of this line.
2 And then you happen and -- you've got to have one or the other.
3 That's how we decide whether we're American or not.

4 What we're here to do is to consider what the Constitution
5 requires, not what your political personal feelings require, but what
6 the law requires. As written by our founding fathers and as exhibit
7 in the Bill of rights, okay, every one of you, hopefully, is familiar
8 with that.

9 Is America equal? Well, the Constitution says the Sixth
10 Amendment of the Constitution, that you get an impartial jury.
11 That -- among other things. Also, you don't have to testify. The
12 Constitution says that too. And it can't be held against you. I love
13 the Constitution.

14 Don't form an opinion until the case has been submitted
15 to you. I'm hoping everybody did that. Because Mr. Young
16 deserves it as he sits here today. He deserves it. He -- why does he
17 deserve that? Because he's a citizen of this country and the
18 Constitution dictates that. Now, of convenience, you can go back
19 there and just say, you know what, we're just not going to regard
20 anything, we're just going to move it along. That wouldn't be
21 fulfilling your duty.

22 Fulfilling your duty would be considering everything.
23 Consider both the arguments and the evidence presented by the
24 State and the defense. That's the process. Wait, make a decision.
25 Look at what reasonable doubt means. Is reasonable doubt the

1 same thing as preponderance of the evidence? It's not. You have
2 an instruction. It's Instruction Number 22 that's going to tell you
3 what the definition of reasonable doubt is. You can look at it right
4 now. I'll look at it with you.

5 Instruction Number 22 -- and I'm not going read it to you
6 guys, but it is very important that you read it. Okay? Read it.
7 Please. Read -- if -- you should be reading them all, but if you will
8 just focus and read that and think about it, that'll be a big step in
9 your duty as jurors. Okay. Just understanding that instruction.

10 Obviously, attorneys and most cases judges go to law
11 school, and we go through training to understand these things.
12 And, still, it's not always really clear. But our founding fathers in
13 the Constitution said that this is how it's going to work. And that's
14 how you're going to determine, as Americans. And that's what I'm
15 asking you to do, just asking you to look at the evidence fairly and
16 look at what reasonable doubt is.

17 Let's go over just some of the -- and I don't want to
18 belabor this too much. The State gave you an overview of video
19 evidence and the evidence as they see it and as it applies from their
20 perspective. So -- and I think you've all heard it at this point
21 adequately. But I would like to give you a couple of my thoughts
22 here too.

23 And I apologize for the handwritten notes on this, but
24 that's just how it is and you guys get the benefit of trying to read
25 my handwriting. Okay.

1 So let's start with -- and this isn't all-inclusive. I'm just
2 going to highlight the main points. You heard the testimony. Mary
3 Campo, everybody remembers Mary Campo testifying. It's the first
4 incident we saw a video of where she's seated gambling and you
5 have the two gentlemen, the two Black males, one taller and one
6 shorter. She describes it, you heard it. She can't identify the
7 suspect. Okay.

8 We also heard from Marcia Martinez. The State spent
9 some time trying to distinguish between whether the testimony
10 was inclusive at the previous proceeding that I referred to, meaning
11 it was a -- sort of a short review of what happened. But make no
12 mistake, it was all about the same information and the same events.
13 Okay. So it's the State's responsibility to make sure the story is
14 correct and that their witness is telling the truth. So when you have
15 a witness who, under oath, is sworn, and gets up on the stand
16 under oath one time and tells an event a certain way, and then later
17 does it under oath again, now the State says, well, just wasn't as
18 detailed with the grand jury. Works the other way around. Don't
19 know which one, but they're basically making the argument that it
20 doesn't matter. Their sense of standing behind a witness who, if
21 you decide to agree with the State, you're going to give her a pass
22 for things like significant pieces of information. Right? That are
23 just left out, or information that's included.

24 Now, I think it's important that there be details like that.
25 But you decide. You decide whether or not Martinez is a witness. I

1 think she should be disregarded, which is what I wrote in my notes
2 there.

3 Here, on -- I've told you from the beginning, July 8th,
4 Mr. Young's guilty of a petty larceny. I've always said that. That's
5 never been the issue. Okay.

6 Detective Jacobitz, he's Detective Byrd's partner, we heard
7 from both of them. He takes the online report from Rhonda. My
8 question is, you know, where -- Rhonda provides some information,
9 but then we -- there's a Caesar's Palace interaction we didn't hear
10 about. There was -- well, there were gaps in there to say the least,
11 but we know this much, that he took a report and that he does
12 some research and then he develops some leads as a result of that.
13 Rhonda Hatcher, that's the same person you heard from, from
14 Phoenix who testified yesterday and she -- oh [indiscernible]. Okay.

15 Counts 9 and 10, July 22nd, Joanne Frank. She cannot
16 identify anyone.

17 GameStop, Barbara Bowen, she's unable to identify
18 anyone.

19 Then we get into now Counts 13 and 14. State decided
20 that that's not something that they're prosecuting on Count 14. So
21 you don't need to decide that one under Count 14. But as to
22 Count 13, we have Barbara Bowen, again, cannot identify anyone.

23 We heard from Janelle Phung. And, no, she had no
24 personal knowledge as to Andrew Young. She did provide video
25 and she, with some duration, asked what she observed. And then

1 she explained how receipts related to those particular transactions
2 on video apply to the case.

3 Then we have Counts 15 and 16 involving Serry Mello,
4 cannot identify the suspect.

5 August 1st, Montho Boone cannot identify the suspect.

6 Here we have Counts 19 and 20 with Montho Boone not
7 identifying the suspect. 20, the State's saying that they're not
8 pursuing that.

9 Okay. We also heard from Detective Liske, who obtained
10 GameStop, Walgreen's receipts. And the cross-out there isn't me
11 trying to be sneaky, I was putting my notes incorrectly as to this
12 officer pertaining to another one. So that's what that means, in
13 case you're wondering, if you care. Okay.

14 He's also the one who interviews Benji, mother of Montho
15 Boone, Thai lady. Develops his suspect as a result of ongoing
16 investigation into a series of thefts, is what he called them.

17 Then we have Count 21, that was Tina Leigh. Cannot
18 identify a suspect.

19 Count 22, Barbara Angersbach, same thing.

20 Then we heard from a few more witnesses. And this is
21 not every witness. I'm not including a few, but I think these are the
22 most important ones. You heard from Detective Byrd, the last
23 witness yesterday, essentially learned that Andrew Young was cited
24 for a misdemeanor on July 8th at Eastern Walmart.

25 Detective Grimes -- that was interesting listening to him,

1 because he spent some time explaining the process of how leads
2 are developed, how they interact. I asked him a question if some of
3 the information exchanged among law enforcement could be
4 compared to, say, a social media search for law enforcement, and
5 he agreed with that. You guys heard his testimony, think about it
6 and see how you think it should apply. Think about whether or not
7 that has significance, which I think it does. And I've told you that.
8 So again, he's relying on video evidence from other investigations,
9 as he explained, and that that is a common practice.

10 Then we have, of course, Officer Wheeler and
11 Cunningham, which is kind of where I started in my opening, when
12 I started a little bit today. And here we are again, I think all of you
13 heard enough about what they do and their involvement in the
14 case. I don't have any reason to question that, but we know that
15 this is the -- there was a citation for petty larceny, which is a
16 misdemeanor. And that was the warning that associated with it,
17 and then this -- I thought I wrote the citation number.

18 Thank you for indulging me a little bit there.

19 No pass for the State. No pass for the State. You need to
20 consider the evidence. You don't have to listen to me. And maybe
21 you want to disregard what I have to say, which I hope you don't.
22 I'm just asking that you follow the law and the instructions in front
23 of you, that's all. Because I don't have a bag of tricks. I'm just
24 telling you what the law is and I'm trying to explain how I think it
25 applies and how you should consider it.

1 Ask yourself the question, is this a case about any Black
2 man will do? That's an interesting question to ask. Will any Black
3 man do under the circumstances? Right? That's a very serious
4 question, because we're uncomfortable with that, because it talks
5 about race. And how can we talk about race? Well, that's at the
6 core of our problem, is that we don't want to do that. And we want
7 to be able to just marginalize certain aspects of our society. And I
8 think you don't agree, I'll say it, that Black people are
9 disproportionately affected by this criminal justice system. Justice in
10 American.

11 Again, presumption of innocence. That's in the
12 Constitution. And I know there's some of you that believe in the
13 Constitution and its principles.

14 So the State says it wasn't petit larceny. That -- you know,
15 but that's what he was cited for. So I don't know, but that's the
16 citation, you heard the testimony. That's a misdemeanor, like I
17 said.

18 And you really don't need to get into a lot of the other
19 issues unless you decide that you think every one of these events
20 pertains to Mr. Young, and that is, in fact, Mr. Young committed
21 every one of these events. If you're going to -- essentially, by
22 convicting him on the evidence that's been presented so far, okay,
23 you really are going to convict somebody based on similarities and
24 based on conclusions that people have reached, specifically, law
25 enforcement, based on their training and experience. That's good,

1 we want them to have training and experience. Okay. We want
2 them to do it right. But don't make it easy. Put it through the
3 process. Look at everything, compare it. It's not that hard to look at
4 everything.

5 And if you think everything the State is highlighting for
6 you, then you need to draw your conclusions accordingly. I don't
7 think that's true. Air Jordans, how many Air Jordans are there just
8 in Las Vegas alone? I'm not going to say there aren't different types
9 and models. Okay. But I'll give it -- take it one step further, how
10 many Black men wear Air Jordans? Okay. I mean, that's what
11 you're going to give him.

12 And then you have some poor-quality video evidence
13 that's largely grainy with a few selected stills chosen by the State,
14 make no mistake, okay, that they want you to believe it Mr. Young.
15 Again, if you're going to make it easy, you can accept that or you
16 can put it through the test of reasonable doubt. Which I really hope
17 you do.

18 Convicting just another Black man for matching shoes.
19 Convicting another Black man based on apparent similar facial
20 features. Grainy video, varying angles. Liars, conflicting testimony.
21 One line of testimony was African-American engaging in suspicious
22 behavior. Well, what does that mean? African-American engaging
23 in suspicious behavior. To find Mr. Young guilty of anything
24 charged here is to give the State a pass. He was cited for petty
25 Larceny. He's an American. He's equal under the Constitution, and

1 for you to do anything else is to disregard that and convict an
2 innocent man.

3 Thank you, ladies and gentlemen.

4 JUROR NO. 11: Can I ask a question?

5 THE COURT: Oh, sorry, no. We're not allowed to ask any
6 questions. Thank you, though.

7 MR. FISCHER: Thank you, Your Honor.

8 THE COURT: Yes, sir.

9 MR. STANTON: May I proceed, Your Honor?

10 THE COURT: Yes, of course.

11 MR. STANTON: Thank you.

12 **REBUTTAL ARGUMENT FOR THE STATE**

13 MR. STANTON: Ladies and gentlemen, I hope in this
14 short trial this week, it was valuable to you to see something maybe
15 you haven't seen. You've heard about, maybe you've watched on
16 television, maybe you've seen movies about the criminal justice
17 system. But you are part of a small minority in our community that
18 serves their civic duty by coming in here and being jurors, being
19 part of the system.

20 And what you to learn, I hope in this case, is kind of the
21 good, the bad, and the ugly. In the sense that you probably, when
22 you leave this courthouse today, are going to think differently when
23 you go into a grocery store. You're going to be thinking differently
24 when you walk into a smaller elevator. And you're going to be
25 thinking different if you're on the floor of a casino here in town,

1 whether it's you, whether it's a family member, or someone
2 visiting.

3 The other thing is counsel talked about pressure for the
4 police to arrest. In this particular case, if it's not for three people,
5 we're not even here. We have the loss prevention officer at
6 Walmart who has enough experience to know, based upon what
7 she's seen in real time, that there's a problem a potential problem
8 in her store. It has nothing to do with the fact that Mr. Young is a
9 Black man. It has everything to do with what she's observing him
10 do. Where he is. Did you ever think about the produce section of
11 your supermarket like you do now? There's a reason why Andrew
12 Young and his co-conspirator go to supermarkets, why they go to
13 produce sections.

14 In addition to learning that, you also learn that there's
15 detectives. And just like in all walks of life, there are people that
16 below average, average, and above average. And in this particular
17 case, out of all these events, it's two detectives that take the time
18 and effort to get the information from multiple sources and attempt
19 to track down evidence to further their investigation. They know
20 crimes have been committed; the question is, who did it?

21 They took the time and they weren't always successful.
22 But without that effort, we're not here. None of these cases are
23 solved by an arrest, and the person responsible doesn't sit in the
24 courtroom facing the charges and the evidence against him.

25 I drove past, on my way to work for the past couple of

1 years, on I-15 near the Raiders stadium. And I always wonder why I
2 never get cases of people stealing, pick-pocketing, robbing the
3 construction site at building projects. Interesting thought. Why
4 wouldn't you go target those individuals? Probably because if
5 you're caught, you're going to get beaten by the people that work
6 there, the construction workers.

7 So who are the victims? Who are the easy victims?
8 Mr. Brooks talked to you about intent, a very important aspect of
9 this case and especially as it relates to the offenses of burglary.
10 Who did Mr. Young and his co-conspirator target as victims? It's
11 not by accident, ladies and gentlemen. Everything about the crimes
12 that you see in this case is planned. There's a purpose for it. There
13 is a design to it. Not only to complete the crime, but to get away
14 with it. And you saw a lot of crimes.

15 So every single witness walked from that door to that
16 witness stand in this trial, right in front of you. Did you see a
17 common aspect of each and every one of them? One of the things I
18 do during a trial is when the judge asks me, State, call your next
19 witness, and I announce their name, Mary Campo. And I usually
20 stand aside and I don't look at the witness coming in. I'm looking at
21 you. Hopefully not staring at you and making you uncomfortable,
22 but what I'm watching for is how do you look when you see the first
23 time the victim in this case walks into this courtroom.

24 By the time I called the eighth victim in this case, you all
25 looked at the door, what did you expect to walk through? The exact

1 same thing you had seen seven times before. That is not by
2 accident. It's designed not only to accomplish the crime, but to get
3 away with it. And you see it in several of the cases here, the
4 inability to even know that they have just had, from their body,
5 practically, in cases, just had their wallet taken from them. Most of
6 the people didn't even know it happened, and certainly not in real
7 time to attempt to stop them, prevent them from going off, and
8 where they even have the capability to do that. That's why this
9 didn't happen at the Raider stadium. Because a construction
10 worker would have had a different response. And that's why that --
11 those crimes don't occur to them.

12 Now, I would submit that Mr. Young made an error in
13 picking on mostly elderly women. I think you saw in each and
14 every one of them, having the intestinal fortitude that each one of
15 them had to come in, to testify, to remember as best they could.
16 And occasions, they don't have the greatest memory. Once again,
17 by design. That's why you prey on these victims. And you see --
18 you are one of the few juries to actually see the predatory behavior
19 on video. It's compelling and it's ugly.

20 The jacket, it does two things. Number one, boots on the
21 ground, it blocks. You can see in a couple of videos, especially the
22 video in the elevators. A gentleman there with what appears to be,
23 like, a food container. And he, from what I submit respectfully to
24 you, is looking at the behavior of Mr. Young and his co-conspirator.
25 And he's kind of looking around to see what they're doing. I think

1 something that they're doing draws his attention to it. But that's
2 why the jacket is there. And the supermarkets, at the casino, not
3 only to block the victim; if they were to turn around, they couldn't
4 see his hand in the purse. It's a blocker.

5 But it's designed to block something else.

6 Three-dimensional [indiscernible]. Video. But think how many
7 times this could be accomplished where the video doesn't capture
8 the actual theft. And, in fact, we have that precisely in this case.
9 Remember Ms. Bowen's testimony, this is a woman that goes to
10 the McDonald's first with her daughter. They purchase drinks there,
11 she believes that she pays for the drinks and that's when she last
12 sees her wallet. She goes into the Walmart very nearby. And while
13 she's in there, it's determined that, at least at some point when she
14 goes to pay, she doesn't have her wallet. And she thinks, I must
15 have left it in the car.

16 Daughter goes out, it's not in the car, they come back.
17 And then her testimony was she, along with her daughter and
18 Walmart security, they stayed there for about 20 minutes, will
19 review where she was in the store, and guess what? They couldn't
20 see any theft. Blocking was successful in both components that
21 Mr. Young planned to use it for. Two-dimensionally, and
22 three-dimensionally. Once again, not by accident.

23 Now, counsel argues to you, I think, Marcia Martinez
24 committed perjury, lied, is mistaken, testified differently. And that's
25 why I moved to admit the grand jury transcript. So you can

1 compare the two, to see if what he just argued to you actually
2 occurred. But I'll submit there's no evidence to suggest that
3 whatsoever. That's it not inconsistent, it's not a lie, it's not
4 fabricated. I mean, besides the fact what motive would she have?
5 It was a different proceeding that leads to the presentation of a jury
6 trial. And her testimony was much more detailed and much more
7 in length.

8 The next thing is counsel raised this is about race. And
9 that this case is about race, because Mr. Young is a Black man.
10 Well, it is about race, but not the way he means it. Race, just like
11 age, just like gender, just like body type, just like height, just like
12 weight, they're all identifiers. And in the world of criminal justice in
13 the investigation, prosecution, and trials of criminal cases,
14 identification exists in every single case.

15 Was a crime committed? If so, what crime? Who
16 committed the crime? Every single case. To take race out of it
17 would deny an identifier in every single case. So in a criminal case,
18 is race part of the case? Yeah, sometime it's more important than
19 others, and here, it's important. Why? Who is the one committing
20 these crimes? It is a Black man. It is Andrew Young, for all the
21 reasons that you've heard: Height, weight, body type, gender, and
22 race.

23 Counsel talks about stills that are in evidence chosen by
24 the State. Ladies and gentlemen, in a criminal case, evidence, stuff
25 that was moved to admit here, things in this investigation that were

1 never admitted. Evidence doesn't belong to Mr. Brooks and myself;
2 it belongs to this case. So those videos are equally provided and
3 available to the defense. He could have taken any still from any
4 video and admitted into evidence without objection by the State.

5 So it's not the State's stills. It's not even the State's
6 videotape. We're the ones that move them into evidence. But if
7 there's evidence on there that shows that this person is not
8 Mr. Young, you can take a still from anywhere in there to present it
9 to you.

10 Two days ago, the first PowerPoint slide that Mr. Brooks
11 showed you was this. And two-dimensionally, when you saw that,
12 kind of the first thing you heard about this case besides it being
13 criminal was a list of victims in this case. And you've got to think to
14 yourself, there's a lot. And then you looked at the age. But it
15 doesn't really do it justice to see it in that format. What does it
16 justice is when they walk through that door.

17 Hold Mr. Young accountable for victimizing each and
18 every one of these people. Thank you.

19 THE COURT: All right. The clerk will now swear in Officer
20 O'Kelly, who will take charge of the jurors and the alternate juror.

21 [Officer sworn.]

22 THE COURT: All right. Ladies and gentlemen, as you
23 know, a jury is compromised [sic] of actually 12 individuals, two of
24 you are alternates. Mr. Richard Stieve and Ms. Brittany Gries, you
25 are our alternates in this case. You are not discharged from duty at

1 this point in time. What I'm going to ask you to do is leave your cell
2 phone numbers with my marshal so that if someone gets ill or is
3 unable to deliberate for any reason, I will call you back in to rejoin.
4 But you will be free to leave after this.

5 Just please keep in mind that while the case is ongoing,
6 and while the rest of your jurors are deliberating, the
7 admonishment of, you know, not doing any of the things that
8 you're not supposed to be doing that I read to you every recess is
9 still in effect. If this is for any reason the last time that I do have the
10 opportunity to see you, I do want to genuinely thank you for your
11 willingness to serve in this trial and especially through a pandemic.
12 It is really greatly appreciated. So thank you very much.

13 As to the rest of you, now will be your time to deliberate.
14 So normally, pre-COVID, we would have done this back in the jury
15 deliberations room. Because the jury deliberations room do not --
16 we can't fit all of you in there and maintain the 6-foot distance
17 requirement, we're going to have you deliberate in here. My staff is
18 going to bring in lunch for you guys to eat while you're
19 deliberating.

20 We need to exit the courtroom, however, and get
21 everything set up and clean all of our stuff out so that you can have
22 the whole courtroom. Okay? So I am going task you guys to step
23 out for about 10 minutes while we pack everything up, and then I'll
24 bring you back in, lunch will be served, and you can start the
25 deliberation process.

1 JUROR NO. 11: Can I ask a question on the pleading?

2 THE COURT: On the pleading?

3 JUROR NO. 11: Is he pleading guilty to the petty larceny
4 and not guilty to the rest? That's -- I don't know how this works,
5 just curious.

6 THE COURT: So -- gosh. All right. So what I'm going to
7 ask you to do is when you go back, because, technically, we're not
8 allowed to answer any questions verbally spoken right now
9 pursuant to the rules. So when you guys go back, you'll have a
10 foreman. You'll pick a foreman, have that question written down,
11 I'll consult with the attorneys, and I'll provide you either an oral
12 answer or a written answer. Okay?

13 JUROR NO. 11: Okay.

14 THE COURT: All right. During this recess you must not
15 discuss or communicate with anyone, including fellow jurors, in
16 any way regarding the case or its merits either by voice, phone,
17 e-mail, text, Internet, or other means of communication or social
18 media, read, watch or listen to any news or media accounts or
19 commentary about the case, do any research, such as consulting
20 dictionaries, using the Internet, or using reference materials, make
21 any investigation, test a theory of the case, recreate any aspect of
22 the case, or in any other way investigate or learn about the case on
23 your own, or form or express any opinion regarding the case until
24 it's finally submitted to you.

25 So I'm going to -- you guys are going to step out. When

1 we come back, that last one that says you can't talk to each other
2 about the case, you can't form an opinion, now is actually your time
3 to do that. Just wait till we get out, you come into the jury
4 deliberations room. Okay? So give me about 10 minutes and then
5 Marshal O'Kelly will come get you.

6 Thank you.

7 [Jury recessed for deliberation at 11:38 a.m.]

8 THE COURT: All right. We're still on the record, outside
9 the presence of the jury. So I believe Mr. Bilzerian's question was,
10 you know, to that July 8th incident, if you were, in fact, asking them
11 to find him guilty of the misdemeanor trespass -- or, sorry, the
12 misdemeanor petty larceny, right? And then let him go. But
13 that's --

14 MR. FISCHER: That's not really what they -- really what
15 I'm asking is for a not guilty because of the way it's written on -- it's
16 burglary or not guilty.

17 THE COURT: Right.

18 MR. FISCHER: So I'm conceding that there was a
19 misdemeanor, but that's not on the guilty form -- that's -- so that
20 would be my answer, Your Honor.

21 THE COURT: All right. So how did the parties -- if that is
22 reduced to writing and a formal question, how did the parties want
23 to discuss that? Or not discuss that, but return an answer to the
24 jurors, if any? So I'll start with you Mr. Fischer, since it's a question
25 for you.

1 MR. FISCHER: I would just say that they should read the
2 instructions and make -- and render an opinion or make a decision.
3 It's really, for us to answer that would be, in effect, might be telling
4 that juror that there is guilt. All I was saying was that we -- we're
5 conceding a misdemeanor citation. The confusion may have been
6 when the State, essentially, concedes 14 and 20. I think that
7 combined with my argument is maybe what confused the juror.
8 But I think that as long as they stick to the verdict form, the
9 instructions, and reach a conclusion, that should be the answer.
10 So.

11 THE COURT: Okay. I think just so you know, though,
12 Mr. Fischer, my understanding is his question was directly to you.
13 Are you asking us to concede on this? So I'm happy to answer in
14 whatever you deem appropriate.

15 MR. FISCHER: And that would be my answer is to follow
16 the law, just like I asked, and to -- if it -- if the jury instruction in this
17 case is burglary, then the not guilty, verdict would -- that stays --
18 that's what they have to decide in my opinion. So.

19 THE COURT: Okay. State?

20 MR. BROOKS: I mean, there's only two options on that.
21 So he should choose between the options given on that. I would
22 note, though, I do think it's kind of important, given the fact that
23 we -- this is a great question, actually. And this is so unclearly --
24 this is thinking about that, he was listening to the defense counsel's
25 argument, which admittedly, we all should have picked up on this. I

1 mean, that was a -- and this portion's looking at the verdict form,
2 reading it. So I know he went into detail with them.

3 But it's important to also note that the case, right before it
4 was submitted to him, that was the most intelligent question and it
5 showed that he's still listening to Mr. Fischer and his argument
6 intently.

7 MR. FISCHER: And I appreciate Mr. Brooks' comments.

8 THE COURT: Okay. All right. Sounds good. That'll be it.
9 Everybody -- Mr. Fischer, your cell phone number, may I please
10 have it?

11 MR. FISCHER: I'm happy to give -- yes, Your Honor. I will
12 do that. I'll write it now.

13 THE COURT: All right. Thank you.

14 MR. FISCHER: If I could have two minutes, I know we
15 need to get out of here, just get myself organized.

16 [Court recessed at 11:41 a.m., until 1:37 p.m.]

17 [In the presence of the jury.]

18 THE COURT: We're on the record in State of Nevada
19 versus Andrew Young, C-350623. Mr. Young is present, counsel --
20 Mr. Fischer. Mr. Brooks, chief deputy district attorney on behalf of
21 the State. Do the parties stipulate to the presence of the jury?

22 MR. FISCHER: Yes, Your Honor.

23 THE COURT: Okay. And has the jury selected a
24 foreperson? Okay. Perfect.

25 Mr. Bilzerian, has the jury reached a verdict?

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JUROR NO. 11: Yes.

THE COURT: Okay. Can you please hand that verdict from to my marshal, please.

JUROR NO. 11: Yes, ma'am.

THE COURT: And will -- Mr. Young, will you and Mr. Fischer please stand.

All right. The clerk will now read the verdict out loud.

THE CLERK: District Court, Clark County, Nevada, State of Nevada, Plaintiff, versus Andrew Young, Defendant, Case Number C-20-350623-1, Department Number 6 verdict:

We, the jury, in the above-entitled case find the defendant, Andrew Young, as follows:

Count 1: Burglary, Rampart Casino, guilty of burglary.

Count 2: Larceny From a Person, Victim 60 Years of Age or Older, Mary Campo, guilty of larceny from a person, victim 60 years of age or older.

Count 3: Grand Larceny, Mary Campo, guilty of grand larceny.

Count 4: Burglary, 7-Eleven, guilty of burglary.

Count 5: Fraudulent Use of Credit or Debit Card, guilty of fraudulent use of credit or debit card.

Count 6: Burglary, Walmart, East Serene, guilty of burglary.

Count 7: Burglary, Caesar's Palace, guilty of burglary.

Count 8: Larceny From the Person, Victim 60 Years of Age

1 or Older, Rhonda Kay Hatcher, guilty of larceny from the person,
2 victim 60 years of age or older.

3 Count 9: Burglary, Albertson's, guilty of burglary.

4 Count 10: Larceny From the Person, Victim 60 Years of
5 Age or Older, Joanne Frank, guilty of larceny from the person,
6 victim 60 years of age or older.

7 Count 11: Burglary, GameStop, July 23rd, guilty of
8 burglary.

9 Count 12: Fraudulent Use of Credit or Debit Card, guilty of
10 fraudulent use of credit or debit card.

11 Count 13: Burglary, Walgreen's, July 23rd, guilty of
12 burglary.

13 Count 14: Fraudulent Use of Credit or Debit Card, not
14 guilty.

15 Count 15: Burglary, Flamingo, guilty of burglary.

16 Count 16: Larceny From the Person, Victim 60 Years of
17 Age or Older, Serry Mello, guilty of larceny from the person,
18 victim 60 years of age or older.

19 Count 17: Burglary, GameStop, August 1st, guilty of
20 burglary.

21 Count 18: Fraudulent Use of Credit or Debit Card, guilty of
22 fraudulent use of credit or debit card.

23 Count 19: Burglary, Walgreen's, August 1st, guilty of
24 burglary.

25 Count 20: Fraudulent Use of Credit or Debit Card, not

1 guilty.

2 Count 21: Burglary, Walmart, Boulder Highway, guilty of
3 burglary.

4 Count 22: Burglary, Suncoast, guilty of burglary.

5 Dated this 30th day of April, 2021, signed by the
6 foreperson, Juror Number 11.

7 Ladies and gentlemen of the jury, is this your verdict as
8 read, so say you one, so say you all?

9 THE JURY: Yes.

10 THE COURT: Okay. Do either of the parties desire to have
11 the jury polled at this time?

12 MR. FISCHER: Not on behalf of the defense, Your Honor.
13 Thank you.

14 MR. BROOKS: Yes, Judge.

15 THE COURT: Okay. Ms. Brown?

16 THE CLERK: Juror Number 1, is this your verdict as read?

17 JUROR NO. 1: Yes.

18 THE CLERK: Juror Number 2, is this your verdict as read?

19 JUROR NO. 2: Yes.

20 THE CLERK: Juror Number 3, is this your verdict as read?

21 JUROR NO. 3: Yes.

22 THE CLERK: Juror Number 4, is this your verdict as read?

23 JUROR NO. 4: Yes.

24 THE CLERK: Juror Number 5, is this your verdict as read?

25 JUROR NO. 5: Yes.

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THE CLERK: Juror Number 6, is this your verdict as read?

JUROR NO. 6: Yes.

THE CLERK: Juror Number 7, is this your verdict as read?

JUROR NO. 7: Yes.

THE CLERK: Juror Number 8, is this your verdict as read?

JUROR NO. 8: Yes.

THE CLERK: Juror Number 9, is this your verdict as read?

JUROR NO. 9: Yes.

THE CLERK: Juror Number 10, is this your verdict as
read?

JUROR NO. 10: Yes.

THE CLERK: Juror Number 11, is this your verdict as
read?

JUROR NO. 11: Yes.

THE CLERK: Juror Number 12, is this your verdict as
read?

JUROR NO. 12: Yes.

THE COURT: Thank you. The clerk will now record the
verdict into the minutes of the Court.

Marshal O'Kelly, if you could excuse the jurors to the back
of the courthouse, I will be with them in a moment.

Ladies and gentlemen, thank you, I'll be right with you. If
you could leave with Marshal O'Kelly please.

[Jury dismissed at 1:42 p.m.]

THE COURT: All right. Is there anything anyone needs to

1 place on the record?

2 MR. BROOKS: Not from the State, Judge.

3 MR. FISCHER: No, not at this time, Your Honor. I would
4 say that I have reached out to Mr. Brooks about the possibility of
5 attempting a resolution with respect to next week's pending trial
6 and, obviously, need to talk to my client some more.

7 THE COURT: Yeah.

8 MR. FISCHER: But with this verdict in now, that may
9 change the dynamics. I don't want to talk about previous
10 conversations with Mr. Brooks, but I believe that that male, he's --
11 there may be an opportunity for that, not putting any words in his
12 mouth. So.

13 THE COURT: All right. And so, Mr. Young, I'll explain to
14 you what I was saying to the attorneys also when we were meeting
15 in the back at one point in time. You -- it is your right to go to trial
16 next week, if that's what you wish to do. I'm here ready to do the
17 trial, so I don't want you to feel pressure in any way. I'm absolutely
18 ready. Everybody's ready to go to trial. Okay?

19 THE DEFENDANT: Uh-huh.

20 THE COURT: One of the things discussed between the
21 parties was to continue that trial till after sentencing in this case,
22 see what happens in this case, what the sentence is, and then, you
23 know, go forward on that trial or negotiate that trial or whatever
24 you want to do. So I just want you to know that those options are
25 on the table.

1 I will still keep -- even if you choose not to go forward, I'll
2 still keep you in what's called invoked status, so you would still
3 have a right to that trial within 60 days, and I would keep it in my
4 department.

5 And then so -- but those are just some things for you to
6 think about and discuss with your attorney. I just wanted to make
7 sure you understood all the options. Okay, sir?

8 THE DEFENDANT: Okay. Yes, ma'am.

9 THE COURT: All right. Thank you.

10 THE DEFENDANT: All right. But --

11 MR. BROOKS: Would you like me to step out for a bit?

12 THE DEFENDANT: Yes, please.

13 THE COURT: Mr. Brooks, you might want to go that way.

14 MR. BROOKS: You're right.

15 [Mr. Brooks exited courtroom.]

16 [Pause in proceedings, at 1:46 p.m., until 1:49 p.m.]

17 THE COURT: All right. We're back on the record in State
18 of Nevada versus Andrew Young, C-350623-1. Mr. Young is present
19 with his attorney Mr. Fischer, Mr. Brooks on behalf of the State.

20 Mr. Fischer, you wanted to state something on the record,
21 sir?

22 MR. FISCHER: Yes. Thank you, Your Honor.

23 As the Court is aware, this was a life -- or this was a
24 severed case, so we had another trial scheduled next week, two
25 counts, one attempt murder with use, and then battery with

1 substantial bodily harm.

2 That trial, if -- long story short, Your Honor, with
3 Mr. Young now standing convicted here, it's my understanding the
4 Court will allow for him to remain in invoke status, go through
5 sentencing, and in the process, I will be in touch with the State and
6 see if there's an opportunity to still resolve the second case in
7 conjunction with a conviction now. If that can't happen, then, you
8 know, we'll ask the Court to reset the trial at that time. That would
9 be our proposal.

10 I know there's limited resources for courtrooms right now.
11 That is Mr. Young's request, again, with the understanding that he
12 does not lose his invoke status, Your Honor. Thank you.

13 THE COURT: Okay. So did you want me to give you that
14 invoke trial date now?

15 MR. FISCHER: Sure. Yeah.

16 THE COURT: Okay. So in the invoked section, I would --
17 it'll be in my civil stack. So I need you guys to waive, like, two
18 weeks, and then I could start you on July 19th.

19 So calendar call would be Monday, July 12th, at 10:30 -- or
20 no, at 11:00, I apologize. And trial would be July 19th at 10:00 a.m.
21 All right?

22 MR. FISCHER: And we're still waiting on a separate case
23 number to be assigned to that, as well?

24 THE COURT: Yeah, I sent down an e-mail today. So as
25 soon as I know the case number, I'll let you guys know.

1 MR. FISCHER: Okay. And I'll correct it. I mentioned it
2 before and [indiscernible] notice of witnesses filed really not
3 pertaining to this case by me.

4 THE COURT: Sure. All right.

5 MR. FISCHER: Thank you.

6 MR. BROOKS: And, Judge.

7 THE COURT: All right. Sorry, we need a sentencing date.

8 MR. FISCHER: Oh, yeah.

9 THE COURT: So we'll do an in-custody date, please, 45
10 days.

11 THE CLERK: That will be -- let's go to June -- how's
12 June 16th at 11:00?

13 THE COURT: So, Mr. Fischer, that's June 16th --

14 MR. FISCHER: Oh, I'm sorry.

15 THE COURT: That's okay. June 16th at 10:30.

16 And then did you say -- so the witness list that you filed,
17 though, that's for the severed case, correct?

18 MR. FISCHER: Yes, Your Honor.

19 THE COURT: Okay. Yeah.

20 MR. FISCHER: It's really basic. It's just one person I
21 named and I personally wasn't real clear with the case numbers,
22 you know, how it was going to work, just out of an abundance of
23 caution, I have spoken to Mr. Brooks about it beforehand, so I don't
24 think it was an issue, but still.

25 THE COURT: All right. Sounds good.

1 MR. BROOKS: Judge, given the severed nature, can I just
2 inquire as to this custody status or whether he was remanded in
3 without bail?

4 THE COURT: I -- it would have -- we have to address it. Is
5 that what your request is?

6 MR. BROOKS: Yes, Your Honor. Could we just? Because
7 I don't remember what it is, but now with the guilty verdict --

8 THE DEFENDANT: Without bail.

9 MR. BROOKS: Oh, it is?

10 THE DEFENDANT: Yeah.

11 THE COURT: Okay. It'll remain -- for -- if it's not, it's just
12 remanded with no bail. So no bail in this case.

13 All right. Thanks, guys.

14 [Court adjourned at 1:52 p.m.]

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

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Shawna Ortega, CET*562

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
ANDREW YOUNG,
Defendant.

CASE#: C-20-350623-1
DEPT. VI

BEFORE THE HONORABLE JACQUELINE M. BLUTH, DISTRICT COURT JUDGE
WEDNESDAY, MAY 19, 2021

**RECORDER'S TRANSCRIPT OF HEARING:
ORDER TO SHOW CAUSE AS TO JUROR**

APPEARANCES:

For the State: YU MENG, ESQ..
Deputy District Attorney
Appeared By Video

For the Office of the Interpreter: Elsa Marsico
Spanish Interpreter

RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

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Las Vegas, Nevada, Wednesday, May 19, 2021

[Case called at 11:42 a.m.]

THE COURT: -- 23. Mr. Young is present.

THE DEFENDANT: Good Morning ma'am.

THE COURT: Good Morning. Mr. Young is present in custody via Bluejeans.

Sir, what happened?

THE DEFENDANT: Whatchu mean?

THE CLERK: This is the Order to Show Cause for the juror.

THE COURT: That's him, that's Andrew Young. Mr. Young I -

-

THE DEFENDANT: Yes, ma'am.

THE COURT: -- thank you sir. I apologize, this is actually -- so this is your case as -- I'm calling your case but it's actually about the juror. If you remember that juror the one of the jurors that we were going to -- that was a perspective juror they failed to show up in the middle of picking a jury.

Do you remember that?

THE MARSHAL: He's present, Your Honor.

THE DEFENDANT: Wait a minute, run it by me again ma'am. Say that again please.

THE COURT: So, this isn't really about you, this is about the juror who never showed up to your trial.

THE DEFENDANT: Mm-hmm.

1 THE COURT: You can go ahead and have a seat I'm just
2 going to hear from the juror right now. Okay?

3 THE DEFENDANT: Okay.

4 THE COURT: Sir, may I have your name for the record
5 please?

6 MR. CORTEZ [Through the Interpreter]: Manuel Moran Cortez

7 THE COURT: All right. Sir, do you know why you're here
8 today?

9 MR. CORTEZ: Yes.

10 THE COURT: You left in the middle of jury selection.

11 MR. CORTEZ: Yes, I left at about 11. I felt sick.

12 THE COURT: Okay but you can't just leave you have to tell
13 the Court that you're leaving.

14 MR. CORTEZ: I spoke -- I don't speak English. I spoke but --
15 Courts indulgence.

16 I spoke here, when I was here, that lady didn't pay attention to
17 me.

18 THE COURT: Who did you speak to?

19 MR. CORTEZ: I don't know because -- they didn't take care
20 of me.

21 THE COURT: Okay well as you -- I'm sure you are aware jury
22 trials are very important civic duty in our country and you can't just walk
23 out of jury duty. So the next time that you are in jury duty you need to
24 stay the entire time or you need to loudly please bring to my attention, or
25 my Marshal's attention, that you do not feel well or any other

1 communication.

2 MR. CORTEZ: We were given a break at 11 and I was in my
3 car and I vomit.

4 THE COURT: Okay. All right so I'm going to let you go
5 without a fine however I would advise you don't ever let this happen
6 again or you can face a fine up to \$500.00.

7 THE INTERPRETER: How much?

8 THE COURT: 500.

9 MR. CORTEZ: Okay.

10 THE COURT: You're free to go Sir. Thank you Ms. Interpreter
11 and I'll recall the other interpreter matter in just one moment.

12 THE INTERPRETER: Yes, thank you.

13 THE COURT: Let me get my other in custody's. Okay?

14 THE INTERPRETER: Thanks.

15 [Proceedings concluded at 11:47 a.m.]

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

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Kimberly Estala
Court Recorder/Transcriber



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DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff(s),

vs.

ANDREW YOUNG,

Defendant(s).

Case No. C-20-350623-1

Department VI

BEFORE THE HONORABLE JACQUELINE M. BLUTH,
DISTRICT COURT JUDGE

WEDNESDAY, JUNE 16, 2021

**TRANSCRIPT OF PROCEEDINGS RE:
SENTENCING**

APPEARANCES:

For the State:

NOREEN C. DeMONTE, ESQ.
Chief Deputy District Attorney
PARKER P. BROOKS, ESQ.
Deputy District Attorney

For the Defendant(s);

DAVID R. FISCHER, ESQ.
(Via BlueJeans)

RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1 **LAS VEGAS, NEVADA, WEDNESDAY, JUNE 16, 2021**

2 [Proceeding commenced at 11:15 a.m.]

3
4 THE COURT: Let's go to State of Nevada versus Andrew
5 Young, C-350623. Mr. Young is present in custody via BlueJeans.
6 Mr. Fischer present on his behalf, Mr. Brooks and Ms. DeMonte on
7 behalf of the State here in court.

8 I should put on the record that I have had the opportunity
9 to read from the victim impact statement. She did say she wanted
10 to be present today. Was she outside or on BlueJeans? I just want
11 to make sure I'm not leaving her out.

12 MR. BROOKS: I didn't see anyone, Judge.

13 THE COURT: Okay. And I also had the opportunity to
14 read the State's sentencing memorandum. Okay.

15 So now is the time and date set for sentencing.

16 Mr. Fischer, did you have an opportunity to go through
17 the PSI with Mr. Young?

18 MR. FISCHER: Yes, Your Honor.

19 THE COURT: Okay. And are you ready to proceed to
20 sentencing at this point?

21 MR. FISCHER: Well, possibly. There are a number of
22 *Stockmeier* issues with respect to his PSI report. I'm happy to make
23 a record. Mr. Young was pretty detailed about it. That was really
24 the only issue with the PSI as we see it at this time.

25 THE COURT: Okay. Let's talk about the *Stockmeier* issues

1 on the PSI.

2 MR. FISCHER: So indicates on the criminal record, which
3 is page 4 -- 5 -- 4, that he's had probation revoked once. Then it
4 refers to his discharge as being one honorable and two other. So
5 Mr. Young informs that he, in fact, has four honorable parole
6 discharges and he can point to those specifically. And then with
7 respect to the probation -- I think I just said in reverse, Your Honor.

8 So the parole is incorrect as to his honorable discharges,
9 so is the probation. So it should be parole times four with
10 honorable discharge, and probation times three with honorable
11 discharge.

12 Does that sound right, Mr. Young?

13 THE DEFENDANT: [Indiscernible] that page.

14 MR. FISCHER: Page 4.

15 THE DEFENDANT: Yes. Three and four. Three probations
16 and four parole honorable.

17 MR. FISCHER: Yes.

18 THE COURT: Okay. And what else?

19 MR. FISCHER: That's it, Your Honor. And I could be
20 specific as to the various offenses that Mr. Young clarified with me.
21 So this is the only issue and I don't know what the Court wants to
22 do with that, but it's pretty important to Mr. Young, obviously.

23 THE COURT: So, Mr. Young, what I can tell you is, is I can
24 consider that information today and listen to what you and
25 Mr. Fischer have to say and take that into my ruling. However, if

1 you want the actual document changed, then I have to send it back
2 to the Department of Parole and Probation to -- for them to look into
3 this and see if those numbers are accurate. What did you want to
4 with that, sir?

5 THE DEFENDANT: You can take it in consideration.

6 THE COURT: Okay. Are you comfortable going forward,
7 though, with what these documents say? Because if you want it
8 corrected in the document, then I'm happy to send it back and have
9 the Department of Parole and Probation go through all of these and
10 look them up. If you want to go forward today, I'm happy to hear
11 what you have to say. It's totally your choice.

12 THE DEFENDANT: Okay. We can go forward. But you
13 can see in the document that I'm correct.

14 THE COURT: Oh, you're -- okay. You're saying that the
15 document actually supports that, they just messed up on the
16 numbers.

17 THE DEFENDANT: Yes. Yes, ma'am.

18 THE COURT: Okay. I see what you're saying. Okay. All
19 right. I've got -- I get what you're saying. Okay. All right.

20 So I'll give you an opportunity to speak in one moment.
21 First the prosecutors go, then you go, then Mr. Fischer goes. Okay?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right.

24 MR. BROOKS: And, Judge, pursuant to Judge Bell's
25 administrative order, I filed the amended judgment convictions as

1 attachments in the appendix of the --

2 THE COURT: Sentencing.

3 MR. BROOKS: -- sentencing memorandum.

4 THE COURT: Yeah.

5 MR. BROOKS: Are you okay and comfortable going
6 forward with those, since they were file-stamped and certified as
7 the originals?

8 THE COURT: Yeah, that's fine.

9 MR. BROOKS: Okay. And I do have one additional one
10 that was not included. It's just Mr. Young's newest one out of Case
11 C-19-341474. It's a judgment of conviction out of the Eighth Judicial
12 District Court. Defendant was represented by counsel. It occurred,
13 the judgment conviction, in 2019 for battery with substantial bodily
14 harm, a Category C felony.

15 And, Judge, additionally, just to go through the felonies
16 that were included in the sentencing memorandum for the record --

17 THE COURT: So, Mr. Brooks, just one second.

18 So I just do want the minutes to reflect that pursuant to
19 the administrative order, the State did not bring all of the JOCs into
20 court today.

21 MS. DeMONTE: We actually did.

22 MR. BROOKS: I did. I just didn't know if you were
23 accepting. Yeah.

24 THE COURT: But I have had the opportunity to review
25 them. They attached them as exhibits to the sentencing

1 memorandum. They do have them in court today here in a manila
2 folder. Like I said, though, pursuant to the newest administrative
3 order, we're not accepting documents to be filed. I will accept the
4 last -- the latest one, just because it's the newest and they brought it
5 to court today and it wasn't an exhibit. So we'll be filing that, the
6 judgment of conviction, out of C-341474, filed on July 21st of 2020,
7 for battery with substantial bodily harm.

8 Okay. Sorry, go ahead Mr. Brooks.

9 MR. BROOKS: And so, specifically, the ones that -- to be
10 relied on today are Case CP-51-CR-1215921 from 1984 for theft out
11 of Pennsylvania, Defendant was represented by counsel;

12 CP-51-CR-0234751 from 1989 for robbery out of
13 Pennsylvania, Defendant was represented by counsel.

14 CP-51-CR-1220341 from 1990, that was for PCS out of
15 Pennsylvania. He was represented by counsel.

16 I bring that up only because Defendant's situation is
17 slightly different in that his crimes straddle the point in time when --
18 before the law changed. So you could only use that one for the first
19 victim, Mary Campo, I believe it's Counts 1 through 4.

20 The fourth felony would be 51-CRR-1224501 from 1992,
21 also out of Pennsylvania for robbery.

22 Then out of Nevada, C-150727, possession of credit card
23 without cardholder's consent; Defendant was represented by
24 counsel.

25 Then C-134592 out of Nevada for burglary and possession

1 of credit card without cardholder's consent; Defendant was
2 represented by counsel.

3 C-153059, theft out of Nevada, Defendant was represented
4 by counsel.

5 C-188447, larceny from person, victim over 60, here out of
6 Nevada, Defendant was represented by counsel.

7 C-186802, burglary here out of Nevada, Defendant was
8 represented by counsel.

9 C-213942, fraudulent use of credit card here out of
10 Nevada, Defendant was represented by counsel.

11 C-213930, larceny from person, here out of Nevada,
12 Defendant was represented by counsel.

13 C-327000, battery with substantial bodily harm here in
14 Nevada, Defendant was represented by counsel.

15 And then the 13th would be the one I provided here in
16 court today, that's C-341474, battery with substantial bodily harm
17 out of Nevada, Defendant was represented by counsel.

18 THE COURT: Okay. Noted for the record.

19 MR. BROOKS: So, Your Honor, I mean, with all that, I was
20 wondering where to start. And I understand Mr. Stanton wrote a
21 lengthy sentencing memorandum, so I'm just only going to touch
22 on things in a slightly different way, 'because I'm sure you've read
23 that and you've dealt with the trial. So I'm going to take this
24 sentencing slightly different just from a general policy-type
25 perspective.

1 So when beginning, I was sitting here saying, well, what's
2 our starting point? What's our reference point? What -- I find that
3 there's two, basically, positions to start from. One, he's already
4 been adjudicated under the small individual criminal statute. It did
5 not good. I mean, he violated parole, violated parole, and then
6 immediately starts picking up new crimes and has since done three
7 different cases of 22-plus felonies. So large habitual is the starting
8 point for that.

9 And then the next starting point would be, well, what do
10 we run concurrent and what do we run consecutive? And this --
11 when you saw these victims, at no point today should there be a
12 volume discount. I mean, this isn't Costco. At no point should we
13 say, um, you did a lot of victims all at once, so I'm not going to treat
14 any of these consecutively.

15 So based on the nine separate and distinct victims, I have
16 picked certain counts to run consecutive. So what I'm going to ask
17 you to do today is on Count 1, which would be the burglary of
18 Rampart, and that's the Mary Campo, so sentence Defendant with --
19 to life without the possibility of parole.

20 And then on 2, 3, 4, and 5, run -- max him out on the
21 underlying on all of those, and run 2, 3, 4, 5 concurrent to 1.

22 Count 6, that's going to be the burglary of Walmart.
23 That's Lydia Hefner. That's the one that, if it weren't for that loss
24 prevention officer, we're never here. I mean, he might never have
25 been caught. So on that one, that I'm also asking you to sentence

1 him to life without the possibility of parole to run consecutive to
2 Count 1.

3 On Count 7, that is Rhonda Hatcher, that's the burglary of
4 Caesar's. So that's the elevator event in Caesar's. I'm asking you to
5 sentence him to a third life without the possibility of parole and run
6 that consecutive to Count 6.

7 Count 8 would be the larceny from person, victim 60 years
8 of age or older, just to max him out on that, run it concurrent to
9 Count 7.

10 Count 9, that's the Albertson's burglary, Joanne Frank,
11 that's the one with the backpack of the old woman with the shrimp
12 incident. 10-to-life consecutive to Count 7.

13 And then Counts 10 and 11, max him out and run those
14 concurrent to Count 9.

15 Count 12 is going to be Barbara Bowen. I'm asking you to
16 sentence him to 10 to life under the large habitual criminal statute,
17 obviously. And run that consecutive to Count 9.

18 Then on 13, 14, he was found not guilty. So 13 to run
19 concurrent to Count 12.

20 Count 15, that is the Flamingo elevator incident with the
21 one older male victim that we have, Serry Mello, 10 to life
22 consecutive to Count 12.

23 Count 16 and 17, to max him out and run those concurrent
24 to Count 15.

25 Count 18 is going to be the fraudulent use of credit or

1 debit card for Montho Boone. I'm asking you to sentence him guilty
2 to -- under the large habitual criminal statute to 10 to 25, and run
3 that consecutive to Count 15.

4 Count 19, max him out and run it concurrent to Count 18.
5 Count 20 he was not guilty.

6 And then on Count 21 and 22, that is the burglary –
7 Count 21 is going to be the burglary of Walmart. That's Tina Leigh,
8 the art teacher. I'm going to ask you to sentence him to 10 to 25
9 years consecutive to Count 18.

10 And then Count 22, that's the Suncoast, Barbara
11 Angersbach, 10 to 15 years consecutive to Count 21.

12 Now, I've gone through a lot of numbers and I understand
13 that, you know, three consecutive life without seems slightly
14 puzzling, and why all these consecutive type situations. Well, we all
15 know that things get appealed and anything can happen. And we
16 all know that, essentially, once things are appealed, the starting
17 point is how the sentence structure was at the first time around.
18 But that's not the only reason I'm asking for it this way.

19 You know, I turn on the TV every single night and I hear,
20 basically, the following. I hear that the -- there's systemic issues
21 with the criminal justice system. I hear that the cops don't treat
22 anyone with respect. I hear that the system fails a large group of
23 our society.

24 And the news is finally right. There's a failure in our
25 criminal justice system. And this case proves it. These victims --

1 and that's the large group in society that is, essentially, treated and
2 not taken into account by our criminal just system. These victims
3 should have never had to be victims. We have bastardized the
4 concept of cruel and unusual punishment. We've bastardized
5 prison math to such a point that it's -- that sitting around on
6 Christmas morning with your family and pretending that Santa
7 Claus is more real is more real than the sentence structures that we
8 give to people.

9 This defendant commits crimes within two to three
10 months almost every time he's ever gotten out. He never does the
11 amount of time that he is sentenced to. 14 prior felonies, a small
12 habitual criminal treatment, and he's out immediately. When you
13 actually look that he got the small habitual criminal treatment
14 in 2006 and he's out immediately.

15 We always talk about, oh, it's the small habitual, he's not
16 going to do just the minimum sentence, he's not going to make his
17 first parole boards. Well, he had 10 prior felonies and he sure did.
18 He was out, parole violated, parole violated, parole violated. It's
19 ridiculous what this man has done.

20 And so when you're sitting here, and we're sitting here,
21 and, like, okay, how do we then structure sentences and how do we
22 think about this? We always kind of throw out numbers and part of
23 it's based on, you know, what is statutorily allowed. But when you
24 really think about what the theory behind criminal responsibility is
25 and what the theory of criminal punishment relies upon, there's a

1 few main theories.

2 One is your general deterrence, you know, the inmates
3 that are sitting there listening to this, and are they going to hear
4 someone got large habitual? Oh, you know, I better be good, I
5 better engage in better behavior in the future. I don't really believe
6 in general deterrence and that utilitarian perspective. Because, let's
7 be realistic, most crimes aren't done with a cost benefit-type
8 analysis.

9 But I'm asking you to do this based on a specific
10 deterrence. I am truly asking that this man never get out of prison.
11 And so if anyone's ever looking at this on appeal, yeah, I am
12 standing here saying I never want this man to do to nine more
13 victims -- and very vulnerable victims, we've all seen it -- I never
14 want him to have another chance.

15 And let's not act like, oh, well, that's why we have the age
16 enhancement on the victim over 60. Really? Because he already
17 had that two other times and it did not good. Oh, should we do the
18 small -- already happened; did no good.

19 So I'm not really even standing here under the retributive
20 principle, which is, hey, let's do a 10-to-25 for second-degree
21 murder because someone lost their life and it's just desserts and
22 the retributive principle. I mean, part of this, you know, the
23 sympathy we have for these victims and how truly compassionate
24 they were, and we want to, essentially, punish, for lack of a better
25 word -- I mean, that's why we're here -- this person. But I am

1 asking for the specific deterrence that that sentence structure will
2 bring and is the only thing that will keep him from doing it again.

3 Because when I read in his PSI that he spent most of his
4 life employed as a handyman, no, the only thing he's done is steal
5 things with his hands. And his dexterity is phenomenal. I mean,
6 his planning is great. So when I saw that he actually in, like, 1974
7 or 19-something graduated from Penn State with that degree, I'm
8 not shocked, because none of these crimes are committed while
9 under drugs and alcohol. No, no, no, he has his wits about him, he
10 calculates, he plans, and he preys on victims. He truly preyed on
11 every one of these, and you could see why.

12 So he doesn't have the mitigation to say, oh, I didn't have
13 the resources. He had phenomenal resources and he's brilliant. I
14 mean, and he picked these people, he chose them. He didn't make
15 his living as a handyman. He made his living preying on not just
16 elderly victims, but this system that keeps failing our society and
17 putting him back out there.

18 With that, I'll submit.

19 THE COURT: So let me ask you just a few questions,
20 because I was trying to cross-reference my notes, because I do
21 want to make sure I have a firm understanding of the victims, if you
22 would.

23 MR. BROOKS: Yes.

24 THE COURT: So Count 1, which is the burglary, is -- that's
25 Mary Campo, right?

1 MR. BROOKS: Yes.

2 THE COURT: Which is Count 2 -- I mean, she's the victim
3 in Count 2, is what I'm -- is my point, right?

4 MR. BROOKS: Yes, she's also -- she's the victim in
5 Count 2 and 3. And if you notice, Judge, Count 2 and 3 are larceny
6 from person, victim 60 years of age or older, and then the grand
7 larceny for Mary Campo. I initially was going to come here and I
8 thought that, essentially, they were alternatives. But they are not.
9 And under a *Blockburger* standard, they are --

10 THE COURT: Yeah, they get separate sentences.

11 MR. BROOKS: Yes. Count 4 is going to be still Mary
12 Campo, because it's the use of her credit card. So that's why I've
13 kind of asked for 2, 3, 4 and 5 --

14 THE COURT: And 5.

15 MR. BROOKS: -- because that's the use to go to that
16 Count 1.

17 THE COURT: And then Count 6 --

18 MR. BROOKS: That is Lydia Hefner.

19 THE COURT: Hefner. Is 7 Rhonda?

20 MR. BROOKS: Rhonda Hatcher. 8 is also Rhonda Hatcher.
21 9 is going to be Joanne Frank; 10 is going to be Joanne
22 Frank.

23 And then that group of charges which is 11, 12, 13 and
24 then the not guilty for 14, that is all going to be Barbara Bowen.
25 And I was asking for Count 12.

1 So then we move to 15 and 16, that's Serry Mello. I was
2 asking for 15.

3 THE COURT: Okay.

4 MR. BROOKS: And then the grouping of 17, 18, 19, and
5 then the not guilty for 20 is Montho Boone. I was asking for 18.
6 21 is going to be Tina Leigh.

7 THE COURT: 22?

8 MR. BROOKS: Barbara Angersbach.

9 THE COURT: Okay. That helps. All right. Okay.
10 So -- and Ms. DeMonte, did you have anything else to
11 add? Or are you just supportive?

12 MS. DeMONTE: No, I'm here if you have any questions
13 regarding habitual in general. Just regarding this was my case
14 before trial. So.

15 THE COURT: Got it. Thank you.

16 MS. DeMONTE: Okay.

17 THE COURT: All right. Mr. Young, at this point in time it's
18 your turn to address the Court and I'm happy to hear anything
19 you'd like to say, sir.

20 THE DEFENDANT: Yeah, first of all, you know, good
21 morning, Your Honor.

22 THE COURT: Good morning.

23 THE DEFENDANT: Did you see my letter that I gave you?

24 THE COURT: No. Did you file it?

25 THE DEFENDANT: Oh. I sent it to you.

1 THE COURT: Let me pull it up and see if I see anything in
2 Odyssey. I don't think so. But let me check.

3 MS. DeMONTE: I think what he's saying is he mailed it
4 without it being filed.

5 THE COURT: Sometimes my staff left-side files it.

6 MS. DeMONTE: Oh, okay.

7 THE COURT: And sends you guys a copy. But I didn't see
8 anything in there. Let me just check one --

9 [Pause in proceedings.]

10 THE COURT: I got your -- I received your letter asking me
11 to send you the court minutes; is that what you're talking about?

12 THE DEFENDANT: No. I sent you a letter for sentence
13 consideration for a drug program and everything.

14 THE COURT: Oh, okay. No, I didn't receive --

15 THE DEFENDANT: It explains everything on there.

16 THE COURT: Okay. Why don't you tell me about it now.

17 THE DEFENDANT: Oh, well, I can't remember the whole
18 letter.

19 THE COURT: Well, just --

20 THE DEFENDANT: Okay. I can do the best I can.

21 THE COURT: Okay. Sounds good.

22 THE DEFENDANT: You know, all right. First, he's coming
23 with habitual criminal. Okay. Which on the paper, it stated if I get
24 found guilty of the attempted murder, that was distract. Okay.

25 Then he talking about my past case. I never ever had a

1 chance with drug program at all. You know, you get with people
2 who rape people, rape kids, and all of that there, I'm afraid just
3 going -- just getting money. You know? And I can't never be a help
4 to my drug program -- I mean, my drug addiction and stuff. You
5 know? And I was [indiscernible] some help for these drug
6 addictions.

7 Now, we had a settle conference, he never -- she didn't
8 even want to come to these settle conference and he didn't even
9 want to come again. We even left [indiscernible] trying to resolve
10 this thing. You know, because we would have never had to go to
11 trial. Right?

12 But what I'm standing here asking you to day is for some
13 type of program. You know? Because I never had no help for my
14 addiction. I been born, I had reached out to these people from the
15 foundation of recovery who comes to see me every week. They
16 even wrote you a letter and everything. You know? So, you know,
17 based off of that stuff right there, I feel [indiscernible] letters, I
18 [indiscernible] to read them two letters and get everything again,
19 we can go to -- or we can proceed with the sentencing and
20 everything.

21 But --

22 THE COURT: So I guess what I'm confused about,
23 Mr. Young, is I think I counted somewhere between 22 and 26 times
24 you've been in the system on either probation or parole. I -- it's
25 rather hard for me to believe that you were never given any

1 service --

2 THE DEFENDANT: I never was given no trial, Your Honor.
3 I never was given -- I was given a sentence, kicked back out, get
4 back on drugs and everything. I never asked -- I never been in a
5 drug program. I never had drug counseling until the man come to
6 the Foundation of Recovery start coming and seeing me, like, a
7 couple of months ago. If I was given the opportunity, maybe my
8 life wouldn't change around. You know?

9 It's the same thing like the last time when I was in prison.
10 You all gave a 67-year-old man a opportunity to go to boot camp to
11 make a lesson out of him for his drug program and on his own
12 group, you know, repeating, you know, offender, crack head and
13 everything. You know? I never got a chance for nothing but prison,
14 prison, prison. That's all it's been out of you all. You know? Not to
15 help.

16 Addiction is something worse. I'm only 60 years old. You
17 know? Send me to prison was Nevada prison, and United States
18 have the most deaths. I'm quite sure you read it in the newspaper,
19 like, two months ago, right, all those people that died, over 70
20 people and everything. And they all was 55 and plus. But yet you
21 got people who get released or crimes way worsen than mine and
22 get probation and get violated with murder cases, and they get still
23 kicked back out. You know, because they say they have a drug
24 problem. You know. I got a drug problem. But they get help, I
25 don't.

1 Now, what I was asking is you take in consideration of my
2 side of the story. You know? That's why I sent you them letters. I
3 sent you a letter and the drug people sent you a letter.

4 THE COURT: Okay.

5 THE DEFENDANT: Hello?

6 THE COURT: Yeah, oh, no, I'm listening to every word
7 that you're saying.

8 THE DEFENDANT: Okay. Yeah.

9 THE COURT: Is there anything else you'd like me to
10 consider?

11 THE DEFENDANT: That'd be it, Your Honor. You know,
12 I'm just happy to [indiscernible]. Let me go to one of them drug
13 programs and let them, you know, advise with me, help me.

14 THE COURT: Okay.

15 THE DEFENDANT: You know, just don't send me off, you
16 know, send me off, you know, to the wolves. I not got long to live, I
17 got bad health and everything.

18 THE COURT: All right.

19 THE DEFENDANT: You know? Yes, ma'am.

20 THE COURT: Mr. Fischer --

21 THE DEFENDANT: Thank you, ma'am.

22 THE COURT: -- I guess my question for you, Mr. Fischer
23 is, you know, where do we go here, right? I mean, this is someone
24 who has victimized over and over and over again some of the most
25 vulnerable people in our community. We have some cases with

1 incredible violence, we have stabbings, we have rocks over the
2 head. I saw a previous conviction for that with substantial bodily
3 harm. I see that judges have given opportunities on probation, that
4 he's been paroled every time it's a new case. I see that Judge
5 Leavitt habitualizes him. Boom, soon as he's out, we're picking up
6 new cases.

7 I mean, what is a Court to do in this type of situation when
8 part of my duty is to keep this community safe?

9 MR. FISCHER: Well, a fair trial would have been a start,
10 Judge. But that didn't happen. So we will be appealing this, as
11 Your Honor's well aware. We will submit it on the misdemeanor
12 petty larceny, which is our argument and our concession. And
13 that's all I have to say, Your Honor. Thank you.

14 THE COURT: Okey dokey. All right. And just so I
15 understand, Mr. Fischer, because I'm a little caught off guard, what
16 part of the trial was it that you felt wasn't fair? You're talking about
17 the juror question, is that what you're talking about?

18 MR. FISCHER: Judge, I'll be making all that known in my
19 appeal. Thank you, Your Honor.

20 THE COURT: Are you refusing to answer the question?

21 MR. FISCHER: My refusing -- Your Honor, I'm going to
22 make my issues known. I don't believe it's my duty to tell the Court
23 what my appeal issues are.

24 THE COURT: Okay. So the answer is that you are
25 refusing to answer the question in regards to -- because I have no

1 idea what you're referring to.

2 MR. FISCHER: Okay. Sure.

3 THE COURT: Great. Okay.

4 In accordance with the laws of the State of Nevada, you
5 are hereby adjudicated of the crimes of burglary Counts 1 and 4,
6 larceny from a person, victim 60 years of age or older, 2, 8, 10,
7 and 16, grand larceny charge 4, Counts 6, 7, 9, 11, 13, 15, 17, 21,
8 and 22, burglary, Counts 5, 12, and 18, fraudulent use of credit or
9 debit card.

10 In accordance with -- in addition to the \$25 administrative
11 assessment fee, the \$150 DNA fee is waived, it has previously been
12 taken, the \$3 DNA collection fee, the \$250 indigent defense fee, and
13 the fact that you must submit to genetic marker testing, you are
14 sentence as follows:

15 As to Count 1, burglary, you are sentence under the large
16 habitual statute 207.010/B for a minimum of 10 years, maximum of
17 life.

18 As to Count 2, larceny from the person, victim 60 years of
19 age or older, you are sentenced to 24-to-60 months. With the
20 victim 60 years of age or older enhancement, a minimum of 12
21 months, a maximum of 60 months, that's to run concurrent to the
22 enhancement -- obviously, runs consecutively, but that's to run
23 concurrent to Count 1.

24 As to Count 3, that is a 24-to-60 to run concurrent to
25 Count 2.

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As to Count 4, 24-to-60 to run concurrent.

Count 5, 24-to-60 to run concurrent.

Count 6, a 10-to-life to run consecutive to the previous counts.

Count 7, a 10-to-life, these are both under the habitual statute, previously -- the large habitual statute previously placed on the record.

Count 8 is a 24-to-60 to run concurrent. The enhancement is a 12-to-60 to run consecutive pursuant to statute.

Count 9, burglary, is a minimum of 10, a maximum of life. That's to run consecutive.

Count 10, that's a 24-to-60 with a 24 -- 24-to-60 to run concurrent. The victim 60 years of age or older is an enhancement. That's a 24-to-60 to run consecutive.

Count 11 is a 10-to-life, that's to run consecutive to Count 10.

Count 12 is a 24-to-60 to run concurrent.

Count 13 is a 24-to-60 to run concurrent.

Count 15 is a 10-to-life to run consecutive. Again, the large habitual statute.

Count 16 has a 24-to-60 that will run concurrent. However, pursuant to statute, the victim 60 years of age or older is a 24-to-60 to run consecutive.

Count 17 is a 10-to-life to run consecutive to Count 16.

Count 18 is a 24-to-60 to run concurrent.

1 Count 19 is a 24-to-60 to run concurrent.

2 Count 21 is a 10-to-life under the large habitual to run
3 consecutive.

4 And Count 22 is a 10-to-life to run consecutive.

5 What is the credit for time served? I have 300 days credit
6 for time served. Is the State or Mr. Fischer have any other time?

7 MR. FISCHER: No, Your Honor.

8 MR. BROOKS: Judge, that PSI was correct. Yes.

9 THE COURT: Okay. That'll be the order.

10 THE DEFENDANT: And, ma'am, can I say one thing,
11 please?

12 THE COURT: Sure.

13 THE DEFENDANT: Okay. On page 2 of the habitual
14 criminal, right? It's a [indiscernible] we all could read and
15 everything. It says only for the attempt of murder gets a statement
16 habitual criminal for.

17 THE COURT: So --

18 THE DEFENDANT: Am I right or wrong?

19 THE COURT: No, you're incorrect.

20 THE DEFENDANT: Am I right?

21 THE COURT: You're incorrect. They filed notice of
22 habitual in this case.

23 THE DEFENDANT: No, ma'am. It says right here -- I got it
24 right here.

25 THE COURT: Okay. Take your time.

1 THE DEFENDANT: And they put it in highlights. If the
2 primary offense of attempted murder [indiscernible] -- wait, hold
3 tight. That's the wrong page. Right here.

4 They say a habitual criminal, if I get found guilty of
5 attempted murder, only the attempt of murder, that's what this
6 paper says.

7 THE COURT: I understand --

8 THE DEFENDANT: So what other paper do you have that I
9 don't have?

10 MR. BROOKS: Judge, I think what he's referring to is
11 that --

12 MS. DeMONTE: The mandatory violence.

13 MR. BROOKS: -- the mandatory violence habitual that he
14 still faces next trial.

15 THE COURT: They're referring to the mandatory violent
16 habitual that you're facing in your other case still before the other
17 court, sir.

18 THE DEFENDANT: No.

19 THE COURT: Okay.

20 THE DEFENDANT: Nuh-uh, no, no, no, no, ma'am. It
21 got --

22 THE COURT: All right. I apologize, you can talk to
23 Mr. Fischer about it, sir. I can promise you they filed notice of
24 habitual in this case as well.

25 MR. BROOKS: Judge, will you do 316 days credit for time

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served, actually.

THE COURT: That'll be the order.

THE DEFENDANT: She has taken all of my [indiscernible] courtroom. I see why you got this in the courtroom.

THE COURT: All right. Have a nice day.

[Proceeding concluded at 11:50 a.m.]

///

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability. Please note: Technical glitches in the BlueJeans audio/video which resulted in audio distortion and/or audio cutting out completely were experienced and are reflected in the transcript.


Shawna Ortega, CET*562



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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
ANDREW YOUNG,
Defendant.

CASE#: C-20-350623-1
DEPT. VI

BEFORE THE HONORABLE MARK GIBBONS, DISTRICT COURT JUDGE
MONDAY, JULY 12, 2021

**RECORDER'S TRANSCRIPT OF HEARING:
CALENDAR CALL- BIFURCATED COUNTS 17, 18**

APPEARANCES:

For the State: PARKER BROOKS, ESQ.,
DAVID STANTON, ESQ.
Deputy District Attorney
Appeared By Video

For the Defense: DAVID FISCHER, ESQ.
Appeared By Video

RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1 Las Vegas, Nevada, Monday, July 12, 2021

2
3 [Case called at 11:30 a.m.]

4 THE COURT: Okay let's go to page 2. Okay, this is case
5 number C-20-350623 State of Nevada verses Andrew Young. Okay, the
6 record will reflect the presence of the Deputy District Attorney. And do
7 we have -- is Mr. Fischer here present?

8 MR. FISCHER: Yes, Your Honor, David Fischer present via
9 Bluejeans.

10 THE COURT: Okay Mr. Fischer --

11 MR. STANTON: And, Your Honor, David Stanton on behalf of
12 the State.

13 THE COURT: Okay thank you very much, Deputy District
14 Attorney as well like that. Okay this is the time set for the calendar call.
15 My understanding that the -- has a written stipulation to continue been
16 filed in this case yet?

17 COURT STAFF: No they haven't filed one. Mr. Stanton needs
18 to make some representations.

19 THE COURT: Mr. Stanton would you go ahead and make
20 some representations.

21 MR. STANTON: So Judge this is the matter -- the time set for
22 calendar call in the matter, I don't know what Mr. Fischer's position is but
23 we had previously had Mr. Young in a jury trial a couple months ago. He
24 is subsequently been sentenced to a significant prison -- term in prison
25 and I don't know what the position of the defense is as we sit here today

1 on this case.

2 MR. FISCHER: Judge, Parker Brooks is also on the line. I
3 spoke with him I didn't know who I was supposed to be speaking to. Mr.
4 Stanton is here, Mr. Brooks I believe is on as well. We spoke previously,
5 Your Honor, I was diagnosed with the Covid two weeks ago. I am better
6 now I did let Mr. Brooks know. So, having said that essentially if the
7 Court would like me to be sworn in to make those representations I'm
8 happy to do that.

9 With respect to trial readiness it's not a really difficult or long
10 trial. Having said that I'll submit it, it is an invoked status and that hasn't
11 changed.

12 THE COURT: Okay so first of all I'll accept your
13 representations as an officer of the court on the medical issues. And
14 thank you I certainly understand that so counsel what you're saying is --
15 thank God your better you look good so looks like you're getting your full
16 health back.

17 MR. FISCHER: Thank you, Judge.

18 THE COURT: So you're indicating you're ready to go then is
19 that correct?

20 MR. FISCHER: Well Judge what I -- right as of last week I
21 wasn't healthy and that is the discussion I had with Mr. Brooks. As of
22 today I feel better. So I'm just letting the Court know I have not had a
23 test verifying that I am no longer with active Covid, but I feel better I feel
24 good and it's now been almost two weeks for me.

25 THE COURT: So, I just want to confirm there's no -- the case

1 is not going to be negotiated we just have to get a trial date set, is that
2 correct then?

3 MR. FISCHER: Yes.

4 THE COURT: Okay, and has Mr. Young invoked on this one
5 here?

6 COURT STAFF: Yes.

7 MR. FISCHER: Yes --

8 THE COURT: Okay so we'll --

9 MR. FISCHER: -- he has.

10 THE COURT: -- Mr. Stanton we'll go ahead and set it in the
11 next available invoked date and hopefully --

12 MR. STANTON: Okay.

13 THE COURT: -- that date will work for both counsel then.

14 THE DEFENDANT: Whoa whoa. Hello. Hello.

15 MR. FISCHER: Yes, Mr. Young.

16 THE DEFENDANT: Yes, we supposed to go to trial Monday
17 right?

18 MR. FISCHER: Well here's the deal, I was sick so were
19 getting ready to get a date but you remain invoked okay. And we'll talk
20 more.

21 THE COURT: Okay Mr. Young were going to get you a date,
22 the first one I have available for invoked status. We couldn't go Monday -

23 -

24 THE DEFENDANT: No.

25 THE COURT: -- because of your attorney's medical condition.

1 But he's getting better.

2 THE DEFENDANT: But he say he's all right now.

3 THE COURT: I'm sorry.

4 THE DEFENDANT: He said that he was alright now.

5 THE COURT: He did, he did but --

6 MR. FISCHER: Yeah, you're not --

7 THE COURT: Sir, your charges --

8 MR. FISCHER: -- go ahead Judge I'm sorry.

9 THE COURT: -- are serious he can't go to trial on Monday
10 you know because his medical condition. He wasn't properly able to
11 prepare the trial -- the trial with you so we have to do a brief --

12 THE DEFENDANT: The trial been going on -- this been going
13 on for a whole year.

14 THE COURT: Okay well --

15 THE DEFENDANT: So whatever --

16 THE COURT: -- we'll get you in as soon as we have.

17 THE DEFENDANT: -- the date is of no difference.

18 THE COURT: Sir, we'll get you the first available date and get
19 it done and you can meet with your attorney and get prepared then. So,
20 okay let's get his court date then.

21 THE CLERK: Your calendar call is September 8th at 11:00,
22 trial date September 13th at 10.

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THE COURT: Okay thank you very much. Thank you --

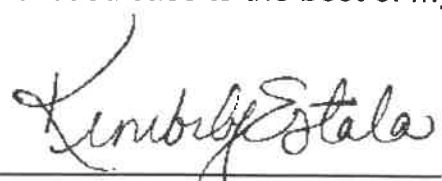
MR. FISCHER: Thank you, Your Honor.

THE COURT: -- Mr. Stanton and Mr. Fischer.

[Proceedings concluded at 11:35 a.m.]

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



Kimberly Estala
Court Recorder/Transcriber

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREW YOUNG,)	NO. 83243
)	
Appellant,)	
)	
vs.)	
)	
THE STATE OF NEVADA,)	
)	
Respondent.)	

APPELLANT’S APPENDIX

VOLUME VII – PAGES 1200-1353

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 8th day of March, 2022.

Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
ALEXANDER CHEN

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