

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

TULY LEPOLO,

Appellant,

vs.

STATE OF NEVADA,

Respondent,

Supreme Court Case No. 85631  
District Court Case No. C-20-345911-1  
Electronically Filed  
Jul 28 2023 12:08 PM  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S APPENDIX  
Volume III**

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1 agreement is to engage in X and ultimately what is engaged in becomes  
2 why. Who bears responsibility for that change in circumstance for that  
3 ratcheting up of hostilities for that increase in volatility?

4           You as the finders of fact are going to have a very important  
5 job in determining the answers to those questions. The Lantana  
6 Apartment Complex on April 3rd, 2016, was a tinderbox. You're going to  
7 hear from a series of witnesses. Many of them not members of this  
8 family. They're going to talk about the mayhem and the vitriol that  
9 appeared to be going on for hours in the courtyard and parking lot of this  
10 apartment complex.

11           Certainly, there was probably some merriment involved.  
12 There was some eating, some drinking, and some festivities. But there  
13 was also this kind of cloud, this dark current, if you will, and it even gets  
14 to the point that the evidence is going to show that other residence of  
15 this apartment building were kind of uneasy, you know? Kind of closing  
16 their blinds and stuff. It just felt like something was going to happen,  
17 you know?

18           Now, as far as Ms. Forman having been attacked by Mr.  
19 Lepolo's son, I've yet to see evidence demonstrating that that attack  
20 occurring a couple months prior actually happened. But needless to say,  
21 there was an existing conflict between these two families. And there  
22 were also a lot of existing connections between the two families that  
23 made resolving that conflict both incredibly more important and  
24 increasingly more difficult.

25           Sometimes, family members don't share everything for very

1 specific reasons, to minimize conflict. To stave off a disaster when one  
2 can do so. Okay? We talked a lot about retreat. We talked a lot about  
3 ways in which you can extricate yourself from a situation rather than  
4 exacerbate a bad situation and take it from bad to worse.

5           So, as you listen to witnesses testify in this case, I want you  
6 to think about whose behaviors manifested a desire to escalate and  
7 whose behaviors and statements seem to do the opposite. Ultimately, a  
8 fist fight occurred in the parking lot between Mr. Lepolo's son and Ms.  
9 Forman's son, Dwayne Armstrong.

10           You might have told from my initials statements to you that I  
11 think a fist fight every now and again is probably good for folks, okay?  
12 Might not be necessary, but sometimes, I do believe that it is. In this  
13 particular case, if it had ended with a fist fight and parties had retreated  
14 to their respective camps, it could have been just another Sunday  
15 birthday party, and everybody could have gone on about their way.

16           But that's not what happened. Because Dwayne Armstrong  
17 was losing the fight, and the Forman family and the Taylor family, with  
18 whom the decedent was very close, they didn't like that Mr. Armstrong  
19 was, as they said, "Catching a fade." Okay? And at some point, a shot  
20 was fired into the air by Henry Taylor.

21           Henry Taylor is not a member of the Lepolo family and Henry  
22 Taylor was neither the challenger nor the recipient of the challenge to  
23 fight. Yet he took it upon himself to change a fist fight into a gun battle.  
24 And unfortunately, when he did so, when he escalated this conflict to  
25 that irreversible point, unfortunately, it brought about consequences that

1 no one wanted. No one with the last name Lepolo, no one with the last  
2 name Forman, no one with the last name Taylor, and certainly no one  
3 with the last name Stapinski.

4 Sometimes, it just kind of gets away from us. And I would  
5 submit that when motions are high and alcohol is plentiful, the odds of  
6 that happening increase exponentially. And evidence will certainly  
7 demonstrate that no one was stone cold sober celebrating Ms. Forman's  
8 birthday. Not to suggest that the Lepolo's were having a alcohol-less get  
9 together either, okay?

10 Evidence is going to show in factually that it was Henry  
11 Teelock [phonetic] Taylor that fired the first shot here. He was the one  
12 who changed this from a fist fight to a gun fight. And that's kind of  
13 instrumental, because the State's theory of this case is that my client, Mr.  
14 Lepolo, is guilty of first degree murder. Okay? Generally, we know we  
15 think of first-degree murder, premeditation, deliberation, lie in wait.

16 Hence the theory of challenge to fight becomes extremely  
17 critical to the disposition of this case. Now, to be fair, the challenge to  
18 fight statute doesn't mean you have to be the challenger. You could  
19 certainly be the challenge.

20 MR. GIORDANI: Objection. This is leading to argument.

21 MR. MARGOLIS: Fair enough.

22 THE COURT: Sustained.

23 MR. MARGOLIS: Withdrawn. I'm sorry.

24 THE COURT: It's okay.

25 MR. MARGOLIS: The shot fired by Henry Taylor is very

1 important. I fully expect that there will be witnesses that will come in  
2 and say that the hop -- the shot fired by Henry Taylor, okay? Which was  
3 fired in the air was intended solely to disperse the crowd, stop the fight,  
4 and kind of restore order. Now, as a guy who's never owned a firearm  
5 and probably fired one on a dozen occasions, I don't personally believe  
6 the introduction of a gun period, let alone the firing of a bullet, be it in  
7 the sky or otherwise, last time I checked, gravity indicates the bullets that  
8 go up must come down, but be that as it may.

9 Evidence is going to show that members of that family of  
10 that side of this conflict believe that that was done in order to stamp out  
11 the conflict, to end it. Okay? I would submit that most of us know with  
12 our common sense, that introducing a gun where one was not  
13 introduced prior is not likely to deescalate a conflict. In fact, it may very  
14 well have the effect of throwing gas on a fire. And that's what happened  
15 on April 3rd, 2016.

16 You're going to see evidence that's going to make you  
17 question the motives of the people involved in this conflict. There are a  
18 lot of shells that were fired that were not .40 caliber. There were a lot of  
19 cartridges collected outside of Apartment 231 that were not .40 caliber  
20 cartridges. The timing of the firing is a very critical point, and you're  
21 going to hear from witnesses and their going to testify and you're going  
22 to have to assess their credibility about what they're saying and what  
23 they're saying it and what their motivations are.

24 Under these circumstances, we expect the evidence is going  
25 to show that Mr. Lepolo did not challenge anyone to a fight. He did not

1 accept any challenge to a fight. To the extent a challenge to a fight is at  
2 the heart of this case. It is a challenge that was issued to Mr. Lepolo's  
3 son. It was a challenge that Mr. Lepolo's son, Muasau, sought to avoid.  
4 It was a challenge he sought to avoid, not because he was scared of a  
5 physical fist fight with Dwayne Armstrong.

6 It was a fight he sought to avoid because he knew that this  
7 fight would begin another fight. He knew that the fight would cause  
8 problems for his sister, for his mother, for people near and dear to him.  
9 By contrast, those on the other side of this conflict, seemed hellbent on  
10 bringing it to a bloody conclusion.

11 And it is very unfortunate that that bloody conclusion cost  
12 Raquel Stapinski her life. But the fact that Raquel Stapinski lost her life  
13 under these terrible circumstances does not mean that Mr. Lepolo is  
14 responsible for that loss of life.

15 I ask you at the beginning and I'm going to ask you again.  
16 Withhold your judgement until all of the evidence is in, all of the  
17 witnesses have testified, all of the exhibits have been presented to you.  
18 After that, deliberate carefully. Each and every one of you is entitled to  
19 your opinion about what the evidence means, what a particular piece of  
20 testimony is, and how credible that piece of testimony is.

21 I don't believe the Prosecution can prove beyond a  
22 reasonable doubt. My opinion doesn't matter. But if you don't believe  
23 the Prosecution has proven Mr. Lepolo's guilt in the death of Raquel  
24 Stapinski beyond a reasonable doubt, it is your duty to return a verdict of  
25 not guilty, and that's what I'm going to ask you to do. Thank you.

1 THE COURT: Thank you, Mr. Margolis.

2 All right. So, tomorrow, when we get here, we will start with  
3 the State's first witnesses. We'll come back tomorrow morning at 10:00  
4 a.m. So, tomorrow will be a day where we break for lunch. We'll  
5 probably do it around 12:30, all right?

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

17 Have a nice evening, and we'll see you tomorrow morning at  
18 10:00 a.m. Thank you.

19 THE MARSHAL: All rise.

20 And just leave your notebooks on your chairs, please.

21 THE COURT: We can go off, Jonah.

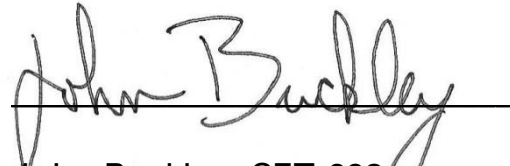
22 [Proceedings adjourned at 4:17 p.m.]

23 \* \* \* \* \*

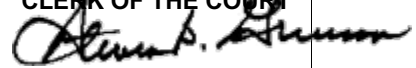
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1                   ATTEST: I do hereby certify that I have truly and correctly  
2 transcribed the audio/video proceedings in the above-entitled case to the  
3 best of my ability.

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7 John Buckley, CET-623  
8 Court Recorder/Transcriber  
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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,  
9 Plaintiff,

10 vs.

11 TULY LEPOLO, #8471381,  
12 Defendant.

)  
) CASE#: C-20-345911-1  
)  
) DEPT. VI  
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13 BEFORE THE HONORABLE JACQUELINE BLUTH  
14 DISTRICT COURT JUDGE  
FRIDAY, AUGUST 19, 2022

15 **RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 3**

16  
17 APPEARANCES:

18 For the Plaintiff:

JOHN GIORDANI, ESQ.  
ELISA CONLIN, ESQ.

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20 For the Defendant:

JASON MARGOLIS, ESQ.

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25 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

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Las Vegas, Nevada, Friday, August 19, 2022

[Case called at 10:15 a.m.]

THE COURT: All right. Good morning, everyone. Please be seated. Welcome back. We're on the record in State of Nevada v. Tuly Lepolo, C-345911. Mr. Lepolo is present with counsel, Mr. Margolis, as well as Paralegal Mendoza; both District Attorneys, Mr. Giordani as well as Ms. Conlin, are present on behalf of the State.

Do the parties stipulate to the presence of the jury?

MR. GIORDANI: We do, Your Honor.

MR. MARGOLIS: Yes, Your Honor.

THE COURT: All right.

State's first witness, please.

MR. GIORDANI: Flora Taylor.

THE MARSHAL: Step up there, remain standing and raise your right hand so the Court can swear you in.

THE COURT: Mr. Taylor, here is my clerk. She is going to swear you in. So would you raise your right hand for me?

FLORA TAYLOR, STATE'S WITNESS, SWORN

THE CLERK: Please be seated.

And will you please state your name and spell it for the record.

THE WITNESS: Flora Taylor, F-L-O-R-A T-A-Y-L-O-R.

THE CLERK: Thank you.

THE COURT: Good morning, Flora. That little black thing in

1 front of you is a microphone. And so as long as you sit somewhat close  
2 to it, and keep your voice up then the ladies and gentlemen of the jury  
3 should be able to hear you. Okay?

4 THE WITNESS: Okay.

5 THE COURT: All right. Thank you.

6 Mr. Giordani?

7 MR. GIORDANI: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MR. GIORDANI:

10 Q Ms. Taylor, do you go by Flo?

11 A Yes.

12 Q May I call you Flo?

13 A [No verbal response].

14 Q Flo, I'm going to ask you a series of questions. Okay? And  
15 we're going to need you to answer verbally so that the court recorder  
16 can take everything down. Okay? Is that a yes?

17 A Yes.

18 Q Did you know a person by the name of Raquel?

19 A Yes.

20 Q What was your relationship with Raquel?

21 A She was my friend, close friend of the family. I'm sorry.

22 THE COURT: It's okay. Just take your time.

23 BY MR. GIORDANI:

24 Q I want to bring you back to Aril of 2016. You mentioned  
25 Raquel was a close friend of the family's. Which family members are

1 you referring to?

2 A My sister and my mom.

3 Q Who's your sister?

4 A Dana.

5 Q Dana what?

6 A Forman.

7 Q And what was your mom's name?

8 A Debra Sparks.

9 THE COURT: Sorry, Mr. Girordani.

10 Just a little bit louder for us, because otherwise --

11 THE WITNESS: Debra Sparks.

12 THE COURT: There you go.

13 MR. MARGOLIS: Thank you.

14 BY MR. GIORDANI:

15 Q Do you have a brother as well?

16 A Yes.

17 Q What's your brother's name?

18 A Henry.

19 Q Henry what?

20 A Taylor.

21 Q Do you have nieces and nephews?

22 A Yes.

23 Q Do you know how many nieces and nephews you have?

24 A Over 30-something.

25 Q You have a big extended family in addition to the siblings

1 that you just mentioned?

2 A Yes.

3 Q I want to bring you back to April of 2016. Do you remember  
4 where Dana was living at that time?

5 A Yes.

6 Q Can you tell the jury where Dana was living at that time?

7 A The address or just the apartment?

8 Q Whatever you want.

9 A 6501 West Charleston Boulevard. I don't remember the door  
10 number.

11 Q You don't remember the door number, but you said it's an  
12 apartment?

13 A Uh-huh.

14 Q Is that a yes?

15 A Yes.

16 Q Okay. Do you know who was living there with Dana back  
17 then?

18 A Dana and her kids.

19 Q How many kids does Dana have?

20 A Severn.

21 Q Do you know their age ranges?

22 A The oldest is 29 on down to now 13.

23 Q Are you talking about their ages now?

24 A Yes.

25 Q Okay And so if we're talking about 2016, I won't make you

1 do any math, but were about six years subtracted from all those ages; is  
2 that right?

3 A Uh-huh.

4 Q And you indicated that Dana was a friend of your family.  
5 Was she also a friend -- I'm sorry. Raquel was a friend of your family.  
6 Was she a friend of Dana as well?

7 A Yes.

8 Q Okay. On April 3, 2016, did you go over to Dana's  
9 apartment?

10 A Yes.

11 Q What was the purpose of going over?

12 A It was her birthday.

13 Q

14 THE COURT: Whose?

15 THE WITNESS: Dana's.

16 BY MR. GIORDANI:

17 Q And what was going on at her apartment for her birthday?

18 A Raquel was going to cook dinner for her. She had bought  
19 everything, did her hair and her eyelashes and stuff and she was  
20 supposed to cook dinner.

21 Q Okay. Were there several people there when you arrived?

22 A Some of the family, some of the family from the other side  
23 was coming in and out.

24 Q All right. Let me ask you about that. When you say some of  
25 the family from the other side, what are you talking about?

1 A The Samoan side.

2 Q The Samoan side?

3 A Yeah.

4 Q Okay. Did your family know and have various relationships  
5 with a Samoan family that lived in the same apartment complex?  
6 Is that a yes?

7 A Some of the kids was raised with us.

8 Q Some of the kids was raised with you, is that what you said?

9 A Yes.

10 Q Okay. Were there also kids in common between the two  
11 families?

12 A Yes.

13 Q Do you know -- go ahead.

14 A I have nieces and a nephew with them.

15 Q Okay. What are their names, just their first names? Any  
16 familial relationships you may have with the -- that family.

17 A Well, my nieces are their names Synasia [phonetic], Nya  
18 [phonetic] and Nori [phonetic].

19 Q Whose --

20 A Those are my nieces. Their mom is Jackie.

21 Q And who is Jackie?

22 A My brother's baby mom.

23 Q And which brother are you talking about?

24 A Antoine's.

25 Q Antoine?

1           A     Uh-huh.

2           Q     Okay. And is Jackie a member of what you refer to as the  
3 Samoan family?

4           A     Yes.

5           Q     So Jackie and Antoine share some kids, right?

6           A     Uh-huh.

7           Q     Are there other nieces or nephews?

8           A     That's it.

9           Q     Is that a no?

10          A     No, that's it.

11          Q     Are there also various, I guess, friendships,  
12 acquaintanceships between your two families?

13          A     Yes.

14          Q     And you said some of them were raised with you. Who were  
15 you talking about?

16          A     Jackie and John-John and Elaine. They -- my mom did parts  
17 in helping. They was out there in Vegas with us when they moved back  
18 to San Bernardino.

19          Q     Okay.

20          A     So for years on and off they stay with us and then go back,  
21 and come back and stay with, you know.

22          Q     Okay. So there was a whole bunch of background and  
23 history between your two families; is that right?

24          A     Yes, sir.

25          Q     Okay. So I want to focus you specifically in April. You said

1 that some family members from the other side were coming in and out.  
2 Did those family members -- and I'm going to use the term you used --  
3 the Samoan family, did they also have an apartment in that same  
4 complex?

5 A Yes.

6 Q Did you know generally where that was?

7 A Yes, right like away from Dana's.

8 Q Okay. I'm going to show you a few photographs.

9 MR. GIORDANI: And Your Honor, I've all of these to Defense  
10 Counsel.

11 May I approach?

12 THE COURT: Thank you. Yes.

13 BY MR. GIORDANI:

14 Q I'm showing you now State's 9, proposed 9.

15 A Uh-huh.

16 Q Do you recognize this area?

17 A No, they all look the same in this picture.

18 THE COURT: Sorry, Mr. Giordani, we're having a hard time.

19 BY MR. GIORDANI:

20 Q Okay. And I believe you said it's hard, they all look the same,  
21 this area right here.

22 A Yes.

23 Q And what I'm showing you is an aerial map from Google.  
24 Okay?

25 A Uh-huh.

1 Q So are you saying they all look the same, you're referring to  
2 these apartment buildings?

3 A In this picture right here, I can't tell where the area is.

4 Q Okay. Does that appear to be an aerial map of that  
5 apartment complex you've been talking about?

6 A Yes. Exactly.

7 Q Let me move on. Okay? I'm showing you now State's 21, do  
8 you recognize this area? Is that a yes?

9 A Yes.

10 Q I'm going to move on --

11 A No.

12 Q I'm going to move on and skip over that and I'm going to  
13 skip over that and show you a different photo.

14 A Okay.

15 Q Okay. I'm going to move on and skip over that and I'm going  
16 to show you a different photo. Okay?

17 A Okay. Okay.

18 Q I'm going to show you State's 24. Do you recognize this  
19 area?

20 A Yes.

21 Q Okay. Is this an area within the apartment complex you just  
22 described?

23 A Yes.

24 Q State's 35 --

25 A Yes.

1 Q Different angle of that same area?

2 A Yes.

3 Q State's 36. Is that a different angle of that same area?

4 A Yes.

5 Q Stop there for a minute. Okay?

6 MR. GIORDANI: I move for the admission of all of those that  
7 she just identified.

8 THE COURT: The ones that were identified?

9 MR. GIORDANI: Yes.

10 THE COURT: Okay. Mister. --

11 MR. GIORDANI: I can go back through the numbers if you  
12 need it.

13 THE COURT: Mr. Margolis?

14 MR. MARGOLIS: No objection.

15 THE COURT: Okay. And Mr. Giordani, if you could read  
16 those to the record for Ms. Brown, please.

17 MR. GIORDANI: 21, 24, 35, and 26.

18 [State's Exhibit 21, 24, 35, 36 admitted into evidence]

19 THE COURT: Thank you. And you may publish the ones that  
20 have been admitted.

21 MR. GIORDANI: Thank you.

22 BY MR. GIORDANI:

23 Q Showing you now State's 21. Can you see that on your  
24 screen there, ma'am?

25 A Yes.

1 Q Okay. From this particular photograph can you see generally  
2 where Dana's apartment was located?

3 A Yes.

4 Q And is it off to the right in that photograph?

5 A Yes.

6 Q And in the foreground of this photograph are we looking at  
7 basically a street and a carport with some cars parked under it?

8 A Yes.

9 Q Okay. So off to the right here, down this walkway, is that  
10 where Dana's apartment was?

11 A Yes.

12 Q Okay. I'm going to switch the angle on you and show you  
13 State's 24. Can you see that carport now way over here on the right?  
14 Is that a yes?

15 A Yes. Yes.

16 Q Okay. And then right in the center of this photo, is this the  
17 walkway that I just pointed to on the other one?

18 A Yes.

19 Q And so is Dana's apartment at the end here?

20 A Yes.

21 Q Okay. Showing you 36, to the left is this Dana's walkway to  
22 her apartment?

23 A Yes.

24 Q And then that same carport way out here?

25 A Yes.

1 Q When you said that they, the Samoan family, lived in an  
2 apartment across the way, do you mean across from Dana's to the right?

3 A Yes.

4 Q All right. Do you know the apartment number at all?

5 A No.

6 MR. GIORDANI: May I approach?

7 THE COURT: Yes.

8 BY MR. GIORDANI:

9 Q I'm going to show you a few more photos, just of the -- just  
10 of the surrounding areas. Showing you 39.

11 A Uh-huh.

12 Q Is that the walkway to Dana's place?

13 A Yes.

14 Q Showing you State's 50. Do you recognize this area? Dana's  
15 place on the right.

16 A That's going to her apartment block.

17 Q Okay. State's 51, just a closeup of that same area.

18 A Yes.

19 Q And then State's 52, are we now looking from Dana's  
20 apartment?

21 A Coming from right here. That's right. Dana's apartment.

22 Q Dana's apartment's here looking down?

23 A Yeah.

24 Q Okay.

25 MR. GIORDANI: I move the admission of those as well, 39,

1 50 --

2 MR. MARGOLIS: No objection.

3 MR. GIORDANI: -- 51, 52.

4 Thank you.

5 THE COURT: Those will be admitted, no objection.

6 Permission to publish granted.

7 [State's Exhibit 39, 50, 51, 52 admitted into evidence]

8 BY MR. GIORDANI:

9 Q Now, I'm showing you 39. Is that a straight shot down to  
10 Dana's apartment?

11 A Yes.

12 Q Is hers on the left or on the right?

13 A The left.

14 Q And looks like it's the one with the door open --

15 A The door open.

16 Q -- on the first floor.

17 A Yes.

18 Q Okay. Do you know who lived here in the apartment on the  
19 first floor next to Dana?

20 A No.

21 Q And do you know anybody that lived on the floors -- I'm  
22 sorry, the apartments upstairs from Dana's?

23 A No.

24 Q I'm going to go to 50. Is this a different angle now showing  
25 Dana's walkway on the right?

1 THE COURT: Is that a yes?

2 THE WITNESS: Yes.`

3 BY MR. GIORDANI:

4 Q Okay. And then straight across from Dana's walkway --

5 A Yes.

6 Q -- it looks like there's another building.

7 A It is.

8 Q Is that the building you were talking about ?

9 A Yes.

10 Q So the Samoan family had an apartment in that building?

11 A Yes.

12 Q And I'm going to zoom in a little bit. Hello?

13 A Yes.

14 Q It looks like this sidewalk that comes from -- it comes from  
15 the parking lot --

16 A Uh-huh.

17 Q -- and then it curves around the bend here. You see that?  
18 Is that a yes?

19 A Yes.

20 Q I'm going to show you 51 now, a little closer view of that  
21 same area, right? Is that a yes?

22 A Yes.

23 Q And then I'm going to show you 52. You see the curved  
24 sidewalks here?

25 A Yes.

1 Q And then there's it looks like a whole bunch of other  
2 entryways down that building. You see that?

3 A Yes.

4 Q Do you know which one the Samoan family stayed in?  
5 Would it have been this first alcove or one further down?

6 A It would be the first one, these windows would be theirs.

7 Q So these windows right here were theirs?

8 A Yes.

9 Q All right. So Dana really lived close to them.

10 A Really close.

11 Q Okay. Okay. All right. So you described the relationships  
12 between the families and you said that you'd come over for Dana's  
13 birthday, right?

14 A Uh-huh. Prior -- before that, I came over the day before for a  
15 low -- son birthday party at a park.

16 Q Whose?

17 A Elaine's, her son's birthday party at a park they had.

18 Q Is Elaine a member of the Samoan family?

19 A Yes.

20 Q And what's her son's name?

21 A Baby Greg.

22 Q Say it again.

23 A Baby Greg.

24 Q Baby Greg?

25 A Uh-huh.

1 Q Okay. And he had a party the day before.  
2 A At a park.  
3 Q Was it a park in this apartment complex?  
4 A Huh-uh.  
5 Q Somewhere else?  
6 A Yes.  
7 Q So you had seen this same family the day before.  
8 A I spent the night at the house before.  
9 Q That one right there?  
10 A Uh-huh.  
11 Q The Samoan --  
12 A In my brother room.  
13 Q Okay. And when you said in your brother's room, who were  
14 you referring to?  
15 A Antoine.  
16 Q And you said earlier, just so we're clear, Antoine is the one  
17 that shares children with one of the --  
18 A With Jackie.  
19 Q Okay. So on the day of Dana's birthday in the park, who was  
20 in Dana's apartment when you arrived?  
21 A The kids and Raquel and Dana.  
22 Q When you say the kids, are you talking about Dana's kids?  
23 A Uh-huh, and some of my nieces from Jackie was over there.  
24 Q Okay. And you said that -- let me ask you this:  
25 Is there a person by the name of Wayne-Wayne?

1 A Yes, that's my nephew.  
2 Q That's your nephew?  
3 A Uh-huh.  
4 Q How old's Wayne-Wayne now?  
5 A Twenty-five, I believe.  
6 Q Okay. And he would have been late teens, maybe 20.  
7 A Twenty.  
8 Q Okay.  
9 A Nineteen.  
10 Q Was he there that day as well?  
11 A Yes.  
12 Q Do you remember around what time of day you arrived?  
13 A I spent the night, so I just woke up and went across.  
14 Q Okay. So you were already there and just went to their  
15 apartment.  
16 A Uh-huh.  
17 Q Okay.  
18 THE COURT: Is that a yes?  
19 THE WITNESS: Yes.  
20 THE COURT: Sorry. I know that that's annoying. I just have  
21 to keep reminding you because uh-huh, it gets confusing. So if we  
22 remind you, just know we have to do it.  
23 THE WITNESS: Okay.  
24 THE COURT: All right.  
25 ///

1 BY MR. GIORDANI:

2 Q Did there come a point in time in the evening hours that  
3 more people joined the party?

4 A Not my sister house, no.

5 Q Okay.

6 A No. Actually, my brother came.

7 Q Your brother Henry?

8 A Yes.

9 Q And who did Henry come with?

10 A I want to say my cousin came, but I don't know if he came by  
11 his self or they both came, my cousin Junior --

12 Q Okay.

13 A -- was there, too.

14 Q Did Henry have or does Henry have a wife named Trina  
15 [phonetic]?

16 A Yes, sir.

17 Q Did Trina come over, too?

18 A I don't remember if Trina was there honestly.

19 Q Okay. At some point in time did you learn that two male  
20 members of the two separate families had some kind of issue going?

21 A Yes.

22 Q Describe that to the best of your knowledge.

23 A The issue?

24 Q Yes.

25 A Was how it started or --

1 Q How it started, what happened, whatever you remember.

2 A From my understanding, my sister got jumped by the baby  
3 mom, and the son, and the best friend, and I guess they wanted the one-  
4 on-one, I don't know. And --

5 Q Okay.

6 A -- that's how it started.

7 Q Let me back up. You said that's how it started.

8 A Yeah.

9 Q This altercation with your sister, you're talking about Dana.

10 A Uh-huh.

11 Q Dana got jumped by two people.

12 A Three of them.

13 Q Three of them?

14 A Two females and a male.

15 Q Okay. And that was prior to this day?

16 A Uh-huh.

17 Q Is that a yes?

18 A Yes. Sorry. Yes.

19 Q All right. So two male -- males agreed to fight. You said  
20 catch a fake, right?

21 A Yes.

22 Q Okay. That's a fight --

23 A Yes.

24 Q -- right?

25 A Uh-huh.

1 Q And is that a yes?

2 A Yes. Yes.

3 Q Who were those two males that agreed to fight?

4 A Wayne-Wayne and Mua, I don't know his last name.

5 THE COURT: Sorry, I didn't hear that. Wayne-Wayne and?

6 THE WITNESS: Mua.

7 THE COURT: How do you spell that?

8 THE WITNESS: I don't know.

9 THE COURT: It's a name?

10 THE WITNESS: I believe so. That's what I know him by.

11 THE COURT: Sorry. Tell me one more time.

12 THE WITNESS: Mua, I don't know if I'm saying it correctly.

13 THE COURT: Okay. So Wayne-Wayne and LeMua

14 [phonetic].

15 THE WITNESS: Mua-something.

16 MR. GIORDANI: No, no, no. M-U-A?

17 MR. MARGOLIS: M-U-A, Mua.

18 THE COURT: Mua.

19 THE WITNESS: Yes, yes.

20 MR. GIORDANI: And I'll clarify.

21 THE COURT: Okay.

22 BY MR. GIORDANI:

23 Q So you described earlier Wayne-Wayne is Dwayne, he's --

24 A Dwayne.

25 Q -- your nephew, right?

1           A     Yes.

2           Q     He was late teens, maybe 20 at the time, right?

3           A     Nineteen.

4           Q     Okay. And you described this Mua, you don't know his last  
5 name.

6           A     No.

7           Q     And have you interacted with or known Mua through these  
8 family relationships?

9           A     We went to Fremont once, and after all that happened my  
10 nephew and his girlfriend picked me up for a barbecue in -- they didn't  
11 tell me what was going on -- they pick him up, too. And --

12          Q     All right. Let me ask you this. You don't know Mua's last  
13 name, but do you believe him to be a member of the Samoan family?

14          A     Yes.

15          Q     Okay. And was Mua around the same age as Dwayne?

16          A     I would believe so.

17          Q     So these two young guys agree to fight, is that right?

18          A     Yes.

19          Q     Over what happened between Dana and these three other  
20 people from the Samoan family.

21          A     Yes.

22          Q     Okay. Where were they -- where did they agree to fight?

23          A     Apparently the apartment right in the parking lot.

24          Q     Okay. And you say apparently, did you not -- were you not  
25 out there for that or where were you?

1           A     I was -- it was like it's two sides of the apartments. I met  
2 somebody on Fremont and I was talking to him, I was walking down the  
3 way by apartment --

4           Q     When you say talking to him, are you talking about in person  
5 or on the phone?

6           A     On the phone. So I was flirting, walking around from the  
7 conversation. I was at the end of the driveway coming in, somebody  
8 told me what's going on down there.

9           Q     Okay.

10          A     And that's what --

11               MR. GIORDANI: May I approach?

12               THE COURT: Yep.

13               MR. GIORDANI: All right. Your Honor, I'm conferring with  
14 Mr. Margolis, we're going to have a stipulation to the aerial maps.

15               THE COURT: Sure.

16               MR. GIORDANI: I move for the admission of 5 through 9.

17               THE COURT: 5 through 9 are the aerial maps?

18               MR. GIORDANI: Yes.

19               THE COURT: Okay. And that's a stipulation, Mr. Margolis?

20               MR. MARGOLIS: That's right.

21               THE COURT: All right, those will be admitted and you can  
22 show the witness and publish them.

23                       [State's Exhibit 5-9 admitted into evidence]

24 BY MR. GIORDANI:

25           Q     Okay. I'm going to show you this 9 again. And actually I'm

1 just going to put it on -- when I showed you this earlier you were a little  
2 confused. Okay. You all right?

3 A Uh-huh.

4 Q Now, I'm going to walk you through this -- okay? -- and see if  
5 you recognize this area and can give us a little guidance. You see this  
6 curved walkway here?

7 A Uh-huh.

8 Q Does that look like the same one that I just showed you all  
9 those photos of? With Dana's apartment being down this little walkway.

10 A Yes, it does.

11 Q And then if you walk south on the photo --

12 A Uh-huh.

13 Q -- go under a tree and under a carport, there's a parking lot  
14 out here.

15 A And the parking lot I would say that's where the fight was.  
16 And I was down this way. Down that way I was.

17 Q All right. So when you say down this way, for the record, are  
18 you referring to this direction west of --

19 A Yeah, because I came from up this way. So yes, I was down  
20 that way, going towards that white car. That's out -- is that white or  
21 blue?

22 Q Let me stop you. There are -- there is a mouse up here --

23 A Uh-huh.

24 Q -- don't click on it, it's going to mess it all up, but you can  
25 move your mouse, you see on your screen?

1 A Uh-hum.

2 Q And show us what you're talking about.

3 A Okay.

4 Q So show us where you were and how you ended up.

5 A Okay. I was right down this area, and somebody drove up. It  
6 was like what's going on down there. And then that's when I started  
7 back walking towards this way.

8 Q Okay. And for the record you described east to -- I'm sorry,  
9 west to east in the parking lot. As you were walking back in that  
10 direction, did you see a group of people?

11 A Everybody was scattering by the time I got to where I got to.

12 Q Why was everyone scattering?

13 A Because the gunshot in the air.

14 Q Okay. As you sit here today do you know who fired that  
15 gunshot in the air?

16 A Apparent I think my brother.

17 Q And who's your brother?

18 A Henry.

19 Q Did that gunshot in the air disburse the fight?

20 A Yes.

21 Q Did you see where all of those people went or ran to?

22 A Not everybody, no; I seen certain ones.

23 Q Can you show the jury where you went, what direction you  
24 went and where you ended up? Take your time.

25 A I ran through this part and I ended up by a stump, it's a rock

1 and that's why I ended up staying, I didn't move no more.

2 Q Okay. And for the record you pointed to this area out in front  
3 of the walkway in front of Dana's home.

4 A Right in front of there.

5 Q Right in front of Dana's walkway?

6 A Yes.

7 Q Did you see at that point where your family had gone?

8 A Went to Dana apartment.

9 Q Inside Dana's apartment. Is that a yes?

10 A Yes.

11 Q Did you see where the Samoan family had gone?

12 A To their side, some of them.

13 Q Their side?

14 A Into their apartment, some of them.

15 Q Did some of them remain outside?

16 A Yes.

17 Q Do you see one of those people who stayed outside here in  
18 court today?

19 A Yes.

20 Q Can you please point to that person and describe something  
21 that person is wearing?

22 A Him --

23 THE COURT: Just take your time.

24 THE WITNESS: Okay.

25 ///

1 BY MR. GIORDANI:

2 Q Try to describe something he's wearing in court.

3 A I know a white shirt. Dress shirt.

4 MR. GIORDANI: Let the record reflect the witness has  
5 identified Tuly Lepolo.

6 THE WITNESS: Yes.

7 THE COURT: It will.

8 MR. GIORDANI: Thank you.

9 BY MR. GIORDANI:

10 Q Now, that person you just identified in court, what is his  
11 relationship to those other people that you previously told the jury?

12 A An uncle.

13 Q Okay. Is he the father of one of those people?

14 A Yes.

15 Q Or more than one?

16 A More than one.

17 Q Who?

18 A Nana [phonetic] and Mua.

19 Q So Mua is one

20 Q of the guys who was fighting, right?

21 A Yes, sir.

22 Q And NaNa is who?

23 A His daughter.

24 Q Does NaNa have a relationship with one of your family  
25 members as well?

1 A My nephew.

2 Q Who's your nephew?

3 A His name is David.

4 Q And David, was he there that night?

5 A Not that I -- no, I don't believe so, no.

6 Q All right. So had you seen the Defendant prior to that?

7 A Before that incident?

8 Q Yes.

9 A At the park with the family.

10 Q So he's not a stranger to you that day at Dana's after the

11 fight, right? You know who he is?

12 A Yes.

13 Q Okay. Was he with anyone else when he stayed outside?

14 A I don't know his name actually, but there was another one of

15 them that was standing next to him.

16 Q Was it one of your family members or one of the other

17 members of the other family?

18 A Other members of the other family.

19 Q Do you know that person or had you seen that person?

20 A At the party.

21 Q But you didn't know that person from previous?

22 A No, sir.

23 Q Okay. Where was the Defendant when you saw him remain

24 outside after everyone had scattered to their apartments?

25 A What?

1 Q Where was he?  
2 A He --  
3 Q When you saw him outside.  
4 A Going to his truck.  
5 Q What truck?  
6 A A white one.  
7 Q Was that the white one we saw in that photograph over  
8 here?  
9 A I believe it was the big one, I'm not too very familiar of what  
10 exactly the truck was, but it was a white truck I remember.  
11 Q Okay. Showing you again State's 21. Is this what you're  
12 referring to here at the center?  
13 A Yes. I think that one.  
14 Q What did he do when he went to that white truck?  
15 A He went up to me and then he said, "Oh, yeah, you mother  
16 fuckers" -- excuse my language and he put that gun in my face. And I  
17 said, "No, no wait." I close my eyes and I heard the click sound and then  
18 after that I see kills -- Jesus Christ.  
19 Q We'll get to that in a minute. Okay?  
20 A Yeah.  
21 Q Backup a moment. You said he put that gun in your face.  
22 A Yes.  
23 Q Did you see where he got the gun?  
24 A He went to his truck, I believe. It was happening so fast.  
25 Q When he put that gun in your face, were you still over by the

1 walkway to Dana's apartment?

2 A By that stump.

3 Q Okay. And when he did that, I believe you said he put the  
4 gun in your face and said something to you.

5 A "Oh, yeah, you mother fuck this."

6 Q When he did that, what did you do?

7 A I said, "No, wait, please. No." And I close my eyes.

8 Q And then you said you heard a click?

9 A Uh-huh, and then I opened them and he was going towards  
10 the house. I remember seeing Raquel pushing Wayne-Wayne down and  
11 after that --

12 Q So let me backup. You just put your hand up when you  
13 said --

14 A Yes.

15 Q -- at the house. When you put your hand up, you put it out  
16 as though you were holding something.

17 A He was shooting towards the house.

18 Q Which house?

19 A Dana's.

20 Q And you said you saw Wayne-Wayne and you saw Raquel. Is  
21 that a yes?

22 A Yes. Yes.

23 Q Where were they when he was shooting at the house?

24 A By the front entrance of Dana apartment, where the doors  
25 open at.

1 Q Showing you now 35, were Raquel and Wayne-Wayne in the  
2 front of this walkway here?

3 A Yes, uh-huh.

4 Q Is that a yes?

5 A Yes. Yes.

6 Q And you said you saw Raquel push Wayne-Wayne. What do  
7 you mean by that?

8 A Like push him, like she shoved him.

9 Q Can you describe that a little better for the jury?

10 A Like when she pushed him she shoved him down he hit the  
11 ground. She just stumble off or something. Off.

12 Q Did you see --

13 A Started even though was she okay or not because I still saw  
14 her moving until after the police came and told us not to look back.

15 Q So let me backup. Okay? We need to get a little more detail.

16 A Okay.

17 Q So there Wayne-Wayne and Raquel are in that walkway that  
18 we're looking at right?

19 A Yes, yes.

20 Q And you said the Defendant was outside that walkway when  
21 he pointed the gun at you?

22 A Yeah, like if you would show where the stump is at, it's over  
23 here where I was at. It's like the stump faces right there.

24 Q This is State's 51 --

25 A Right here.

1 Q You said --

2 A And I was standing next to here and he was here. And there  
3 was another guy here and they was in this area. So like this area, I was  
4 standing here . There's a stump, I'm sorry, but I don't know, I was  
5 standing by a stump where I stopped and I froze, because I --

6 Q So you've said a stump and a big rock earlier.

7 A A rock, yeah. One of these rocks I was standing next to when  
8 it happened. I froze by it.

9 THE COURT: And I do need to make a record of that, Mr.  
10 Giordani.

11 MR. GIORDANI: Yes.

12 THE COURT: A few times, ell, when you said that you were  
13 approached, you put both hands up.

14 THE WITNESS: Yes, sir -- ma'am.

15 THE COURT: That's okay. You put both hands up, you just  
16 said, I think you said, "No, no.

17 THE WITNESS: "No, wait, please." I --

18 THE COURT: Okay.

19 BY MR. GIORDANI:

20 Q And several times you said here and you're pointing  
21 essentially in the center of this photograph, almost where those two  
22 sidewalks begin to turn around the other building; is that right?

23 A Uh-huh.

24 MR. GIORDANI: And for the record, I'm referring to 51.

25 THE COURT: Okay.

1 BY MR. GIORDANI:

2 Q Now, you said both -- one time you said or a couple of times  
3 you said stump, and I believe earlier you said --

4 A Said a rock. But I was just trying to get a better  
5 understanding was the stump.

6 Q Oh, I understand, I just want to be clear. Are we talking  
7 about that same area I just showed on the photograph?

8 A Yes.

9 Q Okay. Now, did you see, after you had the gun in your face  
10 and you opened your eyes, the Defendant pointing the gun down the  
11 walkway toward where Raquel and Wayne-Wayne were?

12 A Yes.

13 Q And you indicated earlier Wayne-Wayne is the one that  
14 fought the Defendant's son; is that right?

15 A Yes.

16 Q And you said that Raquel pushed Wayne-Wayne down.  
17 Describe that a little more.

18 A I guess as the shooter was happening, she must of -- I don't  
19 know if she feel something and she just pushed him. She just pushed  
20 him. Raquel was an amazing woman, but --

21 Q Based upon what you saw, I'm just going to ask you straight,  
22 do you think that Raquel pushed Wayne-Wayne out of the way?

23 A She did. Yes.

24 Q So he wouldn't be shot?

25 A Yes.

1 Q You said Raquel began stumbling. Which direction --  
2 A Away more towards the parking lot.  
3 Q Towards the parking lot.  
4 A Yes, I believe.  
5 Q And that was the last you saw of her until the police came  
6 and told you not to look?  
7 A Yeah, but she actually -- yes.  
8 Q Did you see where the Defendant went after the gunfire?  
9 Is that a yes?  
10 A Yes.  
11 Q Now, I want you to think back before I move on. Okay?  
12 A Uh-huh.  
13 Q Do you remember how many gunshots you saw or heard?  
14 A I don't. I was in shocked.  
15 Q Do you see or did you see your brother Henry come out of  
16 that apartment and return fire?  
17 A No. I didn't see. I actually didn't know until years later. I  
18 didn't find out till years later about that part.  
19 Q Okay. So from what you remember, you see the Defendant  
20 points a gun at you, you close your eyes, you hear a click, you open your  
21 eyes and he's pointing it at -- down the hallway at Raquel and Wayne.  
22 A Yes.  
23 Q Do you remember how many shots you saw or heard?  
24 A I don't remember how many shots I heard. No.  
25 Q Fair to say you were in fear for your life then?

1           A     Yes, I was.

2           Q     You indicted that you saw -- bringing up State's 9 -- you saw  
3 where the Defendant went. And if we're talking about the whole  
4 shooting going down in this area here, can you show the jury where you  
5 recall seeing the Defendant go last, in what direction?

6           A     This is Dena apartment right here, it happened right here.  
7 They ran off going this way.

8           Q     Okay.

9           A     On past their apartment and past Raquel apartment.

10          Q     Perfect. Okay. So for the record, I'm pointing at the map and  
11 then you took the mouse and you said they was running here, meaning  
12 west on the exhibit, is that right? Or left on the exhibit.

13          A     Left. Yes.

14          Q     And when you say they, who are you referring to?

15                THE COURT: Okay.

16                MR. GIORDANI: Can we take a break?

17                THE COURT: Yep. Ladies and gentlemen, please remember  
18 during a break to not discuss or communicate with anyone, including  
19 fellow jurors in any way regarding the facts of this case.

20                       Please do not conduct any research, read, watch or listen to  
21 any news or media accounts or comments about the case. Please do not  
22 consult any dictionaries, using the internet, using any reference  
23 materials. Please do not make any investigations, test the theory of the  
24 case, recreate any aspect of the case or in any other way attempt to learn  
25 or investigate the case on your own. Please do not form or express any

1 opinion regarding the case until it's submitted to you.

2 Please go outside and we'll be out to get you in a moment.

3 THE MARSHAL: All rise.

4 [Jury out at 10:58 a.m.]

5 THE COURT: It's okay.

6 MR. GIORDANI: Could we go off?

7 THE COURT: Yes.

8 [Recess at 10:58 a.m., recommencing at 11:07 a.m.]

9 [Jury in at 11:07 a.m.]

10 THE COURT: All right. Thank you for coming back  
11 everybody.

12 We're on the record in State of Nevada v. Tuly Lepolo. Mr.  
13 Lepolo is present. His counsel Mr. Margolis is present as well as Mr.  
14 Mendoza. Both Assistant District Attorneys, Mr. Giordani as well as Ms.  
15 Conlin are present on behalf of the State. Ms. Flo is still under oath, she  
16 still remains on the witness stand.

17 Mr. Giordani?

18 MR. GIORDANI: Thank you, Your Honor.

19 BY MR. GIORDANI:

20 Q Just before our break, Flo, you were looking at State's 9, and  
21 you said that the Defendant and whoever he was with -- the guy he was  
22 with went this direction away from Dana's apartment; is that right?

23 A Yes.

24 Q Did you see where they ended up or did they just run in that  
25 direction?

1           A     No, I turn my head out there. They ran past me.

2           Q     And did you then proceed back into the apartment or where  
3 did you go, if you remember?

4           A     I stayed there start screaming, actually matter of fact. I just  
5 kept screaming where was her angel, the Ms. Elaine, yo like that's Dana  
6 fault, it's all Dana fault and I just looked at her like -- and I couldn't move,  
7 I was still stuck right there until after I stopped screaming something just  
8 told me to run in and check on everybody else. Check on them because  
9 there was kids in the house. I walked inside the house.

10          Q     You walked into Dana's? Were the kids all located in there?

11          A     Yes, that's when the police came and directed us to come  
12 out.

13          Q     They directed you to come out?

14          A     Out of the house.

15          Q     Exit the apartment they said?

16          A     Uh-huh.

17          Q     And di you guys do that?

18          A     Yes.

19          Q     And later on did some homicide detectives come and speak  
20 to you?

21          A     Yes.

22          Q     Still at the crime scene.

23          A     Yes.

24          Q     And at that time did you tell them the whole story of what  
25 you just witnessed?

1 A No, I did not, sir.

2 Q Why not?

3 A Because I was scared. I told them that he was a Mexican guy  
4 with a white t-shirt and black shorts. And that's what I said and I'm  
5 sorry.

6 Q Okay. Do you regret not telling them what you saw?

7 A Yeah. Yes, I do.

8 MR. GIORDANI: I'll pass the witness at this time.

9 THE COURT: Okay.

10 Mr. Margolis, whenever you're ready.

11 MR. MARGOLIS: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MARGOLIS:

14 Q Need a minute or you're ready?

15 A I'm ready.

16 Q Okay. Good morning, Ms. Taylor.

17 A Good morning.

18 Q My name is Jason Margolis, I represent Mr. Lepolo. I realize  
19 this is very difficult, but I'm going to have to ask you some questions.  
20 I'm going to ask that you cooperate with me while I do that. Okay?

21 A Yes.

22 Q Thank you very much. Now, Mr. Giordani just asked you if  
23 you recalled making a statement to detectives at the scene of the crime.

24 A Yes.

25 Q And you answered in the affirmative that you did, correct?

1           A     I did.

2           Q     And do you recall what you told detectives that night?

3           A     I do.

4           Q     Okay. Would you like to have your statement in front of you  
5 just in the event that there's anything you needed?

6           A     No, I precisely remember.

7           Q     Perfect. Thank you. Well, obviously your testimony today in  
8 court is vastly different from what you told detectives on the evening in  
9 question, you'd agree with me, right?

10          A     I more than agree. I told them that I didn't know what the  
11 man, who he was. He had on white and black shorts with a long pointy  
12 tail.

13          Q     Okay.

14          A     And I described to the detective in that car I told him I didn't  
15 know who he was.

16          Q     Okay. I just need to know whether you agree with me or  
17 disagree with me.

18          A     I disagree.

19          Q     And you disagree with me. So we're going to go to the next  
20 step and we're going to see whose assessment is more accurate --

21          A     Okay.

22          Q     -- with regard to your statement then and your statements in  
23 court today. Now, you testified [sic] to tell the truth, the whole truth and  
24 nothing but the truth today, right?

25          A     Yes.

1           Q     And I believe part of your testimony was that you were very  
2 good friends with Raquel.

3           A     Yes.

4           Q     And you were very good friends with Raquel before even  
5 your sister Dana or any other member of your family was, right?

6           A     I was.

7           Q     And I believe what you said, and it caught my attention,  
8 because I found it to be pretty generous of Miss --

9                   MR. GIORDANI: Objection. Argumentative.

10           THE COURT: I don't -- I'm going to have to hold my ruling in  
11 abeyance because I don't know where you're going --

12           MR. MARGOLIS: No, absolutely.

13           THE COURT: -- so we could finish it and then I'll rule.

14           MR. MARGOLIS: Okay. I don't think you'll find it  
15 argumentative.

16           THE WITNESS: Okay.

17 BY MR. MARGOLIS:

18           Q     But you testified that your sister was having some trouble  
19 and I believe, as a result, you were taking care of her children; is that  
20 right?

21           A     Yes. She was in jail, uh-huh.

22           Q     Fair enough. And I believe your testimony was something  
23 along the lines of you didn't know that you were going to have enough  
24 to take care of the kids and the expense ---

25           A     We didn't have no food.

1 Q Right. And she helped you, right?

2 A She brung over barbecue. She didn't know. She was our  
3 next door neighbor. She brung over a plate of barbecue, macaroni, and  
4 everything and that's how I met her.

5 Q Obviously made an incredible impression --

6 A A connection.

7 Q -- upon you. Right?

8 A Yes.

9 Q And you were very impressed with Raquel and you've been  
10 friends ever since.

11 A Ever since.

12 Q All right. Thank you. So you know, the basis of this  
13 relationship is deep and it's meaningful to you, right?

14 A Yes.

15 Q And the loss of this young woman's life was devastating to  
16 you, correct?

17 A Yes.

18 Q And when police and detectives came to investigate I'm  
19 guessing that you wanted to help, right?

20 A I did.

21 Q Okay. Do you think you did that night?

22 A I did not help at all.

23 Q Okay. Thank you. Now, part of your statement was -- and if  
24 you say you remember it, I'll take you at your word.

25 A Okay.

1 Q But it was some guy in a white shirt, I don't know his name.

2 Does that sound right?

3 A Yes, sir.

4 Q Okay. Do you recall telling detectives -- at least once, but I  
5 believe more than once -- that you didn't see the shooter's face?

6 A I was -- yes.

7 Q Okay. That's not what you testified today, right?

8 A I didn't say them exact words today, but I didn't -- no I didn't  
9 say it, yes.

10 Q On the night of the incident you testified -- excuse me, you  
11 didn't testify -- you spoke to detectives and in no uncertain terms you did  
12 not recognize the man who shot your friend.

13 A I said that, yes.

14 Q You said that.

15 A Yes.

16 Q Okay. That's not what you said here today in front of this  
17 jury, correct?

18 A I said I didn't know who he was, I said that he was who I said.  
19 I described him that he was a Mexican guy with long hair.

20 Q A Mexican guy with long hair.

21 A And wearing white and black.

22 Q Fair enough. You also testified that you were at a party, that  
23 my client was at the day prior, yes?

24 A I was.

25 Q Okay. So you expect the jury to believe that you didn't

1 recognize a man that you'd seen the day before, right?

2 A I don't expect them to believe that. I expect them to believe  
3 that I was under the impression that I was scared when I talked to  
4 detective at. They don't have to believe me, but I know what I was going  
5 through at that time. I was afraid for my life and that's what it was.

6 Q Okay. You were afraid for your life.

7 A Yeah.

8 Q Most people fire guns I'd be afraid for my life, too. So I'm  
9 certainly not going to hold that against you. Okay? However, your  
10 testimony here today was that my client went past you.

11 A He did.

12 Q Okay. Do you recall testifying that the Mexican guy in the  
13 white shirt and the black shorts went past you, pointed a gun at you, any  
14 of those things you testified here today did you tell the detectives that?

15 A That was --

16 Q Hum?

17 A No, I don't believe I did.

18 Q No, you didn't, right?

19 A No.

20 Q Now, you wanted to help Raquel.

21 A Uh-huh.

22 Q You didn't help Raquel.

23 A I did not.

24 Q Okay. And fair to say that the detective asked you the  
25 question numerous times.

1 A Yes.

2 Q Numerous different ways.

3 A Uh-huh.

4 Q Tried to make you comfortable.

5 A You could say that.

6 Q Took you away from people that might have not wanted you  
7 to speak to the police.

8 A By taking me to his car?

9 Q Correct. I mean he --

10 A Yes.

11 Q -- spoke with other members of your family not a concealed  
12 location, is that fair?

13 A Uh-huh.

14 Q Okay. You also testified that a couple of members of my  
15 client's family gave you a hug afterwards, right?

16 A Yes.

17 Q Okay. Now, you in the -- you ordinarily hug folks that you  
18 don't know or have any --

19 A I know him.

20 Q -- relationship with?

21 A I knew him for three months prior before this.

22 Q Okay.

23 A The one who hugged me, yes.

24 Q Okay. You knew the one that hugged you.

25 A Yes.

1 Q But you didn't know he had any relation to my client.

2 A I knew that he had relation to the client.

3 Q Okay. I take it they look vastly different?

4 A Yeah, he's mixed.

5 Q Now, I believe you testified briefly about a prior fight  
6 involving your sister Dana and a couple members of my client's family,  
7 you remember that?

8 A Yes.

9 Q You witness this fight?

10 A No, I was only told about it.

11 Q Okay. Who told you about it?

12 A My sister.

13 Q Did anyone else tell you that they witnessed your sister get  
14 jumped by members of my client's family?

15 A Yeah, actually, yeah. Jackie, she said that by the time she  
16 was there it was too late. It was a house full of people, actually. My  
17 brother was there. He had to stop it, I believe. I don't know, I was not  
18 there, I was just told about it.

19 Q Your brother had to stop it. Which brother was that?

20 A I believe -- I don't know if he stopped it -- but Antoine he was  
21 there. But it happened at their apartment. I wasn't there.

22 Q Okay. And yet there were -- there was attendance at each  
23 other's parties and so forth in the months prior to this event and  
24 subsequent to that event, right?

25 A Yes.

1 Q Okay. Can you explain that to me? Because I can't  
2 understand it.

3 A Because family, whether what your race is you're family. We  
4 raised his nieces and nephew. My mom took food out of our mouth and  
5 clothes off of our backs to raise these kids. So yes, we're going to let  
6 interact with these people, not knowing that they was going to act how  
7 they act towards us at the end. But it's called family. We was raised to  
8 protect our family.

9 Q I believe you protected family.

10 A And that's why we're interact I was at their nieces and  
11 nephew birthday party because we was considered supposed to be  
12 family. Supposed to be family.

13 Q Okay. But --

14 A But it changed on the 3rd, I guess.

15 Q All right. It seems like it changed before that, though, didn't  
16 it, Ms. Taylor? I mean --

17 A Not in my eyes, no. Because I was --

18 Q Not in your eyes.

19 A -- still cool with the family. What happened with my sister  
20 and him, that was they issue and that's what they had to deal with, but I  
21 was still a part --

22 Q All right.

23 A -- of the family

24 Q I got to ask you a question about that. I do. Because you just  
25 testified to this jury and to me and everyone in this room, that family is

1 family, you know --

2 A And you stay.

3 Q -- blood is thicker than water.

4 A I didn't say blood was thicker than the water. Family is  
5 family. I said family is family no matter what your race is, no matter if  
6 your blood is not -- family is family.

7 Q Oh, I get it.

8 A I said that. And it states so it was not thicker than water.  
9 Jackie, John-John and Elaine was our family.

10 Q Okay.

11 A So that's why I was there.

12 Q So why is it okay for your sister to get jumped, then?

13 A It wasn't okay. And it was by outsiders. Those -- the people  
14 who jumped my sister came from California. They wasn't people that we  
15 knew. It was not okay.

16 Q Okay. So your testimony -- and I don't want to misquote  
17 you --

18 A Uh-huh.

19 Q -- Okay? I think you just testified that the 3rd it all changed.  
20 April 3rd, 2016.

21 A In my heart it all changed.

22 Q In your heart it changed.

23 A Yes.

24 Q Good clarification. Now, if you know -- and I don't know if  
25 you do -- when did it change for your sister Dana?

1           A     I don't know.

2           Q     Okay. I want to talk a little bit more about your sister Dana  
3 and your relationship with her.

4           A     Okay.

5           Q     Okay? In the early part of your statement to the detective in  
6 the car --

7           A     Uh-huh.

8           Q     -- you said that Dana had been giving you a little bit of grief  
9 because you hadn't come over as often as she'd liked in the past couple  
10 of months, fair?

11          A     Yes, sir.

12          Q     Did you tell the detective why you didn't come over a lot in  
13 the immediate past?

14          A     I don't believe so. I don't remember if I did or not.

15          Q     Okay. Would it refresh your recollection if I brought this up  
16 there for you?

17          A     Sure.

18          Q     On page 174 -- I'm sorry. Page 8, 174 Bates numbers. I  
19 apologize.

20                   THE COURT: That's okay.

21                   So page 8?

22                   THE WITNESS: Page -- okay.

23 BY MR. MARGOLIS:

24          Q     You got it?

25          A     Yes.

1 Q Okay. If you could read from the middle of the page about  
2 detective asked you the question what's your sister's name?

3 A Dana.

4 Q You just read that to yourself to the bottom of the page, let's  
5 say. And just look up whenever you're ready.

6 A Okay.

7 Q Okay. So you hadn't been going over to your sister Dana's  
8 house very often. Okay? And they were getting a little mad at you about  
9 it and that night you came over. What happened as soon as you got to  
10 Dana's house that night to kind of dovetail with what you were telling the  
11 detective on that page there?

12 A Went in the house, I was supposed to cook for Dana and  
13 everything. And she was, they did her hair, did her makeup. They went  
14 to the store. Raquel and Dana came back from the store and all the plans  
15 had changed. Raquel was about to start cooking for her.

16 Irritated me? Yes, it did. If I was complaining at that part in  
17 time, me and my sister Dana and Raquel was not on the best of terms  
18 because after my mom death. But we still spoke, but that's what kept me  
19 away was because of my mom death and why we wasn't --

20 Q Okay. And then I think you told the detective also that, you  
21 know, you came thinking that you were going to be able to enjoy your  
22 sister's birthday with her and you kind of felt like you got put to work  
23 doing the kids' hair for school?

24 A I don't remember saying that at all.

25 MR. GIORDANI: I would object.

1 THE WITNESS: I don't remember saying that at all because I  
2 don't even think school.

3 MR. MARGOLIS: Pulled from the statement I asked her to  
4 read verbatim what she said.

5 THE COURT: That's fine. So allow --

6 MR. MARGOLIS: Can I read the line?

7 THE COURT: Yes.

8 MR. GIORDANI: No objection then.

9 MR. MARGOLIS: "And then I came over and I went walking  
10 because I was irritated. As soon as I get here they want me to do hair.  
11 And I was like, I want to barbecue with you all."

12 THE COURT: Okay. It's okay. The part about the kids --

13 THE WITNESS: I don't understand what that got to do with  
14 me being --

15 THE COURT: -- and school is that what you were -- is that  
16 later on or is that just --

17 MR. MARGOLIS: I don't think I made it up out of whole cloth.  
18 But at any rate that's the part of the statement that I wanted to talk about.

19 THE COURT: Do you agree that you said those words from  
20 the statement?

21 THE WITNESS: Yes.

22 THE COURT: Okay.

23 MR. MARGOLIS: Okay.

24 BY MR. MARGOLIS:

25 Q And obviously correct me if I'm wrong, if I'm interpreting it.

1 Okay? But when I read that sentence, I hear a little bit of resentment at  
2 your feeling a little bit used by your sister.

3 Am I completely off base in that? Please tell me if I am.

4 A You off base. That's not what the resentment was about.

5 Q The resentment was related to your mother.

6 A Yes.

7 Q Okay. And I'm not going to pry about that.

8 A Okay.

9 Q It's not relevant for cross here today. Thank you.

10 Detective asked you several times, couple of hours after the  
11 incident in his car at the crime scene, you saw a guy running.

12 A Yes.

13 Q Okay? Whether he was Mexican, black, Samoan or  
14 Southeast Asian, I don't really care right now. You saw a guy running,  
15 never once did you say you saw a gun in that man's hand. Do you  
16 remember that from your statement there?

17 A I remember that.

18 Q Okay. Never once did you identify the individual as Samoan  
19 or as related to the folks, right?

20 A yes.

21 Q Okay. Did Raquel deserve this?

22 A No, she did not.

23 Q Why did this case take six years to get to trial?

24 MR. GIORDANI: Objection. That would call for speculation.

25 THE COURT: Sustained.

1 BY MR. MARGOLIS:

2 Q You did not cooperate with the investigation.

3 A I did not.

4 Q Did your sister Dana Forman, to the best of our knowledge,  
5 cooperate with the investigation?

6 MR. GIORDANI: Objection. That would call for speculation.

7 THE WITNESS: I don't know.

8 THE COURT: Hold on one second.

9 If she -- did you just say you don't know?

10 THE WITNESS: I don't know.

11 THE COURT: Okay. So sustained if she doesn't know.

12 MR. MARGOLIS: Okay.

13 BY MR. MARGOLIS:

14 Q If you know, did your brother cooperate with the  
15 investigation?

16 A Which one?

17 Q Henry?

18 A I believe so. I don't know when he cooperated, how, I don't  
19 know.

20 Q Okay. Now, when the gunman goes and fires into Dana's  
21 apartment where were you precisely?

22 A By the rock, the stone.

23 Q So you didn't know at that moment who was or was not in  
24 the apartment.

25 A I did not know.

1 Q Okay. And you did not know whether or not anyone from the  
2 apartment returned fire.

3 A I did not know.

4 Q Do you believe that from where you were situated at the rock  
5 or the stone for what have you that you would have heard additional  
6 gunfire had it happened?

7 A If I wasn't screaming, yes.

8 Q Okay. So you believe that your screaming then --

9 A Toned everything out.

10 Q -- inhibited your ability --

11 A Yes.

12 Q Okay. Do you remember anything about the detective's  
13 demeanor towards the end of your interview in the car?

14 MR. GIORDANI: Objection. Relevance.

15 THE COURT: The relevance of that, Mr. Margolis?

16 MR. MARGOLIS: I believe the relevance would go to his  
17 state of mind and her state of mind with respect to the conduct of the  
18 investigation.

19 THE COURT: I'll allow it.

20 If you remember. Do you remember the detective's  
21 demeanor towards you towards the end of the interview?

22 THE WITNESS: Like towards the end of the interview, at the  
23 end, no, as far as he just let me out the car, and that was it.

24 MR. MARGOLIS: All right. I'll ask a different question.

25 THE COURT: Okay.

1 BY MR. MARGOLIS:

2 Q Did the detective ever express frustration to you in the  
3 course of your interview?

4 A It was all good not as much as I believe.

5 Q Okay. Can you look at --

6 A I was trying.

7 Q -- your statement, page 12, please. Line about two-thirds of  
8 the way down.

9 A What page are we on now?

10 Q Page 12, and it's the one, two, three, four, five, sixth question  
11 on page 12.

12 A The total would be 178?

13 Q Now you're using my numbering. Yeah. 178. 12/178.

14 Read his question, although it's not really a question.

15 A Is the question, "So --"?

16 Q Okay. So would you agree with me the detective says to  
17 you, "I am frustrated and I apologize. It's not your fault"?

18 A It says on this paper, but I don't remember it.

19 Q I mean are you disputing that that's what was said during  
20 your statement? I mean I had no authorship of this. Are you disputing  
21 that that's what he said?

22 A I'm not disputing it, but it had to be said if he wrote it down.  
23 It's been six years.

24 Q You're not disputing it, but you don't remember. Fair?

25 A Don't remember that. But yes.

1 Q Okay. Because in response to that you say, "Sorry."

2 A I say sorry a lot. But okay.

3 Q Why do you say sorry a lot. You don't seem like a bad  
4 person out doing evil things to me. Why would you say sorry?

5 A I don't know, I just say sorry.

6 Q Had you done something to feel sorry for? Why did you feel  
7 the need to apologize to the detective?

8 A I don't know. I say sorry a lot. I say sorry for throwing up in  
9 the trash can just a minute ago. I say sorry a lot.

10 Q You did, you did. You did. Did a member of my client's  
11 family approach you shortly after --

12 A The shooting?

13 Q The shooting, sure.

14 A Yes.

15 Q If you remember, what did that member of my client's family  
16 say to you?

17 A He grabbed hold on me and he held on and I whispered, I  
18 said, "Your uncle put that gun in my face."

19 And he said, "I know we're family. Tell everything." He held  
20 on to me and the detective said, "Let her go, Dude." That's when before  
21 that while he jumped on my back and held on and hugged me, too. The  
22 detective said, "Let her go." And he let me go. He grabbed hold to my  
23 hand and then as we was walking our hands broke loose from each  
24 other.

25 Q Fair to say that there were members of your family that

1 encouraged you to tell the truth that night?

2 A No, Raquel, I couldn't stop dreaming about her. So --

3 Q But that's not what I asked.

4 A No, it's not fair to say. They encouraged me. I'm here  
5 because Raquel.

6 Q So --

7 A They talked about me, too, but I'm here because of Raquel.

8 Q So the jury should believe your testimony today, but  
9 disregard all of your testimony from mere moments after the shooting,  
10 right?

11 A Six years ago who can remember the tragic like that. I come  
12 from reading books and sit in the house all day, watching it on TV. I  
13 never been through this a day in my life. It's tragic. I'm not normal  
14 today. I've got PTSD from this. So no, I don't remember all of what I  
15 said to this man. I do not remember what I said.

16 Q All right. Do you think it's common to remember things  
17 better six years after the fact than moments after the fact? In your  
18 experience is that how memory works?

19 A I don't know.

20 Q You don't know?

21 A No.

22 Q So if I told you that it's usually easier to remember facts and  
23 details of an event closer to the time the event happened, you'd quarrel  
24 with that assertion.

25 A No, because everybody have their own opinion on what it is.

1 I don't remember what I said word for word from this man. I just know  
2 that I do not turn this man in and that it killed my soul. That's what I  
3 remember. That's all I remember is that I said I did not know who this  
4 man was and I knew who he was. And she did not deserve that. And  
5 that's what I believe and that's what I remember.

6 Q She didn't deserve that.

7 A And that's what I remember. No, I remember the detective  
8 letting me out that car by myself and leaving me there by myself. I  
9 remember walking to the store and trying to find a way home and a man  
10 watching me and his daughter and his niece pulled up just staring at me.  
11 That's what I remember.

12 Q None of that's in here.

13 A That's because they wasn't really in it.

14 Q None of that's in here. So it's awfully self-serving and  
15 convenient that it's all on the record now.

16 MR. MARGOLIS: Pass the witness.

17 THE WITNESS: That's what I remember.

18 REDIRECT EXAMINATION

19 BY MR. GIORDANI:

20 Q Flo, you just told the jury that after the police arrived two  
21 members of the Defendant's family approached you, right?

22 A After the police arrived, the police they self, not the detective,  
23 was questioning all the kids. I was sitting with the kids. My brother wife  
24 was standing right there. They was thanking me for one of the kids at  
25 the particular time. I had to let them know that I was grown.

1 Q The policewoman?

2 A Yes. As I'm talking to the police, the detective came up  
3 asking for Flo. And that's when he pulled me off. He said that I don't  
4 even remember the name he gave me, but that's not the name of the  
5 person that I know who called just for him to come and get me.

6 Q Okay. So let me ask you this. You just told the Defense  
7 lawyer that someone came up and hugged you.

8 A He hugged me.

9 Q And what's that guy's name?

10 A I know him as Billy.

11 Q Okay. And then there was a second guy who came up after  
12 and hugged you, too.

13 A Baby Wally [phonetic].

14 Q Okay. Are those both members of the -- what you referred  
15 to as the Samoan family?

16 A Yes.

17 Q And you said that Billy actually said something to you.

18 A I whispered in Billy ear and told him that his uncle put that  
19 gun in my face. And he said, "I know. We're family tell everything. Tell  
20 the truth."

21 Q We're family, tell everything?

22 A Yes.

23 Q Okay. And when you said to him, "Your uncle put that gun in  
24 my face," you're talking about Becka [phonetic], right?

25 A Yes.

1 Q That hasn't changed for six years, right?

2 A No.

3 Q Are you one hundred percent certain, as you sit there that  
4 that's the man that put the gun in your face and shot Raquel?

5 A Yes.

6 MR. GIORDANI: Pass the witness.

7 RECROSS-EXAMINATION

8 BY MR. MARGOLIS:

9 Q Well, I must say I am impressed that your memory improves  
10 with the passage of time.

11 MR. GIORDANI: Objection. Argumentative.

12 MR. MARGOLIS: I wish mine did.

13 THE COURT: Sustained.

14 MR. MARGOLIS: Okay.

15 BY MR. MARGOLIS:

16 Q See your brother that night?

17 THE COURT: Can just --

18 MR. MARGOLIS: Henry Taylor. Did you see your brother  
19 Henry Taylor that night? I realize you have more than one brother. I  
20 correct my question.

21 THE WITNESS: I seen my brother.

22 BY MR. MARGOLIS:

23 Q You saw your brother.

24 A Yes.

25 Q Okay. Where was your brother when the fist fight was

1 happening between Mua and Dwayne?

2 A As I told earlier, I did not see the fist fight. I was down the  
3 area talking on the phone. So I do not know where he was.

4 Q You told us all earlier that you didn't see anything with --

5 A I didn't see the fist fight.

6 Q -- regard to my client as well, so that's why I'm asking the  
7 question.

8 A Okay.

9 Q I'm asking the question because I'm having a hard time  
10 believing you didn't know where your brother was.

11 A That's --

12 MR. GIORDANI: Objection. Argumentative.

13 THE WITNESS: That's your opinion, sir.

14 MR. GIORDANI: That's for the jury to decide whether it's  
15 believable or not.

16 THE COURT: One second.

17 THE WITNESS: That's your opinion, sir.

18 THE COURT: Just one second, folks. No more commentary.

19 BY MR. MARGOLIS:

20 Q Did you see your sister Dana immediately after your friend  
21 Raquel was shot?

22 A No. Not immediately.

23 Q Did you at any point after Raquel was shot see a series of  
24 cartridges in front of your sister Dana Forman's apartment?

25 A Cartridges is what, them shells?

1 Q Shells, cartridges. I'm not a gun guy.

2 A No. I wasn't looking for guns -- no.

3 Q I mean so your testimony is I'd have to go around scouring  
4 and looking, I wouldn't notice them?

5 A My testimony is who almost got shot and is looking on the  
6 ground for bullets. No.

7 Q Can I answer that question?

8 A Yes, you could.

9 Q Your sister Dana Forman would.

10 A Well, because she didn't have to wake up the next morning  
11 in the same apartment.

12 MR. MARGOLIS: Pass the witness.

13 THE COURT: Any re-redirect?

14 THE WITNESS: Excuse me, Jesus.

15 MR. GIORDANI: No, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury, do you have  
17 any questions for Flo?

18 Parties approach, please.

19 [Sidebar begins at 11:36 a.m.]

20 MR. GIORDANI: No objection.

21 MR. MARGOLIS: No objection.

22 Have at it.

23 [Sidebar ends at 11:37 a.m.]

24 THE COURT: All right.

25 The question is: If the people that jumped Dana were

1 outsiders, how was the fight initiated between Mua and Wayne-Wayne.

2 THE WITNESS: Because Mua is the son, actually was the one  
3 from Vegas, the other two came from California. So he did not know  
4 them. But Mua is the son so he came around a couple of times from my  
5 seeing him.

6 THE COURT: Okay. So Mua was standing for his family and  
7 Wayne-Wayne was standing for his?

8 THE WITNESS: Yes.

9 THE COURT: Okay. The witness stated that she saw  
10 Defendant and another person unknown to her running away. Did the  
11 person with the Defendant have a gun or was that person seen with a  
12 gun?

13 THE WITNESS: No.

14 THE COURT: No that person did not have a gun?

15 THE WITNESS: No, not that I seen, no.

16 THE COURT: Okay. Follow up by the State?

17 MR. GIORDANI: Yes, very briefly.

18 FURTHER REDIRECT EXAMINATION

19 BY MR. GIORDANI:

20 Q So I want to make sure we're all clear when you're talking  
21 about there's a fight that night, obviously, and then there's a fight  
22 before --

23 A Before that night, I think, I don't know how long before that  
24 night. Three days before that night. But it was a fight before that night.

25 Q Okay. And that involved outsiders. What do you mean by

1 that?

2 A The baby mom, supposed to be best friend and son. I never  
3 met them. I still haven't them to this day.

4 Q Okay.

5 A So I -- that's why I called them outsiders, because I still don't  
6 know who they is or even what they look like.

7 Q Okay. So from your understanding, they were associated  
8 with the Samoan family, but they weren't those folks that you grew up  
9 with; is that --

10 A Yes.

11 Q Okay. And then a juror asked another question about the  
12 gun. You obviously described the Defendant firing a gun.

13 A Yes.

14 Q Is that a yes?

15 A Yes.

16 Q Did you ever see the other person that was with him with a  
17 gun at all?

18 A No.

19 Q And did you ever see that person along? I guess obviously  
20 you didn't see that other person firing a gun either.

21 A No.

22 Q And when they left, the Defendant and that other person did  
23 they go down that path you just described earlier?

24 A Across of it. Yes.

25 Q Okay.

1           A     Yes, just pass by here.

2           THE COURT: And she's again describing, if you're looking at  
3 the picture, going down the pavement within the complex towards the  
4 left.

5           MR. GIORDANI: Thank you, Your Honor.

6           And I will pass the witness. Thank you.

7           THE COURT: Cross?

8                         FURTHER RECROSS-EXAMINATION

9 BY MR. MARGOLIS:

10          Q     If you know, did your sister know the outsiders?

11          A     No.

12          THE COURT: One second.

13          No, you don't know or no, your sister didn't know them?

14          THE WITNESS: She didn't know them.

15          MR. MARGOLIS: All right. Thanks.

16          THE MARSHAL: Judge, I think we have one more question.

17          THE COURT: Okay.

18                         [Sidebar begins at 11:40 a.m.]

19          MR. GIORDANI: No objection.

20          THE COURT: I think there's another one.

21          MR. MARGOLIS: Oh.

22          MR. GIORDANI: No objection.

23          MR. MARGOLIS: Okay.

24                         [Sidebar ends at 11:41 a.m.]

25          THE COURT: All right.

1 Was Lepolo an outsider or local?

2 THE WITNESS: Depends on what Polo you're talking about.

3 THE COURT: Oh, sorry. The Defendant.

4 THE WITNESS: I met him three times prior before that --

5 THE COURT: You had met --

6 THE WITNESS: -- incident.

7 THE COURT: -- him three times prior?

8 THE WITNESS: I believe so. So once in California and the

9 twice on the --

10 THE COURT: Okay. And then the other part of the question

11 was, was he local. So did he live locally or was he from California?

12 THE WITNESS: From California.

13 THE COURT: From California. Okay. After the gunshot in

14 air, did Defendant go get his gun right away, or did he go to the quad of

15 the apartment and then go get his gun out of the truck?

16 THE WITNESS: He went to the truck.

17 THE COURT: He went straight to the truck?

18 Is that a yes?

19 THE WITNESS: Yes.

20 THE COURT: Okay. Follow-up?

21 MR. GIORDANI: No, Your Honor.

22 THE COURT: Follow-up?

23 MR. MARGOLIS: No.

24 THE COURT: All right.

25 So thank you so much for your testimony today. Please

1 don't discuss it with anyone else --

2 THE WITNESS: Okay.

3 THE COURT: -- involved in the case, because it's an ongoing  
4 trial. But we appreciate you being here.

5 State, next witness.

6 MR. GIORDANI: Officer Scott.

7 THE COURT: Mr. Seal [phonetic], would you mind calling  
8 Officer Scott, just because Officer Ken has had to remove that?

9 THE MARSHAL: Yes.

10 THE COURT: Thank you.

11 THE MARSHAL: Remain standing and raise your right hand  
12 so the clerk can swear you.

13 ANTONIO SCOTT, STATE'S WITNESS, SWORN

14 THE CLERK: Please be seated.

15 Will you please state your name and spell it for the record.

16 THE WITNESS: It's Antonio Scott, A-N-T-O-N-I-O S-C-O-T-T.

17 THE COURT: Mr. Giordani.

18 MR. GIORDANI: Thank you.

19 DIRECT EXAMINATION

20 BY MR. GIORDANI:

21 Q Good morning, sir. How are you employed?

22 A I am employed with the Las Vegas Metropolitan Police  
23 Department as a patrol sergeant.

24 Q And how long have you been a patrol sergeant?

25 A I've been a patrol sergeant since March of this year.

1 Q And how long have you been with Metro in total?

2 A Eight years total.

3 Q Sergeant Scott, I want to bring you back to April of 2016,  
4 back then in what unit were you assigned?

5 A I was a patrol officer at Enterprise Area Command.

6 Q And what is generally Enterprise Area Command  
7 encompass?

8 A Enterprise Area Command at that time encompassed  
9 Charleston at the north, went all the way down then like Sloan from the  
10 south. It was bordered on the east by the I-15, and went all the way  
11 west.

12 Q And can you describe for the folks on the jury who may not  
13 be familiar with law enforcement, what it is you do as a patrol officer on  
14 a daily basis?

15 A As a patrol officer generally our main responsibility is to  
16 respond to calls for service. So when people call 911 or 311 we go and  
17 answer those calls. And then our secondary responsibility is to do  
18 proactive policing in neighborhoods in the city.

19 Q Back in April of 2016 did you receive a call for service to an  
20 apartment complex on West Charleston?

21 A Yes, I did.

22 Q And showing you State's 5. Do you recognize what we're  
23 looking at here?

24 A Yeah, that's the apartment complex it's at 6501 West  
25 Charleston.

1 Q And is that obviously within Clark County, Nevada?

2 A Yes, it is.

3 Q And within your jurisdiction back then under Enterprise Area  
4 Command?

5 A Yes, it was.

6 Q And I'm kind of circling with my finger in the center of this  
7 particular exhibit a large square. Is that the entirety of that apartment  
8 complex you responded to?

9 A Yes.

10 Q And then there's a red flag with the address next to it?

11 A Yes.

12 Q Okay. Do you recall when the 911 call came out?

13 A No, I don't recall. I remember it was dark outside, so  
14 sometime later in the evening.

15 Q Later in the evening?

16 A Yes.

17 Q Okay. Are there ways in which Metro keeps track of 911 calls  
18 or calls for service?

19 A Yes.

20 Q And would that be referred to in our world as a CAD?

21 A Yes, a CAD report give the details of events as they happen.

22 Q Okay. And would looking at that CAD tend to refresh your  
23 recollection as to the time of the call?

24 A Yes.

25 MR. GIORDANI: May I approach?

1 THE COURT: Yes.

2 BY MR. GIORDANI:

3 Q Take a look at that and tell me if that refreshes your  
4 recollection.

5 A Yes, it does.

6 Q And what time was that 911 call for service, sir?

7 A It was initiated at 2057 hours which is 8:57 p.m.

8 Q 8:57 p.m.?

9 A Yes.

10 Q Okay. When you, I guess, how did you become aware of the  
11 call? Are you hearing it on the radio?

12 A Yeah, the dispatcher would announce the type of call, the  
13 location over the radio, and then she would assign units to respond to  
14 that call.

15 Q Okay. And were you one of those units assigned?

16 A Yes, I was.

17 Q Were you in a marked patrol unit?

18 A Yes.

19 Q Meaning a black and white vehicle?

20 A Yes.

21 Q And were you in uniform similar to what you're in today?

22 A Yes, very similar.

23 Q Were you working with anyone else or did you have a  
24 partner with you in the car?

25 A I did not have a partner with me in the car.

1 Q What was the general details of the call.

2 A I think it was a 434, which is illegal shooting. And basically  
3 we responded to that area. And they kind of give you details about who  
4 called, what they heard and what they saw. And then they give you like  
5 a -- back then they would give you a general description of the area in  
6 which you need to go to to look for those -- that illegal shooting.

7 Q Okay. So initially it's an illegal shooting call, you respond to  
8 the area alone in a vehicle, right?

9 A Yes.

10 Q And when you respond in your vehicle where do you go, if  
11 you can tell on this map?

12 A So --

13 Q Or actually, let me -- I'm sorry to interrupt you. Let me put  
14 up State's 6. That makes it a little easier. Charleston on the top there,  
15 right?

16 A Yes.

17 Q Okay. Where do you go in this apartment complex?

18 A I kind of go arrive like southbound on Redwood and then I  
19 come into the entrance on the -- that would be the west side of the  
20 apartment complex. And then I would take that first right and drive back  
21 southbound and then I would end up kind of in the target area.

22 Q All right. Let me ask you, Sergeant, to use that mouse, you  
23 don't need to click, but just show the jury the path you took when you  
24 responded.

25 A Yes. So I come southbound here on Redwood, this is the

1 first entrance that gate's normally open. I would come right here  
2 eastbound and then back southbound and I remember parking kind of  
3 like right in this area.

4 Q Okay. And I'm going to show you now State's 8. Does that  
5 appear to be a closeup of that area that you just described?

6 A Yes.

7 Q With Del Rey --

8 A Yeah, that's --

9 Q -- one block --

10 A This is all a wall right here. Del Rey, the wall have access to  
11 it the back of the complex.

12 Q Okay. When you arrive on scene in your marked patrol  
13 vehicle, do you see any other patrol vehicles or Metro personnel on  
14 scene?

15 A No, I was the first arriving unit there.

16 Q Okay. And you indicated it was the evening hours.

17 A Yes.

18 Q Did you get out of your vehicle and proceed on foot?

19 A Yes, I did.

20 Q Can you describe for the jury what you observed as you  
21 proceeded to the scene?

22 A As I proceeded to the scene, I go up and I see a female down  
23 with apparent gunshot wound to the head. And there was no one else  
24 around her. I just kind of look in the area to see who was with her, who  
25 was around her.

1 Q Okay. Did you actually walk past her? As she was on the  
2 ground, did you walk past her and proceed further into the apartments?

3 A Yes, I proceeded to go further south, through this alleyway, I  
4 come like eastbound, and then I walk southbound. She was kind of like  
5 right here by the trees. And I proceed to walk southbound until I got to  
6 this like alcove in the apartments.

7 Q Okay. So I'm going to show you now State's 35, already  
8 admitted. Does it appear that this is the alcove that you just described?

9 A Yes.

10 Q Okay. And then for orientation purposes is the parking lot  
11 where you came from over here to the right on the exhibit?

12 A Yes.

13 Q Describe what you saw as you walked through that alleyway  
14 towards the alcove.

15 A As I walked through the alleyway up towards that alcove, I  
16 looked into the corner or into the alcove and I noticed a female by an  
17 open door on the bottom floor picking up shell casings off the ground.

18 Q Okay. Showing you now 39. Is that the alcove you just  
19 described?

20 A Yes.

21 Q And the female who was picking up shell casings off the  
22 ground, was she over near this bottom floor apartment?

23 A Yes. The one with the open door.

24 Q And for the record, the one with the open door is the one on  
25 the first floor to the left on the exhibit.

1 A Yes.

2 Q Okay. And essentially you see her picking these cartridge  
3 cases up as she's doing it, right?

4 A Yes.

5 Q What do you do at that point in time?

6 A I tell her to -- well, I put her at gunpoint. I tell her to drop the  
7 shell casings, and I call her back to me. I was kind of standing by the  
8 wall -- the corner there, taking cover, and I call her back to me.

9 Q Okay. And you indicated that you -- you put her at gunpoint.  
10 You had just walked by this body. And I presume you had your gun out  
11 already?

12 A Yes.

13 Q Okay. So this woman, you said you called her back. What  
14 do you mean by that?

15 A What I mean by "call back," is that since I'm taking cover  
16 behind that wall, I -- I don't want to expose myself to any other threats  
17 that are -- that may be in that apartment or in that alcove. So I have her  
18 -- I -- "call back" means I tell her to come to me so that way I can take her  
19 into custody.

20 Q And did she do that?

21 A Yes, she did.

22 Q Did she drop whatever she had picked up?

23 A Yes, she did.

24 Q So before -- I mean, before she ended -- ended up coming  
25 towards you, did she drop whatever she picked up, in that same area it

1 was?

2 A Yes, I told her to drop them.

3 Q Okay.

4 A She dropped them. And then I called her back to me.

5 Q Okay. And when you call her back, do you eventually put her  
6 in cuffs?

7 A Yes, I did.

8 Q All right. What happened next, if you recall?

9 A I remember my partner -- or another officer at the time,  
10 Officer Copley, come up behind me. And there was a male that was  
11 inside of the apartment. And I told Officer Copley to detain the male,  
12 because there was shell casings in front of the apartment and somehow  
13 that apartment was involved in the shooting.

14 Q Okay. And so did -- at that point in time, there's now two  
15 officers on scene, you and Copley, right?

16 A Yes.

17 Q And was Copley able to detain that individual?

18 A Yes, he was.

19 Q And were there other folks inside that open apartment, that  
20 you came into contact with?

21 A Yes.

22 Q All right. Describe that for the jury.

23 A There were other people that came out, as other officers  
24 started to arrive. I don't remember the exact number of people that  
25 there were, but I do remember, after the fact, they were all together,

1 gathered, as witnesses.

2 Q Okay. Were there kids in that group?

3 A Yes, there were.

4 Q Okay. And so everyone was pulled out of that particular  
5 apartment and, I guess, gathered up and kept on scene?

6 A Yes.

7 Q Was -- while this dynamic is going on in this alcove, are there  
8 other people that start to come out from behind you?

9 A Yes, there were.

10 Q Describe that for the jury.

11 A I remember the female that I had detained, saying that the  
12 apartment behind me was involved as well. And, simultaneously, people  
13 started to come out of those apartments. I specifically remember two  
14 females coming out of the apartment. They weren't very cooperative, I  
15 would say. And I detained one -- both of those females.

16 Q Okay. So you have a group of people coming from this  
17 apartment you've just described, and then another set of females coming  
18 out of the apartment that's behind you, if we're looking at this  
19 photograph?

20 A Yes.

21 Q Okay. And so they're detained as well. And you said they  
22 weren't very cooperative?

23 A Correct.

24 Q At some point in time, was there some interaction between  
25 these two groups of people?

1           A     Yes, there was, like, I would call it, like, an argument or them  
2 yelling at each other. And I remember telling them just to be quiet and  
3 don't say anything to each other.

4           Q     Okay. And do you remain on scene, at that point in time, and  
5 -- and do further, I guess, duties at the scene?

6           A     Yes.

7           Q     Describe that for the folks on the jury.

8           A     After we have these individuals detained, we had other  
9 officers responding to the call. At that point, the scene is fairly static and  
10 we started to -- we would call it, like, "shut down the area." So putting  
11 up crime scene tape, separating witnesses, and preserving any possible  
12 evidence that was remaining at the scene.

13          Q     When you say "preserving witnesses," what do you mean by  
14 that?

15          A     Well, like, preserving witnesses, or seeing who saw what,  
16 getting them identified and seeing if they would have anything pertinent  
17 to say to the detectives, or would that be a person that we would need to  
18 keep around in order for detectives to talk to them.

19          Q     Understood. And as -- as a matter, of course, I mean, on a  
20 regular basis, do you -- would you keep the witnesses all together or  
21 would you separate them?

22          A     We would separate them, because we didn't want them to  
23 make, I guess, a -- make a corroborating story -- so they don't make that  
24 story that all matches up. We want them to give their individual  
25 statements to the detectives.

1           Q     As you sit here, you know, six -- five, six years later, do you  
2 know how many witnesses you -- you and your fellow officers detained  
3 on scene?

4           A     I remember there was quite a few. I would at least say six to  
5 probably ten. There was quite a few people there.

6           Q     And that would include the folks that we've already talked  
7 about, right?

8           A     Yes.

9           Q     Okay. All right. When -- I guess, as -- when you realized the  
10 scene is static, does that mean there's no imminent threat and you can  
11 actually start doing some police work?

12          A     Yes, that's correct.

13          Q     And do you -- are you involved with shutting down the  
14 scene?

15          A     Yes, as the first officer responding, I was directing other  
16 officers that were arriving, what needed to be taped off and what I  
17 deemed as the scene.

18          Q     And, ultimately, do homicide detectives from the Las Vegas  
19 Metropolitan Police Department show up?

20          A     Yes, they do.

21          Q     And in this situation where you have a deceased person, do  
22 they, essentially, take over the investigation?

23          A     Yes.

24                 MR. GIORDANI: Okay. I'll pass the witness, at this time.

25                 THE COURT: Okay.

1 THE WITNESS: Thank you.

2 THE COURT: Cross?

3 CROSS-EXAMINATION

4 BY MR. MARGOLIS:

5 Q Good afternoon, Sergeant Scott.

6 A Good afternoon.

7 Q Just a couple of questions for you. Do you remember about  
8 what time you arrived at the scene?

9 A No, I don't remember the time lapse.

10 Q Okay. Do you remember about how long you were on the  
11 scene before you were able to create a static scene and detectives were  
12 able to come in and investigate?

13 A To create a static scene, meaning, it was everything taped off  
14 and -- and --

15 Q Right. Right.

16 A I would probably say 20 minutes, 25 minutes. It takes quite a  
17 while to get it -- the scene all taped off and everyone separated, for it to  
18 be completely static.

19 Q Did detectives get there at -- at -- soon thereafter? Like, 35, 40  
20 minutes?

21 A No, definitely not.

22 Q Okay. Okay. And I think Mr. Giordani asked you, fair to say,  
23 many of the people that you did have contact with, were not terribly  
24 cooperative?

25 A I would say so.

1 MR. MARGOLIS: Okay. Thank you. Pass the witness.  
2 THE COURT: Any redirect based on that?  
3 MR. GIORDANI: No, Your Honor. Thank you.  
4 THE COURT: Any questions for Sergeant Scott? Okay.  
5 [Pause]  
6 THE COURT: Thank you. Parties approach, please.  
7 [Sidebar begins at 12:00 p.m.]  
8 MR. GIORDANI: Okay. I have no objection. I don't know  
9 how you want to [indiscernible].  
10 MR. MARGOLIS: Just the last part, right?  
11 MR. GIORDANI: [Indiscernible]. Just stick with the last part.  
12 MR. MARGOLIS: Amen.  
13 MR. GIORDANI: That's fine. I don't think -- I mean, obviously  
14 [indiscernible] --  
15 THE COURT: Yeah.  
16 MR. GIORDANI: -- [indiscernible].  
17 MR. MARGOLIS: Yeah, yeah, yeah.  
18 [Sidebar ends at 12:01 p.m.]  
19 THE COURT: All right. Was the CAD initiated after Henry  
20 Taylor fired in the air, or after the shooting where Raquel was shot?  
21 Basically, what shots initiated the CAD, if you know?  
22 THE WITNESS: I don't know -- well, the CAD is generated off  
23 of a call for service. So a caller would come in and say -- or the caller  
24 would call 911 and say what they heard, as far as gunshots. So for me to  
25 say, do I know what shots, specifically, were fired? I couldn't say so. But

1 I would say that there were shots fired in the area, which generated the  
2 CAD event.

3 THE COURT: Sorry, through 911 call or through shots fired?

4 THE WITNESS: Through 911. There was no shots fired --

5 THE COURT: Okay.

6 THE WITNESS: -- at that time.

7 THE COURT: What caliber of shells were collected, if you  
8 know?

9 THE WITNESS: I do not know.

10 THE COURT: Okay. Follow-up, Mr. Giordani?

11 MR. GIORDANI: Just briefly.

12 REDIRECT EXAMINATION

13 BY MR. GIORDANI:

14 Q When -- in addition to homicide detectives showing up and  
15 taking over, there's multiple scene -- crime scene analysts who show up  
16 as well?

17 A Correct.

18 Q Maybe they can answer the question, as to cartridges?

19 A Yes, they would be able to answer what kind of shell casings  
20 were recovered.

21 MR. GIORDANI: Thank you, sir.

22 THE COURT: Anything, based on that Mr. Margolis?

23 MR. MARGOLIS: Nothing further. Thank you.

24 THE COURT: All right. Sergeant Scott, please don't share  
25 your testimony with anyone else involved in the case, since it's ongoing.

1 But you are excused. Thank you for coming.

2 THE WITNESS: Okay. Thank you.

3 THE COURT: State?

4 MR. GIORDANI: The Court's brief indulgence. Can I check  
5 who's in the hallway?

6 MS. CONLIN: And, Your Honor, the State will call Courtney  
7 Franco.

8 MR. GIORDANI: Can you step up there and remaining  
9 standing and raise your right hand, so the clerk will be able to swear you  
10 in.

11 COURTNEY FRANCO, STATE'S WITNESS, SWORN

12 THE CLERK: Please be seated. And will you please state  
13 your name and spell it, for the record?

14 THE WITNESS: My name's Courtney Franco, C-O-U-R-T-N-E-  
15 Y. Franco, F-R-A-N-C-O.

16 THE CLERK: Thank you.

17 THE COURT: Ms. Conlin?

18 MS. CONLIN: Thank you.

19 DIRECT EXAMINATION

20 BY MS. CONLIN:

21 Q Ms. Franco, I'd like to draw your attention to April of 2016.  
22 Where were you living at?

23 A I was living in the apartments. I don't remember the name of  
24 the apartments, but it was on Charleston and Torrey Pines.

25 Q And was that at 6501 West Charleston?

1           A     Yes.

2           Q     And do you recall which apartment you were living at?

3           A     Apartment number 174.

4           Q     Okay. So I'm showing you State's Exhibit 7. Do you  
5 recognize this area?

6           A     Yes, I do.

7           Q     And are you able to see where your apartment building is on  
8 this map?

9           A     Yes, I can.

10          Q     And there's a mouse up there. You don't need to click, but  
11 you can just move it around and identify where your building was.

12          A     This was my building. I lived here on the second floor.

13          Q     Okay.

14          A     Uh-huh.

15          Q     And, for the record, it's on the left side of the exhibit?

16          A     Yeah.

17                THE COURT: So it's, like, the left side of the -- if we were to  
18 separate it into four quadrants, she'd be in the bottom left quadrant. Go  
19 ahead.

20                MS. CONLIN: Thank you, Your Honor.

21 BY MS. CONLIN:

22          Q     So drawing your attention specifically to April 3rd of 2016,  
23 did anything stand out to you on that day?

24          A     There have been people barbecuing pretty much in the  
25 middle of the street all day and into the night.

1 Q And when you say, "In the middle of the street," what street  
2 are you talking about?

3 A This one right here. And they were pretty much, like, right  
4 underneath my balcony.

5 Q Okay.

6 A Pretty much.

7 Q And about how long did that go on for?

8 A All day. I thought it was pretty obnoxious, because they  
9 were in the middle of the street. And that's a dumb spot because if  
10 someone could come around the corner, they could just get hit or  
11 whatever. But, all day.

12 Q Okay. And I'm publishing State's Exhibit 9. Do you  
13 recognize what's depicted here?

14 A Yes.

15 Q And do you see your apartment building --

16 A Yes, I --

17 Q -- in this? And could you use the mouse, just to indicate  
18 where your apartment building would be at?

19 A Right here.

20 Q Okay. So you indicated that there was a barbecue in the  
21 street. Did anything happen, aside from the barbecue?

22 A Yes, once the -- it got later into the night, it was pretty late,  
23 into the 8:00 hour. It was almost 9:00. I noticed and heard some  
24 commotion going on in the street, that wasn't, like, happy commotion,  
25 and so I took a look. And it looked like there was a bunch of people in a

1 circle as two men were fighting. I heard yelling, like, Get his ass, and  
2 stuff like that. But I was, like, whatever. It's just a couple of people  
3 beating the crap out of each other. That's, whatever. But then I started  
4 to turn around. That's when I heard the first gunshot.

5 Q Okay. I just want to go back real quick. So you indicated that  
6 there were two people involved in the fight?

7 A Uh-huh.

8 Q Were there any other individuals outside, or was it just the  
9 two people?

10 A Well, it was everybody that was involved --

11 THE COURT: Just --

12 THE WITNESS: -- at the --

13 THE COURT: I'm so sorry.

14 THE WITNESS: -- scene.

15 THE COURT: The jurors, they're having a hard time hearing  
16 you, so just try to speak up a little bit for me.

17 THE WITNESS: Oh, my bad.

18 THE COURT: That's okay.

19 THE WITNESS: I'm sorry.

20 THE COURT: That's okay.

21 MS. CONLIN: And if I could move the mike to her?

22 THE COURT: Yeah.

23 THE WITNESS: Sorry.

24 MS. CONLIN: That's okay. This is the microphone.

25 THE WITNESS: It seemed like there was the people that were

1 involved with the barbeque, and then it seemed like some more people,  
2 possibly, had gathered, because it -- there was more, it looked like,  
3 involved. And there -- it was just two men, in the circle, that were  
4 fighting. And then more, it seemed like, had gathered around them.

5 BY MS. CONLIN:

6 Q Okay. And then you indicated you heard a gunshot?

7 A Yes.

8 Q Okay. And what -- what did you do in response to that?

9 A I immediately dived for my phone and I called 911. When the  
10 dispatcher came on the line, finally, it seemed like about 30 seconds had  
11 elapsed in between when the gunshot, and when they picked up.

12 Q Okay. And at this point, are you still looking outside? Have  
13 you gone further inside your apartment? Where are you standing?

14 A I'm still looking outside. I'm, kind of -- when I was on the line  
15 -- when she first picked up, I was looking out of my -- my back -- my back  
16 door for my balcony was, like, glass. So I could see out of it and -- in  
17 between, like, the slats. But as the call had progressed, I moved from my  
18 door, over to my kitchen window where I could see.

19 Q Okay. And what -- generally, the view, what could you see  
20 from your kitchen window?

21 A From my kitchen, I could see this whole area right here, and  
22 a little bit right here. But I could see all of this.

23 Q Okay. For the --

24 A Uh-huh.

25 Q -- record, you've indicated, sort of, the portion of the upper

1 trees and going -- heading down into the photo; is that right?

2 A Yes.

3 THE COURT: And then, you know what? I apologize,  
4 because we didn't put it on the record. But when you noted your  
5 apartment, on this picture --

6 THE WITNESS: Uh-huh.

7 THE COURT: -- your apartment is in the top left-hand corner.  
8 It faces the street?

9 THE WITNESS: Uh-huh.

10 THE COURT: Is that right?

11 THE WITNESS: Yes, that's correct.

12 THE COURT: Okay. And so when you're looking out your  
13 kitchen window, you're looking straight into that area where we're still --  
14 we're, like, in the mid, left part of the picture -- there's trees -- and then  
15 into that opening of the next set of apartments that are across from you;  
16 would that be fair?

17 THE WITNESS: Yes. I could see a bit into right here, until the  
18 side of this building started to cut off the line of sight. But I could see all  
19 of this and all of this.

20 THE COURT: Okay. So you could see the -- we've been  
21 calling it "the quad." But you could --

22 THE WITNESS: Yes.

23 THE COURT: -- see the quad, until that building starts  
24 obstructing your view that's in front of your apartment?

25 THE WITNESS: Yes. Correct.

1 THE COURT: Okay. Got it. Thank you.

2 THE WITNESS: Uh-huh.

3 MS. CONLIN: Thank you, Your Honor.

4 BY MS. CONLIN:

5 Q So you call 911. What are you seeing from your kitchen  
6 window?

7 A I started to see people, after the first gunshot, kind of scatter.  
8 As I was still on the line, the -- I could see people had ran into -- there's a  
9 little, like, alcove right here where people can go upstairs and into their  
10 other apartments, or into the downstairs apartments.

11 Because I also had one, take it up to my apartment. But there  
12 was one right there. And people -- there was a group of people that had,  
13 kind of, ran into that little hallway. I don't remember or recall how many  
14 people were in there, but I know that a bunch had gathered in there.

15 Q And, for the record, that -- that's the building that's on the left  
16 side of this photo?

17 A Yes. And people had scattered in other directions as well.  
18 But I noticed -- I saw a man walk up from, kind of, like, over here. But he  
19 started walking up. And there was a white SUV parked right here. The  
20 front door was facing -- or the front -- the front of the car -- the SUV was  
21 facing this direction. So it wasn't, like, backed in or anything, it was  
22 pulled in.

23 Q So just to walk through a couple of things that you pointed  
24 out.

25 A Uh-huh

1 Q You indicated you saw a man walking from -- in this photo --

2 A Uh-huh.

3 Q -- to the right of your apartment complex -- or your  
4 apartment building?

5 A Yeah, he was --

6 Q In this photo?

7 A Yeah, he was walking from the right to the left -- looking  
8 down at the photo.

9 Q Okay.

10 A Uh-huh.

11 Q And then you indicated, sort of, where the -- the top of the  
12 trees are at --

13 A Uh-huh.

14 Q -- is where you indicated that there was a white vehicle --

15 A Uh-huh.

16 Q -- is that right?

17 A Yes.

18 MS. CONLIN: Okay. And, Your Honor, if I may approach  
19 with State's Proposed Exhibit Number 75?

20 THE COURT: Yes.

21 BY MS. CONLIN:

22 Q So showing you State's Proposed Exhibit 75. Do you --

23 A Uh-huh.

24 Q -- recognize this?

25 A Yes.

1 Q And is this the vehicle that you were just testifying about?

2 A Yes.

3 MS. CONLIN: Your Honor, at this time, the State would  
4 move to admit State's Proposed Exhibit Number 75.

5 THE COURT: Mr. Margolis?

6 MR. MARGOLIS: No objection, Your Honor.

7 THE COURT: That'll be admitted.

8 [State's Exhibit 75 admitted into evidence]

9 THE COURT: You can publish.

10 MS. CONLIN: Thank you, Your Honor.

11 BY MS. CONLIN:

12 Q So State's Exhibit 75, this is included in the view that you  
13 would have been able to see from your kitchen?

14 A Yes.

15 Q And so does this appear to be the vehicle that you saw the  
16 man approach?

17 A It was either this one or the one to the left. The vehicle that  
18 he approached, he was able to -- well, he had to -- I saw him draw the  
19 gun from the back left passenger side, so there was enough room for  
20 him to open. But I know I gave the license plate, in my 911 call.

21 Q Okay.

22 A Uh-huh.

23 Q And so just to -- could you further describe the area that you  
24 saw the man approach the vehicle?

25 A Yes. So he came up and withdrew -- the dispatcher had

1 asked me if there's a weapon, and I didn't see one at first. And then I  
2 saw the man come up to the vehicle. He came up to the left passenger  
3 door. I saw him withdraw a gun, close it, go up to the front to the  
4 driver's door, open it. It appeared that he locked the vehicle and closed  
5 it.

6 Q Okay. And after he locked the vehicle, were able to  
7 determine what direction he was going?

8 A Yes.

9 Q And where did you see him go?

10 A I saw him walk up through the quad and -- up to the quad,  
11 and turn towards the alcove, with the weapon in his hand.

12 Q So going back to State's Exhibit 9.

13 A Uh-huh.

14 Q Could you use the mouse to describe the direction?

15 A Yes. So he came with the gun, and he walked this way. And  
16 he stopped, like, right in front of the alcove. And then, from the -- from  
17 there, he turned towards the alcove right here. And he -- I heard nine  
18 rounds fired, and then from that direction -- and -- and watched him  
19 shoot. And from that direction, he ran this way towards Torrey Pines.

20 Q Okay. For the record, on this exhibit, you are pointing over --  
21 and originally pointing to the building that is on the left side of this  
22 exhibit?

23 A Yes.

24 Q As to where the man ran to, originally?

25 A Yes. Correct.

1           Q     And then in this exhibit, you indicated that he ran, in this  
2 exhibit, to the right, after?

3           A     Uh-huh.

4           THE COURT: And then the only other thing that we should  
5 place on the record, is that before he turned into the alcove, he stopped  
6 in the quad area, you said?

7           THE WITNESS: Yes.

8           THE COURT: For -- I don't -- I don't think you said for how  
9 long, but, like, for a bit of time, or whatever it was that you said?

10          THE WITNESS: Uh-huh.

11          THE COURT: And then after stopping, he then turned to his, I  
12 guess it would be his right, but left on the picture, towards the alcove,  
13 correct?

14          THE WITNESS: Yes. So he had come up. And he didn't go  
15 into the alcove. He just stopped pretty much, like, in the middle of the  
16 buildings.

17          THE COURT: Okay.

18          THE WITNESS: And then the rounds were fired. And then  
19 went this way.

20          THE COURT: Okay. So you hear the nine rounds. And then  
21 you see him run the opposite way, between the buildings, towards  
22 Torrey Pines?

23          THE WITNESS: Yes. Correct.

24          THE COURT: Got it.

25          MS. CONLIN: The Court's brief indulgence.

1 BY MS. CONLIN:

2 Q Ms. Franco --

3 A Uh-huh.

4 Q -- when you called 911, were you able to relay the license  
5 plate number of the vehicle that you saw the man go into?

6 A Yes, I was.

7 MS. CONLIN: Okay. At this time, I'll pass the witness, Your  
8 Honor.

9 THE COURT: Mr. Margolis?

10 CROSS-EXAMINATION

11 BY MR. MARGOLIS:

12 Q Good afternoon, Ms. Franco. You said you saw about 20  
13 individuals in the courtyard, if you will?

14 A Yes.

15 Q And I believe you testified that the majority of those  
16 individuals were Black, right?

17 A Yes, there's -- it seemed like a good bit.

18 THE COURT: Sorry. I don't mean to interrupt, Mr. Margolis.  
19 Are we talking about the courtyard or the parking lot? I didn't know  
20 what --

21 MR. MARGOLIS: No.

22 THE COURT: Are we talking about the fight?

23 MR. MARGOLIS: We're talking about the fight, yeah.

24 THE WITNESS: The fight?

25 THE COURT: So is that --

1 MR. MARGOLIS: I mean, the fight. The fight.

2 THE COURT: Okay.

3 THE WITNESS: Uh-huh.

4 BY MR. MARGOLIS:

5 Q So the fight is happening. I believe you said you thought you  
6 saw two youngish Black fellows fighting, right?

7 A Uh-huh.

8 Q And there's a crowd assembled around the people fighting?

9 A Uh-huh.

10 THE COURT: Is that --

11 BY MR. MARGOLIS:

12 Q Is that fair to say?

13 THE COURT: Those are yeses?

14 THE WITNESS: Uh-huh.

15 MR. MARGOLIS: Yes. Yes. Thank you, Judge.

16 BY MR. MARGOLIS:

17 Q And I believe your testimony was that, while there appeared  
18 to be some mixed individuals, the majority of those individuals, you  
19 remember, being Black, right?

20 A Uh-huh. Yes.

21 Q And you described the individual that went to the Suburban,  
22 as a Black individual, as well, right?

23 A Yes.

24 Q And I believe you said you thought he was about 6 feet, 30s,  
25 heavy set?

1 A Yes.

2 Q Okay. White shirt, black basketball shorts?

3 A Yes.

4 Q Okay. Fair to say, you were a bit annoyed by the goings-on  
5 throughout that evening, on April 3rd, 2016?

6 A Yes.

7 Q Okay. It was loud. It was difficult for you to even watch your  
8 movie, right?

9 A Yes, they were just in the middle of the street, which I  
10 thought was a weird spot to do it, instead of, like, in the middle of the  
11 quad. So I was like, I don't understand why you're in the middle of the  
12 street, but, okay.

13 Q How long was all of the loud ado going on? Before the fight?  
14 Immediately after the fight? Like, how long would you say that period  
15 was where you were, for better or worse, acutely aware of what was  
16 going on outside your window?

17 A For quite a bit. They'd been there, I believe, pretty much all  
18 day.

19 Q Okay. Beginning from about what time, if you remember?

20 A I don't recall.

21 Q Okay. Fair enough. And you called 911 in response to a  
22 single shot being fired, right?

23 A Yes.

24 Q Okay. And during that 911 call, a short time later, you heard  
25 these additional shots that were fired --

1           A     Uh-huh.

2           Q     -- right?

3           THE COURT: Is that a yes?

4           THE WITNESS: Yes, that's a yes. Sorry.

5           THE COURT: It's okay. It's hard to get used to.

6   BY MR. MARGOLIS:

7           Q     You see my client, Mr. Lepolo?

8           A     Yes.

9           Q     Okay. He's not Black; would you agree or disagree he's not

10   African-American?

11          A     Yes, he could be mixed. I'm not sure, but.

12          Q     Okay. And if I told you he was in his 50s, and not in his 30s,

13   would you quarrel with that?

14          A     No.

15          Q     Okay. Thank you. Pass the witness.

16          MR. GIORDANI: The Court's brief indulgence?

17          THE COURT: Sure.

18          MS. CONLIN: No redirect, Your Honor.

19          THE COURT: Okay. Questions from the jurors?

20                 [Pause]

21          THE COURT: Parties approach, please. Thank you.

22                 [Sidebar begins at 12:23 p.m.]

23          MR. MARGOLIS: [Indiscernible].

24          MR. GIORDANI: No objection.

25          MR. MARGOLIS: No objection.

1 MR. GIORDANI: None.

2 THE COURT: This is where it concludes with Jason's  
3 questions about when he started at the quad in front of the parking lot.

4 MR. GIORDANI: No objection.

5 MR. MARGOLIS: No. I muddled it up, sorry.

6 THE COURT: What?

7 MR. MARGOLIS: I made a mess. I'm sorry.

8 THE COURT: Oh, no, no, that's okay. I just -- I know where  
9 that's coming from.

10 MR. MARGOLIS: Yeah, yeah.

11 THE COURT: Giordani, one more before lunch?

12 MR. GIORDANI: Yes.

13 THE COURT: Long or short? Do I need to give them a break?

14 MR. GIORDANI: [Indiscernible].

15 THE COURT: Give them a break?

16 MR. MARGOLIS: How long do you have?

17 MR. GIORDANI: Not [indiscernible].

18 MR. MARGOLIS: [Indiscernible]. So maybe we should do --

19 MR. GIORDANI: Take a break?

20 MR. MARGOLIS: Yeah, I --

21 MR. GIORDANI: Okay.

22 MR. MARGOLIS: I have no objection.

23 MR. GIORDANI: No objection. No objection.

24 [Sidebar ends at 12:24 p.m.]

25 THE COURT: Okay. The first question is, did you see a

1 female where the man with the gun first stopped in the quad?

2 THE WITNESS: Yes, I did.

3 THE COURT: Did you see who fired the first shot when the  
4 people were in the circle?

5 THE WITNESS: No, I did not.

6 THE COURT: Did you say you watched him shoot at -- I  
7 mean, I don't think you know the people's names. But they put Deanna  
8 Romero. Did you say you watched him shoot towards the alcove?

9 THE WITNESS: Yes.

10 THE COURT: Were there a bunch of people out in the quad  
11 when Lepolo -- when Defendant returned with his pistol? If so, were they  
12 Black or Samoan, or do you know?

13 THE WITNESS: There were a bunch of men, it seemed like,  
14 standing around where the shooter was shooting and, kind of, hyping  
15 him up. And left with him, as he ran.

16 THE COURT: Okay. So this -- is this after the fight has  
17 dispersed, he's gone and gotten the weapon --

18 THE WITNESS: Uh-huh.

19 THE COURT: -- and walked towards the alcove?

20 THE WITNESS: Yes.

21 THE COURT: Okay. That's where you're saying there were a  
22 bunch of people?

23 THE WITNESS: Yes.

24 THE COURT: And I'm sorry, did you say if they were Black or  
25 Samoan, or if you could tell?

1 THE WITNESS: I don't recall.

2 THE COURT: Okay.

3 THE WITNESS: Uh-huh.

4 THE COURT: And I apologize for asking this. When I use the  
5 term "Samoan" --

6 THE WITNESS: Uh-huh.

7 THE COURT: -- do you know what individuals that are --

8 THE WITNESS: yes.--

9 THE COURT: -- of Samoan descent --

10 THE WITNESS: Uh-huh.

11 THE COURT: -- look -- okay. All right. Just to clarify, the  
12 witness saw someone enter the car from in between the two white cars  
13 or from the outside of one of the white cars?

14 THE WITNESS: I'm so sorry. One more time?

15 THE COURT: Yeah. The witness saw someone enter the car  
16 from in between the two white cars, or from the outside of one of the  
17 white cars? So in between those two white cars, you saw the person  
18 enter to get the gun, or from the outside of one of the white cars?

19 THE WITNESS: From the outside of the -- one of the white --  
20 or the -- the -- sorry. From outside of one of the white cars. So I'm -- it  
21 didn't look like there was enough space right there to get, you know, in --  
22 from the picture, to get the weapon. But there is -- he was definitely  
23 stepping between the white SUV and another vehicle, to get to the  
24 weapon.

25 THE COURT: Okay. On follow-up, State, I think we're going

1 to need the picture, because I think it's, kind of, hard to visualize.

2 MS. CONLIN: Yeah, it's --

3 THE WITNESS: Uh-huh.

4 THE COURT: That's okay. No, they know that these are very  
5 specific questions -- and that's good. But it's hard to -- it's hard to do  
6 when you don't have the picture in front of you, I think.

7 THE WITNESS: Uh-huh.

8 THE COURT: All right. Let me just make sure I asked  
9 everything, and then we'll go to the State for follow-up.

10 THE MARSHAL: Judge, I have one more question.

11 THE COURT: Okay.

12 THE MARSHAL: Folks, make sure you put your juror seat  
13 number on these.

14 THE COURT: And then, guys, if you could just do me a favor  
15 and just do it on a whole piece of paper? Because I'm having a hard time  
16 doing my analysis on these three pages you're -- these three lines you're  
17 giving me. If that's --

18 UNIDENTIFIED JUROR: Okay.

19 THE COURT: It's okay. It's totally okay. Just give one per  
20 full page. Thank you. I appreciate it. Thank you. Parties approach.

21 [Sidebar begins at 12:29 p.m.]

22 MR. MARGOLIS: I don't know how much I like it  
23 [indiscernible].

24 [Sidebar ends at 12:29 p.m.]

25 THE COURT: During April, it's virtually dark around 8:00 p.m.

1 THE WITNESS: Uh-huh.

2 THE COURT: Would it be possible that your initial  
3 description of the shooter could be wrong due to poor lighting?

4 THE WITNESS: Yes, because it was very dark around that  
5 time. I don't remember being able to see any defining -- like, if there  
6 were tattoos or anything. But I remember the build very, very well, of  
7 him. And -- yeah, just his -- his build.

8 THE COURT: Okay.

9 THE WITNESS: Uh-huh.

10 THE COURT: State, follow-up?

11 MS. CONLIN: Thank you, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. CONLIN:

14 Q I'm showing you States Exhibit 75. So you indicated that the  
15 man that approached the vehicle, came on the driver's side --

16 A Uh-huh.

17 Q -- of the car?

18 A Yes.

19 MS. CONLIN: And -- the Court's brief indulgence.

20 BY MS. CONLIN:

21 Q And if you could just further describe what you saw when  
22 that man is approaching the vehicle?

23 A He had approached the vehicle and came up to the -- what  
24 would be the back left passenger door, in order to grab the weapon.  
25 Because that's where I saw him draw the weapon from, was the back left

1 passenger side. He closed that door after he withdrew the weapon, and  
2 came up to the driver's door, opened it, locked the vehicle, closed it, and  
3 continued on towards the quad.

4 Q And at the time, as you're watching this happen on April 3rd,  
5 you're giving a description of the vehicle and the plate that you saw the  
6 man enter?

7 A Yes. Correct.

8 MS. CONLIN: I'll pass the witness, Your Honor.

9 THE COURT: Mr. Margolis?

10 MR. MARGOLIS: Thank you, Your Honor.

11 RECROSS-EXAMINATION

12 BY MR. MARGOLIS:

13 Q I just want to make sure I got this right. So you testified that  
14 the shooter went to the Suburban and went to the rear driver's side door  
15 first, correct?

16 A Yes.

17 Q Okay. And can you see this from here, if I just hold it like that  
18 -- if I put it here?

19 A Uh-huh.

20 Q Those -- or those -- those two vehicles are really close  
21 together; wouldn't you -- would you agree with me about that?

22 A Yes.

23 Q So even opening either the rear driver's side door or the  
24 front driver's side door -- probably couldn't open that more than, I mean,  
25 half, if even two-thirds; is that fair?

1 A Yes.

2 Q Okay. Obviously, my client is a large human being?

3 A Uh-huh.

4 MR. GIORDANI: Well, I would object to that. That's very  
5 vague, Your Honor, and I don't want it to confuse --

6 MR. MARGOLIS: Okay.

7 MR. GIORDANI: -- the witness.

8 MR. MARGOLIS: I -- I'll rephrase.

9 THE COURT: Yeah, please.

10 BY MR. MARGOLIS:

11 Q Is my client thin, in your estimation?

12 A No.

13 Q Would it be easier for a person of a more slender build, to go  
14 to the driver's side of that Suburban to retrieve anything from any door?

15 A One more time?

16 Q Sure. Would a person of a more slender build than my  
17 client, for a comparative, would that person find it easier to retrieve  
18 something from the driver's side of that vehicle, based on the parking?

19 A Yes.

20 MR. MARGOLIS: Thank you.

21 THE COURT: Redirect?

22 MS. CONLIN: No, Your Honor.

23 THE COURT: All right. Thank you so much for being here.

24 Please All right thank you so much for being here. Please don't share  
25 your testimony with anyone else involved in the case. Do we have one --

1 one more?

2 THE MARSHAL: Do you have a question?

3 UNIDENTIFIED JUROR: I do.

4 THE COURT: That's okay.

5 [Sidebar begins at 12:34 p.m.]

6 MR. GIORDANI: [Indiscernible].

7 MR. MARGOLIS: I've got no objection.

8 [Sidebar ends at 12:34 p.m.]

9 THE COURT: All right. So the question is, if you could not  
10 see the shooter clearly from the car, how could you see him in the  
11 quads?

12 THE WITNESS: I was able to see pretty clearly in the quads,  
13 because the -- I was on the second-story apartment. So I could see the --  
14 I saw him very clearly draw the weapon from the vehicle. It just wasn't  
15 very well lit. But I could see everything.

16 THE COURT: Sorry. You "Could see everything," but which  
17 one are you talking about, the car or the quad?

18 THE WITNESS: Both.

19 THE COURT: What is better lit, the parking lot or the quads?

20 THE WITNESS: That, I don't recall.

21 THE COURT: Okay. State?

22 FURTHER REDIRECT EXAMINATION

23 BY MS. CONLIN:

24 Q Ms. Franco, were you able to keep a continuous line of sight  
25 of the man who went into the vehicle and the man that went into the

1 quad area?

2 A There was just a momentary break, around the front of the  
3 vehicle, from him walking, because the quad -- the -- the parking  
4 coverage just covered, like, the hood of the car, but that's it -- like -- or  
5 the -- of the vehicle. And that's just a blip. But that's -- I would say it was  
6 continuous besides that.

7 Q Okay.

8 A Uh-huh.

9 Q And so it appeared to you that the same man that went to the  
10 vehicle, was the same man that went into the quad area?

11 A Yes.

12 Q And from there, the same man that retrieved the gun from  
13 the vehicle, was the same man that was -- that you saw shooting in the  
14 quad area as well?

15 A Yes. Correct. Uh-huh.

16 MS. CONLIN: Pass the witness, Your Honor.

17 THE COURT: Mr. Margolis?

18 FURTHER RECROSS-EXAMINATION

19 BY MR. MARGOLIS:

20 Q From your second floor apartment window, I believe you  
21 said, in your statement, that at some points you were observing, from  
22 the fight onward. But you were largely trying to remain invisible from  
23 the window to out -- people outside your apartment; do you recall that?

24 A Yes.

25 Q Is it possible, at any point, that your vantage point might

1 have been obscured, momentarily, by your machinations in trying to  
2 keep your line of sight while also keeping out of the line of sight?

3 A No, I was able to maintain my line of sight pretty well and  
4 still see everything.

5 Q Aside from that brief moment with the car overhang?

6 A Yeah.

7 MR. MARGOLIS: Okay. Thank you.

8 MS. CONLIN: No redirect.

9 THE COURT: All right. Thank you so much. Please don't  
10 share your testimony with anyone else involved in the case. You are  
11 excused.

12 UNIDENTIFIED JUROR: One quick --

13 [Sidebar begins at 12:38 p.m.]

14 MR. GIORDANI: Sure.

15 MR. MARGOLIS: No objection.

16 [Sidebar ends at 12:38 p.m.]

17 THE COURT: All right. The question is, did you take any  
18 pictures or videos on your phone?

19 THE WITNESS: No, I did not.

20 THE COURT: Follow-up?

21 MS. CONLIN: Nothing further.

22 MR. MARGOLIS: Nothing, Your Honor.

23 THE COURT: All right. So --

24 MR. GIORDANI: Judge, we do have a question. Sorry.

25 THE COURT: Oh, you do? Okay.

1 MS. CONLIN: Sorry.

2 FURTHER REDIRECT EXAMINATION

3 BY MS. CONLIN:

4 Q At the time that you were seeing this all happen, you were on  
5 your phone with 911, right?

6 A Yes.

7 MS. CONLIN: Okay.

8 THE COURT: Anything on that?

9 MR. MARGOLIS: Nothing.

10 THE COURT: All right. Thank you so much. You are  
11 excused.

12 THE WITNESS: Thank you.

13 THE COURT: All right. We are going to take another short  
14 recess. We have one more witness, and then we're going to go into  
15 lunch. But that witness might be a little bit longer, so I'm going to give  
16 you a break right now, okay? Please, during -- you can go ahead and  
17 step down. Thank you.

18 Please, during this recess, you must not discuss or  
19 communicate with anyone, including fellow jurors, in any way, regarding  
20 the case or its merits, either by voice, phone, email, text, internet, or  
21 other means of communication or social media.

22 Please do not read, watch, or listen to an news, media  
23 accounts, or commentary about the case, do any research, such as  
24 consulting dictionaries, using the internet, or using any reference  
25 materials.

1           Please don't make any investigation, test a theory of the  
2 case, recreate any aspect of the case, or in any other way attempt to  
3 learn or investigate the case on your own. And please don't form or  
4 express any opinion, regarding the case, until it's submitted to you. I'll  
5 see you -- let's see, at 12:55 -- 15 minutes -- 12:55.

6           THE MARSHAL: All rise.

7                     [Jury in at 12:40 p.m.]

8                     [Recess at 12:40 p.m., recommencing at 12:55 p.m.]

9           THE MARSHAL: All rise.

10                    [Jury in at 12:55 p.m.]

11           THE COURT: All right. Thank you, everyone. Please be  
12 seated. We are on the record in State of Nevada v. Tuly Lepolo, C-  
13 345911. Mr. Lepolo is present, with Mr. Margolis, as well as Paralegal  
14 Mendoza. Mr. Giordani, as well as Ms. Conlin, are present on behalf of  
15 the State. Do the parties stipulate to the presence of the jury?

16           MR. MARGOLIS: Yes, Your Honor.

17           MR. GIORDANI: Yes, Your Honor.

18           THE COURT: All right. Mr. Giordani, next witness, please.

19           MR. GIORDANI: Ta'von Lowe.

20           THE MARSHAL: Sir, if you wouldn't mind, just step up there,  
21 remain standing, and raise your right hand so the clerk can swear you in.

22           THE CLERK: Right here, sir.

23                    TA'VON LOWE, STATE'S WITNESS, SWORN

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

1 THE WITNESS: My name is Ta'veon Lowe. It's spelled T-A-'-  
2 V-O-N L-O-W-E.

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MR. GIORDANI:

6 Q Sir, I want to bring you way back to 2016, April. Where were  
7 you living at that time?

8 A The Lantana apartments off of Charleston and Torrey Pines.

9 Q And were you living there with anyone else?

10 A I did have my baby mother, my child, her cousin, her  
11 cousin's child, and that was it.

12 Q And do you remember what apartment you lived in?

13 A 233, I believe is what it was.

14 Q Okay. If I show you some photographs, would that maybe  
15 firm-up your memory on that?

16 A Yes.

17 MR. GIORDANI: Okay. May I approach?

18 THE WITNESS: Yes.

19 THE COURT: Yes.

20 THE WITNESS: Oh.

21 THE COURT: That's fine.

22 MR. GIORDANI: Thank you.

23 BY MR. GIORDANI:

24 Q State's 39, does that look familiar to you?

25 A Yes.

1 Q And is that your apartment in that photo?

2 A Yes, it is.

3 Q Which one is it? If you could just --

4 A The one with the door closed, right here.

5 Q And you just pointed to the bottom right?

6 A Yes.

7 Q Publishing 39. You just pointed to this apartment here on the

8 bottom right of the four doors?

9 A [No verbal response].

10 Q Is that a yes?

11 A Yes.

12 Q And you -- on April -- or in April of 2016, you lived there with

13 several people?

14 A Yes.

15 Q You know the incident you're here to testify about, correct?

16 A I do.

17 Q On that particular date, were you there at the apartment with

18 some of those individuals you just described?

19 A I was, with all of them.

20 Q All of them?

21 A Yes.

22 Q Okay. And were you all within your apartment when you

23 heard something that drew your attention?

24 A Yes.

25 Q Describe what you heard.

1           Q     So I was in the kitchen, actually, making dinner for my family  
2 that night. And there was about 15 to 20 people outside. They were  
3 having, like, a get-together, like a family barbecue, it looked like. And it  
4 was -- it was -- everything was fine. It was -- it was not too many  
5 problems going on. And then the next thing you know, it just -- there  
6 was a lot of commotion outside, to where there was people yelling. And  
7 when that happened, I looked out of the peephole of -- of our door, just  
8 to make sure there was nothing going on. There was nothing too crazy.  
9 In about five minutes later, you hear just -- like, it sounds like a  
10 altercation going on. And then one shot goes off.

11          Q     Okay. So you are within your apartment throughout all --

12          A     Yes --

13          Q     -- this that you described?

14          A     -- the whole time.

15          Q     Were you familiar at all with the folks that lived next door to  
16 you?

17          A     Not at all.

18          Q     Okay. Did you know anybody that lived in the building  
19 across the way from you?

20          A     Not at all.

21          Q     So you said that there were several people out there. It  
22 seemed like they were having a party or whatever?

23          A     Yeah.

24          Q     And, initially, there didn't seem to be any problems?

25          A     Not at all, no

1 Q Okay. Did you recognize or know any of those people that --  
2 that were out partying?

3 A So just one, who happened to have been the neighbor. He --  
4 an African American guy, who had some facial piercings. Every once in  
5 a while, when I would go to work or come home from work, he would  
6 always say hey to me. But besides that, we never actually talked, never  
7 had any -- any --

8 Q Okay.

9 A -- words, so.

10 Q And you said he happened to turn out to be the neighbor.  
11 You're talking about the neighbor next door?

12 A Yes.

13 Q Okay. So he's one of the people that had access to that --

14 A Yes.

15 Q When you hear the altercation break out, can you describe  
16 that a little more for the folks on --

17 A So --

18 Q -- the jury?

19 A -- when the altercation broke out, there was just really a lot of  
20 yelling at first. And after that first gunshot goes off, you hear a lot of  
21 footsteps going. So I look out of my window. I go to my bedroom to go  
22 look out of my bedroom window. And I see a lot of people just running.  
23 And when that happens, I see one person running back up  
24 towards the apartment. And that's when he -- I -- all I hear is, "What's up  
25 now, you bitch-ass nigger?" And from there, it -- five or six more shots.

1 Q Okay. So let's back up a little bit, okay? You've described  
2 your window and your apartment. I want to show you some photos. So  
3 State's 24. Do you see the same alcove that I showed you before --

4 A Yes.

5 Q -- Mr. Lowe?

6 A Yes.

7 Q And do you recognize this carport out here to the right --

8 A Yes

9 Q -- of the photo? And just past that carport, what is there out  
10 there?

11 A So, really, there's just all the cars. On the other side of the  
12 street there's more carports. And then there's more buildings of  
13 apartments right across the way.

14 Q Okay. So I want to show you State's 21, real quick. Do you  
15 recognize this?

16 A Yes.

17 Q What do you recognize this as?

18 A So this is where we actually used to park our car. Number 74  
19 was our car.

20 Q Is that --

21 A -- the red Pontiac, yes, the Sunfire.

22 Q So that's your vehicle?

23 A Yes.

24 Q Okay. Do you know or were you familiar with the vehicle in  
25 73?

1 A No.

2 Q Had you seen it there before?

3 A Not too often. Every once in a while, there was cars that  
4 would be there. But not too often with that one. No, I don't --

5 Q How about the --

6 A -- remember that one.

7 Q -- vehicle next to it?

8 A No

9 Q How about the van next to that?

10 A The van, I used to see a lot, yes, because of the -- I do  
11 remember that dent that was on the side, yes.

12 Q Okay. So you indicated that there was an altercation. Where  
13 -- well, let me go back, I'm sorry, to 24. Sorry, let me back up. On 24, are  
14 these your windows on the bottom floor, on the right of the exhibit?

15 A Yes, sir.

16 Q What is this window on the --

17 A So that window was for my baby mother's cousin, Crystal  
18 [phonetic]. That's her bedroom window.

19 Q Okay. And then this one, further out toward the parking lot,  
20 on the bottom?

21 A That was my bedroom window.

22 Q Okay. So we're clear, you -- you hear some stuff going on.  
23 Where was that coming from?

24 A So it sounded like right around the area where Crystal's  
25 window was. They were, kind of, like, all crowded-up right there.

1 Q Okay. And you indicated that you heard a bunch of footsteps  
2 heading --

3 A Like they were running away, almost. It sounded like they  
4 were running away.

5 Q Is that after the first gunshot?

6 A After the first shot, yes.

7 Q Okay. Where -- or did you see those people running --

8 A Not --

9 Q -- or did you just hear it?

10 A Not too -- no, I didn't see anybody running, I just heard it.

11 Q Okay.

12 A Because I was -- by that time, I was kind of, like, crouching  
13 down, making sure nothing was happening.

14 Q Yeah. And, actually, your -- you said baby mama?

15 A Yeah, my baby mother, yeah.

16 Q She actually called 911 --

17 A Yes.

18 Q -- right? So there's a gunshot, 911?

19 A Yes.

20 Q You hear people running; do you look out either of those  
21 windows?

22 A So then that's when I go to my bedroom window. And I  
23 actually -- I turned off all the lights and everything, and looked outside of  
24 the window to make sure there was nothing going on.

25 Q And, again, your bedroom window is the one further out to

1 the right?

2 A Yes.

3 Q What do you see when you look out the window?

4 A So when I looked out the window, I just -- I saw this -- this  
5 guy who -- he looked like Troy Polamalu. He had a long ponytail, kind of,  
6 slicked back, with a hat on. And he just starts running back towards the  
7 apartments like there was -- like there was something going on.

8 Q Could you recall, as you sit here, that guy's ethnicity or race?

9 A Either Hawaiian or Samoan.

10 Q And --

11 THE COURT: Can we -- Mr. Giordani, I apologize, because  
12 we'll have to go -- follow-up on that. He looked like who?

13 THE WITNESS: Troy Polamalu.

14 MR. GIORDANI: I'm going -- I will.

15 THE COURT: Oh, you are?

16 MR. GIORDANI: Yes.

17 THE COURT: Okay. We're going to have to just spell it for  
18 the --

19 MR. GIORDANI: Yeah.

20 BY MR. GIORDANI:

21 Q So for those folks in the room that aren't football fans, can  
22 you describe who Troy Polamalu is?

23 A All right. So Troy Polamalu, he's like a -- like a Hawaiian who  
24 used to play for the Steelers. He always was known for his --

25 THE COURT: Oh, on the Pantene commercials?

1 THE WITNESS: -- for his hair, yeah. For his hair.

2 THE COURT: You should've started there, not football.

3 THE WITNESS: Okay.

4 THE COURT: Pantene.

5 BY MR. GIORDANI:

6 Q All right. Do you remember anything about this -- anything  
7 else about this individual?

8 A Not too much, no.

9 Q Okay. I understand it's been six years, but do you recall  
10 giving a statement to police, right after this incident?

11 A Yes.

12 Q And do you recall also describing that individual as having  
13 tattoos on his arms?

14 A Yes.

15 Q And his approximate height and weight?

16 A Around six foot, maybe around probably, like, 180.

17 Q Okay. And you described, kind of, generally, his clothing, as  
18 well; do you remember that?

19 A A little bit, yeah.

20 Q What, if anything, did that individual have in his hands?

21 A I didn't see anything in his hands.

22 Q Okay. Did you hear him say something?

23 A Besides the "What's up now, you bitch-ass nigger," that's --  
24 that's all I heard from -- from that whole altercation that night.

25 Q And then what did you hear after that -- well, let me stop you.

1 So you hear -- do you hear the individual, that you've just described, say  
2 those words?

3 A I don't -- I don't know who I heard say it, because by that  
4 time, I was actually -- I was ducked down underneath my window --

5 Q Got you.

6 A -- to make sure I'm -- nobody's getting hurt in my family.

7 Q Okay. And so you see this individual running. Is he running  
8 in a particular direction, or coming from?

9 A So he's -- he's coming from where the cars are at, up  
10 towards where the apartment's at where -- where my apartment was at  
11 and the next door neighbor's apartment was at.

12 Q Okay. And then what do you hear right after that?

13 A That's when I heard, "What's up now, you bitch-ass nigger?"  
14 And I just heard six -- about five or six more shots go off.

15 Q Did you look -- I know you said you ducked down, but did  
16 you look back in the direction toward the courtyard or I guess we'll call it  
17 the quad, as the gunshots are going off? Or --

18 A Not until about five minutes after the fact.

19 Q Okay. Understood.

20 A Yeah.

21 Q You probably ducked down --

22 A Yeah.

23 Q -- for a period of time?

24 A Exactly. I was -- I was -- because I had to -- I crawled around,  
25 actually, just to go to my living room where my daughter was at, and my

1 baby mother, and the rest of the family.

2 Q How old was your daughter at the time?

3 A She actually wasn't even one yet.

4 Q Okay. And she's in -- in that apartment?

5 A Yes. Did some bullets come into your apartment?

6 A They did.

7 Q How many?

8 A About three.

9 Q Where did they end up in your apartment?

10 A In Crystal's bedroom. So they went through the bedroom  
11 wall, right through her bedroom -- like, her pillow on her bed. And then  
12 there was about two more shots that went through the bathroom while  
13 she was in the shower.

14 Q Okay. "She" being who?

15 A Crystal [phonetic].

16 Q So I want to ask you some very specific questions. You just  
17 told this jury that you don't recall seeing a gun in the -- I'll refer to him as  
18 a Samoan or Hawaiian guy's hand; is that okay?

19 A Okay.

20 Q But you do recall giving a statement to the police?

21 A Yes.

22 Q Okay. If I showed you that, would you -- would that  
23 potentially refresh your recollection as to whether that guy had a gun?

24 A Most certainly.

25 MR. GIORDANI: Okay. May I approach?

1 THE COURT: Yep.

2 MR. GIORDANI: And Counsel for the Defense, I'm showing  
3 page 7.

4 BY MR. GIORDANI:

5 Q So, Mr. Lowe, I don't want you to read it out loud, but I want  
6 you to just read page 7 to yourself, and tell me if that refreshes your  
7 memory as to what I've just asked you.

8 A [No verbal response].

9 Q Does that refresh your memory, Mr. Lowe?

10 A Yes. Yes.

11 Q And did you tell the police then that he -- that individual that  
12 you just described as looking like Troy Polamalu, had a gun?

13 A Yes.

14 Q And you described he actually pointed and -- and shot back  
15 towards your building?

16 A Yes.

17 Q -- as he ran down that alcove?

18 A Yes.

19 Q In your mind's eye, sitting here six years later, do you recall  
20 seeing the gun go off?

21 A I do not know.

22 Q But you recall him having a gun --

23 A Yes.

24 Q -- that same individual you just described?

25 A Yes.

1 MR. GIORDANI: Okay. And -- well, the Court's brief  
2 indulgence. One moment.

3 BY MR. GIORDANI:

4 Q Yeah, let me -- let me just ask you a couple more questions  
5 about that. Do you recall where he was shooting toward -- what he was  
6 shooting toward?

7 A So we're -- in this picture, there was a -- that's where all the  
8 group of people were at. So there was about -- maybe about 15 to 20 of  
9 them that are -- that were still, kind of, like, crouched or -- or huddled  
10 around that area, because some of them lived in that apartment, so.

11 Q Okay. So they were crouched and huddled in that area?

12 A Well, not crouched, but, like, they were all, like, in that -- that  
13 specific area, yes.

14 Q And that area, being the alcove that --

15 A Yes.

16 Q -- you described?

17 A Yes. Yes.

18 Q Okay. And then you describe this individual, who looks like  
19 Troy Polamalu, running from -- from the area of the parking lot, with a  
20 gun, and saying some words?

21 A Yes.

22 Q And I don't want to repeat them --

23 A I can under --

24 Q -- but those words that you described earlier?

25 A Yes.

1 Q Okay. And then he shoots in what direction?

2 A Towards my apartment.

3 Q Okay. So, I guess, toward -- toward the alcove, as well --

4 A Yes.

5 Q -- would that --

6 A Yes.

7 Q -- be fair?

8 A Yes.

9 Q I don't want to mischaracterize.

10 A Yes.

11 Q Yes?

12 A Yes.

13 Q Okay. And one -- one more question. You described a initial  
14 gunshot that caused everyone to flee, and then your girl to call 911 --

15 A Yes.

16 Q -- and then this other set of gunshots after? Do you know  
17 approximately how much time elapsed between the first gunshot and  
18 the group?

19 A About four to five minutes.

20 Q Okay. All right. I'll pass the witness, at this time.

21 THE COURT: Okay. Mr. Margolis?

22 MR. MARGOLIS: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. MARGOLIS:

25 Q Good afternoon, Mr. Lowe. So you saw a Hawaiian, Samoan

1 guy, about six feet, 180, right?

2 A Yes.

3 Q Did you describe about how old you thought he was?

4 A Around 35 and 40.

5 Q Okay. And Washington Nationals?

6 A Yes.

7 Q White shirt, black shorts?

8 A [No verbal response].

9 Q Okay. But you didn't see either the person that fired the first

10 shot --

11 A No.

12 Q -- or the individual that fired the subsequent, I think you said,

13 five or six shots --

14 A Yes.

15 Q -- right?

16 A Yes.

17 Q Basically, you were -- due to your very keen sense of self-

18 preservation, you became more of an ear-witness; fair --

19 A Yes.

20 Q -- to say? Okay. And you approximated the time between

21 the single shot fired and the four shots fired, as four to five minutes --

22 A Yes.

23 Q -- is that right? Can you describe, in any more detail, the

24 tattoos that you thought you saw on this Hawaiian, Samoan guy?

25 A I don't know. I didn't really see too. I didn't get too close --

1 Q Fair enough.

2 A -- to, so.

3 Q I don't think I would either. Did you notice, if you did, and if  
4 you didn't, just tell me "I didn't notice," were there two full sleeves?

5 A I don't know. I don't know.

6 Q Okay. Fair Enough.

7 A He -- I believe he had actual, like, long sleeves on that day.

8 Q Okay. Okay. So even if he did have sleeve tattoos --

9 A Yeah.

10 Q -- you wouldn't have been able to see them? All right. Thank  
11 you.

12 A No problem.

13 MR. MARGOLIS: Pass the witness.

14 THE COURT: Redirect?

15 MR. GIORDANI: Brief indulgence.

16 [Pause]

17 REDIRECT EXAMINATION

18 BY MR. GIORDANI:

19 Q You were just asked about tattoos, and you said, "I believe he  
20 had" longer -- "long sleeves on that day"?

21 A I'm, like, longer sleeves, yeah, to where they were rolled --  
22 like, not rolled all the way up to where I could see his full arm, but, like,  
23 to where I could only see around his -- I'm sorry for that -- around his  
24 forearm area.

25 Q Okay. Okay. So, because back then you said you told the

1 police the tattoos were on his arm, so you must've seen some --

2 A Yeah

3 Q -- of his arm?

4 A Exactly.

5 Q And what you just described, for the record is, the long  
6 sleeves were rolled up to the elbow?

7 A Yes.

8 Q So you could see his lower arm?

9 A At least -- yeah, about the forearms.

10 MR. GIORDANI: Okay. Understood. Thank you. No further  
11 questions.

12 THE COURT: Mr. Margolis, based on that?

13 MR. MARGOLIS: Just one question.

14 RECROSS-EXAMINATION

15 BY MR. MARGOLIS:

16 Q You said it was a Washington Nationals shirt, right?

17 A Yes.

18 Q And so is it like a jersey or --

19 A I believe -- it's just like a -- like -- almost like a T-shirt, but he  
20 had something underneath -- like a -- like a longer sleeve shirt.

21 Q Oh, so he's, like, layers --

22 A Yeah. Yeah.

23 Q -- or something, with a Nationals T-shirt and maybe a  
24 thermal or something?

25 A Yeah.

1 Q Okay. I got you. Thank you very much.

2 A No problem.

3 THE COURT: Ladies and gentlemen, any questions? Okay.  
4 Sir, thank you. Mr. Lowe, thank you so much for coming today. Please  
5 don't share your testimony with anyone else involved in the case,  
6 because it's ongoing. But I appreciate you coming in. You are excused.

7 THE WITNESS: Thank you.

8 THE COURT: All right, ladies and gentlemen. We will take  
9 our lunch break, at this time. Please remember, during this recess, do  
10 not discuss or communicate with anyone, including fellow jurors, in any  
11 way, regarding the case or its merits, either by voice, phone, email, text,  
12 internet, or other means of communication or social media.

13 Please do not read, watch, or listen to any news media  
14 accounts or commentary about the case, do any research, such as  
15 consulting dictionaries, using the internet, or using reference materials.

16 Please do not make any investigation, test a theory of the  
17 case, recreate any aspect of the case, or in any other way attempt to  
18 learn or investigate the case on your own. And please don't form or  
19 express any opinion, regarding the matter, until it's formally submitted  
20 to you.

21 It is 1:15, so I'll see you in one hour, at 2:15. Thank you.

22 THE MARSHAL: All rise.

23 [Jury out at 1:15 p.m.]

24 THE COURT: We can go off.

25 [Recess at 1:15 p.m., recommencing at 2:20 p.m.]

1 THE MARSHAL: All rise.

2 [Jury in at 2:20 p.m.]

3 THE COURT: All right. Welcome back everybody. We're on  
4 the record in State of Nevada v. Tuly Lepolo. C-345911. Mr. Lepolo is  
5 present with Mr. Margolis as well as paralegal Mendoza. Both district  
6 attorneys, Ms. Conlin as well as Mr. Giordani are present on behalf of the  
7 State. Thank you so much. Everyone please be seated.

8 And parties, do you stipulate to the presence of the jury?

9 MR. GIORDANI: We do.

10 MR. MARGOLIS: Yes, Your Honor.

11 THE COURT: All right.

12 State, next witness, please.

13 MR. GIORDANI: Dana Forman.

14 DANA FORMAN, STATE'S WITNESS, SWORN

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

17 THE WITNESS: Dana, D-A-N-A, last name Forman,  
18 F-O-R-M-A-N.

19 THE CLERK: Thank you.

20 THE COURT: Mr. Giordani.

21 MR. GIORDANI: Thank you.

22 DIRECT EXAMINATION

23 BY MR. GIORDANI:

24 Q Ms. Forman, I want to bring you back to 2016. Where were  
25 you living in April 2016?

1 A Charleston. 6501 Charleston.

2 Q Is that an apartment complex?

3 A The Lantana.

4 Q How many children do you have?

5 A Seven.

6 Q And what are their approximate age ranges?

7 A 30 to 13.

8 Q And were you living with your children at the Lantana back in  
9 April of 2016?

10 A Yes.

11 Q Do you have a son by the name of Dwayne?

12 A Yes.

13 Q And last name Armstrong?

14 A Armstrong.

15 Q And who is Flo or Flora Taylor?

16 A That's my sister.

17 Q Who is Henry Taylor?

18 A My brother.

19 THE COURT: Dana, could you do me a favor? I'm sorry.  
20 Could you scoot a little bit closer to that microphone? The jurors are  
21 having a hard time?

22 THE WITNESS: Okay.

23 THE COURT: Thank you, ma'am. I appreciate that.

24 BY MR. GIORDANI:

25 Q Flo, is your sister and Henry is your brother?

1 A Yes.

2 Q And did you know a group of individuals that lived across the

3 way in that same apartment complex?

4 A Yes.

5 Q Who did you know that lived across the way?

6 A My brother's girlfriends.

7 Q Which brother?

8 A My brother Antoine.

9 Q Okay. So that's another sibling.

10 A Another sibling.

11 Q So Antoine's girlfriend lived across the way?

12 A Uh-huh. With their family.

13 Q And did they share children together?

14 A Yes.

15 Q How many children?

16 A They have five now.

17 Q Antoine and that same woman?

18 A Yes.

19 Q And what is that woman's name?

20 A Jackie Lepolo.

21 Q Lepolo?

22 A Um-hum.

23 Q Okay. And you said that she had family over there as well.

24 A Yes.

25 Q Who else lived across the way?

1           A     I believe her family members, her cousins and stuff, and her  
2 mom and dad.

3           Q     And so Jackie -- well, I guess who's the matriarch of that  
4 family for lack of a better term? Is there an older lady that lives with that  
5 group?

6           A     I would say that would be her mother.

7           Q     Who's that?

8           A     Elaine.

9           Q     So does your family have various relationships with  
10 members of that family?

11          A     Yes.

12          Q     And how long would you say you personally had known that  
13 family before the 2016 incident?

14          A     Probably about a good eight or nine years.

15          Q     Did you know them from just from Vegas or from  
16 somewhere else?

17          A     From Vegas.

18          Q     Was there interactions between some family members in  
19 California?

20          A     No, not really.

21          Q     Not really?

22          A     No.

23          Q     Do you know if there were interactions or family -- familial  
24 connections out in California?

25          A     Yeah. Yeah. Some of their family members from California

1 was here.

2 Q Okay. So let me ask you this way. Back in 2016, had you  
3 known that family for an extended period?

4 A Yes.

5 Q And were there -- did there come a point in time in April, or  
6 prior to April of 2016, where you and some members of that family were  
7 involved in a physical altercation?

8 A Yes.

9 Q Describe that for the jury.

10 A I was jumped by the son and the mother and a best friend.

11 Q So when you say the son, who are you talking about?

12 A I'm talking about Tuly's son.

13 Q Okay. You just said the name Tuly.

14 A Um-hum.

15 Q Is that a yes?

16 A Yes.

17 Q Do you see that person in court?

18 A Yes.

19 Q Can you please point to that person and describe an article of  
20 clothing he's wearing today?

21 A A white shirt.

22 MR. GIORDANI: Would the record reflect identification of the  
23 Defendant.

24 THE COURT: It will.

25 MR. GIORDANI: Thank you.

1 BY MR. GIORDANI:

2 Q So what was the defendant's -- where was the defendant  
3 from, to your knowledge? Did he live in Vegas, or somewhere else?

4 A No, California.

5 Q And you said that the son jumped me. And then you  
6 describe it was the defendant's son?

7 A Yes.

8 Q Do you know that person's name?

9 A Yes, Mula.

10 Q Mula?

11 A Um-hum.

12 Q Okay. Like M-U-L-A?

13 A I believe so.

14 Q Okay. And who are the other people living there?

15 A His mother and his mother's best friend.

16 Q Was one of those or more of those -- one or more of those  
17 people like an outsider from somewhere else?

18 A Yeah, they were -- the mother was from California and the  
19 best friend was from California.

20 Q Okay, but the son was from here?

21 A Yeah, he lives here. He was living here at the time.

22 Q When you say he was living here at the time, was he living in  
23 that Lantana apartment or --

24 A No.

25 Q -- here in Vegas?

1 A Here in Vegas.

2 Q Okay. So tell us about briefly about that incident. You said  
3 you were jumped. But maybe the jury doesn't know what that means.

4 A So the mother and the son and the best friend, they beat me  
5 up. The son kicked me in the eye and my eye was like it's swollen.

6 Q And how long before the incident in April of 2016 was that?

7 A About two weeks.

8 Q After that particular incident two weeks prior, was there any  
9 other physical altercations or anything before the day of the shooting?

10 A No.

11 Q Was there verbal arguments or anything like that before  
12 the -- between the two days?

13 A No.

14 Q I want to bring you to April 5th of 2016. What were you  
15 doing on that day?

16 A April 5th of 2016?

17 Q I'm sorry. April 3rd.

18 A April 3rd. Yeah. I was having I was having a birthday party  
19 for myself. It was my birthday. A barbecue.

20 Q And where were you having a barbecue?

21 A At my house.

22 Q And is your house at Lantana?

23 A Yes. At Lantana Apartments.

24 Q Do you remember what apartment you lived in?

25 A No.

1 Q If I showed you a photograph, could you identify it?

2 A Yes.

3 Q Showing you 639. Do you see your apartment in this photo?

4 A Yes. On the left-hand side.

5 Q Top or bottom?

6 A The bottom.

7 Q And who did you invite or who was -- who did you expect or

8 intend to come to your party?

9 A Just my family and friends.

10 Q Was there some other party going on that that day or the day

11 before?

12 A It was a party going on at the same time right across the hall.

13 Q What do you mean right the across the hall?

14 A Like across the walkway.

15 Q All right. So for the jury, you didn't live there, right?

16 A Right.

17 Q This is your apartment?

18 A Um-hum.

19 Q Are you talking about the direction where the camera is

20 standing in this photo?

21 A Yes.

22 Q Okay. Show you 50. If this is your apartment down this

23 hallway on the right, where is the other apartment that you're talking

24 about?

25 A Right across the way on the left-hand side.

1           Q     All right. And you can take that mouse. Don't click with the  
2 mouse, but point at it with the cursor, please.

3           A     Okay. Right here.

4           Q     Is that your apartment or theirs?

5           A     That's theirs.

6           Q     Okay. Let me show you a different photo. State's 36. Do  
7 you recognize this photo?

8           A     Yes.

9           Q     Where in this photo is your apartment?

10          A     My apartment is on the left-hand side.

11          Q     On the left.

12          A     Um-hum.

13          Q     Is that a yes?

14          A     Yes.

15          Q     Okay. And so in order to get to the parking area, you would  
16 have to exit the alcove and make a left.

17          A     Yes.

18          Q     And the apartment that you're describing, is there -- you  
19 know, the other group? Is it directly across from your alcove?

20          A     Yes.

21          Q     In the building across the way?

22          A     Yes.

23          Q     Was there any crossover between the parties that you know  
24 of, like people coming and going from either apartment?

25          A     Yes.

1 Q At some point in time, was there an altercation between  
2 some people?

3 A Yes. It was a fight in the parking lot.

4 Q Describe that for the jury and how that came about, if you  
5 know.

6 A I guess they had decided to fight because of what happened  
7 to me.

8 Q Who did?

9 A My son and Mula.

10 Q Who's your son?

11 A Dwayne Armstrong.

12 Q Does he go by Wayne Wayne sometimes?

13 A Wayne Wayne. Yes.

14 Q So Wayne Wayne, and this person you described as Mula,  
15 the defendants son?

16 A Yes.

17 Q They agreed to fight.

18 A Yes.

19 Q And I believe you just said it was over what happened to  
20 you?

21 A Yes.

22 Q So Wayne Wayne didn't like his mom getting hit by a guy, I  
23 would imagine.

24 A Yes.

25 Q Did you -- were you outside when they agreed to fight?

1 A No. I wasn't outside. I came later after I found out.

2 Q So

3 A When I seen everybody going outside.

4 Q Where did you go when you came out?

5 A We went to the left towards the parking lot.

6 Q That same parking lot shown in this photo?

7 A Yes.

8 Q Describe what you recall happening.

9 A They were fighting. And then I guess my son was on top of

10 him. And then everybody started moving in towards everyone trying to

11 fight and my brother Henry shot in the air. Everybody dispersed and

12 started going back in their home.

13 Q Okay. So let's back up a moment and get a little more detail.

14 A Okay.

15 Q When you head out to the parking area, how many people

16 can you -- if you can estimate, did you see?

17 A Probably about -- probably about 30 I would say maybe.

18 Q Who did you leave in the apartment when you went out to

19 that area?

20 A My kids was still in the apartment.

21 Q Were there any grown-ups with the kids?

22 A Yes. I believe Trina Gill was in there also.

23 Q Who's Trina Gill?

24 A My brother's wife.

25 Q Henry's wife?

1           A     Henry's wife.

2           Q     So you -- the kids stay in. Trina stays in. You go out to the  
3 parking lot. You see like 30 to 40 people?

4           A     Yes.

5           Q     Could you see your son and Mula actually fighting?

6           A     Yes.

7           Q     And at some point, your son is on top of Mula?

8           A     Yes.

9           Q     Describe what you saw.

10          A     So my son was on top of Mula, and that's when the other  
11 side of the family start crowding in. And chaos started just breaking out,  
12 and my brother Henry shot up in the air and that's when everybody just  
13 dispersed.

14          Q     Did you see Henry shoot in the air?

15          A     Yes.

16          Q     Did you hear it too?

17          A     Yes.

18          Q     How many gunshots did he fire into the air?

19          A     One.

20          Q     When you say everybody dispersed, describe that a little  
21 better?

22          A     Like the whole -- the whole everybody out there just  
23 dispersing.

24          Q     Okay. Did you -- well, where did you go?

25          A     I ran in my house.

1 Q Did other people go into your house?

2 A Yes. Everyone was running into my house. And it was a  
3 couple of people still outside.

4 Q Okay. Well, so the jury understands, when you say  
5 everyone --

6 A Okay.

7 Q Who do you mean? Like the whole 40 people or --

8 A No, no. Just my family members came back into my house.

9 Q Okay. And did you see were the other I guess family or  
10 people in that group went?

11 A I believe they went to they house.

12 Q So you go inside?

13 A Um-hum.

14 Q Is that a yes?

15 A Yes.

16 Q What do you recall happening next?

17 A I go inside and then I walk in the house. And then I come out  
18 a few minutes later. And then that's when I see Mr. Tuly shooting.

19 Q Describe that -- well, just describe what you saw or what you  
20 remember.

21 A Like the edge of that walkway I went up to the door and I  
22 seen him with the gun shooting towards my apartment and it still was a  
23 few family members outside which was my son and I believe Raquel and  
24 I just seen everyone trying to run back into the house.

25 Q And you said Raquel. Who's Raquel?

1 A My friend.

2 Q She's not actually blood family right?

3 A No.

4 Q She's a friend.

5 A Yes.

6 Q Did Raquel also live in the apartments?

7 A Yes.

8 Q Where did she live?

9 A A little past the walkway where the other defendant, the

10 other parties lived.

11 Q I'm showing you State's 52. Do you recognize what we're

12 looking at here?

13 A Yes.

14 Q Describe kind of what we're looking at for the jury.

15 A This is the apartment building I live in.

16 Q Is this of you across the way?

17 A Yes.

18 Q And do you know how far down Raquel lived?

19 A I believe she lived the next apartment over from the other

20 party. Not --

21 Q Who lives in this corner place?

22 A The Lepolo's.

23 Q Okay. So when you say --

24 A In the next a little bit further down, Raquel apartment would

25 be in the next building.

1           Q     Okay. So when you come out, you see the defendant  
2 shooting?  
3           A     Yes.  
4           Q     Describe to the best of your ability what you observed.  
5           A     I observed him shooting. And I seen people trying to run in  
6 the apartment. I ran to the back and told my kids to go lay down.  
7           Q     As you went into the apartment, did someone come out?  
8           A     Yes. My brother, Henry.  
9           Q     Where did Henry come from?  
10          A     From inside the apartment.  
11          Q     Did you see if Henry had a gun?  
12          A     Yes, he had a gun.  
13          Q     What happened next?  
14          A     And he went to the front door. And I believe my son David  
15 said --  
16          Q     I don't want to hear what anyone told you.  
17          A     Okay.  
18          Q     Okay. Not hearsay.  
19          A     Okay.  
20          Q     I want you to say what you saw.  
21          A     I heard my son David said --  
22          Q     No, no.  
23          A     Okay, go ahead.  
24          Q     Let me ask you this. When you say, my son David said, are  
25 you about to describe something you heard after the event or something

1 he said in the heat of the moment?

2 A In the heat of the moment.

3 Q And would that have been immediately after that, those  
4 gunshots?

5 A Yes.

6 Q And what did he say?

7 A So my brother Henry was going out the front door to fire  
8 back and my son David said don't go outside. And my son -- and my  
9 brother Henry pushed him back and told him to move out the way.

10 Q And did you hear or see what happened after that?

11 A Then I -- well, I went back in the room with my kids. And I  
12 just -- I know it was shooting.

13 Q The people that were inside your home at the time.

14 A Yes.

15 Q Would that include all seven children?

16 A Yes.

17 Q Where do you know or if you know was Wayne Wayne or  
18 your son Dwayne?

19 A I'm not sure where he was.

20 Q Well, do you know where Raquel was?

21 A I believe -- I believe he had just made it in the house. I'm not  
22 sure.

23 Q Okay. Do you know where Raquel was?

24 A I thought she -- I thought she was -- I thought she -- I thought  
25 she had went back home actually.

1           Q     So when you look out and you see the defendant shooting,  
2 do you remember seeing anyone else?

3           A     No.

4           Q     Now, what happens after your brother goes past you and  
5 you hear the shots?

6           A     I just hear fire gunshots, and I'm just sitting there with my  
7 kids having them lay down.

8           Q     Having them lay down?

9           A     Um-hum.

10          Q     Is that a yes?

11          A     Yes.

12          Q     All right. Let me ask you. Were you drinking that night?

13          A     Yes.

14          Q     Smoking anything?

15          A     No.

16          Q     Just drinking?

17          A     Yes.

18          Q     And do you recall what happened after the shooting?

19          A     After the shooting, I was in my front door picking up the shell  
20 casings.

21          Q     Why would you do that?

22          A     I just heard someone say pick them up.

23          Q     So you picked them up?

24          A     So I picked them up.

25          Q     What happened as you were picking them up?

1 A As I was picking them up the police came.

2 Q And did they stop you?

3 A Yes.

4 Q Like literally --

5 A Yes.

6 Q -- in the act?

7 A In the act.

8 Q Okay. And you were handcuffed at some point, right?

9 A Yes.

10 Q At some point later after the handcuffs, did homicide

11 detectives come and talk to you?

12 A Yes.

13 Q And did they try to interview you and ask you what

14 happened?

15 A Yes.

16 Q Were you cooperative?

17 A No.

18 Q Did you tell them what you had seen?

19 A No.

20 Q Why not?

21 A I was scared.

22 Q Well, if you just seen the defendant shooting at you, why

23 wouldn't you just tell the cops you just saw him shooting?

24 A I was scared for my brother Henry.

25 Q Why?

1 A Because I usually don't talk to the police. I was just scared.

2 Q Why would you be scared for your brother Henry?

3 A Because I didn't know what happened.

4 Q Now, that evening, you give a statement to police.

5 A Yes.

6 Q And then eventually the police leave and you still live there,

7 right?

8 A Yes.

9 Q Did you interact with the other family after the incident?

10 A No.

11 Q In the days following?

12 A No.

13 Q Now, I want to fast forward to 2019. In 2019, were you

14 approached by detectives again?

15 A Yes.

16 Q At that point in time, had your brother Henry been arrested?

17 A Yes.

18 MR. GIORDANI: May I approach?

19 THE COURT: Yes.

20 BY MR. GIORDANI:

21 Q And in 2019, did detectives show you some photographs?

22 A Yes.

23 MR. GIORDANI: All right. I'm going to show you State's 311

24 and 312.

25 Which Your Honor, I've stapled together just for organization.

1 THE COURT: Okay.

2 BY MR. GIORDANI:

3 Q Page 311. Do you recognize that signature?

4 A Yes.

5 Q Is that you?

6 A Yes.

7 Q Page 312? Do you recognize that?

8 A Yes.

9 Q Fair to say on page -- or on Exhibit 312, there's six  
10 photographs?

11 A Yes.

12 Q One of which is circled?

13 A Yes.

14 Q And then on page 311 or Exhibit 311, there's a date and time.

15 A Yes.

16 Q Under your signature?

17 A Yes.

18 Q It's saying October 11th, 2019?

19 A Yes.

20 MR. GIORDANI: All right. I move for the admission of 311  
21 and 312.

22 THE COURT: Mr. Margolis?

23 MR. MARGOLIS: No objection, Your Honor.

24 THE COURT: It will be admitted. You can publish.

25 [State's Exhibits 311 and 312 admitted into evidence]

1 MR. GIORDANI: So I'm showing the jury now 311. I  
2 described an autograph on it.  
3 BY MR. GIORDANI:  
4 Q Is this your autograph?  
5 A Yes.  
6 Q Halfway down the page?  
7 A Yes.  
8 Q And do you see these typewritten instructions up here?  
9 A Yes.  
10 Q Were those read to you, or did you read them yourself before  
11 you looked at any photographs?  
12 A They were read to me.  
13 Q So a detective actually read those to you?  
14 A Yes.  
15 Q And then did they show you what's on page 312?  
16 A Yes.  
17 Q There's obviously six photographs here, right?  
18 A Yes.  
19 Q And there's only one that's circled?  
20 A Yes.  
21 Q And is that your signature as well by the circle?  
22 A Yes.  
23 Q And who is that?  
24 A The defendant.  
25 Q And is that person who you shot -- saw shooting that

1 evening?

2 A Yes.

3 Q Now, prior to 2019, did you tell the cops that?

4 A No.

5 Q It wasn't until this that you identified by photograph the  
6 shooter?

7 A Yes.

8 MR. GIORDANI: Court's brief indulgence. Thank you,  
9 ma'am. I'll pass the witness, Your Honor.

10 THE COURT: Cross?

11 MR. MARGOLIS: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MARGOLIS:

14 Q Good afternoon, Ms. Forman. You spoke to a detective a  
15 couple of hours after this happened; is that right?

16 A Yes.

17 Q And I know you testified on direct that you were scared. But I  
18 would like to go through your statement a little bit and talk about some  
19 of the things you said.

20 A Okay.

21 Q Do you recall what you said on April 3rd, 2016?

22 A No.

23 Q May I approach with a copy of your statement that day?

24 A Yes.

25 Q Now, if you could just briefly turn to page 3. Now, I know

1 you testified on direct that you were picking up shells in front of your  
2 apartment's front door; is that right?

3 A Yes.

4 Q And you testified that you pick those shells up because  
5 somebody said pick up the shells?

6 A Yes.

7 Q Don't suppose you recall who said pick up the shells?

8 A No.

9 Q Okay. Let me ask you this. A slightly different question.  
10 Variation on the theme, maybe. Would it have mattered who said pick  
11 up the shells?

12 A No.

13 Q So theoretically, if anyone had said pick up the shells or  
14 perhaps even if no one had, you might have done that?

15 A No.

16 Q Okay. Well, I think you said you picked up the shells because  
17 you were concerned for your brother; is that right?

18 A I'm not sure if I said that, but yes.

19 Q You don't think you said that?

20 A I might have said that.

21 Q Okay. I mean, I don't want to mischaracterize your  
22 testimony. That's what I thought I heard. Why were you concerned for  
23 your brother?

24 A Because my brother was involved in the shooting also.

25 Q And your brother actually was the one who fired the first

1 shot.

2 A In the air.

3 Q Okay. Now, you say in the air. I have no mechanism to  
4 doubt that, okay? Now, let me ask you something. If I were to take a  
5 gun and fire it in the air right now, what would your reaction be? If you  
6 could estimate it?

7 A Run.

8 Q You'd run, right?

9 A Yes.

10 Q Okay. So fair to say that when your brother threw a shot in  
11 the air, it is possible that some of the 30 to 40 people collected outside  
12 surrounding the fight between your son Dwayne Armstrong and my  
13 client's son Mula, they might have seen that as a threat, right?

14 A No, I don't see how.

15 Q You don't see how. Okay. So it would have been a pleasant  
16 experience to have a gunshot fired in the air in close proximity to you? I  
17 mean, I don't understand how they can all be running, yet not be  
18 threatened. Can you explain that to me and the jury?

19 A Well, I just felt like he shot in the air so everybody would  
20 disperse.

21 Q Okay. If your son's winning a fist fight, why does your  
22 brother feel compelled to fire a shot in the air?

23 A Because everyone starts crowding --

24 MR. GIORDANI: Objection. That would call for speculation.

25 THE COURT: Correct. On that basis.

1 BY MR. MARGOLIS:

2 Q Okay. You testified that members of my client's family  
3 were -- I don't want to mischaracterize your words -- getting closer to the  
4 fight between your son and my client's son?

5 A Yes, I believe -- I believe someone starts swinging. And  
6 that's the reason he shot the --

7 Q You believe? Did you see it?

8 A I believe someone was swinging.

9 Q Okay. I'm not interested in what you believe. I'm interested  
10 in whether or not you are a percipient witness to somebody other than  
11 my client's son swinging on your son.

12 A Oh, no.

13 Q I would appreciate it if you answered the question I asked.

14 A Okay.

15 Q You did not, correct?

16 A No, I did not.

17 Q You did not. Okay. So it's possible that they were getting  
18 closer so that they could see what was going on with the fight, correct?

19 A No.

20 Q That's not possible?

21 A No.

22 Q Okay. Fair enough. Would it surprise you to learn that  
23 members of my client's family --

24 MR. GIORDANI: Objection.

25 MR. MARGOLIS: Fair enough. I'll rephrase.

1 BY MR. MARGOLIS:

2 Q Did you tell the detective hours after this happened, that you  
3 didn't know anybody was shooting from your apartment?

4 A Yes.

5 Q And you told the detectives that according to your direct  
6 testimony on today, that you did that because you were scared, right?

7 A Yes.

8 Q You also testified that my client doesn't live here, right?

9 A Yes.

10 Q So in 2016, you knew my client did not live in Las Vegas?

11 A Yes.

12 Q And you may or may not know, but the party that his family  
13 was having was the day prior. Were you aware of that?

14 A No.

15 Q Okay. Would it surprise you or would you have a reason to  
16 argue with me if my client was on the way out of town? Do you have  
17 knowledge that my client -- the California outliers of my client's family  
18 were going back out of town? This was 9:00 on a Sunday night.

19 A No.

20 Q You don't have knowledge, right? One way or the other,  
21 correct?

22 A Not at all.

23 Q Okay. So yet the reason you didn't tell detectives anything,  
24 despite the death of your very close friend, was because you were  
25 scared of my client. My client's daughter lived with you, correct?

1 A Yep.

2 Q And she has been with your son, David Kirkwood [phonetic]  
3 for a number of years now, right?

4 A Yes.

5 Q So it's fair to say that you probably have a little bit of  
6 familiarity with my client and his family, yes?

7 A Yes.

8 Q Okay. You say that my client's son beat you up; is that right?

9 A Yes.

10 Q In your opinion, why would he do such a thing? Or if you  
11 know, was there something you did that provoked that?

12 A Well, I guess her mother was mad because I had a problem  
13 with her daughter.

14 Q Okay, good. I'm glad you said that.

15 A Um-hum.

16 Q Now, why would her mother be mad at you since it seems  
17 like you had an idea? Why -- what was your problem with her daughter?

18 THE COURT: So can I just -- I apologize for interrupting. Can  
19 we just get the people's name? So the daughter's name and the mom  
20 changes. So I don't know how many daughters there are. Thank you.

21 THE WITNESS: Her daughter's name is Nana.

22 BY MR. MARGOLIS:

23 Q Right. And mom's name?

24 A I'm not even -- I never met the mom. That was the first time I  
25 had --

1 Q That was the first time.

2 A First time I ever met the mother.

3 Q The evening that mom and you got into it, had mom tried to  
4 introduce herself to you earlier that evening?

5 A Yes.

6 Q And did you at that time not engage with her?

7 A I was sick. And I was sleep at the time that they came to my  
8 house.

9 Q You were sick and asleep at the time, right?

10 A Yeah. I was sleep, so --

11 Q Okay. And a couple hours later is when the interaction  
12 happens that leads to the fight, correct?

13 A Yes.

14 Q And I believe my client's daughter, Nana, her mother felt that  
15 you weren't interested in talking with her, not that you were sick. Did  
16 she say --did you get that impression when she approached you?

17 A Yes.

18 Q Okay. How did you react when she approached you with an  
19 attitude that's kind of like what for? What for, Dana? Why aren't you  
20 talking to me? You didn't like that, right?

21 A No, that wasn't the issue.

22 Q Okay. Tell me and the jury what the issue was because you  
23 had some kind of beef with Nana and that's what brings mom to your  
24 door, right?

25 A I actually didn't have any kind of beef with Nana. I wasn't

1 even aware of there was a problem with the mother nor Nana at the  
2 time.

3 Q But you know now that there was some problem?

4 A Now I do.

5 Q Okay. How long did you and my client's daughter Nana live  
6 together?

7 A Probably about two months, if -- no, I just moved there. So  
8 probably about four weeks, probably a month.

9 Q Certainly not long enough to lead to some people showing  
10 up at your door to beat you up, right?

11 A Obviously, it was.

12 Q There's an existing conflict between you and some members  
13 of my client's family on April 3rd, 2016, right?

14 A Yes.

15 Q And that conflict stems from a fight involving you a couple of  
16 weeks prior?

17 A Yes.

18 Q People close to you didn't like the fact that you had been  
19 beaten up by my client's son and other members of his family, correct?

20 A Yes.

21 Q And they weren't going to let it lie; is that fair?

22 A Yes.

23 Q So members of your family on April 3rd, 2016 were looking  
24 for a fight with my client's son.

25 A No, not looking for a fight.

1 Q Okay. I mean, that's interesting, because there was a fight,  
2 right?

3 A Yes.

4 Q So did someone go and drag your son, Dwayne Armstrong,  
5 out of his bedroom in your apartment and bring him to the middle of the  
6 parking lot. Draw a circle in the parking lot and say, let's go.

7 A Not at all.

8 Q Okay. So please tell me if your family wasn't interested in  
9 the fight, how did the fight occur? You were there. This is your get  
10 together barbecue birthday party, whatever you'd like to refer to it as.  
11 How do these people with this existing conflict that surrounds you get  
12 into a parking lot and square up?

13 A I'm not sure because I wasn't aware of the fight until I heard  
14 everyone going outside. So I'm not sure of that.

15 Q All right. So I mean, let's go through this statement a little  
16 bit more because it feels like you're not aware of much. Page 4. Please  
17 read the first question on page 4 to yourself. Okay. Detective asked you,  
18 "So you think the shooting was meant for you guys, or what?" You  
19 answer, "I don't know." That wasn't true, was it?

20 A I'm not -- it probably was true, but I was drunk. I was  
21 drinking at the time. So I really don't remember this --

22 Q It was true that you don't know --

23 A I was drinking at the time, sir. So when I made this  
24 statement, I'm not quite sure what I said.

25 Q Okay. Well, I mean, we could read what you said.

1           A     Yes.

2           Q     So I'm asking you is what you said, whether you were drunk  
3 or stone cold sober, when the detective asked you so do you think the  
4 shooting was meant for you guys or what? And you say, I don't know.  
5 That's not true, correct?

6           A     Not true.

7           Q     Okay. That is not true. Now, let me ask you, because you  
8 brought up that you were drinking and it was your birthday. No one's  
9 going to blame you for drinking on your birthday, okay? Would you say  
10 in previous in your life's experience -- and we're about the same age -- in  
11 your life's experience, when you drink, does it make you quicker?  
12 Sharper?

13          A     No.

14          Q     No. Okay. Generally it would make you a better liar or a  
15 worse liar. Do you have an opinion on that? Does alcohol make  
16 someone better at deception or worse?

17          A     No, I just think alcohol make me slower.

18          Q     Slower. Okay. Okay. Now, next question. Detective asked,  
19 you, "Did someone run back to your apartment with a gun? Is that how  
20 the bullets got out front there?" You see your answer there?

21          A     Yes.

22          Q     "No, they was just shooting. Everybody was just shooting. It  
23 was like everybody was shooting. I don't know who was shooting."  
24 That's not true either, is it?

25          A     No.

1 Q Okay. Next question. "Was there more than one person's  
2 shooting?" Did you give an answer to that question?

3 A No.

4 Q Okay. Go to the next page for me, please. Page 5. Now on  
5 page 5, there is a question. And it is the one, two, three, fourth question  
6 from the bottom? Do you see it on page 5?

7 A Yes.

8 Q Okay. And that says, "Which direction were the shots  
9 coming from?" Your answer. "I have no idea." Not true, right?

10 A Not true.

11 Q Okay. Last question on that page, page 5. You don't -- "You  
12 never saw the person shooting?" Do you remember what your answer  
13 was?

14 A No.

15 Q You don't remember?

16 A No.

17 Q All right. Flip to page 6. Let's look at your answer. I'm sorry.  
18 I might have given you a two-sided one. If I did I apologize for that.

19 A Okay.

20 Q Okay. You say, "No. I never seen who shot. No, I never  
21 seen." Right?

22 A Yes.

23 Q Also not true.

24 A Yes.

25 Q Next question. White Chevy Suburban, California plates.

1 You say you don't recognize it? Was that true?

2 A No.

3 Q Who's Terrence Parris?

4 A A friend of the family.

5 Q Did you remember that on the night that the detective was  
6 questioning you after your friend was shot?

7 A No.

8 Q Would you agree with me that alcohol wouldn't make you  
9 forget the identity of your friend?

10 A Yes.

11 Q Okay. How do you feel about what happened on April 3rd,  
12 2016?

13 A I feel like it was unnecessary. And I feel like she wasn't -- it  
14 wasn't fair for her to lose her life over something very unnecessary.

15 Q Do you think -- let me rephrase that. How close were you  
16 and Ms. Stapinski?

17 A We were really close.

18 Q Really close, right?

19 A Yes.

20 Q So I don't presume to know your friendships. But my guess  
21 is that if she was a really close friend, and she thought you were in  
22 danger, would she -- in your opinion would she come to your aid?

23 A Yes.

24 Q Had she come to your aid in previous times in your life?

25 A Yes.

1 Q Okay. And fair to say if something went down on April 3rd,  
2 2016, she was going to come to your aid as well, right?

3 A Yes.

4 Q Thank you. I want to go to your second statement now. And  
5 if you'd like a copy of it, I'll bring it up there. Would that help? Now,  
6 obviously this statement you make a long time afterward, you know,  
7 several years afterward.

8 MR. GIORDANI: Can we just get the date?

9 MR. MARGOLIS: Oh, of course. I'm sorry.

10 BY MR. MARGOLIS:

11 Q October 11th, 2019, your second statement. Okay. Does  
12 your memory get better the further away you get from something?

13 A No.

14 Q Generally speaking, our memories are best when they're  
15 fresh. You'd agree, right?

16 A Yes.

17 Q Okay. So in your first interview when you said you didn't  
18 recall, you recalled.

19 A Yes.

20 Q Let's go to page 3 of your second statement, okay. Page 3.  
21 You talk about some of the connections between your family and my  
22 client's family, right?

23 A Yes.

24 Q For instance, we heard today that your son, David Kirkwood,  
25 and my client's daughter, Nana, have been a couple for a long time,

1 right?

2 A Yes.

3 Q And Antonio has been with Jackie and they have five kids?

4 A Yes.

5 Q So your families are very well known to each other, right?

6 A Yes.

7 Q And given the duration of the relationships of your brother  
8 and son with members of my client's family, you were familiar with my  
9 client prior to April 3rd of 2016?

10 A I knew of him. I really didn't know him.

11 Q I take it you weren't among the family members that had  
12 gone to the birthday party the day prior at the park?

13 A No, I was not.

14 Q Okay. Why did your son Dwayne Armstrong fight my client's  
15 son Mula?

16 A Because he was mad because I got jumped.

17 Q He was mad?

18 A Yes.

19 Q You weren't mad?

20 A I was mad, but I was willing to let it go because I didn't want  
21 nothing like -- nothing to happen.

22 Q You were willing to let it go.

23 A Yes, sir.

24 Q But he wasn't. Your son Dwayne wasn't.

25 A No.

1 Q Okay. What about your brother? Was your brother willing to  
2 let it go?

3 A Yes. My brother was even supposed to be at the birthday  
4 party.

5 Q I mean, he made his presence felt for a guy who wasn't  
6 supposed to be there. Why should the jury believe you today when you  
7 lied for years every time you were asked a question. A question that  
8 probably would have helped detectives investigate the death of your  
9 friend Raquel. Why should they believe you when you lied for years?

10 A At the time I was just scared.

11 Q Your brother fired shots that night, correct?

12 A Yes.

13 Q Your brother returned fire?

14 A Yes.

15 Q Amply, and you retrieved the shells.

16 A Yes.

17 MR. MARGOLIS: Okay. I'll pass the witness. Thanks.

18 THE COURT: Redirect?

19 MR. GIORDANI: No, thank you.

20 THE COURT: Questions? Okay.

21 THE MARSHAL: We have to have one question per page, so  
22 you're going to have to rewrite it. I'm sorry.

23 [Sidebar at 3:05 p.m., not transcribed]

24 THE COURT: Okay. All right. I have some questions from  
25 the jury. So regarding the first fight, so when we say the first fight in

1 regards to this question, I believe we're talking about the fight in  
2 the -- like the parking lot.

3 Was Henry Taylor armed, and if so, why, if you know?

4 THE WITNESS: No, he was not armed.

5 THE COURT: Okay. In the first fight in the parking lot?

6 THE WITNESS: Yes.

7 THE COURT: Okay. And then I apologize because I think you  
8 said this, but I can't remember. Did you go out to that first fight in the  
9 parking lot?

10 THE WITNESS: Yes.

11 THE COURT: Okay. What was the shooter that you saw  
12 wearing?

13 THE WITNESS: I'm not sure.

14 THE COURT: When you say you were scared, were you  
15 scared for yourself or for your brother?

16 THE WITNESS: Both.

17 THE COURT: What instigated the jumping if there were no  
18 previous incidents with Mula or his mom?

19 THE WITNESS: Because I said sometime to the daughter in  
20 effect and I guess she went back and told her mother. But I had never  
21 met the mother.

22 THE COURT: You had never met Mula or the mom?

23 THE WITNESS: I met Mula, but I never had met the mom.

24 THE COURT: You had never met the mom. And when we're  
25 talking about the daughter, we're talking about Nana.

1 THE WITNESS: Nana. Yes.

2 THE COURT: Did your brother fire his gun once or multiple  
3 times?

4 THE WITNESS: What, in the parking lot, or --

5 THE COURT: Well, let's do -- I think this one is talking about  
6 when you guys are in the alcove. But let's say in the parking lot. What  
7 would you say to that?

8 THE WITNESS: One shot.

9 THE COURT: And in the alcove, what would you say?

10 THE WITNESS: Multiple.

11 THE COURT: If you were originally scared to tell what  
12 happened, what caused you to later change your mind?

13 THE WITNESS: Because I just-- I felt bad. My friend needed  
14 justice.

15 THE COURT: Was there a party or a barbeque taking place in  
16 the parking lot?

17 THE WITNESS: In the parking lot?

18 THE COURT: Yeah. Like --

19 THE WITNESS: In my home?

20 THE COURT: -- before all this was happening when the  
21 other -- I think there was -- was there a party happening in the parking lot  
22 area too during that night?

23 THE WITNESS: No.

24 THE COURT: Okay. Were people congregating in the  
25 parking lot?

1 THE WITNESS: No.

2 THE COURT: Okay. Regarding the jumping incident. Who  
3 started the fight? Who threw the first blow?

4 THE WITNESS: The mother.

5 THE COURT: In regards to the shooting in the quad, when  
6 back in the quad, who shot first? Henry Taylor or Lepolo?

7 THE WITNESS: Lepolo.

8 THE COURT: In the quad, were you picking up shells to  
9 cover up for the shots that Henry Taylor made? And make it only look  
10 like Lepolo had fired shots?

11 THE WITNESS: No. I was just picking them up because they  
12 were in front of my house and someone said it. It wasn't to cover up.

13 THE COURT: Okay. All right. So now we're back in the  
14 parking lot when the fight's happening in the parking lot. Did Henry  
15 Taylor threaten anyone while armed with his gun after he shot the  
16 warning shot in the air, and did he point his weapon at anyone?

17 THE WITNESS: No.

18 THE COURT: We've got other questions.

19 [Sidebar at 3:15 p.m., not transcribed]

20 THE COURT: All right. So in regards to the fight in the  
21 parking lot, if Henry didn't have a gun in the parking lot for the first fight,  
22 when did he grab it and where did he get it from?

23 THE WITNESS: In the house in my son's bedroom.

24 THE COURT: So this is a kind of a similar question, but I  
25 think there's some confusion regarding that. So it says, did you just say

1 your brother was not armed in the parking lot? If so, wasn't he the one  
2 who had shot in the air?

3 THE WITNESS: Yes.

4 THE COURT: Can you explain that a little bit then?

5 THE WITNESS: Well, when I say that, I didn't know he was  
6 armed in the parking lot. I wasn't aware until the shot fired. That's what  
7 I meant by that.

8 THE COURT: So you weren't aware that he had a gun?

9 THE WITNESS: No.

10 THE COURT: And then so how did you know about in your  
11 son's room or whatever you said about the gun?

12 THE WITNESS: Well, I know when the shooting started  
13 happening, I know he went to the bedroom and grabbed a gun.

14 THE COURT: Okay. The shooting in the alcove?

15 THE WITNESS: Yes.

16 THE COURT: Where is Nana during all this?

17 THE WITNESS: My son and Nana, I have no idea. They  
18 wasn't around.

19 THE COURT: Not around in the barbecue at all?

20 THE WITNESS: No.

21 THE COURT: Or barbeque --

22 THE WITNESS: Well --

23 THE COURT: -- or party, whatever it is.

24 THE WITNESS: No, not at all.

25 THE COURT: Okay.

1 State, follow up?

2 MR. GIORDANI: Yes. Thank you.

3 REDIRECT EXAMINATION

4 BY MR. GIORDANI:

5 Q So I want to just hit a couple of those juror questions with  
6 you and go back to the first set of questions. You were asked about  
7 whether there was a party in the street, or were people congregating in  
8 the parking lot or something to that effect. Your plan to do your  
9 barbecue birthday party, is that at your apartment?

10 A Yes.

11 Q Is there literally a grill at your apartment?

12 A Yes. On my patio.

13 Q Okay. So when you invite people over, are they going to  
14 your place, your apartment?

15 A Yes.

16 Q Were you out watching what was happening in the parking  
17 lot in the hours leading up to the shooting, or were you in your  
18 apartment?

19 A I was in my apartment.

20 Q Okay. So if you know or not, were there -- was there other  
21 people out in the parking lot drinking beer or having a party or  
22 congregating?

23 A I don't know. I was inside.

24 Q Okay. Were there times where you went outside in the  
25 evening before this initial fistfight, or --

1           A     No.

2           Q     So there was a couple of questions, and I think there was  
3 some confusion. I want to try to clarify this. You told the jury from the  
4 very beginning that your brother shot in the air, right?

5           A     Yes.

6           Q     That would mean he's armed.

7           A     Yes.

8           Q     That's how I interpret the word armed.

9           A     Yes.

10          Q     And you've just kind of clarified that you didn't know he was  
11 armed?

12          A     No, I did not know he was armed.

13          Q     So when you say he went and got the gun later, do you have  
14 any idea if it's the same gun he fired in the air, which is the same gun  
15 that he returned fire on Mr. Lepolo?

16          A     Not sure.

17          Q     Why do you think or why did you say that you believe he  
18 went in after the first shot and got a gun from the back room?

19          A     Because I feel like when -- I felt like he didn't have it on him  
20 when he went back to shoot -- return fire. I don't feel like he had it on  
21 him.

22          Q     So he made it all -- after the initial shot and everyone  
23 disperses, he, being Henry, made it all the way back to your apartment.

24          A     Yes.

25          Q     Was he inside your apartment?

1           A     Yes.

2                   MR. GIORDANI: Okay. Thank you. I'll pass, Your Honor.

3                   THE COURT: Mr. Margolis?

4                                   RECROSS-EXAMINATION

5 BY MR. MARGOLIS:

6           Q     Ms. Forman, would you agree with me that the truth never  
7 changes?

8           A     Yes.

9                   MR. MARGOLIS: Thanks.

10                  THE COURT: Ma'am, thank you so much for coming today.

11 Please don't share your testimony with anyone else involved in the case  
12 since it's ongoing in the trial. Thank you for coming. You are excused.

13                   State?

14                  MR. GIORDANI: Henry Taylor.

15                  THE COURT: Oh, no. Right up here, sir.

16                  THE MARSHAL: Remain standing up, and raise your right  
17 hand so the clerk can swear you in.

18                  THE CLERK: Right over here, sir.

19                  THE COURT: Right here, sir.

20                          HENRY TAYLOR, STATE'S WITNESS, SWORN

21                  THE CLERK: Please be seated. And will you please state  
22 your name and spell it for the record?

23                  THE WITNESS: Henry Taylor, H-E-N-R-Y, T-A-Y-L-O-R.

24                  THE CLERK: Thank you.

25                  THE COURT: Good afternoon, Mr. Taylor. So that little black

1 kind of box in front of you is a microphone.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: So you don't have to lean over to talk into it or  
4 anything. But if you could just keep your voice up. That way the  
5 microphone will pick it up and carry it. Sometimes it's a little bit hard for  
6 my jury to hear.

7 THE WITNESS: Okay.

8 THE COURT: So I'll remind you if it gets a little quiet okay,  
9 sir?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Thank you.

12 Mr. Giordani.

13 MR. GIORDANI: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MR. GIORDANI:

16 Q Mr. Taylor, that lady that just walked out of the courtroom.  
17 Was that your sister?

18 A Yes, sir.

19 Q Is that Dana Forman?

20 A Yes, sir.

21 Q Do you have other siblings?

22 A Yes, sir.

23 Q Can you name them for the jury?

24 A Monte [phonetic], Eugene [phonetic], Antoine [phonetic], Earl  
25 [phonetic], Shatan [phonetic], and Flora Taylor.

1 Q And Flora, is that your sister?

2 A Yes, sir.

3 Q Does Flora go by Flo?

4 A Flo, yes.

5 Q I want to bring you back to April of 2016. On that date, or on

6 April 3rd of 2016, did you go over to Dana's house?

7 A Yes.

8 Q Was she living in an apartment at the time?

9 A Yes.

10 Q Who else was she living with?

11 A Her kids. Wane Wayne, Desheana [phonetic], the rest of her

12 kids.

13 Q Okay. I'm going to scoot that microphone up.

14 A The rest of her kids.

15 Q No, it's all right. You sit comfortably. I'm just going to move

16 it up and you got to speak up a little bit.

17 A Okay.

18 Q So Dana lived with her kids. And I believe you said one of

19 the names you said was Wayne Wayne?

20 A Yes, sir.

21 Q How old if you know was Wayne Wayne back then?

22 A Around could be like 19, 17.

23 Q Like 19 or 17?

24 A Yes, I believe so.

25 Q And there were other kids in the home as well?

1 A Yes, sir.

2 Q And on that date, did you go over to Dana's home?

3 A Yes.

4 Q What was the purpose or why did you over there?

5 A It was her birthday, and my wife talked me into it. Like going

6 over there to celebrate her birthday.

7 Q Her being who?

8 A My sister, Dana.

9 Q Oh, it's her birthday.

10 A It's her birthday.

11 Q And your wife talked you into it? What do you mean?

12 A Like because I really ain't want to go. And I was, like, not

13 feeling up to it. Like, because me and my sister we, like, don't be eye to

14 eye.

15 Q You don't be eye to eye?

16 A Yeah.

17 Q Okay. But you went?

18 A Yeah, I went.

19 Q And when you arrived there, where did you go?

20 A To my sister house.

21 Q When you went to her house, were there other people there?

22 A Yeah.

23 Q Were kids there?

24 A It was kids. A gang of people. A gang of kids there.

25 Q A gang of kids.

1 A Yeah.

2 Q Does that mean a lot of kids?

3 A Yeah. A lot of kids.

4 Q Okay. Was there also your sister Flo or Florida?

5 A Flo was there.

6 Q Wayne Wayne?

7 A Wayne Wayne.

8 Q Who else?

9 A My cousin Junior. My wife. My son.

10 Q Who's your son?

11 A Sir Henry Taylor.

12 Q How old is he? How old -- or I guess how old was he back

13 then?

14 A He was about like what, 15 at the time. Fourteen.

15 Q And was -- did you know a person by the name of Raquel?

16 A Yeah. Raquel.

17 Q How did you know her?

18 A That's my momma's friend. My sister friend. She like a

19 friend of the family.

20 Q Did your mom pass away?

21 A Yeah. My momma passed away.

22 Q When was that?

23 A I don't recall the -- like the date. But it was, like, a couple of

24 years ago

25 Q A couple years ago.

1           A     Yeah.

2           Q     Okay. So is Raquel one of the people that was there at  
3 Dana's apartment?

4           A     Yes.

5           Q     What were you guys doing when you first got there, when  
6 everybody's kind of getting there?

7           A     Well, everybody was pretty much, like, celebrating, like,  
8 Dana's birthday.

9           Q     Was there -- or did you know some other people that lived in  
10 the apartment across the way?

11          A     Yes. My brother Antoine and his baby mama Jackie.

12          Q     So did she live across the way from Dana?

13          A     Yeah.

14          Q     Do you know who she lived with at the time?

15          A     No, I don't know who she lived with at the time.

16          Q     Did you know other members of her family?

17          A     A couple of them.

18          Q     Had you -- did you know any siblings of hers? Like her  
19 brother?

20          A     Her brother. Yeah, John John.

21          Q     Another brother? Or did you know any other brothers?

22          A     I don't know they name, but I like -- like, I could, like, like,  
23 recognize them by face.

24          Q     Did you interact with other members of that family or did you  
25 know, or --

1           A     Like, Jackie, that's, like, my sister-in-law, like, because she  
2 got a baby with my brother.

3           Q     Okay.

4           A     So like I interact with Jackie.

5           Q     Okay.

6           THE COURT: Sorry, Mr. Giordani. Do you mean that day or  
7 just in general in life?

8           MR. GIORDANI: Yeah, that's a bad question.

9 BY MR. GIORDANI:

10          Q     In general, I mean, you have this familial relationship with  
11 someone right? They share child together.

12          A     Yes.

13          Q     Or multiple children, right?

14          A     Yeah. They got five kids together.

15          Q     Okay. And then there are -- did you throughout the course of  
16 their relationship, did you come to interact with or meet other members  
17 of the family?

18          A     Oh, no.

19          Q     Okay. So you knew only Jackie at that time?

20          A     Well, Jackie, Eli, or Jackie mother and Nana, like, because my  
21 nephew go out with Nana.

22          Q     Your nephew goes out with Nana?

23          A     Yeah.

24          Q     They have a relationship?

25          A     They got a relationship.

1 Q And who is your -- who goes out with Nana?

2 A David.

3 Q David?

4 A Yeah.

5 Q Okay. Do you know or did you know who Nana's parents

6 were at the time?

7 A No.

8 Q Had you -- do you know if you had interacted with her

9 parents at that time?

10 A No.

11 Q So I want to talk to you about that evening at Dana's place.

12 At some point in time, did you learn that there was going to be a fight?

13 A Yeah. It was going to be a fight with Nana brother and my

14 nephew, Dwayne.

15 Q Dwayne. Does Dwayne also go by Wayne Wayne?

16 A Wayne Wayne. Yes.

17 Q All right. When do you know what they were supposed to

18 fight about?

19 A Not really. I ain't know what -- I knew it was something that

20 have to do with -- like, I don't know. Because Dana got -- my sister Dana

21 must of got into it with Nana mama early on that weekend or whatever,

22 but I don't know what was the cause of them getting into it. I don't

23 know.

24 Q But for some reason there's some kind of --

25 A It's tension.

1 Q -- tension.

2 A Yes.

3 Q Were you around -- were you -- did you observe when they  
4 agreed to fight?

5 A Yeah, I was around when they agreed to fight.

6 Q Describe that for the jury how -- what happened? What went  
7 down?

8 A Well, we went outside. They start fighting.

9 Q Let me stop you.

10 A Okay.

11 Q So when you say we went outside.

12 A Yeah.

13 Q What are you talking about? Where are they actually  
14 fighting?

15 A In front of Dana apartment. Like and Jackie apartment.

16 Q Okay. Is there a street out there?

17 A Like the parking lot.

18 Q A street -- well, a parking lot where cars --

19 A Yeah.

20 Q -- are parked?

21 A Yes.

22 Q Let me show you. One moment please. I'm going to show  
23 you State's already admitted 21 and just ask you do you recognize this  
24 area?

25 A Yeah, I recognize it.

1 Q That street in the foreground, is that what --  
2 A Yeah, right there.  
3 Q -- you're talking about?  
4 A Right there. Yeah.  
5 Q All right. So they go out. And they actually physically fight.  
6 A Yeah. They had a physically fight.  
7 Q How many people were out there?  
8 A It was about like more than 10 or 15. It was a gang of people.  
9 Q Okay. When you say a gang of people, are you saying a lot  
10 of people?  
11 A Yeah. A lot of people.  
12 Q Were there people from your family?  
13 A It was some from my family.  
14 Q And were there other people as well?  
15 A Yeah. It was other people as well.  
16 Q Do you know if there were people from that other family that  
17 you were just talking about?  
18 A Yes, it was.  
19 Q Okay. And did you get a gun?  
20 A Yeah, I got a gun.  
21 Q Where did you get it from?  
22 A From my nephew Wayne Wayne.  
23 Q Wayne Wayne is the guy that's fighting, right?  
24 A Yeah.  
25 Q So did he have the gun on him during the fight?

1           A     No.

2           Q     Did you --

3           A     I got the gun before he went outside and fight.

4           Q     Where was the gun?

5           A     In his room.

6           Q     Do you know where in his room?

7           A     No. I can't remember.

8           Q     Do you remember if it was a semi-automatic or a revolver?

9           A     I think it was a automatic.

10          Q     And do you know -- I mean, does an automatic have a slide

11 on it, or the round thing?

12          A     I know an automatic got a slide on it.

13          Q     And that's what type of gun it was.

14          A     Yeah.

15          Q     So you had that on you when this fight was happening?

16          A     Yeah.

17          Q     And then describe for the jury what happens.

18          A     When the fight was occurring, Wayne Wayne was start

19 getting the best of Nana brother and it was like a gang of people start

20 trying to rush, like, rushed, like, jump in. I fired in the air and everybody

21 broke up, you know. And so we were in the house and was chilling for a

22 couple minutes and stuff, and next thing you heard it was gunshot

23 boom, boom, boom.

24                 And I ran into the front with the same gun. And a couple of

25 my family members was coming in -- running in the house, and I went

1 outside. And as I was running outside, I see Jackie, Nana daddy with his  
2 gun and I was, like, aimed at him to shoot at him. And when I shot at  
3 him I fell. The bottom of my gun, all the bullets came out like the bottom  
4 of the clip, it broke.

5 Q Okay, so let me back up. You fire a round in the air and you  
6 said everyone just like --

7 A Everybody like, like, like, scattered and went they own way  
8 then, you know.

9 Q Why did you fire the round in the air?

10 A To stop Nana people from jumping on my nephew.

11 Q Do you know -- well, you know that's illegal to shoot a gun in  
12 the air?

13 A Yes, I know that was illegal.

14 Q Okay. So everyone's spreads out --

15 A Yeah.

16 Q Scatters.

17 A They go --

18 Q Where did they go?

19 A They go to Jackie house and we went to Dana house.

20 Q All right. And then you said you went back inside?

21 A Yeah.

22 Q And then a couple seconds or a couple minutes later you  
23 hear shooting?

24 A Yeah. It was a couple of minutes after like -- after that we  
25 was, like, in the house. And I was smoking a blunt, and then I heard

1 shooting.

2 Q So then you ran to the front.

3 A We ran to the front.

4 Q How big would you say Dana's apartment is?

5 A It's about what, like I think it's two or three bedroom.

6 Q And you run to the front meaning the front door?

7 A The front door.

8 Q You said, I saw Nana's daddy.

9 A Yeah.

10 Q The jury doesn't know who that is.

11 A Okay.

12 Q So can you describe that person or tell me do you see that  
13 person in court here today?

14 A Him right there.

15 MR. GIORDANI: Okay. Would the record reflect the witness  
16 just pointed at the defendant.

17 THE COURT: It will.

18 THE WITNESS: Yeah.

19 BY MR. GIORDANI:

20 Q Had you interacted with or did you know him? The  
21 defendant you just pointed out prior to that night?

22 A No, I haven't never met him.

23 Q When you went out, did you see him actually shooting a  
24 gun?

25 A When I came, yes, he was coming towards the house

1 shooting the gun.

2 Q When you say coming towards the house --

3 A Coming towards the door entrance, like, where the  
4 stairway -- like where I came out of because I came out the front door  
5 and he was running towards the front door.

6 Q Shooting the gun?

7 A Yeah.

8 Q And when you shot back, do you know if you hit him or not?

9 A I believe I hit him.

10 Q Why do you say that?

11 A Because it was, like, I had a direct aim on him. Like, you  
12 know it was, like, because I was -- like because people was running in  
13 and I was, like, direct aim, like, boom when I fell. That's why I assume I  
14 hit him.

15 Q Okay. So you just had your arm out for the record, your right  
16 arm and you're pointing it straight ahead as though you had a gun in  
17 your hand.

18 A Yeah.

19 Q And you said boom. And you kind of hit your hand on the  
20 table, which -- explain so the jury knows what you're talking about.

21 A Because when I ran out and I jumped because he was  
22 coming towards me shooting towards -- towards the doorway. I jumped  
23 and I fell and the gun bumped at the bottom of the gun, the clip it -- all  
24 the bullets came out and went all over the floor.

25 Q Did you see where he went after you returned fire?

1           A     No, I don't know where he went to because we had went in  
2 the back and jumped over in my sister patio.

3           Q     Okay. So let me back up a second. Dana's apartment as a  
4 front door, right?

5           A     Yeah.

6           Q     And you just said we went to the back. What do you mean  
7 there's a patio?

8           A     It's a back patio, like a side patio. Like when you go inside, if  
9 you jump the patio, you go to -- it's like another part of the parking lot,  
10 like, where my car was parked where my white car was parked at.

11          Q     Okay.

12          A     And me and Wayne Wayne jumped in there and drove off.

13          Q     Okay. And you actually left the scene before cops got there,  
14 right?

15          A     Yes, I left the scene. Like as I was leaving the scene, the  
16 police was coming in. And I was leaving.

17          Q     You didn't stop for them, did you?

18          A     No, I didn't.

19          Q     And you actually left and didn't come back?

20          A     No, I didn't.

21          Q     When you left, did you know that anyone had been hit?

22          A     No.

23          Q     Other than the guy you shot?

24          A     Yeah. No, I didn't.

25          Q     And did you later learn someone got hit and actually died?

1           A     Yeah. I learned my momma friend Raquel had got shot and  
2 passed away.

3           Q     At some point in time, do homicide or do cops make contact  
4 with you about the shooting?

5           A     When I was locked up in jail.

6           Q     Okay. About something else?

7           A     Yeah.

8           Q     What were you locked up for?

9           A     I was locked up for I think a DUI.

10          Q     Okay. Driving While Intoxicated.

11          A     Yes, sir.

12          Q     And cops came and made contact with you, right?

13          A     Yeah, they made contact with me.

14          Q     Did they talk to you?

15          A     Yeah.

16          Q     And did you tell them what you did and what happened or  
17 did you --

18          A     No. I ain't tell them nothing. I was just, like, like, really,  
19 like -- I -- like, I frozed up. Be like, yes, but I don't know.

20          Q     Okay. So you lied.

21          A     Yeah. I was, like, I don't know what happened.

22          Q     At some point in time, after that, maybe even years later, you  
23 actually got arrested for the shooting.

24          A     Yeah.

25          Q     And after that, after you were arrested for the shooting, you

1 were actually charged for the shooting.

2 A Yeah.

3 Q After you were charged for the shooting, did you have a  
4 meeting with your lawyer, the State's lawyer, and the homicide  
5 detectives?

6 A Yeah.

7 Q Were you in custody at the time?

8 A Yes.

9 Q Okay. And did you at that point in time tell the people in that  
10 room what you're telling this jury --

11 A I was telling them everything that what happened. Like, I  
12 told them the whole truth. Like, the whole -- what happened from the  
13 day I woke up, what happened leading to that.

14 Q Including that you, not only did you shoot in the parking lot,  
15 but you returned fire on Mr. Lepolo?

16 A Yes.

17 Q And you -- before today, you actually signed what's referred  
18 to as a guilty plea agreement and an agreement to testify, right?

19 A Yes, I did.

20 Q And in that guilty plea agreement, you pled guilty to a crime.

21 A Yes.

22 Q Do you know the name of the crime?

23 A Disputing a firearm or some --

24 Q Okay. If I were to say discharging --

25 A Discharging. Yeah.

1 Q -- a firearm, does that sound right?

2 A Yeah, that sound right.

3 Q And you also pled guilty in your related DUI case to a  
4 misdemeanor DUI, right?

5 A Yes, sir.

6 Q And you also signed an agreement?

7 A Yes, sir.

8 Q And your agreement is to testify --

9 A Yes, sir.

10 Q -- in this case and testify truthfully?

11 A Truthfully. Yes.

12 Q You understand?

13 A Yes, sir.

14 Q And if you don't testify truthfully, the Judge Ms. Jacqueline  
15 Bluth, is going to sentence you and she'll make a decision on whether  
16 you're -- what your sentence will be.

17 A Yeah.

18 Q You understand that?

19 A Yes.

20 Q After you entered, or after you had your agreement with the  
21 detective and the State and your lawyer, you eventually were released  
22 from custody, right?

23 A Yes, sir.

24 Q And you were put on an ankle monitor?

25 A Yes, sir.

1 Q Do you still have that today?

2 A Yes, I still do.

3 Q Is that actually on your ankle right now?

4 A Yes, sir.

5 MR. GIORDANI: All right. I will pass the witness at this time.

6 Thank you, sir.

7 THE WITNESS: Okay.

8 THE COURT: Mr. Margolis.

9 MR. MARGOLIS: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. MARGOLIS:

12 Q You brought a gun to a fistfight, right?

13 A No.

14 Q You didn't?

15 A No.

16 Q You just testified that you went out to watch a fight between  
17 your nephew, Dwayne Armstrong and my client's son, Mula. How did  
18 you fire a shot in the air if you didn't bring a gun to a fistfight? Explain it  
19 to me, please.

20 A The gun was already there when I was.

21 Q The gun was already there. Didn't you just testify that you  
22 got the same gun from Dwayne Armstrong's backpack in his bedroom in  
23 your sister's apartment?

24 A It was the same gun, but I ain't bring it there.

25 Q Because the gun had -- okay. So how did you fire a gun in

1 the air if you did not go to a fistfight in possession of a gun? There was  
2 just a gun lying there next to where you were standing?

3 A No. I had got the gun from my nephew in the room. And  
4 went outside and they start fighting.

5 Q Then that kind of seems like you brought a gun to a fistfight.  
6 Doesn't it, Mr. Taylor? Isn't that what you just said?

7 A I though you was saying, like, if I brought it there, like, and  
8 like it was -- the gun was already there before I got there.

9 Q Okay. So your testimony is that you brought the gun to this  
10 fistfight between my client's son, Mula and your nephew, Dwayne  
11 Armstrong.

12 A Well, I ain't bring the gun up to this --

13 Q Okay. It's a real simple question, Mr. Taylor. Guns don't  
14 spontaneously appear places, okay?

15 A Right.

16 Q So how did you have a gun that you fired in the air when a  
17 fistfight was taking place between your nephew and my client's son? No  
18 one else fired a gun in the air. You did. Did the gun magically appear?  
19 Or did you bring it to watch your nephew's fight?

20 A Well, I went outside to watch them fight. Yeah, I brought it  
21 out -- the gun outside.

22 Q Okay. So you brought a gun to a fistfight, correct?

23 A Yes.

24 Q And you fired that gun in the air?

25 A Yes.

1 Q And you did not believe that to be a crime.

2 A I know it -- yes, that's a crime. And I know it was a crime.

3 Q Well, I mean, on direct you said you didn't know it was a  
4 crime. Is it a crime or is it not a crime?

5 A Yes.

6 Q It's a crime, right?

7 A Yeah.

8 THE COURT: Sorry. I meant to clarify this during direct too.

9 Can we clarify did he know it was a crime at the time? Do we  
10 know -- does he know it's a crime now?

11 MR. MARGOLIS: Good point.

12 THE COURT: Because there's some confusion about this.

13 BY MR. MARGOLIS:

14 Q Did you know when you fired a shot in the air at the fistfight,  
15 that you were committing a crime?

16 A No, I did not.

17 Q Okay. Fair enough. That's fine. Would you agree with me  
18 that what goes up must come down?

19 A Yes.

20 Q Okay. And would you agree with me that if I fire shot in the  
21 air, there's a reasonable chance that that bullet is going to come down  
22 somewhere in the vicinity of where the people are gathered to watch the  
23 fight?

24 A Yes.

25 Q That's a yes?

1 A Yes.

2 Q What goes up comes down, and if I fire a bullet over a crowd  
3 of people, the individuals in that crowd of people probably should be  
4 concerned. Would you agree?

5 A Yes.

6 Q Because bullets hurt, right?

7 A Yes.

8 Q Okay. And that wasn't the only bullet you fired that day,  
9 correct?

10 A Yeah.

11 Q Okay. Do you think if you were in a fistfight and a comrade  
12 of the person you were fighting fired a gun, what would your reaction  
13 be?

14 A To get away.

15 Q But it was just fired in the air. That's not threatening, right?

16 A No.

17 Q It still is a threat, right, when someone fires a gun in the air?

18 A No.

19 Q No, it's not?

20 A It's like

21 Q Because bullets just stay suspended in the sky?

22 THE COURT: Just let him finish. Go ahead and finish your  
23 answer.

24 THE WITNESS: It's like, the -- like, like, clearing up the  
25 crowd, like, you know. That's the only reason I fired the bullet in the air.

1 BY MR. MARGOLIS:

2 Q I mean, I got to ask a question here. If your nephew's  
3 winning the fight, why fire the bullet?

4 A Because it was a gang of people around and they started  
5 surrounding and I ain't want --

6 Q Okay. So --

7 A -- him to get jumped.

8 Q So your testimony is that Wayne Wayne is fighting Mula, and  
9 there's a crowd of Samoan Lepolos and --

10 A No.

11 Q -- not a single African American member of your family --

12 A It was --

13 Q -- or the Armstrong family --

14 A It was my family and they family out there.

15 Q Okay. So I mean, I don't understand.

16 A I fired --

17 Q Are you telling -- are you saying under oath that someone  
18 other than Mula struck Dwayne Armstrong?

19 A No, I ain't say that.

20 Q You're not saying that, right?

21 A No, sir.

22 Q Because that's not true, right?

23 A No, sir.

24 Q Okay. So you fired this gun because you felt that it was your  
25 job to referee this fistfight?