

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREW YOUNG,)	NO. 83243	
)		Electronically Filed
Appellant,)		Mar 08 2022 08:42 a.m.
)		Elizabeth A. Brown
vs.)		Clerk of Supreme Court
)		
THE STATE OF NEVADA,)		
)		
Respondent.)		

APPELLANT'S APPENDIX

VOLUME V – PAGES 766-983

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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, APRIL 28, 2021

**TRANSCRIPT OF PROCEEDINGS RE:
JURY TRIAL – DAY 2 OF 4**

APPEARANCES:

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DAVID STANTON, ESQ.
Chief Deputy District Attorney
PARKER P. BROOKS, ESQ.
Deputy District Attorney

For the Defendant(s);

DAVID R. FISCHER, ESQ.

RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

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1 **LAS VEGAS, NEVADA, WEDNESDAY, APRIL 28, 2021**

2 [Proceeding commenced at 9:11 a.m.]

3
4 [In the presence of the jury.]

5 THE COURT: Thank you. Good morning, everyone.
6 We're on the record is C-350623, State of Nevada versus Andrew
7 Young. Mr. Young is present with his attorney Mr. Fischer, both
8 deputy district attorneys, Mr. Brooks as well as Mr. Stanton are
9 present.

10 Do both parties stipulate to the presence of the jury?

11 MR. BROOKS: Yes, Your Honor.

12 MR. FISCHER: Yes, Your Honor.

13 Judge, I have some hearing problems. I may have an
14 issue, I'll just let you know right now, so --

15 THE COURT: Okay. Yeah, no -- that's --

16 MR. FISCHER: I don't want a hearing set, but I may need
17 it, so.

18 THE COURT: Okay. Yeah, that's no problem. And I'll do
19 my best to keep my voice up, as well, because I know it's hard with
20 the masks as well as the plexiglas.

21 MR. FISCHER: I'm a leap-reader, I think. Thank you,
22 Judge.

23 THE COURT: Okay. No problem.

24 All right. So ladies and gentlemen, before we broke
25 yesterday, I explained to you that we would need to swear you in

1 for jury service. So can you please stand up and raise your right
2 hand for my clerk, please.

3 [Jury sworn.]

4 THE COURT: Thank you. All right. At this point in time, is
5 the State prepared to give their opening statement?

6 MR. BROOKS: Yes, Judge. I'm trying to connect as we
7 speak.

8 THE COURT: Okay. Just a second.

9 And then Mr. O'Kelly, would you mind kind of curving that
10 TV, in case the jurors -- so as you recognize, there's two TVs in the
11 room. So just turn which -- to whichever one is best for you. I'm
12 going to have this one turned a little bit more towards you guys, so
13 you have a good view. All right?

14 And then the State is just making sure -- we're having a
15 little bit of Internet difficulties. So we just have to make sure that
16 the Internet is on point that it doesn't break up their opening
17 statement. Just give us a second.

18 [Pause in proceedings.]

19 THE COURT: All right. State, whenever you're ready.

20 **OPENING STATEMENT FOR THE STATE**

21 MR. BROOKS: This is State of Nevada versus Andrew
22 Young. And all the events that you're going to hear about occurred
23 doing -- during the last summer, roughly about a month or a little
24 over a month's timeframe.

25 Now, one of the odd things about a trial is during the

1 course of this, it's not going to be presented neatly and one witness
2 after another chronologically. And so due to scheduling, you're
3 going to have one witness come who's going to talk about August,
4 and then the next witness is going to be a totally unrelated event
5 going back to June and July.

6 And so what this opening is is kind of a way to present it
7 in a coherent fluid-type fashion so that you understand what's
8 going to be presented to you. And then during closing arguments,
9 both the State and defense will stand up here and apply those facts
10 back to the law that Her Honor's going to give you.

11 So the first thing I kind of want to bring to your attention,
12 you're going to meet nine different victims here in a bunch of
13 different incidents. So I'm just going to kind of give you names and
14 one characteristic about each of them.

15 Mary Campo, 72 years old; Lydia Hefner, 68 years old;
16 Rhonda Kay Hatcher, 63 years old; Joanne Frank, 77; Barbara
17 Bowen, 80; Serry Mello, 69; Montho Boone, 80; Tina Leigh, 60; and
18 Barbara Angersbach, who's 83. And at one point or another over
19 the next couple of days, they'll come in here and talk to you.

20 Now, the first event chronologically occurs on
21 June 29, 2012. It's at the Rampart Hotel. Mary Campo's 72 years
22 old, she's seated there playing poker. In her bag next to her is her
23 wallet and \$14-, \$1,500 of cash.

24 Now, she's going to tell you, oh, I was there, and that's
25 my machine. No evidence is going to be presented that's her

1 machine, it's actually a Rampart Casino machine. But that's the one
2 she likes, so she calls that her machine. She's sitting there. And
3 what happens is while Mary is sitting there at 11:00 p.m. on
4 June 29th, two men enter. Notice the shoes on that man who's
5 entering right there. That man is Andrew Young, and those shoes
6 are a going to become relevant throughout the course of this trial.

7 Notice that thing in his hand, a black jacket. That is also
8 going to be prevalent throughout the course of all these events we
9 discuss. And that's 10:41 they enter. And then by 11:05, they have
10 encountered Mary Campo in some sort of way. And by
11 encountered, let's watch exactly what happens.

12 There's Mary seated right there. Now, the defendant and
13 his person who's with him, they're going to walk by Mary. Watch
14 Mr. Andrew Young's eyeline, right here.

15 [Video played.]

16 MR. BROOKS: He's looking down in the bag, saying, huh,
17 what's in there? Is it open?

18 [Video played.]

19 MR. BROOKS: Notice her bag. The defendant goes up to
20 it, gives a sign to his partner that he's got the wallet inside, and
21 walks off.

22 40 minutes later, while Mary Campo was still at the
23 Rampart Hotel, Mary Campbell's credit card makes a transaction at
24 a 7-Eleven across town. The receipt is there. And Marcia Martinez,
25 who's, essentially, the manager for that 7-Eleven, she's going to

1 come in here, she's going to explain to you that right there
2 at 11:42 p.m., someone used that credit card to buy a pack of
3 cigarettes for \$8.80. That transaction occurs right there at 11:42.
4 Notice the shoes the defendant is wearing, the same clothing, just
5 having left the Rampart Hotel.

6 The next event occurs on July 8th around 2:30 p.m. Now,
7 that right there is Vianca. Vianca calls police due to Andrew
8 Young's kind of a man, she says, a Black male adult, kind of
9 suspicious behavior, it's really odd, he's following around women
10 in the supermarket. He has a jacket and he keeps folding and
11 unfolding on his arm, it's the middle of July. And he's kind of -- she
12 describes the word stalking, the way he's going and following
13 different women.

14 So here's some of the images that, essentially, she was
15 watching, which caused her concern, and then she calls the police.

16 [Video played.]

17 MR. BROOKS: Notice he's looking in the shopping cart,
18 seeing if that purse is open for something easy to grab. That
19 woman to the left side of this video, that is Lydia. She's going to
20 come and speak to you.

21 Now, initially, Vianca's going to tell you that that blonde
22 woman right there is who initially gave her concern, and that's why
23 she called police, because that's the person who Defendant was
24 kind of following. It's not the person who he ends up taking
25 anything from. That is Lydia you just saw.

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[Video played.]

MR. BROOKS: And this camera angle, watch the defendant open the glass, look inside, has a perfect opportunity to look into that shopping cart to see what's in that woman's purse, if the purse is open or not.

[Video played.]

MR. BROOKS: And then this is Lydia Hefner, 68 years old, her wallet is inside that purse right there. And she is going to be inside that refrigerator that's open, looking for something. Defendant walks by, reaches inside, and just continues on. Lydia finishes with what she just got, her groceries, gets her cart, and starts walking off none the wiser, thinks nothing's occurred.

Now, on this particular day in July, because Vianca had called officers, they were watching that occur live. So they're watching through the Walmart asset protection headquarters, they're watching that. And then when that occurs, they go out, they stop the defendant, Andrew Young. They give him a citation. They return the wallet, because they catch him with the wallet right in the shopping cart that he was pushing. They return it to Lydia. And they get his information, give him a court date and say, Come back at this court date. It's a citation. At that point in time, it's just petty larceny, because that's what they saw.

[Video played.]

MR. BROOKS: The upper right were the shoes he was wearing when speaking to officers that day. The other three images

1 are the defendant's shoes when he's arrested on the group of
2 charges about three weeks later. Those shoes you can see in
3 almost each and every of these video surveillance.

4 Now, about eight hours later, because, remember,
5 Defendant's released there. He's given the citation, said, you know,
6 come back to court in a couple of months. He walks off. But eight
7 hours later, that same man walks into Caesar's Palace elevator.
8 And in that elevator, he encounters Rhonda Kay Hatcher, who's 63
9 years old.

10 [Video played.]

11 MR. BROOKS: Look right there. Takes her wallet from her
12 purse. Wearing the same exact outfit, shoes, with his black jacket.

13 Two weeks later, on July 22nd, in an Albertson's, Joanne
14 Frank, 77 years old. She's going to be right there, looking for
15 shrimp in the frozen food section. So she's looking, looking. And
16 these two men keep getting really close to her. She's going to tell
17 you that it's just kind of odd, you know, this is time of COVID,
18 you're supposed to be separated. And these two men keep getting
19 really close.

20 [Video played.]

21 MR. BROOKS: That arrow points to Defendant's shoes
22 and the defendant right there, he can't be seen as we start this
23 video.

24 And on this one, you're going to see that the person he's
25 with does the taking and Defendant provides, essentially, the decoy

1 and the shade right there, so that the victim's unsure what's going
2 on.

3 [Video played.]

4 MR. BROOKS: Now, when she had started looking into
5 that freezer department, her backpack was zipped. She's going to
6 tell you she didn't end up buying anything that day. And so once
7 she gets out to her car, she's, like, this backpack is way too light,
8 what's wrong? Looks inside and notices that her wallet is gone.

9 The following day, on July 23rd, 2020, now, these are four
10 different counts, Counts 11, 12, 13, and 14. And here's kind of the
11 odd dynamic, like I said about trial, so you know how there's all
12 these different witnesses with different time period. Well, cases
13 occur in different fashions in different time periods.

14 With this group of counts, what happens is the victim has
15 her wallet taken from her at a Walmart -- this Walmart is on Boulder
16 Highway/Nellis area -- and doesn't really realize anything has
17 occurred initially. When she sees her wallet's missing, she goes to
18 surveillance. Surveillance can't find anything. Essentially, a police
19 report is done. Detectives get the case. They go and try to find
20 surveillance. And it just occurs at a dead spot in this Walmart.

21 Now, this is the Boulder Highway Walmart, because that
22 Walmart that we saw the event from that's East Serene Road.
23 Obviously, Defendant's not going back there. So this is a new one.

24 Now, what you're going to also learn, though, is because
25 there's no video surveillance, Detective Liske, who works this group

1 of cases, is saying, oh, well, I've got to work backwards. So he
2 starts tracking down some of the credit card charges, whether they
3 actually go through or whether they don't go through. Because
4 what you'll find in different -- some of these victims will say
5 different time periods and different places, is almost all the credit
6 cards are attempted to be used. But some of the detectives are
7 more concerned of IDing that person in the elevator, you know,
8 because they don't know eight hours earlier he was just stopped by
9 other officers. And some of the detectives, like at Rampart, they
10 were trying to find out who these men are on surveillance. But in
11 this situation I'm about to talk to, detectives are working backwards
12 and they're saying who made these attempted charges?

13 So Barbara Bowen, 80 years old, she goes shopping at
14 Walmart that's located on that Boulder Highway. And at the time
15 [indiscernible] between 1:00 and 2:00 p.m. A transaction occurs at
16 GameStop at 2:02, and at Walgreen's at 2:20. Barbara didn't make
17 those transactions.

18 So, as you can see right there, on the left side of the
19 screen, Barbara Bowen's credit card ending in 4527 gets approved
20 at GameStop for a vanilla Visa prepaid kind of gift card at 1402,
21 so 2:02.

22 And then a little bit thereafter, around 2:20, that's
23 attempted -- it's a voided transaction, but it's an attempted
24 transaction at the Walgreen's. And, if you notice, also 4527, the last
25 four digits of the credit card that was attempted at Walgreen's.

1 but at least now he has a suspect. Okay. So this must be who took
2 Barbara Bowen's cards. And so he begins continuing to investigate
3 and at this point doesn't yet know about the other cases and
4 incidents that we've discussed.

5 [Video played.]

6 MR. BROOKS: The transaction concludes, and this is the
7 keyhole image, as Defendant walks out after making that
8 transaction.

9 Those are screenshots of video that you'll see and notice
10 that's that 1419, which ends up being exactly, you know, 20 –
11 or 2:19, 2:20 of the defendant attempting to make transactions
12 wearing those same Jordans at Walgreen's on July 23rd.

13 On July 29th, the defendant encounters Serry Mello.
14 He's 69 years old and now this is a Flamingo Hotel elevator. So
15 different than the Caesar's, but as you can see, very similar
16 behavior.

17 [Video played.]

18 MR. BROOKS: Defendant's jacket's in his left hand. Serry
19 Mello's going to explain to you that he had his wallet in his left
20 front pocket, roughly \$300 and various cards in it. And the wallet
21 was no longer in his pocket when he gets to his room.

22 Another thing that, you know, most people don't realize,
23 but you'll come to learn, is that as you've seen, we've seen events
24 in Boulder Highway and Nellis, we've seen events on the Strip, and
25 then events at Rampart. Well, detectives are separated and so are

1 police forces into different area commands. So it's not as though
2 the detective who gets this case from the Flamingo Hotel is also the
3 same one who had the Rampart and/or the one in Boulder Highway.

4 Now, the Flamingo and the Caesar's detective both work
5 the Strip corridor, so they would be able to see and speak to each
6 other, and Detective Cipriano, who has this case, and Detective
7 Jacobitz who has the Caesar's case, they would share notes and
8 say, Hey, I have that exact fact pattern and the guy looks the exact
9 same.

10 On August 1st, 2020, you get a similar situation to the one
11 that we went over where it's the Walmart, then the GameStop, and
12 then the Walgreen's. This is Montho Boone, 80 years old. Again,
13 she goes shopping at the Walmart located at 5198 Boulder
14 Highway, around 1:00 p.m. Video surveillance doesn't show the
15 pick and the taking, so nothing, really, for Detective Liske to go off.
16 So he works backwards. He finds a GameStop receipt for 1:32, and
17 a Walgreen's attempted transaction at 1:47.

18 You'll notice there, Montho Boone with the last four
19 of 3609 on a Visa card in a transaction at GameStop, also the 3609
20 on the transaction from Walgreen's. That photo up at the top right
21 is your Walgreen's photo. You'll have the video and we'll go
22 through it. We'll actually go through it to the point where you'll see
23 the defendant insert the chip, as you see how it says Integrated
24 Chip Card, Card Swipe. You'll be able to see, oh, there it is. He put
25 the chip in, didn't work, swiped, didn't work, swipe. So we'll go

1 wallet was taken.

2 [Video played.]

3 MR. BROOKS: And right here, he's completed it.

4 And as I said, detectives, because they're set up on
5 different area commands, they don't always speak. But when
6 enough cases start trickling in, and they start being at different
7 points -- because now we're -- think about it, the first event you're
8 going to hear about Rampart, the last event you're going to hear
9 about is Suncoast. Now we're back in Summerlin a second time.
10 You saw those ones in Boulder Highway and Nellis and then the
11 Strip.

12 All of a sudden, detectives who used to be at a different
13 area command are talking and four to five identifications are made.
14 They have the video footage from July 8th, when Defendant was
15 actually spoken and talked to those officers and put it all together,
16 Defendant's arrested and here we are.

17 The end of this trial, the State's going to stand before you
18 and explain kind of that conduct with the charges and the law that
19 Her Honor will apply, we'll ask you to find the defendant guilty on
20 all counts. Thank you.

21 MR. FISCHER: I can't rearrange anything here, Judge, is
22 that right? Is my spot here?

23 THE COURT: Yeah, of course.

24 MR. FISCHER: I like to have a spot for my things. And the
25 ELMO is on. Fogging up here. All right.

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OPENING STATEMENT FOR THE DEFENDANT

MR. FISCHER: All right. Good morning.

Ladies and gentlemen, you're here today to decide whether or not Andrew Young, who's seated here, is responsible for the crimes the State is alleging he committed.

Let me talk to you a little bit about the evidence that you're going to see and the State's given you a preview. Understand that we're talking about theories. Just because the State is presenting one theory doesn't mean there aren't other possibilities. So keep an open mind to the evidence that will be presented. And understand that you should look at it very closely and don't make any assumptions or jump to conclusions.

But the main event I want you to focus on is July 8th of 2020. That's day one. And why is the day one -- that's day one, so first time that law enforcement -- or the only time that law enforcement makes contact with Mr. Young. And that's also something that happens in the context of -- ELMO's on. Reduce this a little bit. A misdemeanor trespass warning occurring at the 2310 East Serene Avenue Walmart. And then it references if you see a citation number, 1211422.

He is also cited on that same day for petty larceny. And you'll notice the officer, who you should be hearing from, Officer Wheeler, is the signing officer. And let me go back to the original warning, the trespass notice. You'll see Officer Cunningham's signature. So these are the two officers who make contact in

1 addition to one -- Ms. Eskildsen, with Walmart Asset Protection.
2 And there is a -- there is going to be some testimony from her. So
3 pay really close attention to that.

4 But, ultimately, that's the contact that's made. Okay?
5 Mr. Young makes contact with law enforcement on July 8th. He's
6 cited for misdemeanor. He's let go, carries on.

7 What happens next is something that he couldn't have
8 anticipated. Okay. Now, you hear the State talking about a lot
9 about certain identifying features, right? We have two Black men,
10 they say. Right, they're saying look at some of the characteristics.
11 Yes, do that. I want you to do that very closely. I want you to
12 consider the source of the information that's being presented.

13 We talked a little bit about law enforcement and the
14 credibility of the law enforcement versus a regular lay witness.
15 Give that consideration, does law enforcement get things wrong?
16 Do they make mistakes? Do they have pressures? Do they have to
17 move cases? Meaning do they have to conclude cases? You have a
18 series of pickpocket-type thefts that were occurring in the valley.
19 Very convenient to sort of solve those with the generic description
20 of two Black men, and there's maybe some other minor descriptors.
21 And there we go, we can solve a series of these and we can move
22 on, wrap it up in a bow. Okay.

23 How much direct evidence do we have? We have one
24 incident involving Office Cunningham and Officer Wheeler. Have
25 the interaction with Mr. Young over a misdemeanor citation. From

1 there, it's a separate detective, Jacobitz, Byrd, you'll hear from
2 them, who make connections based on videos and based on
3 communications internally with Metro.

4 Later, the district attorneys office gets involved. Jointly,
5 they decide this is Mr. Young and he should be responsible for all
6 the counts he faces here today. When, in fact, all he's responsible
7 for is a misdemeanor theft for that July 8th incident. So when the
8 evidence has been concluded, ladies and gentlemen, that's what
9 you'll determine, that he is responsible for one count of petty
10 larceny at best.

11 Thank you very much.

12 THE COURT: Thank you, Mr. Fischer.

13 State, first witness.

14 MR. STANTON: Mary Campo.

15 **MARY CAMPO,**

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

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

20 THE WITNESS: My name is Mary Campo, M-A-R-Y,
21 C-A-M-P-O.

22 THE CLERK: Thank you.

23 THE COURT: Good morning, Ms. Campo.

24 THE WITNESS: Good morning.

25 THE COURT: So a couple of things I just wanted to go

1 over before we get started. Because of the masks and because of
2 the plexiglas that's in front of us, sometimes it can be difficult for
3 my jurors or some of the individuals in the back of the room to hear
4 what you and I are saying. So that black thing right in front of you,
5 that's red -- it's a microphone.

6 THE WITNESS: Okay.

7 THE COURT: You don't need to bend over to speak into it,
8 but if you could get as close as you could, and then just keep your
9 voice up as loud as possible and the microphone will pick you up.
10 And I know it's hard and I'll remind you throughout. Okay?

11 THE WITNESS: Okay.

12 THE COURT: Thank you. I appreciate that.

13 Mr. Stanton.

14 MR. STANTON: Thank you, Your Honor.

15 **DIRECT EXAMINATION**

16 BY MR. STANTON:

17 Q Ms. Campo, as you testify here today, how old are you?

18 A I'm 72.

19 Q And what is your date of birth?

20 A 5/8/1948.

21 Q And, Ms. Campo, I want to direct your attention back
22 almost a year ago now to June 29th of last year. Did you have
23 occasion to be at the Rampart Casino located at 221 North
24 Rampart?

25 A Yes.

1 Q And is that something that you do on a regular basis, go
2 to that --

3 A Yeah. Because it's too close to my house.

4 Q And that --

5 A And I don't go far, so I go to that place.

6 Q Okay. Do you walk to the casino? Is it that close, or do
7 you drive?

8 A I can, but I drive.

9 Q Okay. Now, I'm going to play --

10 MR. STANTON: I'd ask counsel to begin State's 1.

11 Q And, ma'am, on that television screen to your left, there
12 should be a video that's going to start up here in just a second.

13 MR. STANTON: And then, counsel, if you could pause it
14 right after it starts.

15 Q And then I'm going to have a couple of questions for you
16 about what we're seeing in the paused video. Okay?

17 A Okay.

18 [Video played.]

19 A Yeah, that's me.

20 Q Okay. So do you see yourself on there?

21 A Yes.

22 MR. STANTON: Can you -- does this highlighter -- does
23 this have the tracer, Your Honor? Does it have a line?

24 THE COURT: On the TV in front of her?

25 MR. STANTON: Yes.

1 THE COURT: Yes, it does.

2 MR. STANTON: Okay.

3 BY MR. STANTON:

4 Q So with your finger, Ms. Campo, can you circle on the
5 screen where you are?

6 A Yes.

7 THE COURT: Mr. Stanton, I apologize. Are we -- is this an
8 exhibit you're going to -- are you laying the foundation right now?

9 MR. STANTON: Yes.

10 THE COURT: Okay. Thank you.

11 Sorry, Mary, go ahead.

12 THE WITNESS: Doesn't make a circle here.

13 MR. STANTON: It doesn't.

14 THE WITNESS: No.

15 MR. STANTON: Okay.

16 BY MR. STANTON:

17 Q What color clothing do you have that's visible?

18 THE COURT: So don't use your fingernail.

19 THE WITNESS: Oh, okay.

20 THE COURT: Use the pad of your finger, okay?

21 THE WITNESS: Okay. Now, that's where.

22 THE COURT: There you go.

23 BY MR. STANTON:

24 Q Okay. Now, the location in the casino, is that something
25 that's familiar to you as far as where you're seated that day?

1 A Yes. That's my machine. This is where I sit all the time.

2 Q Okay. And what did you have with you when you went in
3 there that night?

4 A I had my purse and in there, I have lots of things, and my
5 wallet.

6 Q And does what we are looking at here, the way you're
7 dressed, the location in the casino and the time, does that
8 accurately -- is it depicted in the -- what you see right now --

9 A Yeah.

10 Q -- on the screen?

11 MR. STANTON: Your Honor, I'd move State's 1 into
12 evidence.

13 MR. FISCHER: No objection.

14 THE COURT: It'll be admitted.

15 [State's Exhibit Number 1 admitted.]

16 BY MR. STANTON:

17 Q Now, I'm going to have -- and just play this until I tell my
18 co-counsel to stop it, so we're just going to watch it for a minute,
19 okay?

20 A Okay.

21 MR. STANTON: Counsel, could you begin?

22 [Video played.]

23 Q Now, do you remember those two individuals coming up
24 to you?

25 A Yes.

1 Q Can you tell me what the individual that was speaking to
2 you -- what he said?

3 A He show me a piece -- he came on the right, show me a
4 piece of paper, asking about something, I said I don't know. The
5 other guy --

6 Q And could you tell where the other person was?

7 A Behind me.

8 Q Okay. You had some sense that he was behind you?

9 A Yes, I feel it. You feel when your -- there is something,
10 somebody behind you.

11 Q Now, after they left, what did you do after gaming at your
12 machine?

13 A I ordered a drink, I went to take my wallet and I look in my
14 purse and there was no wallet to pay the -- to tip the lady.

15 Q And so --

16 A So I now.

17 Q What was in your wallet?

18 A That day I went to the bank. I had \$1,400 in hundreds.
19 And around \$200 in 20s and 5s. I have my medical card, I have my
20 Caremark card, I have my ATM card, I have my Triple A card, I have
21 lots of things that I discovered that -- later, when I needed them,
22 they're not there. So.

23 Q So besides cards and cash, you had other items that you
24 use --

25 A Yes.

1 Q -- that you couldn't find --

2 A No.

3 Q -- when that time came later on?

4 A Yeah. And with the corona, you cannot go to the offices
5 and get another card. You have to wait forever.

6 Q So let me ask you about what time of day or evening was
7 this, to the best of your --

8 A Around -- between 11:00 and 12:00; something like that.

9 Q At night?

10 A Night yes.

11 Q Okay. Now, when did you first get contacted by one of
12 your financial institutions, specifically, Bank of America?

13 A That same night, Bank of America sent me a message and
14 I was so confused that I didn't even take the message, I called them
15 back and told them that my wallet has been stolen, and please stop
16 my debit card.

17 Q And did you also get an e-mail?

18 A Yes.

19 Q And was that from Bank of America?

20 A Yes.

21 Q And do you recall -- and it's okay if you don't, but do you
22 recall the last four digits of your Bank of America card that --

23 A Sure.

24 Q -- they contacted you about?

25 A No. Actually, no. I know only my credit card.

1 Q Sure.

2 A The last four.

3 Q If I were to show you a copy of the e-mail, would that
4 maybe help your memory and what the last four digits were?

5 A Maybe --

6 Q Okay.

7 A -- if you show me --

8 MR. STANTON: Counsel?

9 MR. FISCHER: That's not -- you're fine.

10 MR. STANTON: May I approach, Your Honor?

11 THE COURT: Yes.

12 BY MR. STANTON:

13 Q Ms. Campo, I'm going to show you a document, and I
14 want you to -- guess we could do it like this, if you recognize what
15 document it is I'm handing you?

16 A Actually, I never looked at my card. They change it
17 anyway for me.

18 Q But do you recognize the e-mail that they sent you --

19 A Yes.

20 Q -- about your card?

21 A Yes. Yes.

22 Q Okay. It was the top there, there's a reference. And
23 maybe I can help you out by pointing to it. Where you have hard
24 ending, they're contacting you about a card with the ending of four
25 digits; do you see that?

1 A I may need something -- there -- and there's all the
2 transactions --

3 Q Right there.

4 A -- on that line.

5 MR. FISCHER: We'll stipulate.

6 THE COURT: Okay.

7 THE WITNESS: [Indiscernible.]

8 BY MR. STANTON:

9 Q Do you see that?

10 A Oh, okay, I see it, yes. You're right.

11 Q Okay. What are the last four digits of your Bank of
12 America card they were --

13 A 1020. Hey.

14 Q Say it again?

15 A 1020.

16 Q 1020?

17 A Yeah.

18 Q Okay.

19 A This is what I get from Bank of America.

20 Q Okay.

21 A Yeah.

22 Q I'm going to ask you about that just now. Thank you,
23 Ms. Campo.

24 And they talked to you in this e-mail about purchases at
25 a 7-Eleven on your card --

1 A Yes.

2 Q -- is that correct?

3 A Yes.

4 Q Do you remember whether they were -- the charges --

5 A Yeah.

6 Q -- were approved or declined?

7 A One of them was for \$18 and it got denied. The other one

8 is for \$8 and they took the \$8.

9 Q Okay.

10 A They gave them.

11 Q And do you know -- and were you at the 7-Eleven on 5110

12 South Marilyn Parkway at 11:42 p.m. that same evening?

13 A I don't know what the street is.

14 Q Okay.

15 A I never been in these areas. I don't go far from my house.

16 Q And so you -- did you give anybody permission to use any

17 of your credit cards?

18 A No way.

19 Q Okay. And do you know a person by the name of Andrew

20 Young?

21 A No.

22 Q And you wouldn't have given him permission to be using

23 any of your property that day or any other day?

24 A I don't give permission to my sister or my husband to use

25 my credit card.

1 Q Okay. Now, ultimately, you -- did you bring this e-mail to
2 a detective, to Metro, told him about this and then provided him
3 this --

4 A I told him about it.

5 Q Okay.

6 A Okay?

7 Q Great. Then, counsel, if you could play the next view on 1,
8 State's Exhibit 1.

9 [Video played.]

10 MR. STANTON: Now, if we could just pause that for a
11 moment, counsel.

12 Q Now, Ms. Campo, let me direct your attention -- can you
13 see that okay?

14 A Yeah, I see it.

15 Q On your screen?

16 A Yeah.

17 Q Way up here in the right corner, do you see that?

18 A Yeah.

19 Q Do you recognize that person? Is that you?

20 A Yeah, with my red jacket there.

21 Q Yeah?

22 A My blonde hair and my red jacket.

23 Q Okay. And so this is at a different angle of the same --

24 A Yeah, that's right.

25 Q Sure. But that's, once again --

1 A And that's --

2 Q -- your machine and you're kind of comfortable where in
3 the casino it was?

4 A I didn't understand what you asked me.

5 Q You're kind of comfortable looking at this picture of where
6 your machine is inside the casino, correct?

7 A Yeah.

8 Q And that's an accurate picture of how --

9 A Yes.

10 Q -- the casino looked and you at your machine?

11 A Yes.

12 Q Okay.

13 A Because there was --

14 MR. STANTON: And then, counsel --

15 THE WITNESS: -- spreading the machine from the corona.

16 THE COURT: They were what?

17 THE WITNESS: The machines were moved from the
18 corona, and that's where I go always.

19 THE COURT: Okay. Got it.

20 MR. STANTON: And, counsel, the next angle. And if you
21 could pause it.

22 THE WITNESS: That's me again.

23 BY MR. STANTON:

24 Q Now, I want to direct your attention to the left-hand --

25 A Yeah. It's me there on the machine.

1 Q And that's kind of the crowd, how it was, in last summer
2 in the corona time period --

3 A Yeah. Yeah.

4 Q -- at 11:00 at night?

5 A Yeah.

6 Q Okay.

7 MR. STANTON: Judge, I pass the witness.

8 THE COURT: Okay.

9 **CROSS-EXAMINATION**

10 BY MR. FISCHER:

11 Q Ms. Campo, good morning.

12 A Morning.

13 Q I'll be pretty brief here.

14 A Okay.

15 Q I'm just going to ask some follow-up questions about
16 some of the State's questions with respect to you being at the
17 Rampart Casino on June 29th.

18 A Yes.

19 Q Okay. And you talked about an incident that occurred
20 where a number of your items were taken, correct?

21 A Yeah.

22 Q And included some --

23 A My wallet.

24 Q -- 1,400 in cash, a wallet, an ATM card --

25 A They were in the wallet, so when they snatched the wallet

1 [indiscernible].

2 Q Right. And you said that the person that you believe took
3 the wallet was behind you; is that correct?

4 A Yes.

5 Q So it would also be accurate to say that you did not get a
6 look at that person --

7 A But when they left, I looked at them.

8 Q Ma'am, respectfully, I just --

9 A They --

10 Q It's a yes or no: Did you get a look?

11 A At him and his face, no.

12 Q No. That's correct.

13 A No.

14 Q And that's -- and with respect to that particular statement,
15 you also -- or that incident, you also gave a statement; is that
16 correct? Do you remember doing that?

17 A Yeah.

18 Q Do you remember giving a statement?

19 A Yes.

20 Q To law enforcement --

21 A Yes.

22 Q -- on the night of?

23 A Yes.

24 Q Okay.

25 MR. FISCHER: And if I may approach the witness, Your

1 Honor?

2 THE COURT: Sure.

3 BY MR. FISCHER:

4 Q I want you to take a look at that. Tell me if you recognize
5 that.

6 A Yep. That's my handwriting.

7 Q Okay.

8 A Yep.

9 Q So is that the same statement you provided to law
10 enforcement?

11 A To the police --

12 Q Right.

13 A -- who was there, yes.

14 Q And that's the -- that documents the incident, right?

15 A Yes.

16 Q As you saw it; is that correct?

17 A Yes.

18 Q So then would you say that's a fair and accurate
19 description --

20 A Yeah, that's my handwriting.

21 Q -- of what [indiscernible]. Okay.

22 MR. FISCHER: Your Honor, I move to admit Defense
23 Exhibit A, her voluntary statement.

24 MR. STANTON: No objection.

25 THE COURT: Okay. It'll be admitted, Defendant's A.

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[Defendant's Exhibit Number A admitted.]

THE CLERK: And I don't have a copy.

MR. FISCHER: Sorry, I didn't give you a heads up on that one. Apologize there.

THE WITNESS: I want to say something.

MR. FISCHER: No question pending, ma'am.

THE WITNESS: I can?

MR. FISCHER: All due respect, no.

BY MR. FISCHER:

Q You've taken a look at it, feel like you have a pretty good memory of what was on the statements if I ask you some questions while it's being marked?

A Believe me, I have good memory.

Q Okay. Great.

A I know what I --

Q That's wonderful.

So what does your memory tell you about the -- this particular statement and where it indicates whether or not you can identify the suspect? There's a yes or no?

A I can't identify -- I did not see his face.

Q Correct. And that's what's, in fact, on your statement; is that correct?

A I don't know -- yeah. I don't -- I did not see his face. I can't say this or this. But I know the way he was walking when I turned my face.

1 Q Not what you said, but that was my question. Thank you,
2 ma'am.

3 And then, respecting what happens after that, you walk --
4 you had contact -- or Bank of America contacts you; is that correct?
5 Through an e-mail?

6 A Yeah. I think they sent me a notice that my card has been
7 used within 20 minutes. But I did not open the message, I called
8 them and told them I lost -- my wallet is stolen. They took my debit
9 card.

10 Q Okay. Then you said there was a transaction at a separate
11 location, a 7-Eleven across the city --

12 A Yeah, I had --

13 Q -- there was -- what was it, \$8.80? I believe you said \$8 on
14 direct, but --

15 A \$8 and other one I think \$18. They sent me --

16 Q Yeah.

17 A -- I mean, the bank sent me a notice.

18 Q I mean, approximately. So I think, based on some prior
19 testimony and some of what I reviewed maybe 18.80 is the exact
20 number that was declined, and it was 8.80 that went through; does
21 that sound right?

22 A Yes.

23 Q Okay.

24 A That happened they --

25 Q And -- I think you said 18 and 8, it's not a big difference,

1 but we want to be accurate here so that's why.

2 A Oh, okay.

3 Q I just wanted to make sure.

4 MR. FISCHER: I have nothing further, Your Honor. Thank
5 you.

6 THE COURT: Thank you.

7 Redirect?

8 MR. STANTON: Briefly.

9 Counsel, could I have you pull up 1A.

10 [Video played.]

11 **REDIRECT EXAMINATION**

12 BY MR. STANTON:

13 Q I'm going to have this move forward.

14 A That's me. Yeah.

15 Q Now, if I could --

16 MR. STANTON: I mean, pause that, counsel.

17 Q Now, at this point, you've discovered your wallet is
18 missing and you contacted casino personnel?

19 A Yes. That's the manager, I think, the one who's talking to
20 me.

21 MR. STANTON: And, counsel, if you could fast-forward a
22 couple of minutes.

23 THE WITNESS: And that's him. And that's my sister.

24 BY MR. STANTON:

25 Q The woman that's now standing next to you --

1 A My sister.

2 Q -- Ms. Campo, is your sister?

3 A Yes. I called her, she was in the casino with me.

4 MR. STANTON: And, counsel, a couple more minutes.

5 Q Ultimately, police arrived and you write out your

6 handwritten statement that --

7 A Yes.

8 Q -- counsel just --

9 A Yes.

10 Q -- moved to admit --

11 A Yes.

12 Q -- is that correct?

13 A Yeah.

14 MR. STANTON: May I approach again, Your Honor?

15 THE COURT: Yes.

16 THE WITNESS: That's the police. Yeah.

17 BY MR. STANTON:

18 Q Now, Ms. Campo, I'm going to show you again the Bank

19 of America e-mail that was sent to you, and I want to direct your

20 attention to the two entries at the very bottom. Can you see that?

21 A The [indiscernible] was actually 7-Eleven.

22 Q Okay. Do you see that?

23 A Yeah.

24 Q The two transactions?

25 A Yeah.

1 Q Okay.

2 A Approved.

3 Q One was approved and one was declined?

4 A Yeah.

5 Q Okay. Can you tell me the dollar amount of the approved
6 transaction?

7 A \$8.80.

8 Q And how much was the dollar amount for the declined
9 transaction?

10 A 18.80.

11 Q Thank you.

12 MR. STANTON: I have no further questions.

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

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

15 THE COURT: Ladies and gentlemen, do I have any
16 questions from my jurors?

17 MR. STANTON: Oh, I move 1A into evidence, Your Honor.

18 THE COURT: Okay. Parties in the back, please.
19 We'll be right back, Ms. Campo.

20 [Bench conference transcribed as follows.]

21 THE COURT: All right. We are outside the presence of the
22 jury. We have a jury question from Number 13. Where did she last
23 see the wallet and when did she know it was missing?

24 Any objections from the State?

25 MR. FISCHER: I think that's a good question.

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MR. STANTON: No.

THE COURT: All right. Both -- all parties agree that it will be asked.

MR. FISCHER: Yes, ma'am.

THE COURT: Let's go.

[Pause in proceedings.]

THE COURT: All right. Back outside the presence of the jury, another question from Juror -- this time from Juror Number 11: When was the charge made on the card?

MR. FISCHER: Oh, that's fine. 40 minutes later, you said that already. But --

THE COURT: So no objection?

MR. FISCHER: Yeah, I'm not objecting to that question.

MR. STANTON: I don't know that she'll remember. She can testify to that.

THE COURT: Does it show on the paper you were -- you refreshed?

MR. FISCHER: In your opening, you're the one -- you make that -- that where it comes from --

MR. BROOKS: Shows on the receipt.

MR. FISCHER: Yeah.

MR. STANTON: Shows the date, but it doesn't show the time.

THE COURT: Okay. So should I just say this will be asked of a different witness?

1 MR. BROOKS: Or we can, I mean, unless you want to --

2 MR. FISCHER: I mean, I'll stipulate to the admission of
3 those receipts. I'm not disputing that they were used 40 minutes
4 away. So that's -- I mean, unless I'm thinking I'll allow it for the
5 record of making some grave error? I don't think I am.

6 MR. STANTON: But did you just say the base -- the --
7 there will be a receipt or a -- involving the transaction with a time
8 stamp on it.

9 THE COURT: Okay.

10 MR. FISCHER: That'll speak for itself. There we go.

11 THE COURT: I'm sure it --

12 MR. FISCHER: That's even better.

13 THE COURT: -- by another witness.

14 MR. STANTON: Yeah. Right?

15 THE COURT: Uh-huh.

16 MR. BROOKS: Marshal Martinez.

17 MR. STANTON: Yeah.

18 MR. BROOKS: Someone would.

19 MR. FISCHER: So that's good. Then we got that. Then
20 it's all good.

21 THE COURT: Okay.

22 MR. FISCHER: I'm good with that. Yes, so go.

23 THE COURT: Perfect. Sounds good.

24 [End of bench conference.]

25 THE COURT: All right. Ms. Campo, the questions from --

1 the question from the juror is: When did you last see the wallet and
2 when did you know it was missing?

3 THE WITNESS: I saw -- at the [indiscernible], I told you, I
4 order some -- a drink, a Coke, a diet Coke. And I turn around, the
5 wallet wasn't there.

6 THE COURT: So after -- when you say they, you mean the
7 two individuals we saw in the camera?

8 THE WITNESS: Yes.

9 THE COURT: You went to order a drink?

10 THE WITNESS: Yeah.

11 THE COURT: Okay.

12 THE WITNESS: And then as the presented, whatever,
13 their lives -- they don't want me to tell him that. I know the --

14 THE COURT: So just one second. I'm sorry, just one
15 second. So -- because I'm going to allow the State to ask you some
16 follow-up questions.

17 THE WITNESS: Okay.

18 THE COURT: So just one second on that. Okay?

19 THE WITNESS: Okay. Okay.

20 THE COURT: And the first part of the question was:
21 When did you last see the wallet?

22 THE WITNESS: I saw the wallet when I turn to take some
23 money out.

24 THE COURT: When you turned to take -- when you were
25 gambling?

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THE WITNESS: Yes.

THE COURT: Okay. All right. And then there's another question, is: When was the charge made on the card?

I've been assured by both of the parties that this question is actually going to be answered by a different witness who will be called.

Follow up by the State?

MR. STANTON: No, questions. Thank you, Your Honor.

THE COURT: Mr. Fischer?

MR. FISCHER: No, Your Honor.

THE COURT: Okay. All right. Ms. Campo, thank you so much for your testimony today.

THE WITNESS: You're welcome.

THE COURT: You are free to leave. Please don't share your testimony with anyone else involved in the case, okay?

THE WITNESS: No.

THE COURT: Okay. Have a great day.

THE WITNESS: Thank you.

THE COURT: Next witness?

MR. STANTON: Joanne Frank.

Ms. Clerk, I'll need the 6 and 6 series.

THE COURT: Mr. Fischer, at the conclusion of that witness, the State had moved in the subsection of that video, I believe it was 1A. Did you have an objection on the record to that video?

1 MR. FISCHER: I -- Mr. Brooks, is this one of the videos I
2 previously stipulated to? I think it is, Judge, and as -- and therefore,
3 no.

4 THE COURT: Okay.

5 MR. FISCHER: There's no objection.

6 THE COURT: All right. It'll be admitted.

7 [State's Exhibit Number 1A admitted.]

8 **JOANNE FRANK,**
9 [having been called as a witness and first duly sworn, testified as
10 follows:]

11 THE CLERK: Please be seated. Please state your name
12 and spell it for the record.

13 THE WITNESS: Joanne Frank, J-O-A-N-N-E, F-R-A-N-K.

14 THE CLERK: Thank you.

15 THE COURT: Good morning, Ms. Frank.

16 THE WITNESS: Good morning.

17 THE COURT: Thank you so much for coming in this
18 morning.

19 Between the plexiglas and our masks, it's very difficult for
20 my jury to hear. So if you wouldn't mind scooting up as forward --
21 just as much as possible, and then that is a microphone. You don't
22 have to bend over to speak into it, but if you could just speak up
23 loudly like I'm speaking right now, then it'll be able to see it. But
24 you don't have to bend over, I don't want you to be uncomfortable.

25 THE WITNESS: Okay.

1 THE COURT: Yeah, just scoot in as much as you can.

2 Perfect. Thank you. Appreciate it.

3 Mr. Stanton.

4 MR. STANTON: Thank you.

5 **DIRECT EXAMINATION**

6 BY MR. STANTON:

7 Q Ma'am, how old are you and what is your date of birth?

8 A I'm 77, June 20th, 1943.

9 Q Thank you. And I want to direct your attention to
10 July 22nd of this past year, 2020. Did you have occasion to be at an
11 Albertson's located at 10001 South Rainbow at about 7:00 p.m.?

12 A Yes.

13 MR. STANTON: And, counsel, if I could have you begin to
14 play Exhibit 6 and then pause it for me.

15 THE WITNESS: I'm sorry, I didn't hear you.

16 MR. STANTON: That's okay. I'm asking my co-counsel to
17 put up a video on the screen in front of you. Then I'm going to
18 have several questions for you.

19 [Video played.]

20 BY MR. STANTON:

21 Q Do you recognize, generally, that area and the person
22 that's entering the video right now?

23 A Yes, that's me.

24 MR. STANTON: Would you pause that for me there.

25 Q Does that accurately depict how you were dressed and

1 what you were carrying with you on that date at Albertson's when
2 you were shopping?

3 A Yes.

4 MR. STANTON: Your Honor, I would move Exhibit 6, and
5 there is a series of still photos from this video, 6A through C, which
6 I'll call the 6 series, I would move all of those into evidence.

7 THE COURT: Mr. Fischer.

8 MR. FISCHER: I believe those are all previously admitted
9 by stipulation between myself and Mr. Brooks, by prior
10 conversation.

11 THE COURT: Okay. Those will be admitted. Thank you.

12 [State's Exhibit Numbers 6A, 6B, and 6C admitted.]

13 BY MR. STANTON:

14 Q Now, I have a couple of questions, Ms. Frank, before we
15 play this video. Number one, you have something on your back;
16 can you tell me what that is?

17 A It's a backpack purse.

18 Q And the actual purse that you carry with you, where is
19 that?

20 A That is it, that's what I had.

21 Q Okay. So it -- is there something inside that backpack?

22 A Yes.

23 Q What's inside?

24 A Well, my wallet and my credit cards and probably hand
25 cream and all that kind of stuff.

1 Q Okay. And, Ms. Frank, the wallet that you had inside your
2 purse, when was the last time you had noticed it was in your
3 backpack?

4 A Probably when I left the house.

5 Q Okay. And from this time period that we're looking at
6 here, how long had that been when you had left your house?

7 A I'm about 15 minutes from Albertson's.

8 Q Okay. And what section of the store do you remember
9 you're in when we look at this stopped or paused video right now
10 on the screen?

11 A I was at the freezer part looking at shrimp.

12 Q Okay. Now, at this point, I'm going to play the video, and
13 then when it's finished, in a section, I'm going to follow up with
14 some questions. So just sit back, relax, and then we'll watch the
15 video.

16 MR. STANTON: Counsel, could you play 6.

17 [Video played.]

18 BY MR. STANTON:

19 Q I want to ask you several questions about what we just
20 saw. Do you recall how many people came up and were talking to
21 you about this -- at the frozen food shrimp section?

22 A Two that I recall.

23 Q And can you describe to me kind of what was going on
24 regarding that conversation when they first walked up to you?

25 A Well, they just asked me -- he, particularly, the person in

1 front of me, particularly asked me all kinds of questions about
2 cooking shrimp and what he should buy and all those kinds of
3 things.

4 Q Okay. So let me break it down. As I see it, there's two
5 individuals. One wearing shorts with a bald head, and then a taller
6 individual with the striped shirt; is that accurate, to your
7 recollection?

8 A Yeah. I think so.

9 Q And the person that's having the discussion with you
10 about how to cook the shrimp, which one of those two gentlemen
11 was it?

12 A The one in front of me.

13 Q Okay. Is that the person that you're bending down with at
14 the --

15 A Yes.

16 Q -- freezer section?

17 A Yes.

18 Q And what else happens as you're talking to him about
19 shrimp?

20 A Well, someone came by and apparently banged the cart of
21 something, and then walked away. And then --

22 MR. FISCHER: Judge, it's a little confusing in terms of
23 who's doing what. I would say I don't know if the State could
24 maybe use a still, be a little more clear who she's referring to him,
25 him, at --

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MR. STANTON: I'm going to --

THE WITNESS: I didn't hear what was said.

THE COURT: Just one second, ma'am.

Yes, Mr. Stanton?

MR. STANTON: I'm going to follow up with questions to make sure that she -- that's clear.

THE COURT: Okay. Sounds good. Go ahead.

BY MR. STANTON:

Q Now, the man that you says walked up about banging the cart, that's a person with brightly colored clothing?

A Well, he left right away and made a comment, and I made a comment, and --

Q But that's the guy that we see coming off to the right of the screen in brightly colored clothing and he's not any of the two guys that you were talking to?

A No.

Q What did you get a sense the second individual was doing while you were talking about shrimp?

A Absolutely nothing.

Q And --

A I didn't feel a thing.

Q Okay. And after the discussion of the shrimp, we see them walk off and then you turn around with your back towards the camera; did you see that?

A Yes.

1 Q What did you notice about your backpack, if anything --

2 A It was open.

3 Q And that was not in the condition that it was before and
4 how you keep it?

5 A No.

6 Q So what happened after you left that area? Where did you
7 go?

8 A I went out. I never purchased anything. I went out into
9 the parking lot towards my car when I realized that my backpack
10 was lighter. So I turned around and took to off and sure enough,
11 my wallet was gone. I went back to the store to the fellow at the
12 carts, at the open the store, and told him, I think I've been robbed.
13 And he didn't offer anything, so I went back to my car, went home,
14 and called the bank, and had my cards cancelled.

15 Q Now, I want to ask you some questions about what was in
16 your wallet. What was in your wallet of -- or your purse, I should
17 say, not your wallet.

18 A Well, I think it was \$75. But there was a driver's license,
19 registration, insurance, Triple A card, there was all my medical
20 stuff, my Medicare card and my supplement, along with some
21 other, like, a Costco card and, you know, I had passes to the
22 national parks, stuff like that.

23 Q Okay. Now, did you, at any time after this incident, get
24 contacted by any financial institution about an attempt to use any of
25 your cards?

1 A Yes. I got an e-mail from the Bank of America.

2 Q And that is the financial institution of one of your debit or
3 credit cards?

4 A Yes.

5 Q And what did they advise you?

6 A They told me that a card had been used at a Smith's store
7 on Sahara for \$450, and it had been declined.

8 Q So let me ask you this question: At any time, did you give
9 anybody permission to use any of your cards on that day going
10 forward?

11 A No.

12 Q So any attempt on Smith's would have been without your
13 authorization?

14 A Correct.

15 Q And this may sound silly, but I apologize for the nature of
16 the question, you did not give anybody permission to take any of
17 your items out of your backpack; is that correct?

18 A No.

19 Q Thank you, ma'am.

20 MR. STANTON: I'll pass the witness.

21 THE COURT: Cross-examination.

22 MR. STANTON: Judge, I'd move -- I think I moved for 6 in
23 the 6 series in --

24 THE COURT: Yeah, those are admitted.

25 MR. STANTON: Thank you.

1 **CROSS-EXAMINATION**

2 BY MR. FISCHER:

3 Q Good morning, Ms. Frank.

4 A Good morning.

5 Q Just a few follow-up questions myself. So you're -- it's
6 July 22nd of 2020, last summer --

7 A Yes.

8 Q -- is that correct?

9 A Yes.

10 Q Okay. And you're in the frozen foods section?

11 A Yes.

12 Q And you then -- you engage in some conversation and the
13 video describes that, you said, accurately to the State, which is why
14 it was admitted. And you then leave the store, correct? And you
15 realized, boom, my backpack is lighter?

16 A Yes.

17 Q And you return, and that's when you make a report. And
18 you report it to store security, correct?

19 A No.

20 Q No, who is it you report to?

21 A Oh, I went straight home.

22 Q Okay.

23 A I talked to the man at the front of the store, who was
24 looking out for the carts.

25 Q Okay.

1 A And he didn't have anything to say to me, so I
2 immediately went home and cancelled my cards.

3 Q Okay. So you immediately had concern that there -- that
4 your cards were being misused, and that, in fact, was done?

5 A Yes.

6 Q But no charges were ever made --

7 A No.

8 Q -- is that correct? So the cards and the items taken were
9 returned to you?

10 A I'm sorry --

11 Q Were your items returned? Were your items that were
12 taken returned or lost from the wallet? No.

13 A Nothing -- I've never seen anything --

14 Q But everything was cancelled; is that correct?

15 A Yes.

16 Q Okay.

17 MR. STANTON: Judge, I just ask that counsel's asking a
18 question, I think the witness is in the middle of responding, and
19 then he's asking another question.

20 THE COURT: That's okay.

21 MR. FISCHER: My apologies.

22 MR. STANTON: So just for the record --

23 THE COURT: Don't worry about it. Just make sure she's
24 done, and then start --

25 MR. FISCHER: I can do a little bit, I'm a little bit of a fast

1 talker. So I'll try to slow down.

2 BY MR. FISCHER:

3 Q So now with respect to these two gentlemen, we already
4 said 15 minutes of conversation, and what was the substance of the
5 conversation?

6 A Just about how to cook shrimp and what to buy and that
7 frozen shrimp, that whole thing -- that's all it was.

8 Q Okay. And you were only engaging one of the two
9 gentlemen?

10 A Yes.

11 Q Okay. And could you describe him for us?

12 A Well, he was in front of me, he was not very tall, as I
13 recall. And he was bending over and it was a loud conversation,
14 but --

15 Q And, if I could stop you. Could you be as specific as
16 possible with your description, if you could maybe give an estimate
17 of height --

18 A No.

19 Q -- physical descriptors?

20 A No, not really.

21 Q You're not able to do that?

22 A I don't think so, no.

23 Q Okay.

24 A Not honestly.

25 Q Okay. Well, no, that's what we want. We want honesty.

1 So you really can't say, and that's a fair statement, I
2 appreciate that.

3 A Yeah, we all had masks on too.

4 Q Sure. Yeah. And that's fair. Thank you.

5 MR. FISCHER: Nothing further.

6 THE COURT: Redirect.

7 MR. STANTON: No. No questions, Your Honor.

8 THE COURT: Any questions from my jurors?

9 [Bench conference transcribed as follows.]

10 THE COURT: All right. Okay. Is he coming?

11 MR. BROOKS: I don't think so.

12 THE COURT: Okay. Juror Number 7, can we get more
13 detail about the interaction with the person in the bright-colored
14 clothing? Like, what happened there?

15 MR. FISCHER: I mean, I think, Judge, I'd like the
16 testimony -- I think it's adequate. I had the opportunity to cross, I
17 gave her the opportunity. So -- but it's -- I'll submit it. I'd prefer no.

18 MR. BROOKS: Well, I mean, I understand that you prefer
19 no, but it's appropriate question, so.

20 MR. FISCHER: Okay. More details, fine.

21 THE COURT: Okay. All right. So that one will be asked.
22 Number 7 --

23 MR. FISCHER: Getting a little touchy now.

24 THE COURT: -- how long between Joanne being at
25 Albertson was the attempted transaction at Smith's, if she knows?

1 MR. FISCHER: That's speculative. I would object to that
2 one. So if she knows --

3 THE COURT: Does she know?

4 MR. FISCHER: I mean, I don't think she does.

5 MR. BROOKS: I doubt she's going to know.

6 MR. FISCHER: She doesn't --

7 THE COURT: All right. If she -- I'll ask her if she knows.

8 MR. FISCHER: All right. Uh-huh.

9 THE COURT: If she doesn't, then she can't answer, it will
10 be speculation.

11 On Number 11, she went grocery shopping but didn't try
12 to buy anything?

13 MR. FISCHER: I guess, relevance. But, sure. I mean --

14 THE COURT: Okay. No objection.

15 Number 9, were any of his clothes recovered other than
16 shoes? Not for this witness. So that won't be asked.

17 Number 14, was a police report filed?

18 MR. FISCHER: No, not that I have.

19 THE COURT: What did you say?

20 MR. FISCHER: I don't think there is one, right? There is?
21 Okay. Then we have --

22 MR. BROOKS: Otherwise we wouldn't know about it.

23 MR. FISCHER: Okay.

24 THE COURT: Okay.

25 MR. FISCHER: Well, I'm missing a lot of stuff still. So --

1 MR. BROOKS: No, no, no. You -- this is on the record,
2 you've had everything --

3 MR. FISCHER: [Indiscernible] put that on the record, have
4 they?

5 MR. BROOKS: You were on the record.

6 MR. FISCHER: Oh, we are? Okay. For the record, I think I
7 have everything. I'm sorry. Okay. To Mr. Brooks.

8 THE COURT: Okay. All right. Perfect. We'll do that.
9 We're good.

10 MR. FISCHER: All right.

11 [End of bench conference.]

12 THE COURT: All right. Ms. Frank, I have a few questions
13 from the jury for you. So this is only if you know, okay?

14 How long between Joanne being at Albertson's was the
15 attempted transaction at Smith's? If you know.

16 THE WITNESS: I don't. I have the e-mail and it might
17 have a time on it, I have it in my purse.

18 THE COURT: That's okay.

19 THE WITNESS: Okay.

20 THE COURT: Was a police report filed?

21 THE WITNESS: I filed it.

22 THE COURT: You went grocery shopping but didn't try to
23 buy anything?

24 THE WITNESS: No. As I recall, I went there looking for
25 something and then I don't know if I was planning to buy shrimp or

1 not, but as it happened, after this long conversation, I just left.

2 THE COURT: So a no on the shrimp?

3 THE WITNESS: No, I didn't buy anything.

4 THE COURT: Okay. And can we get more detail about the
5 interaction with the person in the bright-colored clothing?

6 THE WITNESS: No.

7 THE COURT: So do you remember what --

8 THE WITNESS: As I recall --

9 THE COURT: -- you said there was a conversation about a
10 card?

11 THE WITNESS: -- he -- someone banged the cart. And
12 then they walked this way away, and made a comment, and I swore
13 at him. And then we all started again in front of the --

14 THE COURT: Okay. So you swore at the guy who banged
15 the cart?

16 THE WITNESS: Yeah.

17 THE COURT: The bright --

18 THE WITNESS: Because he did say something, but I don't
19 recall exactly what he said.

20 THE COURT: Okay. All right. Any follow-up based on
21 that, Mr. Brooks?

22 MR. BROOKS: Yes, Judge.

23 **FURTHER EXAMINATION**

24 BY MR. BROOKS:

25 Q Barbara, so -- I mean Joanne, so when you said you didn't

1 buy anything. I want to ask you about your mental state when we
2 saw you walking away wearing your backpack that was empty. At
3 that point in time, were you thinking as clearly as you were when
4 you entered Albertson's?

5 A I would guess so. I went there for a purpose. And,
6 obviously, I don't remember what it was anymore. But after that
7 long conversation and all that stuff about the shrimp, I just left.

8 Q Okay. Thank you.

9 THE COURT: Mr. Fischer, follow-up?

10 MR. FISCHER: No, thank you, Your Honor.

11 THE COURT: All right. Thank you so much, ma'am, for
12 your testimony. Please don't share it with anyone else involved in
13 the case. But you are free to leave.

14 THE WITNESS: Thank you.

15 THE COURT: Thank you.

16 All right. Ladies and gentlemen, we're going to take our
17 quick morning recess. It's now 10:35, we'll go till 10:50.

18 During the recess you must not discuss or communicate
19 with anyone, including fellow jurors, in any way regarding the case
20 or its merits either by voice, phone, e-mail, text, Internet, or other
21 means of communication or social media, read, watch or listen to
22 any news or media accounts or commentary about the case, do any
23 research, such as consulting dictionaries, using the Internet, or
24 using reference materials, make any investigation, test a theory of
25 the case, recreate any aspect of the case, or in any other way

1 investigate or learn about the case on your own, or form or express
2 any opinion regarding this case until the matter is formally
3 submitted to you.

4 I'll see you out front at 10:50. Thank you.

5 [Court recessed at 10:36 a.m., until 10:51 a.m.]

6 [In the presence of the jury.]

7 THE COURT: All right. Ladies and gentlemen, thank
8 you -- are we -- okay, we are missing someone. I was wondering
9 where my marshal was.

10 [Pause in proceedings.]

11 THE COURT: Thank you. We are back on the record in
12 C-350623, State of Nevada versus Andrew Young. Mr. Young is
13 present with his attorney, Mr. Fischer. Both deputy district
14 attorneys, Mr. Brooks as well as Mr. Stanton are present. Do the
15 parties stipulate to the presence of the jury?

16 MR. STANTON: Yes, Your Honor.

17 MR. FISCHER: Yes, Your Honor.

18 THE COURT: All right. Thank you.

19 State, next witness.

20 MR. STANTON: Montho Boone. And, Judge, she has the
21 assistance of a Thai interpreter.

22 THE COURT: Okay.

23 Good morning, sir.

24 So, for the record, as previously stated, this witness will
25 be using the aid of the interpreter.

1 Sir, may I have your name for -- the interpreter, please.

2 THE COURT INTERPRETER: Tim Apichonrattakor.

3 THE COURT: All right. Thank you.

4 THE COURT INTERPRETER: You're welcome, ma'am.

5 THE CLERK: Please remain standing.

6 **MONTHO BOONE,**

7 [having been called as a witness and first duly sworn, testified
8 through the interpreter as follows:]

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

11 THE WITNESS: My full name is Montho, M-O-N-T-H-O.
12 My last name is Boone, B-O-O-N-E. That's the last name.

13 THE CLERK: Thank you.

14 THE COURT INTERPRETER: You're welcome.

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

16 THE COURT: Yes.

17 **DIRECT EXAMINATION**

18 BY MR. STANTON:

19 Q Ms. Boone, can you tell us what your age is and what your
20 date of birth?

21 A My age is 81. I was born on the 3rd -- March
22 the 3rd, 1940.

23 Q Thank you, Ms. Boone.

24 I want to take you back to August 1st of last year. Do you
25 remember going to the Walmart at 5198 Boulder Highway?

1 A Yes.

2 Q Were you by yourself?

3 A I went with my daughter.

4 Q And what is your daughter's name?

5 A Benji.

6 Q Benji?

7 A Benji.

8 Q And when you went to the Walmart, did you go there to

9 shop?

10 A Yes, I went to pick up some food.

11 Q And did you have a purse with you?

12 A Yes.

13 Q Do you remember what kind of purse you had?

14 A This one here.

15 Q Okay. The one you brought -- with court today?

16 A Yeah, that's correct.

17 Q Was your wallet inside your purse?

18 A Yes.

19 Q And when you went into the store, where inside the store

20 did you go and what were you looking for?

21 A I went to the produce department to check some

22 vegetables and some fruits.

23 Q And where in -- did you have a cart with you?

24 A Yes.

25 Q And where was your purse?

1 A Yeah, I put it right on the chair, you know, that thing that
2 people use to put their purse and stuff like that. And there's some
3 kind of belt or string that I tied it.

4 Q Okay. So you actually tied your purse to the cart?

5 A Yes, uh-huh. The belt that they put right on -- in the cart, I
6 wrap around it.

7 Q Okay. And was your purse -- I noticed it's a zipper; was
8 the zipper open or closed when you went in to shop?

9 A It was closed as I entered.

10 Q Okay. And --

11 A Yeah, in fact my daughter help me to zip it up.

12 Q Okay. And when you were in shopping in the produce
13 section, at some point did you turn back and notice something
14 unusual about your purse?

15 A Yes.

16 Q What did you notice was unusual about your -- the
17 condition of your purse or your --

18 THE COURT INTERPRETER: No, wait a second.

19 THE WITNESS: As I was checking the -- some fruits, you
20 know, the cantaloupe and things like that, I think about a couple of
21 minutes only. So I turn around to the cart and then I saw it was
22 unzipped. Yeah, and then I look, I could not find the bag, I could not
23 find, you know, when I turn around and tried to find it, I did not see
24 it. So I was yelling and crying and tried to get help, and I was
25 running around to get help.

1 BY MR. STANTON:

2 Q Let me just stop you there and ask you, was your purse
3 there and was there something missing out of your purse?

4 A Oh, no, the purse is there, yeah. But the wallet is not.

5 Q Okay. So your wallet was gone?

6 A Yeah, that's correct.

7 Q Did you contact people there at Walmart about what
8 happened to you?

9 A Yes.

10 Q And was Benji helping you do that, your daughter?

11 A Yes.

12 Q I want to ask you a couple of questions about what was
13 inside your wallet. How much cash do you think was inside your
14 wallet?

15 A I would say at least \$230.

16 Q Okay.

17 A Yeah, I just receive earlier \$200 from one of my relatives,
18 plus what I had in there, which is I don't know exactly, you know,
19 the amount.

20 Q Okay.

21 A Some change is also.

22 Q Did you have any credit cards or debit cards?

23 A Yes, I had couple of credit cards and a bank card also.

24 Q And those were missing too as well; is that correct?

25 A Yeah, the whole thing, the little -- a little wallet and the

1 cards and money. Yeah, it went all together.

2 Q Now, at some point, did -- along with your daughter
3 Benji's assistance, were the credit card numbers and the financial
4 companies that issues those cards given to the police?

5 A Yes.

6 Q And that includes a detective whose last name is Liske; do
7 you remember that?

8 A Yes.

9 Q Did you give anybody permission to use any of your credit
10 or debit cards that day in going forward, that day and the following
11 day?

12 A No, no. Nothing. Nothing like that.

13 Q If I were to represent to you that your cards were used at
14 GameStop, it's a business store, and also Walgreen's after the time
15 that you were in the store, those would not have been authorized
16 by you; isn't that correct?

17 A No, it's not me, for sure.

18 Q Ultimately, did some financial companies contact you and
19 also, with your assistance, Benji, notify you of successful and
20 unsuccessful uses or attempted to use your cards?

21 A Yes, that's correct.

22 MR. STANTON: Your Honor, I pass the witness at this
23 time.

24 THE COURT: And, Mr. Stanton, I'm sorry, Certain
25 Underwriters give me the date of the offense at the Walgreen's -- or

1 Walmart, whichever one it was?

2 MR. STANTON: Yes, 8/1, August 1.

3 THE COURT: Okay. Thank you.

4 Cross-examination when you're ready.

5 MR. FISCHER: Thank you, Your Honor.

6 **CROSS-EXAMINATION**

7 BY MR. FISCHER:

8 Q Good morning, Ms. Boone. Just a few follow-up
9 questions, if you will. I'll try to go slow for the interpreter.

10 THE COURT INTERPRETER: Thank you, sir.

11 MR. FISCHER: You're welcome.

12 BY MR. FISCHER:

13 Q So August 1st of 2020, you were 80 years old; is that
14 correct?

15 A Yeah, that's correct.

16 Q Okay. All right. And you were at the Walmart on 5150
17 Boulder Highway, correct?

18 A Yes.

19 Q Okay. And with you was your daughter, Benji, correct?

20 A Yes.

21 Q And then you end up in the produce section of the
22 Walmart, correct?

23 A Yes. Yeah, went to the food section, yeah, where they sell
24 vegetables and fruits and things like that.

25 Q Okay. And that's when you notice that your wallet is

1 missing; is that correct?

2 A Yes.

3 Q Okay. And as you sit here today, you have no idea how
4 that happened, correct?

5 A Yes.

6 Q So you did not actually see anybody take it; is that
7 correct?

8 A Yeah, I did not see. Yeah, things happen very quick.

9 Q Okay. And then when you made contact with law
10 enforcement for Metro, you did not provide any statement in a
11 written form, correct?

12 A You're talking about the police where they come to the
13 Walmart or where?

14 Q So did -- it's my understanding that you did not write this
15 incident down on a piece of paper for the police; is that correct?

16 A I had it, but I've forgotten how.

17 Q Oh, there is a voluntary statement?

18 A We went to the police station, okay? Police did not come
19 to Walmart.

20 Q No, I understand. And you talked to Detective Liske; is
21 that correct?

22 A Yes, the police would come with -- come to my daughter,
23 not me.

24 Q Oh, so they were talking through your daughter?

25 A Yes.

1 Q Okay. So you did not personally talk to them, your
2 daughter did?

3 A Yeah, only afterward the police call my house --

4 Q Right.

5 A -- that's when I spoke to the police.

6 Q Okay. And it's okay if you don't remember, but do you
7 remember writing anything down about what happened, with your
8 own handwriting?

9 A No.

10 Q Okay. Not --

11 A No, I did not write by myself.

12 Q Thank you so much.

13 MR. FISCHER: Nothing further, Your Honor.

14 THE COURT: Mr. Stanton, redirect.

15 **REDIRECT EXAMINATION**

16 BY MR. STANTON:

17 Q Ms. Boone, as you sit here today, do you recall what the
18 credit card numbers were, the last four digits of any of the debit or
19 credit card numbers that were stolen from you?

20 A No. No, I don't recall. I cannot remember those numbers.

21 Q Sure. But you and your daughter Benji provided that
22 information back when the theft had just taken place; is that
23 correct?

24 A That I don't know. I'm -- yeah, I --

25 Q Your daughter Benji was talking to the detectives and to

1 the police after your wallet was stolen, correct?

2 A Yeah, that's correct.

3 Q Thank you.

4 MR. STANTON: Nothing further, Your Honor.

5 THE COURT: Anything based on that?

6 MR. FISCHER: No, Your Honor, thank you.

7 THE COURT: Ms. Boone, may I have the spelling of your
8 daughter's name, please?

9 THE WITNESS: Her real name is B-E-N, phonetically,
10 J-A-M-A-R-P.

11 THE COURT: Thank you.

12 THE WITNESS: You're welcome.

13 THE COURT: Ladies and gentlemen, do you have any
14 questions for Ms. Boone?

15 Parties in the back, please.

16 Ms. Boone, I'll be right back.

17 [Bench conference transcribed as follows.]

18 THE COURT: All right. We are outside the presence of the
19 jury.

20 Juror question from Juror Number 1: Where was her
21 daughter when she was in the produce section?

22 Any objection, State?

23 MR. STANTON: No.

24 THE COURT: Defense?

25 MR. FISCHER: No, Your Honor.

1 THE COURT: Okay. Juror Number 7: Where was Benji
2 between the time the purse was zipped and she noticed it
3 unzipped?

4 State?

5 MR. STANTON: No objection.

6 MR. FISCHER: No objection.

7 THE COURT: And Number 11: What was your interaction
8 with the defendant?

9 MR. FISCHER: Well, she doesn't identify him or know who
10 he is, so she -- I don't know that that can be asked. She doesn't
11 have knowledge.

12 MR. STANTON: Yeah, well, I mean, I'm not sure I have an
13 opinion on whether it should be asked or not, I just know that she
14 can't answer.

15 MR. FISCHER: Right.

16 MR. STANTON: I think she could answer it, but she's
17 going to say she had no interaction with him, no visual.

18 MR. FISCHER: Yeah, because she was --

19 MR. STANTON: I [indiscernible].

20 MR. FISCHER: Yeah, that was pretty clear.

21 MR. STANTON: So, I mean, if counsel --

22 THE COURT: So should I -- do you want me to just ask
23 her, do you have any idea who stole it from you or the identity?

24 MR. FISCHER: Sure, Judge.

25 THE COURT: Okay.

1 MR. FISCHER: That's fine, yeah.
2 MR. BROOKS: Can we do one other thing.
3 THE COURT: Uh-huh.
4 MR. BROOKS: Just a kind of a heads up to Mr. Fischer on
5 this.
6 MR. FISCHER: Yeah.
7 MR. BROOKS: Officer Wheeler --
8 MR. FISCHER: Yeah.
9 MR. BROOKS: -- is going to be within the next one or two
10 witnesses.
11 MR. FISCHER: Yeah.
12 MR. BROOKS: I didn't say anything during the opening
13 when you showed the trespass thing.
14 MR. FISCHER: Yeah.
15 MR. BROOKS: But just so you know --
16 MR. FISCHER: Yeah.
17 MR. BROOKS: -- he was trespassed because he keeps
18 going and stalking old ladies. And so it was Walmart --
19 MR. FISCHER: Yeah. Yeah.
20 MR. BROOKS: -- that wanted --
21 MR. FISCHER: Yeah. And I knew --
22 MR. BROOKS: -- not --
23 MR. FISCHER: -- I was open. That's kind of why I was
24 careful with that. I said, but if you need to work with that, you
25 know, I -- yeah.

1 MR. BROOKS: Oh, no, I just mean if you --

2 MR. FISCHER: A little bit of a risk, I know.

3 MR. BROOKS: If you ask Officer Wheeler, Oh, and isn't it
4 true that all this was a trespass, that's going to come from -- he's
5 going to say, well, the Walmart people were begging me, because
6 they called because he's always in this store and --

7 MR. FISCHER: Yeah, [indiscernible] bad acts issue, yeah.

8 MR. STANTON: Yeah, if you ask that --

9 MR. FISCHER: Yeah.

10 MR. STANTON: -- our position with the Court is that you
11 opened the door.

12 MR. FISCHER: Yeah, so if I -- yeah, if I get into the -- you
13 know, I guess that's fine that he's a -- and that doesn't really hurt
14 me, I don't think. So from my standpoint, I -- other than that, he's
15 somebody who goes to -- you know, that's, basically, how I look at
16 it, then. Okay. If I go there.

17 MR. BROOKS: Yeah. Yeah.

18 MR. FISCHER: And thanks for the heads up. Yeah.

19 THE COURT: Okay.

20 MR. FISCHER: And I kind of considered that already, so.

21 MR. BROOKS: All right.

22 [End of bench conference.]

23 THE COURT: Okay. Ms. Boone, where was Benji between
24 the time the purse was zipped and she noticed it unzipped?

25 THE WITNESS: Okay. She went to the other section --

1 yeah, we -- she was not with me, I mean, like a cat or like that, no.

2 THE COURT: Okay.

3 THE WITNESS: Normally, we -- when we go to the place
4 like this, you know, we -- I do my stuff, she do whatever she wants
5 to do.

6 THE COURT: Okay. And then the next question is: Where
7 was her daughter when she was in the produce section?

8 THE WITNESS: At a time, I did not know where she was,
9 but I believe she was in some kinds of, like, those refrigeration
10 section.

11 THE COURT: Okay. Did you see or have any interaction
12 with the person who stole from you?

13 THE WITNESS: No, I did not. Oh, no, the only thing I
14 remember is that one gentleman, very, very tall, stand behind me,
15 and was laughing and smiling and said that I like cantaloupe also.

16 THE COURT: What did that person look like?

17 THE WITNESS: Oh, no, I'm sorry. It's a lady, not a man.

18 THE COURT: Oh. Okay.

19 Follow-up by the State?

20 MR. STANTON: No follow-up for the State, Your Honor.

21 THE COURT: Follow-up by defense?

22 MR. FISCHER: No, Your Honor.

23 THE COURT: Ms. Boone, thank you so much for your
24 testimony today. Please do not disclose it or share it with anyone
25 else involved in the trial, but you are free to leave.

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THE WITNESS: Yes.

THE COURT: Thank you. Thank you, sir. Appreciate it.
State?

MR. BROOKS: Your Honor, the State calls Officer
Wheeler.

JERRY WHEELER,

[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: Jerry Wheeler, J-E-R-R-Y, W-H-E-E-L-E-R.

THE CLERK: Thank you.

THE COURT: Mr. Brooks?

DIRECT EXAMINATION

BY MR. BROOKS:

Q Officer Wheeler, how are you employed?

A Through Las Vegas Metropolitan Police Department.

Q And in what capacity is that?

A I'm a police officer.

Q And when we say police officer, is this -- are you a
detective, a sergeant, or something else?

A Just a patrol officer.

Q And how long have you been with Metro?

A About a year.

Q About a year? So decently new?

1 A Yes.

2 Q Do you recall an incident that occurred on July 8th of 2020
3 that brings us here in court today?

4 A Yes.

5 Q Could you tell me a little bit about just the beginning of
6 how you got involved in that incident?

7 A It was a 911 call. So we got called from Walmart security.

8 Q And you said 911; could it have been 311 or 911? Like,
9 how does the dispatch work with regard to that?

10 A Yeah, it could have been either/or. But it just a call for
11 service.

12 Q Okay. So when you say 911, it could -- it just could be a
13 dispatch call?

14 THE COURT: Would you -- sorry, Mr. Brooks, I apologize.
15 Mr. Wheeler, would you mind speaking up just a little bit
16 so that the jurors can hear you in the back?

17 THE WITNESS: Yes.

18 THE COURT: Thank you.

19 BY MR. BROOKS:

20 Q So when you say dispatch call, it could be either one, you
21 don't know?

22 A Correct.

23 Q And where were you sent when that call came?

24 A To the Walmart on Eastern and Serene.

25 Q Is that here in Las Vegas, Clark County, Nevada?

1 A Yes.

2 Q So when you get there, do you recall the person that you
3 first encounter or who you directed towards?

4 A I believe it was security.

5 Q And was that a man or a woman?

6 A I believe a woman.

7 Q And do you recall just, like, hair color?

8 A Brown.

9 Q Would the name Vianca sound correct?

10 A Yeah.

11 Q So when you meet her, what -- do you remember what
12 position or title she has, generally?

13 A Just a security officer, possibly for surveillance.

14 Q For Walmart, correct?

15 A Correct.

16 Q Okay. So where does she take you when you meet her?

17 A They have a security office just past the entrance.

18 Q Is this security office, the one at this East Serene Walmart,
19 is it pretty nice?

20 A Yeah.

21 Q Nicer than some?

22 A Yes.

23 Q Was the video quality, video you were watching pretty
24 good?

25 A Yes.

1 Q One television screen or multiple?

2 A Multiple.

3 Q So when you get inside the security office, what do you
4 guys start doing?

5 A Security shows us footage of a male that they've had
6 problems with before, that they're concerned about him trying to
7 steal.

8 Q So I'm going to show you a couple of photos.

9 MR. BROOKS: If I could have the photos for 4.

10 Your Honor, permission to approach the witness.

11 THE COURT: Yeah.

12 BY MR. BROOKS:

13 Q Officer Wheeler, I am handing you what's been marked as
14 Exhibits 4A, 4B, and 4C. Could you look at those and just let me
15 know if you recognize what's depicted in all three of those?

16 A Yes.

17 Q Do those three photographs fairly and accurately depict
18 Metro body cam from where you were standing on this date in the
19 Walmart surveillance office?

20 A Yes.

21 MR. BROOKS: Your Honor, State moves for admission of
22 Exhibits 4A, 4B, and 4C.

23 THE COURT: Defense?

24 MR. FISCHER: No objection.

25 THE COURT: It'll be admitted.

1 [State's Exhibit numbers 4A, 4B, and 4C admitted.]

2 MR. BROOKS: Permission to publish freely exhibits who
3 have been -- that have been admitted, Your Honor.

4 THE COURT: Yes.

5 BY MR. BROOKS:

6 Q Officer Wheeler, showing you Exhibit 4A; do you
7 recognize -- it's kind of blurry, but do you recognize what we're
8 looking at there?

9 A Yes.

10 Q Who is that woman in the bottom right?

11 A The security officer.

12 Q So that's the women, Vianca?

13 A Yes.

14 Q Showing you Exhibit 4B, who's that?

15 A That is me.

16 Q And is this that multiple-screen set-up that you were
17 talking about?

18 A Yes.

19 Q And now, when you get there, and, obviously, we're here
20 because, essentially, an incident or a crime eventually occur, when
21 you get there, had a crime occurred or not occurred yet?

22 A When we got there, a crime had not occurred yet.

23 Q Not occurred. So when you're watching this footage here,
24 are you watching in real time the person that Vianca called you for?

25 A Yes.

1 Q Eventually, and showing you 4C, I'm going to zoom in.
2 Who's the officer in the far left?

3 A Officer Scott.

4 Q Okay. Do you see the bottom right screen and/or the top
5 left that are on?

6 A Yes.

7 Q Do you see a man depicted in there?

8 A Yes.

9 Q Do you eventually come in contact with that man?

10 A Yes.

11 Q What was his name?

12 A Andrew Young.

13 Q What is he doing in that exact moment depicted right
14 there, as you guys were watching?

15 A Walking around with a shopping cart.

16 Q Was that -- do you see his right arm?

17 A Yes.

18 Q Okay. Would it help if I showed you some of the footage
19 that you were watching at this exact point in time? And you can tell
20 me whether it is or isn't what you were watching.

21 A Yes.

22 MR. BROOKS: Your Honor, at this point, can I show a
23 portion of 3 -- Exhibit 3 that will be further admitted tomorrow
24 through Vianca?

25 THE COURT: Yes.

1 BY MR. BROOKS:

2 Q All right. Officer Wheeler, I've got it queued up. I'm going
3 to start playing a portion of Exhibit 3.

4 [Video played.]

5 Q Do you recognize this?

6 A Yes.

7 Q And was this the footage that you were watching on that
8 TV screen that we just saw in 4C?

9 A Yes.

10 Q The man depicted right here in this video, is that the man
11 you referred to as Andrew Young?

12 A Yes.

13 Q Now, when I said what's he doing at that exact moment, I
14 want you to keep watching here.

15 [Video played.]

16 Q What occurred?

17 A He reached in someone else's cart and took something.

18 Q I'm sorry, I missed that.

19 A I said he reached into someone else's cart and grabbed
20 something.

21 Q And now do you recall -- if I were to switch back to the
22 Exhibit 4C, do you recall what you were watching at this exact point
23 in time?

24 A Yes.

25 Q And what was it?

1 A Him taking something out of someone else's cart.
2 Q So now when that occurs, what do you and Officer Scott
3 and any other officers with you, what do you guys do next?
4 A Then we go and approach him and take him out of the
5 store and go to our cars.
6 Q So if I were to show you body cam, if you've seen some of
7 your body cam, if I were to pick the body cam up after this point
8 right here in 4C, would you be able to recognize it?
9 A Yes.
10 Q Officer Wheeler --
11 [Video played.]
12 Q -- do you recognize who's depicted there?
13 A Yes.
14 Q And who is that?
15 A I believe the one closest to us is Officer Cunningham, and
16 the one further is Officer Scott.
17 Q And so this would be your body cam?
18 A Correct.
19 Q After just walking out the door when you watched the
20 theft occur?
21 A Correct.
22 MR. BROOKS: Your Honor, State moves for admission of
23 Exhibit 4.
24 THE COURT: Defense?
25 MR. FISCHER: No objection.

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[State's Exhibit Number 4 admitted.]

BY MR. BROOKS:

Q Now, Officer Wheeler, I'm going to play the rest of this the next four or five minutes of your body cam.

[Video played.]

Q Officer Wheeler?

A Yes.

Q Because Andrew Young is speaking to Office Scott, you're a little farther away, we couldn't hear; what did Andrew Young just say to Officer Scott?

A He said that he found it in the aisle.

Q And with it, what are they referring to?

A A wallet.

THE COURT: And, Officer, just -- I know it seems like a silly question, but in case the jurors don't know, could you explain body camera and where it's worn and what it shows?

THE WITNESS: Body camera is something that an officer has to wear all the time to record any contact with any individual that we're talking to. I wear mine on my shoulder, that's where most people wear theirs. Some people have it on either side. But it has to be on at all times with -- when you're making contact with citizens.

THE COURT: Thank you.

Go ahead, Mr. Brooks.

BY MR. BROOKS:

1 Q And that's a great question. Can I follow up on that
2 briefly?

3 Now, you said officers have to wear it all the time. Would
4 a detective always have to wear a body cam?

5 A No.

6 Q And is that because they're in plain-clothes capacity a lot
7 of the time?

8 A Correct.

9 Q What about sergeant?

10 A Like a patrol sergeant?

11 Q Yes.

12 A Yes. They have -- they wear on.

13 Q So patrol officer yes, detective no, and then back on
14 sergeant, they often would?

15 A Yes.

16 [Video played.]

17 Q So that is the -- was that the beginning of, essentially,
18 your introduction and meeting Andrew Young?

19 A Yes.

20 Q Do you see Andrew Young here in court today?

21 A Yes.

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

24 A Right there, white shirt.

25 MR. BROOKS: Your Honor, let the record reflect

1 identification of Defendant.

2 THE COURT: It will.

3 BY MR. BROOKS:

4 Q And before I show you a couple more examples of body
5 cam, Officer Wheeler, could you please look at photographs
6 marked 4D and 4E; do you recognize those?

7 A Yes.

8 Q And are those just essentially screenshots of the
9 defendant's shoes that he was wearing from your body cam?

10 A Yes.

11 Q Thank you.

12 MR. BROOKS: State moves for admission of Exhibits 4D
13 and E.

14 THE COURT: Mr. Fischer?

15 MR. FISCHER: Judge, I was briefly distracted, I'm sorry.
16 What was that, State? Oh, no objection to it.

17 THE COURT: All right. That'll be admitted.

18 [State's Exhibit Numbers 4D and 4E admitted.]

19 [Video played.]

20 MR. BROOKS: See if I can get that to go again.

21 [Video played.]

22 BY MR. BROOKS:

23 Q Officer Wheeler, at the beginning of that video clip, what
24 were you reciting to the defendant?

25 A I was reading him his Miranda rights.

1 Q Did he indicate he understood them?

2 A Yes.

3 Q And then he continued to talk with you?

4 A Correct.

5 Q And is that something that, you know, if you're going to
6 start asking a defendant or a suspect who's in custody, you start
7 ask -- you always start with those Miranda warnings?

8 A Correct.

9 Q And what did Defendant say where he found the wallet?

10 A He said he found it in the milk aisle.

11 Q And was it on the counter or in a cart; where did he say it
12 was?

13 A He said he found it on the floor.

14 Q Does he continue to say that?

15 A Correct.

16 Q Officer, when you are interviewing a suspect, is it fair to
17 say, and this might, you know, come as a shock, I guess, to
18 members of the jury, is it fair to say that there is a certain amount of
19 lying or making things up you are allowed to do?

20 A Correct.

21 Q So let's say, in this example, you had not watched the
22 defendant steal the wallet from the cart, could you have actually
23 said, Hey, we got you on video and we saw it?

24 A Correct.

25 Q Even if he -- if you didn't see that?

1 A Yes.

2 Q But in this case, what actually happened?

3 A We actually did witness him on video surveillance taking
4 the wallet.

5 Q And you don't lie to him or exaggerate it at all, do you?

6 A No.

7 Q In fact, does the defendant ever say, Hey, you got me, you
8 know, let me go with a citation?

9 A No.

10 Q Then why do you just write a citation and release the
11 defendant?

12 A Because the crime was just a misdemeanor, so to take
13 someone to jail for a misdemeanor is -- usually we just write them
14 tickets for it and release them.

15 Q Was there something especially different about this
16 summer where officers were given different set of orders with
17 regard to taking someone to jail?

18 A Correct. You'd have to get special authorization to take
19 someone to jail due to COVID for just misdemeanors.

20 Q So in your interaction with the defendant, you weren't
21 trying to, like, pile on or fool him?

22 A Correct.

23 Q Okay. Showing you more body cam.

24 [Video played.]

25 MR. BROOKS: Your Honor, I'm going to log off briefly.

1 THE COURT: Okay.

2 MR. BROOKS: And queue something up.

3 [Video played.]

4 BY MR. BROOKS:

5 Q Officer Wheeler, just briefly. And I know this was different
6 clips; when we just saw the defendant wringing out his wrists right
7 there, was he in the car for hours handcuffed?

8 A No.

9 Q Was it 45 seconds? 20 minutes? five minutes? What was
10 it?

11 A Probably about 10 minutes.

12 [Video played.]

13 Q Officer, whose jacket is on the hood?

14 A Mr. Young's.

15 Q Is that Mr. Young's jacket?

16 A Correct.

17 [Video played.]

18 Q Officer, at that point in time, was your interaction with
19 Andrew Young done?

20 A Yes.

21 Q And where did he go, do you know?

22 A He walked just southbound through the parking lot.

23 Q So just walk home?

24 A Yeah.

25 Q Was that on July 8th?

1 A Correct.

2 Q What did you do after that?

3 A I went to the next call.

4 Q Okay. So you just went on with your day too?

5 A Yeah.

6 Q And did you go home later at night?

7 A Yes.

8 Q How long did you interact, essentially, with Mr. Young

9 that day?

10 A Be, like, 30 minutes.

11 Q Officer Wheeler, I'm going to briefly show you one more

12 exhibit.

13 Officer Wheeler, showing you Exhibit 5. I'm going to play

14 about 15 to 20 seconds of this.

15 [Video played.]

16 Q Have you ever seen this exhibit before?

17 A No.

18 [Video played.]

19 Q Do you recognize anyone in this video?

20 A Yes.

21 Q Who?

22 A Andrew Young.

23 Q And which person is that?

24 A The one to the corner by the buttons, with the white

25 facemask on.

1 Q So the only one left in the elevator at this point?

2 A Yes.

3 Q And you don't know when this video was taken and
4 you've never seen it before?

5 A Correct.

6 Q Thank you.

7 MR. BROOKS: Nothing further. Pass the witness.

8 THE COURT: Mr. Fischer?

9 MR. FISCHER: Your Honor, may we go outside the
10 presence of the jury briefly?

11 THE COURT: Sure. Yeah. Meet me in the back, please.
12 Officer, we'll be right back. You can go ahead and stay
13 where you are.

14 THE WITNESS: Okay.

15 [Bench conference transcribed as follows.]

16 MR. FISCHER: I just had a hearsay concern with the last
17 line of questioning, Judge. And I just wanted to make sure that,
18 before I made an issue in front of the jury, that I'm -- I just think
19 about it some more. So -- were the last few questions -- didn't
20 sound right. That's why I wanted to make sure.

21 MR. BROOKS: You don't know when this video was
22 taken, you've never seen it?

23 MR. FISCHER: Right. So he doesn't have personal
24 knowledge of anything in there, and so that's my issue, right? So
25 how does he testify that that's Young when he can't say anything to

1 that, right -- fact. So that's a concern I have right there, is I think
2 that's a hearsay issue.

3 MR. BROOKS: Sure, so I totally get what you're saying.
4 But, essentially, because I'm not using him to authenticate and
5 make the video relevant, I'm not using him for relevant purpose of
6 what's occurring in the video; I'm using him under *Rosanna v. State*
7 theory, which is essentially a case that allows someone to identify
8 someone in a video if they have personal knowledge and/or better
9 information than the jury and finders of fact would in order to
10 identify that person. That person --

11 THE COURT: Is that video in?

12 MR. BROOKS: Yes.

13 THE COURT: Oh, the video's in?

14 MR. BROOKS: Yes.

15 THE COURT: Oh, okay. For some reason I was thinking
16 that that video wasn't in.

17 MR. BROOKS: So all I was --

18 MR. STANTON: We moved in and it stipped in.

19 MR. FISCHER: Yeah, we did.

20 MR. BROOKS: All I was thinking is --

21 MR. FISCHER: The video is fine, yes. But not --

22 MR. BROOKS: It's eight hours after he has an hour
23 interaction with the man.

24 THE COURT: Well, so here's the thing, once the video's
25 in, if somebody who knows the individual, if you -- now, if he was

1 intimating what was happening in there --

2 MR. BROOKS: Correct.

3 THE COURT: -- or this and that, then you probably had
4 issues.

5 MR. FISCHER: Okay.

6 THE COURT: But if the video is in, and he knows the
7 defendant independently, he can be asked, Do you see Andrew
8 Young anywhere in that elevator?

9 MR. FISCHER: Recognize him as such? Okay. All right.

10 THE COURT: All right?

11 MR. BROOKS: All right. And that's what I would have --

12 MR. FISCHER: It's being offered for the truth of the matter
13 asserted for identity --

14 MR. BROOKS: Identity, that's all.

15 MR. FISCHER: -- specifically. And then, I guess I just want
16 to think this out loud, so --

17 THE COURT: That's okay.

18 MR. BROOKS: No problem. So do you remember the bad
19 act motion I filed --

20 MR. FISCHER: You're right, I know.

21 MR. BROOKS: -- where I said, essentially, Byrd and/or
22 other officers --

23 MR. FISCHER: Yep.

24 MR. BROOKS: -- will look at photos or videos --

25 MR. FISCHER: Uh-huh.

1 MR. BROOKS: -- and -- for identification purposes.

2 MR. FISCHER: Uh-huh. Yes.

3 MR. BROOKS: If he would have started saying, like, Oh,
4 and what's he doing with that jacket that you've seen him with?

5 MR. FISCHER: Right.

6 MR. BROOKS: Then I would totally get it.

7 MR. FISCHER: Yeah. So because he's the guy that makes
8 the first -- he sees him at Walmart initially, and then you're just
9 saying that he -- this is, essentially, the process by which they
10 continue to evolve in their investigation as to him, not even a --

11 MR. BROOKS: Not at all. I'm literally saying this is
12 someone you interacted with six hours earlier, who is it? Bam.

13 MR. FISCHER: Okay. So he looks -- in other words, you're
14 saying this second person, or at least to his knowledge, he has
15 knowledge it looks like the same person.

16 MR. BROOKS: Yeah.

17 MR. FISCHER: Okay. I'll just -- I mean, that's -- that was
18 the issue.

19 THE COURT: Okay.

20 MR. FISCHER: Was I thought a hearsay issue, and I just
21 wanted to raise it. And under the circumstances --

22 THE COURT: Okay. No, I appreciate it.

23 MR. FISCHER: -- without making a big deal.

24 THE COURT: Okay. Perfect.

25 MR. FISCHER: So thank you, Judge.

1 THE COURT: Yeah, no problem.
2 MR. BROOKS: Judge --
3 THE COURT: Uh-huh?
4 MR. BROOKS: -- we have one elderly victim who we've
5 been sitting out there for a while.
6 THE COURT: Oh, we'll go through her.
7 MR. BROOKS: She's not going to be long. Okay.
8 MR. FISCHER: Yeah, no worries.
9 THE COURT: We'll get through her and then we'll break.
10 Okay?
11 MR. FISCHER: Okay. Thank you, guys.
12 THE COURT: Perfect.
13 MR. FISCHER: So, now, let me ask one more question
14 about you're saying that if I try to get this citation in, you're going
15 to have issues? Because you opened the door on this.
16 [End of bench conference.]
17 MR. FISCHER: May I, Your Honor?
18 THE COURT: Yes.
19 MR. FISCHER: Thank you very much.

20 **CROSS-EXAMINATION**

21 BY MR. FISCHER:

22 Q Officer Wheeler, how are you?
23 A Doing good, sir.
24 Q Good. So you've been a Metro officer for how long?
25 A About a year.

1 Q Okay. So the time you would have been an officer,
2 July 8th of 2020, maybe about five months or so? Just four
3 months?

4 A Yeah.

5 Q Pretty recent. And you're assigned to an area command;
6 is that correct, as a Metro officer?

7 A Correct.

8 Q What was your area command at that time?

9 A Enterprise.

10 Q Okay. Enterprise Area Command. And in particular, you
11 received a phone call for Walmart store on 2510 East Serene; is that
12 correct? Or not phone call, a dispatch.

13 A Correct.

14 Q And you responded to that; is that correct?

15 A Correct.

16 Q Okay. And then the State sort of walked through some
17 information that you obtained as a result. I'm not going to rehash
18 that. But the bottom line is you made contact with somebody
19 who's known to you or come to be known to you as Mr. Andrew
20 Young; is that correct?

21 A Correct.

22 Q Okay. And then, ultimately, on that July 8th interaction,
23 you cited with a petty larceny misdemeanor; is that correct?

24 A Correct.

25 Q And in the context of your interactions, you speak to

1 Walmart security representative Vianca -- I can't get her last name
2 right, it's E-K-I-D-L-S-E-N --

3 A Correct.

4 Q -- does that sound correct?

5 A Yes.

6 Q Good. Referred to her on direct. And there was also a
7 picture, and that's also where you observed the video surveillance
8 at Walmart in real time; is that correct?

9 A Yes.

10 Q So, essentially, the interaction lasts for a half an hour,
11 there's an exchange; is that correct, between you and Mr. Young?

12 A Yes.

13 Q And there's also some -- we saw some body cam footage,
14 which is your body camera; is that correct?

15 A Yes.

16 Q Okay. And we also see, was it, your partner or was it --
17 was he a separate officer? I think Officer Scott was with you, right?

18 A Yes.

19 Q Was he in the same patrol vehicle?

20 A Yes.

21 Q Okay. Is that standard for two officers to be in the same
22 patrol vehicle?

23 A Yeah, sometimes. Not --

24 Q Okay.

25 A -- it's different. Yeah.

1 Q Okay. And then you obtained some surveillance as a
2 result of that; is that correct?

3 A Yes.

4 Q And that was passed onto some other detectives --

5 A Yes.

6 Q -- investigating the matter? Okay.

7 MR. FISCHER: I don't have anything further, Your Honor.

8 THE COURT: Anything on redirect?

9 MR. BROOKS: No, Your Honor.

10 THE COURT: Officer Turner [sic], thank you so much for
11 your testimony. Please don't share it with anyone else involved in
12 the case, but you are free to leave.

13 THE WITNESS: Okay.

14 THE MARSHAL: Your Honor, we have --

15 THE COURT: Oh, no, you guys, I apologize. I forgot.
16 Sorry, ladies and gentlemen.

17 The jurors can ask questions.

18 All parties in the back, please.

19 Officer, we will be right back.

20 THE WITNESS: Yes, ma'am.

21 [Bench conference transcribed as follows.]

22 THE COURT: All right. Question from Number -- Juror
23 Number 7 -- we're outside the presence of the jury: It was hard to
24 hear what the defendant was saying in the cop car. Can the officer
25 provide detail in his own words?

1 MR. STANTON: Be marked as an exhibit and they can
2 listen to it.

3 MR. FISCHER: That would be my preference.

4 MR. STANTON: Unless, Parker, you want to highlight.
5 But I'm assuming Parker went through and elicited whatever he
6 wanted to. I can't think of anything more relevant that I think that
7 would be the State's response.

8 MR. BROOKS: And I'll play it in closing again.

9 THE COURT: Okay. Same juror, Number 7: Was the
10 defendant required to sign a citation and is that considered to be an
11 admission of guilt?

12 MR. FISCHER: I would -- I mean --

13 MR. BROOKS: It's --

14 MR. STANTON: The answer's no, it's not --

15 MR. BROOKS: It's not -- and it's on the video. This is not
16 an admission of guilt just that you got this. If you want, I'll lead him
17 through that and just say it's not an admission of --

18 MR. FISCHER: Yeah.

19 THE COURT: So don't ask this, but you're going to do
20 follow-up?

21 MR. STANTON: Yeah, because Parker needs to lead this
22 guy [indiscernible].

23 THE COURT: That's fine.

24 Number 11: What was the approximate temperature at
25 the time of their arrest? Was it summer? winter? Trying to

1 establish purpose of jacket. Did Young walk or drive away?

2 MR. STANTON: Is this your cousin?

3 MR. FISCHER: That's a good question, right? That's
4 going your way now.

5 THE COURT: It's your pick.

6 MR. FISCHER: That's a good one. That was -- that turned
7 the case for you, by the way, so far. Keep focus on that jacket.

8 THE COURT: Question Number 3, Stephanie McHugh:
9 Did you view video at Walmart only from the time you arrived, or
10 did you view video from Mr. Young's arrival? So those are fine.

11 MR. FISCHER: Reasonable.

12 THE COURT: Okay. All righty.

13 MR. FISCHER: Personally, I don't like that jacket question,
14 but, hey.

15 THE COURT: Yeah.

16 MR. FISCHER: You did a good job on that one.

17 MR. STANTON: You can't ask questions in this
18 courtroom.

19 THE COURT: Uh-huh.

20 MR. STANTON: You going to change that?

21 [End of bench conference.]

22 THE COURT: All right. The first question is: It was hard
23 to hear what the defendant was saying in the cop car. Can Officer
24 provide detail in his own words? So that video is actually going go
25 back with you guys into the jury deliberations room. So we're

1 going to play it for you back there.

2 Was the -- sorry, that one's going to be asked by the
3 attorneys.

4 What was the approximate temperature at the time of
5 arrest? Was it summer or winter? Did -- that's the first question.

6 THE WITNESS: It was summertime.

7 THE COURT: Okay. And did Young walk or drive away?

8 THE WITNESS: Walk.

9 THE COURT: Did you view video at Walmart only from
10 the time you arrived or did you view video from Mr. Young's
11 arrival?

12 THE WITNESS: Only from the time I arrived.

13 THE COURT: Okay. Follow-up State?

14 **FURTHER EXAMINATION**

15 BY MR. BROOKS:

16 Q Officer Wheeler, I want to talk about a portion of the body
17 cam that you kind of unclear, couldn't hear it real well. When the
18 defendant was signing the citation, is it fair to say that that
19 signature is not an admission of guilty in any way?

20 A Correct.

21 Q And, in fact, if you listened closely, you can't really hear,
22 well, you say, Hey, or Officer Scott, Could you please sign right
23 here? This isn't an admission of guilt, it just says that you got this
24 citation and the court date below. Fair to say that that's on there?

25 A Yes.

1 Q And is that what you would always say when having
2 someone sign a citation?

3 A Yes.

4 Q One last kind of thing, when -- nothing further.

5 THE COURT: Defense?

6 MR. FISCHER: Nothing, Your Honor. Thank you.

7 THE COURT: So that admonishment that I gave you
8 before about not sharing your testimony, still in effect. Have a nice
9 day. Thank you, Officer.

10 THE WITNESS: Thank you.

11 THE COURT: State?

12 MR. BROOKS: Your Honor, the State calls Tina Leigh.

13 **TINA LEIGH,**

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

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

18 THE WITNESS: Tina Leigh, L-E-I-G-H.

19 THE CLERK: Thank you.

20 THE COURT: Ms. Leigh, would you do me a favor, just
21 keep your voice up as loud as possible. It's hard between these
22 masks and the glass for my jury to hear you.

23 THE WITNESS: All right.

24 THE COURT: So just speak as loud as you can, okay?

25 THE WITNESS: Okay.

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THE COURT: Mr. Brook.

DIRECT EXAMINATION

BY MR. BROOKS:

Q Tina, where are you originally from?

A California.

Q And when did you move here to Las Vegas?

A Let's see, I think I left on the 24th of July of 2020.

Q Oh, so you're recent, new to Vegas?

A Yes.

Q And so when you said left, you meant left California and, basically, were headed here to Vegas in July of 2020?

A Correct.

Q Okay. Generally, what area of town were you going to live in when you move here?

A I was -- I still don't know my way around that well. But I believe it would have been east Las Vegas, where I was going to go.

Q And what brought you to Vegas?

A A job.

Q What do you do for work?

A I'm an art teacher at a college preparatory high school.

Q And, if you don't mind me asking, how old are you and what's your birthday?

A I'm 61, October 2nd, 1959.

Q And, Tina, when you moved to Vegas, I want to turn your attention to August 7th, 2020. Do you recall an incident that brings

1 us here to court today?

2 A Yes.

3 Q Tell me how that started, the incident; where were you?

4 A Well, I was at Walmart. I had walked over from the hotel I
5 was staying in, waiting to get into my new place, and I needed
6 some supplies, because I was going to move in. And I went down
7 the cleaning aisle to get some cleaning supplies. And -- do you
8 want me to tell what happened now? Is that what I'm supposed to
9 do?

10 Q So what were the cleaning supplies for?

11 A For the new house.

12 Q Oh, so it was dirty and so you needed to clean it?

13 A Well, I don't think it was dirty, it just needed -- it was
14 pretty clean, but I was just going to clean it anyway. So.

15 Q Do you recall the address of the Walmart that you went
16 to?

17 A It's the one on Boulder Highway by -- oh, goodness,
18 what's the name of the hotel I was staying in? I'm nervous, I'm
19 forgetting.

20 Q It's okay. Is it, like, Boulder Highway/Nellis area?

21 A Yes.

22 Q Okay. And is that here in Las Vegas, Clark County,
23 Nevada?

24 A Yes.

25 Q When you get to the Walmart, you said you went to the

1 cleaning aisle?

2 A Yes.

3 Q Tell me what happens.

4 A A very tall gentleman asked me a ridiculous question
5 about two cleaning supplies, as if it was okay to mix them, which it
6 was probably put deadly chemicals. And I said, well, you can't. I
7 was a little bit alarmed. And I turned, and as I turned, a saw
8 another man come in and I had my purse actually strapped into the
9 cart. But it was one of those purses that are more like a bag. And I
10 saw him stick his hand in my purse and take something. And I right
11 away put my hand in there and my wallet was gone.

12 And he had, like, a sweater over his arm. And so
13 whatever it hid, it hid my wallet.

14 Q Okay. So I want to back you up a little bit and kind of go
15 through that -- some of the facts in a little more detail. You initially
16 said a tall man came up and asked you some questions about
17 mixing cleaning supplies?

18 A Yes.

19 Q Tall in relation to who?

20 A Well, me and the guy that took my wallet.

21 Q Okay. So he -- the first guy who talks to you is taller than
22 this second guy you're talking about?

23 A Yes.

24 Q Can you give me any physical characteristics or
25 descriptors from that -- about that tall first guy?

1 A He was older. I think he may have had a little gray in his
2 hair. Was -- he was older. And when the other guy took my wallet,
3 I turned to him and I said, Did you see that? And yet he took off.
4 And it was my feeling they were working together.

5 Q And so that was just kind of your gut, though, you have
6 no idea?

7 A That -- well, no, I mean, he -- well, they both disappeared
8 at the same time. I was, like -- they were, like --

9 Q Well, did the first get the answer to the cleaning supplies?

10 A What's that?

11 Q Did the first guy end up getting an answer from you about
12 the cleaning supplies or --

13 A No, because the other guy grabbed the wallet so quickly,
14 it all -- it was just, like, he started to ask me and I started to -- and
15 then boom.

16 Q And then all of a sudden bleach was no longer important?

17 A Right.

18 Q Okay. So was the man white or Black? The first guy, tall
19 one.

20 A Both were Black.

21 Q Both were Black. The second guy who you said reached
22 into your purse, was he the one who was wearing what you said
23 was like a sweater?

24 A Well, he wasn't wearing it, he had it draped over his arm.

25 Q Oh.

1 A It was, li, draped, like this. And so when he grabbed, it
2 just kind of, like, went.

3 Q What month was this again?

4 A August.

5 Q Was a jacket or a sweater necessary?

6 A No.

7 Q Okay. Because --

8 MR. FISCHER: I would just object on speculation grounds.

9 MR. BROOKS: I'll rephrase it.

10 THE COURT: Overruled.

11 BY MR. BROOKS:

12 Q So the man who reaches into your purse, does he go in
13 which direction?

14 A Well, he was -- he went to the right.

15 Q I guess I should have worded that better; does he go in
16 the same direction as the other?

17 A No, they went two different directions.

18 Q Okay. And when you looked in your purse, what was
19 missing?

20 A I'm sorry, say that again?

21 Q When you looked in your purse, what was missing?

22 A Well, my wallet was gone.

23 Q And what was in there?

24 A Oh, what was in the wallet?

25 Q Yes.

1 A I -- you know, my Social Security card, because I was
2 moving, I practically had everything in there. Let's see, three bank
3 cards, ATM cards, I believe that I had three credit cards too in there.

4 Q And you said you were coming here for a new job.

5 A Yes.

6 Q Did you have a lot of cash on you?

7 A No.

8 Q Take a guess for me.

9 A Well, I know had I had.

10 Q Well --

11 A Because I thought, oh, I can't carry cash. I had \$3. That
12 was it.

13 Q And that's all you had to your name?

14 A That's all I had to my name.

15 Q Tina, I want to show you some video. One second.

16 Do you go back to the Walmart that we're talking about
17 ever again?

18 A Only one time with one person.

19 Q Okay. So --

20 A And I had somebody with me, I should say.

21 Q So has it been a while since you went to this Walmart?

22 A Oh, yeah. I don't like to go there.

23 Q Before I start this video, do you recognize the Walmart,
24 though?

25 A Well, it looks like the -- yeah.

1 Q Okay. Well, let's get a few seconds into it here.

2 [Video played.]

3 Q Which aisle, if you remember, is the cleaning aisle?

4 A You want the number?

5 Q No, just kind of describe it for us --

6 A Oh.

7 Q -- so that we know where it's going to look, or tell us when
8 you see yourself.

9 A I'm right there.

10 Q So there's --

11 A I'm the one that says 447 on the end.

12 Q Okay. So not this aisle with nobody in it, just this one
13 person?

14 A No, the next one over. Yeah.

15 Q All right.

16 A There I am.

17 Q And which person are you? Are you this person, where
18 my mouse is?

19 A No.

20 Q Are you this person --

21 A That one.

22 Q -- with the shopping cart?

23 A Yeah.

24 Q Okay. So for the record, you are the person and the
25 shopping cart facing left in the video?

1 A Yes.

2 Q All right. I'm going to go ahead and play it now, Tina.

3 [Video played.]

4 Q Tina, if you don't mind, I'm going to rewind it now, and
5 then I'm going to pause it occasionally and ask you some questions
6 about the video, okay?

7 A Okay.

8 [Video played.]

9 Q Tina, right here, the man who's higher up on the screen
10 than you with -- I can't see colors, could you help me out with the
11 shirt there?

12 A Yes.

13 Q What color is it?

14 A I can't tell on this video.

15 Q Okay.

16 A It looks like to be light-colored.

17 Q Is that the man who asked you the question about mixing
18 cleaning supplies?

19 A Yes.

20 [Video played.]

21 Q Now, at the time that he leans over to you to ask you
22 something, who enters the screen from below?

23 A Oh, well, I -- the guy that took my wallet.

24 Q So that is the other guy?

25 A Yeah.

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[Video played.]

Q What's he have in his hand?

A Looks like a sweater. Could be a sweatshirt, I guess.

[Video played.]

Q Tina, do you recall, when watching that video just then, what hand did that man reach into your cart with?

A Oh.

Q Do you want me to rewind it?

A Yeah.

[Video played.]

A Okay. So -- I'm a little bit dyslexic, with --

Q Oh, it's okay.

A -- with right and left. I am a little dyslexic on that.

Q I'll ask it a different way.

A Okay.

Q The man, after he's done reaching into your cart --

A Yes.

Q -- does that hand then disappear somewhere in that video?

A Yes.

Q Where?

A Into the sweater.

Q Okay. And then tell us right now what you're doing.

A I'm searching for my wallet.

Q Did you ever find it?

1 A No.

2 Q To this day have you found it?

3 A No.

4 Q Tina, were you ever alerted by any card companies of any
5 transactions that you did not make?

6 A Yes.

7 Q And approximately when in time from the taking to being
8 alerted was it?

9 A Well, I would say within the hour, only because I called it
10 in immediately. I was fortunate enough, I had, actually, quite a bit
11 of money on the -- on one of the cards in -- not credit card, but bank
12 card. And I called immediately and said, you know, both cards, that
13 things had been stolen. And then I was -- I think I called back and
14 checked to, you know, find out if anybody was using it. And they
15 were or tried to. But I put a stop on it so fast they couldn't get
16 anything.

17 Q Thank you.

18 MR. BROOKS: Your Honor, pass the witness.

19 THE COURT: Mr. Fischer.

20 MR. FISCHER: Yes, thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 BY MR. FISCHER:

23 Q Just briefly, Ms. Leigh. Good afternoon. How are you?

24 A Fine, thank you.

25 Q Good. So the State was asking you some questions about

1 an incident that took place at 5198 Boulder Highway at a Walmart;
2 is that correct?

3 A Yes.

4 Q And I think the specific date was in August of last year; do
5 you remember the day?

6 A 7th.

7 Q Okay. And on that August 7th date, you had just moved
8 into Las Vegas -- to Las Vegas or -- is that correct?

9 A Yes.

10 Q Okay. And where did you move from?

11 A El Dorado, California.

12 Q Okay. So from California? And you were in the you said
13 in the cleaning supply section looking for some cleaning supplies, I
14 take it?

15 A Yes.

16 Q Okay. And that's also some of the same footage that the
17 State just showed us; is that correct?

18 A Correct.

19 Q Okay. And the footage is -- it's not really clear, but you
20 were personally there; is that correct?

21 A Correct. Yes.

22 Q And so this -- so a lot of what you said to State comes
23 from your own memory, yes?

24 A Yes.

25 Q Okay. The video was something that would -- you would

1 say aided you in maybe helping you remember?

2 A Actually, no.

3 Q You wouldn't have needed the video at all?

4 A No.

5 Q Okay. Fair enough.

6 So at some point, you say that there's a -- you said a
7 rather tall Black man who engages you in conversation, yes?

8 A Yes.

9 Q And you -- as far as physical descriptors, you said he was
10 taller than the other man, right? Not much you could say. And he
11 was taller than you, yes?

12 A Yes.

13 Q How tall are you, ma'am?

14 A About -- I have a couple of hip replacements, so my height
15 can kind of go up and down. But let's say 5-feet-4.

16 Q Okay. And so the gentleman leaning in in the beginning,
17 talking to you -- what would you estimate how much taller than
18 you?

19 A Oh, quit a bit. I -- he was at least 6-feet.

20 Q Okay. You estimate him at about 6-feet tall?

21 A Yeah.

22 Q So what is that, eight inches taller than you, maybe?

23 A Yeah.

24 Q Okay. And then you say another man, then, sort of comes
25 into the situation, so to say, and you focus in on a -- what you

1 describe as a sweater; is that correct?

2 A Yeah. Sweater, sweatshirt, it was dark. Whatever it was,
3 it was a dark --

4 Q And your entire focus is on that sweater, correct?

5 A At what point?

6 Q Well, okay, well, you can talk me through it a little bit too.
7 I'm just trying to get down to what it is you observed. That's what
8 we're here to find out. So what you observed was you're having
9 this conversation with a man who you think is approximately 6-feet
10 tall.

11 A Right.

12 Q I think you also said Black male adult, correct?

13 A Correct.

14 Q Okay. And then I think you also said on direct that he was
15 older, correct?

16 A Yes.

17 Q And you -- and that -- and you're basing that on, you said,
18 some gray hairs maybe?

19 A Yes.

20 Q Okay. But that's the only sort of basis you have for that,
21 correct? As far as description of age?

22 A Yeah.

23 Q Okay. And then you say, timeframe-wise, we saw the
24 video; what would you say -- estimate the time was that the second
25 Black male adult enters the situation?

1 A Well, I think the video was in slow motion, right? It was in
2 slow motion, what we just saw?

3 Q I'm not sure if that's true or not, but, you know, that's --
4 you just -- what -- describe what you remember. You said you don't
5 need the video, so it's fine.

6 A I was very -- it was very quick. Because it seemed as soon
7 as he -- I didn't even get to answer his question. I was just in the
8 process of turning to tell him when I saw this arm reach into my
9 purse. And --

10 Q Okay. So you were making sort of a movement with your
11 hand across the front of your chest with your hand sort of parallel --
12 what are you describing there? Are you describing something that
13 you didn't see? that you did see? If you could be as specific as
14 possible.

15 A I saw that -- I saw an arm reach into my purse. I could see
16 it. I --

17 Q Okay. And this is -- your testimony is that this is the
18 second Black male adult who comes into the picture we see on the
19 video, correct?

20 A Yes.

21 Q And in terms of physical descriptors that you can
22 remember, you're -- there isn't much other than a black sweater or
23 a dark sweater; is that correct?

24 A His hair was very short.

25 Q Okay.

1 A Or bald. It was really close to his head.
2 Q Okay. At -- what about height?
3 A He was shorter. He was -- I don't think he was all that
4 much taller than me. I mean --
5 Q Okay. All right. So --
6 A -- seem shorter.
7 Q -- maybe 5-4?
8 A He could --
9 Q 5-5, you said, maybe a little taller?
10 A Maybe a little taller than that.
11 Q Okay.
12 A He didn't -- he wasn't real tall like the other guy.
13 Q You want to give us an estimate? You don't have to be
14 right, just -- well, you guess, what you remember.
15 A Well, I don't know. He could have just been a little taller
16 than me.
17 Q Okay. So 5-6, maybe?
18 A Maybe, yeah.
19 Q Okay. But in terms of, really, your focus, the focus is
20 primarily on the gentleman you're having this conversation with,
21 the taller one, correct? Black male?
22 A No.
23 Q It's -- at this point it shifts to --
24 A Now, I was very -- to be honest, I was very wary in the
25 store.

1 Q Uh-huh.

2 A It wasn't a good neighborhood. I had moved and my --
3 the place I was going to -- do you want the whole sad thing?

4 Q Well, you know, we want to keep it a little bit focused and
5 I don't want a confused either.

6 A I'm --

7 Q I'm just trying to get to the -- if you're telling me, to the
8 best of your recollection, what you're given as testimony, that's
9 what you can recall, and, you know, we can leave it at that now. I'm
10 not trying to have you remember something that you don't. I don't
11 want you making anything up here, so.

12 A Okay.

13 Q So is the answer still the focus was on the black sweater
14 and the wallet disappearing, correct?

15 A Well, let me go back just a little bit. I was very uneasy in
16 the store. It was not a good neighborhood. I was stuck in that
17 neighborhood because my house wasn't ready and I had my dogs
18 and my cats with me in this hotel. And I just had walked to the
19 store, I wasn't comfortable, it was close. And I really was very
20 aware that I was not in the best neighborhood.

21 And I had my purse strapped into the cart. And, I mean, I
22 was very wary going in there. And so it's almost like my senses
23 were hyper-alert. And I remember just, like, being hyper-alert, I
24 guess. And I went in there and as soon as I -- as soon as he asked
25 me that question, I was already aware that someone was coming in

1 close to me. And then the arm goes into my purse. And at that
2 point, I'm not thinking about the tall guy. I'm, at that point, thinking
3 about the arm that went into my purse.

4 Q And that makes total sense. You're a little bit
5 uncomfortable the whole time, I think everyone can relate to that.
6 And so sort of your worst fear comes to fruition --

7 A Right.

8 Q -- is that correct?

9 A Exactly.

10 Q Okay. And the end result is your wallet is gone?

11 A Right.

12 Q Now, you were able to prevent there being any fraudulent
13 transactions on your card; is that correct?

14 A Well, they didn't get any money. They tried.

15 Q Right.

16 A Yes.

17 Q So that -- fortunately, nothing was taken, ultimately, right?

18 A Right.

19 Q From you. Okay. So, essentially, everything was
20 returned. With respect to -- well, the bank cards weren't used and
21 then was anything returned? I said everything was returned, I'm
22 actually not clear on that. Did you have your items returned?

23 A No.

24 Q So --

25 A And that includes my Social Security card as well.

1 Q Okay. All right. I'm sorry to hear that.

2 MR. FISCHER: I don't think I have any other questions.

3 Thank you, Your Honor.

4 MR. BROOKS: No, Your Honor.

5 THE COURT: Ladies and gentlemen, do we have any
6 questions?

7 Parties in the back, please.

8 We'll be right back, ma'am.

9 THE WITNESS: Thank you.

10 [Bench conference transcribed as follows.]

11 THE COURT: All right. Outside the presence of the jury.

12 Question from Juror Number 2: Why didn't you follow or draw
13 attention to the situation or the men when you saw the arm
14 reaching into your purse as the situation was happening?

15 MR. BROOKS: Who had this guy on the jury?

16 THE COURT: No, it's Number 2. Oh, that guy? Oh, I
17 thought you meant -- you know, I think it's a good question.

18 MR. BROOKS: Sure, it is. It's just --

19 MR. STANTON: No, that's a good question.

20 THE COURT: Okay.

21 MR. STANTON: She's a fucking art teacher.

22 MR. FISCHER: She does -- she likes the -- at least she was
23 sparring a little bit. I was, like, come on, let's go. She didn't want
24 to give me what I wanted, but hey, close enough.

25 [End of bench conference.]

1 THE COURT: All right. Tina, why didn't you follow or
2 draw attention to the situation or the men when you saw the arm
3 reach into your purse as the situation was happening?

4 THE WITNESS: They're moving too -- it was so quick.
5 Like I say, that video is in slow motion.

6 THE COURT: Did -- could you hear her answer? She just
7 said they were moving too quick, like I said, I think that video was in
8 slow motion.

9 THE WITNESS: And I actually did try to find him, but he
10 disappeared so quickly. And then I went up front and I found a
11 security guard and they helped me look around the store. Actually,
12 I had two security guards that helped me look around the store.
13 They couldn't find him. And then I went and found -- I was new and
14 I tried to call the police and it say north, south, east Las Vegas. I
15 didn't even know where I was. I was in Las Vegas somewhere. And
16 so I got very frustrated and I went and I looked for a police officer.

17 And I just got in my car and there was a police officer
18 arresting somebody else, and I pulled over in front of the police car,
19 and I said, When you're finished, would you please come here. And
20 so he said, Well, it'll be just a minute. And then they eventually
21 both followed me back to Walmart and they got the security tapes.

22 THE COURT: Okay. Thank you.

23 Any follow-up based on that?

24 MR. BROOKS: Briefly.

25 ///

1 **FURTHER EXAMINATION**

2 BY MR. BROOKS:

3 Q Tina, if I represented to you that the video is in real time,
4 would maybe the experience or -- and the feelings that you felt at
5 the time change, essentially, how you perceived it as opposed to
6 kind of what we just watched, which was real time; could that be?

7 A I'm sorry, I don't understand the question.

8 Q Is it fair to say sometimes people remember experiences
9 fast and jumbled, and then when we're all sitting here watching a
10 video, it seems slower than you remembered it?

11 A Yes.

12 Q Okay.

13 MR. BROOKS: Nothing further, Your Honor.

14 THE COURT: Anything based on that?

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

16 THE COURT: All right. Thank you so much. Please don't
17 share your testimony with anyone else involved in the trial. But
18 you are excused and free to leave.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you.

21 All right. Ladies and gentlemen, we are going to take our
22 lunch recess at this time.

23 During the recess you must not discuss or communicate
24 with anyone, including fellow jurors, in any way regarding the case
25 or its merits either by voice, phone, e-mail, text, Internet, or other

1 means of communication or social media, read, watch or listen to
2 any news or media accounts or commentary about the case, do any
3 research, such as consulting dictionaries, using the Internet, or
4 using reference materials, make any investigation, test a theory of
5 the case, recreate any aspect of the case, or in any other way
6 investigate or learn about the case on your own. Please do not
7 form or express any opinion regarding this case until the matter is
8 formally submitted to you.

9 It is 12:30. I'll see you back here at 1:30. Have a nice
10 lunch. Thank you.

11 [Court recessed at 12:28 p.m., until 1:39 p.m.]

12 [In the presence of the jury.]

13 THE COURT: All right. Thank you. We're back on the
14 record in C-350623, State of Nevada versus Andrew Young.
15 Mr. Young is present with his attorney, Mr. Fischer. Both district
16 attorneys, Mr. Brooks as well as Mr. Stanton are present. Do the
17 parties stipulate to the presence of the jury?

18 MR. BROOKS: Yes, Your Honor.

19 MR. FISCHER: Yes, Your Honor.

20 MR. STANTON: Yes, Your Honor.

21 THE COURT: All right. State, next witness, please.

22 MR. BROOKS: Your Honor, the State calls Detective
23 Jacobitz.

24 ///

25 ///

1 **JEREMY JACOBITZ,**

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

4 THE CLERK: Please be seated.

5 THE WITNESS: Thank you.

6 THE COURT: Will you please state your name and spell it
7 for the record.

8 THE WITNESS: My name is Jeremy Jacobitz, that's
9 J-E-R-E-M-Y, last name, J-A-C-O-B-I-T-Z.

10 THE CLERK: Thank you.

11 THE COURT: Mr. Brooks.

12 **DIRECT EXAMINATION**

13 BY MR. BROOKS:

14 Q Detective, how are you employed?

15 A With Las Vegas Metropolitan Police Department.

16 Q And how long have you been so employed?

17 A Approximately 15 years.

18 Q Prior to becoming a detective, what capacity did you work
19 with Metro as?

20 A Various assignments, almost everything in downtown to
21 include undercover and bike patrol, regular patrol. Pretty much
22 everything you can think of.

23 Q Now, you mentioned -- was it downtown that I just heard?

24 A Downtown is where I started, yes.

25 Q Where are you now primarily?

1 A I'm now Convention Center Area Command, which
2 encompasses the Las Vegas Strip.

3 Q So if you could, just for us, can you break down the
4 different area commands for patrol and then the different divisions
5 and area commands for detective bureaus?

6 A I think what you're asking is -- so we work specific areas.
7 Those areas encompass different area commands, which could be
8 on the opposite side of the valley. Like I said, I specifically work the
9 Strip. We have several detectives and each detective is assigned to
10 either -- is assigned to a specific sector beat, which encompasses
11 specific casinos. There's a lot of work to do down there, so that's
12 why we handle it the way we handle it.

13 Q So, for example, tell me how the city is broken up into
14 areas with Metro.

15 A Well, it's broken up into -- they'll give it a -- an initial -- a
16 letter with each area and then a number on top of that to designate
17 specific areas within specific area commands. We have the Mary --
18 mostly the Mary Sector Beats, Mary 1, 2, 3, 4, and 5. And that is
19 where I work.

20 Q Now, what is -- a detective who, essentially, works out in,
21 let's say, Summerlin, what area command would he deal with?

22 A They have -- so they're in the northwest area commands.
23 They have the new ones, which are the Summerlin Area
24 Commands. There's several of them up that way. And they all
25 have their own designators as well.

1 Q Do they work in a different building a lot of the time than
2 you?

3 A Yes. We all work in different buildings.

4 Q Okay. So tell me just briefly kind of where, generally, the
5 different detective buildings would be?

6 A Well, we're decentralized, my unit. And I work within the
7 area command, so I work 750 -- right behind the convention center.
8 So 750 Sierra Vista is where I work. Recalling the rest of them
9 would be -- there's too many of them.

10 Q That's fair. But you don't -- so you're not day-to-day in
11 contact with someone who's Bolden Area Command Northeast or
12 Northwest?

13 A No.

14 Q Do you recall investigation that brings us here to court
15 today?

16 A Yes.

17 Q Could you tell me a little bit about how that was initiated
18 and why that might be different than some of your cases?

19 A Absolutely. I have an administrative part in this particular
20 case as to where I received an online report from a tourist who had
21 been visiting the Strip. And she was no longer in the area, so she
22 submitted an online report, which went through a series of
23 authorizations before it came to me.

24 Q So if someone is -- I guess, what is a common way that
25 someone does an online report as opposed to coming down to the

1 police station or coming in face-to-face contact with the detective?

2 A So you can get online, anybody can get online and submit
3 a non-violent report. That's just by pulling up the website and
4 completing a report. So as long as you don't have a suspect name
5 or anything crazy, we can look into it from online. Otherwise, we
6 would typically come out and either have a patrol officer take a
7 report or we'll make a visit. There's several ways to do it. But
8 that's fairly new to us.

9 Q If a victim were from out of state -- and because you deal
10 with the Strip, I'm assuming that some people are out of state; is
11 that fair?

12 A Yes.

13 Q If a victim were out of state, how is the most common way
14 that they would do one of those reports?

15 A Likely an online report.

16 Q Now, what are some things that you don't like about
17 online reports because of what happens with your end?

18 A Online reports take a while to get to an assigned detective.
19 They're typically sitting in queues and ditched off from one area
20 command to another before they find their correct home. So it
21 could take some time. I typically like to jump on things and at least
22 get a review in before -- at the earliest possible convenience. But
23 it's just the way it works with them.

24 Q The incident that brings us here to court today, when
25 Rhonda Hatcher submits this online report, did you ever get to meet

1 with her face to face?

2 A I don't believe I ever met with her, no.

3 Q And so how would you deal with a victim from an online
4 report?

5 A Typically, I would review the case. If I have probable
6 cause, if I have a decent reason to move forward, I'll do so with
7 what I have and we'll let it play itself out.

8 Q So in the case that we're here for, I want to turn your
9 attention, I guess, to July 8th, 2020. What were some of the initial
10 things that you were made aware from the online report that
11 started your investigation?

12 A I was made aware that I had a wallet theft that occurred in
13 the elevator at Caesar's Palace, which is one of my assigned
14 properties.

15 Q What's the first thing you do when something like that
16 happens?

17 A Typically, the first thing I do is look for video.

18 Q And, in this case, was -- were you able to find some
19 video?

20 A Yes.

21 Q And was Caesar's good enough to give you, basically,
22 video of the elevator?

23 A Actually, we have an outstanding relationship with
24 Caesar's and I can quickly get video anytime I ask for it, provided
25 they have it.

1 Q And after reviewing the video, did you confirm some of
2 the things that were in the online report?

3 A Yes.

4 Q So what did you do after that step?

5 A Well, initially, we didn't have everything that I would have
6 hoped to have to go forward with a decent case. There had been
7 some time in between where we were able to move onto the next
8 steps.

9 Q And when you say hoped to, what are some of the things
10 you -- in a perfect world, would you have hoped to have?

11 A In a perfect world, we would have -- a positive
12 identification on a suspect would have been great, we didn't have at
13 the time.

14 Q Because all you have is a video?

15 A Yes.

16 Q So you, as the detective, that becomes your job?

17 A Yes.

18 Q Would you have loved to have had store names, locations,
19 and places where things that were in her wallet might have been
20 used?

21 A Yes.

22 Q Due to the nature of your communication, did some of the
23 back-and-forth take a while with this victim?

24 A Yes. We didn't have all that information.

25 Q Eventually, are you able to determine who the suspect in

1 the elevator is?

2 A Yes. It did take a few months, approximately, but we
3 were.

4 Q I want to show you Exhibit 5. Detective, do you recognize
5 the elevator in the video that I'm showing you?

6 A I do.

7 [Video played.]

8 Q Now, who do you come to learn is the victim in this
9 video?

10 A I do apologize, I don't recall her entire name. I just
11 realized that we had a victim and I had to move forward with the
12 case. We didn't speak.

13 Q And is it on top of your arrest report?

14 A Yes.

15 Q So would the name Rhonda Kay Hatcher sound right?

16 A That's the name, yes.

17 Q And I want to rewind this. Do you recognize anyone in
18 this video?

19 A Yes.

20 Q Who do you recognize?

21 A Recognize the person on the left.

22 Q What's his name?

23 A Andrew Young.

24 Q Do you see Andrew Young here in court today?

25 A I do.

1 Q Would you point to and identify an article of clothing he's
2 wearing?

3 A A white dress shirt and a black tie.

4 MR. BROOKS: Your Honor, let the record reflect
5 identification of the defendant.

6 THE COURT: It will.

7 BY MR. BROOKS:

8 Q Is it fair to say, Officer, that before making this
9 identification, you had to watch substantial video surveillance from
10 various incidents during the 2020 summer months?

11 A Yes.

12 [Video played.]

13 Q Now, explain to me what's happening here.

14 A Okay.

15 Q With the crime, specifically.

16 A Do you want to --

17 Q Right -- what are we seeing right there?

18 A Well, we're seeing a sign and we're seeing -- so we're
19 seeing two people that are involved in a distract team or distract
20 theft. We're seeing Andrew Young, who was in the back left corner
21 of the elevator, we're seeing the victim in the middle, and we're
22 seeing an associate of Andrew Young blocking the doorway, which
23 is very common in these types of crimes, to hold the victim back.

24 Q So right there, what did we see taken? Did you see it?

25 A Yep. There's a blue wallet or a billfold, a longer-type

1 wallet.

2 Q Do you ever see that wallet again here?

3 A I do, yeah. It's going to pop up right now and go into the
4 jacket. Can you stop it for a second? Can we just go back to the
5 beginning? So it's kind of important when the two of them walk in,
6 you see they both have a jacket slung over one or the other arm.
7 So that's really the setup as to where they're deciding on who's
8 going to do this. So they are working together and that makes it
9 very obvious.

10 [Video played.]

11 Q Or at least is that how you --

12 A So there's a jacket on his arm there and a jacket on the
13 other arm.

14 MR. FISCHER: Objection as to --

15 THE COURT: Just one second.

16 THE WITNESS: I'm sorry.

17 THE COURT: That's okay.

18 MR. FISCHER: Judge, just as to speculation for the officer
19 to say what the intentions of the persons in the video is or is not.

20 THE WITNESS: I --

21 THE COURT: Mr. Brooks?

22 MR. BROOKS: I'll ask a foundational question, Judge.

23 THE COURT: Okay. So sustained for that point.

24 Go ahead.

25 BY MR. BROOKS:

1 Q So, Detective, when you were just narrating that portion,
2 is that your opinion when watching this as to how you proceeded
3 with your investigation?

4 A Yes.

5 Q Okay. So you were looking for two people, personally
6 you, not just one?

7 A Right.

8 Q Based on just what you saw?

9 A Right.

10 [Video played.]

11 Q Detective, what other properties do you have?

12 A I have Caesar's Palace and all of the forum shops inside.

13 Q So you use the phrase or the word distract; that's not a
14 term that we understand. So could you explain, based on kind of
15 your training, your experience, what you watch all the time and
16 what you're investigating, what the word distract means?

17 A So based upon my training and experience, a distract is --
18 it's more -- it's something where team comes in and they have a set
19 target, likely someone that they've been casing in the -- in this case,
20 down in the casino. They follow them into the -- where -- into a
21 corner or into an area and they work together as smoothly as they
22 can. These guys -- he's smooth, this guy's smooth. And they take
23 the other person's belongings without them knowing, in most
24 cases.

25 MR. FISCHER: Judge, I object to the commentary. As to

1 who is he smooth?

2 THE COURT: Okay. So your objection is to you don't
3 know which one he's talking about?

4 MR. FISCHER: Yes, Your Honor.

5 THE COURT: Okay. Can you clarify he, which one were
6 you discussing?

7 THE WITNESS: Yes, ma'am. I actually, in my personal
8 opinion, I'm watching Andrew Young in this video, and I completely
9 believe he's smooth at this. He's been doing this for a long time.
10 He's good.

11 BY MR. BROOKS:

12 Q Yeah, but you -- well, you have no information he's been
13 doing this a long time.

14 A Right.

15 Q Your opinion on that is just that he's smooth, correct?

16 A Right.

17 Q Okay. Now, is there something about this video and the
18 entirety of the elevator ride that makes you think that it's a team?

19 A Yes. So --

20 Q What is is about the ending of this elevator ride that
21 makes you think it's a team?

22 A So what comes to mine and it's a concern of mine, is that
23 it doesn't appear that they have any sort of business in the elevator.
24 They've not going to a room. I later come to find that they're not
25 registered to the hotel. They follow the victims up to their

1 particular floor, they become involved in the distract theft. They
2 handle the distract theft. They get what they want. They leave,
3 they go back down to the casino floor and leave the casino. There
4 is no purpose for them to be in that elevator.

5 Q So it was the round-trip ride, essentially, now that we're
6 back at the casino and one --

7 A Correct. Correct.

8 MR. FISCHER: Judge, I object to the extent that it was a
9 narrative, and I got -- quite frankly, I got lost. And then there was
10 some reference, I believe a hearsay reference I'll make an objection
11 to as to whether somebody was checked into a room.

12 THE COURT: So I'm going to overrule in regards to
13 narrative. Mr. Brooks, your response into the information regards
14 to the room.

15 MR. BROOKS: Sure. I'll ask it. I'll ask that question.

16 THE COURT: Are you going to lay foundation or --

17 MR. BROOKS: Yeah.

18 THE COURT: Okay.

19 BY MR. BROOKS:

20 Q Detective, once you eventually identify the suspect in the
21 elevator as Andrew Young, did you then go back to Caesar's and
22 attempt to, essentially, get records?

23 A Yes.

24 Q From this date?

25 A Yes.

1 Q Was Andrew Young -- did he have any records at Caesar's
2 or were you provided anything?

3 A Yes.

4 Q You were provided records from Caesar's?

5 A No, I was provided with verbal that he was never
6 registered to this casino.

7 Q Okay. So no records were provided, essentially?

8 A Yeah.

9 MR. BROOKS: Thank you. Nothing further, Judge.

10 THE COURT: Mr. Fischer?

11 MR. FISCHER: Yes, thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 BY MR. FISCHER:

14 Q Good afternoon, Detective. How are you?

15 A Good. How are you, sir.

16 Q A little hot. I ran up here and then I was locked out. So I'll
17 try to regain my bearing here.

18 A Just -- I have to apologize. Your voice is pretty low and
19 I'm --

20 Q Oh.

21 A -- I'm very hard of hearing.

22 Q Well, that's me too.

23 A Okay.

24 Q Usually I'm told I need to lower my voice, so.

25 A Right.

1 Q Is this better?

2 A That's perfect.

3 Q All right. Okay. So directing you back to July 8th of 2020,
4 you're investigating a wallet theft; is that correct?

5 A Yes, sir.

6 Q And that comes as a result of a -- an online report that's
7 made; is that correct?

8 A Yes, sir.

9 Q And that's from a Rhonda Hatcher?

10 A Yes.

11 Q And I believe that she's from Phoenix; is that correct,
12 originally?

13 A Yes.

14 Q And then -- so this is how you start your investigation into
15 who this person is; is that correct?

16 A Yes.

17 Q And that's how we come across video surveillance which
18 includes the video surveillance that we just saw; is that right?

19 A Correct.

20 Q And your entire efforts, you were trying to help resolve
21 this particular case as it respects -- with respect to Rhonda Kay
22 Hatcher only; is that correct?

23 A Yes.

24 Q Okay. All right. And it was in that context, then, that you
25 obtained video that essentially helps you solve that question as to

1 who it was, is that correct?

2 A Yes, along --

3 Q And you reached --

4 A Yes.

5 Q Sorry, I'm talking over you.

6 A Yes.

7 Q At least we can hear each other. My apologies.

8 THE COURT: That's okay. So you just -- did you finish
9 your question, Mr. Fischer?

10 MR. FISCHER: I think I did. I think we answered -- I -- do
11 you recall like you answered my question, Detective?

12 THE WITNESS: Yes. And continue.

13 BY MR. FISCHER:

14 Q Okay. All right. So we're still talking about sort of this
15 lead. And then you get to the video and the video surveillance
16 leads you to make certain conclusions. And those conclusions are
17 based on what other detectives or officers investigating similar
18 crimes tell you?

19 A Yes.

20 Q Okay. Nothing further.

21 MR. FISCHER: Thank you, Your Honor.

22 THE COURT: Anything based on that, Mr. Brooks?

23 MR. BROOKS: No, Judge.

24 THE COURT: Anything from my jurors?

25 All right. Please don't share your testimony with anyone

1 else involved in the case, but you are excused. Thank you for
2 coming. You're free to leave.

3 THE WITNESS: Thank you, ma'am.

4 THE COURT: State?

5 MR. STANTON: Barbara Angersbach.

6 And, Madam Clerk, can I have the 13 series.

7 THE COURT: That's okay. We're confusing you. I'm
8 sorry, Barbara. My clerk is going to read you the admonishment,
9 okay? Could you just raise your right hand for me? Thank you.

10 **BARBARA ANGERSBACH,**

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

13 THE CLERK: Will you please state your name and spell it
14 for the record.

15 THE WITNESS: Barbara Angersbach. What else?

16 THE COURT: Oh, she just said could you spell it?

17 THE WITNESS: I can hardly hear you.

18 THE COURT: That's okay. Could you spell your name?
19 Would you be able to spell it for me?

20 THE WITNESS: B-A-R-A-B-A-R-A, A-N-G-E-R-S-B-A-C-H.

21 THE COURT: Thank you, Barbara.

22 So just like you were explaining to us, I know it's hard for
23 you to hear, because we all have our masks on and we have the
24 plastic. So I'm going to ask the attorneys to make sure they keep
25 up their voice for you. But can you do me a favor, can you do the

1 same? Because the jurors in the back and the attorneys, they need
2 to hear you.

3 THE WITNESS: Oh.

4 THE COURT: So I know it feels sometimes like we're
5 yelling at each other, but that's okay. Just --

6 THE WITNESS: That's okay. I'm used to it.

7 THE COURT: Okay. Just speak really loud, okay?

8 THE WITNESS: Okay.

9 THE COURT: All right. Thank you, Barbara.

10 And then if the jurors can't hear, just give me a wave and
11 I'll just remind Barbara to speak up. Okay? All right.

12 Thank you, Barbara.

13 Mr. Stanton, go ahead.

14 **DIRECT EXAMINATION**

15 BY MR. STANTON:

16 Q Ms. Angersbach, in front of you is a small box. That's a
17 microphone. So if you lean a little bit into that --

18 A I cannot hear a word you're saying.

19 THE COURT: Dave, do you want to come closer?

20 MR. STANTON: Sure. I'm not sure how we're going to
21 work with --

22 THE COURT: Why don't you just stand here a little bit
23 closer and you can use my mic, so we can make sure that Barbara
24 can hear.

25 Okay. We'll try it like this, okay, Barbara?

1 THE WITNESS: Okay. Let's try it.

2 THE COURT: Okay. We'll try it.

3 BY MR. STANTON:

4 Q Barbara, do you see that little device with the red light on?

5 A Yeah.

6 Q Okay. That's a microphone.

7 A Okay.

8 Q So you're doing a real good job by leaning in, that way
9 everybody over in the room here can hear you. Okay?

10 A Okay.

11 Q First, I apologize for the indelicacy of my first question to
12 you, but can you tell me, as you testify here today, how old you are
13 and what your date of birth is?

14 A My birthday is 6/22/37. I was born in Germany.

15 Q And how old are you today?

16 A I'm 83.

17 Q 83?

18 A Yeah.

19 Q Okay. Ma'am, I want to talk to you about what happened
20 back in August, in the evening of August 9th --

21 A Okay.

22 Q -- into the early morning hours of August 10th --

23 A Uh-huh.

24 Q -- of last year, of 2020. Specifically, at the Suncoast Hotel
25 and Casino.

1 A All right.

2 Q Do you remember that night?

3 A Yes.

4 Q Do you go to the Suncoast on a regular basis?

5 A Yeah. When they send me money that I can collect some
6 money or a food coupon, I go there. Otherwise, I can't afford it.

7 Q Okay. So if there's a coupon and you get it, you might go
8 get something to eat there?

9 A Yes. I was going there to eat something and then play the
10 money. I had \$20 for them to play. And I decided to play and as I
11 sat down, there was nobody there. I go late because I don't smoke
12 and I didn't want to sit next to -- but they had three seats and I took
13 the middle seat, which I usually take when I go late. And I had my
14 purse like this to take my glasses out. And then I notice I don't have
15 my wallet there.

16 Q Okay. Let me just stop you there. I want to back up.

17 Before you went into your purse to look for your glasses,
18 okay, do you remember bringing your wallet inside your purse into
19 the Suncoast?

20 A Well, I looked at it and I couldn't find it right away. And I
21 thought, well, maybe I left it at home. And I --

22 Q No, Barbara. I'm talking about when you first came to the
23 casino.

24 A Pardon me?

25 Q When you first got there at the Suncoast --

1 A Yeah.

2 Q -- did you bring your wallet with you?

3 A Yeah.

4 Q And did you ever take --

5 A I thought I had it with me.

6 Q Okay. Did you access your wallet while you were at the
7 casino? Did you ever use your wallet while you were there?

8 A No.

9 Q Okay. So you bring your purse from home; is that
10 correct?

11 A Correct.

12 Q Okay. So let me show you on the screen right in front of
13 you, I'm going to play a video for you from a couple of different
14 angles.

15 MR. STANTON: And counsel, would you bring up and
16 pause State's 13.

17 Q Now, I want you to just take a moment and look at that
18 video screen and tell me if you recognize yourself somewhere on
19 that screen.

20 [Video played.]

21 A Right here.

22 Q Okay. With your fingertip, can you circle the screen where
23 you're at? Just put it right on the screen and draw a circle around
24 it, where you are.

25 A Okay. Right here.

1 Q Okay. You're at a slot machine there; is that correct?

2 A Yes. Correct.

3 Q Okay.

4 MR. STANTON: And, counsel, could you play it.

5 Q And, Barbara, while this is playing, can you just keep an
6 eye on yourself and look what's happening, and then I'll have some
7 questions for you. Okay? So just relax and watch the video.

8 [Video played.]

9 MR. STANTON: Could you pause it there, counsel.

10 THE WITNESS: They should have given me a warning
11 right there, where it's [indiscernible].

12 BY MR. STANTON:

13 Q Okay. Just hold on, Barbara. Let me -- did you see what
14 just happened there?

15 A Yes. That's it.

16 Q Now, did someone come and did you talk to somebody?

17 A No, I told the one on the right, I said, You cannot sit, you
18 have to sit six foot apart.

19 Q Okay.

20 A And I still had my purse right next to me.

21 Q Okay.

22 A But it was open, because I was going to go for my glasses.
23 And I -- and he kept saying, well, I -- and I said, Do you know the
24 law is six foot apart. And the guy said -- mumbled something and
25 then I talked -- turned around to him, and then they took off.

1 Q Okay.

2 A On that row.

3 Q So the first person that's talking to you, you tell them, hey,
4 you can't be that close to me, you have to be six feet apart?

5 A Yes. Yes, the one on the right.

6 Q The one on the right?

7 A Yes.

8 Q And what is the person on the left? Is he saying anything?

9 A He was trying to play, but he didn't play.

10 Q I'm saying -- can you say that again?

11 A He was trying to play, but he did not play. I didn't see him
12 putting any money in.

13 Q Okay. Did he ever talk to you?

14 A Not with him.

15 Q The guy on the left --

16 A No.

17 Q -- I'm talking about. Okay. And --

18 MR. STANTON: If you -- counsel, if you could hit play
19 again.

20 MR. FISCHER: And just so we can be oriented, when you
21 say left and right, are we -- where are you referring to? If -- as she
22 sits or as we're looking at it?

23 BY MR. STANTON:

24 Q Barbara, did you hear his question? When you were
25 saying the man to the left and the right, are we looking at it from

1 your perspective, left and right?

2 A Well, he was just standing there and then he said, We
3 can't sit here. And they took off.

4 Q Okay. And that's the man to your left as you're --

5 A No. Sat to the right. No, you can't sit there.

6 Q Okay.

7 A I kept insisting he cannot sit there.

8 Q So I apologize. The guy, as you're sitting there playing, is
9 to your right --

10 A Yeah.

11 Q -- that talks to you or you talk to him?

12 A Yeah. And I looked up to him, he was standing. Okay.

13 Q Okay.

14 A He was standing, he was not sitting.

15 Q And then the person to your left --

16 A Said, We cannot stay here.

17 Q Right.

18 A Okay.

19 Q And you -- he never talks to you?

20 A No.

21 MR. STANTON: Counsel, can you play -- hit play.

22 [Video played.]

23 THE WITNESS: Yeah. That's when I [indiscernible].

24 BY MR. STANTON:

25 Q Thank you. So let me ask you another question, Barbara.

1 You're playing the slot machine --

2 A Yes.

3 Q -- correct?

4 A Yeah.

5 Q Did you put money into the slot machine?

6 A Yes.

7 Q Where did you get the money from?

8 A Well, I have a special purse where I just use for playing.

9 Q Okay.

10 A Okay. That I have right in front of me.

11 Q Okay. When you went in to get that money, did you see

12 your wallet inside your purse when you went to pay for --

13 A No, not really.

14 Q Okay. But you think your wallet was in there?

15 A Yeah.

16 Q Okay.

17 A Big one. Because I was going to change something on the

18 wallet. When I didn't see it and I figured, oh, I must have -- I was

19 nowhere else that day. I left it at home on the table or something.

20 So I didn't look any further.

21 Q Okay.

22 A But on the way home in the car, I got a message on my

23 cell phone that --

24 Q Okay. We're going to get to that in just a second.

25 So you aren't 100 percent sure when you look into your

1 wallet whether or not you might have left it at home?
2 A That's right. Correct.
3 Q Okay. So you then leave the casino and you're driving
4 home; is that correct?
5 A Correct.
6 Q And on the way home, you get a phone call?
7 A The cell phone made a noise -- you know, that something
8 is going on with my credit cards.
9 Q Okay.
10 A Something is -- some action.
11 Q Okay. And you had credit cards in your wallet?
12 A Yes, that's all I had. I have no money in there, I just had
13 the credit card and my driver license.
14 Q How many credit cards, different credit cards, do you think
15 you had?
16 A I had three.
17 Q Three?
18 A I had my checking account, I had Wells Fargo, and I had
19 Bank of America.
20 Q Okay. And so you get this phone call or message on your
21 phone. When you go home, did you immediately try to find your
22 wallet --
23 A Yes.
24 Q -- at home?
25 A Yes. I looked right there on where I would have had it if I

1 was. And it was not there. And I --

2 Q And you looked all over your home?

3 A That's right. But I --

4 Q You didn't find it?

5 A No.

6 Q And you didn't find it ever since that day, right?

7 A No.

8 Q Okay. Now, let me ask you some questions about what
9 happened later on after that day when you got the phone call. Did
10 you get a call about the use of your cards at a different -- several
11 different businesses?

12 A I actually didn't get a call for the credit card. Just says
13 there's some action -- activity on my credit cards. So I went right
14 away to the police in the morning, it was, like, 6:00 or 7:00 in the
15 morning. And I reported it, made out a report.

16 Q Okay. And --

17 A And it was --

18 Q And you wrote a -- you wrote it out?

19 A Yes.

20 Q You wrote -- along with talking to them, correct?

21 A Yes.

22 Q Okay. Now, as you testify here today, do you remember
23 the dollar amounts and the locations of where your card would
24 have been used after it was taken that night?

25 A I was -- yes. I was told that there were -- there was two

1 speed tickets for the speed motor racing --

2 Q The speedway? Okay.

3 A -- 200 -- twice \$200. Citicard was some money for use
4 called or something, I don't know, was 150 or something. And then
5 there were Taco Bell and gasoline charges.

6 Q Okay. Do you --

7 A And lucky it was that late at night or morning, there was
8 nothing open around there, so they couldn't use a lot of the credit
9 card for any purpose.

10 Q And there was also a charge at a smoke shop; do you
11 remember that?

12 A Yes. Smoke shop, Taco Bell, and speed -- motor speed
13 racing, and a gas station.

14 Q Okay. Did you -- anybody -- did you give authorization to
15 anybody to use any of your credit cards?

16 A No. I'm not --

17 Q Do you --

18 A I'm alone, I don't have nobody to give it to anyway.

19 Q Okay, Barbara. And do you know a person by the name of
20 Andrew Young?

21 A Not that I recall.

22 Q And you didn't give Andrew Young permission for him to
23 be -- to use your credit cards, did you?

24 A I don't know an Andrew Young.

25 Q Okay. Thank you, Barbara.

1 A Okay.

2 Q Appreciate it.

3 MR. STANTON: Pass the witness.

4 THE COURT: Mr. Fischer?

5 MR. FISCHER: Yeah.

6 THE COURT: Cross.

7 MR. FISCHER: Oh, thank you.

8 THE COURT: Yep.

9 MR. FISCHER: I was hoping we were taking a break or
10 something good like that, but --

11 THE COURT: Yeah.

12 **CROSS-EXAMINATION**

13 BY MR. FISCHER:

14 Q Is it Ms. Angersbach? I was trying to use the German
15 pronunciation. Is that where your name is from, Barbara? You
16 lost --

17 THE COURT: Speak a little bit louder, David.

18 BY MR. FISCHER:

19 Q Can you hear me okay?

20 A Now I can.

21 Q Yes. Angersbach; is that a correct pronunciation?

22 THE COURT: Is that a correct pronunciation of your last
23 name, Barbara?

24 THE WITNESS: Barbara Angersbach, yeah.

25 BY MR. FISCHER:

1 Q Very nice. Just a few questions, ma'am.

2 A Okay.

3 Q Some follow-up questions to the questions by the State
4 about that same date. Can you understand me?

5 A No. I know 5:00 to 10:00. I don't know what else you're
6 saying.

7 Q I'm sorry?

8 A I just be a part of it, I can't hear.

9 THE COURT: Just either speak louder, David, or come a
10 little bit closer.

11 MR. FISCHER: Yes, Your Honor. I don't mind.

12 BY MR. FISCHER:

13 Q I'll come a little bit closer, ma'am. I don't want to tower
14 over you, but maybe it'll help.

15 A That's fine. Better hollering than not hearing, it's
16 depressing.

17 Q Well, I don't hear too well either, so.

18 A You cannot hear me? I can scream yet even though
19 [indiscernible].

20 Q Lip reading is better.

21 A Okay.

22 Q Thanks so much.

23 A All right.

24 Q Okay.

25 THE COURT: No, he -- just in general he can't hear. It's

1 not that he can't hear you, it's just in general.

2 Right?

3 MR. FISCHER: Yes. Yes, Judge.

4 And my apologies to you.

5 BY MR. FISCHER:

6 Q But you just have a few follow-up questions to the State's
7 questions. Can you understand me now?

8 A Yes.

9 Q Okay. Thank you.

10 So August 9th of 2020, you were at the Suncoast Casino,
11 correct?

12 A Correct.

13 Q That's right. And you were there, you were playing some
14 machines, correct?

15 A I started out, yeah.

16 Q Okay. All right. And at some point while you were there,
17 you engaged in a conversation; is that correct? Or at least you're
18 approached by somebody who you engaged in a conversation,
19 correct?

20 A Well, somebody sat next to me. Should have gave me a
21 warning then, because it's all empty. That's why I go late, no
22 smokers, nobody around. And I play a certain machine all the time.
23 And it should have gave me a warning that two people would sit
24 next to me. But I guess I'm too trustworthy, thinking of anything
25 else, but somebody would do something.

1 Q Sure. And I want you to be able to tell what you saw, but
2 let's break it down just a little bit, because I want to make sure. So
3 it's correct that you were playing the slot machines at the
4 Suncoast --

5 A Yes. I'm sorry, yes.

6 Q -- is that right?

7 A I just got there, just in the [indiscernible] before, just
8 started out.

9 Q Right.

10 A Okay.

11 Q And you said then you noticed at least one gentleman
12 seated next to you that shouldn't have been there, correct?

13 A No. There was nobody, because there was the law not to
14 sit close, right?

15 Q Right. But at some point, somebody does come close to
16 you, right?

17 A Yeah. Both of them came. The guy stood and this guy
18 stood. And I --

19 Q That's right.

20 A And I had my purse next to me, just taking my glasses
21 out, just like now. And I was going to also change money.

22 Q Uh-huh.

23 A And I didn't see my wallet. [Indiscernible] but money.

24 Q So that's --

25 A And --

1 Q Ma'am?

2 A -- so I --

3 Q I'm sorry, I don't mean to interrupt you. I -- and I -- we

4 want to hear everything. But it will be a little easier, I just have a

5 small question to get to the same --

6 A Okay.

7 Q -- end result, if you don't mind.

8 A All right.

9 Q I just want to break it down a little bit for you, okay?

10 A All right.

11 Q Or actually just so we have a clear understanding:

12 So my last question was: You then noticed that there's

13 somebody next to you when they shouldn't be; is that correct?

14 A Correct.

15 Q Okay. And that's when you make it known that there

16 should be social -- I don't know if you used the word, but you

17 should be more than six feet apart; is that correct?

18 A I told him he cannot sit here. And he said, Why not? I

19 said, Because the law is you've got to be six foot away. And he

20 said, I don't understand. I said, Well, you cannot sit here. And this

21 guy says, No, we can't sit here. But -- and then they left. And --

22 Q Okay.

23 A -- so I --

24 Q And as far as the person that you spoke to --

25 A Yeah.

1 Q -- can you describe him at all from your own recollection?
2 A He did what?
3 Q You said the person that you spoke to --
4 A Yeah.
5 Q -- that -- I believe you said it was the person to your right;
6 is that correct?
7 A Yeah, that was the one to the right.
8 Q Right?
9 A Yes.
10 Q Can you describe from your recollection what he or she
11 looked like?
12 A No idea, the mask on, I couldn't tell.
13 Q Okay.
14 A He was very tall, but I talked to him to his face and he was
15 standing. And that's why I was turned around and I said, You
16 cannot sit here. And he keeps saying, Why not? I said, That's the
17 law. Okay. And so.
18 Q So somebody -- you were seated, so it was difficult, but
19 you believe that he probably --
20 A He was in my seat and --
21 Q -- was tall?
22 A He never seated.
23 Q No, I know. Understand. You were seated, but the person
24 you were speaking to seemed tall; is that correct?
25 A Yeah. Yeah.

1 Q Could you give an estimate as to height?
2 A Well, I was sitting, so it's kind of hard to tell.
3 Q Yeah.
4 A But he would be close to 6-feet, I suppose.
5 Q Okay. Okay. Any other descriptions that you can think of
6 that --
7 A About the same --
8 Q -- different characteristics?
9 A The same size, pretty big.
10 Q Well, as to the same man --
11 A [Indiscernible; multiple speakers.]
12 Q -- the one you describe as a --
13 A I just saw a glimpse of him when he was there. He tried to
14 play, like he didn't play, but he had --
15 Q Uh-huh.
16 A -- cap on and a mask was pretty covered up.
17 Q Okay.
18 A So I couldn't tell.
19 Q Would you be able to tell his race?
20 A But I know for sure he was a Black guy. But I couldn't
21 tell --
22 Q Okay.
23 A -- the right guy for sure.
24 Q Okay. Okay. Now, as to -- you said there was another
25 gentleman that you only know that because of the video; is that

1 correct? Or did you -- in other words, when you -- we watched the
2 video with the State, there were two gentlemen that we seen in the
3 video.

4 A Yep.

5 Q Is that correct?

6 A Yeah.

7 Q Now you just told us about your memory of --

8 A Yeah.

9 Q -- the one gentleman.

10 A Yeah.

11 Q But as to the other one we see in the video, you didn't
12 actually see him, or did you?

13 A No, I didn't notice anything that would be something.

14 Q Okay. That was my question. And that's when -- because
15 if you noticed, you would have made it known right away, correct?

16 A Yeah. I didn't notice. I mean, I just sat there and I guess --
17 and I go -- and I talk to him. So didn't even notice that.

18 Q Okay. And then once he comes to your attention, that's
19 when you, essentially, make it known and you had some items
20 taken that were used against your permission; is that correct?

21 A No.

22 Q Were any of your credit cards used?

23 A Pardon me?

24 Q Any of the items that were taken from your wallet, were
25 they used?

1 A [No audible response.]

2 Q Was anything from your wallet taken?

3 A I don't know at the time --

4 Q Okay.

5 A -- the wallet was taken. Okay. When the --

6 Q No, I understand. But later you do, right?

7 A Well, I was told there was some action on my credit card.

8 When I got home, I looked on that table where I would have had it if

9 I didn't have it on me, and it wasn't there. So I looked all over. It

10 wasn't there.

11 Q Right.

12 A And I went to the police right away. And I found out that

13 my wallet was really gone.

14 Q And that's when there were also, I think, on direct with the

15 State, you said that there were some transactions made that were

16 not -- you did not do yourself; is that correct? Your credit card was

17 used? Was one of your credit cards used?

18 A I don't know what you're saying.

19 THE COURT: Barbara, the cards that you couldn't find, did

20 somebody use those credit cards without your permission?

21 THE WITNESS: Of course. I mean --

22 THE COURT: Of course.

23 BY MR. FISCHER:

24 Q Yes. Yes, of course. That's what I thought, Barbara. I just

25 wanted to confirm.

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A Yeah.

Q Thank you so much.

A There was no money in there that I only never have money in that wallet, just have my credit card along and my driver license, what I need. Okay.

Q Thank you so much.

MR. FISCHER: Pass.

THE COURT: Anything based on that?

MR. STANTON: No, Your Honor.

THE COURT: Do I have any questions from my jurors? Parties?

Barbara, we'll be right back. You just stay right there, okay?

THE WITNESS: Okay.

[Bench conference transcribed as follows.]

MR. STANTON: Dave, way to go beating up on the old lady.

MR. FISCHER: Hope I didn't too much. I was actually trying to be friendly with her, because I think she's German, which is where I'm from. So I wasn't trying to overstate that, but I just was trying to make a small connection.

THE COURT: Yeah. That was --

MR. FISCHER: To make her feel comfortable was really the idea. It backfired on a me a little bit.

THE COURT: No.

1 MR. STANTON: She's crying out there.
2 MR. FISCHER: Yeah.
3 THE COURT: Juror Number 7 --
4 MR. FISCHER: Trust me, I'd rather do your job.
5 THE COURT: -- prior to being at Suncoast, when was the
6 last time she recalls seeing her wallet? Any objection, State?
7 MR. STANTON: No.
8 THE COURT: Okay. Defense says no?
9 MR. FISCHER: I think she even answered it already, but
10 that's fine, yeah.
11 THE COURT: Juror Number 1: Before the gentlemen
12 walked up and during the conversation with them, where was her
13 purse? Was it next to the machine or was it in her lap?
14 MR. FISCHER: No objection.
15 MR. STANTON: As long as you're asking it, because she
16 hears you, but she doesn't hear us. So.
17 THE COURT: Yeah. All right.
18 MR. BROOKS: Do you want us to pull the video up so she
19 can point?
20 THE COURT: I think she'll -- if she can't remember or she
21 can't see it, then we -- you can try doing that. But I think she's
22 going to remember.
23 MR. FISCHER: She's sharp.
24 THE COURT: Yeah, she's --
25 MR. BROOKS: She's definitely mentally sharp.

1 THE COURT: Yeah, she just can't hear.

2 MR. BROOKS: Just has some hearing problems, yeah.

3 THE COURT: Right.

4 MR. BROOKS: She's, like, oh, yeah.

5 [End of bench conference.]

6 THE COURT: All right. Barbara, I have a few questions for
7 you, okay?

8 THE WITNESS: Okay.

9 THE COURT: Prior to being at the Suncoast, when is the
10 last time you recall seeing your wallet?

11 THE WITNESS: In the morning.

12 THE COURT: In the morning?

13 THE WITNESS: Yeah.

14 THE COURT: Okay.

15 THE WITNESS: Because I took a receipt out of the wallet.
16 I was shopping the day before and I kept it there. I took it out, but I
17 usually put it right away in my wallet --

18 THE COURT: Uh-huh.

19 THE WITNESS: -- in my purse. But I mustn't have. So the
20 first thing I looked when I got back home and it was not there. It's
21 the only place I -- pretty standard where I put my stuff. I know
22 exactly where everything is, so.

23 THE COURT: So it's -- sorry, if -- you just said if it's not in
24 your purse, you put it somewhere, always where that --

25 THE WITNESS: That's right. Yeah. And what I said, oh

1 [indiscernible] but I took the receipt out.

2 THE COURT: Oh. Okay.

3 THE WITNESS: Took it for granted it's laying there at
4 home. So until I got the activity on my cell phone that something
5 was going on with my credit card.

6 THE COURT: Okay.

7 THE WITNESS: Then I ride home and it wasn't there. I
8 looked -- so it was right away, I knew and it was gone.

9 THE COURT: Okay. And then before the gentlemen
10 walked up and during the conversation with them, where was your
11 purse, was it next to the machine --

12 THE WITNESS: Still here. I still --

13 THE COURT: -- or was it in your lap?

14 THE WITNESS: I still had it next to me like that, with open
15 to take my glasses out.

16 THE COURT: Was it -- when you have it -- when you say it
17 was like this, was your arm around it or it was just next to it?

18 THE WITNESS: Yeah, I had it like this, to go -- take my,
19 you know, to take my glasses out.

20 THE COURT: Okay. So your purse -- so, ladies and
21 gentlemen, I know you can't see, but her purse is to the left of her.

22 THE WITNESS: Yes.

23 THE COURT: Her left arm is kind of around it, but it's
24 open, because she was wanting to access her glasses. Okay.

25 THE WITNESS: Because the glasses would be here and I

1 take them out.

2 THE COURT: Okay.

3 THE WITNESS: And that's the only time I have it open.
4 Usually I have it -- those sitting next to me and have my straps
5 around my legs so nobody could go open the purse. I'm very
6 careful with my --

7 THE COURT: So you keep the strap around your leg?

8 THE WITNESS: Pardon me?

9 THE COURT: Did you say you keep your strap around
10 your legs so no one could grab it?

11 THE WITNESS: I always do that. As soon as I take it off, I
12 have that around my leg. I put my leg up and I have it around so
13 nobody could go in my purse.

14 THE COURT: Okay. Thank you.

15 THE WITNESS: And I -- that was careless that day alone.

16 THE COURT: Mr. Stanton?

17 MR. STANTON: No further questions, Your Honor.

18 THE COURT: Mr. Fischer?

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

20 THE COURT: Barbara, thank you so much for coming
21 today. We don't have any further questions for you. Don't share
22 your testimony with anyone else involved in the case. But you are
23 free to leave. Thank you.

24 THE WITNESS: Okay. Thank you.

25 THE COURT: State?

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MR. STANTON: Serry Mello.

SERRY MELLO,

[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: My name is Serry Mello.

THE CLERK: Can you please spell it?

THE WITNESS: S-E-R-R-Y, M-E-L-L-O.

THE CLERK: Thank you.

MR. STANTON: May I proceed, Your Honor?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. STANTON:

Q Mr. Mello, can you tell me, as you testify here today, what your age is and what your date of birth is?

A My age is 69, my date of birth is July 29th, 1951.

Q And, sir, I want to direct your attention back to July 29th of last year, 2020; did you, along with some family members, come to Las Vegas and stay at the Flamingo Hotel and Casino?

A Yes.

Q And I want to direct your attention to approximately about 4:20 to 4:30 p.m. Did you check in at that hotel?

A Yes.

Q Was that process kind of the normal one where you go to

1 the lobby and check in with the personnel from the Flamingo staff
2 itself?

3 A Yes.

4 Q Did you have your wallet with you?

5 A Sorry, I couldn't hear you.

6 Q Did you have your wallet with you?

7 A Yes, I did.

8 Q And that -- did you have your wallet during the check-in
9 process?

10 A Yes.

11 Q Did they request credit card to be placed on the room
12 while you check in?

13 A Yes.

14 Q And did you provide that to them?

15 A Yes.

16 Q Where was that credit card stored or housed when you
17 presented it to the staff?

18 A Actually, I inserted it into the kiosk.

19 Q Okay. And so it was kind of a self-check-in process?

20 A Yes.

21 Q And where did you pull that credit card out? What object
22 did you have it stored in?

23 A I had a bifold wallet.

24 Q And after you did the kiosk check-in, where did you go?

25 A We went down the hallway, down to the elevator.

1 Q Okay.

2 MR. STANTON: Counsel, I'd like you to play State's 9.

3 And, Judge, my notes reflect that, through the stipulation
4 of parties, the 9 series has been admitted into evidence.

5 And then, counsel, can you hit pause once it comes up.

6 Q Mr. Mello, to your left is a small television screen. Do you
7 see the paused image on the screen in front of you now?

8 A Yes, I can.

9 Q Okay. So what we're going to do here is I'm going to ask
10 you some questions about this, pause it a couple of times, and then
11 we're going to play the bulk of a couple of angles for you to watch,
12 okay?

13 A Yes.

14 Q Okay.

15 MR. STANTON: Counsel, could you hit play.

16 [Video played.]

17 MR. STANTON: Can you hit pause, counsel, for me.

18 Q Now, sir, do you see someone familiar to you in that
19 photo -- in that paused video?

20 A Yes. The woman right down from me is my wife.

21 Q Okay. If you put your finger on the screen and draw with
22 your finger, just -- can you circle wife? Perfect. That's close
23 enough.

24 A Okay.

25 Q That's -- who's that in that circle?

1 A That's my wife Ginger.

2 Q Okay. And are you in there?

3 A That's me, part of that circle.

4 Q Okay. And that's right after the check-in at the kiosk?

5 A That's correct.

6 Q Now, sir, after the kiosk where did you put your wallet
7 physically on your person?

8 A My left front pocket.

9 Q And so as we see this video and it's still your wallet's in
10 your left front pant pocket of the shorts you're wearing?

11 A Yes.

12 Q Now, I'd like you to take a look in the lower right-hand
13 portion of that video where there is a date and time stamp; do you
14 see that?

15 A Yes.

16 Q Is that accurate to your memory and to your recollection
17 as you testify here today that that information is, indeed, close or
18 correct?

19 A Yes.

20 Q Okay.

21 MR. STANTON: Counsel, if you could hit play.

22 [Video played.]

23 MR. STANTON: And, counsel, can you hit pause.

24 Q Did you see the two other people that entered the elevator
25 with you and your wife?

1 A Yes.

2 Q Did you know either of those two individuals?

3 A No.

4 MR. STANTON: Now, counsel, can you go to a different
5 angle.

6 Q Same thing here, Mr. Mello; I'm going to show you a
7 series of -- or a video clip and then pause it at various different
8 times.

9 [Video played.]

10 MR. STANTON: Counsel, could you hit pause.

11 Q Do you see your wife in that still picture here?

12 A Yes.

13 Q And can you circle her for me? And you?

14 Now, you had, previously to this being paused, pressed
15 the button on the elevator; do you remember what floor you were
16 going to?

17 A Yes, it was the fourth floor.

18 Q And was that where the assigned room pursuant to your
19 check-in had you staying?

20 A Yes.

21 Q Okay.

22 MR. STANTON: Counsel, could you hit play.

23 [Video played.]

24 MR. STANTON: Hit pause for me.

25 Q Mr. Mello, when you watch that video, have you seen this

1 video before you testifying here today?

2 A Yes, at grand jury.

3 Q And in a time where you came in previously to testify, but
4 not at a trial, correct?

5 A Yes.

6 Q Now, did you recall going back to the events as they
7 occurred to your in real time? Was there anything said between
8 you and the individual that we see next to you in the elevator?

9 A When I exit.

10 Q What did he say, if anything, while you exit?

11 A He said, I got you.

12 Q And what did you take that to mean based upon what was
13 occurring at that time?

14 A He was helping me get out of the elevator, because I was
15 dragging the two suitcases.

16 Q Okay.

17 A So I took it to be, I got you. It was like he was moving to
18 help me get out of the elevator.

19 Q Okay. And at the time after you went off the elevator with
20 your wife, did you go to your room?

21 A We went directly to our room.

22 Q Okay. And what happened when you got inside your
23 room?

24 A After 15 minutes in the room, I received a phone call from
25 my Wells Fargo. And they informed me that they were calling me

1 because there was suspicious activity on my debit card.

2 Q And, obviously, after hearing that, you had some concerns
3 about kind of those accounts?

4 A Yes. First thing -- that's when I first noticed I didn't have
5 my wallet, of course, because -- and I told them that it was
6 fraudulent activity. And so after they -- we went through the
7 process of putting a stop on the -- I'm sorry, they actually went
8 through the process of telling me what activity, what was being on
9 my card.

10 Q To kind of confirm with you --

11 A Yeah.

12 Q -- whether or not these were --

13 A Yeah.

14 Q -- proved or non-authorized transactions.

15 A Right. They went through a list of transactions.

16 Q And do you recall any of those, as you sit here today?

17 A Yes. The first transaction was a taxi fare. And then the
18 next four was with Target, where Target had processed one and
19 they denied the other three.

20 Q Okay. Let me go back to the taxicab. Do you recall what
21 the dollar amount of that cab fare was?

22 A Approximately \$18 and change. I can't remember the
23 change.

24 Q Okay. Your memory's very good. Would the
25 amount 18.75 be consistent with what -- or close to what you recall?

1 A Yes.

2 Q And how about the approved transaction at Target; do
3 you remember the dollar amount of that?

4 A My best recollection on the one that got accepted
5 was \$412. And then there were three on the high amounts, I can't
6 tell you the amounts on those.

7 Q They were all high-dollar --

8 A I think they were -- yeah.

9 Q And they were all declined, as your financial institution
10 told you?

11 A They told me it was declined, those three.

12 Q Okay. From the time of you getting off the elevator, it's
13 paused here, you completely exited the elevator, and the time
14 is 4:23 p.m. Mr. Mello, what's your best recollection about how
15 long, how much time had elapsed before you got a phone call from
16 your financial institution about those transactions?

17 A Well, for the time it took me to go in my room and get that
18 phone call, as I told you, 15 to 20 -- it was approximately about
19 quarter of 5:00.

20 Q Okay. Quarter of 5:00 is when you think that you received
21 the call?

22 A I got the phone call, yeah.

23 Q Okay. Now, I apologize for kind of the obvious nature of
24 my next series of questions, but I hope you understand the
25 necessity of them. Did you give anybody authorization to use your

1 cards that afternoon?

2 A I did not.

3 Q Do you know a person by the name of Andrew Young?

4 A No, I don't.

5 Q You would not have been -- given Mr. Young permission
6 to use or be in possession of any of your cards or any materials in
7 your wallet?

8 A I would not.

9 MR. STANTON: Pass the witness, Your Honor.

10 THE COURT: Cross?

11 MR. FISCHER: Yes, Your Honor.

12 **CROSS-EXAMINATION**

13 BY MR. FISCHER:

14 Q Mr. Mello?

15 A Yes.

16 Q Can you hear me okay, sir?

17 A I can hear you.

18 Q Very good. Thank you for your time. Just a few questions
19 for you, okay, sir?

20 A Okay.

21 Q It's mostly intended as a follow-up to some of the
22 questions asked on direct examination by the State.

23 So you were a guest at the Flamingo Hotel and Casino on
24 July 29th of 2020; is that correct?

25 A That is correct.

1 Q And you -- can you tell us a little bit what you're here for,
2 just a vacation? What was your -- the purpose of your stay?
3 A Well, as you could tell by the dates, it was my birthday.
4 Q Oh, okay.
5 A So we're Vegas residents, but it was like to have a
6 three-night stay at the --
7 Q Okay.
8 A -- my birthday.
9 Q It was like a staycation, then?
10 A Yeah.
11 Q Okay. All right. So you're a Las Vegas resident, but you
12 were staying at one of the local hotels?
13 A Yeah.
14 Q Okay. And on that particular day. So this was your -- did
15 you say this was check-out, July 29th? The 2020 -- the video we
16 see, is of you leaving the hotel?
17 A No, it was not --
18 Q On the elevator?
19 A Well, you --
20 Q Are you --
21 A No, I was going up to my room.
22 Q Okay. Correct me if I'm wrong -- sometimes I'm wrong.
23 A Yeah.
24 Q This wouldn't be the first time. So this is while you're
25 staying there then. What -- so what were the dates of your stay?

1 A This was the initial check-in.
2 Q Okay. This is right at your check-in.
3 A Yeah.
4 Q And on your way to the room then?
5 A I had a room reserved, yeah.
6 Q So July 29th was your check-in date?
7 A Correct.
8 Q Okay. So the video that we see is as you're headed to
9 your room for the first time; is that correct?
10 A Correct.
11 Q All right. And then there was some reference made about
12 you had testified previously; is that correct?
13 A To a grand jury.
14 Q Yes. Okay. And as you sit here today and as you sat --
15 spoke to the grand jury, in both instances, you don't have any
16 recollection or knowledge of other than what you see on video,
17 what could have happened to the items you had taken, correct?
18 A I have no recollection of activity on --
19 Q Right.
20 A -- as far as taking my wallet.
21 Q Other than what the aftereffects were once you started
22 realizing and took action from there?
23 A Yeah, that's correct.
24 Q Thank you, sir.
25 A Okay.

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THE COURT: State?

MR. STANTON: Nothing further.

THE COURT: Anything for this witness?

Sir, thank you so much for your testimony here today.

Please don't share it with anyone else involved in the trial, but you are excused and free to leave.

THE WITNESS: Thank you.

THE COURT: Thank you.

State?

MR. STANTON: Barbara Bowen.

DOMINICK CIPRIANO,

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

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

THE WITNESS: Dominick Cipriano, D-O-M-I-N-I-C-K, C-I-P-R-I-A-N-O.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. BROOKS:

Q Detective Cipriano, how are you employed?

A I'm employed with the Las Vegas Metropolitan Police Department, I'm assigned to the Convention Center Area Command as a patrol detective.

Q And how long have you been so employed?

1 A For 12 years.

2 Q Before being a detective, what were you?

3 A I owned an insurance company.

4 Q Sorry, couldn't hear that.

5 A I owned an insurance company.

6 Q I meant did you ever do patrol?

7 A Yes, I was a patrol officer prior to being a detective for 10
8 years.

9 Q Detective Jacobitz, do you -- who testified earlier, do you
10 work with him?

11 A Yes, I do.

12 Q Same area?

13 A Same office.

14 Q What hotels, specifically, are you responsible for?

15 A I'm responsible for Flamingo Hotel, the Link Hotel, and the
16 Cromwell Hotel.

17 Q Do you recall an incident that happened on
18 July 29th, 2020, that brings us here to court today?

19 A Yes, I do.

20 Q Tell me just briefly, I guess, how you got involved initially
21 with this incident; how did it get assigned to you?

22 A It was -- a patrol officer took a report from a larceny from
23 a person, and it was generated from the Flamingo Hotel. And it
24 was generated to my -- to me to investigate the case.

25 Q So what was -- would be your first steps with the

1 investigation?

2 A Based on the report from the officer, I read through that.
3 Generally, a lot of times I do have video surveillance in the hotels,
4 and I can start with recovering from that.

5 Q In this situation, were you able to obtain video
6 surveillance?

7 A Yes, I was.

8 Q And we just watched it, so I'll just show briefly with you,
9 after obtaining the video surveillance, did you impound it into
10 evidence?

11 A Yes.

12 Q And do you recognize the video being played right here?

13 A Yes.

14 Q Exhibit -- sorry -- Exhibit 9.

15 [Video played.]

16 A Yes, I do.

17 Q Oh, I know. I was just letting it play.

18 A Oh, okay.

19 [Video played.]

20 Q So what information do you have initially after you get the
21 video? Do you have a suspect right away or what do you do?

22 A Initially, from the report, I have the gentleman was
23 missing his wallet, he was notified by a bank of charges being
24 charged to his account. And at that time, he realized that his wallet
25 was missing. The -- he went back through his events of his time in

1 the hotel. Briefly stated that possibly he thought -- he felt
2 uncomfortable on the -- in the elevator and it possibly could have
3 been an issue in the elevator. That's when I went back through
4 video surveillance and went through that.

5 Q Are you also given information from that victim about
6 possibly fraudulent charges that he was notified about?

7 A Yes, I was.

8 Q One of which was -- do you recall what they were?

9 A Yeah. There was -- I believe there was two of them. One
10 was for a cab ride and one was at a store, a charge -- a multiple
11 charges at stores, attempts or charges.

12 Q The cab ride, what did you do, if anything, to try to follow
13 up on that?

14 A I followed up a cab company to try to obtain video from
15 the gentleman getting into the cab. I had video surveillance from
16 the hotel, the cab number and the company. But, unfortunately,
17 cab companies only carry, like, 24 hours. If I can't get within 24
18 hours of that, the video's gone.

19 Q So you did try to go to the cab company?

20 A Yes.

21 Q The video was gone?

22 A Yes.

23 Q What were you just referring to, though, with regard to
24 you had a cab number?

25 A I have a video picture from the -- on the video surveillance

1 in the valet of the suspect getting into the cab.

2 Q So, Detective, I want to go back to this elevator ride, and
3 I'm going to fast-forward kind of to the end. Is it fair to say that the
4 gentleman who you saw bumping the victim doesn't get out of this
5 elevator at a floor?

6 A Correct. He gets in to use the right elevator.

7 Q Okay.

8 [Video played.]

9 Q I went a little too far. What's happening now?

10 A Basically, he's just -- he's -- stand back from the camera
11 and just going through pockets and looking at things.

12 Q Can you tell what he just took out of his pocket?

13 A I couldn't identify for sure if it was a wallet or property
14 belonging to my victim. But, generally, in some cases, I do have
15 that, where they will look at items and stuff.

16 Q Does it all appear to you as though it might have been a
17 cigarette right there too?

18 A Yes.

19 Q So right -- yeah, I reached -- I stopped, I want to get a
20 timestamp here. What is the time when he exits the elevator there?

21 A 1624 hours.

22 Q And in real-people time?

23 A 4:24.

24 Q What time is it now?

25 A 4:26.

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[Video played.]

Q So that individual who left the elevator goes to get in a cab within how much time?

A About two minutes.

Q Two minutes? And when you said you had the cab number, is this how you got it?

A Yes.

[Video played.]

Q As far as the stores, do you recall which store it was off the top of your head?

A I do not recall.

Q Would Target sound familiar?

A Yes.

Q Is there something special or different about Target when you try to contact them?

A They're -- it's very difficult to get surveillance in a timely manner. In order to get surveillance, I probably have to do a grand jury subpoena, which takes quite a bit of time.

Q So, essentially, you know, some stores are easier to work with, some stores are harder; where would you put Target?

A I'd put it on more difficult level.

Q Eventually, while you were waiting for that, are you able to identify the suspect in the elevator?

A Yes, I am.

Q And who was the suspect in the elevator?

1 A Andrew Young.

2 Q Do you see Andrew Young here in court today?

3 A Yes, I do.

4 Q Would you please point to him and identify an article of
5 clothing?

6 A With the white shirt and a dark tie.

7 Q Thank you.

8 MR. BROOKS: Your Honor, let the record reflect
9 identification of the defendant.

10 THE COURT: It will.

11 BY MR. BROOKS:

12 Q And, Detective, without, like, going into detail or anything,
13 is it fair to say you identified him from this video surveillance with
14 you and several together detectives and looking at a bunch of
15 surveillance for a period of time?

16 A Yes.

17 Q Thank you.

18 MR. BROOKS: Nothing further. Pass the witness.

19 THE COURT: Mr. Fischer.

20 MR. FISCHER: Yes, thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 BY MR. FISCHER:

23 Q I won't be too hard on you, Detective. It's late in the day,
24 you're tired, I'm sure. How are you?

25 A Good.

1 Q Okay. Just a few follow-up questions to the State's
2 questioning on direct.

3 So you're -- let me back up for a little bit, Detective. So
4 your primary -- what is it -- are you -- you're a property crimes
5 detective? Or what's your primary function or what was it at the
6 time?

7 A We handle crimes that are not handled by our specialized
8 units. Anything that doesn't amount up to murder, sexual assault,
9 retail robbery, stuff like that. So I can be anything up -- from
10 property all the way up to that.

11 Q So could we -- would it be a correct call it theft crimes,
12 generally; is that one way to refer to it or is that not --

13 A No, that -- we handle quite a bit more than just theft.

14 Q It's a little broader than that?

15 A Little broader, yes.

16 Q Okay. All right. But in this case, you -- that's what you
17 were investigating were essentially theft crimes, would you agree?
18 Larcenies?

19 A For this particular case, yes. That's what I was
20 investigating.

21 Q Yeah, I'm not saying that's what your -- in general, you're
22 not limited to that type of case, but that's what was being --

23 A That's what I was investigating --

24 Q Investigating --

25 A -- was assigned, yes.

1 Q Correct. All right.

2 And so in the context of your investigation, you come
3 upon a suspect by the name of -- or the name you come across is
4 somebody by the name of Andrew Young; is that correct?

5 A Correct.

6 Q And that name is not known to you independently when
7 you learn of it; is that correct?

8 A Correct.

9 Q That names comes to you as part of your investigation
10 from another detective; is that correct?

11 A Correct.

12 Q Okay. And that's all done in the context of your review of
13 this surveillance video that we've all watched, together, correct?

14 A Correct.

15 Q Okay. And then, obviously, detectives talk and they talk
16 about potential suspects, because your end goal is to solve crimes,
17 correct?

18 A Correct.

19 Q And that's what happened here?

20 A Correct.

21 Q Okay.

22 MR. FISCHER: I think that's all I have, Your Honor. Thank
23 you.

24 THE COURT: Okay.

25 MR. FISCHER: Oh, actually, no, I do want to back up. One

1 more question.

2 BY MR. FISCHER:

3 Q So you did -- you -- there's a report, you remember
4 drafting a declaration of arrest report?

5 A Uh-huh. Yes, I do.

6 Q Yeah. Okay. All right. And if I need you to -- if you need
7 to refresh your recollection, let me know. But you also referenced a
8 particular event number through which you were comparing
9 surveillance to develop probable cause as to your suspect. And I --
10 it -- there's -- it's a long, lengthy number. I don't know if you --
11 maybe you should look at it, because I'm going to have a -- just a
12 follow-up question to that.

13 MR. FISCHER: May I approach the witness, Your Honor?

14 THE COURT: Yes.

15 BY MR. FISCHER:

16 Q And this is --

17 MR. BROOKS: Counsel, what is the last four, just so I
18 know.

19 MR. FISCHER: I'm just referring back to the original report
20 that -- or the one that's the last four, 1103. So the Walmart. Yeah,
21 uh-huh. Okay.

22 May I approach the witness, Your Honor?

23 THE COURT: Yeah.

24 BY MR. FISCHER:

25 Q Detective, go ahead and take a look. There is some

1 highlights in there. If you could just take a glance at that for me. If
2 you want to look at the front page to make sure that's all true.

3 A Sure.

4 Q Or at least the copies.

5 MR. BROOKS: And, Judge, can we approach?

6 THE COURT: Sure.

7 [Bench conference transcribed as follows.]

8 MR. FISCHER: Well, at least he's not showing me mercy
9 right at the outset, so.

10 MR. BROOKS: So the only reason I brought --

11 MR. FISCHER: Yeah.

12 MR. BROOKS: -- in the back is because -- so Detective
13 Cipriano wasn't going to testify today. I was going to do just
14 Jacobitz. But --

15 MR. FISCHER: Oh, so he hasn't --

16 MR. BROOKS: -- I think --

17 MR. FISCHER: I see where you're going.

18 MR. BROOKS: Well, I didn't particularly love, Jacobitz
19 says, like, Okay, I'll just bring in Cipriano too for his event.

20 MR. FISCHER: Yeah.

21 MR. BROOKS: But what I was so --

22 MR. FISCHER: And you know what I'm trying to do.

23 MR. BROOKS: Well, yes, the --

24 MR. FISCHER: I just establish that connection, that's it.

25 MR. BROOKS: But I didn't tell you --

1 MR. FISCHER: Okay.

2 MR. BROOKS: -- and so I don't know that you've looked at

3 the event numbers as closely, because you --

4 MR. FISCHER: Yeah, yeah. No, no. And that's where, I

5 mean --

6 MR. BROOKS: The event number you just referenced --

7 MR. FISCHER: Yeah.

8 MR. BROOKS: -- is the attempt murder.

9 MR. FISCHER: I'm trying to reference the one that's the --

10 MR. BROOKS: I know what you were.

11 MR. FISCHER: Oh, thank you.

12 MR. BROOKS: But Cipriano --

13 MR. FISCHER: Well, thank you. Yeah.

14 MR. BROOKS: Cipriano was --

15 MR. FISCHER: That would have been a mistrial. So.

16 MR. BROOKS: Yeah. Cipriano was crucial in the attempt

17 murder. So the reason he's being kind of like flighty --

18 MR. FISCHER: Okay. Okay.

19 MR. BROOKS: -- his -- and the reason I said, Hey, you

20 reviewed hours and hours of surveillance --

21 MR. FISCHER: [Indiscernible] severance, that would have

22 been it. That would have been awesome.

23 MR. BROOKS: Well, it's -- yeah. So when I said what's

24 the event number? That's what it was.

25 MR. FISCHER: Yeah. Thanks, Parker. Yeah. All right.

1 MR. BROOKS: He didn't do it through the Walmart.
2 MR. FISCHER: Okay.
3 MR. BROOKS: And that's why I didn't it with Jacobitz
4 either.
5 MR. FISCHER: Oh.
6 MR. BROOKS: He didn't do it through Walmart. They did
7 it --
8 MR. FISCHER: What am I notching it up wrong with? And
9 on my own paperwork, because I looked at my notes, I must have
10 something wrong.
11 MR. BROOKS: They did it mainly through the fusion
12 watch and through a Cosmo video with him walking through
13 Cosmo wearing the same outfit.
14 MR. FISCHER: Okay.
15 MR. BROOKS: So I just didn't --
16 MR. FISCHER: Are you sure that 1101 at that matches up
17 to the attempt murder? I have it as matching up to the --
18 MR. BROOKS: On the top of my head, I think the Walmart
19 ones [indiscernible].
20 MR. FISCHER: Because I have it on my -- my notes very --
21 I double-checked that. And the only reason it's really -- if it' s-- if I'm
22 correct, it's really important that I get to make that point
23 [indiscernible] --
24 THE COURT: Go for it.
25 MR. FISCHER: But if I'm wrong, then, you know, that's

1 why I don't know --

2 THE COURT: Well, just somebody double-check.

3 MR. FISCHER: Definitely want to -- I mean, can you help
4 with making sure that it's not? Because we both don't want a
5 mistrial over this. So.

6 MR. BROOKS: Just ask him yes -- yeah, I can go look. But
7 you can also say, like, yes or no --

8 MR. FISCHER: Yeah.

9 MR. BROOKS: -- was it the Walmart event? Because he
10 might just say the Cosmo event, which this jury's not going to hear
11 what the Cosmo --

12 MR. FISCHER: Yeah. All right.

13 MR. STANTON: And you're getting --

14 MR. FISCHER: Yeah.

15 MR. STANTON: -- Mr. Fischer --

16 MR. FISCHER: Yeah.

17 MR. STANTON: -- it's my opinion --

18 MR. FISCHER: Yes. Yes.

19 MR. STANTON: -- you're getting precariously close --

20 MR. FISCHER: Yes.

21 MR. STANTON: -- when you ask detectives that they
22 made the ID by talking to one another and looking at videos --

23 MR. FISCHER: Yeah.

24 MR. STANTON: -- because then, in --

25 MR. FISCHER: Yeah.

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MR. STANTON: I gave him --

MR. FISCHER: Yeah. Well, you know where I'm going to with that, so yeah.

MR. STANTON: Well, yeah. But I also know I'm hitting him, telling him, Look, if you're claiming that they didn't look at enough --

MR. FISCHER: Yeah.

MR. STANTON: -- or they jump to conclusions and they're making a misidentification, which --

MR. FISCHER: Yeah.

MR. STANTON: -- is what your argument --

MR. FISCHER: Yeah. Right.

MR. STANTON: -- to this jury's going to be --

MR. FISCHER: Right. Right.

MR. STANTON: -- then he's properly -- State's properly entitled to say how many videos did you review? Now, maybe not the subject matter of it --

MR. FISCHER: Right.

MR. STANTON: -- because that's been severed.

MR. FISCHER: Right.

MR. STANTON: But you're -- in my opinion, you're getting precariously close to --

MR. FISCHER: Yeah, it opens it up. But I'm being put in the position, you know. But, yeah, I appreciate that. Yeah. Yeah.

MR. STANTON: Whatever your position is --

1 MR. FISCHER: Yeah. Yeah.

2 MR. STANTON: -- you have to make the election how you
3 want to defend this case.

4 MR. FISCHER: Right.

5 MR. STANTON: And if you're defending this based upon
6 that the police are doing an insufficient investigation or jumping to
7 conclusions --

8 MR. FISCHER: Okay.

9 MR. STANTON: -- then the State's remedy for that is to
10 ask the detectives how many did you look at it? How long did you
11 look at them? And it's not just these events that --

12 MR. FISCHER: Yeah.

13 MR. STANTON: -- we're on trial for. So --

14 MR. FISCHER: So then we have to have a *Petrocelli*.

15 MR. STANTON: No, we're not having a *Petrocelli*.

16 MR. FISCHER: Right.

17 MR. STANTON: Because I think you're opening the door.

18 So --

19 MR. FISCHER: Okay. All right. Well, if that's where you
20 want to go, maybe we can do that too. We'll see.

21 THE COURT: Sorry, State.

22 MR. FISCHER: Siri doesn't agree with you.

23 MR. STANTON: Yeah, so.

24 MR. FISCHER: But that's cool.

25 THE COURT: All right.

1 MR. FISCHER: I can do it.

2 MR. STANTON: Okay?

3 MR. FISCHER: All right.

4 THE COURT: Okay.

5 MR. FISCHER: So I mean, so I -- but I still think it's in
6 everyone's interest to make sure that the event number relates,
7 otherwise it is a mistrial caused by me.

8 THE COURT: Okay.

9 [End of bench conference.]

10 MR. FISCHER: Detective, if you could hang tight, I just
11 need to make sure that we have some information correct before
12 we proceed. Okay?

13 THE WITNESS: Uh-huh.

14 [Pause in proceedings.]

15 MR. FISCHER: If I may approach the witness?

16 THE COURT: Yeah.

17 [Pause in proceedings.]

18 BY MR. FISCHER:

19 Q So the question is very specific. If you could take a look at
20 the -- your report. In terms of what you referred to the event
21 number being that you developed your probable cause from
22 through Detective Byrd. Do you see that?

23 A Yes, I see that.

24 Q Okay. And is it correct that that particular event number
25 relates back to a misdemeanor citation warning, to your

1 knowledge?

2 A To my knowledge, I can't say what number directly relates
3 back to what has been. I mean, that event number is what -- how
4 each one of our cases are identified, and every one has a specific
5 number to it. So I do know generally of the cases that -- the event
6 numbers that I listed, but I can't tell you exactly what number
7 belongs to what case.

8 Q All right. Officer, so if I could approach you with just two
9 things, and this might help refresh your recollection as to my
10 question.

11 A Okay.

12 Q So I'm showing you one is a -- just a misdemeanor
13 citation I'm sure you've seen many.

14 A Yes.

15 Q And a misdemeanor warning. Take a look at those.

16 A Yes.

17 Q So it's no trick question, it's just really a simple -- that
18 particular event number relates back to --

19 A To a petty larceny --

20 Q -- to a petty larceny --

21 A Correct.

22 Q -- event.

23 Thank you so much, Detective. That's all I have.

24 THE COURT: Redirect?

25 ///

1 **REDIRECT EXAMINATION**

2 BY MR. BROOKS:

3 Q Detective Cipriano, I'm going to ask you some questions,
4 just yes or no.

5 A Yes.

6 Q We just kind of discussed a little bit about the
7 misdemeanor event number and citation. Is it fair to say that your
8 identification of Andrew Young was not solely based on that
9 misdemeanor citation, and rather was based on hours or a lot of
10 video surveillance footage?

11 A Yes.

12 Q Thank you. Nothing further.

13 MR. FISCHER: Just a follow-up, Your Honor.

14 THE COURT: Sure.

15 **RECROSS-EXAMINATION**

16 BY MR. FISCHER:

17 Q And that's an ongoing process in your job as you're
18 investigating cases; is that correct? I mean, you're always looking
19 for suspects, correct? So you're always reviewing surveillance
20 footage in the context of these types of crimes, correct?

21 A Yes.

22 Q Thank you.

23 THE COURT: Anything from the jurors?

24 Detective, thank you for your testimony. Please don't
25 share it with anyone else involved in the trial. But you are excused.

1 Thank you.

2 MR. BROOKS: Judge, can we take our afternoon break for
3 the day? And then I think we have just one last one today.

4 THE COURT: Yeah. All right. Ladies and gentlemen, we'll
5 take a 15-minute recess.

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

17 It is 3:07. So I'll see you out there about 4:23-25. Thank
18 you.

19 [Court recessed at 3:08 p.m., until 3:26 p.m.]

20 [In the presence of the jury.]

21 THE COURT: We're back on the record in State of Nevada
22 versus Andrew Young, C-350623. Mr. Young is present with his
23 attorney Mr. Fischer, both deputy district attorneys, Mr. Stanton as
24 well as Mr. Brooks, are present for the State. Do the parties
25 stipulate to the presence of the jury?

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MR. FISCHER: Yes, Your Honor.

MR. BROOKS: Yes, Your Honor.

THE COURT: All right. State, next witness.

MR. BROOKS: The State calls Kristen Trock.

KRISTEN TROCK,

[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: Kristen, K-R-I-S-T-E-N, Trock, T-R-O-C-K.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. BROOKS:

Q Ma'am, how are you employed?

A I work for GameStop.

Q And in what capacity?

A I run the stores, I'm the store leader.

Q I'm sorry, I --

A Oh, I run the store, so I'm the store leader.

Q Okay. And how long have you been the store leader?

A That store I've been for two years.

Q Two years? And have you worked in retail at all before that?

A Yes. I've ran multiple GameStops for the past 10-11 years.

Q This isn't relevant whatsoever, but the recent GameStop

1 frenzy in the news, did it make life more fun at all or interesting?

2 A It got more busy for us.

3 Q Now, turning your attention to two different events; do
4 you recall two different events that bring us here at court today?

5 A Yes, I do.

6 Q Did they occur during the summer months of 2020?

7 A Yes. July and August.

8 Q And could I initially turn your attention -- let's work with
9 the July 23rd, 2020, date. What, initially, were you asked to do and
10 by whom?

11 A On the 2020 date, is -- I believe that is the day that they
12 asked me to get the surveillance for a customer that used a credit
13 card in someone else's name.

14 THE COURT: And then could you just speak up just a bit?

15 THE WITNESS: Oh, yes. Sorry.

16 THE COURT: No, that's okay. Thank you.

17 BY MR. BROOKS:

18 Q And when you say they, did some officers come to the
19 store?

20 A Yes. Two detectives.

21 Q And did they ask you first to pull surveillance video or was
22 first to pull a receipt?

23 A First to pull receipts, actually, with my other employee.
24 And then when I got there, they asked me if we could pull up the
25 surveillance, because I had access to that.

1 Q Did you pull both eventually?

2 A Yes, I did pull both.

3 MR. BROOKS: Your Honor, may I approach the witness
4 with State's Exhibit 17?

5 THE COURT: Yes.

6 MR. BROOKS: 15.

7 BY MR. BROOKS:

8 Q Showing you Exhibit 15; do you recognize what we're
9 looking at right there?

10 A Yes, I do.

11 Q What is it?

12 A It is a receipt that I did on the 23rd.

13 Q And in your job and duties and responsibilities, do you
14 have the ability to pull receipts and pull video surveillance, rewind,
15 record, download, within a reasonable timeframe if someone
16 comes and asks you to?

17 A Yes, if it is in the reasonable timeframe, I can pull receipts
18 and the video.

19 Q And does this fairly and accurately depict the receipt that
20 you provided to the detectives July 23rd, 2020?

21 A Yes.

22 Q After that?

23 A Yes.

24 MR. BROOKS: Your Honor, State moves for admission of
25 Exhibit 15.

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THE COURT: Mr. Fischer?

MR. FISCHER: No objection, Your Honor.

THE COURT: Okay. That'll be admitted.

[State's Exhibit Number 15 admitted.]

BY MR. BROOKS:

Q Kristen, I'm going to try to put this one here and zoom in so that we can talk about different portions of it. So take me through those top two lines; what am I learning when I look at those top two lines?

A The top two lines is the beginning of the transaction number, which would be Number 11, the date, which is July 23rd, '20, and then it would be the time for 1402, which is military on there. And then the second line is an employee ID number, the name of the associate, which those match mine. Then it would be the store number, 3795, and then the slash-02 means it was on Register 2.

Q This transaction, does -- because your name's there and that register, were you the one who actually facilitated this transaction?

A Yes, I was.

Q And did you pull video surveillance and give that to the officers?

A Yes, I did.

MR. BROOKS: Your Honor, State moves for the admission of Exhibit 7.

1 THE COURT: Have you had an opportunity to look at
2 Exhibit 7?

3 Is it stipulated in, Mr. Brooks or --

4 MR. BROOKS: No, Your Honor. This would have been the
5 video surveillance from GameStop that she got to the officers under
6 her responsibility as a custodian of record.

7 THE COURT: Okay.

8 MR. FISCHER: No objection, Your Honor.

9 THE COURT: Okay. Great. Thank you.
10 That'll be admitted. Permission to publish, go ahead.

11 [State's Exhibit Number 7 admitted.]

12 [Video played.]

13 BY MR. BROOKS:

14 Q Kristen, the first view I want to show you, what view is
15 this?

16 A That is the view from the corner, so I can see the entire
17 sales floor.

18 Q And where would the entrance be in this situation?

19 A The entrance would be on the left side. Like, in the left.

20 Q And at the bottom of the screen?

21 A Yes.

22 Q I'm going to fast-forward a bit.

23 [Video played.]

24 Q Right here, where would you be in this video?

25 A I would be at, like, the top screen right in front of -- or

1 right behind the register, concluding the transaction.

2 Q Okay.

3 [Video played.]

4 Q See the man exiting?

5 A Yes, I do.

6 Q Is he the man that you just helped?

7 A Yes, it is.

8 Q What kind of clothing -- could you describe his clothing
9 that he was wearing?

10 A Yes. He was wearing blue shorts with white on them, and
11 then a gray or black t-shirt.

12 Q That view that -- I'm going to rewind it here.

13 [Video played.]

14 Q Kristen, I'm going to try to reboot this. Hold on.

15 [Pause in proceedings.]

16 [Video played.]

17 Q The man who just walked into the store --

18 A Yep.

19 Q -- is he the one that you were referring to that we were
20 just watching walk out?

21 A Yes, it is.

22 Q All right. I want to show you another view, fast-forward in
23 this video. Do we eventually see that person walk out?

24 A Yes, you will, on the camera of the Strip.

25 [Video played.]

1 Q So the timestamp, I want to talk about the timestamp.
2 What is the timestamp on the video?

3 A It says 1347.

4 Q Is there something that needs explanation to the ladies
5 and gentlemen of the jury between the timestamp on that video
6 and the timestamp on the receipt, which would show 1402
7 or 2:02 p.m.?

8 A Yes. The timestamp on the DVR does not match the
9 timestamp on my receipt papers.

10 Q And is that something you know and have dealt with?

11 A Yes. I do know that.

12 Q Is it also not only just sometimes slow, but sometime fast
13 and sometime daylight savings time and all kind of issues?

14 A Yes, it can be. We could have technical issues with the
15 times.

16 Q However, the receipt, is that accurate?

17 A Yes. The receipt is the most accurate, because it matches
18 our computer system.

19 [Video played.]

20 Q Do you see yourself in this video?

21 A Yes, I do.

22 Q What are you doing?

23 A I'm ringing the transaction up for the gentleman.

24 Q Are you facilitating the transaction for the receipt that we
25 just went through?

1 A Yes, I am.

2 Q Does GameStop have a policy with regard to checking IDs
3 during a transaction?

4 A Only if it tells us to. If it's a chip, it will not signal us to
5 check for IDs.

6 Q So if someone goes to a GameStop, at least here in the
7 Las Vegas area, and does a chip transaction, no ID needs to be
8 shown?

9 A No, it won't signal to us to check ID with the last four
10 digits of the code.

11 Q If a swipe occurs, sometimes would they have to show an
12 ID?

13 A Yes. If a swipe occurs, it will pop up on our registers that
14 we need to check that ID with the last four of the card number.

15 Q The person that you're waiting on here in the
16 blue-and-white shorts, is that a male or a female?

17 A That's a male.

18 Q So, now having looked at the receipt, does that person
19 match the name on the receipt?

20 A No. Because the name on the receipt was a female.

21 Q And on Exhibit 15, is it Barbara Bowen?

22 A Yes, it is.

23 Q I want to ask you a question, I'm going to stop this video
24 and switch back to the ELMO here.

25 Kristen, explain to me right here -- trying to zoom in and

1 keep it on the -- what's the relevance above the Barbara Bowen?

2 What's this relevance of these four digits?

3 A That is the Visa credit card number that they used to
4 purchase it.

5 Q So that was the credit card attached to Barbara Bowen's
6 name?

7 A Yes.

8 Q And what was purchased?

9 A It was a vanilla Visa card for \$450. But we do charge a
10 service fee on there of \$5.95.

11 Q So what is a vanilla Visa card?

12 A It's just a universal Visa card you can use at any store, you
13 just load it up with however much you want and, essentially, you
14 can use it online, you can use it at Walmart, Target, wherever they
15 take a Visa card.

16 Q How would you choose the value?

17 A You tell us the value.

18 Q So that person tells you what -- how much they want the
19 value for --

20 A Yes.

21 Q -- and then once the chip process goes through, it goes
22 from that Barbara Bowen card with those last four digits of 4527
23 onto a vanilla Visa card?

24 A Yes.

25 THE COURT: How much is the max you can put on a

1 vanilla Visa?

2 THE WITNESS: At that time it was 500.

3 BY MR. BROOKS:

4 Q And this transaction was for what?

5 A 450.

6 Q I want to move to the August 1st, 2020, date. Do you
7 recognize State's Exhibit 17?

8 A Yes.

9 Q Did you also pull this receipt for detectives?

10 A Yes, I did.

11 Q Under the same job duties and capabilities we went over
12 earlier?

13 A Yes.

14 MR. BROOKS: Your Honor, State moves for admission of
15 Exhibit 17.

16 THE COURT: Mr. Fischer?

17 MR. FISCHER: Which one is that? I'm sorry, State.

18 MR. BROOKS: On this --

19 MR. FISCHER: Oh, yes. No objection, Your Honor.

20 THE COURT: Okay. That'll be admitted. Permission to
21 publish.

22 [State's Exhibit Number 17 admitted.]

23 BY MR. BROOKS:

24 Q Kristen, I want to show you the top of this receipt. Tell me
25 what is different and what is that indicating to you about these top

1 four lines?

2 A The difference is -- it's a different date than the previous
3 one, it was a different transaction number, a different time, a
4 different employee, and different register.

5 Q What -- how do you know it's a different register?

6 A Oh, on the second line where it says 3795-01, that means
7 it was done on my Register 1.

8 Q And what time did the transaction occur?

9 A 1332.

10 Q If we were to look at the video, would it be delayed by 15
11 minutes, similar to the last one?

12 A Yes, it will be.

13 Q What was purchased?

14 A Another vanilla Visa card.

15 Q In whose name?

16 A The last name was Boone.

17 Q And I guess I worded that correctly, when I say whose
18 name, I meant with whose credit card?

19 A Oh, Montho Boone.

20 Q Yes. And what were the last four digits of that?

21 A 3609.

22 Q So when Montho Boone's credit card purchases this
23 vanilla Visa card, that's not attached to Montho Boone's name,
24 right?

25 A No.

1 Q That's just to use similar to cash?

2 A Yes. And they would just chip their card in there of what
3 they did, and then they are transferring the funds from that card
4 onto a vanilla Visa card.

5 Q Does the vanilla Visa card kind of act like a bearer
6 instrument at that point, and whoever has it can use it?

7 A Yes, they can use it anywhere.

8 Q Were the officers able to request and were you able to pull
9 video surveillance from this August 1st, 2020, transaction?

10 A Yes, I was.

11 Q If I showed you the beginning of it, would you recognize
12 it?

13 A Yes.

14 [Video played.]

15 Q Kristen, do you see yourself in this video?

16 A Yes, I do.

17 Q Where?

18 A I am leaning up against the counter.

19 Q Front counter or back counter?

20 A Oh, back counter.

21 Q And was this the video you pulled for officers?

22 A Yes, it was.

23 MR. BROOKS: Your Honor, State moves for this --
24 admission of this exhibit.

25 THE COURT: Mr. Fischer?

1 MR. FISCHER: No objection.

2 THE COURT: It'll be admitted.

3 [State's Exhibit Number 10 admitted.]

4 BY MR. BROOKS:

5 Q Kristen, where are you going to go now in this video?

6 A I go to the back room to grab something.

7 Q Does this video show that the transaction occurs on the
8 different register, like you said it would?

9 A Yes, that is my Register 1.

10 Q Who's the clerk in this one?

11 A That -- her name is Jessica Hall.

12 Q And the person she's helping on -- helping, do you
13 recognize that person from your prior dealing with them?

14 A Yes, I did.

15 Q Is that person wearing the same and similar clothing as to
16 when you dealt with him on July 23rd?

17 A Yes.

18 Q Is that you who came back out?

19 A Yes.

20 Q Okay. And the timestamp of 1316 is delayed by
21 roughly 15 minutes?

22 A Yes.

23 Q I shouldn't have tried to rewind it, it went dead again. So
24 I'm going to show you Exhibits 20 and 21, and then ask you a
25 couple of questions about them.

1 Do you recognize, generally, what's depicted in 20?

2 A There's a GameStop, and then right across is Sam's
3 Town, kind of just, like, a map of everything.

4 Q I meant does that map --

5 A Oh.

6 Q -- in the overhead area look familiar to you?

7 A Oh, yes, it does.

8 Q Do you recognize the GameStop that you worked at there?

9 A Yes.

10 Q And is this, in Exhibit 21, the same overhead, just without
11 roads?

12 A Yes, it is.

13 Q Does that fairly and accurately depict the three stores and
14 where they are located?

15 A Yes.

16 MR. BROOKS: State moves for admission of Exhibits 20
17 and 21.

18 THE COURT: Mr. Fischer?

19 MR. FISCHER: Objection, Your Honor.

20 THE COURT: They'll be admitted.

21 [State's Exhibit Numbers 20 and 21 admitted.]

22 BY MR. BROOKS:

23 Q Kristen, I just wanted you to briefly take us through the
24 distances that it would be and how long it would take to walk from
25 the Walmart to your place and/or your place to Walgreen's?

1 A Oh, running the store. We take care of all the customer
2 issues, taking care of the cash management, going to the bank,
3 getting change, handling customer issues, looking through our
4 inventory, making sure it's correct, training, hiring, processing,
5 shipment.

6 Q So sounds like you basically run the store; is that right?

7 A I do everything.

8 Q Okay. So you -- are you also responsible for the video
9 surveillance then?

10 A Yes, I am. I have the key for it and I can go ahead and
11 open it up and we put a password in.

12 Q So it would only be you that would have access to it and
13 that's --

14 A Yes.

15 Q -- what, in fact, happened here; is that correct?

16 A Yes.

17 Q Okay. And there was some surveillance the State showed
18 you, you had some comments about -- was that surveillance you
19 provided to Metro; is that correct?

20 A Yes.

21 Q Las Vegas Metropolitan Police? Okay. Presumably, that
22 was then turned over to the State and shown here today, correct?

23 A Yes.

24 Q But you were the original person who provided it?

25 A Yeah.

1 Q So just a few follow-up questions. So we, basically, are
2 talking about two different incidents. One occurs July -- is that 29?
3 Could have on the date. Apologies, getting late in the day.
4 GameStop, July 23. That's what I was trying to get to. Okay.

5 So July 23 is one incident video we seek; is that correct?

6 A Yes.

7 Q Okay. And then you also have a subsequent one which
8 happens approximately -- is it a little bit over a week later,
9 August 1st, 2020?

10 A Yes.

11 Q Does that sound correct to you? Okay. Thanks.

12 So you talked about some store policies with respect to
13 when identification is required; do you remember that -- those
14 questions from the State or --

15 A Yes.

16 Q -- some of your answers?

17 And you would know, because you're, essentially, running
18 the store; is that correct?

19 A Yes.

20 Q And that's what happened in this instance, you'd say that
21 on July 23, that you make a sale that could go to the State's
22 Exhibit 15.

23 MR. FISCHER: If I could see that, Madam Clerk, State's
24 Exhibit 15.

25 THE CLERK: Which one?

1 MR. BROOKS: David, I left them right there.

2 MR. FISCHER: Oh, they're right in front of me. It is late,
3 even with glasses. Okay.

4 BY MR. FISCHER:

5 Q Can you see that okay?

6 A That's good.

7 Q Yes?

8 A Yeah.

9 Q Can you see it?

10 A Yeah.

11 Q Okay. So -- and this -- so this is one of the receipts that
12 was referenced in that. The date on that is what?

13 A July 23rd, '20.

14 Q Okay. And that's for an amount -- in total of 455.95; is that
15 correct?

16 A Yes.

17 Q And the item purchased is for \$450.00, right?

18 A Yes.

19 Q And then there's another charge for a Visa activation
20 of 500 and -- or, excuse me, \$5.95; is that correct?

21 A Yes.

22 Q And in order for this purchase to be made, you require no
23 identification; is that correct?

24 A Yes.

25 Q So and that would be mean that you would not require

1 somebody to provide something verifying who they are, this is in
2 general terms; is that correct?

3 A As long as the computer says -- doesn't ask us for it --

4 Q Yeah.

5 A -- we don't ask them.

6 Q Okay. No problem.

7 Okay. So -- and then this is a transaction that you
8 personally, when we saw you identified yourself on video as being
9 the person who rang up this transaction; is that correct?

10 A Yes.

11 Q All right. And then we go about eight days later. This is
12 State's Exhibit 17. Let's take a look at this one. And then this is
13 now for an amount -- again, this is a vanilla Visa card?

14 A Yes.

15 Q Right? And -- now, this one is for a value of -- the receipt
16 shows 475; is that correct?

17 A Yes.

18 Q Okay. And then it again shows \$5.95 in a Visa activation
19 fee --

20 A Yes.

21 Q -- is that correct?

22 A Yes.

23 Q Okay. And the total being \$480.95.

24 A Yes.

25 Q Okay.

1 MR. FISCHER: I have nothing further, Your Honor.

2 THE COURT: Okay. Redirect?

3 MR. BROOKS: No, Judge.

4 THE COURT: Any questions from the jurors?

5 Parties in the back, please.

6 We'll be right back.

7 [Bench conference transcribed as follows.]

8 THE COURT: All right. Juror Number 11: At what point
9 did you realize it was a woman's name on the credit card? Number
10 one.

11 Number two, do chipped credit cards require a PIN to be
12 entered?

13 Number three, do you remember Mr. Young buying a Visa
14 card?

15 Anybody have any objections to any of these?

16 MR. FISCHER: Well, if he -- she doesn't ID him at any
17 point. So --

18 THE COURT: Do you want to be: Do you remember the
19 individual in the video?

20 MR. FISCHER: Sure. Yeah, I guess. I just don't want it
21 to --

22 THE COURT: Yeah, understood.

23 MR. FISCHER: -- the very reasons we kind of were
24 avoiding it, because they're -- the State -- that could open some
25 issues. So, right? And then if I wanted to inquire into that. So --

1 because he's kind of a known vagrant there, is that -- I mean --

2 MR. STANTON: I don't know what you mean by a known
3 vagrant.

4 MR. FISCHER: Yeah.

5 MR. STANTON: If your question is do they know him
6 because he comes in because he's boosting all these different cards
7 and --

8 MR. FISCHER: Yeah.

9 MR. STANTON: -- converting them at GameStop?

10 MR. FISCHER: Yeah.

11 MR. STANTON: I mean, you would know better from
12 maybe talking to your client than we do. But my guess is he's
13 probably there on a regular basis. So.

14 MR. BROOKS: And we're --

15 MR. FISCHER: Well, that's what we know, that that's what
16 she would say. And that's what I'm trying to avoid.

17 THE COURT: Okay.

18 MR. STANTON: Well, I don't know that that's what
19 she's --

20 MR. FISCHER: Yeah, we talked to her.

21 MR. BROOKS: She would --

22 MR. FISCHER: Yeah.

23 MR. BROOKS: She was shown photos --

24 THE COURT: Uh-huh.

25 MR. BROOKS: -- from a -- from the Walmart incident --

1 THE COURT: Uh-huh.
2 MR. BROOKS: -- which would -- Count 21.
3 THE COURT: Uh-huh.
4 MR. FISCHER: Yeah.
5 MR. BROOKS: She's, like, oh, yeah, I know that guy. He
6 comes in and buys Visa gift cards. So I just --
7 THE COURT: So don't ask three.
8 MR. BROOKS: It could be, yeah.
9 THE COURT: Okay. We'll ask 1 and 2, then. Sounds
10 good.
11 MR. FISCHER: Sounds good.
12 THE COURT: That's it for today, right?
13 MR. FISCHER: I hope so.
14 MR. STANTON: Yes.
15 MR. FISCHER: I don't know the answer to all this stuff.
16 I'm just trying to do it right for the record.
17 [End of bench conference.]
18 THE COURT: All right. A few questions for you.
19 At what point did you realize it was a woman's name on
20 the credit card?
21 THE WITNESS: Not until the detectives asked me to pull
22 all the receipt paper.
23 THE COURT: Okay. And do chipped credit cards require a
24 PIN to be entered?
25 THE WITNESS: I don't believe that one did.

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THE COURT: You don't believe that that one did?

THE WITNESS: Yeah.

THE COURT: Okay. Follow-up by the State?

FURTHER EXAMINATION

BY MR. BROOKS:

Q Kristen, we watched the video. Fair to say he doesn't enter a PIN, it accepts it with just the chip insertion, correct?

A I believe so, from the video.

MR. BROOKS: Nothing further, Your Honor.

THE COURT: Defense?

MR. FISCHER: Nothing, Your Honor. Thank you.

THE COURT: All right. Ma'am --

THE WITNESS: Oh.

THE COURT: -- just -- that's okay, just one second.

THE WITNESS: So sorry.

THE COURT: That's okay.

Please don't share your testimony with anyone else involved in the trial. But you are free to leave.

THE WITNESS: Thank you.

THE COURT: Thank you for coming in today.

All right. Ladies and gentlemen, that is going to be it today for testimony. We'll come back. There's some court in the morning for the attorneys. So we'll come back tomorrow morning at 9:30.

During this recess you must not discuss or communicate

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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 on your own, or form or express any opinion regarding this case until the matter is finally submitted to you.

I'll see you tomorrow morning at 9:30. Thank you.

[Court recessed at 3:56 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

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREW YOUNG,)	NO. 83243
)	
Appellant,)	
)	
vs.)	
)	
THE STATE OF NEVADA,)	
)	
Respondent.)	

APPELLANT'S APPENDIX

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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, 2021.

