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7 IN THE SUPREME COURT OF THE STATE OF NEVADA

8 ANDREW YOUNG,
9 Appellant,

Case No. 84412

10 vs.

11 THE STATE OF NEVADA,
12 Respondent.

13
14 **APPELLANT'S APPENDIX VOLUME III**

15
16
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THE STATE OF NEVADA

ALPHABETIC APPENDIX FOR APPELLANT'S APPENDIX

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Notice of Appeal filed March 15, 2022	I	AA 023-AA 024
Opposition to the State's Motion in Limine to Admit Evidence Under Res Gestae or Evidence Related to Other Crimes filed April 8, 2021	I	AA 025-AA 037
Order Granting Defendant's Motion to Sever Counts filed April 6, 2021	I	AA 038-AA 041
Order Granting State's Motion in Limine to Admit Evidence Under Res Gestae or Evidence Related to Other Crimes filed April 23, 2021	I	AA 042-AA 045
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10	filed March 29, 2021	IV	AA 710-AA 730
11	Superseding Indictment filed October 1, 2020	IV	AA 731-AA 738
12	Third Amended Superseding Indictment		
13	filed February 2, 2022	IV	AA 739-AA 747
14	Verdict filed February 10, 2022	IV	AA 748-AA 749
15	Video Excerpts: Trial Exhibits 1-34, 36, 37 and 44 ¹		

27 ¹ Videos referenced herein are/were trial exhibits, and a Motion for an Order Directing Production
28 by the district court below is pending before this Court.

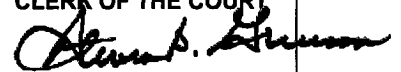
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DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,
vs.
ANDREW YOUNG,
Defendant.

CASE#: C-20-350623-1
DEPT. VI

BEFORE THE HONORABLE JACQUELINE M. BLUTH
DISTRICT COURT JUDGE
THURSDAY, FEBRUARY 10, 2022

RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 3

APPEARANCES

For the Plaintiff: PARKER BROOKS, ESQ.
SKYLER SULLIVAN, ESQ.
For the Defendant: JASON MARGOLIS, ESQ.

RECORDED BY: DELORIS SCOTT, COURT RECORDER

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Las Vegas, Nevada, Thursday, February 10, 2022

[Case called at 9:03 a.m.]

THE COURT: All right. Let's bring them in.

THE MARSHAL: All rise.

[Jury in at 9:04 a.m.]

THE COURT: All right. Good morning, everybody. Welcome back. We are on the record in State of Nevada v. Andrew Young, C-350623. Mr. Young is present with counsel, Mr. Margolis, both chief -- or both Deputy District Attorneys, Ms. Sullivan as well as Mr. Brooks are present on behalf of the State

Will the attorneys stipulate to the presence of the jury?

MS. SULLIVAN: Yes, Your Honor.

MR. MARGOLIS: Yes, Your Honor.

THE COURT: All right. State, next witness, please.

MS. SULLIVAN: State calls Nolle Herring.

THE MARSHAL: You want to take a place up there, remain standing, raise your right hand so she can swear you in.

NOELLE HERRING, STATE'S WITNESS, SWORN

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

THE WITNESS: Noelle Herring, it's N-O-E-L-L-E H-E-R-R-I-N-G.

THE CLERK: Thank you.

DIRECT EXAMINATION

1 BY MS. SULLIVAN:

2 Q Ms. Herring, how are you employed?

3 A I am a senior crime scene analyst with the Las Vegas
4 Metropolitan Police Department.

5 Q And what is a senior crime scene analyst?

6 A AS a crime scene analyst some of our responsibilities
7 includes responding to crime scene, we document crime scenes through
8 photography, report writing, evidence collection, note taking. We
9 respond to property crimes as well as personal crimes.

10 Q And you talk about responding to crime scenes, is there ever
11 an occasion where your response was as a secondary scene

12 A Yes.

13 Q And what is a secondary scene?

14 A A secondary scene can include anything from, like the
15 hospital, the coroner's office, a location where they're doing a search
16 warrant, things like that. Basically anything other than the primary crime
17 scene.

18 Q And what sort of training and experience do you have that
19 allows you to be a CSA?

20 A I do have a bachelor's degree as well as master's degree in
21 criminal Justice. Upon being hired for the crime scene analyst position,
22 we go through a 12-week crime scene investigation academy -- I'm sorry,
23 I misspoke, 8-week academy. Followed by 12 weeks of field training, as
24 well as continual quarterly training on various topics that we handle.

25 Q Now, Ms. Herring, I want to draw your attention to August

1 1st, 2020. Were you working that day?

2 A Yes, I was.

3 Q And at some point in the day were you dispatched to Sunrise
4 Hospital trauma unit?

5 A Sunrise ICU section, yes.

6 Q And was that to photograph an individual by the name of
7 Robert Well?

8 A That's correct.

9 Q And so did you go to Sunrise Hospital?

10 A I did.

11 Q And at any point were you able to make contact with Robert
12 Well?

13 A I did go to the room that was indicated that he was in, yes.

14 Q And what is your typical procedure when you're going to
15 photograph an individual?

16 A Usually when we are requested to go photograph an
17 individual at the hospital there's usually a police officer or a detective. I
18 remember specifically in this incident, the detective had just requested
19 that we go. So I arrived to Sunrise Hospital staff the victim's name, and
20 they directed me as to which room he was in.

21 Q And were you able to speak with Robert Well at all?

22 A I did not speak to him -- or when I went into the room I
23 explained to him who I was and what I was going to do to photograph
24 his injuries. However, he did not respond to me.

25 Q Were you aware if he was able to respond to you?

1 A I am not aware.

2 Q Ms. Herring, I'm showing you what's been previously
3 admitted as State's Exhibit 38, is that the individual you encountered in
4 the hospital?

5 A Yes, it is.

6 Q Who you know as Robert Well?

7 A Correct.

8 Q And did you take this photograph?

9 A I did.

10 Q And when you encountered Robert Well in the hospital, can
11 you explain a little bit about his physical condition?

12 A He was in a hospital bed, he had numerous medical devices
13 attached to him. Again, I introduced myself to him, and he appeared
14 awake, but when I explained to him what I was going to do, photograph
15 his injuries and such, he did not make any sort of response or motion to
16 me.

17 Q Was he able to look at you, anything like that?

18 A I don't recall him making direct eye contact with me, no.

19 Q I'm showing you what's been previously admitted as State's
20 Exhibit 39. Did you take this photograph as well?

21 A I did, yes.

22 Q And is this Robert Well?

23 A That's correct.

24 Q Were there any other things you noticed about his physical
25 condition that caused you to take this photograph?

1 A He had stapled injury to the left side of his head.

2 Q Ms. Herring, did you take additional photographs of Mr.

3 Well?

4 A I did, yes.

5 MS. SULLIVAN: Your Honor, I'm showing Defense Counsel

6 what's been marked State's Proposed Exhibits 40 through 42. May I

7 approach?

8 THE COURT: Yes.

9 [State's Exhibits 40 through 42 marked for identification]

10 BY MR. MARGOLIS:

11 Q Ms. Herring, I'm showing you a few additional photographs.

12 If you could just look at those and let me know when you're finished.

13 A Okay.

14 Q Do you recognize these photographs?

15 A I do.

16 Q Do they appear to be the photographs you took in the

17 hospital?

18 A They are, yes.

19 MS. SULLIVAN: And Your Honor, at this point move to admit

20 State's Proposed Exhibits 40 to 42.

21 THE COURT: Mr. Margolis?

22 MR. MARGOLIS: No objection, Your Honor.

23 THE COURT: All right, those will be admitted.

24 [State's Exhibit 40 through 42 admitted into evidence]

25 BY MS. SULLIVAN:

1 Q And those additional photographs you took of Mr. Will, why
2 did you take these additional photographs?

3 A Those additional photographs show the hospital wrist band
4 that was in place on his wrist, as well as some hospital paperwork that
5 was in the same room bearing his name.

6 Q And did you take those photographs because he wasn't able
7 to speak to you?

8 A Correct. And there was no detective at the hospital when I
9 arrived.

10 Q Showing you State's Exhibit 40. Do you see the hospital
11 bracelet that you were discussing in this photograph?

12 A I do. It's in place on his left wrist.

13 Q And Exhibit 41 is just a closer up view of that hospital
14 bracelet?

15 A That's correct, yes.

16 Q And on the hospital bracelet do you see a date of birth?

17 A Date of birth shows to be 7-19 or '67, yes.

18 Q And Exhibit 42, what is that?

19 A That would be some hospital documentation that was in that
20 same room, bearing his name and the same date of birth.

21 MS. SULLIVAN: Pass the witness.

22 THE COURT: Mr. Margolis?

23 MR. MARGOLIS: A couple of questions, Your Honor.

24 Thanks.

25

CROSS-EXAMINATION

1 BY MR. MARGOLIS:

2 Q Good morning, Ms. Herring.

3 A Good morning.

4 Q You were initially involved in this case well after the incident;
5 is that right?

6 A That's correct. I responded in August.

7 Q So you had no opportunity to view the crime scene on or
8 about July 26th on the Strip?

9 A No, sir.

10 Q And your only contact was to go to the hospital to
11 photograph Mr. Will?

12 A That's correct.

13 MR. MARGOLIS: Thank you. No further questions.

14 THE COURT: Anything else from the State?

15 MS. SULLIVAN: No further questions, Your Honor.

16 THE COURT: Okay. Anything from the jury?

17 All right. Now, please don't share your testimony with
18 anyone else involved in the case. Thank you for coming, you are
19 excused.

20 THE WITNESS: Thank you.

21 MR. BROOKS: Your Honor, the State's next witness would
22 be Detective Byrd.

23 THE COURT: Okay.

24 THE MARSHAL: If you could just remain standing, raise your
25 right hand and face the clerk so she can swear you in.

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TRENT BYRD, STATE'S WITNESS, SWORN

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

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

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. BROOKS:

Q Detective Byrd, how are you employed?

A With the Las Vegas Metropolitan Police Department.

Q And in what capacity?

A A detective in Convention Center Area Command.

Q And prior to being a detective in Convention Area -- Convention Center Area Command, what were you?

A A patrol officer for the Police Department.

Q In what area command?

A Northwest Area Command.

Q What's the difference between those two, could you just generally describe the difference for us?

A Yes. The Police Department's broken up between ten different area commands around the Valley. It makes it that way so it's easier for officers to interact with the public, know witnesses, know citizens, know businesses, it's easier for the cases to be assigned to detectives and for patrol response as well. It's a lot faster for them to respond to calls.

Q And is there a name that occurred to basically cause the

1 patrol detectives to be stationed in each area command?

2 A Yes. There was. In 2015, there was a decentralization, which
3 broke up a lot of the centralized bureaus to such as like violent crimes
4 and gangs, they went to area commands instead of working out of
5 headquarters.

6 Q And the only ones that stayed in headquarters, is it fair, were
7 homicide, sex assault and some other ones, but those are the main?

8 A That's correct.

9 Q Does decentralization allow you to have very familiarity with,
10 you know, the people you need video surveillance with, or just people
11 that you might get tips or speak to?

12 A Yes, it does.

13 Q Do you recall an investigation back in July 26 of 2020 that
14 brings us here to court today?

15 A Yes, I do.

16 Q Could you tell us a little bit, I guess, first just generally, how
17 does a patrol detective get assigned a case when they're just on a
18 regular situation, and then explain the difference with the way you got
19 this case?

20 A Okay. So our area command is broken up between different
21 properties. There's 18 detectives that work at our station. Each detective
22 has certain properties that they are assigned to so we can build
23 relationships with the security directors, know the people that work in
24 and out of the hotels, and it's easier and quicker for us to get follow-up
25 on certain cases.

1 In this case, it was -- occurred on a Sunday, my regular work days
2 are Wednesday through Saturday. I work the Paris, Bally's, Planet
3 Hollywood -- kind of the Harmon corridor right here on Las Vegas
4 Boulevard on the Strip. Just because I work those properties, doesn't
5 mean I don't work other properties and have associations with those
6 other properties.

7 This event happened on a Sunday. I was next up for the Paris area
8 for a call to come in. When my day came on Wednesday, this case came
9 up and was assigned to me.

10 Q And tell us sometimes would a detective be deployed in
11 dispatch right to an event while it's a live primary scene?

12 A Yes, they would.

13 Q What made -- what about this event made it so no detective
14 was dispatched to the scene?

15 A This event here, the patrol officers arrived on scene, they
16 initially made contact with a couple of witnesses, determined they didn't
17 think they needed the detective at that time; therefore, they didn't notify
18 their chain of command to be their sergeant or another supervisor to
19 request a patrol detective or any other detective to respond to the scene
20 at that time.

21 Q Is there something also about, I guess, generally the location
22 where this occurred as opposed to a home or a store that makes it a little
23 different also?

24 A Yeah, this happened right in the middle of Las Vegas
25 Boulevard, right in front of the Paris Hotel, hundreds of people walking

1 around during the time, and it was a little chaotic at first for the patrol
2 officers that arrived on scene first.

3 Q Would the victim have been still at the scene? Do you hold
4 the victim at a scene so the detectives can arrive, or do you transport a
5 victim?

6 A If they're in medical crisis and need immediately medical
7 attention they will be transported. They will not be held by police
8 officers if determined they need to go to the hospital.

9 Q So let's move then to the Wednesday when you get assigned
10 the case. Is your sergeant who --

11 A Yes.

12 Q So you get assigned primary or lead detective?

13 A That's correct.

14 Q When you do, what are some of the -- what's the couple of
15 first things that you would review or look at to start your investigation?

16 A To start the investigation, I want to know all the people that
17 were first on scene, any other witnesses that were there. Any witnesses
18 that were on scene that weren't spoken to, or maybe didn't give a full
19 recollection of what happened, so I can contact them later.

20 I also review like the 911 calls to find out who the first person that
21 called in, what their initial details were. If there's any other information
22 from that call that I could learn later on in the investigation. I also review
23 some of the officer's body cam to see how the scene was when they first
24 arrived. Why they didn't call a detective at first, and kind of what the
25 situation is at that point.

1 Q And could you give us generally some of the information that
2 you gleaned to start your investigation from those sources?

3 A From the start I could see the incident occurred right in front
4 of the Paris Hotel at a bus stop. The victim, he was kind of not talking to
5 anybody. Was obviously in pain holding his head. And there were a
6 couple of witnesses on the bus bench as well. The person that called 911
7 was right next to the bus bench. She had given some details saying that
8 it was a black male, in his 50s or 60s, walking in a southbound direction,
9 wearing like a blue and white shirt.

10 Also, the other witness that was on scene gave a similar
11 description of a black male adult walking southbound wearing a gray
12 shirt. It's not uncommon for witnesses on scene in a chaotic event like
13 that to give differing descriptions of a suspect. They did give a general
14 description of the same suspect, though.

15 So once you had that information, let's take me through, and we'll
16 start with the 911 call. Do you have the ability to look up what phone
17 number or who called 911?

18 Q Yes, I do.

19 Q In this particular case, did you end up having some difficulty
20 with that person who was reporting or at least determining who that
21 was?

22 A Yes, I did.

23 Q Why? Tell us what happened.

24 A The person did not want to initially stick around on scene.
25 She gave a false name to the police officers when they first arrived. It's

1 not uncommon for people not to want to get involved with law
2 enforcement when they show up. It sounded like from this she just
3 wanted this victim to get help. She wanted the person to get to the
4 hospital. I guess he was bleeding. He was bleeding obviously very bad.
5 When the officers arrived, they spoke with her briefly, and she just kind
6 of walked off. There was never a statement taken from her, a written
7 statement, just verbal, and like I said, she had also given a fake name.

8 Q What, if you recall, was the name that she gave, and then
9 what do you later on determine to be her actual name?

10 A I believe the name she gave was a Kenesha Moore and her
11 actual name was Laresha Moore.

12 Q Now, in order to try to -- did you want to speak to her?

13 A Yes.

14 Q Now, in order to try to speak to her what did you do that first
15 day that you take over the case?

16 A Attempted to call the phone number trying to reach out to
17 her. No contact with her. Tried to further the investigation by locating
18 an address with that phone number.

19 Q Do you also cause two different administrative subpoenas to
20 be issued?

21 A Yes, I do. They were to the phone companies that the phone
22 number that was provided by the victim when she called 911. By the
23 witness, I'm sorry.

24 Q So explain to us what that means. Because I said
25 administrative subpoena, just take us through what that thought process

1 was.

2 A So an administrative subpoena is a form through our
3 department that we can send to any kind of utility company -- phone,
4 power, water, sewer -- to get the names on record for who that number
5 or service belongs to. In this case, it was a phone number, I believe two
6 different admin subpoenas were sent -- administrative subpoenas were
7 sent to two different phone companies for that same phone number.

8 Q Were you ever able to get any results back?

9 A No.

10 Q Eventually, later on, do you end up finding out the Laresha
11 Moore name that you gave us and then following up with her later on?

12 A Yes, I did.

13 Q So that first -- also that first day, when watching the body
14 cam we talked about the person who said the gray comment, when
15 viewing it, is that someone who appeared familiar to you based on your
16 time on the Strip?

17 A Yes, it was.

18 Q Did you have a pretty good idea who that person was?

19 A Yes, I did.

20 Q Do you end up speaking to him?

21 A What's his name and when do you talk to him?

22 A His name was Sergei, and I'm sorry I don't recall his last
23 name, it's a Russian name -- and I spoke with him, I believe it was a few
24 days later on the Strip again, on an ambulance.

25 Q And so you end up tracking him down as well?

1 A Yes.

2 Q Fair to say he doesn't really provide anything that assists
3 your investigation further?

4 A Nothing more than what he had told the previous patrol
5 officers on the scene.

6 Q Is it fair to say Sergei's usually in a certain condition when
7 you encounter him on the Strip

8 A Yes, he is. He's usually intoxicated when I speak with him.

9 Q When you get assigned a case, do you also learn something
10 about the victim's condition?

11 A Yes, I did.

12 Q Tell me essentially what you learned, what was happening --
13 whether the victim was improving, declining, anything like that.

14 A So initially when he gets to the hospital he didn't -- had a
15 severe head injury. After a few days go by I call to contact the hospital
16 to see what his condition is.

17 I knew it was deteriorating pretty rapidly. He was losing a lot of
18 motor function, wasn't able to talk. Just looking at his eyes at the
19 hospital, too, he just had a blank stare in his eyes. He didn't really know
20 what was going on. He was transported to a couple of other rehab
21 facilities eventually with no improvement at all.

22 Q So when you first learn of this deteriorating condition, is that
23 around the kind of time when you get assigned lead agent of this?

24 A Yes, it is.

25 Q Do you cause something to occur, or someone to go

1 somewhere to do something with this victim?

2 A Yeah. I contacted our CSA Noelle to respond to the hospital
3 so she can take some better photos of his condition and the injuries that
4 he had to his head.

5 Q Were you ever able to interview Mr. Robert Will?

6 A No, I was not.

7 Q Was it because you didn't try?

8 A I tried and there was -- he was never able to speak to
9 anybody. I spoke with his mom multiple times, and he was never even
10 really able to talk to his mom.

11 Q And Detective I show you State's Proposed Exhibits 43 and
12 45, do you recognize the people depicted in these photographs?

13 A Yes, Laresha Moore and Sergei.

14 Q Do they fairly and accurately depict the two people that we
15 were just discussing from the bench of Paris that you contacted during
16 your investigation?

17 A Yes, they do.

18 MR. BROOKS: Your Honor, State moves for admission of 43
19 and 45.

20 THE COURT: Mr. Margolis?

21 MR. MARGOLIS: No objection, Your Honor.

22 THE COURT: Okay. Those will be admitted, and you can
23 publish if needed.

24 [State's Exhibit 43, 45 admitted into evidence]

25 BY MR. BROOKS:

1 Q Detective Byrd, who is this?

2 A That's Sergei.

3 Q Fair to say it's a pretty good photo for Sergei?

4 A Yes, it is.

5 Q And who is this --

6 A That's Laresha.

7 Q -- in 43?

8 A Yes.

9 Q So we kind of took you through some of the steps that you
10 were doing. I want to, I guess, move back. The first night did you --
11 were you ever able to learn whether there was any Fusion Watch camera
12 that was able to pick up the bench where this occurred?

13 A There was Fusion cameras, but there was no coverage of the
14 actual bench from Fusion.

15 Q Eventually, do you go to Paris and meet with someone to
16 collect everything they have on surveillance?

17 A Yes. I met with Francisco who is one of the security
18 investigators over at Paris to assist with video surveillance.

19 Q And when looking at that do you get Paris and another hotel?

20 A Paris and we also get Planet Hollywood and --

21 Q And so when you get to Planet Hollywood, do you also
22 contact someone from Fusion Watch -- and I don't know if it was before
23 or after, you tell us -- to do more looking through photos?

24 A Yes. It was after that. I recontacted Fusion to try and locate
25 where the suspect had gone from the bench. Not to say that they didn't

1 cover the bench, but there's hundreds of cameras on the Strip that are
2 Fusion cameras do cover multiple areas of high tourist areas --
3 walkways, bridges, stuff like that.

4 Q So I guess, explain to us, you said recontacted Fusion Watch.
5 What would Fusion Watch have been contacted about the first night and
6 then what do you have that contact them about following?

7 A Fusion Watch would have been contacted the first night by
8 the patrol officers to see if there was video coverage from the Fusion
9 cameras of the actual incident.

10 Since there was no coverage from that, we learned the direction of
11 travel of the subject and the mode of travel, walking southbound on foot.
12 The Fusion cameras do cover most of that side of the strip to go all the
13 way down to Tropicana on the east side of Las Vegas Boulevard, over to
14 the westside and then up north. The cameras are very scattered, though,
15 so it doesn't pinpoint an exact location, but there are hundreds of
16 cameras on the strip.

17 Q When, after speaking with Ms. Stringer and getting all that
18 video footage, what do you learn about the end of the Fusion Watch
19 video surveillance?

20 A The video coverage showed the suspect walking up from
21 southbound Las Vegas Boulevard, over to the Cosmo Hotel and the
22 coverage loses him walking towards the Cosmopolitan Hotel.

23 Q Were you able to confirm, just from Fusion Watch, whether
24 he went into Cosmo or went somewhere else?

25 A From Fusion, they just kind of lose him walking into the

1 Cosmopolitan Hotel.

2 Q Now, you previously said that your relationship or your kind
3 of properties are designated as parish and valleys, is someone else the
4 designated patrol detective for Cosmo?

5 A Yes, there are.

6 Q Do you during the course of an investigation have someone
7 go to Cosmo once Fusion Watch gives you that information?

8 A Yes, Detective Mildebrandt and Jacobitz.

9 Q When Detective Mildebrandt and Jacobitz go there, what are
10 they looking for? What are you --

11 A They met with William Roed, the security investigator there,
12 who was able to pick up video coverage of the suspect walking into the
13 Cosmopolitan Hotel from the bridge where Fusion Watch cameras lose
14 him.

15 He walks through the hotel, doesn't really stop anywhere for
16 anything. He goes out the -- down the escalator and out the north doors.
17 In between Bellagio and Cosmo there's a little alley right there. When he
18 walks out of those doors he kind of looks back towards the north where
19 the incident had occurred. It's probably only a couple of hundred yards
20 right across the street. From there the camera covers him walking back
21 into the Cosmopolitan Hotel, briefly meets with a cocktail waitress. From
22 there he exits the Cosmopolitan Hotel, and he was last seen on the top of
23 the bridge, east of the Cosmo, in between Planet Hollywood and
24 Cosmopolitan.

25 Q And Detective, kind of jumping back a bit, Exhibit 33. Do you

1 recognize kind of what's depicted in this photograph?

2 A Yes. That's the bus bench where the attack occurred.

3 Q So when you reviewed the body cam, what did you learn or
4 see as far as the way this scene was kind of handled? Explain to us what
5 we wouldn't know from watching that.

6 A So the scene there, after going back and watching the body
7 camera, the -- when the patrol officers arrived there're several people
8 around the bus bench. The victim is obviously, he's sitting right here
9 and there are other people sitting next to him. There's a lot of people
10 walking back and forth behind the scene. There's two Paris security
11 guards that were directly behind the bench where the flashlight is
12 indicating here, standing directly over what the weapon was here, the
13 rock. The officer is trying to get some information from the people, and
14 from there they collect the rock and put it into the car.

15 Q So see the mouse in front of you?

16 A Yes.

17 Q Occasionally -- you don't have to do it now --

18 A Yes.

19 Q -- but occasionally I might have you use that in coming
20 questions. Were the patrol, the initial responding officers, did they
21 impound the rock?

22 A Yes, they did.

23 Q And how do you know they impounded the rock?

24 A From the property report that they generated, and I picked it
25 up in evidence here.

1 Q Oh, so did I cause you to bring something to court?

2 A Yes.

3 Q And how does that occur? How do you get that and what do
4 you have to do to get that?

5 A I was ordered by you, on a subpoena, to respond to court or
6 to the evidence vault where the evidence had been impounded by the
7 patrol officers. With that, I collected the evidence form that officer that
8 impounded it and brought it here.

9 Q So can you just go on your own and just take evidence at will
10 kind of thing?

11 A No, there's a chain of custody that is signed on the form
12 here. Any time property is taken out, opened, or reviewed at the
13 evidence vault.

14 Q Explain to us, when you watched the body cam, what it was
15 that the first responding officers did with the rock that you ideally would
16 have liked handled different?

17 A They kind of surround the area. They don't really contain the
18 area at all. There's while they're conducting their investigation there's
19 still people walking back and forth behind the scene, kind of around.
20 They don't ever, like, put police tape up, if you will, to block the scene
21 out from anybody going in and out.

22 The officers see the rock, they talk to a couple of witnesses that
23 told them that the victim was smashed in the head with a rock. At that
24 point they walk over, they take one photo -- I think two photos of the
25 rock. One officer picks it up, and then takes it over to his patrol car and

1 places it in the floorboard where his feet go in the patrol car.

2 Q So you kind of mentioned crime scene tape, you mentioned
3 that Paris security guards were the first ones there, so ideally you kind of
4 told us ideally what you'd like, in reality explain how a situation or crime
5 scene occurs on the Strip and what can and can't happen feasibly.

6 A As you can imagine, the Strip, hundreds of people walking
7 up and down the Strip, both sides. You can't just block off an entire
8 walkway. It's not safe for people to not be able to travel.

9 And in this case, it's right next to the street, right next to the bus
10 bench, it could have been handled a little better. However, it's just -- it's
11 tough with limited resources, there's only four officers out there at the
12 scene, and you can imagine with all the people coming up and talking to
13 him, it just wasn't manageable.

14 Q Approximately how many people had walked over, around or
15 hear the rock prior to even Paris security getting there, let alone Metro?

16 A Oh, from reviewing the video, probably hundred people.

17 MR. BROOKS: So Your Honor, can we approach the officer
18 with some scissors to open what would be State's Proposed 91?

19 THE COURT: Yes.

20 BY MR. BROOKS:

21 Q So Detective Byrd, while you do this, could you explain to
22 the jury what an evidence seal is, what color this tape is, and what that
23 tells you about certain things?

24 A So this is the evidence label here, it describes what date and
25 time the evidence was impounded. It has the event number which the

1 event occurred under. It has it's in evidence, a felony case, the officer
2 who impounded it, his signature, the type of crime, and the address the
3 property was located at or the evidence here. It's indicated here it's Item
4 No. 1, and it's listed as a rock. This is one package, total number of
5 packages of two.

6 Q And is the seal in -- is secure?

7 A Yes. On the back here, the red evidence tape is sealed all the
8 way across. The bag is also stapled on top, both seals are not broken.
9 The officer here dates and signs when he seals the evidence bag up.

10 Q Let's pretend this had been tampered with and/or you looked
11 through it previously to show someone. How would we know that that
12 would have occurred?

13 A Per our policy procedure, if this was to be opened by myself
14 or any other officer, detective, employee of the Department, it would be
15 cut at a separate location and resealed, signed and dated to show that it
16 was opened and viewed by somebody else. Also on the bottom here is a
17 chain of custody to show if anybody does open it, they sign, place their
18 personnel number, the date and time it was sealed again.

19 Q Officer, could you now cut open the bag and [indiscernible]
20 the chain of custody is intact ?

21 A Yes, it is. There is no signature at all on the chain of custody.
22 It will just be mine after I open this.

23 MR. BROOKS: Your Honor, at this point in time, the State
24 would move for admission of Exhibit 91.

25 THE COURT: Mr. Margolis?

1 MR. MARGOLIS: No objection, Your Honor.

2 THE COURT: Okay. That will be admitted, and it can be
3 published to the jury.

4 [State's Exhibit 91 admitted into evidence]

5 THE WITNESS: It's the only thing in the bag.

6 BY MR. BROOKS:

7 Q And Detective, could you stand up --

8 A Yes.

9 Q -- and just kind of generally show the size and walk it over
10 there to the jury.

11 A Probably a softball size.

12 Q Detective, per kind of policy or typical, could that have been,
13 or would that have been latent print analyzed?

14 A The surface of this rock, no. They could not be printed.

15 Q Could it possibly have been DNA tested?

16 A It could have been possibly DNA tested.

17 Q What would have been the likely type of testing that would
18 occur on a rock with that?

19 A A technician would swab the rock for DNA, which are skin
20 cells that all of us have. Any time you touch a surface, skin cells come
21 off of us and are left everywhere. So that that's what the lab would be
22 looking for.

23 Q And would they be looking for, just typically, the person who
24 held it or would it be the person who's blood is on it -- a substance like
25 this or a object like this?

1 A It would be blood or and swabbed for the DNA.

2 Q Is it possible that someone holding the rock could have left
3 trace or skin cells on there, DNA?

4 A Yes, it is possible.

5 Q Do you know would you have submitted testing on that,
6 would the lab have accepted it had it been handled differently?

7 A Had it been handled differently, not likely.

8 Q Okay, so not likely, quote possible --

9 A Possibly, but not likely.

10 THE COURT: Sorry. Is he answering your question not
11 likely, but the lab would have accepted it for testing? Is that --

12 MR. BROOKS: That's correct.

13 THE COURT: Okay.

14 MR. BROOKS: The lab would not have accepted it for
15 testing.

16 THE COURT: Okay.

17 BY MR. BROOKS:

18 Q Still did you do a couple of things just in case with regard to
19 the DNA testing of that?

20 A Yes, I did. I applied for and was granted a search warrants
21 for the victim's DNA as well as the suspect's DNA. In that case it was not
22 only for potentially the rock, but if there was other evidence I had located
23 later in video surveillance toward the victim or the suspect had gone
24 afterwards, I may have located other evidence that DNA may have been
25 tested on as well.

1 Q Would you have latent print tested the bench or DNA tested
2 the bench?

3 A No, there's too many people that have been in and around
4 that bench and it would come back inconclusive more than likely.

5 Q What was it about the floorboard, I guess, of the patrol
6 vehicle that essentially would cause you not to pursue the testing of the
7 rock?

8 A So our patrol vehicles are shared between the entire station.
9 So our station has over 250 officers, any one of those officers could have
10 been driving that vehicle at any time. The floorboard itself, as you can
11 imagine, the bottom of your shoes touching the floorboard is very dirty,
12 very contaminated.

13 These officers are out walking the strip every night. The surface
14 itself is not suitable to get any kind of evidence at that point off of the
15 rock. After it's just kind of tossed, it wasn't bagged at that point, it was
16 just kind of thrown in the bottom of the floorboard.

17 Q Is there something similar, I guess, to the floorboard,
18 something about that rock's condition as where it was put that would
19 also have made what you said, testing difficult?

20 A Yeah. And again, as you can imagine, the sidewalk of the Ls
21 Vegas Boulevard Strip is walked by thousands of people every day.
22 People spit, and I'm sure you see people vomit, people urine, I mean this
23 scene is very contaminated to start with.

24 Q Detective, do you see up at the top of this screen shot of the
25 body cam, there's this number 0756 and then there's that Z. I thought

1 the event occurred at, you know, 12:50 a.m. Could you explain to us
2 what that is?

3 A That's the -- it's a timestamp from the body cam. Body
4 camera worn by the police officers. A lot of times the timestamp on the
5 actual video is not correct. However, when it is uploaded, it is shown
6 with a time that it was recorded on on our system.

7 Q Is one of the reasons because Axon [phonetic] states that the
8 UTC time?

9 A That's correct.

10 Q And is that what that Z designation means?

11 A Correct.

12 Q Okay. So it is seven hours back which would be that 12:56
13 a.m.

14 A That's correct.

15 Q All right. Is there something -- I've read the timestamp -- that
16 a timestamp on video whether it be this or Paris or Cosmo that is
17 different inherently than, let's say, finding DNA on a rock?

18 A Well, the timestamp is obviously going to show exactly what
19 is placed at this time here. If you were to process a rock or any kind of
20 surface, it's not going to tell you when that print or when that DNA was
21 left on that surface. It will just tell you exactly that, that person's print is
22 on that surface, or that DNA is on that surface. It doesn't tell you exactly
23 when that's been placed there.

24 Q Is it the most recent person to touch a table or anything like
25 that?

1 A No, it's not.

2 Q Now, showing you Exhibit 4. If you could use the mouse,
3 and I'll zoom in -- so if you could use the mouse, trace for us the path of
4 the suspect for the video that you compiled and tell us what cameras
5 look at what?

6 A Okay. This is the bus bench over here. If you can see a little
7 blue symbol where the attack occurred, right in front of the Eiffel Tower.
8 The Paris cameras captured that. The suspect then walks southbound,
9 this is across Paris, coming up to Planet Hollywood here, he walks all the
10 way down the boulevard here to an escalator where Planet Hollywood
11 cameras capture him going up here. And then off the scene or off the
12 screen here is a bridge on this side that connects Harmon over to
13 Cosmopolitan. It's a pedestrian bridge that walks over the top.

14 From there, the suspect travels through the Cosmopolitan, and he
15 comes out near these doors right here, and he's seen on video looking
16 back this direction, which is where the attack happened. After that, he
17 walks back through the hotel, up again to this bridge, and he's last seen
18 on this bridge walking east.

19 Q So Detective, when you said that the suspect walks out of the
20 Cosmo and is looking towards the Paris, would the timeframe that he
21 does that and the kind of lights and sirens, would they be visible from
22 that angle?

23 A Yes, absolutely. It's only, as you can see, a couple hundred
24 yards to the north of where that door is.

25 Q So that's statue that we see the suspect stand by from there

1 could you see essentially what was going on at the Paris?

2 A Yes, absolutely.

3 Q Does the suspect conduct any business inside Cosmo?

4 A No business at all. Like I said, he makes contact briefly with
5 a cocktail waitress. Appears to get maybe a water, and then walks back
6 out of the hotel, So never stops for the restroom or to gamble or
7 anything like that.

8 Q Detective, I'm going to show you a few different parts of
9 various video clips. And while doing it, I guess I'll start with the Cosmo
10 because we were talking about that. Showing you Exhibit 46.

11 [Whereupon, a video recording, State Exhibit 46 was played in
12 open court at 9:42 a.m., and not transcribed]

13 BY MR. BROOKS:

14 Q Detective, kind of while it plays, I want to, I guess, ask you a
15 few things. When you had gathered all the video, did you have a strong
16 inclination or opinion, or did you think you knew who the suspect was?

17 A Yes, I did.

18 Q Did you immediately proceed, or did you do other things
19 before you proceeded with an arrest warrant?

20 A I did several other things before I proceeded.

21 Q What was kind of one of the first things you did in order to
22 confirm or deny what you believed?

23 A From watching this video here, his clothing's very distinct.
24 Bald black male wearing a grayish colored shirt, dark shorts, dark socks,
25 white and black shoes. He's carrying a black jacket. He's got a very

1 distinct limp or gait to his walk. With that I contacted some other
2 businesses that had video surveillance of Mr. Andrew Young previously
3 in the month of July.

4 Q And so you had the name Andrew Young in your mind when
5 you saw that, or you knew a name?

6 A Yes, I did.

7 Q And so you looked for video surveillance throughout the
8 summer of 2020 for Andrew Young.

9 A Yes, I did.

10 Q Were you ever able to find video surveillance of Andrew
11 Young, even self-identifying as Andrew Young?

12 A Yes, I was.

13 Q What was he wearing in that video?

14 A He was wearing the same identical clothing here also had the
15 same ear buds around his neck that you can see in a couple of clips, the
16 same jacket and the same shirt.

17 Q Would that have been on July 8th, 2020?

18 A Yes, it was.

19 Q Do you gather some surveillance from prior to this July 26th
20 and some from after July 26th?

21 A Yes, I did.

22 Q Tell us now when -- we'll kind of fast forward here -- so as we
23 see this walk, is there something about that that you're familiar with?

24 A Yes. You can see the little limp he's got every time he walks.
25 It's very distinctive. All the videos I'd reviewed.

1 Q Now, before I ask you -- so Detective, where is -- who's
2 depicted in this video?

3 A That's Andrew Young.

4 Q When Andrew Young goes outside of the Cosmo here, could
5 you tell us essentially what you -- explain what you were saying earlier.

6 A So that's the area in that alleyway just to the north, between
7 Bellagio and Cosmopolitan, he walks out there and just to the right of
8 where you can see on that camera, over to this side here, is a direct view
9 over to where the Paris is. So on this picture it would be over here.

10 Q And which way is Mr. Young looking there?

11 A Right there you can see he's walking back now. He was just
12 walking -- looking northeast towards where the Paris was.

13 Q I'm going to pause it here when we enter the elevator. What
14 is -- sorry, the double doors. What just occurred?

15 A The attack just occurred minutes prior.

16 Q Oh, sorry. When Mr. Young walks in back from outside, does
17 he immediately go back into the hotel?

18 A When he walks -- I'm sorry. Say that again.

19 Q Here, I'll -- it's a bad question.

20 What do we see right here?

21 A He's walking back into the Cosmopolitan Hotel.

22 Q Does he proceed in, or does he do something first?

23 A He looks back again before he enters back into the
24 Cosmopolitan Hotel.

25 Q And from that vantage point, can you still see the Paris area?

1 A Yes, you can.

2 Q Do you recognize anything in the still frame that I have here
3 at 12:55:19?

4 A Yes, on that picture right there, is these very distinct white
5 with black striped shoes.

6 Q Now, you said you got various video surveillance prior to
7 moving forward. Do you do something else or show that video
8 surveillance to anyone else before proceeding with an arrest warrant?

9 A Other detectives, yes.

10 Q After showing that video surveillance to other detectives,
11 what do you then cause to be issued?

12 A An arrest warrant based on the other detectives' thoughts; it
13 was determined it was Andrew Young.

14 Q And right here, is there something you see in this?

15 A Yeah, on here you can see those ear buds again right around
16 his neck, the two white ear buds right here.

17 Q Now, we're not as familiar with Mr. Andrew Young, can you
18 explain anything with regard to his head or shape or build?

19 A Black male adult, bald hair -- or bald head, a little bit of a
20 stockier build.

21 Q And Detective, I'm going to back up just briefly. You
22 mentioned the clothing that Mr. Young is wearing here in the Cosmo
23 video on the night of the incident on July 26th, 2020 is the same clothing
24 as the July 8th, 2020 footage that he identifies himself. There's
25 something in this kind of still frame at 12:53 a.m. that could help us.

1 needed.

2 [State's Exhibit 80 to 84 admitted into evidence]

3 BY MR. BROOKS:

4 Q Take the glare off and use this to show you. Who's depicted
5 right here?

6 A That's Andrew Young.

7 Q Could you take the mouse and explain what you're seeing?

8 A As in the previous video, black male, bald, here he's got
9 those same white earbuds here, and this is the design on the shirt I was
10 telling you about, it's like a white and grayish checkered pattern.

11 Q Showing you 81.

12 A Again, Mr. Andrew Young, there's that shape that kind of the
13 shirt folds into, it seems to just naturally fold into that shape. It's also
14 got the black jacket on his left arm there.

15 Q There's something about the length of his sleeves that is
16 similar in any of the videos?

17 A Yeah, they all appear to be about the same length of sleeve.
18 Again, Mr. Andrew Young. There's that really decent picture of the U on
19 the shirt right there in the back. Also, has that black jacket again there.

20 Q And then I want to show you 83 and I'm going to zoom in
21 here, see if this helps. So you described what that shirt looks like.

22 A Again, it's just like a white and black checkered pattern that
23 appears gray when it's further away.

24 Q So this is the shirt that appeared gray on the various video
25 surveillance?

1 A Yes, you can also see the U outline kind of in the back of the
2 shirt there, it's on the neck the rear of the shirt.

3 Q Showing you Exhibit 84. What do you recognize here?

4 A Those are the white shoes, Jordan's. you can see the black
5 stripe with the white writing and the Jordan symbol on the toe area
6 there. He's also wearing black socks and those black shorts right there.

7 Q Showing you Exhibit 85 which was previously admitted from
8 the same July 8th interaction. Is there something you can describe for
9 us in this photo?

10 A In this photo you can see he has distinct teeth. The earbuds
11 again, glasses on the front of his shirt. The same colored shirt and the
12 bald head.

13 Q Detective, I want to show you previously admitted Exhibit 87,
14 who is depicted in this photograph?

15 A That's Andrew Young there.

16 Q And what was the date that this photograph -- is this from
17 video surveillance?

18 A The 29th.

19 Q So after the incident?

20 A Correct. Of July.

21 Q Detective, have you previously provided the -- some of the
22 various video surveillance footage from July and summer 2020, that you
23 collected of Andrew Young?

24 A Yes, I have.

25 Q And have you had a chance to review some of these videos?

1 A Yes, I have.

2 MR. BROOKS: And, Your Honor, at this point, State would
3 move for admission of the rest of Exhibit 79, some of it was played
4 yesterday.

5 THE COURT: Mr. Margolis?

6 MR. MARGOLIS: No objection.

7 THE COURT: It will be admitted, and you can publish.

8 [State's Exhibit 79 admitted in evidence]

9 [Whereupon, a video recording, State Exhibit 79 was played in
10 open court at 9:55 a.m., and not transcribed]

11 BY MR. BROOKS:

12 Q Detective I want to show you a clip from July 8th, 2020. Is
13 this the same date and time as the video that you just took us through
14 the shirt?

15 A Yes, it is.

16 Q So in this surveillance does the shirt look the same as those
17 photos we just looked at?

18 A From this distance, it looks just like a gray shirt.

19 Q Okay. And who's that right there?

20 A That's Andrew Young.

21 Q Showing you a clip from July and August, tell me if you
22 recognize anyone here.

23 A Mr. Andrew Young on the right here.

24 Q I want to show you a clip from June 29th, 2020, tell us if you
25 see anyone here?

1 A Mr. Andrew Young, right here. Same shoes, shorts, socks,
2 he's got that same walk again, you can see the little hitch in his step.

3 Q Describe for me is there anything else unique about his walk
4 on occasion?

5 A The way he kind of switches the jacket back and forth and
6 kind of the way he's swinging his arm. Again, Mr. Andrew Young there,
7 gray shirt, same shoes.

8 Q Can you see anything with this photograph?

9 A Yeah, Mr. Andrew Young just getting on the elevator there.
10 He's got those earphones again around his neck, same shoes, shirt,
11 glasses.

12 Q Do you see the shoes here?

13 A Yes, I do.

14 Q All right. And is this the same outfit?

15 A Yes, it is. The gray shirt, black shorts, black socks, white and
16 black shoes.

17 Q Is this also on footage from July 8th, just later that night?

18 A Yes, it is. Mr. Andrew Young again. . Same outfit, same
19 shoes. Again that earbuds around his neck, the glasses on the front of
20 the shirt. The jacket.

21 Q Detective, I'm just going to show you one angle of some
22 Fusion Watch video, which is Exhibit 35.

23 Tell me what we see here roughly what time it is and what
24 has just occurred.

25 A Well, it's around just before one. The attack just occurred,

1 and this is Mr. Andrew Young walking southbound. You can see Paris
2 right here, the driveway, he's walking toward Planet Hollywood right
3 now.

4 Q Last I'm going to show you some of the Paris surveillance,
5 it's fair to say you spent more time looking at this Paris surveillance than
6 any of us.

7 A yes.

8 Q Could you -- it's not very clear --

9 A It's not clear.

10 Q Could you explain to us kind of what it is we need to be
11 looking at here and focusing our attention on?

12 A So the Paris video shows Mr. Young approaching prior to the
13 attack. Just depending on which time.

14 Q Okay. So I've skipped ahead. Let me show you roughly
15 12:44. Tell us if you see anyone here.

16 A Mr. Andrew Young right here. You can see the white shoes,
17 the black jacket, the lighter color shirt and dark shorts walking
18 southbound. Again this is Mr. -- you can see him right here, you pick up
19 a jacket, the lighter colored shoes, the dark shorts and the lighter colored
20 shirt. It's hard to see.

21 Q Here, I'll rewind it. Oh, you've actually got to give me the
22 mouse.

23 A I'm so sorry.

24 Q So I'll rewind to right here to when it switches over. Tell us
25 where to focus our eyes.

1 A Right here is the bus bench. Mr. Andrew Young is right here.
2 Our victim is sitting right here.

3 Q Okay. What's about -- I'm going to press play. What's about
4 to happen or is happening right now?

5 A An altercation between the victim and Mr. Young.

6 Q What just happened to prompt that victim stand up?

7 A Mr. Young had come from behind and struck him in a
8 downward motion, causing him to get off the bench. And there's some
9 kind of an altercation happening in front of the bus bench right now.

10 Q What's occurring right here?

11 A Mr. Young picked up the victim's food and threw it in the
12 trash can. And then there's another altercation shortly after. After that
13 second altercation that just happened, you can see the victim is doubled
14 over. You can see him bending over right here and Andrew Young
15 walking away southbound. And you can see the victim here holding his
16 head and he walks to the bus bench and sits down.

17 Q Now, were you able to tell from this video whether it was the
18 first, second, third hit that the rock or that did him in?

19 A No, you can't tell. It looks like three separate strikes, if you
20 will.

21 Q Now, I skipped to 12:44 a.m., is there another interaction
22 prior to that?

23 A Yes, there was.

24 Q What kind of happens there? If you could just generally
25 describe that for us?

1 A Just from the video, it looks like there's some kind of verbal
2 altercation, they were arguing about something. None of the witnesses
3 on scene knew what the argument was about. Mr. Young walks away
4 from the scene and then that's when he reappears just then.

5 Q I'm going to show you a different -- so this is 12:34 a.m. and
6 I'm going to jump forward to roughly 12 -- let's say 12:37. Do you see
7 anyone in this photograph or video?

8 A Here's Andrew Young, right here walking southbound away
9 from the bus bench. Again, here's the bus bench right here where the
10 attack happened.

11 Q I'm going to jump forward to that 12:43-ish, 12:44 time frame.
12 Tell us -- put the mouse where to put our eyes.

13 A Here's our victim still here. I don't recall again where --
14 here's --

15 Q So do you see anyone top screen kind of walking with
16 anything in their hands that was --

17 A Mr. Andrew Young is right here. It's hard to see. It's hard to
18 pick up, but he's got the black jacket in his left hand and he's walking
19 back southbound towards the bus bench right here. There's one strike.
20 Victim stands up. Here's where Mr. Andrew Young grabs the food.
21 They're having some kind of verbal altercation there, food goes in the
22 trash can. Looks like there's one or two more strikes right there. Again,
23 the victim doubled over and then Andrew Young walking southbound
24 away.

25 Q Do you see the person who attacked the victim and walked

1 southbound away here in court today?

2 A Yes, I do.

3 Q Would you please point to him and identify an article of
4 clothing he's wearing?

5 A He's over to my left wearing a white shirt, blue mask, and
6 brownish colored tie.

7 MR. BROOKS: Your Honor, let the record reflect
8 identification of the Defendant.

9 THE COURT: It shall.

10 [Video ended at 10:04 a.m.]

11 BY MR. BROOKS:

12 Q So we talked earlier about you causing an arrest warrant to
13 be issued. Eventually on August 19th, 2020 was Mr. Andrew Young
14 taken into custody?

15 A Yes, he was.

16 Q When he was taken into custody, did he have anything on
17 him of evidentiary significance?

18 A The same white and black Jordan shoes, plus carrying a
19 black jacket.

20 Q Do you know whether it was the same exact black jacket?

21 A I can't say for certain if it was the same exact black jacket.
22 However, it resembled the same jacket.

23 Q Showing you State's Proposed Exhibit 72 through 78. Could
24 you please look through those and let me know if you recognize them?

25 A The shoes he was wearing the night he was taken into

1 custody, as well as the jacket he had with him.

2 MR. BROOKS: Your Honor, the State moves for admission of
3 72 through 78.

4 THE COURT: Mr. Margolis?

5 MR. MARGOLIS: No objection, Your Honor.

6 THE COURT: Okay. Those will be admitted, you can publish.

7 [State's Exhibit 72 to 78 admitted into evidence]

8 BY MR. BROOKS:

9 Q Detective, do you know if they're the same exact shoes?

10 A I don't know if they were the same exact shoes.

11 Q The jacket specifically, is there something -- was there ever
12 anything as far as, I guess, identifiable about the jacket? Was it a Canada
13 Goose, or Moncler, or anything?

14 A Just black jacket is all you can in the video surveillance.

15 Q Showing you Exhibit 72, 73, Exhibit 74, Exhibit 75. Is there
16 something about this angle that sometimes you can see?

17 A On the toe you can see the Jordan logo again, and as well as
18 on the heel you can see the black stripe. Obviously in the video you
19 can't see exactly what it shows, but there is a black stripe in between the
20 white on the heel of the toe or the shoe.

21 Q And Exhibit 76, is that kind of -- hold on. Oh, Detective, see
22 the arrow, could you double click that for me? No, that arrow down
23 there can you double click it?

24 A This one?

25 Q Yeah.

1 THE COURT: Hit trash for me for a second. Down,
2 everything's down on that black bar. Oh, wait. That one, I'm sorry. The
3 trash thing only works if it's on the ELMO.

4 MR. BROOKS: Something's -- here I'll steal it and pull it back.

5 THE COURT: Okay.

6 BY MR. BROOKS:

7 Q Okay. Showing you Exhibit 76. Is that another view of kind
8 of like that toe thing --

9 A Yes.

10 Q -- you were talking about?

11 A Yes, it is. You can see the logo there.

12 Q What is some of the video surveillance that the, I guess, the
13 best angle of straight down on the toe?

14 A Yeah, you can see the Jordon symbol as well as some of the
15 letters in the video surveillance. You can see the J-O-R.

16 Q Oh, I meant as far as is it Paris or Fusion Watch or Cosmo
17 that would give us the best angle for that?

18 A Cosmopolitan had the best angle.

19 Q Exhibit 77 and then 78.

20 A That black jacket that he had with him.

21 Q So why would be DNA test the black jacket?

22 A He was carrying it when he was stopped. It's reasonable to
23 believe that his DNA would be found on that jacket when he was taken
24 into custody.

25 Q What about the food that was thrown in the trans can?

1 Would you ever DNA, test or collect that food?

2 A No, I would not. It's a trash can on the Strip, there is going to
3 be thousands of articles that can be found on that food.

4 Q Lastly, I want to skip forward to April 21st, 2020, does that
5 date have significance to you?

6 A April 21st, 2020?

7 Q Give me -- sorry. On April 24th, 2021, do you meet with
8 somebody?

9 A Yes, I did.

10 Q Who do you meet with?

11 A Laresha Moore.

12 Q What was kind of your goal or what were you going to meet
13 with her for? What's it called?

14 A A photo lineup, which is a six-pack group of photographs to
15 see if she was able to identify anybody from the photographs that she
16 remembered from the night of the attack.

17 Q So explain to us what's the difference between a photo
18 lineup, a show up, a, you know, physical lineup, what's the different kind
19 of situations?

20 A A photo lineup is a group of photographs, it could be
21 individual or placed on one piece of paper with six different pictures.
22 The pictures are all similarly looking people with similar descriptions.
23 Obviously the witness saw what she saw that night, she would be able to
24 pick out her own details from that person. A live photo lineup would be
25 somebody that's standing here with us right now that the victim could --

1 victim or witness could say yes or no to a person.

2 Q You see that in movies a lot. Does that happen in real life?

3 A It does not happen in real life.

4 Q And then what's a -- so what's a -- what scenarios would a
5 show up occur under?

6 A A show up would be conducted if a patrol officer had
7 stopped a potential suspect or a person of interest on -- right after the
8 altercation had happened. Say the patrol officer stopped a person, some
9 of the witnesses could be taken to where that person is stopped to see if
10 that is the person that they saw commit the crime that night. However,
11 on this that did not happen.

12 Q You kind of mentioned patrol officers. Is there something
13 about patrol officers and six-pack lineups?

14 A Patrol officers don't typically conduct a photo lineup. That
15 would be something a detective follows up with at a later time.

16 Q And so when compiling a six-pack lineup and showing it to a
17 witness, this was, what, over a year, almost a year?

18 A Almost a year.

19 Q Ideally would you have liked to do it sooner, later, what?

20 A Absolutely. I would have liked to find her sooner to conduct
21 that. Because as time goes on, you know, your memory isn't the best.
22 But, however, it was very difficult for me to locate her. That was my
23 issue.

24 Q When you showed her the photo lineup, did she make an
25 identification?

1 A She did.

2 Q What did she say anything prior to making the identification
3 about why she's making it or anything that she saw?

4 A She did. She did mention, I think in her own words, the
5 suspect had jacked up teeth, that there was something with his teeth that
6 didn't look right.

7 Q And was that before or after making an identification?

8 A That was before making identification.

9 Q After making identification did she give any other details?

10 A She does. She also recognizes his eyes. His eyes are very
11 distinct as well.

12 Q Is that true?

13 A Yes, it is.

14 Q Okay. Could you have -- is there a way to kind of screen six-
15 pack lineups to put six people with distinctive eyes?

16 A There is not a search option or a filter if you can -- if you
17 would in our system to isolate that.

18 Q Is there a way for you to go through and isolate so the teeth
19 aren't showing up?

20 A Yes, there is.

21 Q Okay. Did you do that?

22 A It was randomly generated that way.

23 Q Was -- were teeth showing in the photo app?

24 A No, they were not.

25 Q Showing you State's Proposed Exhibit 90A. Do you

1 recognize what's depicted here?

2 A Yes, that's the photo lineup that I'd shown to Laresha.

3 Q And so the jury had already seen 90, what's different about
4 90A, what is this?

5 A 90A, I'm so sorry.

6 Q Oh, sorry. This thing that I'm holding.

7 A Yes, this has -- this is the photo lineup that has subjects with
8 their names and numbers attached to their name. The victim would
9 not -- or the witness would not have seen this copy that has the names
10 on it.

11 Q Okay. So when you pull these from DMV or just various
12 record sources and they have the names and the numbers of the lineup
13 and stuff, you don't show them this, do you?

14 A No, I do not show them that.

15 Q Okay. Is this a fair and accurate depiction of the key to the
16 photo lineup Laresha Moore was shown?

17 A Yes, it is.

18 MR. BROOKS: State moves for admission of 90A.

19 THE COURT: Mr. Margolis?

20 MR. MARGOLIS: No objection, Your Honor.

21 THE COURT: Those will be admitted, you can publish if you
22 need to.

23 [State's Exhibit 90A admitted into evidence]

24 BY MR. BROOKS:

25 Q The last thing, I'm just going to go to 90 -- I'm showing you

1 the second page of Exhibit 90. Are anyone's mouth showing, Detective?

2 A No.

3 Q When Laresha was looking at the photos, does she give any
4 other details with regard to number two that she may or may not have
5 thought similar?

6 A She did mention the beard, she said, I don't think he had a
7 beard.

8 Q At that point in time?

9 A At that point.

10 Q However, fair to say this was the photo that you could pull of
11 Mr. Andrew Young?

12 A Correct.

13 Q And at that point in time he had a beard?

14 A He did.

15 Q Do you then -- do you alter the photos of Andrew Young to
16 make it similar to who she would have seen that day?

17 A No. There is no manipulation of the photos. That can either
18 be printed in color or black and white, that's the only manipulation I can
19 make.

20 Q Okay. What color shirt is Mr. Young wearing in this?

21 A Looks like a black collar with a black and white stripe shirt.

22 Q Okay. So not the --

23 A Not the same shirt that he was wearing that night.

24 Q Would -- are you familiar with a -- what a CDR is?

25 A Yes.

1 Q What's a CDR?

2 A It's a recovery of phone numbers from a phone.

3 Q So --

4 A Call data records is what the CDR is.

5 Q As a detective do you sometimes have the ability to issue a
6 search warrant for call detail records for my phone or --

7 A Yes, I would. Had I known a particular phone number of a
8 suspect, I could apply for a search warrant to get CDRs for that phone
9 number.

10 Q When Andrew Young was taken into custody, did he have a
11 phone on him at that point in time?

12 A No. He did not.

13 Q So --

14 A I did not apply for any search warrant for CDRs for Mr.
15 Young. I didn't have a phone or a phone number to attach to him.

16 Q So you couldn't do a digital forensic download of the phone,
17 or a call detail records?

18 A No, I could not.

19 Q Thank you.

20 MR. BROOKS: At this point in time the State would pass the
21 witness, Your Honor.

22 THE COURT: Okay. Mr. Margolis.

23 MR. MARGOLIS: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. MARGOLIS:

1 Q Morning, Detective Byrd.

2 A Morning, sir.

3 Q How are you?

4 A I'm good, how about yourself?

5 Q Not too shabby. I'm Jason Margolis. I'm pretty sure you're
6 familiar with my client Andrew Young.

7 A Yes, sir.

8 Q Fair to say you're the architect of this case, would you argue
9 with that?

10 A No.

11 Q Okay. Would you disagree with me if I counted
12 approximately a half dozen times on direct examination where you said,
13 hard to see or hard to pick up?

14 A Yeah.

15 Q It's a fair statement?

16 A Yes.

17 Q Okay. Taking you back to July 26th, 2020. You didn't get the
18 case until a couple days after that; is that right?

19 A Correct. It occurred on a Sunday, and I don't come back until
20 Wednesday.

21 Q Perfect. Thank you. And between that Sunday and
22 Wednesday fair to say the only people that had any involvement with the
23 case were the responding officers Shin and Henry the like?

24 A And I believe one of the detectives that had talk to Cosmo
25 about video.

1 Q Fair enough. Okay. You didn't seek this case out?

2 A No. I did not seek it out.

3 Q Okay. But you did conduct the investigation once it came
4 into your hands, so --

5 A Yes, I did.

6 Q -- from that day on it's your baby, for lack of a better word?

7 A Yes.

8 Q Okay. I think you testified, and they effectively testified the
9 same way, Officer Shin. They didn't think they had any evidence on
10 scene; is that accurate?

11 A Other than the rock, yes.

12 Q Okay. First of all, is that that officer's play to call, is that
13 Officer Shin's responsibility to make that determination?

14 A At that time it is. He's on scene, he's the one that sees
15 everything.

16 Q Do you agree with that determination?

17 A No, I don't.

18 Q Okay. You -- we talked about, and I've talked about the crime
19 scene and the fact that it wasn't secured. And then you spoke a little
20 about that on the record, so I want to talk about that for a few minutes.

21 A Okay.

22 Q Okay. One of the things you said, and I'm going to quarrel
23 with it a little bit, is that because of the nature of the location in the
24 middle of Las Vegas strip in front of the Paris Hotel a heavily trafficked
25 area, no dispute about that, okay. That no one's going to shut down the

1 strip, okay. Correct me if I'm wrong. In the last 10 days, two weeks
2 didn't we have like a NHL All Star event on the middle of the Las Vegas
3 strip where the strip was in fact shut down?

4 A I wouldn't say the strip was shut down, but they do direct
5 traffic if you will or pedestrian traffic.

6 Q Okay. This event that Officer Shin responded to occurred at
7 approximately a quarter to 1:00 in the morning?

8 A Yes.

9 Q The NHL event that we're somewhat agreeing to disagree
10 about, right? It occurred at a more heavily trafficked period of the day;
11 fair to say?

12 A Yes.

13 Q Okay. Now I'm certainly not going to say that the
14 commercial advantages, okay, of inconveniencing Las Vegas Boulevard
15 traffic were the same here. But given what I've just demonstrated, if
16 they wanted to secure this scene they could have, yes?

17 A Yes. They could have.

18 Q Okay. Thank you. Now the rock, the rock was secured in a
19 matter of speaking, right?

20 A Yes.

21 Q As you say the rock was in fact taken into their police
22 custody. Was it immediately seen?

23 A No. It was not.

24 Q Okay. And to your credit you testified that Officer Shin put it
25 on the floorboard of the front seat of his car?

1 A Yes, he did.

2 Q Not in a bag, not even secured by heavy objects, right?

3 A That's correct.

4 Q So the rock for evidentiary purposes is not of much value,

5 you'd say?

6 A Other than the weapon that was used seen by the witnesses.

7 Q Forensic value --

8 A Forensic value.

9 Q -- let me rephrase my question. The forensic value of the

10 rock to the extent it could have existed, we will never know today, right?

11 A Not today.

12 Q Okay. And that's not the fault of the defense and Mr. Young,

13 is it?

14 A No. It's not.

15 Q To the extent that's anyone's fault, whose fault is it?

16 A The department's.

17 Q Okay. Law enforcement, right?

18 A Law enforcement.

19 Q So ultimately the State had the responsibility to do those

20 things correctly and they didn't; would you agree?

21 A Short of our policies and procedures, yes. That's where

22 we're at.

23 Q Fair enough. No crime scene analyst at the scene?

24 A Correct.

25 Q No detectives at the scene until you become aware of the

1 case?

2 A Correct.

3 Q Okay. We already talked about the crime scene wasn't
4 secured. How about witnesses? What witnesses did you become aware
5 were there at the time of the incident?

6 A Laresha Moore and Sergei were the two that I was able to
7 identify from this case.

8 Q Okay. Now I want to pick up a little bit on your wording
9 because it's interesting to me and I think it's interesting to the jury. That
10 you were able to become aware of or identify, okay. Now you spoke to
11 Laresha Moore. Laresha Moore was with a companion, correct?

12 A She was.

13 Q She wouldn't tell you who she was with?

14 A She would not.

15 Q She would not provide you contact information for who she
16 was with?

17 A No.

18 Q You tried?

19 A Yes.

20 Q More than once I assume?

21 A Yes.

22 Q Okay. And ultimately you really wanted to talk to this
23 companion. What evidentiary purpose would talking to Laresha's
24 companion serve?

25 A Nothing more than what I have seen on the video at that

1 point.

2 Q Corroboration?

3 A It would corroborate, however what the witnesses, I
4 reviewed the video and corroborated what was referred to me already.

5 Q Okay. You spoke to Sergei?

6 A I did.

7 Q Fair to say Sergei probably doesn't remember his name on
8 Sunday, correct?

9 A Sergei knows what's going on a lot of times. He may be
10 intoxicated, but he's a functioning alcoholic --

11 Q He's a functioning --

12 A -- is what I would say.

13 Q -- alcoholic, fair enough. I'll agree with you on that. For
14 evidentiary purposes, he couldn't give you much more than a black man
15 and it happened fast, right?

16 A And the direction he traveled and the color shirt he was
17 wearing.

18 Q Southbound on Las Vegas Boulevard and a --

19 A Gray shirt.

20 Q -- gray shirt?

21 A Correct.

22 Q Which we now know is a black and white fleck shirt, if you
23 will, that appears gray the further away you get from it, right?

24 A Correct.

25 Q Okay. Sure. Let's see. So is it your testimony that the

1 different descriptions of the clothing are more a function of the lighting?

2 A As far as?

3 Q We got described black shirt, black pants. We got described
4 the blue and white shirt. We got described gray shirt, okay. And that's
5 been beaten to death here like a dead horse at this point. I think what we
6 were doing in some of your direct was demonstrating that this shirt
7 based on the lighting and the camera that picked it up, it could appear
8 dark, almost charcoal if you will. It could appear if you got close and in
9 the light black and white fleck as it is. Or it could appear to be a
10 nondescript gray shirt, kind of like your and my suit color, right?

11 A Yes.

12 Q That's effectively what we discovered, okay?

13 A Yes.

14 Q The shoes, is it your testimony in this courtroom the white
15 Jordan's with the black stripe are somehow rare or distinctive?

16 A In this instance, yes.

17 Q In this instance.

18 A With all the video surveillance, they appear to be the exact
19 same shoes.

20 Q They appear to be, but you can't testify that those are the
21 exact same shoes. You said that on direct, correct?

22 A I cannot that's --

23 Q Okay. So --

24 A -- that's correct.

25 Q I mean, I might wish it to be so, but that doesn't make it so,

1 right?

2 A That's correct.

3 Q You'd agree? So if I told you tens of thousands if not
4 hundreds of thousands of pairs of that shoe are manufactured in the
5 United States every year, would you disagree with me?

6 A Not at all.

7 Q Okay. If I told you that an African American man aged 50 to
8 60 like Nike Jordan's, would you disagree with that assessment?

9 A Not at all.

10 Q Okay. So fair to say --

11 MR. BROOKS: Objection, Judge. For the record we -- white
12 people like the Jordan's too.

13 MR. MARGOLIS: They do. I remember my first pair very
14 well, and I will -- we can take judicial notice of that fact at this point.

15 THE COURT: I think that's fair.

16 MR. MARGOLIS: All right.

17 THE COURT: Yeah.

18 MR. MARGOLIS: Thank you.

19 BY MR. MARGOLIS:

20 Q So the shoes, I understand you consider them to be
21 distinctive and identifiable because of their appearance in many of these
22 videos, right?

23 A Correct.

24 Q But you would also agree with my assessment that these
25 shoes are not particularly rare or uncommon?

1 A Yes.

2 Q Thank you. Now you talked about Mr. Will. You went and
3 tried to communicate with Mr. Will?

4 A Yes, I did.

5 Q Fair to say that was a dead end?

6 A He was in no state to talk. He couldn't talk at all.

7 Q What prompted you to go and see Mr. Will? Because I'll be
8 honest, Office Shin seemed to think Mr. Will is just hammered. What
9 made -- what changed this case because initially it's kind of like no big
10 deal, bum fight on the bus bench. I mean, I'll be honest that's what it
11 appears to me.

12 A So --

13 Q What changed?

14 A So as a detective we review every case that we get assigned
15 to us. Within those there are details obviously written by the patrol
16 officer. Every case that we're assigned that's a felony case, battery
17 substantial, which this case was when it came to me.

18 Q Uh-huh.

19 A I take those cases very seriously. The victim -- and within
20 my experience victims with head injuries could appear intoxicated, they
21 could just appear they don't want to cooperate. They could have a severe
22 brain injury on scene, it's unknown. The police officers aren't doctors at
23 that point. With that information I attempted to try and go speak with
24 Mr. Will to find out if it was just a bum fight, if you would --

25 Q Uh-huh.

1 A -- at the bus bench. When I responded to the hospital and
2 spoke with the hospital they said he is -- he can't speak, he's not
3 responding to any commands. Obviously this was more than what
4 Officer Shin saw at the scene. Officer Shin I believe was only on for
5 maybe a year at the time. I had I think 10 years' experience at this point
6 working these types of cases. There was more to this case from what I
7 saw initially.

8 Q No. And I get it and I understand. I mean, I'm sure I'm better
9 today than I was on, you know, my first trial. God I hope so. I want to
10 talk about September 3rd. September 3rd, I'll get you the exact date,
11 2020. I think that's the date that we have an application and affidavit and
12 search warrant for Mr. Young --

13 A Yes.

14 Q -- do you recall that?

15 A Yes.

16 Q You authored this application that day, correct?

17 A Yes, I did.

18 Q Okay. And it's your signature that's borne on it?

19 A Yes.

20 Q And you, at least at this point in time, still had some belief of
21 the possibility of obtaining useable forensic evidence from that rock,
22 yes?

23 A Potentially.

24 Q Okay. And you saw the fingerprints of my client Mr. Young?

25 A Yes.

1 Q Okay.

2 A Well, not --

3 Q Or, sorry. You took a swab?

4 A Yes.

5 Q I correct the record, I apologize. You took a swab, okay.

6 A Yes.

7 Q For his DNA because ultimately touch DNA could in fact be
8 on that rock?

9 A It could.

10 Q Okay. And I'm not going to quarrel with the idea that a rock
11 is a little bit different than let's say my personal cell phone, okay. I
12 understand a rock is out there, it's exposed to the elements, it's going to
13 be touched this person, that person and their cousins, okay. However, at
14 the time that you obtained you believed that there was a potential for
15 obtaining that evidence?

16 A Potentially.

17 Q Okay. And did you know then that the scene had not been
18 secured?

19 A Yes.

20 Q And you knew then that the crime scene analyst had not
21 been called out?

22 A Yes.

23 Q And you knew then that a patrol detective had not gone to
24 the scene?

25 A Correct.

1 Q So you were aware of all of the mistakes that were made on
2 the night of July 26th, or the early morning as the case may be, and yet
3 you still felt compelled to do this, right?

4 A Yes. Had there been other evidence later obtained as well
5 that I may be able to forensically compare as well.

6 Q Sure, sure. If a rock is difficult to get touch DNA off of, the
7 man in the video appears to take the food containers belonging to Mr.
8 Will that were on the bench, kind of the origin of this dispute. And he,
9 you know, quite flamboyantly appears to throw them around, right?
10 Would that -- had things been conducted differently in the initial hours
11 responding to the scene, could those items have been tested?

12 A Could they, yes.

13 Q Okay. I mean, let's say, you know, Celine Dion is shot
14 outside the casino she used to perform her residency at. Pretty fair
15 we're going to secure that scene. We're going to secure that trash can.
16 We're going to secure those bar benches -- bus benches. And we're
17 going to swab everything, fair?

18 A Yeah. I would say the same for anybody else in here. And a
19 shooting would be investigated a lot differently.

20 Q Okay. Let's say Celine was hit with a rock, because I
21 appreciate what you did there. I'm an attorney I can appreciate that. But
22 let's say Celine was bashed over the head with a rock instead, are you --
23 is your testimony that we conduct that crime scene differently --

24 A No.

25 Q -- because it was a rock?

1 A No.

2 Q Okay. So the ability to collect forensic evidence would have
3 been considerably improved if various mistakes were not made in the
4 investigation?

5 A That's correct.

6 Q Thank you. If you recall, and I don't know if you do, okay.
7 Did you tell Mr. Young that if his material wasn't there that he'd be
8 excluded? Was this an exclusion --

9 MR. BROOKS: Objection, Judge.

10 MR. MARGOLIS: I'll withdraw the question.

11 THE COURT: Okay. Thank you.

12 MR. MARGOLIS: I'll withdraw the question.

13 BY MR. MARGOLIS:

14 Q You obtained Mr. Young's genetic material?

15 A Yes.

16 Q You never tested any of the items for it?

17 A That's correct.

18 Q What ultimately was the purpose of obtaining his genetic
19 material?

20 A Had there been any other evidence that I had located after
21 the fact, I could have tested -- compared to.

22 Q Did you look for any?

23 A Did I look for who?

24 Q Did you look for any additional evidence with which to test
25 against the genetic material you collected from my client?

1 A Yeah. The case was still ongoing, yes.

2 Q What'd you test for?

3 A I didn't --

4 MR. BROOKS: Judge, can we approach?

5 THE COURT: Sure.

6 [Sidebar begins at 10:30 a.m.]

7 MR. BROOKS: I just don't want him to --

8 MR. MARGOLIS: Yeah, yeah.

9 MR. BROOKS: -- answer that he was also --

10 MR. MARGOLIS: Yeah, yeah, yeah.

11 MR. BROOKS: -- the lead detective --

12 MR. MARGOLIS: Yeah.

13 MR. BROOKS: -- and combining all the other cases. I --

14 MR. MARGOLIS: I want to talk about this case, evidence

15 from this case.

16 THE COURT: Well, I think that the --

17 MR. MARGOLIS: Am I -- is that not implicit?

18 THE COURT: The warrant --

19 MR. BROOKS: I just don't know. That's all, I'm just saying.

20 THE COURT: The warrant specifically does talk about, you

21 know, the rock that we read yesterday. So I would just keep it very fine

22 tuned to the case and the facts we're here on today. I don't -- I mean --

23 MR. MARGOLIS: I mean, is that how I should (indiscernible)?

24 I'm talking about other evidence related to this investigation.

25 THE COURT: Yeah, yeah, yeah. So --

1 MR. MARGOLIS: I understand what he's saying and
2 obviously I don't want that to happen.

3 THE COURT: Yeah, yeah, yeah. I think, you know, his
4 response though to your question is, the case is ongoing. I didn't know
5 where else I could leave --

6 MR. MARGOLIS: Leave it lie, I'm not getting anywhere?

7 THE COURT: No. I'm not implying that. But I'm just saying I
8 think his --

9 MR. BROOKS: I didn't --

10 THE COURT: I don't think you will get anywhere.

11 MR. BROOKS: That's why I [indiscernible] --

12 MR. MARGOLIS: Fair enough, okay.

13 MR. BROOKS: -- I don't know what's coming.

14 MR. MARGOLIS: Okay.

15 MR. BROOKS: That's what he was saying.

16 THE COURT: Okay.

17 MR. MARGOLIS: Yeah, I know.

18 [Sidebar ends at 10:31 a.m.]

19 BY MR. MARGOLIS:

20 Q All right. So your investigation of this battery with
21 substantial bodily harm with a rock was on going?

22 A Yes.

23 Q You could have found additional items of evidence?

24 A Correct.

25 Q Maybe the mysterious witness alongside Laresha Moore

1 suddenly surfaces and she collected something, for instance, right?

2 A Correct.

3 Q And in that vein, having my client's material would have
4 enabled you to test, right? Would have enabled you to potentially gain
5 additional evidence to know -- you know, identify the perpetrator?

6 A Correct.

7 Q Okay. We've seen lots of video in this case. Lots of video.
8 I'm sure you've watched even more than us, so I'm not going to belabor
9 it. But I want to focus solely on the period between say 12:40 and 1:00
10 o'clock a.m. on that little strip of Las Vegas Boulevard in front of the
11 Paris, okay. For me that's what matters, okay. And specifically even
12 further, I guess we're talking about 12:44 to say 12:48ish when the
13 incident, the attack on Mr. Will happens. I mean, that's real difficult to
14 see for me. Is it difficult to see for you?

15 A It is difficult to see on the video. However, you can see what
16 -- there is an altercation.

17 Q I don't discount that there's altercation, okay. I've worn
18 glasses and contact lenses my entire life, clearly I'm blind as a bat and
19 over 40 it's getting worse, okay. So I'll admit part of it might be my
20 inability to focus to the degree necessary, okay. But I think the images of
21 the actual altercation are grainy. Would you disagree with that
22 assessment?

23 A No.

24 Q Can you see details of the upper body of facial expressions of
25 the individuals involved in the altercation?

1 A Not right when the altercation happens. After the fact you
2 can.

3 Q Okay. Well, is it your testimony that between the pastiche of
4 cameras collected and the images collected, that every step that the
5 individual takes in the immediate aftermath of the altercation is
6 captured?

7 A Not every step is captured.

8 Q Not every step is captured.

9 A But his clothing is very distinct at the altercation.

10 Q Let's talk about the distinct clothing. You said that a lot of
11 times and, you know. Aside from the fact that it's my job description, I
12 have to quarrel with the -- this distinctive clothing. I mean, first of all the
13 three of us all wearing grayish suits and I would argue that each of these
14 three suits are infinitely more distinctive than the black pair of shorts
15 depicted in that video. One man's opinion. So let's talk about the shirt,
16 what about the shirt makes it so distinctive?

17 A With all the other video that I had viewed --

18 Q I don't want to know about all the other video --

19 A It's a light colored shirt and you're able to track him for
20 where the altercation happens down Las Vegas Boulevard --

21 Q The shirt itself. The shirt itself. I'm not talking about the
22 individual that you believe to be wearing the shirt --

23 A It's a lighter colored shirt.

24 Q -- on various different dates. The shirt itself.

25 A It's a light colored shirt.

1 Q Okay. But -- I mean, I'll help you out here. I mean, the
2 distinct part about it I guess is that it appears different in different
3 lighting, right?

4 A Yes.

5 Q The check pattern, right? It's not -- you've got a plain blue
6 dress shirt I think from this distance, right? And I've got the little stripes,
7 right?

8 A Yes.

9 Q Okay. And I'll grant you this, that shirt's got a little more
10 going on than our two shirts arguable, right?

11 A Yes.

12 Q Okay. But when you say distinctive shirt or distinctive article
13 of clothing, I'm thinking like homeboys on camera doing a crime wearing
14 a big Blackhawks sweater, not jersey because we're talking hockey,
15 right? And that to me is distinctive, okay. It's distinctive and that it's
16 obviously a trademark insignia and all that good stuff. It's distinctive in
17 that there are probably very -- a finite, but a certain amount of variations
18 of it, right? Did you attempt to trace the shirt to see what manufacturer,
19 where it's sold --

20 A No.

21 Q -- any of that stuff?

22 A No. I did not.

23 Q Okay. So it is your testimony that there's -- that that shirt is
24 so distinctive that there's like one in Las Vegas?

25 A No. It's distinct in the fact that I was able to track him

1 wearing that shirt and the other clothing he had.

2 Q Now -- and I don't know if you're aware. Throughout the
3 course of your investigation of this case, did you come to find that Mr.
4 Young may have been homeless at some period during the summer of
5 2020?

6 A Yes.

7 Q Okay. And, you know, for better or for worse in your
8 experience as a law enforcement officer and as a detective, is it more
9 likely for a homeless person to wear the same article of clothing multiple
10 times than it would be for say you, or I, or Mr. Brooks, or Ms. Sullivan?

11 A Honestly with the homeless I've interacted with it depends
12 on how homeless they may be.

13 Q Okay. Fair. It's a matter of degree, right? There's some
14 fashion plates, you know, in the arena. The shorts, do you think those
15 are distinct too?

16 A They're black colored shorts.

17 Q Seems to me that your answer suggests that they are not
18 particularly distinct, right?

19 A Black colored shorts I would say are not distinct by
20 themselves.

21 Q Fair enough. The jacket, again, we don't got a big
22 Blackhawks logo or a Vegas Knights stripe or anything like that, right?

23 A Correct.

24 Q It's a nondescript black jacket, presumably sold at
25 department stores and sporting goods stores and I'm sure Walmart's got

1 20 versions of it, fair?

2 A Correct.

3 Q All right. So ultimately this case relies upon you to a large
4 degree, would you -- is that fair?

5 A Yes.

6 Q And it relies a lot upon Laresha Moore?

7 A Yes.

8 Q Laresha Moore's a felon?

9 A Yes.

10 Q Laresha Moore lied?

11 A She did.

12 Q More than once?

13 A She did.

14 Q Why should this jury trust someone who lied to law
15 enforcement repeatedly about things -- never mind, scratch that. Recall
16 the question. Do you find Laresha Moore credible?

17 MR. BROOKS: Objection.

18 THE COURT: Sustained.

19 MR. MARGOLIS: Withdrawn. Brief indulgence, Your Honor.

20 THE COURT: Yeah.

21 BY MR. MARGOLIS:

22 Q Thank you for your cooperation, Detective Byrd.

23 A Yes, sir.

24 MR. MARGOLIS: Pass the witness.

25 THE COURT: Redirect.

1 REDIRECT EXAMINATION

2 BY MR. BROOKS:

3 Q Detective, do you remember the questions about you still
4 submitted for a buccal and got a buccal even though you were aware
5 that the crime scene was possibly contaminated?

6 A Yes.

7 Q After getting the buccal and prior to the lab going forward
8 with testing, do you subsequently learn from the lab whether or not they
9 would have accepted it for testing?

10 A I did learn. And speaking with the lab and the captain that
11 runs that bureau this item was not collected in the manner to be tested.
12 It was too contaminated at the scene; therefore it was not tested.

13 Q And without telling us what was said, do you also learn as to
14 whether even if it had been preserved perfectly it would have been
15 tested?

16 A It probably would not have.

17 Q Remember the question this case relies on you and Laresha
18 Moore that was just asked?

19 A Yes.

20 Q What does the case rely on? Why'd you submit the arrest
21 warrant? What's the one thing?

22 A The victim's condition and what happened to him.

23 Q All right. Well, I mean --

24 A And he --

25 Q -- if someone was just had a victim really bad, would you

1 submit an arrest report just on the victim? Like what's the piece of
2 evidence?

3 A Everything collectively based on the -- they want to say
4 distinct clothing, however, the clothing he's wearing the entire time. The
5 video surveillance I located prior to and after the fact with him wearing
6 the same exact clothing, as far as the clothing goes. When he's arrested
7 he has very similar shoes, identical shoes. Not to say they are the same
8 pair. With all of that together that's what this case weighs on.

9 Q And although we've shown you and just the jury a handful of
10 video surveillance and/or still photos of Mr. Young in other months in
11 2020 -- summer 2020. Fair to say you had additional photos and/or
12 videos, not just the ones we provided?

13 A Yes, I did. Several.

14 Q Fair to say that you had roughly 12 different times, dates,
15 angles, cameras, places of video footage?

16 A That's correct.

17 Q Of Mr. Andrew Young?

18 A Yes.

19 Q Thank you.

20 MR. BROOKS: Pass the witness.

21 THE COURT: Redirect -- re-cross.

22 MR. MARGOLIS: Very briefly.

23 RE-CROSS-EXAMINATION

24 BY MR. MARGOLIS:

25 Q So any failures to collect evidence at the scene or preserve

1 the scene or otherwise bag, tag, police tape, all that good stuff, okay.

2 Any of those failures, they might have caused you to miss evidence that
3 could have helped your case, correct?

4 A Correct.

5 Q But it very clearly could have also caused you to miss
6 evidence that would have helped to exculpate or exonerate Mr. Young,
7 right?

8 A Yeah, fair.

9 Q Okay. And we're not in a position to conduct that
10 investigation, correct? Myself and Mr. Young.

11 A Correct.

12 Q In fact this trial was continued because I wanted to test the
13 rock. It wasn't --

14 MR. BROOKS: Objection, Judge. Facts not in evidence.

15 MR. MARGOLIS: Withdrawn.

16 MR. BROOKS: I'd ask you to --

17 THE COURT: So you can rephrase it. So that's sustained and
18 stricken. If you want to rephrase it a different way --

19 MR. MARGOLIS: Yeah. Let me rephrase it briefly.

20 THE COURT: If the detective knows.

21 BY MR. MARGOLIS:

22 Q If I wanted to test the rock, I wouldn't really be able to do it
23 anyway, right?

24 A That's correct.

25 Q Okay. And that's not through any fault of mine or Mr.

1 Young's?

2 A No. It's not.

3 Q Thank you, Detective.

4 MR. BROOKS: Nothing further, Judge.

5 THE COURT: Questions for the detective? Okay. Go ahead.

6 One question per page, please. Parties approach, please.

7 [Sidebar begins at 10:42 a.m.]

8 MS. SULLIVAN: Any knowledge if they knew each other.

9 MR. BROOKS: Well, yeah. I asked him (indiscernible).

10 MR. MARGOLIS: [Indiscernible]

11 MS. SULLIVAN: It's up to you.

12 MR. MARGOLIS: I don't care.

13 MS. SULLIVAN: No objection. Has the victim's medical
14 condition [indiscernible].

15 MR. MARGOLIS: I'm not aware.

16 MR. BROOKS: Are you aware, it's phrased properly.

17 [Indiscernible]

18 MS. SULLIVAN: No objection. The mother said she found
19 out from Will that he was in the hospital two days after the incident
20 [indiscernible] after the incident.

21 MR. MARGOLIS: I'm fine with that, yeah, sure.

22 [Indiscernible].

23 MS. SULLIVAN: No objection.

24 MR. MARGOLIS: I think mom was just mistaken.

25 MS. SULLIVAN: [Indiscernible] brain surgery rather than

1 [indiscernible]
2 [Indiscernible]
3 MR. MARGOLIS: Medical malpractice, yeah, sure.
4 MS. SULLIVAN: No objection. When did he have surgery?
5 Before or after Byrd saw him?
6 [Indiscernible]
7 MS. SULLIVAN: No objection. How does Detective Byrd
8 know if there is mental delay and how much was his mental delay before
9 he was [indiscernible]?
10 MR. MARGOLIS: Isn't that kind of consumed by the other
11 one?
12 THE COURT: [Indiscernible] number -- I don't -- I think it --
13 she's -- Chris. She's got to sign this.
14 THE MARSHAL: Okay.
15 MS. SULLIVAN: So don't ask this one?
16 MR. MARGOLIS: Yeah, object. Repetitive. [Indiscernible].
17 MS. SULLIVAN: Judge, no for this one. Were any of the
18 detectives [indiscernible].
19 MR. BROOKS: Say it again.
20 MS. SULLIVAN: Were any of the detectives [indiscernible].
21 MR. BROOKS: Say it again.
22 MS. SULLIVAN: Were any of the detectives [indiscernible]
23 asked to confirm the identity [indiscernible].
24 MR. MARGOLIS: I have no objection to that.
25 [Indiscernible]

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MS. SULLIVAN: Yeah.

MR. BROOKS: That's --

MR. MARGOLIS: Legal [indiscernible].

MR. BROOKS: Yeah.

MS. SULLIVAN: Objection to this one. Because Mr. Will was being unresponsive what is proper procedure police are supposed to do once they arrive on scene?

MR. BROOKS: Sure.

MR. MARGOLIS: I think they're saying, what is.

MR. BROOKS: Yes.

MR. MARGOLIS: What is, what were they supposed to be --

MS. SULLIVAN: No objection. Did you discover any prior relationship. We already asked this.

MR. BROOKS: [Indiscernible].

MS. SULLIVAN: No objection to this. Could mental problems observed be a result -- oh, we already did this one.

MR. BROOKS: It's the same one.

MR. MARGOLIS: [Indiscernible]

MS. SULLIVAN: It's the same question, so we said no objection.

MR. MARGOLIS: Yeah, yeah.

MS. SULLIVAN: No objection to this.

[Sidebar ends at 10:46 a.m.]

THE COURT: All right. Detective Byrd, a few questions from the jury for you.

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: Number one, the rock, is there any blood stain
3 on it?

4 THE WITNESS: You can see it's just a multicolored rock. It
5 does not appear there is any blood stain on the rock.

6 THE COURT: The mother had said that she found out from
7 Mr. Will that he was in the hospital two days after the incident, which
8 would be Tuesday questionably. Wouldn't this mean that he was at least
9 a little bit aware after the incident?

10 THE WITNESS: He may have been. When I spoke with her I
11 believe the hospital had contacted her.

12 THE COURT: The hospital had contacted her? Okay. When
13 did he have surgery, was it before or after the Wednesday when you saw
14 him?

15 THE WITNESS: I don't recall when that surgery was. I know
16 when he initially went to the hospital. When the CSA responded and
17 took those photos on the first he had a huge scar with staples around his
18 head. So he would have either been closed up, I don't know if it was
19 surgery at that time though.

20 THE COURT: Because Mr. Will was bleeding and
21 unresponsive on scene with medics present, what is the proper
22 procedure that police are supposed to do once they arrive on the scene?

23 THE WITNESS: Once police arrive on scene, try and contain
24 whatever they can. Obviously, they call for medical immediately and
25 this guy's condition is very bad. We're obviously trained for first aid,

1 first responder first aid. If there's say a gunshot wound or a stab wound
2 and we know medical's going to be a little ways out, we can try and
3 administer first aid. However, the fire departments on the strip usually
4 respond within a couple minutes. And in this case I think the video
5 showed the fire department responded very quickly. So at that point the
6 victim would just be transported to the hospital. There'd be no reason to
7 keep that victim on the scene.

8 THE COURT: Any knowledge if the Plaintiff and Defendant
9 knew each other prior to the attack?

10 THE WITNESS: That I do not know.

11 THE COURT: Could the mental problems that he now has be
12 a result of the brain surgery?

13 THE WITNESS: Could you repeat that? I'm sorry.

14 THE COURT: Basically the mental issues that the victim now
15 has, could that be a result from the brain surgery rather than the
16 incident?

17 THE WITNESS: The incident would have caused the brain
18 surgery, so the injury -- you know, the mental status now could be from
19 a multitude of factors. But the altercation is what led him to have that
20 surgery.

21 THE COURT: Because of the victim's medical condition, are
22 you aware if the victim had had any existing medical conditions before
23 the incident?

24 THE WITNESS: No. I do not know.

25 THE COURT: State, follow up?

1 MR. BROOKS: No, Judge.

2 THE COURT: Mr. Margolis?

3 MR. MARGOLIS: Nothing, Your Honor. Thank you.

4 THE COURT: All right. Please don't share your testimony
5 with anyone else involved in the trial, but you are excused. Thank you
6 for being here.

7 THE WITNESS: Thank you, Your Honor. Thank you, jury.

8 THE COURT: State?

9 MR. BROOKS: Your Honor, at this point the State rests.

10 STATE RESTS

11 THE COURT: Okay. Mr. Margolis?

12 MR. MARGOLIS: Defense rests, Your Honor.

13 DEFENDANT RESTS

14 THE COURT: Okay. All right. So ladies and gentlemen, what
15 we're going to do at this point is we are going to settle what's referred to
16 as jury instructions, so that when you guys come back in here you'll have
17 a full packet of the instructions on the law that apply to the facts of this
18 case. That takes a little bit. So I'm going to give you an hour break right
19 now. So if you want to go to Starbucks or do something like that while
20 prepare those. And then we'll have lunch for you once you go back to
21 deliberate.

22 So right now we'll settle jury instructions, you'll have your
23 hour break, we'll come in. I'll read those instructions to you, we'll do the
24 arguments and then I'll send you back into the deliberation room where
25 hopefully lunch will be delivered at that time.

1 Also, effective immediately, Govern Sisolak just listed -- lifted
2 the mask mandate, so you no longer have to wear masks, if you want to
3 and you feel more comfortable, please do. But you're no longer required
4 by law, okay?

5 All right. So during this recess you must not discuss or
6 communicate with anyone including fellow jurors in any way regarding
7 the case or its merits, either by voice, phone, email, text, internet or
8 other means of communication or social media. Please do not read,
9 watch or listen to any news or media accounts, or commentary about the
10 case. Do any research such as consulting dictionaries, using the internet
11 or using any other reference materials on your own. Please do not make
12 any investigation, test a theory of the case, recreate any aspect of the
13 case or any other way attempt to learn or investigate the case on your
14 own. And please do not form or express any opinion on this matter until
15 it's formally submitted to you.

16 I will see you at 10 to 12:00, please. See you in one hour.

17 THE MARSHAL: All rise.

18 THE COURT: Thank you.

19 [Jury out at 10:51 a.m.]

20 [Outside the presence of the jury]

21 THE COURT: All right. We're outside the presence of the
22 jury. All parties present. Yes, Mr. Brooks?

23 MR. BROOKS: Judge, are we at all concerned, and I can't
24 believe I'm about to say this out loud, that some people accepted jury
25 duty under the guise of a wearing a mask with the person the sitting next

1 to them, that now they're going to lose their shit if someone, you know,
2 next --

3 THE COURT: Well, considering that's every single one of
4 them ripped it off.

5 MR. BROOKS: Except for the two middle row, far left, Ms. --
6 the voice and Ms. --

7 THE COURT: Oh far right?

8 MR. BROOKS: Over there. Seven and eight. So I just -- look,
9 I can't believe I'm saying it, but what if all of a sudden they're like, hey, I
10 accepted this under this guise. I told you they were
11 immunocompromised dot, dot, dot and now you ripped it off and I
12 would have gotten out.

13 THE COURT: No.

14 MR. BROOKS: Okay.

15 THE COURT: All right. Okay, guys. So jury instructions,
16 were you able to find any that you wanted to add, Mr. Margolis, on
17 behalf of defense?

18 MR. MARGOLIS: Just that -- you said that Mr. Orum
19 [phonetic] used a mere presence one.

20 MR. BROOKS: Yeah. Like a mere presence --

21 MR. MARGOLIS: All I was able to find was the 9th Circuit
22 one. That's the only one I would propose and then I want to argue with
23 Mr. Brooks about the flight instruction.

24 THE COURT: All right. Well, then let's start with -- you have
25 the -- do you have the State's in front of you, Mr. Margolis?

1 MR. MARGOLIS: Yeah.

2 THE COURT: All right. So let's just do these sequentially
3 right now.

4 MR. MARGOLIS: Okay.

5 THE COURT: All right. So -- okay. I'm just going to say the
6 first few words on each of the pages just to let -- so we're all on the same
7 page in regards to what I'm looking at. You let me know if you have an
8 objection.

9 Page 1, it is now my duty as judge. Number 2, if in these
10 instructions. Three, a third amended superseding incitement. So let's
11 look at this one.

12 MR. MARGOLIS: Yeah. This is kind of tricky.

13 THE COURT: Let's do -- what if we just did it as Count A?
14 Does anybody care?

15 MR. BROOKS: No.

16 THE COURT: It just looks weird, and it probably only looks
17 weird because we've been doing it, you know, one way forever. But --

18 MR. MARGOLIS: I guess if we make them A and B then
19 there's less confusion with the previous --

20 THE COURT: Yeah.

21 MR. MARGOLIS: Right.

22 THE COURT: So Count B. So I just made them Count A and
23 Count B.

24 MR. MARGOLIS: Okay.

25 THE COURT: All right. To constitute the crime charged, four.

1 Five is, a specific intent. Six is, general intent. Seven is, attempt murder.
2 Eight is, expressed malice. Nine is, battery means. 10 is, you are
3 instructed. 11 is, a deadly weapon. 12 -- do you want, the State is not
4 required to have recovered the deadly weapon?

5 MR. BROOKS: Yes, Judge.

6 THE COURT: 13, you are instructed if you find the Defendant
7 guilty of the crime of battery. 14 is -- or 15, I can't remember what we're
8 on. Substantial bodily harm. And then next is the flight, which we'll talk
9 about in one moment. It is a constitutional right of a defendant. The
10 Defendant is presumed innocent. You are to determine whether or not
11 the Defendant is guilty. The evidence which you are to consider. The
12 Tavares instruction is next. The credibility or believability of a witness.
13 The fact that a witness has been convicted of a felony.

14 The commonsense instruction. Subject of punishment
15 instruction. Deliberation -- during the course of the trial or deliberations
16 you are not to. I'm going to change this one just a little bit, guys,
17 because this gets confusing and I'm going to use the stock one, which I
18 would -- I'm going to ask the State to put in their stock because this
19 confuses them when they say, you're not allowed to communicate with
20 anyone in any way regarding the case. There's an instruction, and I'll
21 email it to each of you right now, that says, other than your fellow jurors.
22 So, yeah.

23 When you retire to consider your verdict. Foreperson. If
24 during your deliberations you should decide to be further informed. And
25 now you'll listen to arguments of counsel.

1 And then we have the verdict form. We have battery with
2 use of a deadly weapon resulting is SBH. And then attempt murder with
3 use of a deadly weapon. All right. Minus the argument on the flight
4 instruction, do you have any objections to the instructions as just read by
5 the Court, Mr. Margolis?

6 MR. MARGOLIS: No, Your Honor. I do not.

7 THE COURT: And have you had an opportunity to look at the
8 verdict form, which I will add to Count A and Count B? So, okay. I've
9 added Count A and Count B. All right.

10 Flight, Mr. Margolis, your opening regards to why it
11 shouldn't be given?

12 MR. MARGOLIS: I mean, I don't believe we've heard a whole
13 lot of testimony about flight. We saw a lot of surveillance video of a guy
14 purported to be Mr. Young walking around. We had one witness testify,
15 honestly it seemed kind of off the cuff that, oh, and there's he's looking
16 over his shoulder because he's clearly looking to see if somebody
17 followed him. I should have objected and jumped, but I didn't because I
18 kind of wanted to talk about it in closing more and just say, really.

19 So every time someone looks over their shoulder their
20 obviously fleeing the scene of a crime. I'm a paranoid android, I look
21 over -- I got my head on a swivel all the time, it doesn't mean I'm fleeing
22 from a crime. And that's literally the only thing that I can remember
23 specifically hearing about fleeing from the crime.

24 Now today we heard a little about going into the Cosmo and
25 coming out of the Cosmo, okay. And Mr. Reed [phonetic] was the

1 Cosmo guy and honestly Mr. Brooks told me if I asked him one question
2 he'd talk for 10 minutes, so I really didn't want to ask him a question.
3 But he said something along the lines of he went into the Cosmo, and he
4 conducted no business. I didn't know that it was like indicative of
5 criminal activity to go into a building and not conduct business there. I'd
6 also point out that Mr. Young appeared to get a water from a cocktail
7 waitress, so maybe he did conduct some business. But those are the
8 two pieces of testimony that I specifically recall relating to Mr. Young
9 fleeing.

10 Mr. -- or Detective Byrd also tied a nice little bow on it today
11 where he said that, you know, you can see him on I believe it was the
12 Cosmo camera go out some double doors, stop like right in between
13 here and the outer doors, see that there's still like police activity in front
14 of the Paris and then go back in. That I would also characterize as
15 testimony indicative of trying to fit that flight in. But, I mean, those are
16 three very discrete pieces of evidence amongst -- I mean, it wasn't in my
17 opinion testified to in such a way that flight was proven or was
18 demonstrated really. I mean --

19 THE COURT: What would be your argument thought to -- I
20 mean, we can all agree right that he doesn't stay on the scene, right?

21 MR. MARGOLIS: Sure.

22 THE COURT: That happens and then he, you know, walks
23 away. I don't -- you -- he's definitely not running. I would say he's
24 walking at a quick pace --

25 MR. MARGOLIS: He's -- I mean --

1 THE COURT: But -- so what's your argument though? Listen,
2 he didn't stay, he didn't wait to see if the guy was okay, he didn't wait to
3 say to the police this is self-defense, or he came at me or anything like
4 that.

5 MR. MARGOLIS: Well, seeing as how I'm not admitting that
6 it's him. Why would he stay? Why would anybody there stay? Okay.
7 On the one hand, and I commended Laresha Moore for it on the stand.
8 As much as I didn't want to commend Laresha Moore for anything, I
9 commended her for it because it's true. A guy gets bashed across the
10 head, everybody goes about their business, drinking, smoking, doing
11 whatever they feel. Completely oblivious to the fact that this guy's going
12 to like bleed on this bench if she doesn't call. It's sad. I said it in my
13 opening. It's sad, I feel for him and his mother, you know. And she did
14 the right thing.

15 But the idea that leaving the scene is indicative of flight, then
16 everybody there -- I understand from the prospective that, oh well, he's
17 the guy. Of course. But my defense is that they haven't proven that he's
18 the guy. They've proven that some big bald black dude is walking
19 around. That's my argument. They haven't proven that he's the guy, so
20 how can they prove he's fleeing.

21 THE COURT: Okay. Mr. Brooks. On behalf of State.

22 MR. BROOKS: The flight -- the man in video in the gray,
23 whoever that might be who leaves the incident, because an incident
24 occurs where a man gets hit in the head with a rock by that guy in gray
25 and then that gray -- guy in gray walks away.

1 Now I can go into detail about he walks away, but that's the
2 flight is that person. Now if Mr. Margolis wants to say, yeah. That guy
3 who did it. Because in opening I think I remember him saying, yeah.
4 This guy was hit. Robert Will was hit --

5 MR. MARGOLIS: I did.

6 MR. BROOKS: -- it just wasn't Andrew Young, that's fine.
7 But now I guess I'm confused because the man who hit walks away at
8 the Cosmo -- into the Cosmo, does nothing in the Cosmo, but goes out,
9 peeks, back in. Now if we're going to say -- if he wants to argue that's
10 not Mr. Andrew Young, I have no doubt that he's going to argue that and
11 that's fine, but the person who did the hitting flees. Now he might not
12 run, he might not get in a car, but he leaves the scene.

13 THE COURT: I think he's arguing both that that guy isn't Mr.
14 Young and that that guy even though he's not Mr. Young, he didn't flee,
15 right? So --

16 MR. MARGOLIS: Agreed.

17 THE COURT: Yeah.

18 MR. MARGOLIS: Agree. I don't want to foreclose either one
19 of those. I mean, the primary theme is it's not Mr. Young.

20 THE COURT: Of course.

21 MR. MARGOLIS: But ultimately even if the guy in the shirt
22 that hits Mr. Will, I mean, is walking away and admittedly maybe in a
23 slightly more rapid pace, but I probably walk faster than that. I'm a fast
24 walker. But I don't know. I mean, flight to me is like (indiscernible),
25 right? I mean --

1 THE COURT: Yeah. I mean, I think flight can be vary in
2 degree, right? Like we see all the time like drive by shooting and then
3 someone drives off.

4 MR. MARGOLIS: Right.

5 THE COURT: Or you've seen a knifing, and someone gets in
6 a car or runs off. But I think that the -- I don't think that the State has to
7 meet this evidentiary bar for a flight instruction to come in. I think they
8 have to show someone was there and then after the crime someone left.
9 And then I think that there has been certain pieces of evidence as well as
10 videotape that we see.

11 Now what weight the jurors choose to give, how fast was
12 this individual walking. Did the individual look over their shoulder? Are
13 they looking over the shoulder because that's what they do or are they
14 looking over the shoulder because something just happened and they're
15 trying to see if they got caught? Do they peek out the doors to see
16 what's going on? Those are all things that I think that the jury can take
17 into consideration, but I think that the State has definitely met -- excuse
18 me. Has definitely displayed enough evidence to argue to the jury that
19 the flight instruction more than appropriate.

20 So your -- or excuse me. Your objection's noted for the
21 record, but overruled. It's going to come in. And then -- so guys, I don't
22 have the -- like the mere presence you want --

23 MR. MARGOLIS: I'll find it, hold on.

24 THE COURT: Okay. And then I can just type it in and add it.

25 MR. MARGOLIS: Okay. This is the Model 9th Circuit one, is

1 that okay?

2 THE COURT: Well, just read it to me.

3 MR. MARGOLIS: All right. Mere presence. Mere presence at
4 the scene of a crime or mere knowledge that a crime is being committed
5 is not sufficient to establish that the defendant committed the crime, and
6 then you specify the crime.

7 THE COURT: Right.

8 MR. MARGOLIS: The defendant must be a participant and
9 not merely a knowing spectator. The defendant's presence may be
10 considered by the jury along with other evidence in the case.

11 THE COURT: So let me ask you a question.

12 MR. MARGOLIS: Uh-huh.

13 THE COURT: Because your position is that Mr. Young wasn't
14 there --

15 MR. MARGOLIS: Sure.

16 THE COURT: -- right?

17 MR. MARGOLIS: Sure.

18 THE COURT: So the relevance of the mere presence is when
19 my guy is there, he's just not an active participant.

20 MR. MARGOLIS: Exactly right.

21 THE COURT: So how do those two things come together?

22 MR. MARGOLIS: Because you can -- they're -- I mean, I tried
23 to argue about the videos discretely on that evening and that time period
24 vis-a-vis the Tavares ones for identification purposes.

25 THE COURT: Right.

1 MR. MARGOLIS: And if they believe that those are the same
2 person, which obviously I really would prefer they didn't. But if they do,
3 can they still believe that they have evidence sufficient that places him
4 there, as in, in the vicinity but not actually seeing the altercation well
5 enough to indicate that he's the active participant. Do you think I'm
6 gilding the lily too far? I can tell by your --

7 THE COURT: No.

8 MR. MARGOLIS: But I'm trying to have it both ways to the
9 degree I'm able.

10 THE COURT: Understood. State?

11 MR. BROOKS: No objection.

12 THE COURT: Okay.

13 MR. BROOKS: I mean, if you -- if Mr. Margolis wants you
14 can theoretically craft some way to add it to the flight, so that -- you
15 know, I mean, if you're just merely there or if you flee, I don't care --

16 THE COURT: Let's just -- I can read them back to back, but --

17 MR. BROOKS: Yeah. Let's put it back to back.

18 THE COURT: -- let's have them be two second. May I have
19 your phone to read it though, so I can type it out?

20 MR. MARGOLIS: Yeah, of course. I'm sorry. Yeah.

21 THE COURT: No. That's okay. I'm a pretty quick --

22 MR. MARGOLIS: I thought you were just feverishly typing as
23 I was speaking.

24 THE COURT: I'm a pretty quick typer, but I'm not that quick.
25 Okay. Thank you.

1 MR. MARGOLIS: Yeah.

2 THE CLERK: Are we off the record now, Your Honor?

3 THE COURT: Yes, we are.

4 THE CLERK: Thank you.

5 [Recess taken from 11:07 a.m. to 11:58 a.m.]

6 [Outside the presence of the jury]

7 THE CLERK: We're on the record, Your Honor.

8 THE COURT: All right. We're back on the record in State of
9 Nevada v. Andrew Young, C-350623. Mr. Young is present in custody
10 with Mr. Margolis. Both of the district attorneys, Ms. Sullivan as well as
11 Mr. Brooks are present on behalf of the State.

12 All right. Mr. Brooks, have you received a full and complete
13 copy of the instructions that are to be given to the jury?

14 MR. BROOKS: Yes, Judge.

15 THE COURT: And have you had the opportunity to review
16 those?

17 MR. BROOKS: Yes, Judge.

18 THE COURT: Do you believe those to be a full and correct
19 copy of the law that the jury should receive in this case?

20 MR. BROOKS: Yes, Judge.

21 THE COURT: Have you also had the opportunity to look at
22 the verdict form?

23 MR. BROOKS: Yes, Judge.

24 THE COURT: And does that appear to be a fair and accurate
25 and correct copy of the verdict form that should go forth to the jury?

1 MR. BROOKS: Yes, Judge.

2 THE COURT: Any objections to the jury instructions as they
3 are now?

4 MR. BROOKS: No, Judge.

5 THE COURT: Mr. Margolis, have you had the opportunity to
6 read the instructions -- go through the instructions to the jury?

7 MR. MARGOLIS: I have, Your Honor.

8 THE COURT: Besides the objection that you had in regards
9 to flight, do you have any further objections?

10 MR. MARGOLIS: No. I do not.

11 THE COURT: Do you believe this to be a fair, accurate, and
12 complete copy of the law that should be given to the jury in regard to
13 this case?

14 MR. MARGOLIS: Yes, I do.

15 THE COURT: And have you had the opportunity to look at
16 the verdict form?

17 MR. MARGOLIS: I have.

18 THE COURT: Do you believe that to be a fair and accurate
19 form that should go forth to the jury in regards to the proper verdicts?

20 MR. MARGOLIS: I do.

21 THE COURT: All right. That should be it guys. So I will read
22 these and then we'll go into argument.

23 We're good. Bring them in please. Thank you.

24 THE MARSHAL: All rise.

25 [Jury in at 12:00 p.m.]

1 THE COURT: All right. Thank you everybody. Welcome
2 back. Please be seated. We are on the record in State of Nevada v.
3 Andrew Young, C-350623. Mr. Young is present with Mr. Margolis. Both
4 deputy district attorneys Mr. Brooks as well as Ms. Sullivan are present
5 on behalf of the State.

6 So ladies and gentlemen, when you sat down there is a copy
7 of the instructions to the jury. These will go back to you -- back with you
8 in the jury deliberation room. So you'll have these to consult with and
9 go through with one another, if you need further direction on the law
10 that applies to the facts of this case, okay. You can also write on them
11 and take notes on them if need be. I'm sure counsel at some point or
12 another may point to the jury instructions as well.

13 I will now go through them and read them to you, but just
14 keep in mind, you'll have the opportunity to read them fully in the back if
15 you choose to, okay. Instructions to the jury instructions.

16 Instruction number 1. Members of the jury, it is now by duty
17 as judge to instruct you in the law that applies to this case. It is your
18 duty as jurors to follow these instructions and to apply the rules of law to
19 the facts as you find them from the evidence. You must not be
20 concerned with the wisdom with any rule of law stated in these
21 instructions, regardless of any opinion you may have as to what the law
22 ought to be. It will be a violation of your oath to base a verdict upon any
23 other view of the law than that given in the instructions of the Court.

24 Number 2. If in these instructions, any rule, direction or idea
25 is repeated or stated in different ways, no emphasis thereon is intended

1 by me, and none may be inferred by you. For that reason, you are not to
2 single out any certain sentence or any individual point or instruction and
3 ignore the others, but you are to consider all the instructions as a whole
4 and regard each in the light of all of the others. The order in which the
5 instructions are given has no significance as to their relative importance.

6 Number 3. A third amendment superseding indictment is
7 but a formal method of accusing a person of a crime and is not of itself
8 any evidence of his guilt. In this case, it is charged in the third amended
9 superseding indictment that on or about July 26th of 2020, the Defendant
10 committed the offenses of battery with use of a deadly weapon resulting
11 in substantial bodily harm, and attempt murder with use of a deadly
12 weapon.

13 Count A is battery with use of a deadly weapon resulting in
14 substantial bodily harm. Did willfully, unlawfully, feloniously use force
15 or violence upon the person of another to wit Robert Will with use of a
16 deadly weapon to wit a rock by striking the said Robert Will on the head
17 with said rock, resulting in substantial bodily harm to Robert Will.

18 Count B, attempt murder with use of a deadly weapon. Did
19 willfully, unlawfully, feloniously and with malice aforethought, attempt
20 to kill Robert Will, a human being with use of a deadly weapon, to wit a
21 rock, by striking the said Robert Will on the head with the said rock.

22 It is the duty of the jurors to apply the rules of law contained
23 in these instructions to the facts of the case and determine whether or
24 not the Defendant is guilty of one or more of the offenses charged. Each
25 charge and the evidence pertaining to it should be considered

1 separately. The fact that you may find the Defendant guilty or not as to
2 one of the offenses charged should not control your verdict as to any of
3 the other offenses charge.

4 Number 4. To constitute the crime charged there must exist
5 in union or joint operation of an act forbidden by law and an intent to do
6 the act. The intent with which an act is done is shown by the facts and
7 circumstances surrounding the case. Do not confuse intent with motive.
8 Motive is what prompts a person to act; intent refers only to the state of
9 mind with which the act is done. Motive is not an element of the crime
10 charged, and the State is not required to prove a motive on the part of
11 the Defendant in order to convict. However, you may consider evidence
12 of a motive or lack of motive as a circumstance in the case.

13 Number 5. A specific intent as the term implies, means more
14 than a general intent to commit the act. To establish specific intent, the
15 State must prove that the Defendant knowingly did the act, which the
16 law forbids, purposefully intending to violate the law. And act is
17 knowingly done if done voluntarily and intentionally, and not because of
18 mistake or accident or other innocent reason. The intention may be
19 inferred from the Defendant's conduct under the circumstances. You are
20 instructed that attempt murder with use of a deadly weapon is a specific
21 intent crime.

22 Number 6. General intent is the intent to do that which the
23 law prohibits. It is not necessary for the prosecution to prove that the
24 Defendant intended the precise harm or the precise result, which
25 eventuated if a crime is a general intent crime.

1 As used in these instructions, the term willful means an act
2 done intentionally, not accidentally. The word willfully does not require
3 any intent to violate law or to injure another or to acquire any advantage.
4 You are instructed that battery with use of a deadly weapon resulting in
5 substantial bodily harm is a general intent crime.

6 Number 7. Attempted murder is the performance of an act
7 or acts which tend, but fail, to kill a human being. When such acts are
8 done with express malice, namely with the deliberate intention
9 unlawfully to kill. It is not necessary to prove the element of
10 premeditation and deliberation in order to prove attempt murder.

11 Number 8. Express malice means an evil intent to injure
12 another person and may be inferred from an act done in willful disregard
13 of the rights of another or an act wrongfully done without just cause or
14 excuse, or an act or omission of duty betraying a willful disregard of
15 social duty.

16 Number 9. Battery means any willful and unlawfully use of
17 force or violence upon a person of another. If that force is accomplished
18 with use of a deadly weapon, the person is guilty of battery with use of a
19 deadly weapon. If that force results in substantial bodily harm to the
20 victim, the person is guilty of battery resulting in substantial bodily
21 harm. If that force is accomplished with use of a deadly weapon with
22 substantial bodily harm results to the victim, the person is guilty of
23 battery with use of a deadly weapon resulting in substantial bodily harm.

24 Number 10. You are instructed, if you find the Defendant
25 guilty of attempt murder and/or battery, you must also determine

1 whether or not a deadly weapon was used in the commission of this
2 crime. If you find beyond a reasonable doubt that the Defendant
3 committed attempt murder and/or battery with use of a deadly weapon,
4 then you are instructed that the verdict reflecting with use of a deadly
5 weapon is the appropriate verdict.

6 If however you find that a deadly weapon was not used in
7 the commission of the crimes, then you are instructed that the verdict
8 reflecting that no weapon was used is the appropriate verdict.

9 Number 11. As used in these instructions a deadly weapons
10 means; 1) any instrument, which if used in the ordinary manner,
11 contemplated by its design and construction will or is likely to cause
12 substantial bodily harm or death, or; 2) any weapon, device, instrument,
13 material, or substance which under the circumstances is -- in which it is
14 used, attempted to be used or threatened to be used is readily capable of
15 causing substantial bodily harm or death.

16 Number 12. The State is not required to have recovered the
17 deadly weapon used in an alleged crime or to produce the deadly
18 weapon in court at trial to establish that a deadly weapon was used in
19 the commission of that crime.

20 Number 13. You are instructed that if you find the Defendant
21 guilty of the crime of battery you must also determine whether or not
22 substantial body harm resulted. If you find beyond reasonable doubt
23 that a deadly weapon was used in the commission of the crime of
24 battery and that substantial bodily harm did result, then you are
25 instructed that a verdict of battery with use of a deadly weapon resulting

1 in substantial bodily harm is the appropriate verdict. If however, you
2 find that a deadly weapon was used in the commission of the battery
3 and that substantial bodily harm did not result, then you are instructed
4 that the verdict of battery with a deadly weapon is the appropriate
5 verdict.

6 If however, you find that a deadly weapon was not used in
7 the commission of the battery, but that substantial bodily harm did
8 result, then you are instructed that the verdict of battery with substantial
9 bodily harm is the appropriate verdict. If however, you find that a deadly
10 weapon was not used in the commission of the battery and that
11 substantial bodily harm did not result, but you find that the battery was
12 committed, then you are instructed that the verdict of battery is
13 appropriate verdict.

14 Number 14. As you see in these instructions substantial
15 bodily harm means; 1) bodily injury, which creates a substantial risk of
16 death, or which causes serious permanent disfigurement or protracted
17 loss or impairment of function of any bodily member or organ, or; 2)
18 prolonged physical pain. Prolonged physical pain necessarily
19 encompasses some physical suffering or injury that lasted longer than
20 the pain immediately resulting from the wrongful act.

21 Number 15. The flight of a person after the commission of a
22 crime is not sufficient in itself to establish guilt. However, if flight is
23 proved, it is circumstantial evidence in determining guilt or innocence.
24 The essence of flight embodies the idea of deliberately going away with
25 consciousness of guilt and for the purpose of avoiding apprehension or

1 prosecution. The weight to which such circumstance is entitled is a
2 matter for the jury to determine.

3 Number 16. Mere presence at the scene of the crime or mere
4 knowledge that a crime is being committed is not sufficient to establish
5 that the Defendant committed the crime of attempt murder with use of a
6 deadly weapon and/or battery with substantial bodily harm with use of a
7 deadly weapon. The Defendant must be a participant and not merely a
8 knowing spectator. The Defendant's presence may be considered by the
9 jury, along with other evidence in the case.

10 Number 17. It is a constitutional right of a Defendant in a
11 criminal trial that he may not be compelled to testify. Thus, the decision
12 as to whether he should testify is left with the Defendant on the advice
13 and counsel of his attorney. You must not draw any inference or guilt
14 from the fact he does not testify, nor should this fact be discussed by you
15 or enter into your deliberations in any way.

16 Number 18. The Defendant is presumed innocent until the
17 contrary is proved. This presumption places upon the State, the burden
18 of proving beyond a reasonable doubt every element of the crime
19 charged and that the Defendant is the person who committed the
20 offense. A reasonable doubt is one based on reason. It is not mere
21 possible doubt but is such a doubt as would govern or control a person
22 in the more weighty affairs of life. If the minds of the jurors after the
23 entire comparison and consideration of all the evidence are in such a
24 condition that they can say that they feel an abiding conviction of the
25 truth of the charge, there is not a reasonable doubt. Doubt to be

1 reasonable must be actual, not mere possibility or speculation.
2 If you have a reasonable doubt as to the guilt of the Defendant, he is
3 entitled to a verdict of not guilty.

4 19. You are going to determine whether or not the
5 Defendant is guilty from the evidence in this case. You are not called
6 upon to return a verdict as to the guilt of any other person. So if the
7 evidence in the case convinces you beyond a reasonable doubt of the
8 guilt of the Defendant, you should so find, even though you may believe
9 one or more persons are also guilty.

10 Number 20. The evidence which you are to consider in this
11 case consist of the testimony of the witnesses, the exhibits, and any facts
12 admitted or agreed to by counsel. There are two types of evidence,
13 direct and circumstantial. Direct evidence is the testimony of a person
14 who claims to have personal knowledge of the commission of the crime,
15 which has been charged such as an eyewitness. Circumstantial evidence
16 is the proof of a chain of facts and circumstances, which tend to show
17 whether the Defendant is guilty or not guilty. The law makes no
18 distinction between the weight to be given either direct or circumstantial
19 evidence. Therefore, all of the evidence in the case, including the
20 circumstantial evidence should be considered by you in arriving at your
21 verdict.

22 Statements, arguments and opinions of counsel are not
23 evidence in the case. However, if the attorneys stipulate to the existence
24 of a fact, you must accept the stipulation as evidence and regard that fact
25 as proven. You must not speculate to be true any insinuations

1 suggested by a question, asked a witness. A question is not evidence
2 and may be considered only as it applies meaning to the answer. You
3 must disregard any evidence to which an objection was sustained by the
4 Court and any evidence ordered stricken by the Court. Anything you
5 may have seen or heard outside the courtroom is not evidence and must
6 also be disregarded.

7 21. Evidence such as video surveillance and photographs of
8 the Defendant other than that for which he is on trial, if believed, was not
9 received and may not be considered by you to prove that he is a person
10 of bad character, or to prove that he has a disposition to commit crimes.
11 Such evidence was received and may be considered by you only for the
12 limited purpose of proving the Defendant's identity, appearance and/or
13 likeness during the summer of 2020. You must weigh this evidence in
14 the same manner as you do all other evidence in the case.

15 22. The credibility or believability of a witness should be
16 determined by his manner upon the stand, his relationship to the parties,
17 his fears, motives, interests, or feelings, his opportunity to observe the
18 matter to which he testified, the reasonableness of his statements at the
19 strength or weakness of his recollections. If you believe that a witness
20 has lied about any material fact in the case, you may disregard the entire
21 testimony of that witness or any portion of his testimony, which is not
22 proved by other evidence.

23 23. The fact that a witness has been convicted of a felony, if
24 such be a fact, may be considered by you only for the purpose of
25 determining the credibility of that witness. The fact that such a

1 conviction does not necessarily destroy or impair the witness's
2 credibility. It is one of the circumstances that you may take into
3 consideration in weighing the testimony of such a witness.

4 24. Although you are to consider only the evidence in the
5 case in reaching a verdict, you must bring to the consideration of the
6 evidence, your everyday common sense and judgment as reasonable
7 men and women. Thus, you are not limited solely to what you see and
8 hear as the witnesses testify. You may draw reasonable inferences from
9 the evidence which you feel are justified in the light of common
10 experience, keeping in mind that such inferences should not be based on
11 speculation or guess.

12 A verdict may never be influenced by sympathy, prejudice, or
13 public opinion. Your decision should be the product of sincere judgment
14 and sound discretion in accordance with these rules of law.

15 25. In your deliberation you may not discuss or consider the
16 subject of punishment as that is a matter which lies solely with the Court.
17 Your duty is confined to the determination of the guilt or innocence of
18 the Defendant.

19 Number 26. During your deliberations you are not to
20 communicate with anyone other than your fellow jurors in the jury
21 deliberation room, in any matter regarding the facts and circumstances
22 of this case or its merits either by phone, email, text messaging, internet,
23 or other means. You are admonished not to read, watch or listen to any
24 news or media accounts or commentary about the case. You are not
25 permitted to do any independent research, such as consulting

1 dictionaries, using the internet or any other reference materials. You are
2 further admonished to not conduct any investigation, test a theory of the
3 case, recreate any aspect of the case or in any other way investigate, or
4 learn about the case on your own.

5 27. When you retire to consider your verdict, you must select
6 one of your members to act as foreperson who will preside over your
7 deliberation and will be your spokesperson here in court. During your
8 deliberation you will have all of the exhibits, which are admitted into
9 evidence, these written instructions and forms of verdicts, which have
10 been prepared for your convenience and your verdict must be
11 unanimous. As soon as you have agreed upon a verdict, have it signed
12 and dated by your foreperson and then return with it to this courtroom.

13 Number 28. If during your deliberation you should desire to
14 be further informed on any point of law or hear again portions of the
15 testimony, you must reduce your request to writing signed by the
16 foreperson. The officer will then return you to court where the
17 information sought will be given to you in the presence of an after notice
18 to the district attorney and the Defendant and his counsel.

19 Playbacks of testimony are time consuming and are not
20 encouraged unless you deem it a necessity. Should you require a
21 playback you must carefully describe the testimony to be read back so
22 that the court reporter can arrange her notes. Remember, the Court is
23 not at liberty to supplement the evidence.

24 Now you will listen to the arguments of counsel who will
25 endeavor to aid you to reach a proper verdict by refreshing in your

1 minds, the evidence and by showing the application thereof to the law.
2 But whatever counsel may say, you will bear in mind that it is your duty
3 to be governed in your deliberation by the evidence as you understand it
4 and remember it to be, and by the law as given to you in these
5 instructions with the sole, fixed and steadfast purpose of doing equal
6 and exact justice between the Defendant and the State of Nevada. Given
7 by District Court Judge Jacqueline M. Bluth.

8 State, you are ready to give your opening?

9 MS. SULLIVAN: Yes, Your Honor.

10 THE COURT: Your opening close is rather how I should say
11 it.

12 STATE'S CLOSING ARGUMENTS

13 MS. SULLIVAN: You're all here because on July 26th, 2020,
14 around 12:40 a.m. at this bus stop in front of the Paris hotel, the
15 Defendant Andrew Young, approached Robert Will sitting at this bench
16 and beat him over the head with a rock. You just heard the instructions
17 from the Judge. And I want to break them down a little bit for you. I
18 know you've heard a lot about attempt murder, battery, things like that. I
19 want to sort of explain a little bit what that means.

20 So let's start with the attempt murder. Attempt murder is the
21 performance of an act or acts which tend, but fail, to kill a human being.
22 Now when such acts are done with express malice, namely with the
23 deliberate intention unlawfully to kill. This is what attempt murder
24 means. And you saw on the video several times, the Defendant
25 approached the victim and hit him over the head with a rock. That's

1 what we're talking about here. That's the act that the Defendant did in
2 which he attempted to kill Robert Will.

3 For attempt murder it's important to note that it's not
4 necessary for the State to prove any premeditation or deliberation in
5 order to prove that the Defendant tried to kill Robert Will.

6 Express malice is an evil intent to injure another person.
7 Now you're hearing a lot of evil intent, deliberate intent. Let's sort of
8 break down the intent requirement for attempt murder. Attempt murder
9 as you were told is a specific intent crime. So what is specific intent? It
10 means that the Defendant knowingly did the act, which the law forbids.
11 That they were purposefully intending to violate the law. It's something
12 done voluntarily, intentionally, it's not a mistake, not an accident, and it's
13 not some other innocent reason. Sounds like something that happens
14 on the inside, right?

15 So how do we know what someone's intent is? And the law
16 tells you, it's a question of fact that you can infer from the Defendant's
17 conduct and all other evidence disclosed in the case. So you can look at
18 the Defendant's actions and determine what his intent was when he
19 committed certain acts.

20 [Whereupon, a video recording was played in open court at 12:16
21 p.m., and not transcribed]

22 MS. SULLIVAN: This is the first encounter in front of the
23 Paris hotel. This is where you can see the Defendant's in front of the bus
24 stop near the street. And he walks around behind the bus stop. He
25 follows the black line on the screen. And at that point, we have an initial

1 encounter with the victim, Robert Will. You can see the Defendant
2 standing behind him. At one point, he leans over and shoves him sitting
3 on the bus stop. Here's where he shoves him. And now you can see at
4 12:37, the Defendant starting to walk away.

5 And this interaction is important because it goes to the
6 Defendant's intent, because as we've seen at 12:44 a.m., the Defendant
7 starts to come back. And you can see him in this video. Look at the pace
8 he's walking. He's walking with a purpose. He's walking directly in one
9 straight path, back to the bus stop. You can see him appear here in this
10 video. He is specifically walking towards this bus stop, and you see him
11 approach from behind. He gets right behind Robert Will sitting at that
12 bus stop and you can see him in the circle here on the screen. And I
13 want you to pay attention. I know you've seen it quite a few times, when
14 he hits Robert Will. There's no additional interaction. It's immediate. He
15 walks directly behind him and immediately strikes Robert Will. And
16 there's that first strike. But it doesn't stop there. You can see here;
17 Robert gets up from the bench. There's some more verbal interaction
18 between the two and the Defendant hits the victim two more times in the
19 head before he walks away.

20 I want you to think about that. From behind, Robert sitting
21 on the bench and the Defendant immediately comes strikes in the head.
22 Now that's really important. Because think about it. We've all ridden a
23 bike, played a sport. You wear a helmet to protect your head because
24 it's something very vulnerable on your body. If you get hit in the head
25 that causes a lot of damage. And that shows the Defendant's intent

1 because he didn't hit him in the arm. He didn't hit him in the back, hits
2 him directly in his head.

3 And if you are to find, as you were instructed that the
4 Defendant did commit attempt murder, you also need to determine if he
5 used a deadly weapon. The deadly weapon we've been talking about is
6 the rock. But first I kind of want to get into what a deadly weapon is. A
7 deadly weapon is any weapon, device, et cetera, which under the
8 circumstances in which it is used is readily capable of causing bodily
9 harm or death. Think about the way the rock was used here. The rock
10 swung quickly with great force right at Robert's head. The rock in this
11 instance is a deadly weapon.

12 Now you were also instructed that the State's not required to
13 recover the deadly weapon. However, in this case you saw the rock
14 brought to court today. You also saw photographs of the rock behind
15 the bench and the rock in Officer Shin's hand. Think of the size of that
16 rock. Think of how much damage could be caused by a rock that size
17 and was caused by a rock that size. Ladies and gentlemen, the rock in
18 this case was a deadly weapon and the Defendant has committed
19 attempt murder with use of a deadly weapon.

20 We've also heard that he's charged with battery result -- with
21 use of a deadly weapon resulting in substantial bodily harm. So we kind
22 of want to break that down just so we're kind of clear on what we're
23 talking about. So first we need to show there was a battery, that that
24 battery was committed with a deadly weapon and that substantial bodily
25 harm resulted.

1 Before I get into sort of what we're talking about, we talked
2 about specific intent with the attempt murder. Battery with use of a
3 deadly weapon resulting in substantial body harm is a general intent
4 crime. So that's different than the specific intent we talked about, the
5 specific intent to try and kill. This general intent, the Defendant just
6 needs to intend to commit the act, intend to hit him with the rock. Very
7 simple and this is different than the intention unlawfully to kill.

8 So first we'll talk about battery. Battery is using force or
9 violence upon another person. And that force doesn't even need to
10 cause pain or harm. It's just intentional and unwanted touching. I'm
11 going to direct your attention to the video again. This is 12:44. This is
12 when the initial strike occurs. And you can see in this video, and you'll
13 be able to review it, that the Defendant in a downward motion strikes the
14 victim, which causes him to get up. That's a battery, but again, here's
15 that first strike. It doesn't end there because as we know, and as you've
16 seen in this video, the altercation continues behind the bus stop, where
17 you see the Defendant hit the victim two more times. And you can see
18 the victim is now bent over and the Defendant is exiting.

19 [Video paused at 12:25 p.m.]

20 MS. SULLIVAN: The video shows that the Defendant
21 battered Robert Will. He struck him. He struck him with a rock. He
22 struck him at least three times. And so I've got into with a deadly
23 weapon. I won't belabor the point. The rock is the deadly weapon we
24 are discussing in this count. Now I want to talk to you about substantial
25 bodily harm because that's also an element. Substantial bodily harm is

1 bodily injury, which creates a substantial risk of death or causes serious,
2 permanent disfigurement, or protracted laws or impairment of the
3 function of any bodily member or organ, or prolonged physical pain,
4 which just means that it's longer than the immediate pain from the
5 wrongful act.

6 So I want to draw your attention to a few points. I want to
7 draw your attention to cause a serious, permanent disfigurement. You
8 heard the victim's mom, Gloria come in and testify that he still has a scar
9 on the left side of his head. It's covered with hair now. However, it's still
10 there. She told you it's right here on the left side of his head. That is
11 serious, permanent disfigurement. A scar is enough. However, you also
12 heard more information about the victim. This is Robert Will as he's
13 sitting on the bench. You can see the injury to his head, the blood in the
14 bottom left hand corner dripping down his arm and you can see it going
15 down the left side of his face in the picture on the right hand side.

16 This is Robert in the hospital. You can see that scar I was
17 talking about on the left side of his head in the photo on the bottom
18 right. And you heard from the victim's mom, she talked to you about his
19 condition prior to, and after the incident. She talked to you about listen,
20 prior to this incident, he could walk, he could talk, he could live on his
21 own. And now she told you he lives in a rehab facility. He can't talk.
22 You heard her say, he doesn't know she's his mom. These are all
23 indicative of the substantial bodily harm caused by the Defendant.

24 You also heard from Detective Byrd. Detective Byrd told you
25 that in the days following the incident, even though we could see him

1 sort of communicating with officers on the body cam, he was unable to
2 communicate any information to Detective Byrd. That is substantial
3 bodily harm.

4 The Defendant committed a battery with use of a deadly
5 weapon resulting in substantial body harm when he hit Robert Will in the
6 head with that rock.

7 The Judge also talked to you a little bit, there's an instruction
8 in your packet for flight. So I just want to talk a little bit about what flight
9 means. The essence of flight embodies the idea of deliberately going
10 away with consciousness of guilt and for the purpose of avoiding
11 apprehension or prosecution. This is important. This is something like
12 intent. We can only infer this from seeing what the Defendant's actions
13 are following the incident.

14 So here is the bus stop in front of the Paris. And from all the
15 video surveillance, we see that after the incident, the Defendant walked
16 southbound on Las Vegas Boulevard. As he's walking southbound, he
17 crosses the street towards the Planet Hollywood. And while he's
18 crossing the street towards the Planet Hollywood, we notice in the
19 surveillance video, and you can see the Defendant in that second
20 crosswalk, he's turning around. He's looking back at the Paris. He's
21 looking to see if anyone's following him. And here's a view from the
22 front side. You can see him in that closer crosswalk when his face is
23 turned. And you know his face is turned because you can't see his mask.

24 He then makes his way up the escalator from -- at the Planet
25 Hollywood to get to that pedestrian bridge. And you can see as he's

1 walking towards the escalator, he turns again to look back towards the
2 Paris. And it's small, but you'll have an opportunity to review the
3 surveillance back in the jury room. You can see at the bottom of the
4 escalator, you can see his mask, his gray shirt and his mask. He's again,
5 looking back to the Paris.

6 Then he crosses over the bridge to the other side of the
7 street, away from where this occurred. And we know he enters the
8 Cosmopolitan. But what's important about the Cosmopolitan
9 surveillance video for flight purposes is on the left hand side you can see
10 the Defendant is standing near a statue outside the Cosmopolitan. These
11 were the northeast doors. William Roed testified; these were the
12 northeast doors. He also told you that a person standing near that statue
13 could see across the street to the Paris hotel. Would have a view of the
14 front of the Paris. And you can see the Defendant in that video, leaning
15 over, looking down the street towards the Paris. And not only that, he
16 walks in, back into the Cosmopolitan and stops. He doesn't immediately
17 enter into the Cosmopolitan. He stops and he walks back to the front
18 doors and looks again. He's looking to see if anyone's coming. He's
19 looking to see if there are police at the bus stop. He's checking out the
20 scene he just left.

21 Now you've heard a lot of different things about the
22 description of the suspect, because we also need to show that Andrew
23 Young is the person who committed these crimes, right? We heard a lot
24 of things. We heard it was a black male, bald, headed southbound on
25 Las Vegas Boulevard in a light colored shirt with black pants. It's the

1 general description we heard. And you heard Officer Henry say it was a
2 vague description. I drove up and down the street. I didn't -- nobody
3 was flagging me down. I didn't want to just stop a random person. I
4 wanted to make sure I was stopping the right person. And based off this
5 description, there was nobody for me to stop. But what the description
6 does help Metro do is go back through the surveillance video later and
7 find who we're talking about.

8 Now you heard Francisco Alemar from the Paris talk about
9 how he was able to find where medical responds in the video and sort of
10 backtrack it to the incident. The incident where Andrew Young strikes
11 Robert Will on his head.

12 Now after that moment, we follow the Defendant. You see
13 on surveillance and Amber Stringer from Fusion Watch told you, the
14 time stamps match up.

15 [Video resumed at 12:32 p.m.]

16 MS. SULLIVAN: We follow the Defendant on that same path
17 I showed you in the maps, past the Hexx restaurant towards the Planet
18 Hollywood. Walking southbound on Las Vegas Boulevard. And then
19 here he is crossing the street towards the Planet Hollywood.

20 And turning around back towards the Paris. And then we
21 pick him up again from the other side of the street crossing that same
22 crosswalk. And again, you can see him turn back and look towards the
23 Paris. And we continue to see his movements through the Planet
24 Hollywood to the Miracle Mile Shops where this escalator goes up to
25 that pedestrian bridge. Where we then pick him up on the pedestrian

1 bridge headed west towards the Cosmopolitan. And we know he
2 entered the Cosmopolitan because we see him enter and on the Cosmo
3 surveillance, which is the picture on the left, we can pick up his face for
4 the first time and we see the same subject, same clothing items, same
5 shoes.

6 Now the two photos in the middle and the right those are
7 Andrew Young, and you can see in those two photos he's facing sort of
8 the same direction he is in that surveillance video. And see the same
9 shape of his head, that he's also bald. And then the photo on the right
10 he's wearing the same shirt and the same shorts and has the same jacket
11 and a shopping cart.

12 But again, how we do really know, right? Well, there's more
13 on this surveillance video. You can see on the Cosmo surveillance on
14 the left and on the right the back of his shirt. That distinct, it was
15 described as buckling or a U, some sort of bend in the shirt that you can
16 see. And in the middle, that's from a -- that's a photo where Andrew
17 Young self-identified himself on July 8th. You can see the same folding,
18 the same U, the same color. And again, we've heard it changes in the
19 light, but you can see it's the same shirt.

20 What else can we see in this surveillance video? We see the
21 shoes. And on the top in all those surveillance stills you can see the
22 shoes that the suspect is wearing, the Defendant is wearing as he's
23 walking from the Paris through the Cosmo. You also saw a photograph
24 from July 8th where Andrew Young is pictured wearing the same shoe
25 and again on July 29 in video surveillance captured wearing the same

1 shoes. And you heard Detective Byrd tell you that on August 19th when
2 he was arrested he's wearing those shoes in the bottom left corner, the
3 same shoes. You can see the black stripe. You can see the black on the
4 toe and in certain portions of the video you can see the black on the heel.
5 These are the same shoes; they are Andrew Young's shoes.

6 Also in the video we've heard a lot of talk about these
7 headphones that Andrew Young wears frequently and you can see in the
8 bigger photo those white buds near the collar of his shirt, those are the
9 headphones we're talking about. And on the right hand side video
10 surveillance showing those white headphones. Now the two photos on
11 the top left and right corners, those are surveillance stills from this
12 incident and you can see underneath his mask and in the V of his shirt,
13 those white headphones. The same white headphones.

14 We also have the individual's carrying a jacket. This black
15 jacket you can see in all these surveillance stills. This was June 29th,
16 2020, and this is a video of Andrew Young carrying a black jacket,
17 wearing those same shoes. And he often switches the jacket from the
18 left to the right hand, but you can see he's carrying the jacket. And here
19 you can see the same shoes.

20 This is July 8th, and you can see Andrew Young entering the
21 elevator carrying that black jacket wearing the same clothing shown
22 throughout the incident at the Paris on July 26th, 2020. And on July
23 29th, carrying that black jacket.

24 You see in the surveillance video that individual who strikes
25 the victim at the Paris move from the Paris through the Cosmopolitan.

1 That is the individual who committed the crimes and that individual as
2 you've seen through surveillance video is Andrew Young. You've seen
3 him wear the same outfit, the same shirt, the same shoes numerous
4 times, carry the same jacket, wear the same headphones.

5 [Video ended at 12:41 p.m.]

6 MS. SULLIVAN: And you saw in the picture of him in the
7 Cosmopolitan, bald, same head shape.

8 Now I want to talk about Laresha Moore. I believe -- I can't
9 remember exactly, but I believe Mr. Margolis characterized Laresha as
10 unreliable. And you saw, she had to be brought here from CCDC. She
11 told you, she didn't want to be here, she didn't want to be involved. She
12 just wanted to call the paramedics. She told you she gave a different
13 name because again, she didn't want to be involved. She just wanted to
14 make sure the paramedics came for the victim and move on.

15 But what else did Laresha tell you? What else can -- did
16 Laresha tell you that can be corroborated through the video
17 surveillance? She told you on the 911 call, there's a black male walking
18 south towards the Cosmopolitan. And she told you on the stand she was
19 only two to three feet away from the incident. She told you that the guy
20 was missing teeth. She said something to the effect of his mouth was
21 jacked up, he had bad dental. And the word I believe she used was
22 cocked eyed. We've heard lazy eye, things like that.

23 This is Andrew Young, and you can see his mouth is visible
24 under his -- above his mask and you can see he's missing teeth. You can
25 see in this photograph a view of his eyes. And not only that, in April of

1 2021 almost a year after the incident Laresha picked Andrew Young out
2 of a line up. She told the detective this is who it was.

3 Ladies and gentlemen, you've reviewed the video
4 surveillance in this case, you've heard all the testimony, seen all the
5 evidence. The State has proven beyond a reasonable doubt that the
6 Defendant Andrew Young is the individual who struck Robert Will on the
7 head with a rock on July 26th, 2020.

8 And so at the end of this case I'm asking that you return a
9 verdict of guilty for attempt murder with use of a deadly weapon and
10 guilty for battery with use of a deadly weapon resulting in substantial
11 bodily harm.

12 THE COURT: Mr. Margolis, whenever you're ready, sir.

13 DEFENDANT CLOSING ARGUMENT

14 MR. MARGOLIS: Thank you. All right. Last time I'm going
15 to talk to you. I'm sure you are thrilled, and I am too. So I told you at the
16 start of this trial they had the wrong guy, okay. I represent Andrew
17 Young. He is a black bald man, this much is true, okay. But in order to
18 convict him of these serious crimes we're going to need the State to
19 prove his guilt beyond a reasonable doubt. And you guys are the finders
20 of fact, I'm going to ask you to put their feet to the fire and ensure that
21 this happens.

22 They've showed you hours upon hours, I mean, most of the
23 time we spent in court over the course of the last three days has been
24 watching surveillance video and still images taken from that surveillance
25 video of a man purported to be the perpetrator of this crime walking up

1 and down Las Vegas Boulevard, in and out of the Cosmopolitan, in and
2 out of this place and that place. Even if for the sake of argument you
3 believe that that is Andrew Young, then you've seen a lot of footage of
4 Andrew Young walking up and down Las Vegas Boulevard and into and
5 out of locations, that's not against the law. So you know, specifically, the
6 most important of all of the video footage that we saw, the most
7 important of all the surveillance video that we were shown is what
8 purports to show the actual attack on Mr. Will.

9 Mr. Will was hit -- I told you in the very beginning in
10 opening Mr. Will was hit and a crime was committed, okay. But proof
11 beyond a reasonable doubt requires every single element of every single
12 offense charged to be proven and that includes the identity of the
13 perpetrator.

14 And we've traced a lot of lines on a lot of videos, okay.
15 Every time I watch the video of that attack and I've watched it ad
16 nauseum and I'm sure you're going to watch it a few more times before
17 you render a verdict. I'm thinking of Dave Matthews band as the ants
18 marching, I can't see, okay. I can't see. I can see two figures. I can see
19 two figures. I see Mr. Will get off of the bench. Certainly seems to be in
20 response to something done to him. There's an exchange.

21 When Detective Byrd was on the stand I particularly asked,
22 did we capture every single step. Every single image from the time of
23 the strike or strikes, the last strike throughout. And he admitted,
24 probably not every step. There are holes here. The State has not proven
25 this case beyond a reasonable doubt. They showed you a lot of video of

1 a black man purported to be the perpetrator of this crime walking about,
2 because that's all they had.

3 They called Laresha Moore to the stand despite the fact that
4 she was in jail getup to testify, despite the fact that she'd given a false
5 name, despite the fact that she lied to law enforcement officers. Pardon
6 my inability to speak. You know, captured enemy combatants provide
7 name, rank and serial number, okay. There are some honesty deficits for
8 Laresha Moore. I also applauded the fact that of all of the people that
9 seem to be inebriated and enjoying themselves and milling about on that
10 street that evening or in the early morning hours, she at least called 911
11 and sought to get the victim some help. I gave her credit for that, you
12 know, but in terms of trusting the accuracy of her identification, I don't. I
13 don't think you should, okay.

14 Let's talk about the evidence that was presented. You know,
15 we've heard from police officers, the first ones on the scene. We heard
16 from Officer Henry; I believe he was on the scene inside of five minutes
17 of that attack of Mr. Will, okay. And he told you he had to flip a U-turn I
18 think was his exact testimony, because he couldn't immediately just go
19 south because of the orientation as he approached. But he immediately
20 did. And he searched. He did not find him. Or maybe he did but the
21 description was too vague for him in his judgement as a law
22 enforcement officer to start harassing every bald black guy in Jordan's
23 that he saw because that might be a little bit of a violation of some
24 peoples' rights if he did that. Might also not get him any closer to
25 solving the crime.

1 You know, Ms. Moore is the only person that saw this, and
2 we know she's a liar, we know she's a felon. We also know she has a
3 decent heart because she wanted to get Mr. Will help. She can't be
4 trusted though. And despite the ample footage we've seen of a man
5 purported to be Mr. Young committing no crimes while walking up and
6 down the street and in and out of the Cosmopolitan, you know. I don't
7 know that you can be convinced beyond a reasonable doubt that they
8 don't have the wrong man because I don't believe it's been proven, and I
9 don't think she can be trusted. She's demonstrated that she can't be
10 trusted.

11 To her credit on the stand she admitted that she lied, which
12 from my perspective, from our perspective and my defense of Mr. Young
13 that makes it tough. I have to acknowledge. She didn't allow me to
14 impeach her and throw her conviction at her. She owned up. Doesn't
15 make her honest though, the fact that she did here today under oath
16 when transported to the courtroom for the expressed purpose. She's in
17 the custody of the State of Nevada. I'm not surprised that she showed
18 up.

19 This was a sloppy investigation, mistakes were made. And
20 depending on how your verdict is rendered it's entirely likely that we and
21 specifically Mr. Young, my client, are going to suffer as a result of
22 mistakes that were made that were in no way within his or our control.
23 There might have been evidence that could have secured -- could have
24 been secured, pardon me, that may well have given you more to work
25 with in analyzing what happened. Forensic evidence would probably be

1 helpful here.

2 I understand that every law enforcement officer that came up
3 here to varying degrees told you, it's Las Vegas Boulevard, we couldn't
4 secure the scene. Come on, it's Las Vegas Boulevard. Party time,
5 midnight, okay. Oh it's a rock. Even if I did do everything right and I
6 bagged and tagged it and I didn't put it on the floorboard of my squad
7 car to roam about the vehicle on the way to the station. Even if I did
8 everything right, if I took it to the lab promptly they'd have told me we
9 can't find anything anyway. Well, that's awfully convenient. From
10 where I'm sitting, I'm not in a position to now challenge that. And you're
11 now in a position where you have to take the word of an admitted liar as
12 the only eyewitness to this crime.

13 I don't think that's enough. Obviously my orientation is that
14 I'm on one side of this aisle, right. So your opinions are the only ones
15 that matter. You're the finders of fact. You're empowered to say what's
16 what. Whether you can actually see Mr. Will get struck by Mr. Young on
17 that video or collection of videos. I can't see it, they can. Doesn't matter
18 what myself or Mr. Brooks and Mr. Sullivan see. Matters is what you
19 see, okay. And I guess my solemn wish and hope is that you require
20 yourself see it to the degree necessary to give us a fair shake because, I
21 think it's him, or my gut says it's him, or it's probably him. That's not
22 enough.

23 You know, you're going to have an instruction that's going to
24 tell you exactly what reasonable doubt is and how to appraise the
25 evidence to determine whether or not you've seen proof beyond a

1 reasonable doubt sufficient to convict him of these crimes. It's going to
2 be up to you and gut instinct, or come on that's the same shirt, or come
3 on look at those white Jordan's with the distinctive black stripe. I mean,
4 what do we know about Nikes, guys? They use a swoosh. I mean,
5 granted logo you step further you've got the little Jordan decal on the
6 back, right. And all that good stuff. Look Nike Jordan shoes are not
7 particularly rarified items of apparel, okay. We had a little joke in the
8 courtroom during the testimony about that. I recall buying my first pair
9 of Jordan's, they weren't white with a black stripe they were black, but
10 beside that, okay. A lot of those shoes out there, okay.

11 We saw a lot of footage of a guy stalking about. Most of it
12 was of the back of his head or in profile and almost all of it was from a
13 distance farther then many of us would like to make any large bets on
14 what we saw, okay.

15 Laresha Moore's it. I was standing here; she was sitting
16 there. I asked her, how close were you to this when it happened? She
17 said, two or three feet. It's in their closing because it's accurate. It's
18 directly from the testimony. She was closer to this event than I was to
19 any witness or that I have been to any of you in this courtroom, okay.
20 And her description, I'm sorry, I didn't find it terribly persuasive. There is
21 a coat of a hundred colors put together with all of this surveillance video
22 that shows innocuous footage of a bald black man, you know. But
23 Laresha Moore, she's pretty important. I don't think you can convict my
24 client if you don't believe her, and I don't think you should. They got the
25 wrong man.

1 Now burden of proof, okay. Defense lawyers are notorious
2 for talking about the burden of proof and reasonable doubt, presumption
3 of innocents. You're the arbiters, okay. But the fact is, and Mr. Brooks
4 admitted this in his opening I believe, I could have sat there doing
5 crossword puzzles, drinking my diet coke and eating my mints. I didn't
6 have to cross-examine any witnesses. I could have not made an opening
7 if I didn't want to. I'm not -- we're not required to do anything. We're
8 not required to prove Mr. Young's innocence. They are required to carry
9 that burden all the way up the hill. And we're presumed innocent. Mr.
10 Young is innocent until you conclude that they've proven every element
11 of the two charges here beyond a reasonable doubt.

12 So use your power. You're the ones who get to make the
13 call. You'll notice I think there were more than one witness, I said, so
14 that's your play to call. You know, a variation of that kind of theme is like
15 stay in your lane, right.

16 You know, Officer Shin was very sure on the stand that, you
17 know, even if I did literally make every possible mistake with respect to
18 policy of securing the scene, securing the evidence. Even if I did,
19 wouldn't have gotten anything from the rock. Well, we'll never know,
20 okay. Wouldn't have gotten anything from the trash. Well, we'll never
21 know. Wouldn't have been able to get any shoe prints. Wouldn't have
22 been able to get any other forensic material from the area surrounding
23 that bench, we'll never know. And Mr. Young, the defense can't be
24 punished for that which we can't control, you know.

25 Proof beyond a reasonable doubt is their burden. They have

1 the resources. They could have adequately investigated this. A patrol
2 detective could have gone. A crime scene analyst could have gone to
3 the scene. She took the stand, there was very little for me to do. There
4 was very little for me to ask. The one crime scene analyst that was on
5 the State's witness list in this case. Because her role in this case
6 consisted of going to take pictures of the victim Robert Will to
7 demonstrate that he was Robert Will. I would have loved to have had
8 her do a lot of other crime scene analysis that might have told us a lot
9 more about the instrumentalities of the crime, the crime scene itself.
10 Maybe we would have had more evidence if that were the way it went.

11 It's a heavy burden. You know, I have never gotten to sit in
12 your shoes and I'm never going to get to sit in your shoes in all
13 likelihood at this point given the occupation that I have chosen. I would
14 love to be a fly on the wall in the room, you know. For our part, we will
15 be thrilled. We will be satisfied, elated beyond belief if you painstakingly
16 apply the law to the facts that you have received in evidence here.
17 Whatever the verdict is, if we have gotten a fair shake and you have
18 gone through your paces, we'll feel content with that.

19 Now I want to talk a little bit about jury instructions. I want
20 to highlight a couple of them. Obviously, you are to follow them all.
21 Obviously they work with buttress support one another, okay. But there
22 are some that I would imagine are probably pretty significant to the State
23 that they want you to think about in your analysis of the case. And there
24 are contrarily some that I find more important. Specifically if you would
25 turn to instruction number 17.

1 And I believe instruction 17 in front of you is about the
2 constitutional right of the Defendant not to be compelled to testify. I
3 didn't call any witnesses. It is very natural when the defense doesn't call
4 any witnesses and you see the Defendant sitting next to me. You know,
5 common sense, human curiosity begs the question, what the heck, why
6 isn't this guy up here, right? I can't count the number of times I have
7 heard lay people, even my close friends and family members. My older
8 brother comes to mind immediately.

9 You know, if someone accused me of a crime, and I didn't do
10 it, I'd immediately stand up and protest my innocence and this, that and
11 the other and if they wanted me to come and give my side I would. And
12 despite the fact that my brother is five years older than me, that
13 expresses a certain naiveté that concerns me okay. It concerns me. And
14 it also displays to me a little bit of a lack of understanding of the justice
15 system and the way that it works, okay.

16 Any of us that have ever been pulled over for even a traffic
17 offense, and when I was a young man I would speed a lot, you know.
18 And if you've ever been pulled over for a traffic offense and maybe a
19 little bit bigger traffic offense like a Nate Hobbs 110 in a 65 traffic
20 offense, right, that just happened the other day. The officer's going to
21 treat like you're danger to other people because in that instance, in that
22 moment you are, okay. And some people they're able to be impractical
23 and naive. And some people like Mr. Young there, they're not entitled to
24 that luxury. They're not entitled to it. I am. Sometimes I've been
25 painfully aware of how entitled to it I am or how much I get that benefit

1 and someone else doesn't. You know, part of it by where I grew up, part
2 of it by the occupations I've chosen, you know. But most important part
3 of this for me is, you're not allowed to discuss this, you're not allowed to
4 bandy it about in the way that I think most juries want to. So analyze the
5 evidence that was put in front of you. Analyze the evidence; DNA,
6 forensics, fingerprints, crime scene stuff that wasn't.

7 Next instruction I want to talk about briefly, 18. Told you in
8 the beginning, I'm not going to change my tune now, you can't change
9 horses midstream. It certainly seems like a crime was committed. Mr.
10 Will was hit with a rock. We've seen the pictures. I saw the ring of
11 staples in his head. He sustained substantial bodily harm, I'm not going
12 to sit here and claim that whatever that is, is not substantial bodily harm,
13 it certainly is, okay. But the presumption and beyond a reasonable doubt
14 means you've got to prove every element. You have to prove that Mr.
15 Young did it, you know. And you're being asked to do that largely based
16 on other evidence identifying and then comparing to the unknown
17 assailant between 12:44, and we'll call it 1:00 o'clock on July 26th.

18 Pay special attention to that instruction. Like I said before,
19 we think it's him, certainly seems like it's him, I didn't see any other bald
20 black guy, you know. That's not enough. You have to make that
21 determination.

22 A lot of the videos we saw, they're not from July 26th.
23 Obviously, we saw footage from the Paris camera. We saw footage from
24 the Fusion Watch camera. And we saw the limited footage from the
25 Cosmopolitan camera. But a lot of the footage you saw, and I would

1 submit much of the footage that showed a recognizable version of my
2 client Mr. Young's face was other footage from other days, okay. And
3 that was so heavily used again because they can tell you until they're
4 blue in the face that they see Mr. Young strike Mr. Will. I don't see it.
5 And I don't think you should convict Mr. Young if you don't see it. I think
6 it's pretty hard to see. I might be blind, that's fair.

7 Instruction number 22, I promise I'm almost done. I see the
8 fatigue creeping in. Credibility or believability of a witness. Laresha
9 Moore. I was hoping she'd get up and fight me about every question
10 that I asked, it didn't happen. She acknowledge almost every lie I asked
11 her about, so it wasn't nearly as much fun as I had planned on it being,
12 okay. That being said, if a witness admits to a half dozen lies on the
13 stand, several of them to law enforcement officers, many of them
14 repeated more than once as Detective Byrd told you on the stand today.
15 I mean, you obviously don't get to disregard her credibility entirely, but
16 I'd really like you too. And I don't know a good reason to believe her
17 today when we couldn't necessarily have believed her about this, that
18 and the other thing on that day or that day.

19 But pay close attention to everything she said on the stand.
20 Is it believable? Did she -- I mean, I'll say this for Ms. Moore, and I don't
21 know the life Ms. Moore leads and I don't know how her daily existence
22 is. I believe she said at some point she may have been homeless as
23 well, so she may have seen somethings on the day to day that I don't.
24 But if I'm two to three feet away from somebody getting bashed over the
25 head with a rock, I'm going to remember an awful lot about that incident,

1 okay. I remember an awful lot about a lot less traumatic and striking
2 things I see.

3 So the idea that being two to three feet away she didn't really
4 know if she had a beard or not, she didn't really -- I mean, that's tough
5 for me, okay. We talked a lot about the shirt, was it blue and white, was
6 it gray, was it black, were they pants, were they shorts. I give a lot of
7 folks a pass on that. I don't know that I can give Laresha Moore a pass
8 on that, okay. If I'm two to three feet away, I know what the shirt is. I
9 know what the shoes are. I know whether or not the individual had a
10 beard.

11 So fine tooth comb. Was she telling the truth? My client's
12 life depends on it. Our case entirely depends upon her telling the truth
13 and you're buying it and your believing it in spite of any lies she might
14 have told. So she's important.

15 I mean, in sum, they put together a case against Mr. Young.
16 They put it together with almost entirely piecemeal surveillance footage.
17 Footage that admittedly they might not be able to have of you or I. I said
18 in my opening Mr. Young has struggle with homelessness, he's
19 struggled with addiction, you know. The fact that he could be found on
20 public cameras that often is kind of crazy to me. Makes me feel like
21 George Orwell 1984. But realistically he's there to be found because he's
22 homeless.

23 And Detective Byrd had some familiarity with Mr. Young. He
24 know to recognize -- he had recognized Mr. Young from that flyer, was
25 his testimony. Because he had familiarity with him prior. And I asked

1 Detective Byrd on the stand, fair to call you the architect of this
2 investigation, you know. I mean if this is an omelet he's the eggs.
3 Laresha Moore might be the milk and cheese, right.

4 But for Detective Byrd this case doesn't exist. And for a
5 couple days it didn't appear that this case was going to exist, okay. The
6 investigation initially on the scene was drunken bum fight. You know,
7 bless Officer Shin and his youth because it apparently made him
8 infallible in terms of what he knew and did not know. And maybe he's
9 right. Maybe if he had bagged and tagged the rock, maybe if he had
10 taped down the scene, maybe if he had collected the trash that
11 seemingly everyone saw the assailant throw, that could have been
12 fingerprinted. If the rock couldn't have been, maybe that could have
13 been.

14 I understand that three days later it's in a trash can on Las
15 Vegas Boulevard and all hope is lost. But whose fault is it that all hope is
16 lost? Is it our fault? Is it Mr. Young who gets punished because the
17 investigation was shotty at best? And, you know, credit to the State's
18 witnesses. They didn't hide that things were not done according to
19 protocol. Things were not done the way that they ought to have been
20 done, you know.

21 And I guess my lasting thought is, you know, I would like to
22 think that on evidence presented to you in this case proof beyond a
23 reasonable doubt is going to be illusive.

24 MR. BROOKS: Objection, Judge. What defense counsel
25 thinks is irrelevant.

1 THE COURT: Sustained.

2 MR. MARGOLIS: I'm going to ask you to hold the State to
3 their burden. I'm going to ask you to painstakingly examine every
4 element of the charge defenses. And I'm going to ask you to determine
5 which facts in evidence prove those elements and to have a vigorous
6 discussion about it. And if that happens I'll feel thoroughly satisfied. I
7 will feel that Mr. Young has enjoyed his fair share of justice. The same
8 fair of justice that you, or I, or Mr. Brooks, or Ms. Sullivan would be
9 entitled to. I thank you very kindly for your attention.

10 THE COURT: Mr. Brooks.

11 STATE'S REBUTTAL CLOSING ARGUMENT

12 MR. BROOKS: We're logging in now. So this is one of the
13 weird things, I've never done this before. But one of the first things I'm
14 going to do is explain how to work the disks, because we keep saying oh,
15 you're going to have the videos back there to watch, but no one's told
16 you how to kind of operate them.

17 So I put some screenshots up there of what it would look like
18 let's say if you put the top one, if you put the Paris surveillance in. And
19 have two options, both of those top ones. That top one that says LVMPD
20 A and B, A is going to be the static camera that is on the leg of the Eiffel
21 tower aiming at the bus stop bench for that hour time period. B is going
22 to be that kind of compilation that you see at 12:44 a.m. of the Defendant
23 starting his come back and going to the bus stop.

24 And then the ones that say SIU Paris, those two clips are the
25 same. If you notice the 102 right there, is the exact same it just -- they

1 were both on the disk, so only one of them works now -- or they both
2 work, only one needs to be watched.

3 What you would do is you double click on the player, so the
4 player icon on either of those, and then another box is going to open up.
5 You are then going to get to choose between LVMPD A, B or SIU Paris.
6 So that's kind of how you do it.

7 Now as for the Fusion Watch cameras, they're labeled A, B,
8 C, D, E, F, G. That is kind of in order of the time sequence and you can
9 see the name of the various camera.

10 And then down there at the bottom, that's going to be the
11 Cosmo. You would double click on the player again. That LVMPD assist
12 is going to be the continuous walk all the way through the Cosmo, out
13 and then back through on the bridge.

14 And then those two 360s, that's going to be that one static
15 camera that had the 360 move capability. One of them is going to be the
16 first time walking through and the other's going to be the next time walk
17 through. That's how you work the disk, if you want to look at them.

18 Now one of the reasons you're probably sitting there and
19 saying, why do you guys keep showing the video? Because sometimes
20 we know that you guys don't like to go back there and look at it. It's
21 easier on the big screen rather than on the laptop that you guys have, so
22 that's why we keep embedding the video here.

23 Judge, I think I lost this connection.

24 THE COURT: Okay. We'll just be at ease for a second until
25 you get that back up.

1 MR. BROOKS: Now first couple of slides I'm going to show
2 you is kind of that timeline because you kept hearing a lot of stuff about,
3 hey, do we have footage, continuous footage. I'll just show you a few of
4 the still shots from prior to the incident. So prior to the incident we have
5 that 12:09 a.m. of Andrew Young walking towards the Paris. And then --
6 so he's right about where the arrow would be.

7 Judge, I think the [indiscernible] kicking me off here.

8 THE COURT: I don't know if there's anything we can do, is
9 there?

10 MR. BROOKS: It's saying I'm being kicked off by the
11 moderator.

12 THE COURT: You're not.

13 MR. BROOKS: I know, but I just kind of got excited that
14 maybe I could blame you.

15 The next one is at 12:11 a.m. and that's just Andrew Young
16 continuing to walk.

17 [Whereupon, a video recording was played in open court at 1:15
18 p.m., and not transcribed]

19 MR. BROOKS: Now this is the video of the timeline of
20 walking to the Paris, so from 12:09 and 12:11 there he is, that's the first
21 kind of time that he's picked up on the videos walking to Planet
22 Hollywood. There's Andrew Young there. I'm going to ask you to notice
23 his cadence too. Notice the cadence in the way he walks when he
24 doesn't -- just kind of doesn't have a purpose right here, he's just kind of
25 wondering. So you're going to see that change a little bit later. Just

1 walking. This is at roughly 12:10 a.m.

2 Now at 12:36 is the first kind interaction that he has at the
3 bus stop with the people there. And then at 12:30 -- so that's just the first
4 time at the bus stop. And then the second time is when he's walking off.
5 That's 12:37.

6 Now I just heard, but for Detective Byrd this case doesn't
7 exist. No, no, no, no. But for Andrew Young this case doesn't exist. I
8 kept hearing that today as though he is some architect, like he planned
9 this. No. Detective Byrd doesn't get penalized for knowing who was in
10 the video. Andrew Young is the reason we're here.

11 You know, I heard Robert Will was hit, that's not in dispute.
12 They've just got the wrong guy. A black guy in the video that's all they
13 have. And then after that was said, if you -- I don't know if you caught it.
14 It was, well, I guess that Laresha. You got Laresha, but I don't trust the
15 accuracy of her identification, I don't think you should. That what was
16 said. What were some other things that were said about Laresha? You
17 just heard she can't be trusted. She lied about her name. She
18 acknowledge every previous lie, you know, that I asked her.

19 And then you heard this early, this trust but verify. Did you
20 ever think that it was weird how you heard trust but verify two days ago.
21 And then today what did you hear? You heard, yeah. I know she
22 acknowledge every previous lie I said and I'm going to talk about how
23 she lied about her name. But her identification? There was nothing you
24 just heard about when she sat here and told you about that six pack
25 lineup. There's nothing. There was nothing you heard about her lying

1 about the guy with the jacked up the teeth, the grill, bad dental, the eye.
2 I'm going to pick number two, but I didn't think he had a beard. So that's
3 a photo of Andrew Young that wasn't even one that he had a clean face
4 in. She says, I'm going to pick that one because it looks him, but I don't
5 think he had a beard.

6 You know, you heard you shouldn't believe her either, it
7 doesn't mean she's honest. What? And then you heard, I don't know if I
8 can give her a pass or not. I don't think that's enough. I don't think you
9 can convict based on her identification. Well, let me be real clear, what
10 Mr. Margolis thinks about that is irrelevant. His thought on whether you
11 can convict based on Laresha Moore is not relevant.

12 So what was really all that off about her testimony?
13 Because she lied about her name? Why? You never heard why did you
14 during closing? Well, she told you, I had a warrant out. Oh okay. A year
15 later she identifies Andrew Young in that lineup.

16 You heard about the first responding officers. I'm not going
17 to sit here and tell you that Officer Shin was some beacon of Metro
18 Police, and he's the best. He's not. Was he malicious? No. There's a
19 reason he's a bike cop right now. There's a reason he's only been on a
20 couple years. There was a difference between him, and then you saw
21 the flex officer, Officer Henry who's a little more advanced. And then
22 you saw Detective Byrd.

23 So you got to see the three tiers as people go along their
24 career. Nowhere in your instruction is there going to be an instruction
25 about the policies and procedures of Metro. And if you find that

1 something could have been done differently, then the case go away. It's
2 not there, you're not going to find it.

3 Now do you notice the instruction there, the State's not
4 required to recover the deadly weapon? Why might that be? There's a
5 public policy reason for it and most of the time it's different than what
6 I'm about to say. Most times it's, you know, a gun. We're sitting here
7 talking about a gun. And what's the first thing you get rid of in a robbery
8 case or a, you know, shooting case? You get rid of the gun. Now what
9 does that tell you though? What's the policy that tells you? That tells
10 you that robbery with use of deadly weapon, or whatever, murder with
11 use of a deadly weapon can still be found even if that guns not found,
12 recovered.

13 So all that we keep talking about with regard to the rock,
14 could it have been tested? Think about the policy behind that
15 instruction. A verdict can still be rendered on a deadly weapon, on
16 attempt murder with use of a deadly weapon even if this had never been
17 recovered. It was recovered, you can see it, you can hold it. And Mr.
18 Margolis is right, and you heard questioning, would we have liked for it
19 to be done differently? Yes. Could it have it been tested? You heard
20 Detective Byrd, maybe, maybe not, probably not. That doesn't mean
21 that Officer Shin should haven't done that differently.

22 But if you don't even have to recover it, then you can still
23 look and say, well, yeah. I mean, could the DNA have been tested to one
24 way or the other? But the rock was used, we heard Laresha say it. We
25 see the rock; we see the video. And think about the kind of concept with

1 DNA or fingerprints. I've been touching that desk for the last couple
2 days, right? Ms. Sullivan's touched the desk. It doesn't tell you when
3 the fingerprint is lifted, when the DNA was taken. It's a rock. It's not
4 your gun that you keep at home, personal kind of property. That's his
5 gun. That's the one he keeps on him. It's a rock.

6 Now the video gives you a time stamp. So could, and you've
7 heard that Mr. Andrew Young rode the bus. You've seen him get in a
8 taxi. You heard about an incident on the bus with Laresha Moore earlier
9 that day. Could he have been in that bus stop previously? And could he
10 have been there that day walking past? And then his DNA would have
11 been on the rock. It would have told you that he touched the rock. You
12 have video to watch the timeframe.

13 Now when talking about intent and kind of talking about
14 what has occurred, I want to you look at what the two different parties
15 were doing at roughly 12:44. So let's look at the minute prior to the hit
16 and just notice the difference. So now rather than always watching that
17 hit, I just want you to watch this area, which would be just where the
18 victim's sitting. Just the bench stop -- bus stop. He wasn't doing
19 anything, just sitting there.

20 Okay. Let's look at what Mr. Andrew Young was doing at
21 12:44. See the difference in the way he's walking? Now is something in
22 his hand, is it not? Was the rock at the bus stop already? Can't tell. I
23 believe Laresha said the first hit was with his hand and then he picked up
24 the rock at some point and that second and third one when the victim
25 hunches over, that's when essentially the rock was used. And this is

1 Andrew Young in the minute prior walking right up and delivering the
2 blow.

3 Let's look at the way in which Mr. Young walks when he's
4 just kind of walking. And this clip won't be back there, I've strung two
5 clips together here. Then you're going to watch the difference in the way
6 he walks when he has this intent, this purpose. This is roughly 12:10
7 a.m. You see the pace. Look how the stride lengthened, the arm swing
8 lengthened. He doesn't say anything to him when he comes up this
9 same time. As soon as he gets to that bench he delivers the blow.

10 Now you kept hearing about, hey, I think it was today -- oh
11 one second. Remember when Officer Henry said that he drove after to
12 see if he could get flagged down. I thought that -- we all learned things
13 during the course of trials. That's interesting, you drive down to see if
14 anyone's following to wave. So earlier today I said, let me watch the
15 video from a different angle. I want to watch the video seeing if I can see
16 anything like that. That he was saying, oh sometimes you might get
17 reactions out of other people.

18 So watch the couple here. I'm going to highlight someone
19 else. I don't want you to watch Andrew Young. Now there's a couple
20 who's just walked out of kind of the screen when the hit occurs. So I
21 have no idea whether they saw it or not, but we're going to watch to see.
22 Mr. Young's walking out of the scene, so he's already hit because it's
23 12:44. I want you to see the couple right there, keep your eyes on them.
24 Grabs the guys she's with hand. Wasn't holding initially. Watch her
25 walk off to the side and kind of stop right there. What's she looking back

1 at? Who's coming right now? Okay. Here's another angle of the same
2 couple from just a different video. There's the couple. They're walking
3 southbound. You have no idea, did they hear something, did they see it?
4 But watch. She stops and she looks back. He looks back. Look who just
5 walked by.

6 Now she's trying to take him the other way. Look what the
7 guys about to turn and look at right and there. Just a random guy in a
8 gray -- they just happened to be looking at that? Maybe, maybe. We
9 have no idea. But now after Officer Henry's testimony, I said, oh, okay.
10 Was there commotion? Did someone see that?

11 Now earlier today you heard, hey, do we have every single
12 step after this hit? Officer -- Detective Byrd said, no. So what I've done
13 here, and this is not going to back with you because I've taken various
14 video clips and strung them together. Let's if we can trace through the
15 various different video surveillance in the next two clips. So there's
16 Andrew Young, this is the Fusion Watch camera. He's just exiting the
17 screen. There he is entering the crosswalk. Let's switch to the view
18 where we can see his face as he's walking this way. He's entering the
19 crosswalk. He's about midway through. Looks back. Arm swinging in
20 full effect. Jacket hanging. Pace is completely different than when he
21 was going initially.

22 Okay. Now we pick it up at the Planet Hollywood. Do you
23 see the person in the middle right there about to hit the steps on the top
24 of the screen right now. So now we'd switch to Planet Hollywood
25 because Fusion Watch didn't have one of these angles. Oh look who's in

1 the middle of the area there, I don't know what it's called, the
2 promenade.

3 And let's switch to another Planet Hollywood view. There he
4 is going back. Next camera. Passing these two. Passing P.F. Chang's.
5 We're about to approach the walkway where that Chick-fil-A and kind of
6 bigger opening is. Pace isn't quite as fast because we've crossed some
7 distance. Oh let's look back one more time. Still going.

8 And we are to the point where Planet Hollywood would no
9 longer kind of cover him because he's about to get on the area right
10 where that escalator is. So what do we do? Well, we did Paris, we did
11 some Fusion Watch, we did Planet Hollywood. At this point we move
12 back to Fusion Watch to watch him, sorry, get on that escalator. Takes
13 the ride up the escalator. Let's switch to the view where he starts going
14 to Fusion Watch into Cosmo. Then you heard from Amber Stringer. I
15 lose him. You guys should go check the Cosmo video. And low and
16 behold there we go. And we're entering the Cosmo.

17 So I mean, I heard that we didn't have every step after the
18 bus stop. I mean, sure, maybe we missed a few. But you can string
19 together almost every single second. The times match. Did you ever
20 think it was weird how he kept asking all these different times and the
21 time stamps, is that accurate? Do it yourself. I did it for you in this
22 compilation, but don't take my word for it, go and do it. I don't know
23 that there isn't every single step covered. You guys go find it because
24 it's -- I just showed it to you.

25 You heard this question, is there anything unique about

1 Andrew's clothing. Detective begins his answer and you heard, no, no,
2 no, no. I mean on just this date and time. Well, so we're going to
3 confine it to a vacuum. Like is there anything unique about your clothing
4 today right here in this moment? Well, no. But instruction 21. The
5 reason those other angles and photos and videos were shown is because
6 that evidence was received and may be considered by you only for the
7 limited purpose of proving the Defendant's identity, appearance and/or
8 likeness during the summer of 2020.

9 So that you don't have to just take Detective Byrd's word for
10 it, yeah. I know who that is. Or Detective Liske, yeah. I know who that
11 is. It's so that you can look yourself. So that you can look, oh he was
12 arrested wearing those shoes. Oh yeah, I see. Now I can see the shirt in
13 a different kind of light, and it makes sense why sometimes it looks like
14 this, sometimes it looks like that.

15 Now you're not going to have these next clips back there.
16 I've taken various videos that you've seen that have been admitted and I
17 just cut them randomly. Just put on after another. You watch this and
18 see if it's a different person to you. Watch the walk. Watch the stature.
19 Watch the movement. I'm just going to randomly choose days and
20 times. Watch the arm swing. Right here as he's approaching that left
21 side of your screen. Look at that rhythmic cadence. Oh It's the exact
22 same as in June. Maybe from the front it'll look different. No, no. Still
23 looks the same. And from the back still. And from the front again.

24 So this next one it's a shorter compilation of Andrew Young
25 kind of standing. Watch the rhythmic way he moves side to side, the

1 movement. Look at this. Ready, side to side. Watch, notice the back
2 bend that you've kind of seen previously in other videos. Shape of the
3 head, the body. Side, to side, to side.

4 [Video ended at 1:36 p.m.]

5 MR. BROOKS: Now last thing I kind of want to talk about is a
6 lot of times jurors get back there and attempt murder, that's kind of a
7 one that a lot of arguing kind of occurs or this and that. I mean, the
8 battery with substantial -- battery with a deadly weapon resulting in
9 substantial bodily harm, people can get their mind around that because,
10 you know, that's that general intent crime we talked about. The attempt
11 murder, that's the one where, if I were guessing, that's where there's
12 usually some contention.

13 So sitting here thinking today, you know it's a rock. It's easy
14 when there's a gun or something sharp. But I want to just kind of use
15 some different words just for a second. We keep calling it the rock. A
16 rock is something that I take and skip it across the lake. Throw it. It's a
17 stone. Would that be that same kind of thing? Or let me word it this
18 way, let's pretend someone were -- story of David and Goliath. And
19 David goes and finds a stone and it's a real nice one and he puts it in a
20 sling shot and he's going to shoot it at this massive warrior who's
21 amazing. He's going to fire it across this land and bam it hit him.

22 Let's say he wouldn't have hit him. You'd be like attempt
23 murder, you just grabbed a little rock and through it via sling shot and
24 you thought it was going to hit that guy and knock him down. That's a
25 bad plan. That's a bad plan. All right. What if Goliath was sitting by the

1 riverbed and he's sitting there eating his food. And David says, hey
2 guys, I got a different plan. I'm going to take this thing right there; I'm
3 going to walk up from behind him either with it or without and sock him.
4 I'm going to stun him from behind, not going to say anything. And then
5 when he turns around you know what I'm going to do? I'm going to take
6 it and I'm going to crack him in the skull a couple times and then I'm
7 going to walk off. That sounds like a better plan. That's why it's charged
8 as attempt murder with use of deadly weapon. That's why he aimed at
9 the head. That's why that was picked up.

10 So it really doesn't matter if you think about it, think about it
11 both ways. He either had it in his hand on the first hit and the second
12 and the third. Or he punched him on the first one and then when he
13 threw his food away -- and why did he throw his food away? Because he
14 could. That's why. And then when Robert Will was pissed about that,
15 think about that. He had already had the rock ready to go because at that
16 point in time when the food's getting thrown away, pop, pop to the head.
17 He had already had that. So either he had it when he walked up and
18 delivered the blow to the head, or he had already picked it up after he
19 socked him once and knew that he was going to do it.

20 He's guilty of attempt murder with use of deadly weapon and
21 battery with a deadly weapon resulting in substantial bodily harm.

22 Thank you.

23 THE COURT: All right. I will have my clerk now swear in
24 officers of the Court.

25 [The Marshal sworn to take charge of the jury]

1 THE COURT: All right. Ladies and gentlemen, as you know a
2 criminal jury is comprised of 12 individuals who actually go back into the
3 room and deliberate. Generally we only have two alternates, but
4 because of COVID we have four giving us 16 total jurors. Just because
5 of COVID we've been extra careful with the amount of jurors that we
6 have in case we lost anybody. The juror -- the alternate jurors in this
7 case are Kevin Jeung, Chase Cupo, Samantha Jackson and Tamara --

8 JUROR 16: Desmarais.

9 THE COURT: Desmarais. I'm going to get it one of these
10 times. Maybe the third trial I see you in. So this may be the last time
11 that any of us see the four of you in case we don't need you for
12 deliberations. So I just want to sincerely thank you for your time and
13 energy this week and your willingness to serve on a jury. Not only just
14 willingness to serve, but willingness to serve on a jury during a
15 pandemic. I sincerely appreciate that.

16 We may need you, however, if one of our jurors can't
17 deliberate for several of the reason that could occur, which has
18 happened in a couple of my last trials. So I am going to maintain that
19 admonition that I gave every single time in regards to no independent
20 investigation, no trying to look into it, no talking to anybody about that.
21 That will remain in effect until my jurors have come back with a verdict
22 and we let know. So please don't speak about it with anyone else or do
23 any of the things that I've been asking you not to do. And then as soon
24 as you receive a call from my chambers letting you know that the case
25 has come to a close, at that point in time that is lifted.

1 We did get lunch for all of you including the alternates. No
2 deliberations can occur though until you guys are done with lunch just
3 because my alternates will be in there. If you guys don't want to stay, of
4 course you're free to go. If you want to grab lunch and go, you can do
5 that. But just make sure that only deliberations happen amongst the 12
6 of you when you're in the deliberation room.

7 So that admonition that I've been giving you, for the
8 admonition is for my jurors now. I can't remember, I think it's juror
9 instruction maybe 26 that discusses you still can't do any of those things.
10 The only thing you can do is now talk about the case amongst one
11 another while in the deliberation room, okay.

12 So I will have Officer Kennis take all of you to the
13 deliberations room. We'll make sure and get you guys your lunch, and
14 you can proceed. Thank you very much.

15 THE MARSHAL: Make sure you bring all your belongings
16 and the notebooks, please.

17 [Jury retires to deliberate at 1:42 p.m.]

18 [Recess taken from 1:42 p.m. to 1:43 p.m.]

19 THE CLERK: Back on the record, Your Honor.

20 THE COURT: All right. We are on the presence outside the
21 jury. I just want to clarify the statement I just said to Ms. Desmarais, it's
22 number 16. When I said maybe I'll see you on the third trial, I'm not
23 talking about any like a third trial. I've already had two trials with Mr.
24 Young --

25 MR. MARGOLIS: No. You were a prosecutor --

1 THE COURT: But she had --

2 MR. MARGOLIS: -- in one, right. Yeah.

3 THE COURT: -- if you remember during questions --

4 MR. MARGOLIS: Yeah.

5 THE COURT: -- she had stated that I had -- she had been on a
6 jury prior of mine and that I had used a preempt --

7 MR. MARGOLIS: Right, right.

8 THE COURT: -- to kick her.

9 MR. MARGOLIS: Yeah.

10 THE COURT: So I just want to make sure it's clear on the
11 record what I was speaking about with her because I just had such a hard
12 time remember how to pronounce her last name. All right, you guys. So
13 make sure we have all your contact information, and we will call you if
14 the jury has a question or a verdict. Please stay within 20 minutes of the
15 courthouse, okay? Thank you.

16 [Recess taken from 1:44 p.m. to 4:32 p.m.]

17 THE COURT RECORDER: On the record, Your Honor.

18 THE COURT: Can we have the Defendant?

19 THE MARSHAL: Yup.

20 THE COURT: Thank you. All right. We are on the record in
21 State of Nevada v. Andrew Young C-350623. Mr. Young is being brought
22 in. We have Mr. Margolis on his behalf. Both deputy district attorneys
23 Ms. Sullivan as well as Mr. Brooks are present on behalf of the State. I
24 am told by the marshal that we have a verdict, so we will bring in the
25 jury now, please.

1 THE MARSHAL: All rise.

2 [Jury in at 4:34 p.m.]

3 THE COURT: All right. Welcome back, everybody. We are
4 on the record in State of Nevada v. Andrew Young C-350623. Mr. Young
5 is present with Mr. Margolis. Both deputy district attorneys Ms. Sullivan
6 as well as Mr. Brooks are present on behalf of the State. Do the parties
7 stipulate to the presence of the jury?

8 MS. SULLIVAN: Yes, Your Honor.

9 MR. MARGOLIS: Yes, Your Honor.

10 THE COURT: All right. Thank you. Now has the jury
11 selected a foreperson?

12 JURY: Yes, it has.

13 THE COURT: Okay. Wonderful. And who's the foreperson?
14 Okay, Ms. Moon. Has the jury reached a verdict, ma'am?

15 JURY FOREPERSON: Yes, Your Honor.

16 THE COURT: All right. If you could please just hand over
17 that form, please, to my marshal. And if Mr. Margolis and Mr. Young
18 can please stand. Thank you, sir. All right. And at this point in time I
19 will now have the -- have Ms. Brown read the verdict out loud, please.

20 VERDICT

21 THE CLERK: District Court Clark County Nevada, State of
22 Nevada, Plaintiff v. Andrew Young, Defendant, case number C-20-
23 350623-1, Department Number 6. Verdict, we the jury in the above
24 entitled case find the Defendant Andrew Young as follows:

25 Count A, battery with use of a deadly weapon resulting in

1 substantial bodily harm. Guilty of battery with use of a deadly weapon
2 resulting in substantial bodily harm.

3 Count B, attempt murder with use of a deadly weapon, not
4 guilty.

5 Dated this 10th day of February, 2022. Signed by the
6 foreperson, Juror Number 5.

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

9 IN UNISON: Yes.

10 THE COURT: All right. Do either parties wish to have the
11 jury polled?

12 MR. BROOKS: No, Judge.

13 THE COURT: Okay. All right. So Ms. Brown will now record
14 the verdict in the minutes of the court.

15 So ladies and gentlemen, at this point in time that
16 admonition that I've been reading every time you went to recess, it's
17 now lifted. So you can speak to anyone you want to about the case, but
18 that also means you don't have to speak to anyone if you don't want to
19 about the case.

20 I can tell you that as a previous attorney that did trials, it
21 was incredibly helpful for me to be able to speak to the jurors to know,
22 hey, this is what I did right, and this is what worked, and this is what I did
23 wrong, and this didn't work. Everyone who is in here as attorneys are
24 trial attorneys, they're in this courtroom every week trying multiple cases
25 a year, so it's very helpful to them to be able to hear from you. But that's

1 completely up to you.

2 Just like I was expressing my sentiments to the alternates
3 before the break, before you guys went back to deliberate, I can't thank
4 you enough for your willingness to serve on a jury especially during a
5 pandemic. It's never easy to serve on a jury, but it's especially not easy
6 to serve under these circumstances and I really can't thank you enough.

7 So at this point in time Chris is going to take you guys back
8 into the jury deliberation room, get any of you letters that you need to
9 get and then collect the badges and things like that. And so we'll do that
10 now. So the jury can exit. Thank you.

11 THE MARSHAL: All rise.

12 [Jury excused at 4:38 p.m.]

13 THE CLERK: On the record or off?

14 THE COURT: On. All right, guys. So we have a PSI because
15 we just got one whenever it was. So I can set this for sentencing
16 whenever you guys want. Do you want me to just set it on my calendar
17 next week, would you like more time than that?

18 MR. MARGOLIS: You can set it for next week.

19 THE COURT: Okay. All right. So we'll -- let's set it on our
20 Thursday calendar.

21 MR. MARGOLIS: That's a good question. Mr. Young wants
22 to know is he going to hang down here at CCDC until then or is he going
23 to be brought back?

24 THE COURT: So I'll -- you'll stay remanded until Thursday
25 and then after Thursday you'll go up.

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THE DEFENDANT: Okay, okay.

THE COURT: Okay?

THE DEFENDANT: Yes, ma'am.

THE COURT: All right. So thank you very much. We can --
that date is what Chris?

THE CLERK: November 17th.

THE COURT: Or February.

THE CLERK: I'm sorry?

THE COURT: Or February. I mean, November's a little far
out.

THE CLERK: Why was I thinking November?

THE COURT: You're remanded until November.

MR. MARGOLIS: Yeah, yeah.

THE COURT: No.

THE CLERK: February 17th, try that again, at 11:00 o'clock.

THE COURT: All right.

MR. MARGOLIS: All right. Great. Thank you.


THE COURT: All right. Thanks guys, we can go off the
record.

[Proceedings concluded at 4:39 p.m.]

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



Maukele Transcribers, LLC
Jessica B. Cahill, Transcriber, CER/CET-708



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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	CASE NO, C-20-350623-1
Plaintiff,)	
vs.)	DEPT. NO. III
ANDREW YOUNG,)	
Defendant.)	

BEFORE THE HONORABLE MONICA TRUJILLO, DISTRICT COURT JUDGE

MONDAY, APRIL 12, 2021

RECORDER'S TRANSCRIPT OF PROCEEDING:

STATE'S NOTICE OF MOTION IN LIMINE TO ADMIT CERTAIN EVIDENCE UNDER THE DOCTRINE OF RES GESTAE, OR IN THE ALTERNATIVE STATE'S MOTION TO ADMIT EVIDENCE RELATED TO OTHER CRIMES

APPEARANCES:

For the State: PARKER BROOKS, ESQ.
Deputy District Attorney

For the Defendant: DAVID R. FISCHER, ESQ.

RECORDED BY: REBECA GOMEZ, COURT RECORDER

1 Las Vegas, Nevada; Monday, April 12, 2021

2 [Proceeding commenced at 9:21 a.m.]

3
4 THE COURT: Case number C20350623-1, State of Nevada
5 versus Andrew Young. Mr. Brooks on behalf of the State. Mr. Fischer
6 on behalf of defendant. Mr. Young --

7 THE DEFENDANT: Good morning, Your Honor.

8 THE COURT: Good morning. Mr. Young is present in
9 custody via blue jeans at CCDC. And this is on for State's Notice of
10 Motion and Motion in Limine to Admit Certain Evidence Under the
11 Doctrine of Res Gestae, or in the Alternative State's Motion to Admit
12 Evidence Related to Other Crimes. And, State, I'm going to have to
13 continue this to Wednesday. I know that you're on central calendar call I
14 believe Wednesday. And again I apologize I didn't know you were here.

15 MR. BROOKS: Hey, Judge.

16 THE COURT: It's on at 2 p.m. so we shouldn't have an issue.
17 And just question as to the superseding indictment. It was filed after I
18 ruled on the motion to sever, so when -- it's not set for arraignment or
19 anything so I'm kind of confused procedurally as to what's happening.

20 MR. BROOKS: So yeah, Judge, I took this case over from
21 Ms. DeMonte --

22 THE COURT: Mm-hmm.

23 MR. BROOKS: -- and I can kind of tell you that I filed this
24 motion mostly because, you know, I've never done trial in front of Your
25 Honor and so I was a little unsure. And so I took the attempt murder

1 and battery substantial bodily harm resulting in with deadly weapon --

2 THE COURT: Mm-hmm.

3 MR. BROOKS: -- and put them in 23 and 24 --

4 THE COURT: Mm-hmm.

5 MR. BROOKS: -- so that, you know, the jury doesn't think
6 well why did we just skip from 15 to 18 --

7 THE COURT: Right.

8 MR. BROOKS: -- or whatever? In the event that which is the
9 State's position that the 22 counts of burglary type stuff go first --

10 THE COURT: Mm-hmm.

11 MR. BROOKS: -- then this motion really doesn't need to be
12 argued until the attempt murder type case. Because the only thing that
13 would be -- the State would be asking or putting defense on notice with
14 regard to those 22 counts is just that Detective Byrd would testify this is
15 Andrew Young in these photographs and these videos because that --
16 he's part of the entire squad that's been investigating and he's the
17 detective that kind of links everything. He's the one who files the arrest
18 report --

19 THE COURT: Right. Right.

20 MR. BROOKS: -- on the attempt murder. But I was just kind
21 of letting Mr. Fischer and the Court know that although you see his
22 name primarily connected with the attempt murder, he would be
23 testifying in just the burglary case. Obviously not to the attempt murder,
24 not to what he was investigating.

25 In fact, he kind of I think initially recognized Andrew Young

1 from something in 2016. And then ran his name and that's how Walmart
2 thing event comes up. So I wasn't try to say anything from the attempt
3 murder case would come into the burglaries. I was simply making a
4 motion in the attempt murder when that goes about identity not about
5 what was happening or the underlying facts of --

6 THE COURT: Okay.

7 MR. BROOKS: So that's kind of -- it's a little confusing
8 because I didn't really know which one would go first and that's why
9 when you're reading, you're like, what's this kid talking about, he's
10 jumping, that's why.

11 THE COURT: Okay. All right. Well thank you for the
12 clarification. And then we'll set this over to Wednesday for a decision --

13 THE CLERK: April 14th --

14 THE COURT: -- and argument.

15 THE COURT CLERK: -- 8:30.

16 THE COURT: April 14th?

17 THE COURT CLERK: 8:30.

18 MR. FISCHER: And, Judge, my apologies.

19 THE COURT: Yes.

20 MR. FISCHER: I did not realize Mr. Brooks was speaking.
21 There was an audio issue. I came in about the point where Mr. Brooks
22 was talking about Detective Byrd. I assume it's essentially your
23 argument from the opposition, is that right, or from your motion? Excuse
24 me.

25 MR. BROOKS: Yeah. I was just saying that, you know,

1 Detective Byrd will testify in the burglary stuff. He's obviously not going
2 to say he was part of an investigation for attempt murder or anything like
3 that. Just that he's familiar with, you know, Andrew Young, what he
4 looks like, he's spoken to him, he's, you know, interacted with him in
5 person and that's him in the video.

6 MR. FISCHER: Right.

7 MR. BROOKS: You know.

8 MR. FISCHER: And if I may Your Honor that's -- he's
9 obviously part of our concern is quite frankly he's the one that sort of
10 puts this in the probable cause realm of the attempt murder which is part
11 of the concern --

12 THE COURT: Hold on. Mr. Fischer --

13 MR. FISCHER: -- that we have. He was --

14 THE COURT: -- Mr. Fischer --

15 MR. FISCHER: Yeah.

16 THE COURT: Sorry. I know you're having audio issues but --
17 so we're not arguing it right now. I just continued it until Wednesday.

18 MR. FISCHER: Oh.

19 THE COURT: I was confused on a procedural issue --

20 MR. FISCHER: Oh.

21 THE COURT: -- with the superseding indictment. So we'll
22 argue it -- you guys will argue it on Wednesday and I'll decide.

23 MR. FISCHER: Oh, I'm sorry. I'm sorry, Judge.

24 THE COURT: Okay.

25 MR. FISCHER: Yeah. Understood. Set for Wednesday then.

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Thank you.


THE COURT: Wednesday at 8:30. Thank you.

Thanks, Mr. Brooks.

MR. BROOKS: Thanks, Judge.

[Proceeding concluded at 9:25 a.m.]

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



Charisse Ward
Court Recorder/Transcriber