

1 hadn't been adjusted for Daylight Savings Time which had just
2 occurred a couple of days earlier on the date different than
3 it normally happens, would it really -- it really would say
4 13:53?

5 A Yeah.

6 Q Does that sound about right, almost 2 o'clock?

7 A Yeah.

8 Q Now, this last page you have here; this comes from
9 the computer, your inventory computer?

10 A Yes, it is.

11 Q It shows 13:49, and that's what you think is the --
12 the accurate time that the sale was generated?

13 A Exactly.

14 Q So things are being rung up at the register at about
15 10 minutes before 2 o'clock, and then the credit card
16 transaction goes through maybe seven minutes before 2 o'clock?

17 A Before 2 -- before 1 -- that's an hour. It should
18 -- it should be like an hour off.

19 Q Well, the credit receipt says 10 to 1, but it really
20 -- but it was really more accurately 10 to 2?

21 A I'm not understanding the question.

22 Q The big sheet is the one you say is more accurate.

23 A Right.

24 Q All right. The point is the person starts to hand
25 some shoes across the counter, it takes a little bit of time

1 to enter them into the computer, scan them, whatever, and then
2 finally a person hands over a card, you swipe the card, and
3 that's why the transaction time on the beginning of the
4 transaction is going to occur before the credit card sales
5 because that comes last.

6 A Right.

7 Q Now, you were asked later on to identify a picture
8 of my client?

9 A Yes, I was.

10 Q Though to be honest, you'd seen him in the past that
11 you -- is it a [sic] fair to say you didn't need to know who
12 to remember who it was?

13 A The picture? Actually, no, because we have it -- we
14 have a surveillance camera.

15 Q Well, aside from the surveillance camera, the fact
16 that you had seen him in your store often enough, you
17 recognized him as an ongoing customer.

18 A Exactly.

19 Q The guy -- was there a guy with him?

20 A Yes, there was.

21 Q And he was somebody you did not recognize?

22 A No. I hadn't seen -- I don't recall seeing him
23 before. But he made a purchase that day too; he paid cash.

24 Q Have you seen him before or since to your knowledge?

25 A No, I don't remember seeing him.

1 Q Now, my client comes in, slides across \$450 worth of
2 shoes and hands you a credit card that has a fail -- a female,
3 a lady's name on it. You don't know that -- but you don't
4 know that name (indiscernible) at all?

5 A I didn't observe the credit card at all. I just
6 took it out of his hand and swiped it.

7 Q Is that what you normally do?

8 A No.

9 Q You got in trouble for doing it that way?

10 A Yeah, I got in trouble for it.

11 Q And when the printout was signed with the lady's
12 name you similarly had already set aside in your mind that
13 this was a legitimate transaction, so you didn't look closer
14 at it either?

15 A No, I didn't.

16 Q But you are positive that these two receipts and
17 this printout comes from when you were seeing my client on the
18 17th of March around 2 o'clock when he came in and bought
19 almost \$500 worth of shoes?

20 A Yes.

21 Q And this blue ink signature is something the guy
22 sitting to my left put on this piece of paper?

23 A Yes, it is.

24 Q No question about that?

25 A No question.

1 Q Do you remember what kind of card he gave you,
2 whether it was a Master- or debit card?

3 A It was a Visa card.

4 Q How do you recall that?

5 A Because our statement shows that it is a Visa card.

6 Q If you didn't have the statement would you remember
7 what kind of card it was?

8 A From this date no, I wouldn't remember. I just
9 remember from what I have on the printout.

10 Q But you do remember he gave you some kind of credit
11 card?

12 A Yeah. He gave me --

13 Q And then by looking at the papers you know what kind
14 it is?

15 A Exactly.

16 Q How soon after you get -- you got the call from --
17 well, how soon after my client leaving your store did you get
18 a call from a lady saying hey, I think someone used my credit
19 card at your store?

20 A Be -- between one to two hours afterwards.

21 Q And when was it after that you talked to the police?

22 A Yeah. Well, I didn't talk to them that day. I
23 spoke -- I spoke to her. Several days later I was contacted
24 by the police.

25 Q All right. When in reference to the speaking to the

1 police or to your lady on the phone did you actually look at
2 the videotape.

3 A After I spoke to her, that's when we looked -- me
4 and the district manager and the assistant manager looked at
5 the tape.

6 Q So you found out -- or you heard a visitor to Las
7 Vegas calling you up and saying I think someone fraudulently
8 used my card at your place, and then you turned around and in
9 addition to looking up at it you contacted your supervisors?

10 A Yes.

11 Q And they all got together with you before your shift
12 ended?

13 A Yes.

14 Q And among other things you gathered up these papers
15 and ran the videotape for some -- for the time you remembered
16 him -- you remember the transaction possibly to have occurred
17 -- to --

18 A From --

19 Q -- have --

20 A -- the --

21 Q -- happened?

22 A -- time that's on the credit card machine, from the
23 time I talked to her. She called me and said that she had --
24 I'm sorry -- she called me and said that she had talked to her
25 -- her credit card company, and they reported that the

1 purchase was made for a certain amount on her card. She gave
2 me the number and that's when I found it. It was a match;
3 that's how I knew.

4 Q Okay. So that's how you got the papers. And that
5 is where this surveillance is running this surveillance it's
6 just continuous to take a picture?

7 A Yes.

8 Q More than one camera or one camera?

9 A There's cameras all over the store, but it's one
10 central unit in the back.

11 Q So then you get back to it -- back it up to the time
12 when you think this transaction was supposed to have occurred,
13 and watch the cameras that would have focused on wherever you
14 would have been standing, and that's when you said you looked
15 at it and showed what you remember to have happened a couple
16 of hours earlier?

17 A Right.

18 Q At this time it's like 3 or 4 o'clock in the
19 afternoon or what?

20 A (Indiscernible) my knowledge it's probably around
21 three something. Yeah, maybe around 3:00.

22 Q At that point you -- your two managers are with you?

23 A Yeah. They there [sic] at the time of the
24 transaction, but they were busy doing other things.

25 Q Okay. And something allows you to put in -- onto a

1 videotape whatever you're watching?

2 A Well, we just go back where the central computer is
3 and just rewind it to -- to -- back to the time.

4 Q How do you make a copy of it?

5 A I don't know because I never -- sorry -- I don't
6 know because I've never given them a copy. I don't know how
7 to make a copy.

8 Q Somebody else did?

9 A Yeah. That has to go through the district manager.

10 Q All right. So far as you know the police received
11 the copy, but you don't exactly have the details of -- of how
12 they made it?

13 A I don't know if they got a copy. I just know that
14 the police came to the store and they reviewed the tape. They
15 reviewed the screen because it's all digital, so they reviewed
16 the computer.

17 Q All right. Okay. And you were in with the
18 detective while you, for the second or third time, watch the
19 same scene, and he's watching the scene you've already looked
20 at and recognized as being an accurate picture of what you
21 remember happening at about 2 o'clock earlier that day?

22 A Yeah.

23 Q Nothing else.

24 THE COURT: And that concludes his testimony. Thank
25 you, sir.

1 THE WITNESS: Okay.

2 (Witness excused)

3 THE COURT: State, call your next witness.

4 MS. WALSH: Luis Valdez.

5 (Witness summoned)

6 THE BAILIFF: Mr. Valdez, if you'll remain standing,
7 please, raise your right hand and face the clerk.

8 THE CLERK: You do solemnly swear the testimony
9 you're about to give in this action shall be the truth, the
10 whole truth, and nothing but the truth, so help you God?

11 THE WITNESS: Yes, ma'am.

12 LUIS VALADEZ

13 having been called as a witness on behalf of the Plaintiff and
14 being first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. RINETTI:

17 Q Please state your full name and spell your name.

18 A My name is Luis Alverto Valadez, L-u-i-s.

19 Q And your last name, please?

20 A Valadez, V-a-l-a-d-e-z.

21 Q Thank you.

22 THE COURT: Go ahead, Counsel.

23 BY MS. RINETTI:

24 Q There's a black box in front of you, so if you can
25 just speak nice and loudly into it so everyone can hear you.

1 A No problem.

2 Q Okay. I'm going to direct your attention back to

3 March 17th of 2007. Were you working at Sheikh Shoes located

4 at 3525 South Maryland Parkway?

5 A Yes, ma'am.

6 Q And is that part of the Boulevard Mall?

7 A Yes, ma'am.

8 Q And is that located here in Las Vegas, Clark County,

9 Nevada?

10 A Yes, ma'am.

11 Q And how long had you been working (indiscernible)

12 Sheikh Shoes up until March 17th of 2007?

13 A For a year.

14 Q And do you currently work for Sheikh Shoes?

15 A No, ma'am.

16 Q Okay. Now, back on March 17th, 2007, you were

17 employed with Sheikh Shoes?

18 A Yes, ma'am.

19 Q And what position did you hold?

20 A I was sales -- sales.

21 Q And what does a salesperson do?

22 A I help customers out. Basically it. See what they

23 -- they need.

24 Q Do you help them pick out merchandise if they need

25 it?

1 A Yes, ma'am.

2 Q And do you ring customers up if they need to make a
3 purchase?

4 A When the cashier's not working, yes.

5 Q Okay. And were you working on March 17th of 2007?

6 A If I'm correct, yes.

7 Q And who were you working with?

8 A I was working with Kevin and I was working with
9 Deja.

10 Q Who's Kevin?

11 A He's my assistant manager.

12 Q And who's Deja?

13 A Another salesperson.

14 Q Okay. And do you see anyone on March 17th, 2007,
15 that is present in the courtroom here today?

16 A Yes, ma'am.

17 Q Can you please point to that person and describe
18 something he or she is wearing?

19 A (Pointing) It'd be him. He's wearing color shirt,
20 gray, cream color shirt. I can't really tell.

21 MS. RINETTI: Will the record reflect the
22 identification of the Defendant?

23 THE COURT: Yes, it will.

24 BY MS. RINETTI:

25 Q Have you seen the Defendant prior to March 17th of

1 2007 at the Sheikh shoe store?

2 A Have I seen him before at the --

3 Q Before March 17th, 2007, have you ever seen the

4 Defendant?

5 A No, ma'am.

6 Q Okay. And so the first time you had seen him was on

7 March 17th, 2007?

8 A Yes, ma'am.

9 Q Okay. And when you saw him at the store on March

10 17th do you remember what he was wearing?

11 A No, ma'am.

12 Q Okay. And can you describe what the Defendant did

13 when he entered the store?

14 A No. I don't remember.

15 Q But you remember him getting into the store; is that

16 correct?

17 A I do remember that.

18 Q And did -- did he eventually pick out any

19 merchandise in the store?

20 A Yes, ma'am.

21 Q Okay. And did he eventually go up to the counter to

22 get ring -- rung up for his purchase?

23 A Yes, ma'am.

24 Q And do you remember seeing that?

25 A Yes, I do.

1 Q And do you remember who was helping him to ring up
2 those purchases?

3 A If I'm correct, Deja.

4 Q Deja. And Deja's also a salesperson?

5 A Yes, ma'am.

6 Q And as part as your duty as a salesperson sometimes
7 you ring out customers?

8 A Yes, ma'am.

9 Q When the cashier's not available?

10 A Yes, ma'am.

11 Q And do you remember how the -- if you're aware, how
12 the Defendant paid for the merchandise that he was -- he was
13 purchasing?

14 A On credit -- with a credit card.

15 Q Credit card. So he had a card in his hand?

16 A Yes, ma'am.

17 Q Were you able to see what type of card it was?

18 A No, ma'am.

19 Q Is that because you were kind of farther away
20 from --

21 A I was actually working with other people.

22 Q Okay. So you weren't actually physically doing the
23 transaction; you just saw it?

24 A Yeah.

25 Q Okay. Now, have you seen the Defendants at the

1 store since March 17th, 2007?

2 A I've seen him before that day?

3 Q Since that, afterwards?

4 A No, ma'am.

5 Q Okay. So this is the only time you've seen him?

6 A Actually, I think I did seen him two more times
7 after that.

8 Q After the incident on March 17th?

9 A Yes, ma'am.

10 Q Okay. And now, on March 24th of 2007 were -- did
11 police contact you at the store?

12 A Yes, they did.

13 Q Okay. And did they show you a photo lineup?

14 A Yes, ma'am.

15 Q And do you remember reading some instructions prior
16 to viewing that photo lineup with the detective?

17 A Yeah. They made me fill out a statement.

18 Q Okay. And were you able to identify anyone?

19 A Yes, ma'am.

20 MS. RINETTI: Permission to approach?

21 THE COURT: Yes.

22 BY MS. RINETTI:

23 Q I'm showing you what's been marked as State's
24 proposed exhibit number 3; do you recognize it?

25 A Yes, ma'am.

1 Q And what is it?

2 A It's a picture (pointing) of him.

3 Q It's a picture of what?

4 A It's a picture (pointing at Defendant) of him and --

5 Q Are there other pictures in there as well?

6 A Yes, ma'am.

7 Q Okay. How many photos are depicted in that exhibit?

8 A There are six.

9 Q And does that fairly and accurately depict the photo

10 lineup that you observed back on March 24th of 2007?

11 A Yes, ma'am.

12 MS. RINETTI: Perm -- the State moves to admit

13 proposed 3.

14 THE COURT: Any objection?

15 MR. JORGENSEN: No, Judge.

16 THE COURT: It will --

17 MS. RINETTI: Permission --

18 THE COURT: -- be --

19 MS. RINETTI: -- to --

20 THE COURT: -- admitted.

21 (State's Exhibit 3 admitted)

22 MS. RINETTI: -- publish?

23 THE COURT: Yes.

24 BY MS. RINETTI:

25 Q And you said that's the photo lineup that you

1 observed.

2 A Yes, ma'am.

3 Q I see some writing in the bottom left-hand corner
4 under the first photograph under the first photo on the second
5 row.

6 A Yes, ma'am

7 Q Was that writing there when you first viewed the
8 photo lineup?

9 A No, ma'am.

10 Q And do -- do you see that writing under photograph
11 number 4?

12 A Yes, ma'am.

13 Q And did you place that writing there?

14 A Yes, I did.

15 Q Are those your initials?

16 A Yes, ma'am.

17 Q Is the initials LV?

18 A Yes, ma'am.

19 Q And why did you put your initials under photograph
20 number 4?

21 A To -- they told me to -- to see if the guy that --
22 that went to my store and used that card --

23 Q Okay. So --

24 A -- was.

25 Q -- the person depicted in number 4, the Defendant,

1 is the person you saw at the shoe store on March 17th of 2007?

2 A Yes, ma'am.

3 Q And at -- in which he conducted a transaction with
4 Deja Jarmin?

5 A Yes, ma'am.

6 Q Okay.

7 MS. RINETTI: Pass the witness, Your Honor.

8 THE COURT: Cross-examination?

9 CROSS-EXAMINATION

10 BY MR. JORGENSEN:

11 Q You indicated already that you don't work at this
12 shoe store anymore?

13 A No, I don't.

14 Q When did you stop working there?

15 A I stop working there, if I'm correct, in December.

16 Q So --

17 A Because I've been working for my new company for --
18 I'm going on a year in December, so I quit in December of last
19 year.

20 Q This happened March of '07, and you stopped working
21 there in December of '07?

22 A Yes, sir.

23 Q How long had you been working at that company prior
24 to March of last year?

25 A I worked there for a year, if I'm correct.

1 Q So for the whole -- from January to December of 2007
2 you worked the whole year?

3 A Well, I worked a year for the company. I don't
4 really remember the day I got hired or the day that I left,
5 but I -- I -- practically like a year.

6 Q Now, the pictures that we saw, you looked at those,
7 according to the indication on that picture, you saw them at
8 about 4 p.m. on March 24th.

9 A Yes, sir.

10 Q Now, if I got that right that's a Saturday.

11 A I don't remember.

12 Q Were you working weekends, weekdays?

13 A I worked -- it depended on the schedule they -- they
14 wrote. I mean, I could work weekends, weekdays.

15 Q So you don't remember if the day you saw the -- the
16 police came and showed you the six pictures and you initialed
17 one, whether that was a Saturday or not?

18 A I don't remember that.

19 Q All right. Do you remember -- okay. Drawing your
20 attention to the day that the -- Mr. -- that my client came
21 into your store, was that the day before the police came in, a
22 week before, a month before?

23 A I don't remember.

24 Q You indicated to the police when they came in and
25 showed you those six pictures that you had seen this guy four

1 or five times during that month.

2 A If I'm corr -- I don't remember to tell you the
3 truth, but if --

4 Q The prosecutor had asked you if you had seen this
5 guy prior to the day he came in and used the credit card, and
6 you said yes.

7 A I seen him twice after the incident happened.

8 Q How about before?

9 A Before, I don't remember. But after that incident
10 happened I seen him twice, come in my store twice.

11 Q Now, you did see him before this incident happened
12 but you just don't remember how many times?

13 A I don't remember if I seen him to tell you the
14 truth. I seen him after the incident happened; I don't
15 remember if I seen him before the incident happened.

16 Q I'm showing you what is a photocopy of a paper; do
17 you recognize this piece of paper?

18 A Yes, sir.

19 Q Is this related to the piece of paper that had the
20 eight -- the six pictures on it?

21 A Yes, sir.

22 Q If I had this right, this is your instructions on
23 what to do when you looked at the six pictures, correct?

24 A Yes.

25 Q Has writing on there; do you recognize whose

1 handwriting that is?

2 A Yes, sir.

3 Q Whose?

4 A Mine.

5 Q All right. Now, this says the date and time that
6 you filled out this form and looked at the six pictures was
7 March 24th at 4:09.

8 A Yes, sir.

9 Q So that would not be 4:00 in the morning; that would
10 be 4:00 in the afternoon.

11 A 4:00 in the afternoon.

12 Q Now, can you just quickly just read to yourself this
13 statement that you wrote, and I want to ask you a question
14 about it. Can you just read that real quick?

15 A Yeah. I'm 100 percent sure that four --

16 THE COURT: Sir, read it to yourself first.

17 A Sorry.

18 THE COURT: It's okay.

19 A Yes.

20 Q In there you're -- you're indicating that you're
21 positive that number 4 is the guy that came in earlier.

22 A Yes, sir.

23 Q And that he'd been to the store how many times in
24 the last month?

25 A From what I wrote four or five times.

1 Q Thinking back on it now does that sound about right,
2 you saw him four or five times prior to him coming into this
3 incident?

4 A Yes, sir.

5 Q When did you first -- when did somebody first ask
6 you about somebody coming in and using a bogus credit card or
7 a bad credit card?

8 A When detectives came in.

9 Q The detectives came in on the 24th, right?

10 A Yes.

11 Q Or at least --

12 A From what the paper tells me, yes.

13 Q If you think about the day they came in with the
14 pictures, correct?

15 A Yes.

16 Q Had anybody discussed it with you in the days
17 leading up to it? Anybody at the store?

18 A I don't remember.

19 Q When the detectives came to you on the 24th did you
20 know why they were going to come ask you questions, or were
21 you surprised to see them?

22 A I don't remember if somebody told me to tell you the
23 truth.

24 Q You don't remember if somebody told you?

25 A Yeah, if somebody told me, you know, the detectives

1 were coming to the store.

2 Q When they were asking about this guy to pick out,
3 did you remember -- did you have to ask them or did you just
4 remember the -- the incident they were referring to?

5 A I mean, I remember the incident they were referring
6 to.

7 Q But sitting here today you don't remember if it was
8 a day earlier or a week earlier?

9 A Yeah, I don't remember that.

10 Q Okay. Sometime earlier?

11 A Yeah. I mean, I -- it had been over, if I'm
12 correct, over a year.

13 Q But you remember that it was not you that was
14 helping this person ring up the sale?

15 A Yes, sir. I --

16 Q Is this shoe store bigger inside than this room is?

17 A Yes, sir.

18 Q And it has a big open space to buy things at and
19 then rows and rows of shoes?

20 A It's actually an open area like this, just with
21 walls filled with shoes.

22 Q Okay. But bigger than this room?

23 A It was bigger than this room, yes.

24 Q What I want to know is you remember that you did not
25 help number 4 make his purchase and you remember that Deja had

1 helped him, correct?

2 A Yes, sir.

3 Q Why do you remember that he used a credit card as
4 opposed to -- I mean, how is it that you were looking at him
5 to see that he hands over a credit card if you're nowhere
6 close to him and you're not even looking at him?

7 A I don't remember if I was close to him to tell you
8 the truth. I could have been in the back. I -- I actually
9 don't remember the whole -- the whole day. I mean, I was in
10 the store, I did work with him and Kevin; that's the only
11 three people that were working that day if I'm correct.

12 Q So do you real -- do you honestly remember if he had
13 a credit card or not or just that he was in and bought some
14 stuff?

15 A I seen him buy the stuff. I seen my coworker
16 helping him out throughout the store; that's how I know it's
17 him.

18 Q Uh-huh (affirmative.) Yes. But do you remember
19 actually seeing him at the front desk sliding over a credit
20 card, or --

21 A Well, I -- I don't remember (indiscernible) I
22 remember that (indiscernible) well, when they made out the
23 printouts which the -- the detectives printed it out and made
24 our printout out of the store; that's how I -- I found out it
25 came, you know, a stolen credit card.

1 Q And they printed it out that day they showed you the
2 six pictures or a different day?

3 A I don't remember that.

4 Q But you do remember detectives coming in and -- and
5 printing out --

6 A They wanted to find out -- well, I guess, the
7 numbers of the credit card and it showed up to the receipt
8 that came out on Deja's name.

9 Q Who printed out that receipt for them? You or one
10 of the managers?

11 A No. A manager.

12 Q So when you -- when they printed it out you could
13 tell by looking at the receipt that a credit card had been
14 used.

15 A Yes, sir.

16 Q Because it says on there not cash transaction but it
17 says Visa and it has a number.

18 A Yes, sir.

19 Q Okay. On these four or five other times that this
20 guy had come in do you remember -- had you helped him at any
21 of these other times? You personally ring --

22 A No, sir.

23 Q -- him up? Do you know if he used credit cards or
24 cash the other times?

25 A If I'm correct, one time he used cash.

1 Q Because you actually were helping him?

2 A I wasn't helping him.

3 Q But one time you actually were close enough to see

4 them hand over cash?

5 A Yeah. I was at the register.

6 Q But the other times you saw him in the store but you

7 didn't actually help him, so you don't know what he --

8 A Yeah, I --

9 Q -- paid with.

10 A -- I didn't help him.

11 Q Was he someone's friend or just some guy who came in

12 all the time?

13 A I don't -- I don't -- I don't know. I don't -- I

14 don't think he was nobody's friend. I'm not sure to tell you

15 the truth.

16 Q Well, okay. Did you get the impression he was

17 Deja's friend?

18 A I'm not sure.

19 MR. JORGENSEN: No other questions. Thanks.

20 THE COURT: Any redirect?

21 MS. RINETTI: No, Your Honor.

22 THE COURT: All right. Thank you, sir, for your

23 testimony. You're instructed not to discuss your testimony

24 with any other witness involved in this case till this matter

25 is finally resolved. Thank you for your time, sir.

1 THE WITNESS: Thank you.

2 THE COURT: Ladies and gentlemen, we're going to
3 take a -- wait. You're released. Thank you, sir.

4 Ladies and gentlemen, we're going to just take a
5 short recess here, mid-afternoon recess. During this recess
6 it is your duty not to converse among yourselves or with
7 anyone else on any subject connected with the trial; or to
8 read, watch, or listen to any report of or commentary on the
9 trial by any person connected with the trial or by any medium
10 of information including without limitation newspaper,
11 television, radio, or the Internet; and you are not to form or
12 express an opinion on any subject connected with this case
13 till it's finally submitted to you.

14 See you back in a few minutes. And the marshal will
15 escort you out.

16 (Jury excused)

17 THE COURT: Let the record reflect we're outside the
18 presence of the jury panel. Ms. Walsh, how many more
19 witnesses do you have today?

20 MS. WALSH: Three, Judge. Hopefully, two will be
21 short and then one will be with the -- with the videotape.

22 THE COURT: All right. And assuming you're going to
23 be able to rest today?

24 MS. WALSH: We should, Judge. We should be able to
25 fit that in.

1 THE COURT: And do we have an instruct -- a proposed
2 instruction for the Defendant regarding his right to testify?

3 MS. WALSH: I did bring it, Judge, just in case he
4 did want it. I apologize it was not in the packet, but I have
5 sent over previously.

6 THE COURT: Let -- let me do that and let me go over
7 that right now for Mr. Ross.

8 (Discussion among counsel)

9 THE COURT: Mr. Ross, can you please stand up? You
10 have the right under the constitution of the United States and
11 under the constitution of the State of Nevada not to be
12 compelled to testify in this case; do you understand that,
13 sir?

14 THE DEFENDANT: Yes.

15 THE COURT: You may, if you wish, give up that right
16 to take the witness stand and testify. If you do so you will
17 be subject to cross-examination by one of the Deputy District
18 Attorneys, and anything you may say, be it on direct or cross-
19 examination, would be subject of fair comment by the Deputy
20 District Attorney when she speaks to the jury during their
21 final argument; do you understand that, sir?

22 THE DEFENDANT: Yes.

23 THE COURT: If you choose not to testify the Court
24 will not permit the Deputy District Attorneys to make any
25 comment to the jury concerning the fact that you have not

1 testified; do you understand that, sir?

2 THE DEFENDANT: Yes.

3 THE COURT: Was that -- did you pick that up? Was
4 that a yes?

5 THE DEFENDANT: Yes.

6 THE COURT: Okay. If you elect not to testify, the
7 Court will instruct the jury, only if your attorney
8 specifically requests, the following: -- this would be a jury
9 instruction that I would read to the jury, sir -- it is a
10 constitutional right of a Defendant in a criminal trial that
11 he may not be compelled to testify. Thus the decision as to
12 whether he should testify is left to the Defendant on the
13 advice and counsel of his attorney. You may not draw any
14 inference of guilt from the fact that he does not testify, nor
15 should this fact be discussed by you or enter into your
16 deliberations in any way.

17 Do you understand that, sir?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Mr. Jorgenson, does he have a
20 felony conviction as far as you know?

21 MR. JORGENSEN: Yes.

22 THE COURT: Okay. Sir, if you do testify,
23 understand that the State can use any prior felony convictions
24 to impeach your credibility. That conviction must have been
25 -- take place within the last 10 years. Do you understand

1 that, sir?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. We'll be back in about five
4 or 10 minutes.

5 (Off record)

6 THE COURT: Let the record reflect we're in the
7 presence of the jury panel. State, please call your next
8 witness.

9 MS. WALSH: Thank you, Judge. State calls Kevin
10 Hancock.

11 THE BAILIFF: Please stand, please raise your right
12 hand and face the clerk.

13 THE CLERK: You do solemnly swear the testimony
14 you're about to give in this action shall be the truth, the
15 whole truth, and nothing but the truth, so help you God?

16 THE WITNESS: Yes.

17 THE CLERK: Thank you. Please state your full name
18 and spell your name for the record.

19 THE WITNESS: Kevin Gregory Hancock, K-e-v-i-n
20 G-r-e-g-o-r-y H-a-n-c-o-c-k.

21 THE COURT: Go ahead, Counsel.

22 MS. WALSH: Thank you, Judge.

23 KEVIN HANCOCK

24 having been called as a witness on behalf of the Plaintiff and
25 being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. WALSH:

Q Sir, I want to direct your attention to May 17th, 2007. Where were you working on that day?

A Sheikh -- Sheikh Shoes.

Q And which location?

A Boulevard Mall.

Q Okay. And I want to direct your attention now to around 1 and 2 o'clock in the afternoon. Were you in the store on that time -- day and time?

A I was on break.

Q Okay. Did it --

A Uh-huh (affirmative.)

Q -- come to your attention that someone had come in and used another person's credit card fraudulently?

A Yes.

Q And based upon receiving that information did you review any video surveillance at your store?

A Yes.

Q And did you do that on May 17th?

A I don't remember.

Q Okay. Now, do you know a person who had been coming into your store regularly around that time that went by the name of Phillie?

A Yes.

1 Q Do you see that person in court today?

2 A Yes.

3 Q Can you please point to him and describe an article
4 of clothing that he is wearing?

5 A (Pointing) A brown shirt.

6 MS. WALSH: Can the record reflect the witness has
7 identified the Defendant?

8 THE COURT: Yes, it will.

9 BY MS. WALSH:

10 Q And how is it that you know Phillie?

11 A Just he was -- he used to come in the store and
12 shop.

13 Q Okay. So just know him as a customer?

14 A Right.

15 Q And why is he called Phillie?

16 A He told me he was from Philadelphia.

17 Q Okay. Philadelphia, Pennsylvania?

18 A Right.

19 Q Okay. Now, when you reviewed the video surveillance
20 of the transaction with the stolen credit card did you
21 recognize anyone on the videotape?

22 A Yes.

23 Q Who was it?

24 A Phillie.

25 Q Okay. And that's the person you identified in court

1 today?

2 A Yes.

3 Q So the Defendant's the one you saw in the videotape
4 make the transaction with the stolen credit card?

5 A Yes.

6 Q Now, you later talked to detectives about this
7 incident; is that correct?

8 A Yes.

9 Q Did they show you some pictures?

10 A Yes.

11 MS. WALSH: May I approach, Your Honor?

12 THE COURT: Yes.

13 BY MS. WALSH:

14 Q Showing you what's been marked for identification as
15 State's proposed exhibit number 5; that's previously been
16 shown to the defense. Do you recognize this document?

17 A Yes.

18 Q Is that the photo lineup the detective showed you?

19 A Yes.

20 Q Now, when they showed it to you was it in black and
21 white like this or was it in color?

22 A It was in color.

23 Q Okay. And did they ask you to identify the person
24 you saw on the videotape?

25 A Yes.

1 Q And did you do that?

2 A Yes.

3 Q Which person did you pick?

4 A Number 4.

5 Q And did you circle and also initial number 4?

6 A Yes.

7 Q So the writing that's on this document right now,
8 that wasn't on there when the detective first gave this to
9 you; is that correct?

10 A That's correct.

11 Q And you wrote that on there indicating that you
12 identify number 4 as the person you know as Phillie.

13 A Yes.

14 Q And that's the same person sitting in the court
15 today.

16 A Yes.

17 MS. WALSH: State would move for the admission of
18 State's proposed exhibit number 5.

19 THE COURT: Any objection?

20 MR. JORGENSEN: No, Judge.

21 THE COURT: It will be admitted.

22 (State's Exhibit 5 admitted)

23 BY MS. WALSH:

24 Q Now, you're familiar -- what capacity were you
25 working at, at the shoe store?

1 A I'm assistant -- I was assistant manager at the
2 store.

3 Q Okay. You were assistant manager at the time?

4 A Right.

5 Q So are you familiar with the receipts that your
6 store's computers printed out?

7 A Yes.

8 Q And showing you what's been marked as -- marked and
9 admitted as State's Exhibit number 1. Just showing the first
10 -- showing you this first part of State's Exhibit number 1; is
11 this a credit card receipt that your credit card machine would
12 print out?

13 A Yes.

14 Q So this would be that piece of paper that when you
15 run a credit card through it comes out and this is what you
16 have the customer sign?

17 A Yes, ma'am.

18 Q And that's what you have done for every credit card
19 transaction; is that correct?

20 A Yes.

21 Q Showing you the second piece of paper of State's
22 Exhibit number 1; is this actually where you put the credit
23 card in the machine and you slide it, and it kind of makes a
24 carbon copy of the front of the credit card?

25 A Yes.

1 Q Okay. So when someone came in on this day and used
2 this credit card, the actual credit card they handed over to
3 the clerk would have been -- made a carbon copy of?

4 A That's right.

5 Q Okay. And then you keep these in the ordinary
6 course of business at your store --

7 A Yes.

8 Q -- these records?

9 A Yes.

10 Q And it shows on here at the top a number 4388 5270
11 0012 1281; would that be the actual credit card number that
12 was made a copy of from the actual credit card given to a
13 clerk?

14 A That's -- that's how it prints? Yes.

15 Q Okay.

16 A Yeah.

17 Q Now, showing you the last page, the full-length page
18 of State's Exhibit number 1; is this actually a computer
19 printout -- is this actually a computer printout of a receipt
20 detailing what was purchased?

21 A Right. Yes, it is.

22 Q Okay. And this is kept in your computer in your
23 store in the ordinary course of business?

24 A Right. Yes.

25 Q Now, showing up here on the top it shows the date of

1 3/17/08.

2 A Okay.

3 Q Is that --

4 A Yes.

5 Q Is that -- does that show that on the receipt?

6 A 3/17/08?

7 Q That's -- that's --

8 THE BAILIFF: Right in --

9 BY MS. WALSH:

10 Q -- what this --

11 THE BAILIFF: -- right in front of --

12 BY MS. WALSH:

13 Q -- Exhibit --

14 THE BAILIFF: -- you.

15 BY MS. WALSH:

16 Q -- says, right?

17 THE BAILIFF: Right in front of you.

18 THE COURT: On the screen --

19 A Oh. 3/17/07.

20 BY MS. WALSH:

21 Q Okay. I apologize. Thank you. 3/17/07. And it
22 has a time of 1349?

23 A Yes.

24 Q Okay. And then over here underneath the staples --

25 let's see if I can -- right over here it says salesperson, and

1 then it says deja vu?

2 A Yes.

3 Q And that would be Deja, the store clerk, that you
4 work with; is that correct?

5 A That is correct.

6 Q And this details what the person -- what the
7 Defendant purchased that day?

8 A Right. That's correct.

9 Q And the amount of the sale, 490.07?

10 A Yes.

11 Q And that amount corresponds with these credit cards
12 -- credit card receipts; is that correct?

13 A That's correct.

14 Q Now, your store also has a surveillance system,
15 correct?

16 A That's correct.

17 Q In March 17th of 2007 was this surveillance system a
18 new surveillance system?

19 A Yes, it was.

20 Q And is it a digital kind or an old kind that copied
21 onto a VCR?

22 A It's a digital.

23 Q Did anyone at the store really know how to work it
24 at this point in time?

25 A We knew how to view it, yes.

1 Q Okay. Did you know how to make a copy of it?

2 A No.

3 Q And take it off of the hard drive?

4 A No.

5 Q Okay. Does it have on it where you could save what

6 had been recorded for a certain length of time?

7 A It has a saving, but we didn't -- we didn't have it

8 saved. We didn't know how to save.

9 Q Okay.

10 A Yeah.

11 Q So you were able to pull the video surveillance of

12 what happened on March 17th with --

13 A Right.

14 Q -- the Defendant but only for a short amount of

15 time?

16 A Yes.

17 Q Okay. And then after that time passed the video

18 would have been deleted in the system; is that correct?

19 A That's correct.

20 Q And that's because you guys didn't know how to

21 operate it?

22 A Correct.

23 Q Have you since had someone from the company come out

24 and -- and figure out how to operate the system?

25 A Yes.

1 Q Okay. Did you make attempts -- in March of 2007 did
2 you make attempts to try and save or copy the surveillance
3 system?

4 A We contacted somebody to come out and do it, but we
5 weren't -- they didn't make it out. They -- they were
6 stationed out of California, so he didn't come out to do it --

7 Q Okay.

8 A -- you know, in time.

9 Q So you had some -- you had contacted someone from
10 the surveillance system company --

11 A Yes.

12 Q -- to come out and attempt to help you preserve the
13 video evidence?

14 A Right.

15 Q But they were unable to make it within the short
16 amount of time that the system keeps the video for; is --

17 A That's --

18 Q -- that correct?

19 A -- correct.

20 Q So you did make attempts to try and save the video
21 but --

22 A Yes.

23 Q -- you were unsuccessful?

24 A Yes.

25 MS. WALSH: I'll pass the witness, Judge.

1 THE COURT: Cross-examination?

2 CROSS-EXAMINATION

3 BY MR. JORGENSEN:

4 Q So you were working as one of the managers of this
5 shoe store in March of last year.

6 A Yes, sir.

7 Q The manager or the second in charge or what?

8 A I'm second in charge.

9 Q You still work with the same shoe store?

10 A Yes.

11 Q When did you start working there?

12 A August 2005.

13 Q Now --

14 A I mean, not that location. I've been working for
15 Sheikh since 2005. And I transferred from Texas to here.

16 Q When?

17 A It was '06, August '06.

18 Q Okay. So you've been working at this shoe store
19 about nine months when this incident occurred.

20 A I'd been working there for two months at that
21 location. Before that, I was working at another one.

22 Q In Las Vegas?

23 A In Las Vegas.

24 Q Okay.

25 A Right. In Henderson actually. I'm sorry.

1 Q So you went from Texas to the Las Vegas Valley in
2 August of '06, but then you didn't get to this show -- this
3 store on Maryland Parkway until maybe January?

4 A Right. Around January.

5 Q Now, as a manager were you there weekdays, weekends,
6 what?

7 A I work six days a week. I'm only off on like
8 Mondays.

9 Q So you remember when the police came and showed you
10 those six pictures.

11 A Yes.

12 Q The date on there says March 24th of '07; does that
13 sound right?

14 A I'd have to see it again. I don't remember.

15 Q Showing you State's Exhibit 5; that looks like your
16 -- the paper you -- a copy of the paper you initialed; is that
17 correct?

18 A Yes.

19 Q And where it shows lineup, ID, and time or date it
20 says March 24th, '07; does that sound right?

21 A Yes.

22 Q Now, if I tell you that's -- well, can you remember
23 what day of the week that would have been?

24 A No.

25 Q But you were working Tuesday to Sunday.

1 A Right.

2 Q The whole time you've been there you've worked six
3 days a week?

4 A Yes, sir.

5 Q Still do now?

6 A Yes, sir.

7 Q Is the store closed on Monday or you just have --
8 you're just off Monday?

9 A I'm just off on Mondays.

10 Q Now, if the 20 -- so if the 24th is a Saturday
11 that's not unusual in the middle of a Saturday day that you're
12 going to be there because you're there every day.

13 A That's right.

14 Q Would you be -- were you there from open to close
15 every day?

16 A Usually on Saturdays open and close because we have
17 different like releases. So yeah.

18 Q How about during the week do you work from open to
19 close? Or do you switch off with your other manager?

20 A During the week I would come in like around 12
21 o'clock.

22 Q Okay. So do you remember how much earlier from when
23 the police came with these pictures did you have an indication
24 that somebody had used a credit card improperly to buy shoes?
25 A day? A week? A month?

1 A I don't remember (indiscernible)

2 Q Okay. Do I have this right in saying that you
3 remember clearly the police coming and showing you six
4 pictures?

5 A Right.

6 Q That doesn't happen every day or even every month.

7 A Right.

8 Q You remember talking with one of your employee --
9 well -- let me back up. What caused you to view the
10 videotape?

11 A The detectives came into the store and inquired --
12 somebody called. I'm sorry. Somebody called and inquired
13 about it. It was one of the detectives.

14 Q And talked to you?

15 A Yes.

16 Q Was that the same day it happened or a later day?
17 Or do you remember?

18 A I don't remember.

19 Q Okay. And it was before or after they showed you
20 these pictures?

21 A It was before.

22 Q But you don't remember if it was a week or a couple
23 of days right --

24 A It --

25 Q -- now?

1 A It was -- it was within that week. It was within
2 that week.

3 Q But could have been a Wednesday or -- or a Tuesday?

4 A Something like that, Tuesday or Wednesday, yeah.

5 Q But not Monday because you were off on Monday.

6 A I was off on Monday.

7 Q And when you viewed the videotape the detective was
8 with you to watch it?

9 A Yes.

10 Q Okay. Now, when the prosecutor asked you what you
11 were doing on March 17th when the guy who sits next to me came
12 to your store you said you were on break; how do you remember
13 that?

14 A Well, the person that actually rang him up, Deja,
15 Deja Vu it says on the receipt, said that the person
16 originally asked for me. He said he originally asked for me.
17 So --

18 Q And since you didn't remember helping him then you
19 -- you -- working backwards you figured out you must have been
20 not -- you were on a break when he came in then.

21 A Yeah. He said -- he told him that I was on break
22 and he went ahead and helped him. And he couldn't remember
23 who the person was and --

24 Q Who couldn't --

25 A -- yeah.

1 Q -- remember?

2 A Deja. Deja.

3 Q He couldn't remember that it was Phillie?

4 A No.

5 Q He -- did he know Phillie's name or did you were the
6 only one who knew his name?

7 A I don't remember him -- he told me it was one of my
8 customers, and I just didn't remember exactly who it was at
9 that time because I have a lot of customers. But --

10 Q Okay.

11 A -- when we watched --

12 Q Yeah. In that office. Is everybody (indiscernible)
13 your customer or is he referring to something different?

14 A He -- well, he said he asked for me. So I figured
15 that it was somebody that I worked -- that I -- I help a lot,
16 you know, or I've helped before.

17 Q And was Phillie somebody that you had actually built
18 up a relationship with or (indiscernible)

19 A Well, I'd talked to him before, you know.

20 Q Enough to know him by sight?

21 A Yes.

22 Q And know his nickname?

23 A Yes.

24 Q So you were not actually watching the front counter
25 when this credit card transaction got rang up?

1 A No.

2 Q So you have no idea how -- when Phillie was in the
3 store -- do you know if Phillie was in the store on the 17th?

4 A Just from what they told me.

5 Q Okay.

6 A Yeah.

7 Q Aside from what Deja told you and what you saw on
8 the tape, you personally were -- even though you were there on
9 the 17th you don't remember seeing Phillie during this --
10 anytime during the day on the 17th.

11 A No.

12 Q Now, on the videotape this thing was recording to a
13 computer?

14 A Yes.

15 Q And the computer could -- how much would the --
16 could the computer hold before it had to start erasing?

17 A I don't recall. I don't know.

18 Q Well --

19 A (Indiscernible) I don't -- I don't know exactly how
20 much it holds.

21 Q Until you --

22 A I don't know.

23 Q Until you fixed it so it would start to save it was
24 -- it would erase itself every day, every week, every month?

25 A It was like a week, a week or -- a week or two.

1 Something like that.

2 Q But personally you don't know?

3 A No. I don't remember exactly how much. Not at the
4 time I can't remember exactly.

5 Q You just know that you didn't know how to record
6 it --

7 A Right.

8 Q -- off the computer to something different.

9 A Right. Yeah.

10 Q And finally, someone came from California to set it
11 up so you could then pop a disc in or something and record
12 whatever you wanted to record for later use?

13 A Yes.

14 Q But that was a month or two later after this
15 happened?

16 A Yeah, I'd say a month or two.

17 Q You had seen this guy, Phillie, in the weeks prior
18 to this happening and the weeks after this happening.

19 A Yes.

20 Q How many times did -- did you see him altogether? A
21 dozen maybe?

22 A I wouldn't say a dozen. Afterwards I believe like
23 two times, and before, I don't know, maybe three or four times
24 or something like that.

25 Q All in March or do you remember?

1 A We opened the store -- we opened that store in
2 February, the beg -- the end of January, beginning of
3 February. I would say middle of February to middle of March
4 (indiscernible) he came in, something around that time, yeah.

5 Q Now, you -- you indicated that Deja did not know his
6 nickname. You -- you're the one who told him what his
7 nickname was.

8 A He didn't know who the person was at that time. I
9 mean, if you -- if -- when he came to the store that Saturday
10 he told me that somebody came in asking for me. I didn't know
11 who exactly who that person was. When the cop -- when the
12 detectives came and we looked at the tape, that's when I
13 realized who that was. But Deja, he didn't -- he -- he didn't
14 know his name at that time, I don't think. I don't remember
15 him saying --

16 MS. WALSH: And, Judge, I'm --

17 A -- that --

18 MS. WALSH: -- going to object at this point to the
19 -- the witness doesn't know what Deja knew, first of all; and
20 second of all, it's hearsay.

21 A Yeah, I don't know.

22 THE COURT: Sustained.

23 MS. WALSH: Thank you, Judge.

24 BY MR. JORGENSEN:

25 Q But you did not tell Deja who was on that -- who he

1 had helped out that Saturday while you were on break until
2 after you saw the videotape.

3 A Right.

4 Q And to the best of your knowledge Deja didn't know
5 who it was until you told him.

6 A I don't --

7 MS. WALSH: The same --

8 A -- know.

9 MS. WALSH: -- objection, Judge.

10 THE COURT: Sustained.

11 A I don't know.

12 THE COURT: Sir, hang on. Don't an -- when I
13 sustain objections don't answer the question, okay?

14 THE WITNESS: Okay.

15 BY MR. JORGENSEN:

16 Q And you watched that videotape a couple of days
17 later.

18 A Yes.

19 Q Probably Tuesday or Wednesday after your Monday
20 break.

21 A Probably.

22 Q And then it was the following Saturday that you saw
23 these six pictures and -- and initialed one.

24 A Yes.

25 Q Yes, you're sure, or yes, that sounds about right?

1 A I'm not actually sure. I think when they called me
2 on the phone I think when we pulled up the receipt I remember
3 going back and -- now I think about it I remember going back
4 and looking at the tape, and then I looked at it with them.

5 Q In other words, you looked at it the same day it
6 would have happened and --

7 A No.

8 Q -- then saw -- okay. Tell me what you mean then.

9 A That week, I'm thinking it was -- I believe -- I
10 can't remember exactly, but they called me and told me that
11 they were going to come up to the store, the detectives. So
12 when they told me that and they told me what the transaction
13 was, I went back and I looked up the transaction on the
14 computer and I found the transaction.

15 Q What were you looking for?

16 A The receipt that was \$490 --

17 Q Okay. So --

18 A -- that he --

19 Q -- you -- you're looking for 409 -- or 490.07.

20 A Right.

21 Q And you knew it happened on -- what day it happened
22 on.

23 A On the 17th.

24 Q Right. And so that's what you started to page
25 through transactions for the 17th until you found that day.

1 A Right.

2 Q At that point did you know who had done the -- who

3 had been the -- the clerk? Did you already --

4 A Yes.

5 Q -- (indiscernible)

6 A Yes.

7 Q Okay. Here's what I'm trying to find out. The day

8 this happened, did Deja say anything to you about it? In

9 other words, on the 17th? Or did you find out about it a

10 couple of days later?

11 A The 17th I remember he say somebody came looking for

12 me.

13 Q But at that --

14 A Because --

15 Q -- point did he -- was he saying somebody came

16 looking for you and he used a bad credit card, or he just said

17 somebody came looking --

18 A He just --

19 Q -- for you?

20 A -- said one of your customers came looking for you,

21 yes.

22 Q So when he took -- okay. And then it wasn't until a

23 couple of days later that you even knew that someone had try

24 -- had used a bad card?

25 A Right.

1 Q That's when they called you when you maybe after
2 Monday you had -- you had your break they called you and said
3 we're looking for \$490.07 on the 17th, can you pull up and see
4 if you can find a receipt like that.

5 A Right.

6 Q And then at the same time (indiscernible) the same
7 day you then review the videos.

8 A On that day, yes.

9 Q And then couple of days later or the next day or
10 whatever the detectives come and you show them what you had
11 already looked at.

12 A Yes.

13 Q Can you see this person who does this transaction?
14 Can you see him come in the front door?

15 A From where?

16 Q From outside.

17 A Oh, yes. Yes. You can see outside from inside the
18 store.

19 Q And did you -- could you see who he came in with, a
20 man or a woman?

21 A Oh, I don't -- I don't remember. I don't remember
22 that.

23 Q Because you couldn't see it or because you were
24 focusing mainly on the -- the action at the --

25 A At the --

1 Q -- register?

2 A -- register, yes.

3 Q And at the register you could see -- could you see
4 -- is it positioned in such a way that you can see both your
5 clerk's face and the person making the transaction, or just
6 one or the other?

7 A You could see the cash register, keyboard; you could
8 see the screen; and you can also see the customer standing in
9 front of the computer.

10 Q Was that customer with somebody else?

11 A No. Not that I can remember, no.

12 Q How do you know that that -- what you're watching on
13 the videotape actually matches this? Or can you tell that?

14 A When you're -- when you're looking at the video you
15 can see the register and you can see the items and you can
16 tell the amount, so that's how you -- that's how you -- you
17 know what you're looking at.

18 Q Now, when a person uses a credit card the credit
19 card receipt printer prints out one of these --

20 A Yes.

21 Q -- which you have as the top copy on State's Exhibit
22 1. And then you slide it across and have the person who has
23 gave you the card, he signs it.

24 A Yes.

25 Q And then you pull the card to a different place and

1 imprint it onto one of these old receipts?

2 A Well, when I actually do it I print it -- I print
3 the card first and then I run it and I check the ID.

4 Q Does this old receipt, is this the bottom part of a
5 two-part?

6 A Yes.

7 Q So you give the customer then a copy of the --

8 A I give them a copy of both. Well, all three
9 actually; there's three things that you give them: You give
10 them one that comes out of the register; one that you imprint;
11 and one that comes out of the machine.

12 Q And he sign -- and he or she signs two of them?

13 A Right.

14 Q The imprinted receipt and the computer generated
15 receipt.

16 A That's true.

17 Q Two different times though?

18 A Well, the way we -- the way we was trying to set it
19 up was you put the carbon copy underneath the copy that prints
20 out.

21 Q Could you tell if that's what happened this time?

22 A I don't remember. I'd have to see it.

23 Q Now, you indicated that after this had occurred you
24 saw the -- this guy in two other times the following week;
25 does that sound right?

1 A I'd -- I -- I remember seeing him two other times
2 after, after that.

3 Q Did you ask him about this?

4 A No.

5 Q Because you hadn't heard about it yet or you just --

6 A I just didn't.

7 MR. JORGENSEN: Court's indulgence?

8 BY MR. JORGENSEN:

9 Q How many cameras does your store have?

10 A Five or six, something like that.

11 Q And each one of them are being recorded all the
12 time?

13 A Yes. Well, when there is motion in the store.

14 MR. JORGENSEN: No other questions.

15 THE COURT: Any redirect?

16 MS. WALSH: Just -- just briefly, Judge.

17 REDIRECT EXAMINATION

18 BY MS. WALSH:

19 Q Just to clarify, you didn't witness the transaction
20 as it was happening live (indiscernible)

21 A No.

22 Q But you later at some point in time -- we're not
23 sure when; within a few days -- reviewed the surveillance
24 video.

25 A Yes.

1 Q And on the surveillance video you're able to see the
2 face of the person at the cash register.

3 A Yes.

4 Q Then the cash register itself, the screen.

5 A Yes.

6 Q And when you viewed the video that's when you were
7 able to recognize who it was who made that transaction?

8 A Yes.

9 Q Were you able to recognize right away that it was
10 this person that you knew as Phillie?

11 A Yes.

12 Q The -- the Defendant in this case?

13 A Yes.

14 Q And when you looked at -- Mr. Jorgenson asked you
15 how do you know that the credit card receipt you're looking at
16 right now and the incident in this case is the same one you
17 viewed on the videotape, is that because what was on that
18 screen matched up, it was the transaction of \$490 and some odd
19 cents?

20 A Yes.

21 Q So there's no question in your mind that you're --
22 were looking at the right video.

23 A No question, yes.

24 Q And there's --

25 A No.

1 Q -- no question in your mind that it was the
2 Defendant who made the purchase on that day.

3 A No question.

4 MS. WALSH: Pass the witness, Judge.

5 THE COURT: Any recross?

6 MR. JORGENSEN: Yeah.

7 RECROSS EXAMINATION

8 BY MR. JORGENSEN:

9 Q Just to make sure I got this one right. The video
10 that we're talking about is from behind the cash register
11 looking toward the front of the store.

12 A Yes.

13 Q So you see the back of whoever's running the
14 register.

15 A The top and the back, yes.

16 Q You can see the screen that he or she is typing
17 into.

18 A Right.

19 Q Can you see if it's a Mastercard or a Visa that's
20 being slid across?

21 A In the shot it's -- it's one shot that shows the
22 keyboard, and if you bring the card like this you can see it.

23 Q So you were -- you were not watching the same angle
24 the whole time?

25 A I remember we looked -- we focused on one particular

1 one, yeah.

2 Q And that was the one that's -- that shows the
3 keyboard up close or it shows the monitor and the customer and
4 the back of the clerk?

5 A That's -- the one that shows all -- the monitor, the
6 customer, that's the one we focused on, right.

7 Q And the monitor and the customer and the back of the
8 clerk fill up the whole frame, or do you -- can you see more?

9 A It fills up most of the frame.

10 Q Could you tell if the guy that was the customer, did
11 he have a -- a mustache?

12 A I believe so. I can't remember.

13 Q What color shirt did he have on?

14 A Don't remember.

15 Q How tall did he look?

16 A Maybe 5'7", 5'8".

17 Q You could tell that from the video, or that's from
18 your memory of what Phillie looks like?

19 A From my memory.

20 Q Did he have corn rows, or did he have a afro, or did
21 he have combed out hair or what, the guy on the video, not
22 Phillie?

23 A I -- I can't remember. I remember he had hair like
24 -- I can't remember if it was corn rows or not. I -- I don't
25 remember.

1 Q You could not in this -- what you were watching that
2 day a couple of days later and then with the detective, you
3 could not see actually who was -- whose name was on the card
4 and if it was a Visa card or not?

5 A On the video?

6 Q Right.

7 A No.

8 Q How you identified it as -- it was \$490 on the
9 monitor.

10 A Well, it's -- the product that he bought adds up to
11 490. I mean, you know, like if you're looking at the
12 receipt --

13 Q Uh-huh (affirmative.)

14 A -- it shows the SKU number and the amounts. And
15 then if you look at the video you can kind of tell if -- I
16 mean, I've been doing it for like a couple of years, so I
17 know, if I'm looking at the video, what boxes look like or
18 what the item might look like.

19 Q So the -- what the -- the video you watched looked
20 like it had on there the same listing of what's on that
21 printout that we have as State's Exhibit --

22 A Yes.

23 Q -- the same four of five boxes.

24 A Right. Not boxes. It was like couple of boxes and
25 some clothing or something.

1 Q Did the video tell you what time of day it was
2 supposed to be that -- that the video camera, did it have a
3 timestamp on it?

4 A Yes, the video does have that.

5 Q And what time was this supposed to be?

6 A I can't remember.

7 Q What day was it supposed to be?

8 A It was the 17th, March 17th.

9 Q You remember --

10 A I think it was like 12:53 or something, 12. I don't
11 know. It's been like two years. I can't remember because
12 it's been like a year and a half.

13 Q Okay.

14 A (Indiscernible)

15 Q Thank you.

16 THE COURT: Any follow-up from the State?

17 MS. WALSH: No, Judge.

18 THE COURT: Any question by the jury?

19 All right. Thank you, sir. You're excused. Please
20 do not discuss your testimony with any other witness involved
21 in this case till this matter is finally resolved. Thank you
22 for your time, sir.

23 THE WITNESS: Thank you.

24 (Witness excused)

25 THE COURT: Next witness for the State?

1 MS. RINETTI: Detective Rader is our next witness.

2 (Witness summoned)

3 THE BAILIFF: If you'll remain standing and please
4 raise your right hand and face the clerk.

5 THE CLERK: You do solemnly swear the testimony
6 you're about to give in this action shall be the truth, the
7 whole truth, and nothing but the truth, so help you God?

8 THE WITNESS: Yes, I do.

9 THE CLERK: Thank you. Please be seated. Please
10 state your full name and spell your name for the record.

11 THE WITNESS: William Rader, it's W-i-l-l-i-a-m
12 R-a-d-e-r.

13 THE COURT: Counsel?

14 WILLIAM RADER

15 having been called as a witness on behalf of the Plaintiff and
16 being first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. RINETTI:

19 Q How are you currently employed?

20 A I'm a detective with Las Vegas Metro police.

21 Q And how long have you been employed with the
22 Metropolitan Police Department?

23 A Eleven years.

24 Q And were you working back on March 24th of 2007?

25 A Yes.

1 Q And on that day what unit or division were you
2 assigned within Metro?

3 A Tourist safety unit.

4 Q And how long have you been with the tourist safety
5 unit?

6 A Four years.

7 Q And what does -- what is this tourist safety unit?

8 A We handle any crime related to a tourist. We
9 specialize in pickpockets and distract thieves.

10 Q Okay. And were you working with Detective Flenner
11 on an incident in -- at a -- at the Tropicana casino involving
12 a Ronald Ross?

13 A Yes.

14 Q And do you see Mr. Ross in the courtroom here today?

15 A I do.

16 Q And could you please point to him and describe an
17 article of clothing he's wearing?

18 A (Pointing) Like he has a tan shirt on.

19 MS. RINETTI: The record reflect the identification
20 of the Defendant?

21 THE COURT: Yes, it will.

22 MS. RINETTI: Okay.

23 BY MS. RINETTI:

24 Q On March 24 of 2007 did you go to the Sheikh shoe
25 store located at 3525 South Maryland Parkway?

1 A Yes.

2 Q And is that located here in Las Vegas, Clark County,
3 Nevada?

4 A Yes.

5 Q And why did you go to the Sheikh shoe store?

6 A To conduct a photo lineup with three of the clerks.

7 Q With three of the clerks?

8 A Correct.

9 Q Now, did you put together a photo lineup in
10 relationship to this case?

11 A Yes.

12 Q And can you describe briefly how you put together a
13 photo lineup?

14 A Well, we develop a -- a potential suspect, and then
15 we have a computerized system where we put in hair color, skin
16 color, things that we try and match closely to that
17 individual. There's usually at least six individuals in the
18 photo lineup. And then the photo lineup's given to the -- or
19 instructions are given and then the photo lineup's given to
20 the -- the witnesses or clerks in this case.

21 Q And did -- is that the process you used in this
22 particular case?

23 A That's correct.

24 Q And is there also not only -- now, when you show a
25 photo lineup to witnesses does it have the name of the person

1 underneath each individual picture?

2 A No.

3 Q Okay. Is there a separate lineup that may contain
4 like a key that has all the names of the individuals that are
5 contained in that photo lineup?

6 A Yes. You usually do two copies, one with --

7 MS. RINETTI: Permission to --

8 A -- one without.

9 MS. RINETTI: -- approach?

10 THE COURT: Yes.

11 BY MS. RINETTI:

12 Q I am showing you what's been marked as State's
13 proposed exhibit number 4; do you recognize it?

14 A Yes. That's the photo lineup that I did.

15 Q Okay. Is that a photo lineup you did in connection
16 to this case?

17 A That's correct.

18 Q Okay. And it fairly and accurately depicts the
19 photo lineup that you conducted on March 24th, 2007?

20 A That's correct.

21 MS. RINETTI: Move to admit State's proposed 4.

22 THE COURT: Any objection?

23 MR. JORGENSEN: No, Judge.

24 THE COURT: It will be admitted.

25 (State's Exhibit 4 admitted)

1 Q Showing you what's been admitted State's 4, and
2 that's the photo lineup that you gave to the three clerks at
3 the Sheikh shoe store.

4 A Correct.

5 Q And which picture is Ronald Ross in?

6 A Four.

7 Q Can you point to it on the screen?

8 A Right -- oh, on that screen or this screen?

9 Q Is it this one?

10 A There we go. Okay.

11 Q Okay.

12 A I'm sorry.

13 Q All right. And then now showing you State's
14 admitted as number is this the key that is in relationship to
15 the photo lineup that you used with the Sheikh -- the Sheikh
16 shoe store?

17 A Correct. Yes, it is.

18 Q And Ronald Ross is in number 4?

19 A Yes.

20 Q With his name underneath?

21 A Yes.

22 Q Okay. Now, you said you showed these photo lineups
23 to three individuals; is that correct?

24 A Yes.

25 Q And did you show this photo lineup to a sales clerk

1 by the name of Luis Valadez?

2 A Yes.

3 Q And was Luis Valadez able to identify anyone in the
4 photo lineup?

5 A Yes, he was.

6 Q And who was he able to identify?

7 A He identified number 4, Ronald Ross.

8 Q And did you also show a lineup to a salesperson
9 named Deja Vu?

10 A Yes.

11 Q And was Deja able to identify anyone in the photo
12 lineup?

13 A Yes, he was.

14 Q And who was he able to identify?

15 A He also identified number 4 as Ronald Ross.

16 Q Did you also show a photo lineup to Kevin Hancock?

17 A Yes, I did.

18 Q And was he able to identify anyone?

19 A He did.

20 Q Okay. And when you conducted these three lineups
21 with these three separate individuals did you conduct them all
22 together or did you have each witness come in one at a time?

23 A They were done separately.

24 Q Okay. So each person viewed the lineup separately
25 apart from the two other witnesses?

1 A Correct.

2 Q And then on -- on all three lineups they were
3 aidable to individually and separately identify Ronald Ross?

4 A Yes, they were.

5 Q As the person that came into the shoe store?

6 A Yes.

7 MS. RINETTI: Pass the witness.

8 THE COURT: Cross-examination?

9 CROSS-EXAMINATION

10 BY MR. JORGENSEN:

11 Q Your contact with this case is limited to -- to
12 coming up with this series of six pictures, taking them on the
13 24th of March of 2007, and showing it to the three individuals
14 and getting their statement.

15 A That's correct.

16 Q You didn't watch any videos or talk to anybody at
17 any casinos.

18 A No, sir.

19 MR. JORGENSEN: No other questions.

20 THE COURT: Any redirect?

21 MS. RINETTI: No, Your Honor.

22 THE COURT: Thank you, Officer, for your testimony.
23 You're instructed not to discuss your testimony with any other
24 witness involved in this case till this matter is finally
25 resolved. Thank you for your time, sir.

1 THE WITNESS: Thank you.

2 (Witness excused)

3 THE COURT: Next witness?

4 MS. WALSH: Detective Flenner.

5 (Witness summoned)

6 THE BAILIFF: Detective Flenner, if you'll remain
7 standing, please raise your right hand and face the clerk.

8 THE CLERK: You do solemnly swear the testimony
9 you're about to give in this action shall be the truth, the
10 whole truth, and nothing but the truth, so help you God?

11 THE WITNESS: Yes, I do.

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

14 THE WITNESS: Darrell Flenner, D-a-r-r-e-l-l
15 F-l-e-n-n-e-r.

16 THE COURT: Go ahead, Counsel.

17 MS. WALSH: Thank you, Judge.

18 DARRELL FLENNER

19 having been called as a witness on behalf of the Plaintiff and
20 being first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. WALSH:

23 Q Sir, how are you currently employed?

24 A With the Las Vegas Metropolitan Police Department.

25 Q And how long have you so been employed?

1 A Seventeen years.

2 Q What's your current capacity in the police
3 department?

4 A A detective.

5 Q How long have you been a detective?

6 A Seven years.

7 Q What unit are you currently assigned to?

8 A Tourist safety unit.

9 Q And what is the tourist safety unit?

10 A We handle tourist crimes that occur at hotels,
11 mainly certain burglaries, larcenies, pickpockets, distracts,
12 auto burg -- auto burglaries. Pretty much --

13 Q Have you had any training regarding the specific
14 type of crimes you investigate in the tourist safety unit?

15 A Yes, ma'am.

16 Q And what type of training did you receive?

17 A It's -- well, we watch videos and we actually just
18 by seeing the crimes occur we pretty much learn on the job.

19 Q A lot of on-the-job training?

20 A Yes.

21 Q Okay. A lot of training you receive from other
22 detectives on the unit who've been there longer than you?

23 A Prior to me getting there, yes.

24 Q Okay. Now, you mentioned that part of your duties
25 is to investigate what you call a distract theft; is that

1 correct?

2 A Yes, ma'am.

3 Q Can you explain to the ladies and gentlemen of the
4 jury exactly what you mean by the words distract theft?

5 A It's a -- a distract is -- usually it's [sic] can be
6 done with one person but it mostly is done with two people
7 where you'll have one person that actually does a distract on
8 somebody, diverting their attention away, however means, while
9 a second person is actually taking items.

10 Q Okay. Can you also have someone, a second person,
11 operating just as a cover to cover up what the first person is
12 doing?

13 A Yes, ma'am.

14 Q Okay. And so maybe the first person can be
15 distracting and taking an item, and the second person can be
16 covering it up from the other public's view?

17 A Yes. There's -- there's many ways.

18 Q Numerous ways to con -- to conduct distract thefts
19 and pickpockets here on the Strip.

20 A Yes, ma'am.

21 Q Okay. And you've investigated distract thefts
22 previously in the past; is that correct?

23 A Yes, ma'am.

24 Q Okay. Over the -- the number of years you've been
25 in the tourist safety unit?

1 A Yes, ma'am.

2 Q Now, are you familiar with a individual by the name
3 of Ronald Ross?

4 A Yes, ma'am.

5 Q And do you see Mr. Ross in court today?

6 A Yes, ma'am.

7 Q Can you point to him and describe an article of
8 clothing he is wearing?

9 A Sitting there in -- I can't really see -- V-neck
10 shirt (indiscernible) beige.

11 MS. WALSH: Can the record reflect the witness has
12 identified the Defendant?

13 THE COURT: Yes, it will.

14 BY MS. WALSH:

15 Q And were you familiar with Mr. Ross prior to March
16 17th of 2007?

17 A Yes, ma'am.

18 Q Okay. Now, I want to direct your attention to
19 around March 17th of '07 and the days and weeks following.
20 Did you have an occasion to be a detective assigned to
21 investigate a type of distract theft at the Tropicana Hotel
22 and Casino?

23 A Yes, ma'am.

24 Q And is the Tropicana at 3801 Las Vegas Boulevard
25 here in Clark County, Nevada?

1 A Yes, ma'am.

2 Q Okay. And in the course of your investigation you
3 learn that the victim in that case was a Georgia Stathopoulos;
4 is that correct?

5 A Yes, ma'am.

6 Q Did you have an occasion to review some surveillance
7 tapes regarding that incident?

8 A Yes, ma'am.

9 Q Did you get those surveillance tapes from the
10 casino?

11 A Yes, ma'am.

12 MS. WALSH: And, Judge, we have marked as State's
13 proposed exhibit number 2 the surveillance tape from the
14 Tropicana casino. We're going to move to admit by way of
15 stipulation through the parties.

16 THE COURT: Are you stipulating to that, Mr.
17 Jorgenson?

18 MR. JORGENSEN: Yes, Judge.

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

20 (State's Exhibit 2 admitted)

21 MS. WALSH: Yes. Permission to publish, Your Honor?

22 THE COURT: Yes.

23 BY MS. WALSH:

24 Q And, sir, State's exhibit number 2 that's playing
25 right now; is this the video surveillance from the Tropicana?

1 A Yes, it is.

2 Q Now, do you see anyone in view that is a person of
3 interest?

4 A Yes. Ronald Ross up -- is up on the top, and a
5 second unidentified subject is in the other shirt. Ronald
6 Ross is sitting down --

7 Q (Indiscernible)

8 A I'm sorry.

9 Q That's okay. Okay. Can you identify for the jury
10 where Mr. Ross is?

11 A He just sat down -- sitting down to the left of --

12 Q You can actually --

13 A -- Mrs. --

14 Q -- (indiscernible)

15 A Oh. This is Ms. Stoph -- I'm sorry, I can't
16 pronounce her name.

17 Q You can call her Georgia.

18 A Georgia. Sitting right here. She said her husband
19 was sitting to her right, so that corresponds, and then he is
20 sitting right here.

21 Q Okay. Would he have been that individual who we
22 initially saw walking towards the top of the screen in the
23 jersey?

24 A Yes, ma'am.

25 Q And that would be a jersey with the number 6 on it?

1 A Yes, ma'am.

2 Q And the second individual that he is with is
3 currently standing right behind him in this frozen frame; is
4 that correct?

5 A Yes, ma'am.

6 Q And this frame is frozen at 1:06:15 and 15 seconds?

7 A Yes, ma'am.

8 Q Now, based upon your training and experience as an
9 officer is there anything of significance of what we just saw
10 with the Defendant walking up past Ms. Stathopoulos doing
11 something with his jacket in his hand and turning around and
12 coming back (indiscernible)

13 A Yes, ma'am.

14 Q And what is the significance of that?

15 A He was setting up his prop.

16 Q And what do you mean by prop?

17 A Jackets are used in a matador style to cover the
18 hand so they can slide them over so you cannot see what the
19 hand is doing. So you've got a -- it -- it's concealed.

20 Q Okay. So it's a way for them to do -- be doing
21 something with their hand that's not redably -- redably --
22 redably [sic] viewable to the general public; is that correct?

23 A Yes, ma'am.

24 Q And this is something you've seen numerous times in
25 your investigation as an officer?

1 A Yes, ma'am.

2 Q Okay. Now, the presence of a second person; that's
3 also something you indicated is almost normal in this type of
4 distract theft situation.

5 A Yes, ma'am.

6 Q Thank you.

7 MS. WALSH: If we could play it?

8 BY MS. WALSH:

9 Q Now, in the videotape it appears that he's talking
10 to Georgia; is that correct?

11 A Yes, ma'am.

12 Q And it appears he's pointing, and the -- and the
13 second individual with him is pointing as well; is that
14 correct?

15 A Yes, ma'am.

16 Q Is that something of significance to you as an
17 officer?

18 A Yes, ma'am.

19 Q And what's the significance of that?

20 A Trying to divert her attention away looking -- to
21 look away from where they're at.

22 Q Okay. And would it also be to -- to draw her
23 attention away from where her purse is at?

24 A Yes.

25 Q Now, the second individual appears to be standing in

1 between Mr. Ross and -- and Georgia; is that correct?

2 A Yes, ma'am.

3 Q And is there any significance to you regarding that?

4 A (Indiscernible) where he's at right now he's
5 blocking what's happening from anybody walking behind. Behind
6 Georgia. And Mr. Ross.

7 Q (Indiscernible) also any significance as to how
8 close both the Defendant and the person he's working with are
9 to the victim?

10 A Yes.

11 MS. WALSH: And if we can pause it right here.

12 Okay.

13 BY MS. WALSH:

14 Q What's the significance of how close Mr. Ross and
15 this other individual were to that victim?

16 A Well, the -- the -- the second guy right here, he
17 actually gets close enough to where he almost looks like he
18 brushes her to where she feels something so she's not alarmed
19 to feel if she -- in case something else is being moved at the
20 same time. So he moved in so close to block anybody behind
21 and wedged into the side so she could -- if she did look over
22 all she'd see was him.

23 Q Okay. So kind of to just make her understand hey,
24 if you feel something here where -- where your left is, on
25 your left side where your purse is, it's just me because I'm

1 standing so close to you; is that correct?

2 A That's correct.

3 Q Okay.

4 MS. WALSH: And if we could rewind it just a few
5 seconds.

6 BY MS. WALSH:

7 Q And now, Officer, if you -- we're going to see some
8 type of handoff; is that correct?

9 A Yes, ma'am.

10 MS. WALSH: And if we could play it. And if we
11 could pause it here.

12 BY MS. WALSH:

13 Q And we're pausing it at 13:07:29; is that correct,
14 Officer?

15 A Yes, ma'am.

16 Q And this would be the point where Mr. Ross handed
17 off his coat and whatever else would be contained in the coat
18 to the second individual; is that correct?

19 A Yes, ma'am.

20 Q And is there anything significant to you as a
21 detective regarding exactly how the Defendant handed off this
22 property to this other person?

23 A The coat was partially concealing the wallet. And
24 then with the second guy walking away with the wallet, since
25 Ross is still there, if he gets confronted he's going to say I

1 have nothing on me, I don't know what you're talking about.

2 Q Now, just to be completely fair we don't absolutely
3 100 percent see the wallet in the video; is that correct?

4 A Yeah. You can see the black thing; it -- it's in --
5 it's in the jacket.

6 Q (Indiscernible) see a black thing inside the jacket?

7 A (Nodding head affirmatively)

8 Q Okay. So we see a jacket and something black being
9 handed off to the second individual.

10 A Yes, ma'am.

11 Q And the second individual's now walking up towards
12 the screen; is that correct?

13 A Away from the camera.

14 Q Away from the camera.

15 MS. WALSH: If we can play it here.

16 BY MS. WALSH:

17 Q And then Mr. Ross walks off in a different
18 direction; is that correct?

19 A Yes, ma'am.

20 Q Is there any significance to the fact that the two
21 who were initially walking in the same direction are now
22 walking separate ways?

23 A Just so they're not seen together. Walk off and
24 meet up later.

25 Q Okay. And is that something that's common in a

1 distract theft type of situation?

2 A Yes, ma'am.

3 Q And you indicated that it was significant that the
4 person who actually took the property hands off the other --
5 the property to somebody else so if he's questioned he's not
6 stopped with the property; is that correct?

7 A Yes, ma'am.

8 Q And to be clear, at the beginning of the video
9 they're originally walking in the same direction approaching
10 Ms. Stathopoulos.

11 A Yes, ma'am.

12 Q And is there a significance to the fact that this
13 was an elderly victim?

14 A It seems to be a trend.

15 Q Okay. Now, you indicated you were able to identify
16 Mr. Ross off the videotape; were you able to do that
17 immediately upon viewing the tape?

18 A It wasn't immediately.

19 Q But you were able to identify him from the
20 videotape?

21 A Yes, ma'am.

22 Q Recognized him off the tape?

23 A (No audible response.)

24 Q Now, you also viewed some video surveillance at
25 another store regarding this Defendant; is that correct?

1 A Yes, ma'am.

2 Q Had you been notified that one of the credit cards
3 that were taken from Georgia was used at the Sheikh shoe
4 store?

5 A Yes, ma'am.

6 Q And did you respond to that location?

7 A Yes, ma'am.

8 Q Did you review the surveillance tape at that
9 location?

10 A Yes, ma'am.

11 Q And was this actually surveillance on a computer --

12 A It --

13 Q -- computer system?

14 A Yes, ma'am.

15 Q Were you able to procure a copy of that video
16 surveillance?

17 A No, ma'am.

18 Q And why is that?

19 A They -- they didn't know how to operate the system.
20 I even talked to the general manager of -- regional manager,
21 and they were supposed to come do it, but they never figured
22 out how to get it from the computer to a DVD.

23 Q Okay. And from what we understand this was a
24 relatively new surveillance system.

25 A That's what they told me, yes, ma'am.

1 Q Okay. Now, when you reviewed the surveillance
2 system you were able to -- there was a date and timestamp on
3 the video; is that correct?

4 A Yes, ma'am.

5 Q And the surveillance you viewed was from March 17th,
6 2007?

7 A Yes, ma'am.

8 Q And it was from approximately 1:49 in the afternoon;
9 is that correct?

10 A The time the transaction took place.

11 Q Okay. Transaction was at 1:49?

12 A Approximately 1 -- yes.

13 Q Okay. So you started viewing the tape a few minutes
14 prior --

15 A Yes, ma'am.

16 Q -- to the date of the transaction?

17 A Yes, ma'am.

18 Q Okay. When you're able to view the surveillance
19 tape of the person who came into the store, was it Mr. Ross?

20 A It was -- it was far, distant view, but based on the
21 clothing, it had the number 6 on it, the hat, same hat, the
22 second subject had the same clothes, I figured that to be
23 Ronald -- Ronald Ross.

24 Q Okay. So on the videotape you see two individuals
25 walk into the store, and they're wearing the same clothing

1 that they were just wearing in this video right here.

2 A Yes, ma'am.

3 Q Okay. And that clothing was a jersey with the
4 number 6 on it?

5 A Yes, ma'am.

6 Q And that's what you saw in the videotape?

7 A Yes, ma'am.

8 Q That second person that was with the Defendant in
9 the Tropicana video had the same clothing on at the shoe
10 store?

11 A Yes, ma'am.

12 Q Okay. Did Mr. -- or excuse me, did the person with
13 the jersey also have a -- the coat?

14 A Yes, ma'am. Believe --

15 Q Okay.

16 A -- he was wearing it at this time.

17 Q Okay. So he's wearing the coat now; it's no longer
18 draped over his arm?

19 A Yes, ma'am.

20 Q Okay. And this was approximately half an hour to 40
21 minutes after the incident took place at the Tropicana that
22 you're -- the video time is, correct?

23 A Yes, ma'am.

24 Q And because it's within such a short time and the
25 clothing on both individuals the same you conclude that the

1 person in the video is Mr. Ross.

2 A Yes, ma'am.

3 Q From the Sheikh shoe store.

4 A Yes, ma'am.

5 Q Does the person in the video with the jersey with
6 the number 6 on it make a transaction?

7 A Yes, ma'am.

8 Q Do you see that transaction on the videotape?

9 A I -- I see him at the front making a transaction.

10 Q Okay. So were you able to just tell from the
11 surveillance that merchandise was put up and it was paid for
12 and he left with the merchandise?

13 A Don't remember who left with it, but I know he was
14 the only one at the counter making the transaction.

15 Q Okay. So the only person at the counter making a
16 transaction is the person in the jersey with the number 6 on
17 it.

18 A Yes, ma'am.

19 Q Okay.

20 MS. WALSH: Court's indulgence, Your Honor?

21 THE COURT: All right.

22 BY MS. WALSH:

23 Q Officer, how long does it take to get from the
24 Tropicana to Sheikh shoe store?

25 A That time of day, depending on traffic, could be 15

1 minutes.

2 Q Okay. Now, are you also familiar with the place
3 where Mr. Ross was born?

4 A Yes, ma'am.

5 Q Where was he born?

6 A Philadelphia, Pennsylvania.

7 Q And how tall is Mr. Ross?

8 A Approximately 5'8".

9 MS. WALSH: No further questions, Judge.

10 THE COURT: Cross-examination?

11 CROSS-EXAMINATION

12 BY MR. JORGENSEN:

13 Q Detective, you were on a normal shift on March 17th
14 of '07.

15 A Yes, sir.

16 Q That shift started when?

17 A Actually, I don't know when March 17th was -- what
18 day it was.

19 Q In March of -- not this last March but the March
20 before you were a detective?

21 A Yes, sir.

22 Q With the same unit that you are with now?

23 A Yes, sir.

24 Q And do you remember what shift you were working back
25 then?

1 A A day shift.

2 Q Starting when and ending when?

3 A I start at 7:00 and end at 4:00.

4 Q And that would be Monday to Friday?

5 A At that time it was every other Monday off with
6 weekends off.

7 Q So (indiscernible) work on Saturdays?

8 A No, sir.

9 Q (Indiscernible) if March 17th is a Saturday you came
10 in doing ex -- overtime then?

11 A No, sir.

12 Q So your memory is March 17th is not a Saturday.

13 A I don't remember when March 17 -- what day it fell
14 on.

15 Q If it fell on a Saturday then it wouldn't have been
16 you because you weren't working on Saturdays?

17 A Correct.

18 Q All right. So you get -- how do you first -- how
19 does this case first come to your attention?

20 A It gets assigned by the sergeant.

21 Q And you're --

22 A (Indiscernible) --

23 Q -- told --

24 A -- we all have a -- a computer with what's called a
25 queue, and all the cases get sent to each detective by the

1 sergeant.

2 Q And you're told that a lady at the Tropicana thinks
3 that her card's been -- or her (indiscernible) her wallet's
4 been taken.

5 A Yes, sir.

6 Q Did you hear at that time that the card had been
7 used? Or when did you hear that -- when did you find that
8 out?

9 A It was shortly after, I believe, that she called in
10 and was desperately trying to get hold of a detective to go to
11 Sheikh Shoes to find -- and follow this up.

12 Q So when she actually called the police she at that
13 point already knew the card had been used?

14 A I don't be -- I don't remember. If -- if
15 (indiscernible) right at that time. I think that a report did
16 say that when she did realize it because it was a little bit
17 after the fact because she went to her room that when she did
18 finally call in she said it was used.

19 Q You first -- what did you do when you got the call?
20 Did you drive over to the Tropicana?

21 A I -- I called. I called the Tropicana investigator.

22 Q And did you go over there?

23 A No, sir.

24 Q Did you talk with her, the victim?

25 A I did end up talking to her sometime after.

1 Q Same day but later --
2 A No, no, no.
3 Q -- on in --
4 A It was -- it was when I came back to work.
5 Q On the day you got the call did you actually go
6 interview anybody in person?
7 A I may have went down to Sheikh Shoes. I don't
8 remember ex -- the time that -- you're talking about the
9 victim calling me or the time I get the case?
10 Q Get the case.
11 A I don't remember that specific day if I did or
12 didn't.
13 Q Did you get the case the same day the victim called
14 you?
15 A No, sir.
16 Q What came first?
17 A I would imagine the case probably came first and
18 then she would have made contact after.
19 Q All right. So it's possible the day the sergeant
20 gives you the case that prior to you finishing your shift you
21 went down and talked to somebody at the shoe store.
22 A Some point, yes, sir, I did go down there.
23 Q Maybe the same day, maybe a day after or --
24 A Could be, sir. I -- I don't remember.
25 Q Okay. And at that point that's when you watch this

1 videotape we're talking about?

2 A From Sheikh Shoes?

3 Q Yeah.

4 A Yes, sir.

5 Q When did you see the Tropicana tape? The day that
6 you got the case or a day later or a couple of days later?

7 A It was probably right after that. I don't know -- I
8 don't remember exactly when it was because I did not pick up
9 the tape. One of our swing shift detectives picked it up.

10 Q Where did you watch the tape at?

11 A That would be in our office.

12 Q So the Tropicana had already copied to a tape what
13 we just watched here a little bit earlier and shipped it over
14 or sent it over to your offices that your -- where your
15 detectives are at.

16 A Yes, sir.

17 Q You guys didn't go to the Tropicana to pick it up.

18 A Our swing shift detectives picked it up somehow. I
19 don't know if they went down there or -- I'm sure they went
20 down there.

21 Q I guess where I'm really trying to get to is you
22 didn't watch this originally in the Tropicana surveillance
23 room.

24 A No, sir.

25 Q Okay. And the tape looked like what we see now,

1 kind of, you know, streaks and not very clear.

2 A Yes, sir.

3 Q So you didn't -- what we watched today 20, 30
4 minutes ago or 15, 20 minutes ago -- is the -- is as good a
5 copy as you've ever seen yourself.

6 A That I don't remember because I don't know if I seen
7 the original. I received a copy. I don't take originals.

8 Q And --

9 A Or our -- or my -- our swing shift officers.

10 Q All right. But it was while you watched this tape
11 back in your office that you looked at it for a while, rewound
12 it, looked at it for a while, and then said hey, I think this
13 may be Ronald Ross?

14 A Yes, sir.

15 Q Now, it doesn't look very clear. You can't -- I --
16 looking at it I can't tell anybody's facial distinct -- facial
17 features. How are you able to pick that out?

18 THE COURT: Can I have counsel approach, please?

19 MS. WALSH: Yeah. Thank you, Judge.

20 (Bench conference as follows:)

21 THE COURT: If he answered (indiscernible) seen him
22 in other -- seen him in other cases --

23 MS. WALSH: We just went to a very dangerous place
24 because (indiscernible)

25 THE COURT: (Indiscernible) how do you know it's

1 him. And he says because (indiscernible) or something like
2 that.

3 MS. WALSH: He's going to say it's because of his MO
4 because he's been investigating this guy for two years.

5 THE COURT: I just wanted to prevent any mistrial.
6 It wouldn't -- actually, you asked the question.

7 MS. WALSH: He asked the question.

8 THE COURT: Okay. All right.

9 (End of bench conference)

10 THE COURT: Next question, Mr. Jorgenson.

11 BY MR. JORGENSEN:

12 Q You -- it's sometime afterwards -- maybe the same
13 day, maybe a later day -- you go over to the shoe store and
14 talk with the manager and look at a computer generated video.

15 A Yes, sir.

16 Q And what struck you is the person that we see in the
17 Tropicana video with a jersey and a baseball cap on backwards
18 is the -- identical to the person that we saw on this tape.

19 A Yes, sir.

20 Q Now, the tape that you watched at the shoe store was
21 a -- a more zoomed out shot than what we have here from the
22 Tropicana?

23 A Yes, sir.

24 Q When you're looking at this image of the shoe store
25 you can see quite a bit of the shoe store or how far zoomed

1 out is it? What can you see in the frame?

2 A You can see quite a bit.

3 Q But in the middle of it you can see the back of the
4 person running the register or the front?

5 A You see the front. You see the -- you're looking
6 from the front doors looking into the register area.

7 Q So whoever is the customer, the customer, whoever's
8 at the counter, you're seeing the back of them?

9 A Yes, sir.

10 Q And that's where you can see a jersey, a jacket, and
11 the same hat.

12 A Yes, sir.

13 Q And a person that's roughly the same height, the
14 same build, the same gender, the same race.

15 A Yes. And not just from the back there. You -- he
16 walks around, so --

17 Q Okay. And can you look at that and recognize by
18 that videotape alone which of the employees was helping him?

19 A No, sir.

20 Q Somebody had to tell you (indiscernible) this is the
21 name of the guy who was helping him.

22 A Yes, sir.

23 Q How could you tell that this videotape was the one
24 that you were interested in?

25 A The time.

1 Q How did you know what time to look for?

2 A Victim.

3 Q The victim told you her -- what?

4 A Her credit card was used at the Sheikh shoe store
5 and gave a time.

6 Q Do you remember what time that was?

7 A Approximately 1:49 p.m.

8 Q So when she told you that information you wrote it
9 into your notes or whatever so you could then later on go to
10 the shoe store and say pull up this date, that time, see who
11 was at the counter.

12 A Yes, sir.

13 Q I believe the victim actually called the shoe store
14 themselves and was speaking to somebody.

15 Q Before she talked to you?

16 A Yes, sir.

17 Q So she gave you the information already that not
18 only was her purse taken, her card was taken, but the -- the
19 people at the shoe store remembered that -- some transaction
20 of it.

21 A She -- well, she told me that her card was used
22 there at such and such a time, and that's what I went to look
23 for.

24 Q And she knew that because the shoe store people told
25 her that or do you remember?

1 A I believe it was her -- her bank.

2 Q Okay. But in talking with her you remember her
3 telling you that she had already talked with the shoe store
4 people.

5 A I believe so, yes, sir.

6 Q Who did you talk to at the shoe store? One person
7 or a couple of people?

8 A I talked to a couple of people.

9 Q Did you talk to the person who was actually doing
10 the transaction?

11 A Yes, I -- yes, I did.

12 Q What was his name?

13 A Believe it's Deja.

14 Q Could you tell after you met him that he was the
15 same guy who was the clerk?

16 A I'm sorry? Say again.

17 Q You said by looking at the tape you couldn't
18 immediately tell who the clerk was, correct?

19 A Yes, sir.

20 Q But did you meet the clerk in question after you
21 watched the tape or before you watched the tape?

22 A I believe it was after.

23 Q All right. When you saw the clerk then for the
24 first time could -- did you -- had -- had no one told you this
25 was the clerk would -- would you have been able to say all

1 right, here's the clerk because I already saw him on the tape,
2 or was the tape not that good (indiscernible).

3 A No. The tape was pretty good. It was --

4 Q So when you first saw the clerk you immediately
5 identified him or what?

6 A I don't remember.

7 Q Okay. The tape was good but it was in doubt.

8 A It was from a distance, yes.

9 Q Now, you indicated you saw the person with the
10 jacket, the -- what looks to be a basketball jersey, and a
11 baseball hat on backwards actually come into the store for the
12 first time.

13 A Yes, sir.

14 Q And that person came in with the same other guy who
15 we see in the Tropicana tape.

16 A Yes, sir.

17 Q So two what would you say, two black male adults in
18 their mid-20s?

19 A Thirties, 20 to 30.

20 Q Okay. Roughly the same height or is one taller than
21 the other?

22 A Roughly the same height.

23 Q One you don't recognize and one that you recognize
24 as being Mr. Ross.

25 A Yes, sir.

1 Q Never any luck at all in determining who the other
2 person was?

3 A No, sir.

4 Q When the transaction is actually happening at the
5 counter you can or can't tell if the person's paying with cash
6 or credit card or what kind of credit card.

7 A I cannot.

8 Q Partially because it's zoomed out and partially
9 because the person's blocking that portion of the counter?

10 A Yes -- yes, sir, the distance.

11 Q But being zoomed out it allows you to see who's
12 walking in the front door then, correct?

13 A Yes, sir.

14 Q This camera's probably positioned above the front
15 door?

16 A I don't remember exactly what position it was.

17 Q Okay. And you asked them to make you a copy like
18 you had the Tropicana copy, but they -- no one was there who
19 knew exactly how to do it.

20 A Yes, sir, that's correct.

21 Q And then even a couple of days or a week later you
22 were still expecting and hoping they'd make you a copy, but no
23 one actually was able to do it.

24 A Correct.

25 Q Were you present when a photo lineup was done?

1 A No, sir.

2 Q Do you know anything about that?

3 A I was given a photo lineup from Detective Rader.

4 Q After it had been shown?

5 A Yes, sir.

6 Q But you -- you weren't involved in going over to the
7 store and showing it to anybody.

8 A No, sir.

9 Q So you don't know what day that happened.

10 A No, sir.

11 Q The -- the video we watched is in black and white;
12 is that correct?

13 A Yes, sir.

14 Q Did you watch ever a Tropicana video that was in
15 color?

16 A No, sir.

17 Q But the video you watched from the shoe -- the shoe
18 store was in color or not?

19 A Yes, sir, it was in color.

20 Q Okay. And that's how you know it was a red hat and
21 the color of the jersey.

22 A Yes, sir.

23 Q And you could tell the jersey had a number 6 on it
24 because you could -- the video was good enough, even though it
25 was zoomed out, that you could see the -- the same 6 on it

1 that you see in the Tropicana video.

2 A Yes, sir.

3 Q Now, the Tropicana video you can't tell what color
4 it is, but it looks like the same -- the black and white photo
5 looks -- ends up looking the same shade roughly as the color
6 video?

7 A Well, what I've learned in this business is that
8 colors can look a lot different on videotapes than what you
9 think.

10 Q Then why do you think it's the same jersey?

11 A Just the overall build of the person, the number 6
12 is just the way it was, has a jacket now, the hat, the same.

13 Q Okay. And you're presuming it's the same color
14 then.

15 A Yes, sir.

16 Q Because the black and white video you can't
17 necessarily tell.

18 A Correct.

19 Q Did it end up being a yellow jersey? Do I have that
20 memory right? Or do you remember what color the jersey was?

21 A It's red.

22 Q And the hat was red too?

23 A Yes, sir.

24 Q Okay. Now, you don't remember what day you went
25 over to the shoe store, but it wouldn't have been on a weekend

1 because you weren't working weekends.

2 A Correct.

3 Q And whoever was in the two videos it's safe to say
4 they're the same person, the same two people.

5 A Yes, sir.

6 Q Was the other guy wearing the same clothes from both
7 -- from both tapes?

8 A Yes, sir.

9 MR. JORGENSEN: Nothing else.

10 THE COURT: Any redirect?

11 MS. WALSH: Just briefly.

12 REDIRECT EXAMINATION

13 BY MS. WALSH:

14 Q Well, it's not whoever was in the two videos because
15 you know it was Mr. Ross in the video at the Tropicana.

16 A Yes, sir -- I'm sorry, yes, ma'am.

17 Q That's okay. And you know that it's the same
18 individual in both videos?

19 A Yes, ma'am.

20 MS. WALSH: Nothing further, Judge.

21 THE COURT: Any recross?

22 MR. JORGENSEN: No, Judge.

23 THE COURT: Thank you, Officer. You're instructed
24 not to discuss your --

25 THE BAILIFF: Hold on. We've got a question.

1 THE COURT: Question. I'm sorry. Yes, sir?
2 Counsel, approach, please.
3 (Bench conference as follows:)
4 THE COURT: Right. Talk into the microphone.
5 MS. WALSH: Huh?
6 THE COURT: Talk into the microphone.
7 (Indiscernible) ask the question. Okay.
8 (End of bench conference)
9 THE COURT: And, Officer, we have a question or
10 actually two questions from a juror. Was the resolution of
11 the store tape better or worse or the same as the one from the
12 Tropicana?
13 A Better resolution.
14 THE COURT: So the store was better resolution?
15 A Yes, sir.
16 THE COURT: Okay. And did you see multiple angles
17 on the store tape or just a single static angle?
18 A (Indiscernible) all I remember now is the -- the
19 single angle.
20 THE COURT: All right. Thank you.
21 Any follow-up questions by the State to these two
22 questions here?
23 MS. WALSH: No, Your Honor.
24 THE COURT: Any follow-up by the defense?
25 MR. JORGENSEN: No, Judge.

1 THE COURT: Any other questions by the jurors? All
2 right. Thank you, Officer. Again, you're instructed not to
3 discuss your testimony with any other witness involved in this
4 case till this matter is finally resolved. Thank you for your
5 time, sir.

6 (Witness excused)

7 THE COURT: State, please call your next witness.

8 THE COURT: And, Judge, with a cleck -- check with
9 your clerk that all our exhibits have been admitted the State
10 would rest at this time.

11 THE COURT: Have they all been admitted?

12 THE CLERK: Yes.

13 THE COURT: All right. State rests at this time?

14 MS. WALSH: Yes, Judge.

15 THE COURT: Okay. Defense, do you have any
16 witnesses?

17 MR. JORGENSEN: No, Judge.

18 THE COURT: Does the defense rest?

19 MR. JORGENSEN: Yes, Judge.

20 THE COURT: All right. Ladies and gentlemen, we
21 have concluded the evidence portion of this case. As I
22 advised you earlier we would instruct you on the law, the jury
23 instructions, and also at that time -- or after then -- the
24 parties will submit their closing argument to you.

25 We're a few minutes before 5 o'clock, it's been a

1 long day for you. We have certain legal matters that we must
2 resolve before we have you back tomorrow, so we're going to
3 just start at 1 o'clock tomorrow afternoon. Again, we're
4 going to straight -- go straight into jury instructions and
5 closing argument, and then you'll be sent for deliberations,
6 all right. So we'll see you back at 1 o'clock tomorrow.

7 And during this --

8 THE BAILIFF: (Indiscernible)

9 THE COURT: I'm sorry?

10 THE BAILIFF: Go ahead.

11 THE COURT: And during this recess it is your duty
12 not to converse among yourselves or with anyone else on any
13 subject connected with this trial; or to read, watch, or
14 listen to any report of or commentary on the trial by any
15 person connected to the trial or by any medium of information
16 including without limitation newspaper, television, radio; and
17 you are not to form or express an opinion on any subject
18 connected with this case until this matter is finally
19 submitted to you.

20 We will see you back at 1 o'clock and we will start
21 promptly at 1 o'clock.

22 THE BAILIFF: Leave your notepads in your seat,
23 please.

24 (Jury excused)

25 THE COURT: Okay. Record reflect we're outside the

1 presence of the jury. Mr. Jorgenson, I think --

2 Ms. Walsh, you had a doctor's appointment tomorrow;
3 do you think you will be available around 11:00, 11:15 for us
4 to go over the jury instructions?

5 MS. WALSH: I -- I would assume so, Judge; if not,
6 I'm sure Ms. Rinetti can handle (indiscernible)

7 THE COURT: Okay. Mr. Jorgenson, do you think
8 you'll -- do you have many going tomorrow or --

9 MR. JORGENSEN: No. Although we have the DUI
10 calendar which doesn't start till 10:00, but normally since
11 they moved to moderate offender program from Thursday to
12 Friday we're done by 10:45.

13 THE COURT: All right. Why don't we see everyone
14 here at 11:00. If --

15 MS. WALSH: 11:00?

16 THE COURT: -- Ms. Walsh, if you're not back Ms.
17 Rinetti will take your place here, and then we'll work on the
18 jury instructions.

19 Mr. Jorgenson, do you have any jury instructions
20 that you wish to propose?

21 MR. JORGENSEN: No.

22 THE COURT: Okay. And have you had an opportunity
23 to review all of their instructions?

24 MR. JORGENSEN: Not quite.

25 THE COURT: Okay. All right. Well, I'd appreciate

1 it if everyone could be prepared to argue about the jury
2 instructions at 11:00. We can number them after we've gone
3 through them and made any changes, corrections, what have you.
4 And then we'll be -- let's start promptly at 1 o'clock
5 tomorrow. All right. We'll --

6 MS. WALSH: And --

7 THE COURT: -- see everybody back.

8 MS. WALSH: -- does the defense want the proposed
9 instruction about the Defendant has a right to testify or not
10 testify because I know I only gave you that in --

11 THE COURT: Right.

12 MS. WALSH: -- paper form. I didn't know if you
13 needed me to --

14 THE COURT: Do you wish to --

15 MS. WALSH: -- e-mail that.

16 THE COURT: -- have that one, Mr. Jorgenson?

17 MR. JORGENSEN: No.

18 THE COURT: You --

19 MR. JORGENSEN: No.

20 THE COURT: -- do -- you do not.

21 MS. WALSH: Okay.

22 THE COURT: Okay. Are you going to propose -- be
23 proposing your own instruction for as far as the Defendant not
24 testifying or you just don't want one at all?

25 MR. JORGENSEN: I don't want one at all.

1 THE COURT: Okay. And just for the record, I did
2 receive an e-mail from Ms. Walsh regarding the witness not
3 being able to testify and some case law. And, Mr. Jorgenson,
4 it says here that you received a copy of it, correct?

5 MR. JORGENSEN: (No audible response.)

6 THE COURT: What I'm going to do is print out
7 another copy of that, and I'll just have that marked as a --
8 as a court's exhibit.

9 MS. WALSH: Thank you, Judge.

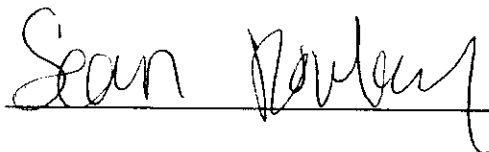
10 THE COURT: All right. Thank you. We'll see you
11 back tomorrow.

12 MS. WALSH: Thanks, Judge.

13 (The proceedings ended at 4:55:36 p.m.)

14 * * * * *

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

18 
19 _____
20 Sean Rowley, Transcriptionist

21
22
23
24
25

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

2 _____

3 RONALD ROSS,)
4 Appellant,)
5 v.)
6 THE STATE OF NEVADA,)
7 Respondent.)
8 _____

No. 52921

9 **APPELLANT'S APPENDIX – VOLUME III – PAGES 387-704**

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16 **CERTIFICATE OF SERVICE**

17 I hereby certify that this document was filed electronically with the Nevada
18 Supreme Court on the 19th day of April, 2010. Electronic Service of the foregoing document shall
19 be made in accordance with the Master Service List as follows:

20 CATHERINE CORTEZ MASTO
21 STEVEN S. OWENS

P. DAVID WESTBROOK
HOWARD S. BROOKS

22 I further certify that I served a copy of this document by mailing a true and correct
23 copy thereof, postage pre-paid, addressed to:

24 RONALD ROSS
25 NDOC No. 1003485
26 c/o High Desert State Prison
27 P.O. Box 650
28 Indian Springs, NV 89018

BY _____


Employee, Clark County Public
Defender's Office

1 his windshield and broke it.

2 THE COURT: Okay. And is that -- you said -- is
3 that -- is that case pending right now, sir?

4 JUROR NUMBER 176: Yes.

5 THE COURT: Okay. And is there a trial date set
6 or --

7 JUROR NUMBER 176: In January.

8 THE COURT: Okay. And is that situation being
9 prosecuted by the DA's Office?

10 JUROR NUMBER 176: I believe so.

11 THE COURT: Okay. All right. Sir, the fact that
12 they're prosecuting you in that particular case, would that
13 cause you to have any ill will or ill feeling towards the DAs
14 in this case?

15 JUROR NUMBER 176: No, sir.

16 THE COURT: All right. Thank you, sir.

17 Anyone else -- we'll go to the back row again.

18 Anyone else in the back row? Anyone in the second row?

19 Anyone in the front row? Yes, ma'am?

20 JUROR NUMBER 200: Number 200. My son was convicted
21 of burglary (indiscernible)

22 THE COURT: Okay. Is that --

23 JUROR NUMBER 200: (Indiscernible)

24 THE COURT: Was he charged here in Clark County?

25 JUROR NUMBER 200: (No audible response.)

1 THE COURT: Okay. Is that a yes?

2 JUROR NUMBER 200: Yes.

3 THE COURT: Okay. And was he prosecuted by the DA's
4 Office?

5 JUROR NUMBER 200: Yes.

6 THE COURT: All right. The fact your son was
7 prosecuted by DA's Office, would that cause you to have any
8 ill will or ill feeling towards the DAs in this case?

9 JUROR NUMBER 200: No, not at all.

10 THE COURT: All right. Thank you, ma'am.

11 Anyone else in the front row of the jury box?

12 Anyone in the gallery, front row? Second -- I have some hands
13 moving. Anyone in the front row? Yes, sir?

14 JUROR NUMBER 211: (Indiscernible). Recently I was
15 accused of DV battery and then it was dismissed probably about
16 two days ago. So for me it's a little bit too early to be
17 doing this.

18 THE COURT: Okay. I understand that. Okay. Was --
19 was that situation, your situation, prosecuted by the DA's
20 Office or by one --

21 JUROR NUMBER 211: It -- it was trying to be
22 prosecuted by the City attorney (indiscernible).

23 THE COURT: One of the City attorneys, okay. The --
24 but they dropped the charges?

25 JUROR NUMBER 211: Yeah. It was dismissed out of

1 court.

2 THE COURT: Okay.

3 JUROR NUMBER 211: My attorney had told me that they
4 don't even know why they took it to court because the person
5 who accused me was very intoxicated, had multiple stories
6 according to the police --

7 THE COURT: All right. The fact that you were
8 accused of that crime, sir, at least initially, would that
9 cause you to have any bias or prejudice in this case for
10 either side?

11 JUROR NUMBER 211: Yes. For the -- for probably the
12 -- the attorneys that the City -- or the attorneys, yeah.
13 Like I felt like they were -- you know, it was a waste of
14 time. It shouldn't have been brought -- been brought to
15 court --

16 THE COURT: Okay.

17 JUROR NUMBER 211: -- (indiscernible) the police
18 statement that was made about, you know, the person who
19 accused me.

20 THE COURT: Okay. The prosecutors in this case are
21 Clark County District Attorneys, not City attorneys. And it
22 sounds, from what you're telling me, is that you were
23 prosecuted by the City attorneys --

24 JUROR NUMBER 211: Sure.

25 THE COURT: -- not their office. The fact that you

1 were involved in that situation, would that cause you to have
2 any bias or prejudice against the two prosecutors in this
3 case?

4 JUROR NUMBER 211: Yes. Because again, it's too
5 early. It's -- it's two days ago. I was downstairs two days
6 ago. Yes. I would say yes.

7 THE COURT: I'm sorry? Your badge number again,
8 sir?

9 JUROR NUMBER 211: 211.

10 THE COURT: Okay. Thank you, sir.

11 Anyone else in the front row? Anyone in the second
12 row? Yes, ma'am, on the left here?

13 JUROR NUMBER 214: Just my -- my husband and Metro.
14 And it was five years ago --

15 THE COURT: Oh, your name and badge number again?

16 JUROR NUMBER 214: Oh, I'm sorry. Tanesha Baker,
17 214.

18 THE COURT: Yes.

19 JUROR NUMBER 214: And he was taken in and was -- he
20 was charged with obstruction of justice or obstruction of an
21 officer; I'm not -- I'm not really sure what the charge was.
22 And he spent the night in jail. And it was the -- it was the
23 day before Easter. So (indiscernible) but he had -- he had -
24 - he went to court and we had an attorney and it was dropped
25 to a misdemeanor. And then they said that after 18 months, if

1 he was -- was good behavior, they'd just drop the charges,
2 period. So that's what happened.

3 THE COURT: Do you know if that situation was
4 prosecuted by the DA's Office or one of the City attorneys'
5 office?

6 JUROR NUMBER 214: The DA's Office, I believe.

7 THE COURT: Okay. And the fact that the DA's Office
8 prosecuted your husband, would that cause you to have any ill
9 will or bias against the two DAs in this case?

10 JUROR NUMBER 214: No.

11 THE COURT: All right. Thank you, ma'am.

12 Anyone else in the second row? Yes ma'am?

13 JUROR NUMBER 218: Sarah Wells, 218. I was arrested
14 in '92 of possession of marijuana for a significant amount.
15 Was arrested in the early '80s for robbery here in Clark
16 County and spent five years in prison. And my son was
17 arrested here in Clark County for theft. And I think that's
18 it. And I do have someone living in my house now that is on
19 house arrest right now.

20 THE COURT: All right, ma'am. The fact that you had
21 a -- you personally had a situation, was that prosecuted by
22 the DA's Office?

23 JUROR NUMBER 218: In Indiana, yes.

24 THE COURT: Oh, in Indiana, not here in --

25 JUROR NUMBER 218: Yes.

1 THE COURT: -- Clark County.

2 JUROR NUMBER 218: No, not here in Clark County.

3 THE COURT: You had some other family members, other
4 associates.

5 JUROR NUMBER 218: Yes.

6 THE COURT: Were they all prosecuted here in Clark
7 County?

8 JUROR NUMBER 218: Yes.

9 THE COURT: Okay. The fact that they were
10 prosecuted, I'm assuming by the District Attorney's Office if
11 someone was in prison --

12 JUROR NUMBER 218: Yes. I think so.

13 THE COURT: -- do you have any ill feeling or ill
14 will towards these DAs here in this case?

15 JUROR NUMBER 218: No. They were guilty. No.

16 THE COURT: I'm sorry?

17 JUROR NUMBER 218: No. They were guilty.

18 THE COURT: Okay. All right. Thank you.

19 JUROR NUMBER 229: I've got a brother locked up for
20 a double homicide. It was in Riverside County in California.

21 THE COURT: Okay. The fact that your -- your
22 brother was prosecuted, he's in prison at this -- or brother-
23 in-law?

24 JUROR NUMBER 229: Brother.

25 THE COURT: Brother, okay. You said that that would

1 cause you to have a prejudice towards the DAs in this case.

2 JUROR NUMBER 229: No. My own situation takes care
3 of all that.

4 THE COURT: Okay. All right. Thank you, sir.

5 Anyone else in the back row? Yes, sir, in the
6 corner?

7 JUROR NUMBER 233: Yeah. Gerald Watson, 233.

8 THE COURT: Yes sir.

9 JUROR NUMBER 233: Yeah. I was arrested for attempt
10 theft.

11 THE COURT: Was that here in Clark County?

12 JUROR NUMBER 233: Yes, it was.

13 THE COURT: Was that prosecuted by the DA's Office?

14 JUROR NUMBER 233: Yes. Took a plea bargain.

15 THE COURT: And you -- you did not get a felony
16 conviction with that; is that correct?

17 JUROR NUMBER 233: No.

18 THE COURT: Okay. And about how long ago was that,
19 sir?

20 JUROR NUMBER 233: About four years ago.

21 THE COURT: Four years?

22 JUROR NUMBER 233: Yes.

23 THE COURT: Okay. And, sir, would the fact that you
24 were prosecuted by the DA's Office, does that cause you to
25 have any bias or prejudice against the DA's Office here that

1 would prevent you from being a fair juror?

2 JUROR NUMBER 233: No.

3 THE COURT: All right. You can put that matter
4 aside, sir --

5 JUROR NUMBER 233: Yeah.

6 THE COURT: -- if you're selected here? All right.
7 Thank you, sir.

8 Anyone else in the back row? Yes, ma'am?

9 JUROR NUMBER 235: Betty (indiscernible) 235. I was
10 arrested back in six by Boulder City for an extradition
11 warrant and extradited (indiscernible) state of Ohio.

12 THE COURT: And about how long ago was that, ma'am?

13 JUROR NUMBER 235: Back in six.

14 THE COURT: I'm sorry?

15 JUROR NUMBER 235: Back in '06.

16 THE COURT: '06? All right. And were you
17 prosecuted back in Ohio?

18 JUROR NUMBER 235: Yes.

19 THE COURT: Okay.

20 JUROR NUMBER 235: Misdemeanor.

21 THE COURT: All right. They extradited you on a
22 misdemeanor?

23 JUROR NUMBER 235: Thirty days, \$196 fine, and a
24 misdemeanor.

25 THE COURT: Okay. The fact that you were involved

1 in that situation, would that cause you to be prejudiced
2 against the State in this case?

3 JUROR NUMBER 235: I don't believe so.

4 THE COURT: All right. You say you don't believe
5 so; is there a possibility, or --

6 JUROR NUMBER 235: I'd look really close, yeah, but
7 probably not. I would look at all the facts very closely.

8 THE COURT: Well, that's what we want from all the
9 jurors: to make sure that the State meets their burden of
10 beyond a reasonable doubt. Could you do that, ma'am?

11 JUROR NUMBER 235: Yes.

12 THE COURT: You're not going to hold them to a
13 higher burden, are you?

14 JUROR NUMBER 235: No.

15 THE COURT: All right. Thank you, ma'am.

16 Anyone else in the back row? All right.

17 And again, during this whole process -- and I'm just
18 about completed my questioning, and the attorneys here will
19 have an opportunity to follow up to some of my questions or to
20 follow up with some of your answers -- and again, no one's
21 here to -- seeking to embarrass anyone, but I do need to ask
22 this next question. Is there anyone here ever been convicted
23 of a felony? Anyone in the jury box area? Anyone in the
24 gallery area? Yes, sir?

25 JUROR NUMBER 233: (Indiscernible) years ago.

1 THE COURT: Okay. And you've had your civil rights
2 restored, sir?

3 JUROR NUMBER 233: Oh, yes.

4 THE COURT: Okay. All right. Thank you, sir.

5 Is there anyone here that is not a legal resident of
6 the United States? Anyone in the jury box area? Anyone in
7 the gallery area? No one has answered in the affirmative.

8 Is there anyone here -- next question relate to
9 prior jury service. The question will be have you had prior
10 jury service; was it a civil or criminal case; did the jury
11 reach a verdict -- don't tell us what the verdict was, just
12 did they reach a verdict; and were you the foreperson? So
13 again, prior jury duty; civil or criminal; did you reach a
14 verdict; and were you the foreperson? All right.

15 So anyone in the jury box area? We'll go to the
16 back row first. Yes, ma'am?

17 JUROR NUMBER 188: Jean Hertzman, number 188. It
18 was a civil case and it was dismissed.

19 THE COURT: Okay. I mean, you were hearing the case
20 and it got resolved halfway through?

21 JUROR NUMBER 188: The jury got dismissed because of
22 the -- there had been information that the jury should not
23 have heard that was presented at the trial.

24 THE COURT: Okay. A mistrial then, I'm assuming.
25 Was that here in Clark County?

1 JUROR NUMBER 188: Yes.

2 THE COURT: Okay. And about how long ago was that,
3 ma'am?

4 JUROR NUMBER 188: Believe it was about six years
5 ago.

6 THE COURT: All right. Thank you, ma'am.

7 Anyone else in the back row? Second row? Front
8 row? Yes, ma'am?

9 JUROR NUMBER 198: (Indiscernible). I did both
10 civil and criminal. Both reached a verdict. And
11 (indiscernible).

12 THE COURT: Were both those situations in Clark
13 County?

14 JUROR NUMBER 198: Uh-huh (affirmative.)

15 THE COURT: Okay. And about how long ago was the
16 civil case?

17 JUROR NUMBER 198: About eight years ago.

18 THE COURT: And how about the criminal case?

19 JUROR NUMBER 198: Twenty (indiscernible)

20 THE COURT: And you came back for a third trial with
21 your jury service? All right. Thank you, ma'am.

22 Anyone else in the front row of the jury box? Yes,
23 sir, at the end?

24 JUROR NUMBER 182: Yeah. Served on a jury
25 (indiscernible) back in the '70s. I was the jury foreman.

1 Civil.

2 THE COURT: I'm sorry? You were the foreperson?

3 JUROR NUMBER 182: Yeah, I was.

4 THE COURT: And that was a civil case?

5 JUROR NUMBER 182: Yes.

6 THE COURT: And you reached a verdict?

7 JUROR NUMBER 182: Yes.

8 THE COURT: All right. Great. Thank you, sir.

9 Anyone in the gallery area front row? Second row?
10 Yes, ma'am?

11 JUROR NUMBER 222: (Indiscernible). I was on a
12 civil case in New York about eight years ago. And there was a
13 verdict.

14 THE COURT: And were you the foreperson?

15 JUROR NUMBER 222: No.

16 THE COURT: All right. Thank you, ma'am.

17 Anyone -- I think I saw someone in the back row on
18 the left side here. Yes, ma'am?

19 JUROR NUMBER 246: Elena Alden, 246. I served on a
20 criminal case here in Clark County approximately three and a
21 half to four years ago. A decision was reached. And I was
22 not the foreperson.

23 THE COURT: All right. Thank you, ma'am.

24 Yes, sir, at the end?

25 JUROR NUMBER 260: Samuel Garcia, badge number 260.

1 I was on two criminal cases, and both times a verdict was
2 reached.

3 THE COURT: And were you the foreperson in either
4 one of those cases?

5 JUROR NUMBER 260: No.

6 THE COURT: Was that here in Clark County, sir?

7 JUROR NUMBER 260: No. It was San Bernardino
8 County.

9 THE COURT: I'm sorry? San Diego?

10 JUROR NUMBER 260: San Bernardino.

11 THE COURT: San Bernardino. All right. Thank you,
12 sir.

13 Anyone else in the back row? Yes, ma'am?

14 JUROR NUMBER 244: Mary (indiscernible), 244. Two
15 years ago I was here on a civil case. I was not the
16 foreperson. A verdict was reached.

17 THE COURT: All right. Thank you, ma'am.

18 Yes -- yes, sir?

19 JUROR NUMBER 242: Mike (indiscernible), 242. I
20 served here in Clark County in a criminal case. And a verdict
21 was reached. And I was the foreman.

22 THE COURT: You were the fore. Okay. And about how
23 long ago was that, sir?

24 JUROR NUMBER 242: About four years ago.

25 THE COURT: Four years ago. And the two DAs here

1 today were not the prosecutors in that case?

2 JUROR NUMBER 242: No.

3 THE COURT: All right. Thank you, sir.

4 And we had -- sir, yes, sir, in the corner?

5 JUROR NUMBER 233: (Indiscernible), 233.

6 (Indiscernible) civil case about 10 years ago. I was

7 (indiscernible).

8 THE COURT: (Indiscernible) and was that here in
9 Clark County?

10 JUROR NUMBER 233: Yes, it was.

11 THE COURT: And did they reach a verdict?

12 JUROR NUMBER 233: Yes, they did.

13 THE COURT: All right. Thank you, sir.

14 The gentleman right in front of the other?

15 JUROR NUMBER 229: Number 229, Mike Jones. I served
16 on a board in the military in the Army that the individual
17 came up got on a urinalysis. So they would have if -- they
18 try to kick people out. Under certain circumstances you go to
19 a review board, and their people on the board would go over
20 all the information, he presents his case, the military
21 presents theirs. And we decided whether or not he was allowed
22 to stay in the military.

23 THE COURT: All right. Thank you, sir.

24 And, ladies and gentlemen, at this time I'm going to
25 allow the questioning to continue. We're going to start with

1 the -- one of the deputy District Attorneys are going to --
2 like as I had mentioned, might do some follow-up question to
3 mine or maybe some questions to follow up to some of your
4 answers. And we'll start with Ms. Rinetti.

5 MS. RINETTI: Thanks, Judge.

6 Like the judge said, my name's Dena Rinetti. Just
7 going to ask one brief question to just the entire panel.
8 I'll start with the jury box and do the same thing as the
9 judge did. Is there anyone that can't sit in judgment of
10 another human being? Do you have a problem sitting here and
11 listening to the evidence and then rendering a decision with
12 the Defendant? Anyone in the jury box have a problem with
13 that? I don't see anyone. Anyone in the gallery have a
14 problem with judging another human being? Oh. Don't remember
15 your badge number.

16 JUROR NUMBER 204: Wolf, 204.

17 MS. RINETTI: Okay. (Indiscernible) what are your
18 comments about that?

19 JUROR NUMBER 204: (Indiscernible)

20 MS. RINETTI: Excuse me?

21 JUROR NUMBER 204: I'm a Jehovah's Witness.

22 MS. RINETTI: Okay. So you have a problem kind of
23 rendering a decision or making a decision or rendering
24 judgment upon someone else?

25 JUROR NUMBER 204: In my belief (indiscernible)

1 MS. RINETTI: For your religious beliefs? Okay.

2 Thank you.

3 The judge asked a -- a couple of questions about
4 jury -- prior jury service, and this is to those people that
5 have answered in the affirmative that they had served on a
6 jury. In your experience as a juror or a foreperson did you
7 have any negative experiences while sitting as a juror? Ask
8 the -- the jury box? Anyone in the gallery have a negative
9 experience with serving on a jury? Okay.

10 Let's see. Mr. (Indiscernible), how are you? I
11 know (indiscernible) you had -- you had mentioned -- the judge
12 was questioning that you had been a victim of a residential
13 burglary --

14 JUROR NUMBER 203: Yes, ma'am.

15 MS. RINETTI: -- and that you weren't really
16 satisfied with Metro.

17 JUROR NUMBER 203: Right.

18 MS. RINETTI: Okay. Was that because no one was
19 found or just kind of how they dealt with the case and, you
20 know --

21 JUROR NUMBER 203: No. They -- they -- the lady
22 across the street saw the car, gave them the license plate.
23 They stopped them as they were unloading the merchandise into
24 their apartment. And then they came in and they got dismissed
25 on a technicality.

1 MS. RINETTI: (Indiscernible) some negative feelings
2 based on your experience. And there's going to be two
3 detectives from the Metropolitan Police Department that are
4 going to testify. Would your experience with, you know, your
5 home burglary affect how you would listen to the testimony of
6 those two detectives?

7 JUROR NUMBER 203: Only if it was the ones that were
8 on the case.

9 MS. RINETTI: No. You had mentioned there --
10 because we had mentioned Detective Flenner and as well as
11 Detective Rader. But you could sit there --

12 JUROR NUMBER 203: I wouldn't know them anyhow
13 because I didn't go to the trial.

14 MS. RINETTI: Okay. But you could sit there and
15 listen to the testimony and weigh their testimony just like
16 anyone else?

17 JUROR NUMBER 203: Sure.

18 MS. RINETTI: Ms. Peterson. How are you? I know
19 you had said that you had been a victim of a crime where your
20 credit cards were stolen. And you said you think you can
21 listen to the evidence and render a decision. Do you
22 understand that as right now the Defendant is presumed
23 innocent until us -- the State presents evidence?

24 JUROR NUMBER 203: (Indiscernible)

25 MS. RINETTI: So if we presented no evidence right

1 now, closed our case, would you be comfortable with returning
2 a verdict of not guilty?

3 JUROR NUMBER 203: (Indiscernible) if there was some
4 sort of (indiscernible).

5 MS. RINETTI: But do you understand that the State
6 has the burden of proving beyond a reasonable doubt that
7 someone's been -- has committed a crime and that it's up to
8 the two of us to present evidence to meet that standard?

9 JUROR NUMBER 203: Yes.

10 MS. RINETTI: So if we present no standard -- no
11 evidence, so we haven't met our burden, would you be
12 comfortable with returning a verdict of not guilty?

13 JUROR NUMBER 203: (Indiscernible)

14 MS. RINETTI: Do you understand that right now
15 though that he is presumed innocent?

16 JUROR NUMBER 203: Yes, I do.

17 MS. RINETTI: Okay.

18 JUROR NUMBER 203: I do understand.

19 MS. RINETTI: And that you understand that our
20 burden is beyond a reasonable doubt?

21 JUROR NUMBER 203: Yes.

22 MS. RINETTI: Okay. Juror 212, you said you worked
23 for the casinos?

24 JUROR NUMBER 212: Correct.

25 MS. RINETTI: And that you work closely with Metro

1 as well as the DA's Office.

2 JUROR NUMBER 212: Mostly North Las Vegas --

3 MS. RINETTI: Oh, North --

4 JUROR NUMBER 212: -- Police --

5 MS. RINETTI: -- Las --

6 JUROR NUMBER 212: -- Department, yeah.

7 MS. RINETTI: Okay. Do you understand -- can you

8 put your -- you know, your dealings aside and judge this case

9 fairly based upon the evidence that the State presents?

10 JUROR NUMBER 212: Yeah. Yes.

11 MS. RINETTI: Mr. Davis?

12 JUROR NUMBER 179: Yes.

13 MS. RINETTI: And you've mentioned that you have

14 been a witness at a previous hearing or trial.

15 JUROR NUMBER 179: Yes.

16 MS. RINETTI: Did you have any negative experiences

17 with being a witness for a case?

18 JUROR NUMBER 179: No.

19 MS. RINETTI: Nothing that would affect your decis

20 -- your ability to make a decision in this case?

21 JUROR NUMBER 179: (Indiscernible)

22 MS. RINETTI: Positive experience?

23 JUROR NUMBER 179: No.

24 MS. RINETTI: No?

25 JUROR NUMBER 179: Not particularly. It just wasn't

1 really negative. It was --

2 MS. RINETTI: Okay.

3 JUROR NUMBER 179: -- just what it was.

4 MS. RINETTI: So you were -- but you were part of
5 the judicial system and the process?

6 JUROR NUMBER 179: Yes.

7 MS. RINETTI: Okay. Mr. (indiscernible)

8 JUROR NUMBER 200: Uh-huh (affirmative.)

9 MS. RINETTI: Okay. Now, I know you're -- you --
10 you've had your credit cards stolen before, and you understood
11 that this is a similar type of case. But you can put that
12 aside?

13 JUROR NUMBER 200: Oh, absolutely.

14 MS. RINETTI: Now -- and I don't mean to be -- you
15 know, I hate to get into like personal questions, and I -- I
16 don't want to offend anyone. But you had mentioned that your
17 son had -- has just recently been released from --

18 JUROR NUMBER 200: Prison.

19 MS. RINETTI: -- prison. Would that -- your -- your
20 son's case and his incarceration, would that negatively impact
21 your ability to sit as --

22 JUROR NUMBER 200: No.

23 MS. RINETTI: -- a juror? Okay.

24 Mr. Monroe?

25 JUROR NUMBER 211: Yes.

1 MS. RINETTI: And you said that you were -- your
2 battery domestic violence case had just -- has just completed
3 a couple of days ago.

4 JUROR NUMBER 211: Monday, yes.

5 MS. RINETTI: Okay. And that was prosecuted by the
6 City Attorney's Office --

7 JUROR NUMBER 211: Yes (indiscernible)

8 MS. RINETTI: -- you stated? And you -- you kind of
9 talked a little bit about your experience and how it's kind of
10 too soon.

11 JUROR NUMBER 211: Yeah. I said that basically it
12 caused me a lot (indiscernible) three to four months. It
13 caused me to have some anxiety attacks to the point to where I
14 couldn't go to work, I had to go to the doctor, I had anxiety
15 attacks at work to the point to where I had to leave. And
16 right now I'm still -- it's still very -- the feelings are
17 still very deep about it.

18 MS. RINETTI: So you're still just dealing with the
19 consequences --

20 JUROR NUMBER 211: The emotions --

21 MS. RINETTI: -- of all --

22 JUROR NUMBER 211: -- yes.

23 MS. RINETTI: -- that.

24 JUROR NUMBER 211: Sleeplessness --

25 MS. RINETTI: Okay.

1 JUROR NUMBER 211: -- and everything.

2 MS. RINETTI: With all of that prior experience
3 would you be able to fairly, you know, listen to all of the
4 evidence presented in this case and render a fair judgment
5 both to the State as well as to the defense?

6 JUROR NUMBER 211: I can't say that I can, ma'am.

7 MS. RINETTI: Okay. Just because it's too soon?

8 JUROR NUMBER 211: Exactly.

9 MS. RINETTI: Okay. Ms. (indiscernible) I know on -
10 - you've been on two prior juries.

11 JUROR NUMBER 198: Uh-huh (affirmative.)

12 MS. RINETTI: How long have you lived here in Clark
13 County (indiscernible)

14 JUROR NUMBER 198: All my life.

15 MS. RINETTI: All your life. Okay. So this will be
16 the third time you've been called?

17 JUROR NUMBER 198: Uh-huh (affirmative.)

18 MS. RINETTI: Okay. Unlucky or lucky.

19 Ms. Vargas?

20 JUROR NUMBER 222: Yes.

21 MS. RINETTI: You said that some members of your
22 family are members of the Metro -- of the New York --

23 JUROR NUMBER 222: Yes.

24 MS. RINETTI: -- Police Department. Do you und --
25 can you sit here and judge this case fairly both in the sense

1 for the State as well as for the defense --

2 JUROR NUMBER 222: Oh, yes.

3 MS. RINETTI: -- despite your interactions with

4 family members?

5 JUROR NUMBER 222: Yes.

6 MS. RINETTI: Okay. Mr. Fannon?

7 JUROR NUMBER 176: Yes, ma'am.

8 MS. RINETTI: You said you have a current case

9 pending.

10 JUROR NUMBER 176: Yes.

11 MS. RINETTI: And -- and you have a court date

12 coming up.

13 JUROR NUMBER 176: In January.

14 MS. RINETTI: Okay. And that's being prosecuted by

15 our office, the Clark County District Attorney's Office?

16 JUROR NUMBER 176: I believe so.

17 MS. RINETTI: Excuse me?

18 JUROR NUMBER 176: I believe so.

19 MS. RINETTI: Okay. Ms. Klein?

20 JUROR NUMBER 187: Yes.

21 MS. RINETTI: I know you had said that you had

22 worked and you retired from Metro as well as your husband.

23 JUROR NUMBER 187: Uh-huh (affirmative.)

24 MS. RINETTI: Sitting here, can you fairly and acc

25 -- fairly listen to all the evidence and render judgment both

1 for the State as well as for the defense?

2 JUROR NUMBER 187: Yes.

3 MS. RINETTI: I know you had said that you may have
4 worked with one of the detectives in --

5 JUROR NUMBER 187: I did.

6 MS. RINETTI: -- this -- okay, you did. Can you put
7 that personal interaction aside and fairly judge this case on
8 its merits and what's presented in -- in the testimony?

9 JUROR NUMBER 187: I -- I'd like to feel yes, I do
10 -- yes, I can.

11 MS. RINETTI: Okay.

12 JUROR NUMBER 187: I -- I do -- I know him -- or I
13 knew him personally; we worked together for five or six years,
14 so we did have a camaraderie.

15 MS. RINETTI: Okay. But you'll judge everyone
16 individually and then look at all the evidence presented.

17 JUROR NUMBER 187: Yes.

18 MS. RINETTI: And you'd be able to use all the
19 evidence that's presented and look at the law to determine
20 whether or not the State has met its burden?

21 JUROR NUMBER 187: Yes.

22 MS. RINETTI: Okay.

23 Pass, Your Honor.

24 THE COURT: All right. Thank you.

25 Mr. Jorgenson?

1 MR. JORGENSEN: I just have a few questions of those
2 in the jury box that have to do with your employment or
3 education. Juror number 185, Mr. Lee, you served some time in
4 the Army?

5 JUROR NUMBER 185: Yes.

6 MR. JORGENSEN: Enlisted or officer?

7 JUROR NUMBER 185: Enlisted.

8 MR. JORGENSEN: Since that time have you gone back
9 to college?

10 JUROR NUMBER 185: Yes.

11 MR. JORGENSEN: And got a degree?

12 JUROR NUMBER 185: (Indiscernible) in dental.

13 MR. JORGENSEN: And so you work now as a dentist?

14 JUROR NUMBER 185: Yes.

15 MR. JORGENSEN: Here in Las Vegas?

16 JUROR NUMBER 185: Yes.

17 MR. JORGENSEN: Where'd you go to dental school?

18 JUROR NUMBER 185: UNLV (indiscernible)

19 MR. JORGENSEN: Where'd you go to undergraduate?

20 JUROR NUMBER 185: UNLV (indiscernible)

21 MR. JORGENSEN: Thank you.

22 Juror number 187 -- I'm sorry, 188?

23 JUROR NUMBER 188: Yes.

24 MR. JORGENSEN: You work in a university?

25 JUROR NUMBER 188: Yes. I teach at UNLV.

1 MR. JORGENSEN: What do you teach?

2 JUROR NUMBER 188: I'm an assistant professor in the
3 college of hotel administration.

4 MR. JORGENSEN: Where did you get your bachelor's,
5 Ph.D.?

6 JUROR NUMBER 188: I have a bachelor's degree from
7 Cornell University, and my Ph.D. is from UNLV in educational
8 leadership.

9 MR. JORGENSEN: Thank you.

10 No other questions. Pass the panel.

11 THE COURT: All right. Counsel, approach, please,
12 with your notes.

13 (Bench conference as follows:)

14 THE COURT: We've got juror 204 is the Jehovah
15 Witness. Any objection to her? Mr. Monroe, 211.

16 MR. JORGENSEN: 204.

17 THE COURT: Right.

18 MR. JORGENSEN: Then what's the next one?

19 THE COURT: 211.

20 MR. JORGENSEN: Now, if I move right anything past
21 her -- if you bump 204 --

22 THE COURT: Okay.

23 MR. JORGENSEN: -- you have how many in the box, 22
24 or 23?

25 THE COURT: We have (indiscernible)

1 MS. RINETTI: We have 22.

2 MR. JORGENSEN: Okay. So that puts William, 205, in
3 the box.

4 THE COURT: Okay.

5 MR. JORGENSEN: And everybody else, as long as we
6 don't dismiss everybody else --

7 THE COURT: Right.

8 MR. JORGENSEN: -- everybody in the -- in the -- the
9 seats are going to (indiscernible)

10 THE COURT: Right. I just want to see if there's
11 one (indiscernible) --

12 MR. JORGENSEN: I understand. Okay.

13 THE COURT: You're right. You're absolutely right.
14 211 (indiscernible)

15 MR. JORGENSEN: So 20 -- what was the next one you
16 said?

17 THE COURT: 211. Okay. And the other one I said
18 was 229. Okay. Any other challenges for -- any cau --
19 challenges for cause (indiscernible) defense --

20 MR. JORGENSEN: (Indiscernible)

21 THE COURT: For State?

22 MS. RINETTI: (Indiscernible) pending case that's
23 being charge -- being prosecuted by our office.

24 THE COURT: Right. But no one got him to say he
25 can't be fair.

1 MS. RINETTI: That's fine.

2 MR. JORGENSEN: I mean, that's not to say I like all
3 of them, but I don't have any challenges for cause.

4 THE COURT: All right. Okay. All right. Great.

5 (End of bench conference)

6 (Pause)

7 THE COURT: Ladies and gentlemen, in a case such as
8 this each side is entitled to have -- to exercise what's
9 called peremptory challenges; it's just a challenge just the
10 attorneys can excuse individuals in the jury panel without
11 setting forth any reason whatsoever. It's -- and we -- we do
12 this by secret ballot.

13 Basically, we'll hand a piece of paper back -- back
14 and forth between the two sides, and they'll -- they'll put a
15 check mark for jurors that they wish to be excused. If you
16 are not selected as a juror in this particular case it is --
17 do not interpret it as any negative comment by the Court or by
18 any of the attorneys regarding you. It is a time for the
19 attorneys to select those people that they think would be best
20 suited for this case. You may disagree with them. It's --
21 but it's their case. And so they're allowed to make that
22 selection. The Court does not select the jury; the attorneys
23 do.

24 And so we're going to start that process in just a
25 minute here. And again, each side is entitled to exercise

1 five peremptory challenges. After all peremptory challenges
2 have been exercised then we will have our jury; the jury will
3 be selected.

4 All right. And the State will exercise their first
5 peremptory challenge. Defense will now exercise their first.
6 The State's second. Defendant's second, please. All right.
7 State's third. Defendant's third. All right. State's fourth
8 peremptory challenge. All right. Defendant's fourth. All
9 right. The State's fifth and final peremptory challenge. All
10 right. Defendant's fifth and final peremptory challenge.

11 Ladies and gentlemen, it appearing to the Court that
12 all peremptory challenges have either been exercised or waived
13 the clerk will now -- she'll call a list of the jurors that
14 are selected for this particular case. The marshal will
15 escort the individuals in the jury box to the gallery area.
16 All right. The clerk will now read the list of the jury
17 selected for this case.

18 THE CLERK: Juror number 1, Robbie Davis. Juror
19 number 2, Frank Fiarello. Juror number 3, Karen Genovese.
20 Juror number 4, Don Lee. Juror number 5, Jean Hartsman.
21 Juror number 6, Alicia Marasco. Juror number 7, Maurice
22 Smith. Juror number 8, Maria Kinnemer. Juror number 9,
23 Regina Connolly. Juror number 10, Arnold Silva. Juror number
24 11, Mary Hedley. Juror number 12, Luis Godallus. Juror
25 number 13, Cecile Tenant.

1 THE COURT: Ladies and gentlemen, those of you that
2 are not seated in the jury box (indiscernible) like to thank
3 you for your time today. Again, it's -- it's not any negative
4 comment you were not selected. Just want to thank you for
5 your service this morning. You are instructed to go back down
6 to the jury commissioner's chambers on the third floor, advise
7 them you were in department 17, that you were not selected,
8 and they'll process you out. Thank you very much for your
9 time.

10 (Remainder of venire excused)

11 THE COURT: Congratulations, ladies and gentlemen,
12 on being selected. I hope it's not condolences. I hope it's
13 congratulations because it is an important function to be
14 selected as a juror in either a civil or a criminal case.
15 Again, our system doesn't work unless we have people like
16 yourself willing to sit as jurors. And, like I said, I -- I
17 can tell you I know how you feel because I've been there, I've
18 been in the jury box; actually, I was juror number 3 in the
19 civil case.

20 And we're going to take our lunch break. It's a few
21 minutes after 12:00 right now. Let's come back -- well, we
22 have some matters to take -- take care of with the attorneys,
23 so let's have you come back at 1:15. I'll give you some
24 preliminary instructions and then we'll start with the opening
25 statements by the attorneys.

1 Every time we take a break I need to read to you the
2 following admonishment: During this recess it is your duty
3 not to converse among yourselves or with anyone else on any
4 subject connected with this trial; or to read, watch, or
5 listen to any report of or commentary on the trial by any
6 medium of information including without limitation newspaper,
7 television, radio, or the Internet; and you are not to form or
8 express an opinion on any subject connected with this case
9 till it is finally submitted to you.

10 We'll see you back at 1:15. Thank you.

11 (Jury excused)

12 THE COURT: Like to have -- let the record reflect
13 we're outside the presence of the jury panel. I'd like to
14 have counsel back at 1:05; we'll deal with the issue of a --
15 of the witness that the State wishes to utilize a preliminary
16 hearing transcript for and any other legal matters.

17 MS. WALSH: I'm sorry, Judge? What time did you
18 say? 1 o'clock?

19 THE COURT: 1:05.

20 MS. WALSH: 1:05?

21 THE COURT: And the jury will be back at 1:15.

22 MS. WALSH: Thank you.

23 (Off record)

24 THE COURT: Record reflect we're outside the
25 presence of the jury. We have Defendant and counsel and

1 representatives of the State also present.

2 Apparently after the jury was selected -- I guess we
3 went through the process about two hours or so -- one of our
4 selected jurors basically said no hablo ingles. Apparently he
5 understood everything for two hours, but then when he was
6 selected he didn't understand anything. And which number --
7 who was that, Clare?

8 THE CLERK: Mr. Gonzalez.

9 THE COURT: Who's our alternate?

10 THE CLERK: Alicia Marasco.

11 THE COURT: We could just bump him at this time or
12 go through -- you know, I don't know what else to do.
13 Fortunately, it's only --

14 THE CLERK: (Indiscernible)

15 THE COURT: Pardon?

16 THE CLERK: We have an interpreter.

17 THE COURT: But there's -- there's been issue -- in
18 a previous case that both parties stipulated where we had the
19 interpreter interpret the trial for the juror with the
20 headphones, they went into the jury room with strict
21 instructions that they were only to translate and not,
22 obviously, deliberate. The parties stipulated that fact and
23 the juror served. The juror wanted to serve.

24 Some judges have agreed with allowing an interpreter
25 to go into the jury room; others have said no. And I'm not

1 aware of any Supreme Court case that says an interpreter
2 cannot go into the jury room. I don't know if either of the
3 parties are aware of any.

4 MS. WALSH: Not personally aware, Judge.

5 THE COURT: And so we want to just bump that juror
6 or utilize the service of an interpreter? I only want to do
7 that, I think, if both parties stipulate.

8 MS. WALSH: We're amenable to whatever the defense
9 wants, Judge. I think it -- the ball needs to be in their
10 court regarding his rights.

11 MR. JORGENSEN: We'd rather remove them, put the
12 alternate in.

13 MS. WALSH: That -- that's fine, Your Honor.

14 THE COURT: All right. Unfortunately, we've -- I
15 think this has happened twice to us in the last 18 months
16 where someone gets picked and -- or it was -- actually,
17 someone did that to us the second day of trial they told us
18 they didn't understand anything.

19 THE BAILIFF: So shall we call him in first?

20 THE COURT: Yeah, let's call him in.

21 (Off record)

22 MS. WALSH: And, Judge, I did notify your chambers
23 on Monday -- and defense counsel -- that we possibly had an
24 unavailable witness. I did send over some case law on that.

25 The issue's kind of changed, however, since then.

1 This morning we did learn we now know where the witness is.
2 The witness is Deja Jarmin; he is in a hospital in California
3 for heart reasons. He's only been there though since November
4 7th. I do have my investigator here to be sworn to talk about
5 the diligence that he has done to try and find the witness,
6 going to show you why this motion is being made this morning
7 instead of within the 15-day time limit before trial or before
8 calendar call. He's going to tell you that he did start
9 serving the case around mid-October. We had no reason to
10 think we weren't going to be able to secure his presence as a
11 witness.

12 We had him before at the preliminary hearing; he was
13 able to come in and testify. He responded to the subpoena.
14 Also, we had a valid address and phone number for him; he was
15 just not returning our calls. And then we did find out this
16 morning from his girlfriend that he is in the hospital.

17 THE COURT: All right. Let's have the investigator
18 come up to the witness stand and sworn in. There's a recent
19 case on this from July 31.

20 MS. WALSH: Correct, Judge. And that's why we did
21 bring our investigator in to be sworn so there can be sworn
22 testimony not only from the prosecutor but from the person who
23 actually served the case. And I apologize; I didn't send that
24 to your chambers.

25 THE CLERK: Please raise your right hand to be sworn

1 in. Do you solemnly swear the testimony you will give in this
2 action will be the truth, the whole truth, and nothing but the
3 truth, so help you God?

4 THE WITNESS: Yes, I do.

5 THE CLERK: Thank you.

6 THE COURT: Go ahead, Ms. Walsh.

7 MS. WALSH: Thank you.

8 MATTHEW JOHNS

9 having been called as a witness on behalf of the State and
10 being first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. WALSH:

13 Q Sir (indiscernible) how are you currently employed?

14 A As a criminal investigator for the Clark County
15 District Attorney's Office.

16 Q And as an investigator you're responsible for
17 serving subpoenas on witnesses set to --

18 THE COURT: His name?

19 BY MS. WALSH:

20 Q -- testify for trial?

21 THE COURT: We need his name.

22 MS. WALSH: Oh.

23 BY MS. WALSH:

24 Q What's your name?

25 A Matthew Johns --

1 Q Spell --
2 A -- J-o-h-n-s.
3 MS. WALSH: Thank you, Judge.
4 THE COURT: All right. Thanks.
5 BY MS. WALSH:
6 Q As an investigator you're responsible for serving
7 subpoenas on witnesses set to testify in trial?
8 A Correct.
9 Q Are you familiar with the witnesses for a case of
10 Ronald Ross?
11 A I am.
12 Q And that's currently the case we're here for trial
13 in?
14 A Correct.
15 Q When did you receive the subpoenas to begin service
16 on this case?
17 A I believe I received them 16th of October.
18 Q And did you immediately start serving the subpoenas
19 at that time?
20 A Yes.
21 Q In fact, were you asked to begin early service of
22 the subpoenas for this case in particular?
23 A I was.
24 Q And one of those subpoenas you served was Deja
25 Jarmin?

1 A Correct.

2 Q Did you begin to serve the subpoena for him at that
3 point in time?

4 A I did.

5 Q Did we have a valid address for him?

6 A What was once a valid address for him.

7 Q Okay.

8 A As far as a current address we have one now.

9 Q Okay. And did you make contact with someone at the
10 address we had previously?

11 A I did.

12 Q Okay. And who was that you made contact with?

13 A We have a girlfriend by the name of Tammy Henson.

14 Q And that's Deja Jarmin's girlfriend?

15 A Correct. It's their child's mother.

16 Q Okay. And you have had contact with her?

17 A I have.

18 Q And have you had a current phone number for Deja
19 Jarmin?

20 A Yes.

21 Q And did you make calls to him on that phone?

22 A Consistently.

23 Q Okay. How many times do you think you made phone
24 calls and left messages for Mr. Jarmin?

25 A I would -- approximately 10 to 15.

1 Q Okay. Since the beginning of October?

2 A Mid-October.

3 Q Okay. Thank you. And you've had numerous contacts

4 with the girlfriend at that residence?

5 A Correct. Three personal contacts.

6 Q And you've never had personal contact with Deja

7 Jarmin?

8 A No.

9 Q And did you learn some information about his

10 whereabouts this morning?

11 A I did. On the last -- the latest contact with Ms.

12 Henson she informed me that she learned Friday the 7th that

13 Deja had been admitted to a hospital in San Bernadino, where

14 his family is, due to a heart condition.

15 Q And were you able to confirm that he does have

16 family in California?

17 A He does have family in San Bernadino area.

18 Q Have you made attempts to attempt to contact

19 (indiscernible) family that is in San Bernadino area?

20 A Yes, I have.

21 Q Were you successful in those attempts?

22 A No, I was not.

23 Q And why is that?

24 A I had a phone number -- several phone numbers: two

25 disconnected; one, no response; and a message that was left

1 that has not been returned yet.

2 Q And those calls were made this morning?

3 A Correct.

4 Q And you're unable to confirm that he is in the
5 hospital due to the HIPAA regulations and not being able to
6 personally contact the hospital yourself; is that --

7 A Correct.

8 MS. WALSH: Nothing further, Judge.

9 THE COURT: Mr. Jorgenson?

10 MATTHEW JOHNS

11 testified as follows on:

12 CROSS-EXAMINATION

13 BY MR. JORGENSEN:

14 Q So you were told this morning by the witness's
15 former girlfriend?

16 A She did not put it former; she stated that that was
17 his address and that he was unemployed, looking for work, but
18 it's their child's father.

19 Q And she's the one that lives in Las Vegas?

20 A Correct.

21 Q Okay. So her -- the witness's still girlfriend --

22 A From what I gather, yes.

23 Q -- told you that he was in the hospital in San
24 Bernadino but didn't tell you what particu -- the name of the
25 hospital.

1 A No.

2 Q So without that, and given the restrictions on what
3 a hospital will do to someone who calls on the phone and says
4 is so-and-so in your hospital, you really don't have any quick
5 way to find out if and where he would be in any hospital in
6 the city or the metropolitan area of San Bernadino.

7 A Correct.

8 Q Now, the prosecutor talked about serving subpoena.
9 I presume that you never actually talked to or saw this
10 witness from the time that you got the case mid-October until
11 now.

12 A I have not.

13 MR. JORGENSEN: Nothing else.

14 THE COURT: Walsh, anything further?

15 MS. WALSH: Nothing further, Judge.

16 THE COURT: All right. Thank you, sir, for your
17 time.

18 And, Ms. Walsh, you're making an oral motion at this
19 time?

20 MS. WALSH: We are, Judge. And the -- the motion
21 would be oral and would be this late due to the fact that we
22 just found out this morning that he was in a hospital. We
23 didn't file the motion prior to calendar call because we were
24 also very optimistic that we would be able to find Deja given
25 the fact that he was very cooperative at the preliminary

1 hearing albeit it was over a year ago.

2 THE COURT: Do we need to put you under oath? Is
3 this similar to a Gustos thing?

4 MS. WALSH: I can -- that's fine, Judge. We can do
5 that just (indiscernible)

6 THE COURT: Yeah. Let's put her under oath.

7 THE CLERK: You do solemnly swear the testimony you
8 will give will be the truth, the whole truth, and nothing but
9 the truth, so help you God?

10 MS. WALSH: I do. My name is Jessica Walsh, I'm
11 employed with the Clark County District Attorney's Office,
12 assigned to prosecute the case of State of Nevada versus
13 Ronald Ross. Around the middle of October I did cause a
14 subpoena to be issued to Deja Jarmin, one of the essential
15 witnesses in this case. My investigator had been --

16 THE COURT: Excuse me.

17 Mr. Ross, you need to keep your voice down. You
18 should probably listen in because I need to hear this and so
19 do you and -- so do you and your attorney.

20 Go ahead, Ms. --

21 MS. WALSH: My investigator had been in constant
22 contact with me regarding the service of the subpoenas on this
23 case. He did inform me that he did have a good phone number
24 and address for Deja Jarmin; that Mr. Jarmin was now
25 unemployed, so there was no way to find him at a place of

1 work; that he had been leaving messages for Mr. Jarmin on the
2 current phone number that we had -- that number was still
3 valid and coming back to him; that he had had contact with the
4 mother of Mr. Jarmin's child, who said that he is still in
5 town; he is supposed to be living with her, although on some
6 nights he doesn't return home.

7 We were not under the impression that we would be
8 unable to get Mr. Jarmin to come into court to testify. He
9 was very cooperative at the preliminary hearing; came in at
10 the preliminary hearing and testified for the state.

11 We did learn this morning that he was in a hospital,
12 as my investigator just testified to. Therefore, we are going
13 to ask that his preliminary hearing transcript be used. I am
14 asking that you find that there's good cause to bring this
15 motion late as, first of all, we didn't know that he would,
16 one, be unavailable; second, he just went into hospital Friday
17 of last week, which was actually past our calendar call date.
18 And this motion is made in good faith and not for the purposes
19 of delay.

20 THE COURT: A question. The -- what address was he
21 served at, at the preliminary hearing?

22 MS. WALSH: At the preliminary hearing?

23 THE COURT: Right.

24 MS. WALSH: I don't recall what the address was at
25 the preliminary hearing. What I seem to remember is that he

1 was still working at the Sheikh shoe store at the Tropicana.
2 And if memory serves me correctly, although I could be
3 mistaken, I believe he was served through the work once the
4 work was contacted because he was still employed at that --
5 Sheikh Shoes at that location.

6 THE COURT: All right. Thank you.

7 Mr. Jorgenson, do you have any questions?

8 MR. JORGENSEN: No questions.

9 THE COURT: All right. Thank you. Any argument,
10 Mr. Jorgenson?

11 MR. JORGENSEN: Yes, Judge. The -- the statute the
12 State is employing, 171.198, subsection 6, allows the tri --
13 on the trial -- upon a trial, when a witness is sick, out of
14 state, dead, or persistent in refusing to testify despite an
15 order of a judge to do so, or when his personal attendance
16 cannot be had in court, the preliminary hearing transcript can
17 be used in the subsequent trial by the state if that event was
18 represented by counsel. And then the State refers to doing
19 this untimely.

20 I don't think the untimely part really has much
21 relevancy here. I understand they don't -- they didn't find
22 out until just recently. They didn't have the 15 days. I
23 don't think there's any reason to believe they delayed in
24 telling me this because we talked about -- I talked with them
25 on Friday or Monday and they had no idea that they weren't

1 going to be able to get this guy yet.

2 So the question then becomes is their request fit
3 within 171.198. And presuming that it does, I think a -- a
4 more fundamental question faces this Court, and that is does
5 my client's right to confrontation in the Nevada constitution
6 and the US constitution especially outlined recently in
7 Crawford, US Supreme Court case, whether or not the State's
8 following of criminal procedures that allows them to use a
9 preliminary hearing transcript makes no difference because my
10 client still has a stronger right to have -- to be able to
11 confront the -- this witness if he's going to testify against
12 him at trial.

13 And I think that -- well, first of all, I could not
14 find any Nevada Supreme Court case that directly addressed
15 this issue, which is if a witness testifies at preliminary
16 hearing and is unavailable at trial, and the State complies
17 with the statute that allows them to use the transcript,
18 whether or not Crawford still forbids them from using it.

19 There is, as we talked earlier, Hernandez versus
20 State, 124 Nevada, advanced report 60, that came out July 31st
21 of this year, which Judge Bell allowed in, over defense
22 objection, the testimony of an unavailable witness. He used
23 the prelim transcript of that unavailable witness. The
24 Supreme Court reversed it saying that they had not complied
25 with the -- it did not prove they had met the statute, the

1 state statute, in terms of unavailability.

2 I am suggesting that even if this Court decides they
3 have done due diligence that Crawford and my client's right to
4 confront and cross-examine all witnesses against him remains
5 the more important and the stronger right in this case.

6 The -- the theory or the fairness behind NRS 171.198
7 is premised on the fact that this is somebody who've [sic]
8 already questioned in the case. And while that's literally
9 true, that practically is not true. There -- what we do in
10 terms of deciding what the defense is, deciding how we're
11 going to prove the defense at preliminary hearing and at
12 trial, are substantially different things.

13 I don't question a person at preliminary hearing the
14 same way I question them at trial. I have -- here's a witness
15 who becomes the only person who can place recently stolen
16 property in the hands of the Defendant, property that he is
17 not seen to have taken except on a videotape that -- which --
18 which is not very clear.

19 I would -- I really say that this witness ties up
20 the whole State's case. This is a witness that the wholes --
21 the State's case revolves around, because if he can convince
22 the jury that my client an hour -- or maybe even shorter --
23 but an hour or so after a purse was taken at the Tropicana, a
24 card is being -- this -- a card taken out of this purse is
25 being used at a shoe store a mile or so away from the casino,

1 an hour or so after being taken, and the question is who is
2 the person that used that card?

3 There are other witnesses who can say my client was
4 in the shoe store at roughly the same time. The police don't
5 show up until a day or two later after the victim finds out
6 that somebody had been using her card when she gets --
7 contacts the card company. She tells Metro; Metro calls and
8 goes down to these people, and they say yes, two of the people
9 who the State still have will say yes, the Defendant was in
10 the store, I saw him come in and buy something. The only
11 person who can actually say not only did he come into the
12 store but he used the stolen credit card is this person who's
13 missing.

14 Now, I did not question this witness. There's --
15 there's a series of lines of inquiry that I didn't use at
16 preliminary hearing because, number one, it didn't occur to
17 me, and, number two, I would not use a preliminary hearing
18 examination that way anyway.

19 So to say that I already had a fair chance to
20 question him, and the jury will then read -- or listen to my
21 cutting cross-examination, and I'll be protected -- or my
22 client will be protected that way because I was able to cross-
23 examine this witness, and that would take the place of me
24 being able to cross-examine him today if he was here, I think
25 that's just simply not -- it's a fiction. It's not true. It

1 doesn't really reflect the way we do preliminary hearings as
2 defense attorneys and doesn't reflect the level of information
3 we have about the entire case prior to preliminary hearing as
4 opposed to just prior to trial or on the day of trial.

5 I think the proper moot -- the proper avenue the
6 State has is make a Bustos (phonetic throughout) motion. I
7 think they have made -- I'd be willing to concede that they
8 have made as many and any kind of attempt that I could imagine
9 making in terms of getting this guy here. He was working for
10 the store prior to the -- this -- well, when we had the
11 preliminary hearing, and evidently he worked for the store
12 until a week or so ago.

13 So I think that if the State -- I think we continue
14 the case or we do a Bustos motion because I do not think my
15 client's right to confront and cross-examine witnesses is
16 preserved at all by the State -- by the jury being able to
17 listen to the preliminary hearing transcript because it
18 doesn't contain a lot of what I would like to ask this witness
19 now that I have completed my investigation of the case. They
20 don't get a chance to see this witness. And I don't think
21 that he is a peripheral witness. I -- I honestly think he is
22 -- he's the witness that the case resolve -- revolves around
23 or at least one of the witnesses the case revolves around.
24 There's -- obviously the victim in the case is essential also.

25 So I -- I think the State is protected by making a

1 Bustos motion. I object to the using of the preliminary
2 hearing transcript because I think it violates my client's
3 Nevada constitutional right and US constitutional right to
4 confront and cross-examine the witnesses.

5 So I think either the Court continues the case,
6 resets the trial, gives the State a chance to find this guy in
7 San Bernadino and do the proper service to get him back here,
8 or simply not go forward on the counts that involve the shoe
9 store.

10 THE COURT: All right. Thank you.

11 Ms. Walsh?

12 MS. WALSH: Thank you, Judge. And the State's
13 request does fit within NRS 171.198 under two reason [sic].
14 It specifically talks about a witness being unavailable when
15 the witness is sick -- clearly Mr. Jarmin is sick; he's in a
16 hospital with some type of heart condition -- or when his
17 personal attendance cannot be had in court. His personal
18 attendance cannot be had because he's in the hospital because
19 he is sick.

20 Crawford isn't violated in this case. In fact, it
21 specifically talked about, in Hernandez versus State -- and,
22 for the record, that -- that is the 2008 case; it's 188
23 Pacific 3d. 1126 -- specifically at page 1131 after footnote
24 number 6 in the paragraph where it starts although NRS 171.198
25 6(b) lists a witness being out of state as a reason he or she

1 may be unavailable. And it goes on to say to protect a
2 Defendant's Sixth Amendment right to confront a witness
3 against him, the State must nonetheless prove that it
4 exercised reasonable efforts to procure the witness'
5 attendance.

6 So what Mr. Jorgenson is talking about saying that's
7 fine that the State followed the rules and the procedures in
8 order to get a preliminary hearing transcript used at trial,
9 my client's Crawford rights have been violated, the way that
10 we make sure the Crawford rights haven't been violated is by
11 following the rules and the standards. And you have the --
12 the three standards: that the witness was represented by --
13 or the Defendant was represented by counsel; that he had a
14 right to cross-examine the client; and then when the witness
15 is unavailable the State has to exercise due diligence and
16 make reasonable efforts to get the witness in here.

17 That's why we know that Crawford hasn't been
18 violated. Crawford is specifically thought about and
19 protected in the statute; that's why we can use a preliminary
20 hearing transcript but we can't use a grand jury transcript
21 because at the grand jury the Defendant doesn't have a right
22 to confront his witness, he doesn't get an opportunity to
23 cross-examine, and he's not represented by counsel.

24 So Crawford is specifically not violated when we're
25 talking about NRS 171.198 when we're talking about using a

1 preliminary hearing transcript when someone is sick or can't
2 be personally available to testify in court when all the
3 procedures have been followed. And from what it sounds like,
4 Mr. Jorgenson is saying that the procedures have been followed
5 in this case.

6 Mr. Jorgenson also talked about the fact that even
7 though he was at the preliminary hearing, he did cross-examine
8 Mr. Jarmin, he didn't ask him all the questions he would -- he
9 would like to have. And that's not the standard. The
10 standard is he had the opportunity to cross-examine him. And
11 there's actually been cases where witnesses were asked no
12 questions at the preliminary hearing and a preliminary hearing
13 transcript was allowed to be used during the trial because
14 it's about the opportunity to cross-examine. We can't have a
15 standard saying the State can only use the preliminary hearing
16 transcript when the defense asks all the questions they would
17 have asked at the prelim because that would be an impossible
18 standard; there's no way we could really follow that.

19 So the standard is did he have an opportunity to
20 cross-examine the witness. In this case he did; he more than
21 adequately cross-examined the witness at the preliminary
22 hearing. So the standard is met. The requirements of
23 Hernandez versus State are met. The requirements of NRS
24 171.198 are met because the witness is sick, he's unavailable;
25 the Defendant was represented by counsel, had the opportunity

1 to cross-examine and confront his witness. And we should be
2 allowed to proceed today with his preliminary hearing
3 transcript.

4 THE COURT: I think under the circumstance of this
5 case (indiscernible) just deal first with the timeliness of
6 this motion by the State. I think under the circumstances
7 good cause has been shown by the State, so that's the first
8 item we need to deal with. And also, I think the State has
9 shown reasonable diligence to have this person here, and I
10 specifically make that finding and under the totality of the
11 circumstance of this particular situation with this witness.

12 And so I'm going to allow the State to utilize the
13 preliminary hearing transcript during the trial --

14 MS. WALSH: Thank you, Judge.

15 THE COURT: -- in this matter. Do we have any other
16 issues before I call the jury in. I would like to --

17 THE DEFENDANT: Can I --

18 THE COURT: -- get them in as --

19 THE DEFENDANT: -- say something --

20 THE COURT: -- soon as possible.

21 THE DEFENDANT: -- Your Honor, for the record?

22 THE COURT: Talk -- ask your attorney --

23 THE DEFENDANT: I'm ask --

24 THE COURT: -- questions, sir.

25 MS. WALSH: And, Judge, I'll -- I'll go make copies

1 of the transcript right now so we don't need to take a break.
2 We do have a reader set up to come in.

3 THE COURT: Okay.

4 THE BAILIFF: Is that it?

5 THE COURT: Anything else?

6 MS. WALSH: Not for the State, Judge.

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

8 THE BAILIFF: (Indiscernible) department 17, juror
9 number 12.

10 THE COURT: Mr. Gonzalez?

11 JUROR NUMBER 12 (via interpreter): Yes.

12 THE COURT: Okay. Mr. Gonzalez, after you were
13 selected as a juror in this case I understand that you told my
14 marshal that you did not understand the English language; is
15 that correct?

16 JUROR NUMBER 12 (via interpreter): Yes.

17 THE COURT: Sir, we went through that process about
18 -- it took us about two hours. Is there a reason why you
19 didn't tell us during those two -- that two-hour time frame
20 that you didn't understand what I was saying or what any of
21 the attorneys were saying?

22 JUROR NUMBER 12 (via interpreter): Nobody asked.

23 THE COURT: Well, did you notice we were talking and
24 you didn't understand the words we were saying?

25 JUROR NUMBER 12 (via interpreter): No.

1 THE COURT: You didn't -- you didn't notice that we
2 were talking and --

3 JUROR NUMBER 12 (via interpreter): I understand
4 like 50 percent.

5 THE COURT: All right. Ms. Rinetti, do you have any
6 questions?

7 MS. RINETTI: No, Your Honor.

8 THE COURT: Mr. Jorgenson?

9 MR. JORGENSEN: No.

10 THE COURT: All right. Sir, we're going to release
11 you, but I'm going to direct you to go down to the jury
12 commissioner's chambers on the third floor and advise them of
13 your situation. All right. And perhaps you'll need the court
14 interpreter.

15 If -- Mr. Interpreter, if you have time, if you will
16 accompany him to the third floor.

17 THE INTERPRETER: I will do that.

18 THE COURT: All right. Thank you very much. Okay.

19 So we're going to excuse this juror. We'll utilize
20 the services of the alternate to sit in the jury box.

21 Hopefully, we won't have any other issues and -- because this
22 case is only scheduled a day and a half we should be able to
23 get through it without --

24 MS. RINETTI: Hopefully --

25 THE COURT: -- losing --

1 MS. RINETTI: -- Judge.

2 THE COURT: -- another juror.

3 MR. JORGENSEN: Judge?

4 THE COURT: Yes.

5 MR. JORGENSEN: Just one other thing. We'd talked
6 about but didn't --

7 THE COURT: With the juror?

8 MR. JORGENSEN: No, no, no.

9 THE COURT: Okay. All right. Go ahead.

10 MR. JORGENSEN: I have preliminary hearings tomorrow
11 morning. She has a doctor's appointment tomorrow morning. We
12 would like if we could just start in the afternoon tomorrow.
13 We really think we can get all the witnesses done today, if
14 not more.

15 THE COURT: Okay.

16 MR. JORGENSEN: But if it's okay with the Court it
17 certainly would be better for both of us if we don't start in
18 the morning.

19 THE COURT: Ms. Walsh?

20 MS. WALSH: And that's fine, Judge. I do have to go
21 to the hospital like I informed the Court last week. And I'm
22 not sure what --

23 THE COURT: All right. We'll start at 1:00 tomorrow
24 then.

25 MR. JORGENSEN: Okay.

1 THE COURT: All right. Thank you, ladies and
2 gentlemen, for coming back. And as the judge I always try to
3 minimize our delays. As a former juror the delays are
4 frustrating, and oftentimes you're out in the hallway not
5 knowing what's going on. I can tell you the majority of the
6 time during our breaks, our delays, we're resolving legal
7 issues. We try to keep them to a minimum but they are
8 important that we resolve them so we don't keep stopping the
9 testimony, have to send you out in the hallway, resolve the
10 issue, come back in.

11 So we try to get them resolved as soon as possible
12 and as expeditiously as possible. So I'm very cognizant of
13 your time, and so we try to minimize your delays, minimize
14 your waiting time. So please bear with us and understand
15 we're all working to minimize that.

16 For various legal reasons we have lost our
17 alternate, and so at this point -- and I hope no one gets sick
18 in the next day and a half or doesn't make it because if you
19 do then this -- there'll probably be a mistrial and we'll have
20 to start over, okay. So hopefully no one's going to be sick
21 in the next day and a half. We don't have any other legal
22 issues that we have to resolve. So I'm sure all of you will
23 serve diligently as possible and work to resolve this case.

24 In the trial I will read to you -- I will provide
25 you a jury instruct -- packet of jury instructions, which are

1 the law that applies to this particular case. At this time
2 I'm going to read you some general instructions which will aid
3 you in your determination of the facts of this case and also
4 aid you in your deliberations. You will have a complete set
5 of the detailed instructions at the end of the trial when you
6 go to your deliberation room.

7 And so we'll start right now. This is a criminal
8 case brought by the State of Nevada against the Defendant.
9 This is based on an information, which is a charging document.
10 The clerk will now read the information and state the plea of
11 the Defendant.

12 THE CLERK: District Court, Clark County, Nevada.
13 The State of Nevada, Plaintiff, versus Ronald Ross, Defendant,
14 Case Number C236169. Department number 17. Third amended
15 information. State of Nevada, County of Clark, David Roger,
16 District Attorney within and for the County of Clark, State of
17 Nevada, in the name and by the authority of the State of
18 Nevada, informs the Court that Ronald Ross, the Defendant
19 above named, having committed the crimes of burglary, felony
20 NRS 205.060; larceny from the person, felony, NRS 205.270;
21 possession of credit card without cardholder's consent,
22 felony, NRS 205.690; fraudulent use of credit card, felony,
23 NRS 205.760; theft, felony, NRS 205.0835, 205.0832; and
24 conspiracy to commit larceny, gross misdemeanor, NRS 205.220,
25 205.222, 199.480, on or between March 17th, 2007, and March

1 31st, 2007, within the County of Clark, State of Nevada,
2 contrary to the form, force, and effect of statutes in such
3 cases made and provided, and against the peace and dignity of
4 the state of Nevada.

5 Count I, burglary: did on or about March 17th,
6 2007, then and there wilfully, unlawfully, and feloniously,
7 enter with intent to commit larceny that certain building
8 occupied by Tropicana Hotel and Casino located at 3801 Las
9 Vegas Boulevard South, Las Vegas, Clark County, Nevada.

10 Count II, larceny from the person: did on or about
11 March 17th, 2007, then and there wilfully, unlawfully, and
12 feloniously, under circumstances not amounting to robbery,
13 with intent to steal or appropriate to his own use, take from
14 the person of another, to wit, Georgia Stathopoulos, without
15 her consent, personal property, to wit, wallet and contents.

16 Count III, burglary: did on or about March 17th,
17 2007, then and there wilfully, unlawfully, and feloniously,
18 enter with intent to commit a felony, to wit, obtaining
19 property under false pretenses and/or felony theft and/or
20 forgery that certain building occupied by Sheikh Shoes located
21 at 3525 South Maryland Parkway, Las Vegas, Clark County,
22 Nevada.

23 Count IV, possession of credit or debit card without
24 cardholder's consent: did on or about March 17th, 2007, then
25 and there wilfully, unlawfully, feloniously, have in his

1 possession without the consent of the cardholder a credit or
2 debit card, to wit, a Visa credit card issued in the name of
3 Georgia Stathopoulos, with intent to circulate, use, sell, or
4 transfer said card with intent to defraud said Georgia
5 Stathopoulos and/or the issuer of said credit or debit card.

6 Count V, fraudulent use of credit or debit card:
7 did on or about March 17th, 2007, then and there wilfully,
8 unlawfully, feloniously, with intent to defraud, use, or
9 credit or debit card, to wit, by presenting a Visa credit card
10 issued in the name of Georgia Stathopoulos to Deja Jarmin at
11 Sheikh Shoes, 3525 South Maryland Parkway, Las Vegas, Clark
12 County, Nevada, for the purpose of obtaining merchandise,
13 Defendant not being the cardholder nor being authorised by the
14 cardholder to use said card.

15 Count VI, theft: did on or about March 17th, 2007,
16 then and there knowingly, feloniously, and without un -- and
17 without lawful authority, commit theft by obtaining personal
18 property in the amount of \$250 or more, lawful money of the
19 United States, of Sheikh Shoes, 3525 South Maryland Parkway,
20 Las Vegas, Clark County, Nevada, by a material
21 misrepresentation with intent to deprive that person of the
22 property in the following manner, to wit, by the said
23 Defendant falsely representing that he was in lawful
24 possession of a Visa credit card and that he had authorization
25 to use said card, thereby obtaining the personal property of

1 Sheikh Shoes by a material misrepresentation with intent to
2 deprive them of the property.

3 Count VII, conspiracy to commit larceny: did on or
4 about March 17th, 2007, then and there meet with another and
5 between themselves and each of them with the other wilfully
6 and unlawfully conspire and agree to commit a crime, to wit,
7 larceny, and in furtherance of said conspiracy Defendant did
8 commit the acts as set forth in Counts IV through VI, said
9 acts being incorporated by this reference as though fully set
10 forth herein.

11 David Roger, District Attorney, signed by Jessica
12 Walsh, Deputy District Attorney, to which the Defendant has
13 entered a plea of not guilty.

14 THE COURT: Thank you.

15 Ladies and gentlemen, you should distinctly
16 understand that the information just read to you is simply a
17 description of the charges filed against -- filed by the State
18 against the Defendant. It is not evidence of anything; it
19 does not prove anything. Therefore, the Defendant starts out
20 with a clean slate. The Defendant has pled not guilty and is
21 presumed innocent.

22 (Indiscernible) criminal case and there are two
23 basic rules you must keep in mind: First, the Defendant is
24 presumed innocent unless and until proved guilty beyond a
25 reasonable doubt. The Defendant is not required to present

1 any evidence or prove his innocence. The law never imposes
2 upon a Defendant in a criminal case the burden of calling any
3 witnesses or introducing any evidence;

4 Second, to convict, the State must prove beyond a
5 reasonable doubt that the crimes were committed and the
6 Defendant is the person who committed the crime.

7 It will be your duty to decide from the evidence to
8 be presented whether or not the Defendant is guilty or not
9 guilty. You are the sole judges of the facts. You will
10 decide what the facts are from the evidence which will be
11 presented. The evidence will consist of testimony of
12 witnesses, and documents, and other things received into
13 evidence as exhibits. You must apply the facts to the law
14 which I shall give you and that way reach a verdict. It is
15 important that you perform your duty of determining the facts
16 diligently and conscientiously. Ordinarily, there's no way of
17 correcting an erroneous determination of the facts by the
18 jury.

19 During the trial you should not take anything I may
20 say or do during the trial as indicating my opinion as to how
21 you should decide the case or to influence you in any way in
22 your determination of the facts. At times I may even ask
23 questions of the witnesses; if I do so, it is for the sole
24 purpose of bringing out matters which should be brought out
25 and not in any way to indicate my opinion about the facts or

1 to indicate the weight or value you should give to the
2 testimony of a witness.

3 Also, I would add during the trial you may notice
4 that I may take certain notes while someone is testifying. My
5 notes may be regarding the particular witness or may be just a
6 note for myself of some certain issues I need to discuss with
7 the attorneys, so you should not be influenced by any note
8 taken by the Court.

9 In deciding the facts of this case you may have to
10 decide which witnesses to believe and which witnesses not to
11 believe. You may believe everything a witness says or only
12 part of it or none of it. In considering the weight or value
13 of the testimony of any witness you may consider the
14 appearance, attitude, and behavior of the witnesses when
15 testifying, and a number of other things, including the
16 witness's ability to see or hear or know the things the
17 witness testifies to; the quality of the witness's memory; the
18 inclination of the witness to speak truthfully; whether or not
19 the witness has any interest in the outcome of the case or any
20 motive, bias, or prejudice; whether the witness is
21 contradicted by anything the witness said or wrote before
22 trial; and how reasonable is the witness's testimony when
23 considered with other evidence which you believe.

24 When deciding whether or not to believe a witness
25 keep in mind people sometimes forget things. You need to

1 consider whether a contradiction is an innocent lapse of
2 memory or an intentional falsehood, and that may depend on
3 whether it has to do with an important fact or with only a
4 small detail.

5 The weight or value of evidence does not necessarily
6 depend on the number of witnesses testifying for one side.
7 You must consider all the evidence, and you may decide the
8 testimony of a smaller number of witnesses on one side has
9 more weight or value than that presented by a larger number of
10 witnesses on the other side.

11 There are two kinds of evidence: direct and
12 circumstantial. Direct evidence is testimony about what the
13 witness personally saw, heard, or did. Circumstantial
14 evidence is indirect evidence. It is proof of one or more
15 facts from which you can find another fact. By way of
16 example, if you wake up in the morning and you see the ground,
17 the sidewalks, the streets are all wet, and water is running
18 down the gutter, you may find from those facts that it rained
19 during the night. It is proof of one or more facts from which
20 you can find another fact. If you were awake during the
21 evening and saw the rain fall, that would be direct evidence,
22 which -- which is something you personally saw. You may
23 consider both direct and circumstantial evidence in deciding
24 this case. The law permits you to give equal weight or value
25 to both, but it is for you to decide how much consideration to

1 give any evidence.

2 Certain things are not evidence, and you must not
3 consider them as evidence in deciding the facts of this case:
4 statements and arguments by the attorneys; questions and
5 objections of the attorneys; testimony I instruct you to
6 disregard; and anything you may see or hear if court is not in
7 session, even if what you see or hear is done or said by one
8 of the parties or by one of the witnesses. Remember, evidence
9 is sworn testimony by a witness while court is in session, and
10 documents and other things received into evidence as exhibits.

11 There are rules of law which control what can be
12 received into evidence. When a lawyer asks a question or
13 offers an exhibit into evidence, and the lawyer on the other
14 side thinks that it is not permitted by the rules, that lawyer
15 may object. If I overrule an objection the question may be
16 asked or the exhibit received. If I sustain the objection the
17 question cannot be answered and the exhibit cannot be
18 received.

19 Whenever I sustain an objection to a question,
20 ignore the question and do not guess what the answer might
21 have been. Sometimes I may order evidence stricken from the
22 record and tell you to disregard or ignore such evidence.
23 This means when you are deciding the case you must consider
24 the evidence which I have -- you must not consider the
25 evidence which I have told you to disregard.

1 It is a duty of a lawyer to object to evidence which
2 the lawyer believes may not be permitted under the rules. You
3 should not be prejudiced in any way against the lawyer who
4 makes objections on behalf of the party the lawyer represents.
5 Also, I may find it necessary to admonish a lawyer. If I do,
6 you should not be prejudiced towards the lawyer or the client
7 because I have found it necessary to admonish a lawyer.

8 During the trial you will be allowed to ask written
9 questions of any of the witnesses called in this particular
10 matter. After the witness has been questioned by both sides
11 -- and only at that time -- if you have a question for that
12 particular witness you're instructed to raise your hand. I'll
13 call upon you, you will write your question down on a piece of
14 paper, write your juror number on the witness [sic], the
15 marshal will pick that up and provide me with the question.

16 I will confer with counsel to see if your question
17 -- to make a determination if your question is a legally
18 proper question. If it is legally proper I will ask the
19 witness the question; if it is not legally proper then I will
20 not ask the question. No adverse inference should be drawn if
21 I do not ask a juror's question. Furthermore, no -- no -- no
22 undue weight should be given to a juror's particular question.
23 All evidence should be considered as a whole.

24 Until this case is submitted to you do not talk to
25 each other about it or about anyone who has anything to do

1 with it till the end of the case when you go to the jury room
2 to -- to decide on the verdict. Do not talk with anyone else
3 about the case or anyone has [sic] anything to do with it and
4 the trial has ended and you have been discharged as jurors.
5 Anyone else includes members of your family and your friends.
6 You may tell them that you're a juror in a criminal case, but
7 don't tell them anything about it till after you've been
8 discharged by me. Do not let anyone talk to you about the
9 case or about anything -- or about anyone who has anything to
10 do with it. If someone should try to talk to you please
11 report it immediately to me by contacting the court marshal.

12 Do not read any news stories, listen to any radio
13 broadcasts or watch any television, do any Internet research
14 about the case or about anyone who has anything to do with it.
15 Do not do any research or make any investigation about the
16 case on your own. You may be tempted to visit a location
17 identified in this case; please do not do so. In view of the
18 time that has elapsed since this case has come to trial
19 substantial changes may have occurred the [sic] location in
20 question. Also (indiscernible) making unauthorized visits
21 could lead you to an erroneous impression of the facts of this
22 case. Therefore, please avoid going near or past the location
23 till after this case has been completed.

24 The end of trial you will have to make your decision
25 based upon what you recall of the evidence. You will not have

1 a written transcript to consult, and it is difficult and time-
2 consuming for the court recorder to playback lengthy
3 testimony. I urge you all -- all of you to pay close
4 attention to the testimony as it is given.

5 If you wish, you may take notes to help you remember
6 what the witness said. If you do take notes please keep them
7 to yourself until you and your fellow jurors go to the jury
8 room and conduct your deliberation. Do not let note-taking
9 distract you so that you do not hear other answers of the
10 witness. You should rely upon your own memory of what was
11 said and not be overly influenced by the notes of other
12 jurors.

13 Do not make up your mind about what the verdict
14 should be until after you have gone to the jury room to decide
15 the case and you and your fellow jurors have discussed the
16 evidence. It is important that you keep an open mind
17 throughout the trial.

18 A juror may not declare to a fellow juror any fact
19 relating to this case of which the juror has knowledge. If
20 any juror discovers during the trial or after the jury has
21 retired that that juror or any other juror has personal
22 knowledge of any fact in controversy in the case, the juror
23 shall disclose such situation to me in the absence of the
24 other jurors.

25 This means if you learn during the course of the

1 trial that you have personal knowledge of any fact which is
2 not presented by the evidence in this case you must declare
3 that fact to me and communicate to me through the court
4 marshal.

5 During the course of the trial the attorneys for
6 both sides and all court personnel other than the marshal are
7 not permitted to converse with members of the jury. These
8 individuals are not being anti-social; they are bound by
9 ethics and the law not to talk to you. To do so might
10 contaminate your verdict.

11 The trial will proceed in the following manner: One
12 of the Deputy District Attorneys will make an opening
13 statement, which is an outline to help you understand what the
14 State expects to prove. Next, the Defendant's attorney may,
15 but does not have to, make an opening statement. Opening
16 statements serve as an introduction to the evidence which the
17 party making the statement intends to prove. The State will
18 then present its evidence, and counsel for the Defendant may
19 cross-examine the witnesses. Following the State's case the
20 Defendant may present evidence, and the Deputy District
21 Attorney may cross-examine the witnesses. However, as I have
22 said, the Defendant is not obligated to present any evidence.
23 After all of the evidence has been presented I will instruct
24 you on the law. After the instructions on the law have been
25 read to you, each side has the opportunity to present oral

1 argument. What is said in closing argument is not evidence.
2 The arguments are designed to summarize and interpret the
3 evidence. Since the State has the burden of proving the
4 Defendant guilty beyond a reasonable doubt the State has the
5 right to open and close the arguments. After the arguments
6 have been completed you will retire to deliberate your
7 verdict.

8 Ladies and gentlemen, at this time one of the Deputy
9 District Attorneys will present their opening statement.

10 MS. WALSH: Thank you, Judge.

11 Good afternoon, ladies and gentlemen. Plain and
12 simple is what this case looks like at first glance is a
13 simple pickpocket on the Strip. It's what we have in this
14 town, it's what we deal with. We're a tourist town when it
15 comes to talking about what happens on the Strip. But this
16 case goes a little deeper than just a simple pickpocket.

17 March 17th, 2007, Georgia Stathopoulos and her
18 husband were in town on vacation. Their son had something to
19 do in town. They had some business to do in Arizona. Just on
20 vacation, having fun. They were staying at the Tropicana
21 Hotel and Casino on the Strip. On this particular day around
22 1 o'clock they went down to the buffet, they had lunch, they
23 ate, they're walking back to the room, she has her purse on
24 her shoulder, they see a machine, she says let's just sit down
25 and put a couple of dollars in.

1 So what she does is she sits down at the machine,
2 has her purse right next to her, she opens it up, takes the
3 money out of her wallet, and just kind of sets her wallet
4 right there back in her purse, doesn't zip it up because it's
5 just going to be a couple of dollars, it's going to be real
6 quick. Puts the money in the machine.

7 All of a sudden something happens, and the machine
8 starts making lots of noises, and -- and people are looking,
9 and her husband's saying, you know, what's happening, and then
10 the Defendant walks by. You're going to see the surveillance
11 tape of what happened. You're going to see Georgia sitting at
12 the machine. You're going to see someone sitting next to her
13 on her right-hand side, her husband.

14 Then you're going to see the Defendant wearing a
15 jersey with, I believe, the number 6 on the back. He walks
16 by, has a coat in his hand, and he notices here's this elderly
17 woman with her purse next to her, open, and now she's got her
18 attention focused on this machine that's making all this noise
19 because we know machines in casinos make a lot of noise for
20 winning five cents.

21 So he walks by. You see him in the video take his
22 jacket and fold it over his right arm, and he walks by and he
23 turns around like this and comes back to her where she's
24 sitting, approaches her on her left side where her purse is
25 open where her wallet is. And he gets really close to her,

1 almost like he's touching her. And he starts pointing up at
2 the machine, hey, what happened, what did you win, and how
3 does this machine work. His coat's draped over his hand, so
4 you can't see what he's doing with his hand, but his hand's
5 extremely close to that purse that's open with the wallet
6 sitting right there (indiscernible).

7 He's working with someone else, with a friend. And
8 you're going to hear Detective Flenner talk about that they
9 call these distract thefts. They get someone to distract a
10 victim, someone to block the view of everyone else of what's
11 going on. This friend stands -- if Georgia's here, the
12 Defendant's right here, he stands right here, right in front
13 of that purse so passer-bys can't see what's going on with
14 that purse with that hand that's covered by that coat.
15 They're only there for a few minutes, talking, looking at the
16 machine, pointing.

17 And all of a sudden you see the Defendant turn, puts
18 his hand out, and his friend kind of very awkwardly takes the
19 coat and what is now Ms. Stathopoulos's wallet that's
20 underneath the coat, and he walks away this direction.
21 Defendant sticks around for only a few more seconds; he walks
22 away in another direction. He stole her wallet.

23 We also know that he stole her wallet because within
24 approximately about a half-hour to 45 minutes later he goes
25 into the Sheikh shoe store. Takes it one step further than

1 just a pickpocket distract theft, lifting her wallet from the
2 casino. And he goes and he uses her credit card at a Sheikh
3 shoe store. He comes in, selects some merchandise, takes
4 about 20 minutes to a half an hour picking out exactly what he
5 wants. He goes up to the counter to a clerk that he's seen
6 before. The clerk knows him, so he doesn't check the ID off
7 the credit card. He uses Ms. Stathopoulos's Chase credit card
8 to make a purchase of 490 some dollars of merchandise. He
9 then signs the credit card, takes the credit card that's not
10 his, he didn't have permission to use, that he stole from Ms.
11 Stathopoulos, the \$490 worth of merchandise, and he leaves the
12 store.

13 And those are the facts of this case, ladies and
14 gentlemen, plain and simple. Distract type theft. The
15 Defendant takes it one step further by immediately using her
16 credit card to purchase merchandise. And for that at the end
17 of this trial the State's going to ask that you find the
18 Defendant guilty.

19 THE COURT: Thank you, Ms. Walsh.

20 Mr. Jorgenson, do you wish to have your opening
21 statement at this time?

22 MR. JORGENSEN: Yes, Judge.

23 THE COURT: All right.

24 MR. JORGENSEN: Ladies and gentlemen of the jury, my
25 name's Craig Jorgenson. This will be a brief trial. You'll

1 have a chance to hear from the witnesses that the State's
2 outlined, and then you'll go back into the jury room and
3 decide amongst yourselves if the events that happened on the
4 17th of March do or do not involve Mr. Ross.

5 Now, the prosecutor just gave you a rundown of what
6 they intend to present to you by witness -- by way of
7 witnesses, and the only quibble I would have is if you take
8 out the word Defendant and put in the word suspect. Clearly
9 that's what these people will say. The question will
10 ultimately end up being though who is that person in the
11 videotapes or videotape.

12 You'll hear from the people who were at the shoe
13 store. There is three people you'll hear from: two that will
14 actually come and testify; one that we will hear from by way
15 of a transcript. But they'll tell you that Mr. Ross, in
16 March, came into the store once a week, couple of times a
17 week. He was there quite a bit, bought quite a few -- spent
18 quite a few -- spent quite a bit of money on shoes, and that
19 he was in the stores multiple times in the -- in the month of
20 March of 2007.

21 You'll hear that the -- the one man who wasn't --
22 who won't be here today but (indiscernible) his transcript,
23 that he -- well, you'll hear that the way that my client gets
24 brought into this scenario is that the lady who had her wallet
25 taken -- and she wasn't sure (indiscernible) if it was taken

1 at the -- if she lost it at the buffet or if she lost at the
2 slot machine.

3 She went a day or two later and contacted her credit
4 card companies to say these are missing, turn off the numbers
5 or, you know, report them as stolen so they don't get charged.
6 And they indicated to her that one of the cards had been used
7 that same day that she had it missing at about 1:00 p.m. on
8 the 17th of March, that there -- it was used at a shoe store.
9 Turns out -- she -- but turns out really quite close
10 (indiscernible) mile or so away from the Tropicana, and it
11 appears to have been used half an hour or 45 minutes after she
12 realized the card was taken or her wallet's been taken.

13 She then contacts the shoe store, and the person she
14 talks to at the shoe store says yeah, I remember Mr. Ross
15 coming in that day, he came in with a girl, and he bought some
16 stuff, and I think he used that card. This is Mr. Ross's
17 connection with the case. He comes into the store frequently
18 in the month of March, and the people who work there, the two
19 people who will show up today will say they're not sure who
20 actually used the card that belonged to this lady because they
21 weren't working the counter, but they know that Mr. Ross was
22 in that day or (indiscernible) understand this is -- they're
23 talking to the police the next -- the following week or three
24 or four days later. So they're asking to remember what
25 happened three or four days earlier.

1 And they'll say yeah, they're pretty sure Mr. Ross
2 came in here three or four days earlier, he was in two -- five
3 days after that, he was in five days after that, I've seen him
4 quite a bit for the last month.

5 The one man who wasn't here will indicate through
6 his transcript that there was a -- a video that the store had,
7 but it didn't get preserved for one reason or the other, and
8 it -- it appears to look in that video that the same kind of
9 person who was dressed in a certain way you'll see, in the
10 Tropicana video, also shows up at the shoe store. So the one
11 -- the questions you'll go back into the jury room to decide
12 is are they the same two people, but, more importantly, is
13 that -- those two people, are they, in fact, the same and are
14 they, in fact, my client.

15 And I think that after you'll have a chance to look
16 at the videotape yourself because Georgia will not say she
17 recognizes who took her -- her purse. She doesn't know who
18 took her purse. She doesn't remember -- she remembers two
19 black guys came up and talked to her while she was
20 (indiscernible) at the slot machine, but she's not going to
21 say she remembered particularly who they were. She didn't
22 recognize them.

23 And you'll have a chance to watch this videotape
24 (indiscernible) go back in there, and I think after you've
25 finished watching the videotape and listened to everything

1 you'll come to the conclusion that while somebody clearly took
2 her wallet and used it an hour -- a half an hour or so later
3 it simply wasn't Mr. Ross, and, therefore, you'll find him not
4 guilty on the charges.

5 THE COURT: Thank you, Mr. Jorgenson.

6 The State, please call your first witness.

7 MS. WALSH: Thank you, Judge. The State calls
8 Georgia Stathopoulos.

9 (Witness summoned)

10 THE BAILIFF: If you'll remain standing, please,
11 raise your right hand and face the clerk.

12 THE CLERK: You do solemnly swear the testimony you
13 are about to give in this action shall be the truth, the whole
14 truth, and nothing but the truth, so help you God?

15 THE WITNESS: (Indiscernible)

16 THE CLERK: Thank you. Please be seated.

17 GEORGIA STATHOPOULOS

18 having been called as a witness on behalf of the Plaintiff and
19 being first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. WALSH:

22 Q Please state your full name and spell your name for
23 the record.

24 A My name is Georgia Stathopoulos, and it's spelled
25 G-e-o-r-g-i-a, last name S-t-a-t-h-o-p-o-u-l-o-s.

1 THE COURT: Go ahead, Counsel.

2 MS. WALSH: Thank you, Judge.

3 BY MS. WALSH:

4 Q Ma'am, are you a resident here in Las Vegas?

5 A No.

6 Q Where do you currently live?

7 A I live in Itasca (phonetic), Illinois.

8 Q And I want to direct your attention now to March of
9 2007. Were you on vacation here in Las Vegas?

10 A Yes.

11 Q Where were you staying at?

12 A At the Tropicana.

13 Q And is that down on the Strip by all the casinos?

14 A Yes.

15 Q Okay. And who were you staying there with?

16 A My husband.

17 Q I want to direct your attention now just
18 specifically to March 17th of 2007 around 1 o'clock in the
19 afternoon. Had you eaten at the buffet at the Tropicana?

20 A Yes.

21 Q Once you finished eating at the buffet what did you
22 do next?

23 A We were going back to our hotel room, and we stopped
24 on the back row to play one of the machines.

25 Q Okay. And when you say we who are you referring to?

1 A My husband and I.

2 Q And the machines are just the slot machines in the
3 casino?

4 A Yes.

5 Q Okay. Do you have a purse with you?

6 A Yes.

7 Q Okay. What kind of purse did you have with you in
8 March?

9 A I had the same purse that I have here.

10 Q Okay. So the purse that's sitting on the table,
11 that's the exact same purse you had in March?

12 A Yes.

13 Q Okay. Did you have a wallet in your purse?

14 A Yes.

15 Q Okay. What kind of things did you have in your
16 wallet?

17 A I had everything I kept. That's the center of my
18 purse. I had my credit cards, my driver's license; I had my
19 insurance card. All my pertinent information would be in my
20 wallet.

21 Q Okay. Inside your wallet did you also have a Chase
22 credit card with the number 4388 5270 0012 1281?

23 A Yes.

24 Q Okay. And did your husband also have the same Chase
25 Visa?

1 A Yes.

2 Q And that was the same number; you both had the same
3 credit card with the same number?

4 A Yes.

5 Q Okay. And do you have any money in your wallet?

6 A Yes, I did. I had cash, about \$150, and \$50 gas
7 card.

8 Q Now, when you sit down -- I assume you sit down to
9 play at the slot machine?

10 A Yes.

11 Q Okay. When you sit down to play at the slot machine
12 what do you do with your purse?

13 A I had it over my shoulder on my left side, and I had
14 it right next to me right along my side.

15 Q Okay. Would it be sitting on the chair?

16 A It was right on the chair, on the edge of the chair,
17 right --

18 Q Same chair you're sitting in?

19 A That is correct.

20 Q Okay. So would it be just kind of like down then to
21 your left hip kind of almost touching your -- your hip?

22 A Yes.

23 Q Okay. Do you do anything with your wallet when you
24 sit down at the machine?

25 A I took out a dollar to play the machine, and then I

1 put it back in my purse.

2 Q Okay. So you take -- you remove your wallet from
3 your purse and put a dollar in the machine and then put your
4 wallet back in your purse?

5 A Right.

6 Q Okay.

7 A Yes.

8 Q When you put your wallet back in your purse do you
9 zip your purse?

10 A I did not zipper it.

11 Q Okay. How -- about how wide is your purse when you
12 don't have your purse zippered?

13 A It's --

14 Q Yeah. You can actually --

15 A -- it's --

16 Q -- probably --

17 A -- pretty wide.

18 Q You can probably just unzip it and show the ladies
19 and gentlemen of the jury.

20 A It's pretty much my wallet (indiscernible) wallet is
21 like (indiscernible)

22 Q Okay. And the wallet that you have in your purse
23 right now; is that a similar wallet to the one you had in
24 March?

25 A Yes.

1 Q Can you show that wallet to the jury, please, as
2 well?

3 A (No audible response.)

4 Q Thank you. Now, while you were playing that machine
5 were you approached by anybody?

6 A Yes.

7 Q And how were you approached?

8 A The machine was making a lot of noises, and -- like
9 I won something, and two young men approached me on my left
10 side, very friendly, asking what did I win and how did the
11 machine work.

12 Q Okay. Do you see one of those two men in court
13 today?

14 A Yes.

15 Q Can you please point to him and describe an article
16 of clothing that he is wearing?

17 A The gentleman over there with kind of a light tan
18 shirt, African American.

19 MS. WALSH: Can the record reflect the witness has
20 identified the Defendant?

21 THE COURT: Yes, it will.

22 MS. WALSH: Thank you.

23 BY MS. WALSH:

24 Q And now you also testified at a previous hearing in
25 this case; is that correct?

1 A Yes.

2 Q Okay. Did you also see the Defendant in court that
3 day?

4 A Yes.

5 Q And did you also identify him as the person who
6 approached you?

7 A Yes.

8 Q Okay. And it's the same person that you identified
9 today?

10 A Yes.

11 Q Okay. Now, where exactly did the Defendant approach
12 you at? You said on your left side, but can you just describe
13 it to the jury?

14 A As I was facing the machine in the back row, on my
15 left-hand side two young men came very close, very friendly,
16 and approached me on my left side.

17 Q Would he have been closer to you than it would have
18 been needed to be to play the machine next to you?

19 A Yes.

20 Q Did he ever touch you? Was he that close enough to
21 touch you?

22 A I can't say I remember that.

23 Q And your husband, you said, was off to your right-
24 hand side --

25 A That is --

1 Q -- correct?

2 A Yes.

3 Q Okay. Now, what types of things was the Defendant
4 asking you about?

5 A He just said what did you win since the machine was
6 making so much, you know, flashing and noise, and how, you
7 know, how -- how does it work, the game that you're playing.

8 Q So he asked you how the slot machine game you were
9 playing operated?

10 A (No audible response.)

11 Q And -- is that a yes?

12 A Say that again.

13 Q He asked you how the slot machine you were playing
14 operated, how you played that game?

15 A Right. Yes.

16 Q Okay. And where was your attention focused when the
17 machine was making all these noises?

18 A I was focused to the machine.

19 Q Okay. Now, in Vegas there's some slot machines
20 where the screen is right in front of you when you sit down,
21 and there's other machines that you have to look up and see a
22 screen. What type of machine was this that you were playing?

23 A I would have to say I was looking up.

24 Q All right. How long did the Defendant stay close to
25 you in talking to you?

1 A Just a couple of minutes.

2 Q And at some point did he leave?

3 A Yes.

4 Q Did the other gentleman that was with him leave at
5 that point in time as well?

6 A Yes.

7 Q How much longer did you play the game for after the
8 Defendant left you?

9 A We left shortly after.

10 Q You saying we meaning you and your husband?

11 A My husband and myself.

12 Q And then do you continue on to your hotel room?

13 A Yes.

14 Q Do you make any other stops along the way?

15 A No.

16 Q After the Defendant left you or really the entire
17 time you were playing was anybody else as close to you as the
18 Defendant was?

19 A No.

20 Q Was there anybody else really even in a close
21 proximity to you besides your husband?

22 A Just three machines over there was an Oriental lady
23 playing the end machine, but that's quite a bit over.

24 Q Now, when you're walking from the slot machine up to
25 your hotel room does anybody come within a close proximity to

1 you?

2 A No.

3 Q Okay. Once you get up to your hotel room what, if
4 anything, do you notice?

5 A I looked inside my purse, and I saw my wallet was
6 missing.

7 Q How long did it take you to make this realization?

8 A Shortly after we got into our room.

9 Q Okay. Once you noticed that your wallet was missing
10 what's the first thing that you do?

11 A I thought I had left it at the Tropicana, the lunch
12 -- where we had had lunch, and I ran back there to ask the
13 hostess and the waitress if they saw a wallet there.

14 Q Okay. And that's the first thing -- the first place
15 you thought of that you might have lost your wallet was the
16 buffet?

17 A Yes.

18 Q But now you remember actually using your wallet to
19 get money to play the machine; is that --

20 A Yes.

21 Q -- correct? Okay. Didn't find your wallet at the
22 buffet?

23 A No.

24 Q Okay. Did you make contact with security and police
25 at this time?

1 A Right away after that, yes.

2 Q Okay. Now, did you contact your credit card
3 companies regarding the cards that were in your wallet that
4 were stolen?

5 A Yes.

6 Q What day did you do that on?

7 A We did it shortly right then as we were waiting for
8 security to come to our room to take the report.

9 Q So the --

10 A We did it right then.

11 Q -- the same day, March --

12 A Yes.

13 Q -- 17th, you contact the credit card companies?

14 A Yes.

15 Q And did you become aware if your Chase Visa card had
16 been used after 1 o'clock when --

17 A Yes.

18 Q -- it was stolen? You were informed that your --
19 your card was used?

20 A Yes.

21 Q Okay. And were you informed that it was used at a
22 shoe store here in Las Vegas?

23 A Yes.

24 Q Okay. And did you report that to the detectives who
25 were working on your case?

1 A Yes.

2 Q Okay. Now, did you ever give the Defendant
3 permission to take your wallet out of your purse that day?

4 A No.

5 Q Did you give him permission to have any of your
6 credit cards, including that Chase credit card?

7 A No.

8 Q Give him permission to use it?

9 A No.

10 Q Give anybody permission to do any of those things?

11 A No.

12 Q Okay. Have you ever even been to the Sheikh shoe
13 store here in Las Vegas?

14 A Never.

15 Q Don't even know where it is?

16 A No.

17 Q Didn't make any type of purchase?

18 A No.

19 Q Okay.

20 MS. WALSH: May I approach the witness, Judge?

21 THE COURT: Yes.

22 BY MS. WALSH:

23 Q Ma'am, I'm showing you what's been marked for
24 identification as State's proposed exhibit number 6, and
25 specifically drawing your attention to the credit card

1 receipt. And before today have you ever seen this receipt
2 before?

3 A No.

4 Q Okay.

5 MS. WALSH: And, Judge, I did speak with Mr.
6 Jorgenson. The State would ask is that we conditionally admit
7 State's exhibit number 1 at this point in time. The complete
8 foundation will be laid with the next two witnesses.

9 THE COURT: Is that correct, Mr. Jorgenson?

10 MR. JORGENSEN: Yes, Judge.

11 THE COURT: It'll be conditionally admitted at this
12 time. Thank you.

13 (State's Exhibit 1 conditionally admitted)

14 MS. WALSH: Thank you, Judge. (Indiscernible)
15 publish?

16 THE COURT: Yes.

17 MS. WALSH: Thank you.

18 BY MS. WALSH:

19 Q Now, I'm directing your attention to the TV right
20 there in front of you. The -- written on this receipt is
21 Georgia Stathopoulos underneath where a person signs; is that
22 correct?

23 A Is that my signature?

24 Q No. I'm just asking you right here it has printed
25 your name (indiscernible)

1 A Yes, that is correct.

2 Q And this appears to be just a general credit card
3 receipt for a purchase; is that correct?

4 A Yes.

5 Q Is that your signature?

6 A No.

7 Q Okay. Specifically pointing you right to the G at
8 the beginning of Georgia, is that the way that you make your
9 Gs?

10 A I never make my Gs like that.

11 Q How do you make your Gs?

12 A The regular, you know, cursive G, the capital G that
13 is --

14 Q The usual way we're taught in third or fourth grade
15 with the two loops at the top?

16 A That is correct.

17 Q And this appears to be a lowercase cursive G?

18 A Yes.

19 Q Is that the way you even sign your first name, the
20 complete name?

21 A No --

22 Q Okay.

23 A -- that's not.

24 Q Now, specifically your last name; is it even spelt
25 correctly on this receipt?

1 A No.

2 Q Would you ever misspell your name?

3 A No.

4 Q You know how to spell it?

5 A Yes.

6 Q Learned it a long time ago?

7 A Yes.

8 Q Okay. And, just to clarify, you never purchased

9 anything for \$490 on March 17th, 2007, at the Sheikh shoe

10 store; is that correct?

11 A No, I never did.

12 MS. WALSH: Court's indulgence, Your Honor?

13 THE COURT: Sure.

14 MS. WALSH: State will pass the witness, Your Honor.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MR. JORGENSEN:

18 Q So you were at the Tropicana Hotel and Casino on

19 March 17th of 2007; is that correct?

20 A Yes.

21 Q So about 18 months ago?

22 A Yes.

23 Q And at about 12:30 in the afternoon you went over to

24 the buffet to get something to eat for lunch?

25 A Yes.

1 Q Person -- the purse you're referring to, if it is
2 unzipped or -- we asked you if it was zipped or unzipped; what
3 difference does that make in terms of the shape of the purse?

4 A It was unzipped. She --

5 Q If it's unzipped does it hang differently?

6 A No.

7 Q Okay. Do (indiscernible) -- if you unz -- do you
8 have to zip it up to make sure things don't come out of it?

9 A No. As you can see, it's this purse right here and
10 the wallet's in there. It's unzipped right now; it doesn't --
11 things don't fall out of it.

12 Q So you normally keep it unzipped?

13 A Sometimes.

14 Q Because right now it's unzipped.

15 A Right.

16 Q So you and your husband went and ate at the buffet.
17 And at the end of the buffet you or your husband paid for it?

18 A I did.

19 Q How?

20 A I don't remember. I think it was a credit card, but
21 I don't remember.

22 Q Why do you remember that you paid for it as opposed
23 to your husband?

24 A It just seems that I -- I paid for it that day. I
25 -- I think I can rec -- I recollect that I made -- made the

1 payment at lunch for that day.

2 Q But not if it was cash or a credit card?

3 A No, I can't remember.

4 Q Okay. You are walking back to the elevators to go
5 up to your room?

6 A Yes.

7 Q So you were staying, obviously, at the Tropicana
8 while you were here in town?

9 A Yes.

10 Q You come past one of the slot machines, you decide
11 to sit down at -- with -- you and your husband decide to sit
12 down.

13 A Yes.

14 Q Now, you -- you needed to use your wallet to get
15 cash, or you already had cash inside your wallet; what was it?

16 A As best as I can recollect, I -- I think I had a
17 dollar left; that's why I, you know, I was the one that made
18 the payment. I think I went back and put the tip on the
19 table, and I had a dollar left, and so we went by this
20 machine, it was just a -- the penny machine, and I said let's
21 stop a minute and play this machine.

22 Q And the dollar --

23 A That I used out of my wallet.

24 Q So you reached into your purse, pulled your wallet
25 out, and inside the wallet was a one dollar bill.

1 you don't mean a high school aged kid?

2 A No, I didn't think that they were that young, no.

3 Q Somebody in their mid-20s. Both of them appeared to
4 be in their mid-20s, maybe late 20s.

5 A I don't -- I -- I can't say, you know, I can't
6 remember that clearly, you know, if it was mid-20s. But
7 that's -- they were young -- two young men that approached me
8 very close, being very friendly.

9 Q One talked to you and the other one didn't or they
10 both talked to you?

11 A No. Just the one.

12 Q And you recall telling anybody how that person was
13 dressed? Or do you remember how that person was dressed?

14 A No, I don't remember. My -- my --

15 Q This is --

16 A -- concentration was focused on the machine.

17 Q Okay. This was March. Do you remember if it was
18 cold enough to wear a jacket outside or not that day?

19 A No, I do not.

20 Q How long (indiscernible) in town for?

21 A For about three days.

22 Q So you'd flown in from Illinois?

23 A We came over from Arizona.

24 Q Okay. So you drove up from Arizona up to Las Vegas?

25 A We flew into Arizona, and our son drove us up to --

1 to Las Vegas. It was our first trip out to Las Vegas.

2 Q And you spent the three days at the Tropicana?

3 A Yes.

4 Q (Indiscernible) this was your last day?

5 A We were leaving Sunday, the next day.

6 Q The -- the two black guys that came up that talked
7 to you -- or the one that talked to you and the one that
8 didn't, they were the same physical size and height or do you
9 remember?

10 A I don't remember.

11 Q Do you remember how tall either one of them were, or
12 the guy that did talk to you do you remember if -- if he was
13 short or tall?

14 A I can't remember.

15 Q How tall are you?

16 A I'm just a little over five feet.

17 Q So they all were taller than you. Yes?

18 A Yes.

19 Q Okay.

20 A I was sitting down.

21 Q Oh, so you were -- you never even stood next to one
22 (indiscernible) so --

23 A No.

24 Q -- you could even get a good idea what -- how tall
25 they were; is that right?

1 A Right.

2 Q Did the person you talked to speak with an unusual
3 accent or a southern accent?

4 A I can't remember that.

5 Q Have a beard or a mustache?

6 A I can't remember.

7 Q Were you later on showed pictures of people to pick
8 out who the person was that talked to you?

9 A Later on like when?

10 Q Anytime later by the police in particular? You
11 know, the next day, a week later, a month later.

12 A No.

13 Q Did you finally collect the money off your machine?

14 A I never won any money. I just got 20 some free
15 tries; that's all it was.

16 Q And did you use all of those free tries?

17 A Right.

18 Q And ended up with nothing?

19 A Right.

20 Q Then you walk to the elevator and go up the
21 elevator.

22 A Right.

23 Q And at the eleva -- well, in your room at some point
24 you're going through your purse and notice that your wallet's
25 gone.

1 A That is correct.

2 Q Did you notice that as soon as you got to the room
3 or you got up to the room and you were there for a little
4 while?

5 A It was very soon after we got into the room.

6 Q What caused you to look for your purse?

7 A Well, the -- the zipper was open, and I -- I put it
8 on the table, and I -- I think I glanced at it to see, and I
9 saw that my wallet wasn't there.

10 Q The wallet normally would have been on top of
11 everything.

12 A Right.

13 Q Then you went down to the buffet to see if it had
14 been left there?

15 A I was very frantic. I go my wallet's not here. So
16 my first inclination right away was to run back to the lunch
17 room where I know -- I remember, you know, I used it there,
18 and I -- that was my first inclination.

19 Q And you actually did go to the lunch room.

20 A Yes, I did.

21 Q Did you go over to the -- did you retrace your steps
22 from the lunch room over to where the machine was to see if it
23 was on the ground somewhere?

24 A No, I didn't do that.

25 Q Did you go to the slot machine itself to see if it

1 was sitting on the ground or next to the slot where you set
2 your purse down?

3 A No.

4 Q Why didn't you decide to look any of those places?

5 A (No audible response.)

6 Q You -- you went to the lunch room; why didn't you go
7 to the rest of the places once you found out it wasn't at the
8 lunch room?

9 A I just -- that -- that was the first thing that came
10 to my mind was I -- maybe I left it there and I went there,
11 and then I went back to my room, and I said it -- it wasn't at
12 the lunch room.

13 Q You didn't -- you're positive you didn't lose it at
14 the slot machine, or you just simply didn't think to go to the
15 slot machine to look there also?

16 A I didn't think to look there also.

17 Q All right. Now, it is the following day that you
18 called the credit card companies?

19 A No. It was right shortly after, like maybe 1:30,
20 1:45.

21 Q Okay. All right. And that's when they tell you
22 that there's already been a charge on it at the shoe store.

23 A Yes.

24 Q Is that right? And they told you the name of the
25 shoe store?

1 A I believe they did, yes.

2 Q So you could see if you'd made that own expense
3 yourself.

4 A Right.

5 Q And you said no, I don't recognize that --

6 A Right.

7 Q -- shoe store or that amount of money.

8 A Right.

9 Q Now, you called eight or nine different credit card
10 companies?

11 A I called several, and then I had to call home and
12 get a couple of numbers from my daughter because I didn't have
13 them; my husband didn't have the numbers either.

14 Q But it was just the one card where they actually
15 told you hey, it's been used already.

16 A Yes.

17 Q Now, you then contacted that shoe -- that store?

18 A Yes.

19 Q How did you have the number, the phone number?

20 A I -- I don't remember. I think maybe -- I don't
21 know if the credit card company gave it to me or did I -- I --
22 I looked it up or else I asked the front desk, but I got the
23 number.

24 Q So the -- the -- we're still talking about the same
25 afternoon.

1 A Right.

2 Q You call then and talk immediately or as soon as you
3 actually make the call, maybe 1:30 or 2:30, and you talk to
4 someone at the shoe store by the name of Deja.

5 A Yes.

6 Q How do you know what his name was?

7 A He told me his name.

8 Q All right. I mean, it may be an obvious question
9 but just so I understand. And he indicated that a guy came in
10 with a girl and used your credit card?

11 A Yes. He said someone had just been there, he -- a
12 regular customer, so he didn't check any IDs. And I said to
13 him well, the purchase he just made was not made by me or
14 authorized by me and it was a fraudulent purchase.

15 Q But you do remember him saying that -- that this guy
16 who was a regular customer who just came in and used the card
17 came in with a girl; is that right?

18 A I believe yes, he did say he came in with --

19 Q Do you remember writing that down on your statement
20 to the police, that he came in -- that Deja told you he came
21 in with a girl?

22 A I can't remember if I -- if -- if that's what I
23 wrote down. This was, you know, over a year and a half ago,
24 so --

25 MR. JORGENSEN: May I approach the witness, Judge?

1 THE COURT: Yes.

2 A -- whatever Deja had mentioned to me.

3 BY MR. JORGENSEN:

4 Q Just looking at that piece of paper does that look
5 like a copy of something that you recognize?

6 A I wrote that at the police station.

7 Q It -- so -- when? What day?

8 A That same afternoon. We walked down to the police
9 station.

10 Q So if the card was taken on the 17th this would have
11 been the 17th also.

12 A That is correct.

13 Q After you had called the credit card company and
14 talked to the shoe store person, right?

15 A Right.

16 Q And looking at that now do you rec -- does that help
17 you recall whether or not this Deja had told you who this guy
18 was with when he came into the store to use the -- your credit
19 card?

20 A No, I can't say I remember at this point.

21 Q Do you -- can you look at that and say what -- tell
22 the Court what you had written down that same day after
23 talking with Deja?

24 A What I wrote on here?

25 Q Right.

1 A Where I found my wallet was missing, and my -- and
2 my husband and I just thought well then, it was those two
3 young men that, you know, came very close to me and were very
4 friendly. And -- and as soon as -- we kind of thought that's
5 what had happened to my wallet. So then I -- we called the
6 credit card companies, we called security to come up and do
7 their report, and then we went down and filled out a police
8 report at the station.

9 Q Okay.

10 A Now, it says here I then started calling to cancel
11 my credit cards. Visa says someone had used my credit card at
12 Sheikh -- or Sheikh shoe store at 3520 South Maryland Parks,
13 we -- 1:22. They gave me the address and they gave me the
14 phone number by a salesperson, Deja. He said the person had a
15 girl with him and they were on the store video, and also the
16 salesman said he made several purchases in the shoe store with
17 a business card. And salesman, Deja, said his name is Phillie
18 (phonetic throughout) and his phone number, he gave me a phone
19 number that the person that used my card had given him.

20 Q Now, did you know what he meant -- the person you're
21 on the phone with -- what he meant when he said that this guy
22 had used to purchase with a business card? Was he referring
23 to your credit card or something different? Or do you know?

24 A I just thought that he meant that he was using a --
25 another card that was a business card.

1 Q Okay. All right. So you don't -- you don't think
2 he was referring at that point to your credit card; just he
3 had used -- he had bought something with your credit card and
4 with a business card?

5 A He had been in the store several different times,
6 and he was a regular kind of a customer that he recognized, so
7 he didn't check his IDs, because I questioned him and said
8 well, didn't you check his IDs, he goes no, he's a regular
9 customer of ours, he's come in with business card -- with a
10 business card and used it prior to the purchase he made with
11 my card. That's the way Deja explained it to me.

12 Q Now, this has -- it was written at 5:30 -- or 5:03
13 in the afternoon; does that sound about right?

14 A That sounds about right.

15 Q Sitting here today could -- do you know for sure
16 when your wallet became missing? Or do you look back and say
17 when -- when it's likely to have become missing?

18 A I know for sure. As soon we -- as soon as we got to
19 our hotel room, as soon as we walked inside and I put it on
20 the table and I looked and I saw that it wasn't there, I --
21 you know, that was when I -- as soon as we got into our hotel
22 room, which was shortly after when we left that, because we
23 only played that one dollar.

24 Q All right. So you used the card at -- you used your
25 wallet at the buffet and then you notice it missing when you

1 got to your hotel room.

2 A Yes.

3 MR. JORGENSEN: No other questions.

4 THE COURT: Any redirect?

5 MS. WALSH: No, Your Honor.

6 THE COURT: Thank you, ma'am. You're instructed not
7 to discuss your testimony with any other witness involved in
8 this case till this matter is finally resolved. Thank you for
9 your time.

10 (Witness excused)

11 THE COURT: State, please call your next witness.

12 MS. RINETTI: Deja Jarmin.

13 THE BAILIFF: Mr. Keeler, if you'll raise your right
14 hand, please.

15 THE CLERK: You do solemnly swear that you will well
16 and truly read the answers of the deponent as set forth in the
17 deposition in response to the questions therein asked by
18 counsel, so help you God?

19 MR. KEELER: I do.

20 THE CLERK: Thank you. Please be seated. Please
21 state your full name and spell your name.

22 MR. KEELER: My name is Brett Keeler, B-r-e-t-t,
23 last name K-e-e-l-e-r.

24 THE COURT: And just for the record it's not a
25 deposition; it'll be a preliminary hearing transcript. So.

1 MS. RINETTI: Thank you, Judge.

2 THE COURT: Go ahead, Counsel.

3 DEJA JARMIN

4 having been called as a witness on behalf of the Plaintiff and
5 being first duly sworn, testified at preliminary hearing as
6 follows:

7 DIRECT EXAMINATION

8 BY MS. RINETTI:

9 Q Good morning, Mr. Jarmin. I want to direct your
10 attention to March 17th earlier this year, 2007. How were you
11 employed on that day?

12 A I'm a third key at Sheikh Shoes.

13 Q That's Sheikh, S-h-e-i-k-h; is that correct?

14 A That's correct.

15 Q And you said third key; what exactly is a third key?

16 A It's a supervisor. I don't have the responsibility
17 of the assistant manager; I'm under the assistant manager. I
18 do some supervising and some cashiering.

19 Q So your duties would include ringing people up as
20 well as supervising other employees; would that be accurate?

21 A Yes.

22 Q And that's -- Sheikh Shoes is located at 32 -- 3525
23 South Maryland Parkway here in Las Vegas, Clark County,
24 Nevada; is that correct?

25 A Right.

1 Q Now, I want to direct your -- I want to turn your
2 attention to the early afternoon of that same day, March 17th,
3 2007; were you on duty on that day?

4 A Yes, I was.

5 Q Do you see anyone on that day as you were on duty
6 that's present in the courtroom today?

7 A Yes. The Defendant in the blue shirt.

8 Q You made reference -- you pointing to an individual
9 in the courtroom; could you again point that individual out
10 and identify something he is wearing?

11 A The Defendant over here in the blue top with the
12 corn rows.

13 Q And that is at the table next to me?

14 A Yes.

15 Q May the record reflect the witness has identified
16 the Defendant?

17 THE COURT: And then the transcript says that the
18 Court did --

19 MS. RINETTI: Yes. That will be noted.

20 THE COURT: Yes.

21 BY MS. RINETTI:

22 Q Had you seen the Defendant prior to that day?

23 A Yeah. He had visited our store, I think, maybe
24 twice prior within a two- or three-week period.

25 Q On those prior occasions had you waited on him or

1 cashiered or anything of that sort?

2 A I spoke to him, but I never -- I hadn't actually
3 waited on him; someone else did.

4 Q And on those prior occasions were you aware of
5 whether he conducted transactions at your store or not?

6 A Yes. Well, on one occasion he did; that I remember.

7 Q Now I want to turn your attention again to that
8 early afternoon on March 17th of 2007. Could you tell us your
9 observations of the Defendant on that day when he entered the
10 store?

11 A I recall that he had on -- I believe it was a T-
12 shirt and maybe a jersey when he walked in with a -- with his
13 friend.

14 Q So he entered with a friend?

15 A Yes, he did.

16 Q And could -- and could you describe that friend?

17 A The friend, I don't remember exactly what he had on.

18 Q Was he white or --

19 A No. He was black. Black guy. A little shorter
20 than the Defendant.

21 Q Okay. And you -- and -- and could you describe what
22 they did when they entered the store?

23 A They came in, spoke to me and the assistant manager,
24 picked out a few items, and made a purchase.

25 Q Now, at the time that you indicated they came into

1 the store, picked out some items, how long were they in there
2 prior to finalizing their purchase?

3 A Maybe 20, 30 minutes.

4 Q Okay. And at the time that they finalized the
5 purchase were you involved in that at all?

6 A Yes, I was.

7 Q What was your involvement?

8 A Actually, the Defendant was the customer that I --
9 that I had, and I also rang up his purchase.

10 Q So he presented you with some merchandise he had
11 selected?

12 A Yes, he did.

13 Q And do you recall how the Defendant intended to pay
14 for the merchandise?

15 A He produced a credit card.

16 Q Okay. Now, do you have a normal procedure that you
17 go through when people present you with a credit card?

18 A We do.

19 Q What would -- what would the normal procedure be?

20 A With a credit card we usually check ID to match the
21 name of the -- of the ID on the credit card.

22 Q Did you do that in the -- in this case on March 17th
23 with the Defendant?

24 A No, I did not.

25 Q And why is that?

1 A Because he had been there prior and he also used a
2 credit card that last time -- the last time that he came in,
3 and this time I just overlooked it, and I didn't do it because
4 he's a regular customer.

5 Q So how did you use the credit card at the time to
6 ring up the sale?

7 A I swiped the credit card, and then I made a printout
8 of the credit card.

9 Q So you just sort of swiped it through a machine that
10 you have; is that right?

11 A Yes, it is.

12 Q All right. And as a result of you swiping the
13 credit card did the transaction ring up at that time?

14 A Yes. It went through.

15 Q Do you recall the amount of that transaction?

16 A I don't know off-hand, but I do have a receipt.

17 Q Did you bring some evidence with you today?

18 A Yes, I did.

19 Q What did you bring?

20 A This is actually a copy of the receipt and a
21 printout.

22 Q Okay. I'm showing you what has been marked as
23 State's proposed exhibit number 1; are these the documents
24 that you brought to court today?

25 A Yes.

1 Q And do those, in fact, document the sale that
2 occurred on this particular day of the Defendant?

3 A Yes, it does.

4 Q And what was the total amount of the sale?

5 A Four hundred and ninety, seven.

6 Q Four hundred ninety and some cents?

7 A Yes.

8 Q And you indicated that that was run on a credit
9 card; is that correct?

10 A Yes, it was.

11 Q And does that, in fact, document the credit card as
12 well?

13 A Yes, it does. It states to Visa.

14 Q Now, these particular documents, these are the
15 actual documents that were produced as a result of this sale;
16 is that correct?

17 A Yes, it is.

18 Q Okay. The State would move for the admission of
19 what's been marked as State's proposed exhibit 1.

20 THE COURT: It was admitted, correct? Yes?

21 MS. WALSH: Yes, it was, Your Honor.

22 BY MS. WALSH:

23 Q You indicated there was a credit card number on
24 there as well, a card that the Defendant used.

25 A Yes, there is the number.

1 Q And what is the credit card number?

2 A It is 4388 5270 0012 1281.

3 Q Okay. And what kind of card is that?

4 A It's a Visa card.

5 Q Now, after -- after ringing up this sale what
6 happens next?

7 A The Defendant -- we usually offer a reward type
8 thing for -- for our customers, our regular customers. We get
9 like a -- what is it called, like a favorite customer type
10 thing. So we'll write their number down and their name. He
11 gave me the name and the number, but I don't have that paper
12 with me -- with me here.

13 Q So you're not sure what that name and number might
14 have been that he gave you?

15 A No. I have a book but it's at my job.

16 Q Okay. Does the Defendant leave subsequent to
17 ringing up the transaction then?

18 A Yes, he does.

19 Q Okay. Do you have any other concern in regards to
20 this transaction that day?

21 A No.

22 Q Does anybody contact you in regards to that
23 transaction?

24 A Yes. Shortly after the purchase, maybe an hour or
25 so later, I got a call from Ms. -- I can't say her last name

1 but Georgia.

2 Q And that's the lady who just -- you -- that -- who
3 you just observed testify; is that correct?

4 A Yes, it is.

5 Q And did you have a conversation with her at that
6 time?

7 A Yes, I did.

8 Q And as a result of that conversation what did you
9 do?

10 A She mentioned that her card had been used at our
11 store, and it was a stolen card. I got her name and phone
12 number. She said that she had spoken to detectives and spoke
13 to the security at the hotel she was staying at, and she would
14 get in contact with me or have the detective get in contact
15 with me.

16 Q Based upon the information that she gave you in
17 regards to that card did you locate the information you've
18 just described?

19 A Yes, I did.

20 Q Did you do anything else?

21 A After I got the information I just waited for the
22 detective.

23 Q Do you have a surveillance system in your store?

24 A Yeah, we do.

25 Q And that surveillance system there is cameras in

1 your store; would that be accurate?

2 A Yeah, there is.

3 Q Now, you indicated that you are a manager there at
4 the store; is that correct?

5 A Yes.

6 Q Do you use the surveillance system in the course of
7 your duties from time to time?

8 A Yes, we do.

9 Q To what? Observe transactions?

10 A Yeah. Sometimes we have to check and make sure that
11 nobody is stealing merchandise, or, you know, we have to check
12 on if someone comes into the store and they're doing something
13 they're not supposed to.

14 Q On this particular day did you have occasion to
15 observe the video regards this transaction?

16 A Yeah. After I spoke to Georgia I spoke to my
17 district manager, who was present at the time, and the
18 assistant manager. We then went back to look at the video to
19 find out if it was the Defendant who made the purchase.

20 Q And did you -- did you subsequently observe that
21 video?

22 A Yes, we did.

23 Q And did the video depict a clear and accurate
24 depiction of what you have described for the Court as
25 occurring on that day?

1 A Yes.

2 Q At some point in time did the police talk to you in
3 regards to this incident?

4 A Yes, they did.

5 Q Do you recall a Detective Flenner?

6 A Yes, I do.

7 Q Did Detective Flenner talk to you specifically about
8 this incident at your store?

9 A Yes, he did.

10 Q Did you at any point in time talk about the video
11 within the store when you were talking to Detective Flenner?

12 A Yes, we did.

13 Q Did Detective Flenner have an opportunity to review
14 that video?

15 A Yes.

16 Q And that was the same video that clearly and
17 accurately depicts what you have just described as occurring
18 to the Court?

19 A Yes.

20 Q The State passes the witness.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. JORGENSEN:

24 Q You said you were the third key manager at the shoe
25 store?

1 A Yes, I am.

2 Q What does that mean?

3 A It's a supervisor. When the manager or the

4 assistant manager is not in then I'm the manager in charge.

5 Q So third key means you are third in charge?

6 A Exactly.

7 Q Got it. And on that day, the 17th, you were working

8 8:00 to 5:00?

9 A I worked the whole day from 9:00 until -- from 9:00

10 to 9:30.

11 Q Where is the store cross streets?

12 A Charleston. I'm sorry. Maryland Parkway in between

13 20 and Desert Inn at the Boulevard Mall.

14 Q Inside the mall?

15 A It's actually -- our store is on the outside of the

16 mall, but it's still part of it.

17 Q You waited on my client, the man that is standing to

18 the -- or sitting to the left of me, on the 17th in the

19 afternoon, correct?

20 A Yes.

21 Q Are the time stamps on these receipts right or are

22 they right but maybe off by an hour?

23 A I believe the one that's on the credit card machine

24 is off by an hour.

25 Q So if the credit card machine says 12:53, if it

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.
13

CASE NO. C236169

DEPT. XVII

(ARRAIGNMENT HELD IN DEPT. LLA)

14
15 BEFORE THE HONORABLE KEVIN V. WILLIAMS, HEARING MASTER
16 WEDNESDAY, SEPTEMBER 5, 2007

17 **RECORDER'S TRANSCRIPT OF HEARING RE:**
18 **ARRAIGNMENT**

19 **APPEARANCES:**

20 For the State:

NATHAN A. CRANE, ESQ.,
Deputy District Attorney

21
22 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

23
24
25 RECORDED BY: KIARA SCHMIDT, COURT RECORDER

00387

1 WEDNESDAY, SEPTEMBER 5, 2007

2 * * * * *

3 P R O C E E D I N G S

4
5 THE COURT: Case Number C236169, State of Nevada versus Ronald Ross.

6 THE DEFENDANT: Yes.

7 THE COURT: What are we doing here, Mr. Jorgenson?

8 MR. JORGENSEN: Not-guilty plea, invoke speedy trial right.

9 THE COURT: Okay. Have a copy of the Information, waive its reading,
10 Mr. Jorgenson?

11 MR. JORGENSEN: Yes. I gather we're going under the second amended
12 Information, although, I never saw the first amended Information.

13 THE COURT: Well, check the second amended Information, State, and see if
14 it matches the original complaint.

15 MR. JORGENSEN: The thing is, after prelim, about nine charges were
16 dismissed, and I think that's why they have an amended. They both have the same
17 amount of counts. We can go on the second amended Information, and if there is
18 some problem, because the prelim was kind of -- a little involved in terms of counts
19 that went through. If there is a problem, then I'll get with the -- Judge Villani and
20 straighten it out.

21 THE COURT: You're going to see what to do? Is that fine, State?

22 MR. CRANE: Yes, it is, Judge.

23 THE COURT: Okay. But you do have a copy of it; is that correct?

24 MR. JORGENSEN: Yes.

25 THE COURT: And you waive its reading?

1 MR. JORGENSEN: I do.

2 THE COURT: What's your true name, sir?

3 THE DEFENDANT: Ronald Ross.

4 THE COURT: How old are you?

5 THE DEFENDANT: Thirty-seven.

6 THE COURT: How far did you go in school?

7 THE DEFENDANT: Eleventh grade.

8 THE COURT: Read, write, and understand the English language?

9 THE DEFENDANT: Yes.

10 THE COURT: Understand what you're charged with?

11 THE DEFENDANT: Yes.

12 THE COURT: What is your plea?

13 THE DEFENDANT: Not guilty.

14 THE COURT: You have a right to a speedy trial within 60 days. Do you want
15 a speedy trial?

16 THE DEFENDANT: Yes.

17 THE COURT: Speedy trial for you, sir.

18 THE CLERK: Calendar call, October 16th, at 8:30. And jury trial, October
19 22nd, at ten o'clock, in Department 17.

20 THE DEFENDANT: Excuse me.

21 THE COURT: Yes, sir?

22 THE DEFENDANT: I'm at High Desert, now. Can I get a bring down order
23 like the week before my --

24 THE COURT: Oh, most definitely. I think that, Mr. Jorgenson, he wants to
25 know -- come down at least a week before his --

1 THE DEFENDANT: -- calendar call, so I can --

2 THE COURT: -- calendar call, yeah. I think that's quite a good idea. Okay?
3 So, Mr. Jorgenson, make a note of that. He wants to be back here early. So make
4 sure you make all the proper preparations. In fact, why don't we -- what's the
5 calendar call date?

6 THE CLERK: October 16th.

7 THE COURT: Okay, give me -- put a status check the week before that in
8 front of Judge Villani.

9 THE CLERK: A week before --

10 THE COURT: -- that, yeah. I'm trying to make sure you get down here --

11 THE DEFENDANT: Yeah, thank you.

12 THE COURT: -- because I know that you want to get down here.

13 THE CLERK: That'll be October 9th, at 8:15.

14 THE COURT: State, make sure you prepare an order for him to be
15 transported from High Desert for October 9th, that way Judge Villani can remand him
16 to custody to the Sheriff so he can finish preparing for his trial so nobody would have
17 a problem.

18 (Proceedings concluded)

19 * * * * *

20

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

23 
24 Kiara Schmidt, Court Recorder/Transcriber

25

1 TRAN

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3 COPY

2009 JUN 26 P 1:41

4
5 DISTRICT COURT

[Signature]
CLERK OF THE COURT

6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

CASE NO. C236169

10 vs.

DEPT. XVII

11
12 RONALD ROSS,

13 Defendant.

14
15 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

16
17 TUESDAY, OCTOBER 9, 2007

18 **RECORDER'S TRANSCRIPT OF HEARING RE:**
19 **STATUS CHECK: TRIAL DATE**

20 APPEARANCES:

21 For the State:

JESSICA A. WALSH, ESQ.,
Deputy District Attorney

22
23 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

24
25 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 LAS VEGAS, NEVADA; TUESDAY, OCTOBER 9, 2007

2 [Proceeding commenced at 8:39 a.m.]

3
4 THE COURT: Case Number C236169, State of Nevada versus Ronald Ross.

5 MS. WALSH: Good morning, Judge, Jessica Walsh for the State. Judge, I
6 believe the Defendant is in District Court 5; if we can pass this until Thursday.

7 THE COURT: All right. Is this matter negotiated do you know?

8 MS. WALSH: It's not negotiated, Your Honor. And the reason why we want
9 to continue the trial is his other case is currently in the Supreme Court and there's
10 apparently a motion to consolidate this case with the District Court 5 case. There's
11 a status check today in District Court 5 to find out if the Supreme Court has done
12 anything, but I think our brief was due just a few days ago in that case.

13 THE COURT: Okay, we'll just continue it 'til Thursday.

14 MS. WALSH: Thank you, Judge.

15 THE CLERK: That'll be October 11th at 8:15.

16 [Proceeding concluded at 8:40 a.m.]

17
18
19 *****

20
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/video
22 proceedings in the above-entitled case to the best of my ability.

23
24 
Michelle Ramsey

25 Court Recorder/Transcriber

1 TRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

[Signature]
CLERK OF THE COURT

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.

) CASE NO. C236169

) DEPT. XVII

13
14
15 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

16
17 THURSDAY, OCTOBER 11, 2007

18 **RECORDER'S TRANSCRIPT OF HEARING RE:**
19 **STATUS CHECK: TRIAL DATE**

20 APPEARANCES:

21 For the State:

JESSICA A. WALSH, ESQ.,
Deputy District Attorney

22
23 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

24
25 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 **LAS VEGAS, NEVADA; THURSDAY, OCTOBER 11, 2007**

2 [Proceeding commenced at 9:03 a.m.]

3
4 THE COURT: Case Number C236169, State of Nevada versus Ronald Ross.
5 Let the record reflect the presence of the Defendant in custody with Mr. Jorgenson.

6 MS. WALSH: Good morning, Judge, Jessica Walsh for the State.

7 THE COURT: That's right. Ms. Walsh for the State. Status check on a trial
8 date?

9 MR. JORGENSEN: Judge, yes. This case is a factually in a sort companion
10 with two other cases in the fact that they -- they share the same Defendant and
11 similar actions and similar legal issues. One of those cases, he got dismissed by
12 Judge Halverson and the State appealed it. The other case that same motion to
13 dismiss is made in front of Judge Glass. She denied it and then that's been
14 appealed.

15 They share a similar -- they share similar issues with this case. They
16 have status checks in both in -- in the Glass case in a month.

17 MS. WALSH: Wait. The main concern by the State is, Judge, we have
18 currently a motion to consolidate this case in with Judge Glass' case because he
19 was in custody on Judge Glass' case and then for some reason he was released.
20 He had enough bail posted in all of his cases; that kind of added up to the bail that
21 was left when he was only in custody in Judge Glass' Department.

22 He was released and then within a few weeks he was back out
23 committing crimes. He committed the two separate acts that we bound him over on
24 this case, but there were other allegations of other crimes. So we did do a motion to
25 consolidate this case. And with Judge Glass' case, that motion hasn't been argued

1 yet. We're setting status checks to find out what the Supreme Court's going to do
2 that's why we're requesting to continue this trial date. One, because we're -- the
3 State's asking to consolidate it into the Department 5 case; and two, if there is a
4 ruling from the Supreme Court that should go in favor of the defense and the
5 Defendant has already been tried and convicted in this Department, then most likely
6 that conviction will come back on appeal.

7 MR. JORGENSEN: Right. So, if we can get a status check say the latter part
8 of November for five weeks, hopefully, we'll know by then if the -- the -- I think it's an
9 extraordinary writ out of Glass' case 'cause it's not -- it wasn't a -- there's no final
10 judgment in Glass' and so our office in a different team is -- has written to the
11 Supreme Court. Hopefully, we'll know something in the next couple of weeks to see
12 if they're going to entertain it or not; and then the State -- any way.

13 THE COURT: Sixty days; does that sound about right?

14 MS. WALSH: Thank you, Judge.

15 THE COURT: All right.

16 THE CLERK: That'll be December 11th at 8:15.

17 THE DEFENDANT: Excuse me, Your Honor.

18 THE COURT: Trial date vacated. Yes, sir.

19 THE DEFENDANT: May I address the Court please?

20 THE COURT: Sir, do you want to go to trial? Do you understand what they're
21 saying; is that your other case is on appeal and this case maybe part and parcel of
22 the other cases?

23 THE DEFENDANT: I understand exactly what's going on, Your Honor. My
24 only concern is that -- he explained everything to me. I'm down here from NSP and
25 they won't take me back --

1 MR. JORGENSEN: Judge --

2 THE DEFENDANT: -- because of this.

3 MR. JORGENSEN: -- I'm going to next week file an O.R. motion in this case
4 which may seem kind of [indecipherable] except if it's granted he can transfer up to
5 NSP where [indecipherable] that I will do in writing to come back next week. This is
6 what he's referring too, so I will -- we'll address that, but not today.

7 THE COURT: Well, can't this Court just enter an Order right now saying that
8 he can be transferred back to NSP?

9 THE DEFENDANT: That's what they already did. They won't take me.

10 MS. WALSH: And, Judge, to inform the Court. In Department 5's case he's
11 being held without bail --

12 THE COURT: Okay.

13 THE DEFENDANT: [indecipherable]

14 MS. WALSH: -- due to his actions after he was released.

15 MR. JORGENSEN: So I can't address that obviously, but he wants me to ask
16 this Court for an O.R. so that it'll help him on his way; that will take up next week,
17 but that's what he was -- that's what he's asking about.

18 THE COURT: I doubt the Court is going to be inclined to give him an O.R. on
19 these serious charges.

20 MR. JORGENSEN: I understand.

21 THE COURT: All right.

22 MR. JORGENSEN: But I'll outline it in my motion --

23 THE COURT: Okay.

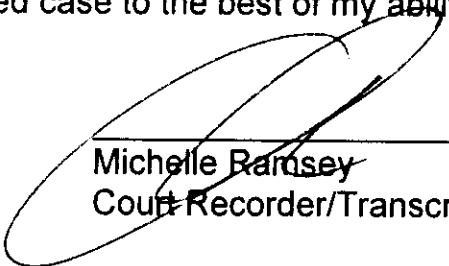
24 MR. JORGENSEN: -- the reason for it.

25 THE COURT: We'll wait for the motion. Thank you.

[Proceeding concluded at 9:07 a.m.]

* * * * *

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



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1 TRAN

2009 JUN 26 P 1:42

COPY

DISTRICT COURT

CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

12 RONALD ROSS,

13 Defendant.

CASE NO. C236169

DEPT. XVII

15 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

17 TUESDAY, DECEMBER 11, 2007

18 **RECORDER'S TRANSCRIPT OF HEARING RE:**
19 **STATUS CHECK**

20 APPEARANCES:

21 For the State:

JESSICA A. WALSH, ESQ.,
Deputy District Attorney

23 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

25 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 LAS VEGAS, NEVADA; TUESDAY, DECEMBER 11, 2007

2 [Proceeding commenced at 8:43 a.m.]

3
4 THE COURT: Case Number C236169, State of Nevada versus Ronald Ross.
5 Mr. Ross is present in custody with Mr. Jorgenson.

6 MS. WALSH: Good morning, Judge, Jessica Walsh for the State.

7 THE COURT: All right. And this is a status check?

8 MS. WALSH: Yes, Judge. His other case in District Court 5 he appealed a
9 decision by Judge Glass that's now in the Supreme Court. We also appealed Judge
10 Halverson from Department 23 dismissing his third case, so both of those cases are
11 in the Supreme Court. This case was kind of trailing the District Court 5 case.
12 There is a motion to consolidate this case into the District Court 5 case, but the
13 Judge is kind of waiting to see what the Supreme Court will do before she can rule
14 on that and that's why this case was trailing yours.

15 THE COURT: Well, you know, the Supreme Court can hold it and they can
16 decide tomorrow or hold it for another year. Why don't we just set it for trial?

17 MS. WALSH: Well, the other issue, Judge, is the issues that they are
18 appealing Judge Glass on and we're appealing Judge Halverson on are present in
19 this case, so should the ruling go in Mr. Ross' favor, if we would have already tried
20 him, it would basically be an automatic retrial in this case.

21 MR. JORGENSEN: Judge, my client has been here in the Detention Center
22 since Summer time. He is doing a nineteen to forty-eight month sentence unrelated
23 to this case and the other two cases. He has -- he's being held in addition to this
24 case those other two cases. My client feels that if he can get his bail changed from
25 twenty-five thousand dollars down to ten thousand dollars, his family can post that

1 and that can allow him to be transported back to NSP.

2 If that's the case, then he can wait as long as it takes. So, his first -- his
3 first request is to have the bail changed from twenty-five thousand dollar down to ten
4 thousand. Even if you were going to give him an O.R., he's still -- he still has a
5 nineteen to forty-eight month sentence in prison plus these other two cases. So, my
6 request is to reduce the bail to ten thousand and then set a status check in
7 whenever.

8 He wants to be doing this from prison waiting this thing out because he
9 knows that normally a writ of mandamus can be -- should be resolved quickly, but
10 since the writ of mandamus has the exact same issues as to Department 23 appeal,
11 there -- they could wait until Summer time to decide it.

12 So, he's willing to wait it out. He just wants to wait it out up in prison.

13 THE COURT: Any objection by the State?

14 MS. WALSH: And, Judge, the State's concern is that he was in custody on
15 those other two cases including the one he's sentenced to the nineteen to forty-eight
16 on. Some how through all of this coming to Court asking for the bail reduction here
17 and there, all of a sudden he was out of custody and committing new crimes; and
18 that's the State's concern what's going to happen. If we keep reducing his bail, okay
19 let's reduce his bail to ten thousand just so he can go to prison and what happens
20 when his sentence expires in prison, we're still waiting on these other two cases and
21 he can just bail out and he's going to be out in our society committing new crimes
22 shown by the fact that's exactly what he did in March of this year.

23 This -- this new case arose from that; new crimes that he committed just
24 days after posting bail in those other two or three cases. And that's exactly what
25 he's going to do should he be released. I don't care where he goes, jail or prison. I

1 just don't want him to be released should the bail keep getting reduced in each
2 case. Plus, I believe he's being held with no bail in Judge Glass' case given the fact
3 of the bench warrant and committing of new crimes.

4 THE DEFENDANT: Excuse me, Your Honor.

5 THE COURT: I'm not inclined to reduce the bail at this time. Mr. Jorgenson,
6 I'll more than open to you to revisit this matter with a formal motion and so the State
7 can respond and provide me with all the background --

8 THE DEFENDANT: Excuse me, Your Honor. May I say something?

9 THE COURT: -- information regarding Mr. Ross. Well, sir, I made my --

10 THE MARSHAL: You need to wait 'til he finishes.

11 THE COURT: -- I made my decision on this. Your attorney can file a formal
12 motion, so the State can file their opposition.

13 THE DEFENDANT: Hold on, man. Can I speak to my attorney about this?
14 Can I speak to my -- when is my come back to Court?

15 CORRECTION'S OFFICER: Mr. Ross, have a seat and you can speak to
16 your attorney there.

17 THE COURT: Sir, we're going to set a status check, sir. We'll set that -- let's
18 -- six months and if -- if there's -- if his other cases are resolved earlier I would
19 request either one of the parties to put it back -- immediately back on calendar.

20 MR. JORGENSEN: Yes, Judge.

21 MS. WALSH: That's perfect, Your Honor. Thank you.

22 THE CLERK: That'll be June 10th at 8:15.

23 MR. JORGENSEN: And I'll put the -- I'll put my motion in writing, Judge.

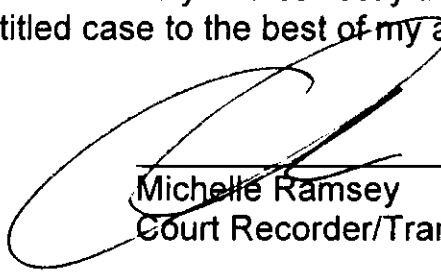
24 THE COURT: Yes. Thank you.

25 [Proceeding concluded at 8:47 a.m.]

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2009 JUN 26 P 1:42

4
5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.

CASE NO. C236169

DEPT. XVII

13
14
15 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

16
17 TUESDAY, JUNE 10, 2008

18 **RECORDER'S TRANSCRIPT OF HEARING RE:**
19 **STATUS CHECK: APPEALS IN OTHER CASES**

20 APPEARANCES:

21 For the State:

FRANK M. PONTICELLO, ESQ.,
Deputy District Attorney

22
23 For the Defendant:

CRAIG B. DAVIS, ESQ.,
Deputy Public Defender

24
25 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 LAS VEGAS, NEVADA; TUESDAY, JUNE 10, 2008

2 [Proceeding commenced at 9:06 a.m.]

3
4 THE COURT: C236169, State of Nevada versus Ronald Ross. Mr. Ross --

5 MR. DAVIS: He's in the Department of Corrections, Your Honor.

6 THE COURT: All right. Mr. Davis.

7 MR. DAVIS: This is actually Mr. Jorgenson's case. It's my understanding we
8 -- he's got a couple of other cases that are Supreme Court level appeal that I -- my
9 understanding from Mr. Jorgenson is the State was going to be checking on.

10 MR. PONTICELLO: We -- I've got some representations.

11 MR. DAVIS: Thank you.

12 MR. PONTICELLO: Thanks. His appeal in the Department 5 case was
13 denied. He's on calendar at the end of the month for setting of a trial date in that
14 Court. We still have a motion to consolidate this case with the Department 5 case,
15 so what recommend we do is set a status check in approximately, oh, some time
16 just after the first of July.

17 THE COURT: Which is the oldest case, this one or the 5?

18 MR. PONTICELLO: I don't know. I'm sorry.

19 MR. DAVIS: It must be -- I think it's the 5 because at least Mr. Jorgenson
20 mentioned what Frank was just now mentioning also. Could we ask to have him
21 transported?

22 MS. LEIK: Court's indulgence.

23 [Colloquy between counsel]

24 MR. DAVIS: I was just told by a friend of the Court that it's possible he may
25 have already had -- got a motion on for rehearing of what Frank just said got denied.

1 I don't know.

2 MR. PONTICELLO: I do have the other case number; it is a lower case
3 number than this. It is C220916. He is the A Defendant on that case and that is in
4 Department 5.

5 MR. DAVIS: I think what Frank is suggesting is appropriate. Some time after
6 the start of July.

7 THE COURT: All right.

8 MR. DAVIS: And ask that -- and ask the State to have some more Order to
9 transport him; that's Mr. Jorgenson's request.

10 MR. PONTICELLO: And that -- and that --

11 MR. DAVIS: I mean, in the event that --

12 MR. PONTICELLO: For a status check?

13 MR. DAVIS: -- Mr. -- I don't know. In the event Mr. Ross were actually to be
14 set for calendar call and trial that day which is already kind of now been vacated --

15 THE COURT: Just submit an Order --

16 MR. DAVIS: He needs to --

17 THE COURT: -- and I'll sign it.

18 MR. DAVIS: -- he needs to be here some time whenever we do set it.

19 MR. PONTICELLO: I'll do it. I'll prepare the Order to transport.

20 MR. DAVIS: Thank you.

21 THE CLERK: Let's do July 8th at 8 a.m., status check.

22 MR. PONTICELLO: Thank you.

23 MR. DAVIS: May I check to make sure that's Mr. Jorgenson's free day?

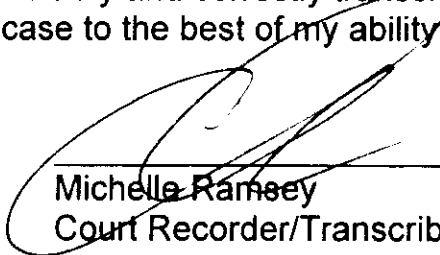
24 THE CLERK: It's a Tuesday.

25 MR. DAVIS: July 8th, yes, that'll be fine.

[Proceeding concluded at 9:08 a.m.]

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.
13

CASE NO. C236169

DEPT. XVII

14
15 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

16 TUESDAY, JULY 8, 2008

17 **RECORDER'S TRANSCRIPT OF HEARING RE:**
18 **STATUS CHECK**

19 APPEARANCES:

20 For the State:

FRANK M. PONTICELLO, ESQ.,
Deputy District Attorney

21
22 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

23
24 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER
25

1 LAS VEGAS, NEVADA; TUESDAY, JULY 8, 2008

2 [Proceeding commenced at 8:12 a.m.]

3
4 THE COURT: C236169, State of Nevada versus Ronald Ross. Mr. Ross is
5 present in custody with -- is that yours?

6 MR. JORGENSEN: Yes, Judge.

7 THE COURT: Mr. Jorgenson, Mr. Ponticello for the State. This is a Status
8 Check.

9 MR. PONTICELLO: Well, I'm going to need some assistance from the Clerk
10 to tell me what happened in another case.

11 THE CLERK: Okay.

12 MR. PONTICELLO: The -- the public Blackstone doesn't tell us, so you're
13 going to have to go into the secret Blackstone. The case is C220916 in Department
14 5. I believe that a trial was set on July 1st.

15 THE CLERK: It was.

16 MR. PONTICELLO: And the new trial date there is?

17 THE CLERK: Hold on. It's now in November; November 10th for all the
18 Defendants.

19 MR. PONTICELLO: Okay. Do you know if the State's motion to consolidate
20 in -- or in the alternative to admit other bad acts has been set? It was originally
21 scheduled to be heard on September 11th of 2007 and then continued to October --
22 well, then continued to September 18th --

23 THE CLERK: Right.

24 MR. PONTICELLO: -- and then continued to October 9th, and then on
25 October 9th it just drops off the minutes.

1 THE CLERK: Yeah, 'cause I don't -- actually, the last time I see it on was
2 September 18th.

3 MR. PONTICELLO: Right, but it wasn't ruled on and then it just stops
4 showing up on the minutes.

5 THE CLERK: It was never continued. Yeah.

6 THE COURT: Is there a possibility that this case is going to be consolidated?

7 MR. PONTICELLO: Yeah, there's a motion still pending in that other case
8 and that other case has a trial date now we know of --

9 THE CLERK: It's still --

10 MR. PONTICELLO: -- November 10th.

11 THE CLERK: -- it's still pending. It possibly needs to be renoticed because --

12 MR. PONTICELLO: Okay.

13 THE CLERK: -- if it -- it's just --

14 MR. PONTICELLO: I'll -- I'll see that that's done.

15 THE CLERK: Right.

16 THE COURT: Let's go -- then we need to set a trial date in this case.

17 MR. JORGENSEN: Right.

18 THE COURT: So it's just another status check. Let's just set it past that --
19 that date.

20 MR. PONTICELLO: Has he --

21 MR. JORGENSEN: Whether --

22 MR. PONTICELLO: -- he has previously waived the 60-day rule.

23 THE DEFENDANT: No, I haven't. No, I haven't, sir.

24 MR. PONTICELLO: Well --

25 THE DEFENDANT: I haven't.

1 THE COURT: Let's double check. We'll double check here.

2 THE DEFENDANT: Actually, I invoked.

3 THE CLERK: He originally invoked on September 5th.

4 [Colloquy between the Court and the Clerk]

5 MR. JORGENSEN: In September 5th of --

6 THE COURT: He's never waived apparently.

7 MR. JORGENSEN: Right.

8 [Colloquy between the Court and the Clerk]

9 THE COURT: All right, we'll --

10 MR. PONTICELLO: Okay. Well, hold on a second.

11 [Colloquy between the Court and the Clerk]

12 THE COURT: Sir, you still wish to have your trial within --

13 THE DEFENDANT: Yes, Your Honor. I've been invoking my right to a
14 speedy trial --

15 THE COURT: All right.

16 THE DEFENDANT: -- for the past fifteen years.

17 MR. PONTICELLO: Well, the problem is he's never asserted it. I mean --

18 THE DEFENDANT: I've asserted it every time I came.

19 THE COURT: Well, sir, address it to me and he's -- he's asserting it now.

20 MR. PONTICELLO: Fine, let's do it.

21 THE COURT: We'll -- we'll grant your wish, sir. We'll set a trial.

22 [Colloquy between the Court and the Clerk]

23 THE COURT: Sir, because I have a split calendar meaning for five weeks I
24 do civil trials, five weeks I do criminal trials, okay. Sir, right now the 60 days falls in
25 the last week of my civil stack, so we can give you the very next week.

1 THE DEFENDANT: Will that violate my Sixth Amendment right to a speedy
2 trial --

3 THE COURT: Well, that's --

4 THE DEFENDANT: -- if I agreed to waive it?

5 THE COURT: -- you're going to waive it for one week.

6 THE DEFENDANT: I'm saying, will that violate my -- 'cause I'm --

7 THE COURT: No, sir, 'cause.

8 THE DEFENDANT: -- I intend to file a motion to dismiss based on the
9 grounds.

10 THE COURT: It won't waive it, sir, because that's the next available date for
11 the Court. I just want to advise you that it's one week past the 60 days. I'm doing
12 civil cases, but it's not a civil case.

13 THE DEFENDANT: Okay, but then so that's not going to stop my motion?

14 THE COURT: No, it's clear on the record that you've invoked your right to a
15 speedy trial.

16 THE DEFENDANT: All right then.

17 THE COURT: So we'll give you this date.

18 THE CLERK: Calendar Call will be August 26th at 8 a.m. with a Trial date of
19 September 2nd at 10 a.m.

20 THE DEFENDANT: Excuse me, that's like 90 days from now.

21 THE CLERK: No. It's the first week of September; it's 60 days. Today's July
22 8th.

23 THE DEFENDANT: Sixty-three days. Okay [indecipherable].

24 Excuse me, he said something about a motion to consolidate was --
25 was submitted.

1 THE COURT: There's --

2 THE DEFENDANT: [indecipherable]

3 THE COURT: -- there maybe a motion in another Department that has not
4 been renoticed and it's not on calendar today. •

5 THE DEFENDANT: So --

6 THE COURT: Okay?

7 THE DEFENDANT: -- I don't get a chance to -- I didn't --

8 THE COURT: You can oppose that motion --

9 THE DEFENDANT: -- [indecipherable].

10 THE COURT: -- in the other Department. Yes.

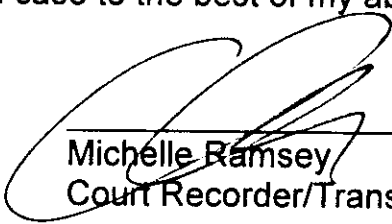
11 THE DEFENDANT: All right. I appreciate it.

12 THE COURT: All right.

13 [Proceeding concluded at 8:18 a.m.]

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

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2009 JUN 26 P 1:42

4
5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.

) CASE NO. C236169

) DEPT. XVII

13
14 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

15
16 TUESDAY, AUGUST 26, 2008

17 **RECORDER'S TRANSCRIPT OF HEARING RE:**
18 **CALENDAR CALL**

19 APPEARANCES:

20 For the State:

JESSICA A. WALSH, ESQ.,
Deputy District Attorney

21
22 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

23
24
25 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 LAS VEGAS, NEVADA; TUESDAY, AUGUST 26, 2008

2 [Proceeding commenced at 9:05 a.m.]

3
4 THE COURT: C236169, State of Nevada versus Ronald Ross.

5 MS. WALSH: Good morning, Judge.

6 THE COURT: Good morning.

7 MS. WALSH: And, Judge, Mr. Jorgenson informed me that the Defendant
8 has not been transported. He was sent back to the prison despite, I believe, two
9 Judges ordering that he remain at CCDC pending his trial.

10 THE COURT: Can we get him here by Thursday? Is that enough time? Mr.
11 Jorgenson, have you been in touch with him? Is he -- is this case going to resolve
12 or is it going to trial?

13 MS. WALSH: Judge, can we approach?

14 THE COURT: Sure.

15 [Bench Conference]

16 THE COURT: For whatever reason, the Defendant was transferred back up
17 to prison. Although he was ordered to stay here, we won't be able to get him here
18 by this Thursday, so I'm going to continue the calendar call 'til next Tuesday. And I
19 think there may have been some discovery issues and I understand Ms. Walsh will
20 take care of those today --

21 MS. WALSH: Yes, Your Honor.

22 THE COURT: -- Mr. Jorgenson. As soon as you get those tapes, please turn
23 them over to Mr. Jorgenson. I'll continue the calendar call to next Tuesday.

24 [Colloquy between the Court and the Clerk]

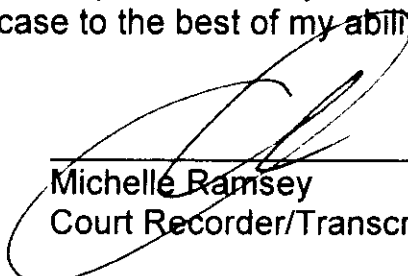
25 THE CLERK: September 2nd, 8 a.m.

[Proceeding concluded at 9:09 a.m.]

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

Michael P. Villani
CLERK OF DISTRICT COURT

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.
13

) CASE NO. C236169

) DEPT. XVII
14

15 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

16 TUESDAY, SEPTEMBER 2, 2008

17 **RECORDER'S TRANSCRIPT OF HEARING RE:**
18 **CALENDAR CALL**
19

20 APPEARANCES:

21 For the State:

JESSICA A. WALSH, ESQ.,
Deputy District Attorney

22
23 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

24
25 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 **LAS VEGAS, NEVADA; TUESDAY, SEPTEMBER 2, 2008**

2 [Proceeding commenced at 8:31 a.m.]

3
4 THE COURT: C236169, State of Nevada versus Ronald Ross.

5 MS. WALSH: He still is not present, Your Honor.

6 THE COURT: And last time didn't we order him to be present?

7 MS. WALSH: That's correct, Your Honor.

8 THE COURT: Mr. Ross apparently is in the Department -- Nevada
9 Department of Corrections. We'll pass this two weeks. You're going to resubmit an
10 Order?

11 MS. WALSH: I will, Judge, and I'll make sure we call a day or two before the -
12 - the hearing to make sure he's brought down.

13 MR. JORGENSEN: So it's on to set -- for calendar -- to set trial?

14 THE COURT: Right. That's correct.

15 THE CLERK: That'll be September 16th at 8 a.m.

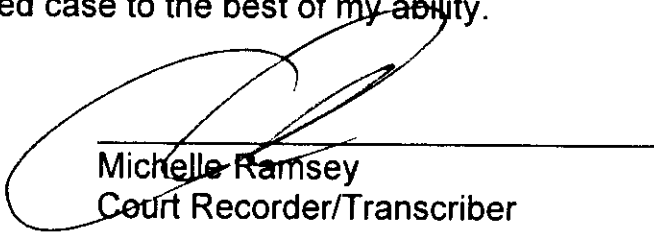
16 THE MARSHAL: Trial date vacated.

17 THE COURT: Trial date vacated. Yes.

18 [Proceeding concluded at 8:32 a.m.]

19 * * * * *

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21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/video
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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.
13

) CASE NO. C236169

) DEPT. XVII
14

15 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

16 TUESDAY, SEPTEMBER 16, 2008

17 **RECORDER'S TRANSCRIPT OF HEARING RE:**
18 **STATUS CHECK: TRIAL SETTING**
19

20 APPEARANCES:

21 For the State:

FRANK M. PONTICELLO, ESQ.,
Deputy District Attorney

22
23 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

24
25 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 LAS VEGAS, NEVADA; TUESDAY, SEPTEMBER 16, 2008

2 [Proceeding commenced at 8:39 a.m.]

3
4 THE COURT: C236169, State of Nevada versus Ronald Ross.

5 MR. CICHOSKI: Your Honor, if we can trail that for just a second. Mr.
6 Jorgenson stepped out and went to the restroom.

7 THE COURT: All right.

8 [Matter trailed]

9 [Matter recalled at 9:18 a.m.]

10 THE COURT: All right, C236169, State of Nevada versus Ronald Ross. Mr.
11 Ross is present in custody with Mr. Jorgenson. Status check on trial setting. What
12 specifically are we -- does he have a trial yet or --

13 THE CLERK: I'm assuming he does.

14 MR. JORGENSEN: Judge, I had this set on -- in October. I guess I must
15 have written it down wrong.

16 THE COURT: I thought we had that and he waived his right to a speedy trial
17 by one week 'cause of his scheduling and so I'm not sure why we're here today.

18 MR. JORGENSEN: Well, I don't have a trial date.

19 MR. PONTICELLO: Well, we had a trial date of September 2. I don't know
20 what happened to it. Let's see.

21 THE CLERK: At the calendar call, I guess Ms. -- Ms. Walsh was here and I
22 guess the Defendant was not transported.

23 MR. JORGENSEN: Right.

24 THE CLERK: So we vacated --

25 MR. JORGENSEN: This is the first time he's been here.

1 THE CLERK: -- the trial and we set it for this.

2 MR. JORGENSEN: To set a trial date.

3 THE COURT: Okay.

4 THE CLERK: To set a trial.

5 THE COURT: All right, and he has invoked his right to a speedy trial?

6 MR. JORGENSEN: Yes.

7 THE CLERK: So he's --

8 THE COURT: Is that correct, sir?

9 THE DEFENDANT: Yes. I invoked my right to a speedy trial.

10 THE COURT: All right.

11 THE DEFENDANT: As I was told to do.

12 THE COURT: I'm sorry?

13 THE DEFENDANT: I've continually invoked my right to speedy trial
14 throughout this. I thought I was coming down in September the 2nd for me to start
15 my trial, but they never even brought me down.

16 THE COURT: I think you were in the Nevada Department of Corrections; is
17 that correct?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Well, for whatever reason you weren't transported
20 down and we couldn't go forward, so we're going to give you a trial date as soon as
21 we can. All right.

22 THE CLERK: How many --

23 THE DEFENDANT: Excuse me?

24 THE CLERK: -- how many --

25 THE COURT: Yes, sir.

1 THE DEFENDANT: I came down in July and you set my trial date for
2 September and that was within the 60 days. She said it would be a few days over
3 and asked me to waive it for 3 to 5 days. So that -- so now if I get a new trial date
4 right, can you make it like as soon as possible because I'm already passed the -- I'm
5 well passed the 60 days.

6 THE COURT: That's what we're going to do. We're going to do that, sir, as
7 soon as possible.

8 THE CLERK: How many days is this trial expected to be?

9 MR. PONTICELLO: Don't know.

10 MR. JORGENSEN: Two to three.

11 THE CLERK: Okay.

12 [Colloquy between the Court and the Clerk]

13 THE CLERK: Is November -- November 10th to early for you, Mr. Jorgenson?

14 MR. JORGENSEN: No.

15 THE CLERK: Okay.

16 THE COURT: We'll get you in about two months, sir. All right?

17 THE DEFENDANT: Two months?

18 THE COURT: November 10th.

19 THE CLERK: A month and a half. A month and a half.

20 THE COURT: A month and a half.

21 THE DEFENDANT: Can -- excuse me? Can I have anything sooner than
22 that because I start trial in front of -- in -- in Judge Jackie Glass courtroom on
23 November 10th in another case.

24 THE COURT: Mr. Jorgenson, we can -- we can get you --

25 MR. PONTICELLO: I don't have that.

1 THE COURT: -- in September 29th, will you be ready?

2 MR. PONTICELLO: Court's indulgence.

3 THE DEFENDANT: Excuse me? Could I speak to my attorney please? I
4 haven't had a chance to talk to him since I've been here?

5 [Colloquy between counsel]

6 MR. PONTICELLO: Can you run a Justice Court case?

7 THE CLERK: I can't.

8 MR. PONTICELLO: Can you run it by I.D. number in Blackstone?

9 THE CLERK: I can run to see if it made it's way up here. Yeah.

10 THE COURT: Let's call --

11 MR. PONTICELLO: The problem is --

12 THE COURT: -- let's call another case.

13 MR. PONTICELLO: -- the problem is I don't have Justice -- I don't have the
14 case number.

15 [Matter trailed]

16 [Matter recalled at 9:27 a.m.]

17 THE COURT: Can you be ready on September 29?

18 THE DEFENDANT: Yes.

19 MR. JORGENSEN: Sure.

20 THE CLERK: Okay.

21 MR. PONTICELLO: Wait. Wait. Wait. We can't be ready --

22 THE COURT: That's right.

23 MR. PONTICELLO: -- September --

24 THE COURT: It's -- that's too soon. Sorry. I wasn't thinking. We're going to
25 have to -- that only gives you one week.

1 MR. PONTICELLO: Right.

2 THE COURT: That's not appropriate for two weeks.

3 THE CLERK: Okay, so as of September -- November 10th which is the first
4 week of the next stack.

5 THE COURT: That's the very first week, sir.

6 THE DEFENDANT: I want to -- I want to object for the record of any
7 continuance because this case has been going on for four hundred and seventy-
8 eight days. I asked my attorney to file a motion for me based on a speedy trial. He
9 said he was going to bring it to the Court's attention, but I just wanted to know -- I
10 just want it to be on the record that I'm asserting my right to a speedy trial and I'm
11 objecting to any delay.

12 This is the second or third time that my trial has been set.

13 THE COURT: I understand that, sir. Sir, I have a split calendar which means
14 every five -- five weeks -- every other five weeks, I have civil trials. You know, I can
15 set you one earlier, but I can't set you during my civil stack. So I've given you the
16 first week of the criminal stack.

17 THE DEFENDANT: Your Honor, I'm just asking, Your Honor, if the Court's
18 schedule has to give me a continuance, so --

19 THE COURT: That's our --

20 THE DEFENDANT: [indecipherable]

21 THE COURT: -- that's the first week.

22 THE DEFENDANT: Okay.

23 THE COURT: You've got the first week available.

24 THE DEFENDANT: The bail on this case is thirty-two thousand dollars.

25 THE COURT: Okay, your attorney can file a motion for -- for the bail

1 reduction, but you're in prison right now so I don't know if that would be -- that would
2 be -- be a waste money, but that's up to you.

3 THE DEFENDANT: I was just asking, sir [indecipherable].

4 THE COURT: Okay, sir, your attorney --

5 THE DEFENDANT: [indecipherable]

6 THE COURT: -- sir, listen to me.

7 MR. PONTICELLO: Judge?

8 THE COURT: -- your attorney --

9 MR. PONTICELLO: Judge, I'm sorry to interrupt, he does have another trial
10 set that same week, C220916 in Department 5. I -- that's no problem for me. You
11 know, they may not both go. We'll do one or the other.

12 THE COURT: All right.

13 MR. PONTICELLO: Or maybe we'll just stack them up and do both the same
14 week.

15 THE COURT: Okay.

16 MR. PONTICELLO: But I just want to let the Court know and the Defendant
17 know and everybody know now he's got two trials set on the same day between
18 Courts.

19 THE COURT: All right. We can probably start ours on a Wednesday. All
20 right.

21 MR. PONTICELLO: Thank you.

22 THE CLERK: So your calendar call will be November 4th at 8 a.m. with a trial
23 date of November 10th at 10 a.m.

24 THE DEFENDANT: Excuse me, Your Honor?

25 THE COURT: Sir, we're done.

1 CORRECTION'S OFFICER: Sit down.

2 THE DEFENDANT: [indecipherable]

3 THE COURT: Sir, your attorney will come and talk to you.

4 [Matter recalled at 9:45 a.m.]

5 THE COURT: C236169, State of Nevada versus Ronald Ross.

6 MR. JORGENSEN: Judge, my client he is down in prison.

7 THE COURT: Okay.

8 MR. JORGENSEN: He just wants you to remand him here.

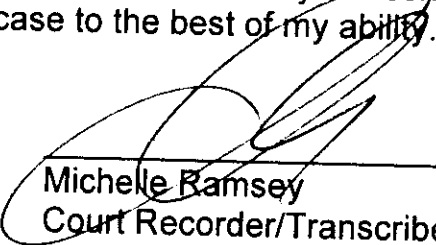
9 THE COURT: Okay, he's remanded in this case. Thank you.

10 MR. JORGENSEN: Thanks.

11 [Proceeding concluded at 9:45 a.m.]

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.
13
14

CASE NO. C236169

DEPT. XVII

15 BEFORE THE HONORABLE JOSEPH BONAVENTURE, SR.

16 DISTRICT COURT SENIOR JUDGE

17 THURSDAY, OCTOBER 23, 2008

18 **RECORDER'S TRANSCRIPT OF HEARING RE:**
19 **STATE'S REQUEST CONFLICT OF TRIAL DATE AGREED**

20 APPEARANCES:

21 For the State:

JESSICA A. WALSH, ESQ.,
Deputy District Attorney

22
23 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

24
25 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 LAS VEGAS, NEVADA; THURSDAY, OCTOBER 23, 2008

2 [Proceeding commenced at 8:12 a.m.]

3
4 THE COURT: Ronald Ross?

5 MS. WALSH: And, Judge, State put this case on calendar. When we were
6 back here to set the trial date, the Court set the trial date for November 10th which is
7 the same trial date as District Court 5 case, so we put this case back on calendar
8 'cause logistically trying to coordinate the witnesses and the out-of-state witnesses
9 for a trial that set for two separate Departments in the same week.

10 THE COURT: For the same Defendant?

11 MS. WALSH: Same Defendant.

12 THE COURT: So he's going to go to trial on another case at the same time?

13 MS. WALSH: Right. It'll be -- he'll go to trial in one case. The District Court 5
14 case is an older case. We don't need to pass it that long. If we could -- we can
15 even go two weeks or whatever the Court's pleasure is.

16 THE COURT: Who's the lawyer on this?

17 MR. JORGENSEN: It's mine, Judge.

18 THE COURT: He wrote a letter here, Mr. Jorgenson. He's not very happy
19 with you or his speedy rights being violated and he wanted me to look at this letter
20 and he wants it to be made part of the record. He said he'd been languishing over
21 five hundred days and he has not had a lot of contact with his lawyer and so -- but I
22 mean the bottom line is he can't go trial on two cases if he's got the case that -- I'll
23 have to do something with this case.

24 Yes, sir. So I'll make this part of the record --

25 THE DEFENDANT: Thank you.

1 THE COURT: -- the letter all right.

2 THE DEFENDANT: On the -- on the day that the trial date was set for the
3 10th, I let the Court know that I had another trial date in front of Judge -- District
4 Court 5.

5 THE COURT: All right. No big deal.

6 THE DEFENDANT: I already waived in that courtroom. I'm invoking my right
7 to a speedy trial in this courtroom, so I've been -- I can continue that case. I talked
8 to the attorney, Mr. Will Ewing. He said he's not going to be in town that week, so
9 that case is not going to go. That case is already going to be continued. I don't
10 want to continue this case any further than the 10th. My family -- this is the third trial
11 date. My family has already paid for their plane tickets to fly here from Philadelphia.

12 MS. WALSH: And if that's the case, Judge.

13 THE DEFENDANT: They took a --

14 MS. WALSH: -- not to interrupt, but for time if that's the case if we just want to
15 pass this --

16 THE COURT: Yeah, I guess I'm going to have too.

17 MS. WALSH: -- and I'll check into that and then maybe we'll continue the
18 case.

19 THE COURT: I will pass it because if that other case is going to be
20 continued, then we'll go on this.

21 MS. WALSH: We'll go on this one. That's fine. The State wants to --

22 THE COURT: You check that out all right? Call up Mr. Ewing on the other
23 case, double check it and we'll continue this 'til when? When's the next --

24 THE CLERK: How long do you need?

25 MS. WALSH: The next -- the next court date is fine.

1 THE COURT: Okay.

2 MS. WALSH: Monday.

3 THE MARSHAL: Tuesday.

4 MR. JORGENSEN: Well, Tuesday I'm in Justice Court; if we can put it off a
5 week from today.

6 MS. WALSH: That's fine.

7 THE COURT: Okay. All right, we're going to check this out.

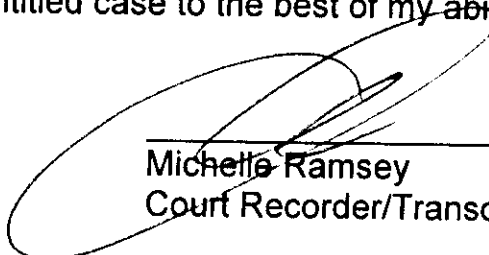
8 THE DEFENDANT: All right. Thank you.

9 THE CLERK: October 30th at 8 a.m.

10 [Proceeding concluded at 8:14 a.m.]

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5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

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CLERK OF THE COURT

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 RONALD ROSS,

12 Defendant.

CASE NO. C236169

DEPT. XVII

14 BEFORE THE HONORABLE JOSEPH BONAVENTURE, SR.

15 DISTRICT COURT SENIOR JUDGE

16 THURSDAY, OCTOBER 30, 2008

17
18 **RECORDER'S TRANSCRIPT OF HEARING RE:**
19 **STATE'S REQUEST CONFLICT OF TRIAL DATE AGREED**

20 APPEARANCES:

21 For the State:

JESSICA A. WALSH, ESQ.,
Deputy District Attorney

22 For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

23 RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 LAS VEGAS, NEVADA; THURSDAY, OCTOBER 30, 2008

2 [Proceeding commenced at 8:15 a.m.]

3
4 THE COURT: Page 8, Ronald Ross?

5 MS. WALSH: Judge, I was able to check into his other case. If you recall --

6 THE COURT: Right.

7 MS. WALSH: -- we were trying to --

8 THE COURT: He said he wasn't going to go and he wants to go on this case.

9 MS. WALSH: That's correct, Judge. I contacted the Public Defender and he
10 indicated he will be out of town. I guess there is a status check set for the Calendar
11 Call to see if we can try that case in November, so we can just take this off calendar.

12 THE COURT: We're going to take the motion to continue this trial off
13 calendar and as far as we're concerned this trial date stands.

14 MS. WALSH: Correct.

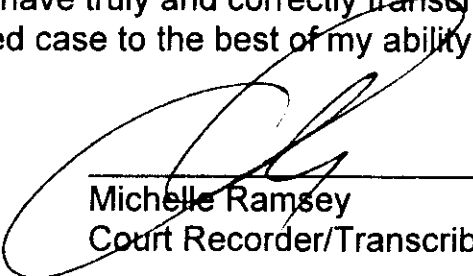
15 THE COURT: All right.

16 MS. WALSH: Thanks, Judge.

17 [Proceeding concluded at 8:15 a.m.]

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

RONALD ROSS,

Defendant.

CASE NO. C236169

DEPT. XVII

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

TUESDAY, NOVEMBER 4, 2008

**RECORDER'S TRANSCRIPT OF HEARING RE:
CALENDAR CALL**

APPEARANCES:

For the State:

JESSICA A. WALSH, ESQ.,
Deputy District Attorney

For the Defendant:

CRAIG F. JORGENSEN, ESQ.,
Deputy Public Defender

RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 **LAS VEGAS, NEVADA; TUESDAY, NOVEMBER 4, 2008**

2 [Proceeding commenced at 7:56 a.m.]

3
4 THE DEFENDANT: Good morning, Your Honor.

5 THE COURT: Good morning, sir.

6 MR. JORGENSEN: Judge, if I may.

7 THE COURT: Just for the record, C236169, State of Nevada versus Ronald
8 Ross. Mr. Ross is present in custody. Mr. Jorgenson, Mr. Ponticello for the State.

9 MR. PONTICELLO: Actually, it'll be Ms. Walsh for the State, Judge.

10 THE COURT: All right.

11 MR. JORGENSEN: He has a request to represent himself, but I'll wait until
12 Ms. Ross [sic] shows up.

13 MR. PONTICELLO: Ms. Welsh, Walsh show's up.

14 MR. JORGENSEN: Right.

15 [Matter trailed]

16 [Matter recalled at 8:20 a.m.]

17 THE COURT: C236169, State of Nevada versus Ronald Ross. Mr. Ross is
18 present in custody with Mr. Jorgenson, Ms. Walsh for the State.

19 MS. WALSH: Good morning, Judge.

20 THE COURT: Time set for Calendar Call; is this matter ready to go?

21 MS. WALSH: State's ready, Judge.

22 THE COURT: Defense ready?

23 MR. JORGENSEN: Yes.

24 THE COURT: All right, and how many days?

25 MS. WALSH: Judge, it'll probably take about two to two and half days. We

1 have eight to twelve witnesses. They'll all be fairly short.

2 THE COURT: All right. Let's start Wednesday morning at 10.

3 MR. JORGENSEN: Judge, we have this motion that I handed you.

4 THE COURT: Right. In this motion you wanted -- Mr. Ross, you asked for a
5 motion for a Faretta hearing, but in the motion you state that basically you want
6 someone to be your co-counsel on this case; and Faretta means that you want to
7 represent yourself, but also in your motion you state you lack the legal skills and
8 knowledge of rules of evidence procedure and courtroom decorum and has no
9 previous experience.

10 THE DEFENDANT: That's why I want to be the co-counsel in my case, so I
11 can, you know -- so I -- so I can address the Court personally. Me and Mr.
12 Jorgenson, we having some conflict about the way I think that we should go about
13 my defense. He has one strategy and I have a total opposite strategy. I actually
14 submit a witness list in my case. He said he don't think that it need to be done, so
15 we having conflict. Maybe that's the wrong motion that I filed. Maybe I should have
16 filed a motion to just dismiss the Public Defender office. I didn't really know which
17 one to file, but I sent a letter to Court last week. Mr. -- to Judge Bonaventure, he put
18 it in the file. I don't know if you read it or not. He didn't hear --

19 THE COURT: I don't have it here, sir, but it doesn't work that way. You can't
20 be co-counsel and split up the duties of the case. And from -- and from your own
21 admission, you would not -- you would not meet the requirements of Faretta on this.

22 Since we'll start next --

23 THE DEFENDANT: [indecipherable]

24 THE COURT: -- Wednesday I'm, you know, I'll direct Mr. Jorgenson to come
25 down and speak with you today and the next couple days this week to -- so guys

1 can come to some agreement, but the bottom line is, you know, he's -- he's trained
2 in these matters and you may disagree.

3 I'm sure, Mr. Jorgenson, you can maybe have him sign some document
4 if he wants you to present a certain defense against your wishes for your protection
5 for any post conviction relief.

6 MR. JORGENSEN: Sure.

7 THE COURT: We can go ahead and do that.

8 Do you understand what that means? That if you're bent on taking a
9 certain path and you do not want Mr. Jorgenson to take, you know, strategy A and
10 you want him to take strategy B on your case, he's going to come down and talk to
11 you and perhaps have you sign some document with the understanding that, you
12 know, or explaining, you know, what you want. And he's going to explain to you the
13 reasons why he has a disagreement with you and we'll go from there, but you can't
14 take charge of half of the trial and be, you know, be co-counsel on this case. All
15 right.

16 And so this is first up and this is ready -- is this a two and half day trial?

17 MR. JORGENSEN: Yes, Judge.

18 THE COURT: A two day or so?

19 MS. WALSH: Yes, Judge. This should be.

20 THE COURT: All right. Let's start Wednesday at 10.

21 THE DEFENDANT: I'm going to see you before then?

22 MR. JORGENSEN: Judge, I am meeting with her tomorrow afternoon to
23 make sure that I've got everything she's got and then I'll see him either that --
24 tomorrow afternoon or Thursday.

25 THE DEFENDANT: Okay.

1 THE COURT: All right.

2 MS. WALSH: May we approach just briefly, Judge?

3 THE COURT: Sure.

4 [Bench Conference]

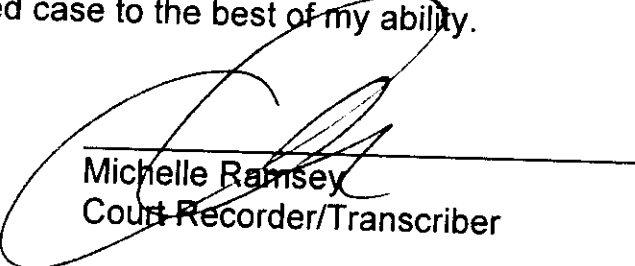
5 THE COURT: All right, sir, we're going to trial next Wednesday at 10 a.m.

6 THE CLERK: November 12 at 10 a.m.

7 [Proceeding concluded at 8:24 a.m.]

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CLERK OF COURT

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4 EIGHTH JUDICIAL DISTRICT COURT
5 CRIMINAL DIVISION
6 CLARK COUNTY, NEVADA
7

8 STATE OF NEVADA,)

9 Plaintiff,)

10 vs.)

CASE NO. C236169

11 RONALD ROSS,)

DEPT. XVII

12 Defendant.)
13)
14)

15
16 BEFORE THE HONORABLE MICHAEL P. VILLANI
17 DISTRICT COURT JUDGE

18 TRANSCRIPT RE: JURY TRIAL - VOL. I

19 WEDNESDAY, NOVEMBER 12, 2008

20 APPEARANCES:
21

22 For the Plaintiff:

JESSICA WALSH, ESQ.
23 DENA RINETTI, ESQ.

24 For the Defendant:

CRAIG JORGENSEN, ESQ.
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INDEX OF WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>PLAINTIFF'S WITNESSES</u>				
MATTHEW JOHNS	85	89	--	--
GEORGIA STATHOPOULOS	126	140	--	--
DEJA JARMIN	155	165	--	--
LUIS VALADEZ	173	181	--	--
KEVIN HANCOCK	194	204	220	221
WILLIAM RADER	226	232	--	--
DARRELL FLENNER	234	250	264	--
* * * * *				

DEFENDANT'S WITNESSES

(None offered)	--	--	--	--
* * * * *				

1 LAS VEGAS, NEVADA

WEDNESDAY, NOVEMBER 12, 2008

2 P R O C E E D I N G S

3 (The proceedings began at 10:19:57 a.m.)

4

5 THE COURT: Okay. We're on the record here.

6 Counsel, do we have some issue? Do we need to resolve it
7 before the jury's brought in?

8 MS. WALSH: Yes, Judge. Just very briefly, Judge,
9 we're going to ask permission about (indiscernible) amended
10 information. The only thing it changes substantially is in
11 Count I, I believe. The address to the Tropicana is actually
12 3001 Las Vegas Boulevard South, not 3799 that is currently in
13 the current information. That was addressed at the
14 preliminary hearing; the witness did correct the State on the
15 address. We'd ask that that change be able to be had.

16 And additionally, Judge, in preparing for the case I
17 did re-review the surveillance tape from the Santa Fe. And
18 after knowing Mr. Ross for going on almost three years now, as
19 soon as I put the tape it's immediately apparent it is not Mr.
20 Ross from the Santa Fe. So we're not going forward on those
21 counts. So the amended information drops all the counts
22 alleging to the Santa Fe.

23 THE COURT: Which are -- what numbers are they? So
24 -- or did you tell my clerk so she doesn't read those out
25 when --

1 THE CLERK: Oh, no. She filed a third one, which
2 does not reflect (indiscernible) --

3 THE COURT: Okay.

4 THE CLERK: -- charges, so --

5 THE COURT: All right. So that's --

6 THE CLERK: -- (indiscernible)

7 THE COURT: Okay. Great. All right.

8 Do you have any objection to that, Mr. Jorgenson?

9 MR. JORGENSEN: I can't see that I would have any.
10 I -- they're just dropping counts.

11 THE COURT: Okay.

12 MR. JORGENSEN: And the one with the change in the
13 address is -- was just a typo to begin with.

14 THE COURT: Right. Okay.

15 MS. WALSH: Thank you, Judge.

16 THE COURT: And I did get -- did someone stack a
17 proposed jury instruction? I think it was the State's, I'm
18 assuming.

19 MS. WALSH: I did, Judge.

20 THE COURT: Okay. And, Mr. Jorgenson, have you had
21 an opportunity to review those?

22 MR. JORGENSEN: I started to this morning; I'll
23 finish doing it at lunchtime.

24 THE COURT: All right.

25 MS. WALSH: And, Judge, we will have -- probably at

1 the lunch break we could probably address it, but we do have
2 the possibility of an unavailable witness. Our investigator
3 is going to come just prior to when we're going to start up
4 again to be sworn in and let you know what he did.

5 THE COURT: Okay. Wasn't there a recent case that
6 came out about that? I mean, just very recent within the last
7 six months or even one month?

8 MR. JORGENSEN: Well, it came -- it's from the end
9 of July from Judge Bell where he allowed in a preliminary
10 hearing transcript, the defense argued a couple of things, it
11 got reversed back to -- because there was no -- there was no
12 finding on the record as to due diligence.

13 THE COURT: Remember that.

14 MR. JORGENSEN: We have got a -- we have a different
15 objection that evidently was brought up but never raised with
16 the Supreme Court, but we'll take that up when --

17 THE COURT: Okay.

18 MS. WALSH: Yeah. And our -- our investigator's
19 going to come and be sworn. So we'll --

20 THE COURT: All right.

21 MS. WALSH: -- we'll -- they -- we won't have that
22 same problem in this case.

23 (Off record)

24 THE BAILIFF: Okay, ladies and gentlemen, let's make
25 sure our cell phones are turned off, please. And juror number

1 2 is on the very end, just --

2 THE COURT: All right.

3 THE BAILIFF: -- right -- I'm sorry, number 2,
4 number 4.

5 (Indiscernible)

6 THE COURT: Good morning, ladies and gentlemen.
7 This is Case Number C236169, State of Nevada versus Ronald
8 Ross. I am Judge Michael Villani, presiding judge in
9 Department XVII. This is a -- a criminal case. And we have
10 in our courtroom here to my right -- in front of me to my
11 right is Ms. Walsh from the District Attorney's Office, Ms.
12 Rinetti from the District Attorney's Office; to my left Mr.
13 Jorgenson and his client, Mr. Ronald Ross.

14 And at this time I would like to thank all of you
15 from coming down after the Veteran's Day holiday. You're all
16 willing here, hopefully, to perform your civic duty. And as I
17 tell all jurors that I -- I understand and I am acutely aware
18 that jury duty may not always be the most convenient thing for
19 all of you to perform, but please understand it's our civ --
20 it's all of your civic duty. And our system of justice does
21 not work unless individuals such as yourself are willing to
22 sit as jurors.

23 All of you have one of these on your lapel or on
24 your shirt or your dress, and I can tell you that this one
25 here has Judge Michael Villani's name on it. October 6th I

1 had a jury summons, and, in fact, I was selected as a juror.
2 It was a two-week -- two and a half week civil trial. It was
3 right before the election -- I was up for re-election -- it
4 was right before the election, so I had many activities to
5 attend to. But I was called for my civic duty, and I
6 performed it for two and a half weeks. And later in this
7 process I'll ask all of you if you have an extreme hardship
8 that would prevent you from performing your civic duty, and
9 please take that serious as far as an extreme hardship.

10 During my jury summons I had to cancel many of my
11 calendars. We had to get a senior judge in to handle some of
12 the other matters for two and a half weeks, and certain trials
13 had to be continued, but it was important that I perform my
14 civic duty as well as it's important for all of you to perform
15 your civic duty.

16 And at this time I'm going to have one of the deputy
17 District Attorneys assigned to this case stand up and
18 introduce themselves, their cocounsel, and tell you something
19 a little bit about the type of case they have that they're
20 going to be presenting to you and also a list of potential
21 witnesses that may be called in this case. Please listen to
22 these names very carefully because I'm going to ask you if
23 you're familiar with any of these individuals. Thereafter,
24 I'll have Mr. Jorgenson introduce himself, his client, and
25 identify for you any potential witnesses that he may call in

1 this case.

2 Ms. Walsh, Ms. Rinetti?

3 MS. WALSH: Thank you, Judge.

4 Good morning, ladies and gentlemen. As the judge
5 said, I'm Jessica Walsh from the District Attorney's Office;
6 I'm here with deputy District Attorney Dena Rinetti. And
7 we're prosecuting the case of State of Nevada versus Ronald
8 Ross. He is charged with the following crimes in this case:
9 burglary; larceny from a person; possession of a credit card
10 without the cardholder's consent; fraudulent use of that
11 credit card and theft; and conspiracy to commit larceny.

12 And there's only a few short witnesses we're going
13 to be calling in this trial. And as the judge said, he's
14 going to ask if you're familiar with any of them. The first
15 is Georgia Stathopoulos. And then from the Sheikh shoe store
16 Deja Jarmin, Luis Valdez, Kevin Hancock -- and that's the
17 Sheikh shoe store on Maryland Parkway. And then from the Las
18 Vegas Metropolitan Police Department Detective Rader and
19 Detective Flenner.

20 THE COURT: All right. Thank you, Ms. Walsh.

21 MS. WALSH: Thank you, Judge.

22 THE COURT: Mr. Jorgenson?

23 MR. JORGENSEN: My name is Craig Jorgenson with the
24 Public Defender's Office; I represent Mr. Ross, who is here
25 today in the trial.

1 THE COURT: Thank you.

2 Ladies and gentlemen, for us to select a jury we go
3 through a process of voir -- what's called voir dire, which is
4 basically to -- to, you know, obtain the truth or seek the
5 truth. And we do -- or we -- this process is done under oath.
6 And so at this time my clerk will now issue the oath.

7 THE CLERK: Please stand and raise your right hands
8 to be sworn. You do solemnly swear that you will well and
9 truly answer such questions that may be put to you, touching
10 upon your qualifications as jurors in the case at issue, so
11 help you God?

12 THE VENIRE: (Affirmative responses.)

13 THE CLERK: Thank you.

14 THE COURT: Ladies and gentlemen, I -- I've been
15 advised that this case, as far as the presentation of the
16 evidence, should be completed by tomorrow. The fact that this
17 is only a two-day case should not be interpreted to mean it is
18 not an important case for both sides. Whether it's a civil or
19 criminal case the length of a trial does not determine its
20 importance, and so please take that in consideration.

21 During this process I'm going to ask all of you
22 certain general questions. If you answer in the affirmative
23 to any of the questions, please raise your hand, wait for me
24 to call on you, and stand up, give us your name and the last
25 three numbers on your badge. You may be called upon five, 10,

1 15 times; each time we need you to stand up, your name, and
2 your badge number. There's about 50 or so, 50 or 60 potential
3 jurors here, and it's hard for this -- for myself as well as
4 all the attorneys to memorize all of your names in a short
5 amount of time, so please bear with us.

6 Also, you'll notice in front of -- or on top of the
7 bannister there on the -- at the jury box there's some
8 microphones. Those microphones do not amplify your answers;
9 they merely record. So that's another reason why we need you
10 to stand up, speak very loudly, so we can all hear you.
11 Unfortunately, we don't have any microphones in front of the
12 gallery there; they have to be picked up by the microphones on
13 the attorneys' desks. So again, and particularly, we need the
14 individuals in the gallery to speak loudly and stand up again
15 and give us your name and badge number.

16 And if -- the process I'll follow when I ask a
17 question, we'll go to the back row of the jury box, the middle
18 row, the front row; we'll go to the gallery front row, middle
19 row, and back row.

20 And so the first question I have, is there anyone
21 here familiar with any of the attorneys, the parties, or any
22 of the potential witnesses that may be called? Yes, ma'am, in
23 the back row?

24 JUROR NUMBER 187: Michelle Klein, 187. I worked
25 with Detective Flenner before retiring from Metro; we were in

1 the same detail.

2 THE COURT: All right. Are you a police officer?

3 JUROR NUMBER 187: No. I was a civilian employee.

4 THE COURT: All right. And -- but you don't know
5 anything about this particular case?

6 JUROR NUMBER 187: No, I don't.

7 THE COURT: All right. And the fact that you worked
8 with that detective, would that cause you to show any
9 prejudice for or against the State or for or against the
10 Defendant?

11 JUROR NUMBER 187: No, I don't believe it would.

12 THE COURT: And you'll hear often throughout this
13 selection process that in this case -- and in any criminal
14 case -- the State has the burden of proving their case beyond
15 a reasonable doubt. This is not a civil case, which is a
16 preponderance of the evidence, which is basically more likely
17 than not. That's the civil burden. In a criminal case it's
18 beyond a reasonable doubt.

19 So, ma'am, you could hold the State to that burden?

20 JUROR NUMBER 187: Yes.

21 THE COURT: Okay. Thank you very much.

22 Anyone else in the back row? Anyone in the middle
23 row? Front row? Anyone in the gallery? Yes, ma'am, in the
24 front row?

25 JUROR NUMBER 208: 208, Peterson.

1 THE COURT: Yes, ma'am.

2 JUROR NUMBER 208: I'm not sure, but I heard
3 Detective Rader. In the early '70s I did have dealings with
4 the detective.

5 THE COURT: You did what, ma'am? I'm sorry?

6 JUROR NUMBER 208: I did have dealings with
7 Detective Rader.

8 THE COURT: Is that the same detective?

9 JUROR NUMBER 208: I don't know.

10 MS. WALSH: (Indiscernible) I'm not sure if he's
11 that old. It's -- it's William Ryder.

12 JUROR NUMBER 208: No. That's not the --

13 THE COURT: Okay.

14 JUROR NUMBER 208: -- detective.

15 THE COURT: All right. Great. Thank you, ma'am.
16 Anyone else in the gallery area?

17 As I had mentioned, this case conceivably could end
18 up -- could finish today. We would start deliberations
19 tomorrow, or we may have some evidence and argument tomorrow,
20 but it should resolve within the next two days here. I can
21 tell you that within the last nine months we've had a
22 construction defect case where its allegations that home -- a
23 housing development was constructed improperly, and, as you
24 can imagine, the Plaintiff sued every general contractor,
25 independent contractor, every person involved in the

1 construction of the development; that trial went a little over
2 six months long. We've had another construction defect case
3 that went about three months. And as I had mentioned, the
4 case I was involved in as a juror went two and a half weeks.

5 This case is scheduled to go two days. Is there
6 anyone here that would have an extreme hardship in serving for
7 two days? Anyone in the jury box area? Anyone in the gallery
8 area? All right. Great. Thank you. Oh, in the back row,
9 yes, ma'am?

10 JUROR NUMBER 244: (Indiscernible) but I'm number
11 244. And it's not an extreme thing; it's just that times I --
12 I've had a cold and I start coughing, and I require cough
13 drops. Hopefully, that wouldn't disturb anything.

14 THE COURT: No, ma'am, that would be fine. If you
15 need a break, or anyone else needs a break, because of flu or
16 something we -- we're happy to accommodate that. If anyone
17 needs any water during -- if you're selected here, my bail --
18 my marshal will get you some, you know, a bottle of water. Or
19 if you need to take throat lozenges, that would be fine,
20 ma'am.

21 JUROR NUMBER 244: Okay.

22 THE COURT: But thank you. And one of the things
23 that we often talk about is showing any prejudice or bias
24 towards either side in this particular case. All of us have
25 prejudice, not necessarily racial prejudice or it's a

1 prejudice based upon age or sex or sexual orientation.

2 But the question here in this case -- or any case,
3 whether it's a civil or criminal case -- is can you put that
4 bias or prejudice aside and base any decision you may make in
5 this case only upon the evidence presented here, only upon the
6 witnesses' testimony from here, from the witness stand, or
7 from any exhibits that are admitted into evidence. So when we
8 talk about can you put aside any prejudice or bias, that's
9 what I'm talking about.

10 Is there anyone here, either yourself, a family
11 member, or anyone closely associated with you, been involved
12 in law enforcement? We had some in the back row, and that was
13 Mrs. Klein, correct? All right. Anyone in the back row?
14 Yes, sir?

15 JUROR NUMBER 185: (Indiscernible) number 185. I
16 was in the military police in the Army. I don't know if that
17 counts.

18 THE COURT: Yes, it does. All right. And how long
19 were you in the military police?

20 JUROR NUMBER 185: About five years.

21 THE COURT: Okay. And what were your duties?

22 JUROR NUMBER 185: Mostly the (indiscernible)
23 driver.

24 THE COURT: Okay. Did you have any duties as far as
25 investigating crimes, or was it mainly just traffic matters?

1 JUROR NUMBER 185: Mainly just traffic matters.

2 THE COURT: All right. And about how long ago was
3 that, sir?

4 JUROR NUMBER 185: In '96 through -- actually '95
5 through '99, and part of '99 (indiscernible)

6 THE COURT: All right. Thank you, sir.

7 Anyone else in the back row? Yes, Ms. Klein.

8 JUROR NUMBER 187: My husband was also in law
9 enforcement. He's a retired PO, a detective in Metro.

10 THE COURT: Okay. I'm sorry? He was a detective
11 and a probation officer?

12 JUROR NUMBER 187: No. He's retired, a detective
13 from Metro.

14 THE COURT: Okay. And what particular department
15 did he work in?

16 JUROR NUMBER 187: Intel.

17 THE COURT: Okay. Any idea mostly with paper crimes
18 or --

19 JUROR NUMBER 187: He was undercover, so they
20 investigated the different people and incidents.

21 THE COURT: Okay. And you said he's retired; how
22 long has he been retired?

23 JUROR NUMBER 187: Two years.

24 THE COURT: Okay. And you still work for -- with
25 Metro?

1 JUROR NUMBER 187: No. I'm retired as well.

2 THE COURT: All right. Thank you, ma'am.

3 Anyone else in the back row? Middle row? Front
4 row? Sir, in the middle row, yes, sir?

5 JUROR NUMBER 192: Rory Smith, 192. Could you
6 repeat the question for me, please?

7 THE COURT: Sure. Absolutely. Have you, a family
8 member, or anyone closely associated with you, ever been
9 involved in law enforcement?

10 JUROR NUMBER 192: No.

11 THE COURT: All right. Thank you, sir.

12 Front row? Yes, ma'am?

13 JUROR NUMBER 198: (Indiscernible). My husband
14 works for Metro.

15 THE COURT: Okay. He presently works there; is that
16 correct?

17 JUROR NUMBER 198: Yes.

18 THE COURT: All right. And how long's he worked for
19 Metro?

20 JUROR NUMBER 198: Since '89.

21 THE COURT: All right. And do you know what type --
22 what department or division does he work in?

23 JUROR NUMBER 198: Detective in task.

24 THE COURT: Okay.

25 JUROR NUMBER 198: It's a -- computers and cell

1 phone type (indiscernible)

2 THE COURT: Okay. And, ma'am, there may be some
3 police officers testifying in this particular -- this
4 particular case; the fact that your husband works with Metro
5 right now, would that cause you to favor one side or the other
6 in this particular case?

7 JUROR NUMBER 198: No.

8 THE COURT: And also, if you are selected one of the
9 admonishments that I would give to the jury is during our
10 breaks you're not allowed to speak with anyone regarding the
11 case till it's finally resolved. And we would ask the same
12 for you: that if you are selected you would not be allowed to
13 speak with your husband about the case in the case until the
14 case has been resolved. Would you be able to do that, ma'am?

15 JUROR NUMBER 198: Yes.

16 THE COURT: All right. Thank you.

17 Anyone else in the front row? Yes, ma'am?

18 JUROR NUMBER 204: Shirley Wolf, I'm number 204.

19 THE COURT: Yes, ma'am.

20 JUROR NUMBER 204: I was a civilian service officer
21 for North Las Vegas (indiscernible) years.

22

23 THE COURT: Okay. And what -- what were your
24 specific duties?

25 JUROR NUMBER 204: I investigated burglary --

1 burglaries, traffic accidents, robberies.

2 THE COURT: And the extent of your investigation,
3 that involved like fingerprints, handwriting analysis, or --

4 JUROR NUMBER 204: Yes, sir.

5 THE COURT: Okay. Were you a crime scene analyst
6 [sic]?

7 JUROR NUMBER 204: No. We were just trained to do
8 (indiscernible).

9 THE COURT: Okay.

10 Are we going to have any witnesses similar to --

11 MS. WALSH: No, Judge.

12 THE COURT: Okay. And, ma'am, you don't -- you
13 don't know any of the officers in this case, correct?

14 JUROR NUMBER 204: No, sir.

15 THE COURT: Okay. And, I'm sorry, do you still work
16 for them?

17 JUROR NUMBER 204: In about two weeks I will be
18 again, yes, sir.

19 THE COURT: Okay. Same question to you. The fact
20 that certain police officers may be called to testify in this
21 case, would that cause you to -- to favor them merely because
22 they're a police officer?

23 JUROR NUMBER 204: Possibly.

24 THE COURT: Okay. And why is that?

25 JUROR NUMBER 204: Just because most of the crimes

1 that I investigated they were guilty.

2 THE COURT: Okay. And there are -- would you agree
3 that some crimes that are investigated an individual is not
4 guilty?

5 JUROR NUMBER 204: Yes, sir.

6 THE COURT: Okay. And again, in a criminal case the
7 Defendant is presumed innocent until the State can prove
8 beyond a reasonable doubt each and every element of the crimes
9 charged. Would you be able to hold the State to that burden?

10 JUROR NUMBER 204: Yes, sir.

11 THE COURT: Okay. And as you had mentioned, you
12 work -- you work with some police officers, and they would not
13 want you to violate the law, I'm assuming; is that correct?

14 JUROR NUMBER 204: Yes, sir.

15 THE COURT: Okay. And that would be one of the laws
16 of the case, that the State has the burden to prove this case
17 beyond a reasonable doubt. And you can -- and again, you'll
18 -- you can hold them to that burden?

19 JUROR NUMBER 204: Yes, sir.

20 THE COURT: All right. Thank you, ma'am.

21 Anyone else in the jury box area? Anyone in the
22 gallery area, front row? Yes, sir?

23 JUROR NUMBER 205: William Art, 205. My mother-in-
24 law and father-in-law both work for Metro -- or worked for
25 Metro; they don't any longer.

1 THE COURT: Okay. And what -- and what type of work
2 did they do?

3 JUROR NUMBER 205: My father-in-law was a homicide
4 detective, and my mother-in-law was in dispatch. They both --

5 THE COURT: Can --

6 JUROR NUMBER 205: -- retired last year sometime.

7 THE COURT: Okay. And, sir, you -- again, you don't
8 know any of the names of the officers involved in this case?

9 JUROR NUMBER 205: No.

10 THE COURT: Okay. Same question to you. The fact
11 that your -- your parents had previously worked for Metro, now
12 are retired, would that cause you to -- to favor one side or
13 the other in this case?

14 JUROR NUMBER 205: No, sir.

15 THE COURT: Okay. Are they aware that you have a
16 jury summons today?

17 JUROR NUMBER 205: I think one of them is.

18 THE COURT: Okay. Again, and if you are selected as
19 a juror you understand that you would not be allowed to speak
20 to them about the case until the case is finally resolved; do
21 you understand that, sir?

22 JUROR NUMBER 205: Yes.

23 THE COURT: All right. Thank you, sir.

24 Anyone else in the front? Anyone in the middle row?
25 Yes, ma'am, in the blue top, blue coat?

1 JUROR NUMBER 228: Patricia Barberus, 222. My
2 husband, my son, and my daughter-in-law are all in -- law
3 enforcement in New York City. My husband's a retired
4 sergeant.

5 THE COURT: And your husband's a retired sergeant.
6 Okay.

7 JUROR NUMBER 222: Yes, he --

8 THE COURT: And --

9 JUROR NUMBER 222: -- police department.

10 THE COURT: -- you mentioned your various family
11 members --

12 JUROR NUMBER 222: My son and my daughter-in-law.

13 THE COURT: Okay. And do you know what --

14 JUROR NUMBER 222: But not here; in New York.

15 THE COURT: Right. Do you know what type of
16 specific work they do at the police department there in New
17 York?

18 JUROR NUMBER 222: My daughter is just, you know,
19 plain foot patrolman. And my son is in the housing police
20 department for the city.

21 THE COURT: You said your husband's retired; how
22 long has he been retired?

23 JUROR NUMBER 222: Six years.

24 THE COURT: And that was from New York police?

25 JUROR NUMBER 222: Yes.

1 THE COURT: Okay. And same question to you, ma'am.
2 The fact that you have family members in law enforcement and
3 your husband is retired, do you -- do you believe that that
4 would cause you to be biased one way or the other in this
5 particular case?

6 JUROR NUMBER 222: No.

7 THE COURT: Thank you. And I'm assuming all your
8 family members would want you to follow the law in this case,
9 and you would be able to do that, ma'am?

10 JUROR NUMBER 222: Yes.

11 THE COURT: All right. Thank you very much.

12 Anyone else in the second row of the jury box? Yes,
13 ma'am?

14 JUROR NUMBER 228: Litha Lofton, 228. I'm a 911
15 operator. And my husband's uncle is the undershare.

16 THE COURT: Your husband's uncle's the undershare?

17 JUROR NUMBER 228: (No audible response.)

18 THE COURT: Okay. And what's his name?

19 JUROR NUMBER 228: Roderick Kent (phonetic.)

20 THE COURT: Okay.

21 Is there any 911 tapes going to be played in this
22 case?

23 MS. WALSH: No, Your Honor.

24 THE COURT: Okay. And, ma'am, are you actually an
25 employee of Metro, or --

1 JUROR NUMBER 228: I -- I actually work through the
2 Fire Services, but most of our calls are conferenced with
3 Metro.

4 THE COURT: All right. And you've taken many calls.
5 I'm assuming you've called the police through your services.
6 Are -- again, you're -- you're not familiar with any of the
7 names of the officers that may be called in this case?

8 JUROR NUMBER 228: No, sir.

9 THE COURT: Okay. And the fact that you work with
10 the 911 program, would that cause you to be biased for either
11 side in this case?

12 JUROR NUMBER 228: No, sir.

13 THE COURT: All right. You could base any decision
14 that you may make, if you are selected, upon the evidence in
15 this case and hold the State to the burden of beyond a
16 reasonable doubt; is that correct, ma'am?

17 JUROR NUMBER 228: Yes.

18 THE COURT: All right.

19 Anyone else in the second row? Anyone in the back
20 row of the gallery? Yes, ma'am?

21 JUROR NUMBER 244: Mary Ama, 244. My sister was
22 employed with the Tucson Police Department; she was sort of a
23 civilian assistant type person. She was trained by the Tucson
24 police and worked with them for several years. She's no
25 longer with them, but --

1 THE COURT: Okay.

2 JUROR NUMBER 244: -- you've asked about law
3 enforcement.

4 THE COURT: Do you know what specifically were her
5 job duties?

6 JUROR NUMBER 244: Well, she -- she just did
7 investigations or investigated crime scenes after the fact,
8 after everything had cleared or whatever. And she was trained
9 to fingerprint and things like that.

10 THE COURT: And you said she no longer works there;
11 when did she stop working for the police department?

12 JUROR NUMBER 244: I believe about three years ago.

13 THE COURT: The fact that your sister used to be
14 with law enforcement, ma'am, would that cause you to show any
15 bias or prejudice for or against either side in this case?

16 JUROR NUMBER 244: I don't believe so.

17 THE COURT: You could base any decision, if you are
18 selected as a juror in this case, upon the evidence in this
19 case only?

20 JUROR NUMBER 244: I hope so, yes.

21 THE COURT: And you say you hope so.

22 JUROR NUMBER 244: Yeah. I -- I plan -- I -- that
23 would -- that would be what I would want to do, yes.

24 THE COURT: Okay. And that -- that would be your
25 duty if you're selected --

1 JUROR NUMBER 244: That's --

2 THE COURT: -- okay?

3 JUROR NUMBER 244: -- right.

4 THE COURT: All right. Thank you, ma'am.

5 Anyone else in the gallery? All right. Thank you.

6 Is there anyone here, either yourself, a family
7 member, or anyone closely associated with you, ever been a
8 victim of a crime? Anyone in the jury box area? Yes, sir, in
9 the back row?

10 JUROR NUMBER 185: (Indiscernible) Lee, number 185.
11 My father was mugged in New York City back in 1989, I believe.

12 THE COURT: All right. And was that -- was that
13 situation investigated by the police department?

14 JUROR NUMBER 185: I was only eight, so I'm -- I'm
15 sure it was. I don't know if there are details about it,
16 but --

17 THE COURT: All right. Thank you, sir.

18 Anyone else? We had someone -- yes, ma'am, in the
19 back row, the corner?

20 JUROR NUMBER 188: Gina (indiscernible) number 188.
21 I've had my car stolen twice and my house broken into.

22 THE COURT: Here in Clark County?

23 JUROR NUMBER 188: Yes.

24 THE COURT: You said your car stolen twice; were
25 those -- both those situations investigated by the police?

1 JUROR NUMBER 188: There was a police report taken.

2 THE COURT: Okay. Was that in the Metro's
3 jurisdiction or one of the other cities?

4 JUROR NUMBER 188: Metro.

5 THE COURT: Okay. And were you satisfied with the
6 work they did on that case -- those cases?

7 JUROR NUMBER 188: No.

8 THE COURT: Did you say no or yes?

9 JUROR NUMBER 188: No.

10 THE COURT: Okay. And why not?

11 JUROR NUMBER 188: Well, because they took the
12 report and that was about it. There was -- you know, I really
13 did not feel an actual investigation was done, but I
14 understand the quantity of car thefts in, you know, Nevada --

15 THE COURT: Okay.

16 JUROR NUMBER 188: -- (indiscernible).

17 THE COURT: All right. And you also said your home
18 was burglarized once or twice?

19 JUROR NUMBER 188: Once.

20 THE COURT: Once. Also in Clark County?

21 JUROR NUMBER 188: Yes.

22 THE COURT: Okay. And was that situation
23 investigated by Metro?

24 JUROR NUMBER 188: Yes.

25 THE COURT: Were you satisfied with the work they

1 did in that case?

2 JUROR NUMBER 188: Again, they took the report.
3 Never heard anything after.

4 THE COURT: And were certain items taken from your
5 home as well as from your vehicles?

6 JUROR NUMBER 188: Yes. From my home a computer and
7 money was stolen.

8 THE COURT: Okay. Were any of the items returned to
9 you?

10 JUROR NUMBER 188: No.

11 THE COURT: Okay. The fact that you had those two
12 or three situations, would that cause you to have any ill will
13 or ill feelings towards the police?

14 JUROR NUMBER 188: No.

15 THE COURT: May testify in this case. Or any ill
16 will or ill feelings towards the Defendant in this case?

17 JUROR NUMBER 188: No.

18 THE COURT: All right. Thank you, ma'am.

19 Anyone else in the back row? The middle -- we'll go
20 to the middle row. Yes, sir, in the -- yes, sir?

21 JUROR NUMBER 203: Yes. Earl Prutes, 205 -- 203.

22 THE COURT: Okay.

23 JUROR NUMBER 203: My family's house was burglarized
24 in '76 in Las Vegas.

25 THE COURT: Was that investigated by the police?

1 JUROR NUMBER 203: Yes, it was.

2 THE COURT: Do you know which department?

3 JUROR NUMBER 203: It would have been Metro.

4 THE COURT: All right. And do -- do you know if

5 they were satisfied with the work Metro did on that case?

6 JUROR NUMBER 203: No.

7 THE COURT: You don't know or they were not --

8 JUROR NUMBER 203: They --

9 THE COURT: -- satisfied?

10 JUROR NUMBER 203: -- weren't -- we weren't

11 satisfied.

12 THE COURT: Okay. And why not, sir?

13 JUROR NUMBER 203: The burglars walked free, and

14 they had caught them with all the goods.

15 THE COURT: Okay.

16 JUROR NUMBER 203: Because of some technicality on

17 the part of the District Attorney.

18 THE COURT: Okay. All right. The fact that perhaps

19 the DA's Office may have dropped the ball in your feet -- your

20 -- your situation, would that cause you to have any ill will

21 or ill feelings towards the DAs in this --

22 JUROR NUMBER 203: No.

23 THE COURT: -- case?

24 JUROR NUMBER 203: They -- they do the best.

25 THE COURT: Okay. Or again -- or any ill will or

1 ill feelings towards Metro?

2 JUROR NUMBER 203: No.

3 THE COURT: Okay. Or the Defendant?

4 JUROR NUMBER 203: No.

5 THE COURT: Okay. All right. Thank you, sir.

6 Anyone else in the front row? And I'm going back to
7 the second row. Yes, sir?

8 JUROR NUMBER 194: Lloyd Johnson, 194. My mom was a
9 victim of armed robbery, but it was a long time ago, back in
10 the '70s.

11 THE COURT: Was that here in Clark County?

12 JUROR NUMBER 194: No. It was in California.

13 THE COURT: And about -- you said in the '70s; is
14 that correct?

15 JUROR NUMBER 194: Yeah. Yes.

16 THE COURT: Was that investigated by the local
17 authorities there?

18 JUROR NUMBER 194: I really don't know all the
19 details.

20 THE COURT: All right. Okay.

21 JUROR NUMBER 194: I was in my own world then, so --

22 THE COURT: Okay. In the '70s? Is that what --
23 that after Woodstock, or was it --

24 JUROR NUMBER 194: Around there, yes, sir.

25 THE COURT: All right.

1 Did we have someone else in the second row? Yes,
2 ma'am?

3 JUROR NUMBER 195: (Indiscernible) Kennemer, 195.
4 Burglar -- house burglarized --

5 THE COURT: Was that here --

6 JUROR NUMBER 195: -- twice --

7 THE COURT: Twice.

8 JUROR NUMBER 195: -- and car stolen twice.

9 THE COURT: Okay. Was that here in Clark County?

10 JUROR NUMBER 195: Yeah.

11 THE COURT: Okay. Were all those situations
12 investigated by Metro?

13 JUROR NUMBER 195: Yes.

14 THE COURT: Okay. And were you satisfied with the
15 work they -- they did?

16 JUROR NUMBER 195: Yes.

17 THE COURT: All right. And was the individual ever
18 -- individuals ever caught in your situation?

19 JUROR NUMBER 195: Not that I'm aware of.

20 THE COURT: Okay. Were any of your items ever
21 returned to you?

22 JUROR NUMBER 195: No.

23 THE COURT: All right. Thank you, ma'am.

24 Anyone else in the second row? We'll go to the
25 first row now. Yes, sir?

1 JUROR NUMBER 197: (Indiscernible) badge is 197. My
2 daughter worked in the Clark County School District,
3 controller for the buses, is now is working --

4 THE COURT: I'm sorry? She -- she was a victim of a
5 crime?

6 JUROR NUMBER 197: No.

7 THE COURT: Okay. But she used to work for the
8 school district?

9 JUROR NUMBER 197: Yes.

10 THE COURT: Okay. All right. Thank you, sir.

11 Anyone else in the front row? I think we had
12 somebody -- yes, ma'am?

13 JUROR NUMBER 202: Renee Burton, 202. My home was
14 burglarized in '89.

15 THE COURT: Was that here in Clark County?

16 JUROR NUMBER 202: Yes.

17 THE COURT: Was that investigated by Metro or one of
18 the other police departments?

19 JUROR NUMBER 202: Yes.

20 THE COURT: By Metro? Were you satisfied with the
21 work they did on that case?

22 JUROR NUMBER 202: Yes.

23 THE COURT: Was -- were the perpetrators ever
24 located?

25 JUROR NUMBER 202: No.

1 THE COURT: All right. Thank you, ma'am.
2 Anyone else in -- yes, ma'am?
3 JUROR NUMBER 200: (Indiscernible) number 200. I
4 had my credit card stolen and used.
5 THE COURT: Okay. Was that here in Clark County?
6 JUROR NUMBER 200: Yes, it was.
7 THE COURT: Okay. About how long ago was that?
8 JUROR NUMBER 200: Maybe eight years ago.
9 THE COURT: All right. As you -- as you may have
10 heard, there's an allegation involving credit cards in this
11 case.
12 JUROR NUMBER 200: Uh-huh (affirmative.)
13 THE COURT: The fact that you were a victim of a
14 credit card case, do you believe that that would cause you to
15 have any prejudice or ill will towards the --
16 JUROR NUMBER 200: No.
17 THE COURT: -- the Defendant in this case?
18 JUROR NUMBER 200: I -- I know who did it.
19 THE COURT: Okay.
20 JUROR NUMBER 200: So no (indiscernible)
21 THE COURT: All right. And (indiscernible) everyone
22 if you -- if you -- if you heard me, I -- I -- I chose my
23 words very carefully, I said there was an allegation. And
24 that's all we have is an allegation. The Defendant right now
25 is presumed innocent. If you -- if you were selected as a

1 juror right now and you had to go to the deliberation room you
2 would have to come back with a not guilty verdict because no
3 evidence has been presented. The State, as -- as of right
4 this moment, has not met their burden, okay. And so please
5 understand that's all we have is an allegation at this point.

6 All right. Thank you, ma'am.

7 Anyone else in the front row? Yes, sir, at the end?

8 JUROR NUMBER 182: My name is Frank Dirella, my
9 badge is 182. I had a family business, my home was attached
10 to it, and we were robbed back in the -- I think it was the
11 '90s --

12 THE COURT: Was that here in --

13 JUROR NUMBER 182: -- in the Midwest, not --

14 THE COURT: Midwest?

15 JUROR NUMBER 182: Yes.

16 THE COURT: All right. Was that situation
17 investigated by the local police authorities?

18 JUROR NUMBER 182: Yes. Uh-huh (affirmative.)

19 THE COURT: Okay. And were you satisfied with the
20 work they did on that case?

21 JUROR NUMBER 182: Yeah. I -- I -- yes and no, you
22 know. The case was never solved although we had -- we pretty
23 much knew what was going on, but it was just never solved. So
24 -- but they did -- they were there trying to help, so --

25 THE COURT: All right. Thank you, sir.

1 Yes, sir, in the front row? Back -- I'm -- excuse
2 me. Back row.

3 JUROR NUMBER 176: Mark Cannon, 176. In 2003 or
4 2004 maybe an individual that I knew stole my wallet, and he
5 was caught with -- with the mall -- my wallet and the -- and
6 everything in it, and he was thrown in jail.

7 THE COURT: Was that here in Clark County, sir?

8 JUROR NUMBER 176: It was in Las Vegas.

9 THE COURT: Okay. And were actual criminal charges
10 filed against that person?

11 JUROR NUMBER 176: Yes.

12 THE COURT: Okay. Were you satisfied with the work
13 that the police did on that case?

14 JUROR NUMBER 176: Yes.

15 THE COURT: And how about the -- and was he actually
16 prosecuted?

17 JUROR NUMBER 176: Yeah. He was put in jail for it.

18 THE COURT: Okay. Were you satisfied with the work
19 that the -- and was it the DA's Office or one of the City
20 attorneys that prosecuted it?

21 JUROR NUMBER 176: I really don't know. I was just
22 told he was going to jail for it.

23 THE COURT: Okay. Did you get your wallet back and
24 the contents?

25 JUROR NUMBER 176: (Indiscernible)

1 THE COURT: Okay. Thank you, sir.

2 Anyone else in the jury box area? We'll go to the

3 gallery front row. Yes, sir?

4 JUROR NUMBER 211: Robert Monroe, 211. Back in '94

5 our apartment was broken into and robbed, and my father was

6 severely beaten being that he was the only one in the house

7 and didn't know they were coming.

8 THE COURT: And you said '94, sir. Was that here in

9 Clark County?

10 JUROR NUMBER 211: Yes, sir.

11 THE COURT: Was that investigated by Metro?

12 JUROR NUMBER 211: Yes.

13 THE COURT: Okay. And were you satisfied with the

14 investigation they performed?

15 JUROR NUMBER 211: Sure. Yes.

16 THE COURT: Was that person ever caught?

17 JUROR NUMBER 211: Yes, they were.

18 THE COURT: And did they go through a prosecution?

19 JUROR NUMBER 211: Yes.

20 THE COURT: Okay. Was it with the District

21 Attorney's Office? Did they prosecute that case?

22 JUROR NUMBER 211: I believe so.

23 THE COURT: Were you a witness in that case, sir?

24 JUROR NUMBER 211: No.

25 THE COURT: All right. Thank you, sir.

1 Anyone else in the front row? Yes, sir?

2 JUROR NUMBER 206: Olden, 206. Attempted armed
3 robbery against me and some friends I was with. And also a
4 burglary of the house.

5 THE COURT: Was that here in Clark County, sir?

6 JUROR NUMBER 206: San Jose.

7 THE COURT: San Jose. Both -- both those? And were
8 you satisfied with the work performed by the local law
9 enforcement authorities?

10 JUROR NUMBER 206: Yes.

11 THE COURT: And were those individuals caught?

12 JUROR NUMBER 206: No. Not that I -- well, the
13 first one I don't know; I -- I disarmed the subject and took
14 the friends away and reported it, and they went back to the
15 area was the last I heard. The house was fingerprints and
16 such and that was it.

17 THE COURT: All right. Thank you, sir.

18 Anyone else in the front row? Yes, ma'am, in the
19 red top?

20 JUROR NUMBER 208: Peterson, 208. Two burglaries in
21 about the past 10 years here in Las Vegas (indiscernible)
22 investigated by Metro.

23 THE COURT: Did they catch the perpetrators?

24 JUROR NUMBER 208: Yes.

25 THE COURT: Okay. Do you know if they were

1 prosecuted?

2 JUROR NUMBER 208: Yes.

3 THE COURT: And did you -- did you have to testify
4 at any hearings?

5 JUROR NUMBER 208: I did come to court because they
6 also stole credit cards and ran them up. And they figured
7 something out in the hallway, so I didn't have to actually
8 testify.

9 THE COURT: And the fact that you had some credit
10 cards stolen -- and again, there's an allegation here
11 involving credit cards -- would that cause you to have any
12 bias or prejudice against the Defendant in this case?

13 JUROR NUMBER 208: I can't say for 100 percent yes.
14 I can't say that --

15 THE COURT: I'm sorry? I missed that last sent --

16 JUROR NUMBER 208: I can't say that I would be able
17 to completely (indiscernible).

18 THE COURT: Okay. Well, in -- in this case, as I
19 mentioned before, the State has the burden of proving beyond a
20 reasonable doubt each and every element of the crimes charged.
21 Will you hold the State to that burden?

22 JUROR NUMBER 208: Yes.

23 THE COURT: Will you make them prove them prove
24 their case?

25 JUROR NUMBER 208: Yes.

1 THE COURT: Even though you've been a victim
2 involving credit cards you're still going to make the State
3 prove their case beyond a reasonable doubt?

4 JUROR NUMBER 208: (No audible response.)

5 THE COURT: My question is, is it going to be a
6 lesser burden -- lesser standard for the State because you
7 were a victim involving credit cards?

8 JUROR NUMBER 208: No.

9 THE COURT: Okay. All right. You hesitated a
10 little bit. Are you sure?

11 JUROR NUMBER 208: I think so.

12 THE COURT: Okay. I'm sure some of the attorneys
13 might have some follow-up questions for you. Okay. Thank
14 you, ma'am.

15 Anyone else in the front row? In the second row of
16 the gallery? All right. Yes, ma'am, here on the left?

17 JUROR NUMBER 214: Tanesha Baker, 214. Five years
18 ago my husband was arrested by Metro. And this January we had
19 an attempted home invasion.

20 THE COURT: All right. And was that -- were those
21 situations investigated by Metro, both of those?

22 JUROR NUMBER 214: No.

23 THE COURT: Okay. And the attempted home invasion,
24 was -- was anyone ever apprehended?

25 JUROR NUMBER 214: No. They didn't even want to

1 come to our house. They said it was property damage. We
2 actually had to walk and find the patrol car and bring them to
3 our house, and then they changed the report from property
4 damage to home invasion, attempted home invasion. But we
5 haven't heard anything from them since.

6 THE COURT: Okay. Are you satisfied with the work
7 the police did in your case?

8 JUROR NUMBER 214: Sure. North Las Vegas Police,
9 yes; Metro, no.

10 THE COURT: Okay. And why not Metro?

11 JUROR NUMBER 214: Because we had just moved here --
12 we were actually jogging -- and we were at -- we were resting
13 up against a -- a fence while they were talking to someone in
14 the car, and the police officer actually came over and began
15 to harass us. So.

16 THE COURT: The fact that you've had some Metro
17 officers that may -- that may not have acted appropriately
18 with you and your husband, would that cause you to have any
19 bias or prejudice against any officers that may testify in
20 this case?

21 JUROR NUMBER 214: No.

22 THE COURT: And you don't recall the names of the
23 officers that may testify here.

24 JUROR NUMBER 214: No.

25 THE COURT: Is that correct? Okay. All right.

1 Thank you, ma'am.

2 Anyone else in the second row? Yes, ma'am?

3 JUROR NUMBER 218: Sarah Wells, 218. Car stolen
4 twice, home invasion twice, and my debit card stolen once.

5 THE COURT: Okay. Was -- were all those in Clark
6 County?

7 JUROR NUMBER 218: Yes.

8 THE COURT: And about how long ago was that, ma'am?

9 JUROR NUMBER 218: Within the last 10 years.

10 THE COURT: And there were -- were the police
11 involved in those situations?

12 JUROR NUMBER 218: Yes.

13 THE COURT: Okay. Were you satisfied with the work
14 they did in those cases?

15 JUROR NUMBER 218: Yes.

16 THE COURT: Was the perpetrators or perpetrator ever
17 located?

18 JUROR NUMBER 218: On one of the home invasions,
19 yes.

20 THE COURT: Okay. And do you know if that person
21 was prosecuted?

22 JUROR NUMBER 218: Yes.

23 THE COURT: And did you ever have to go to trial and
24 -- or --

25 JUROR NUMBER 218: No.

1 THE COURT: -- go to any hearings and testify?

2 JUROR NUMBER 218: No.

3 THE COURT: Okay. Ma'am, the fact that you were a
4 victim of -- of those situations, would that cause you to have
5 any bias or prejudice against the Defendant in this case?

6 JUROR NUMBER 218: No.

7 THE COURT: All right. You can put that aside, your
8 previous situation?

9 JUROR NUMBER 218: Yes.

10 THE COURT: All right. Thank you, ma'am.

11 Anyone else in the second row? Yes, sir, at the end
12 there?

13 JUROR NUMBER 229: Mike Jones, number 229. In 1999
14 I was charged with murder; I spent two years fighting it, got
15 found not guilty. So I got extreme prejudice with the
16 judicial system.

17 THE COURT: Okay. Was that here in Clark County,
18 sir?

19 JUROR NUMBER 229: Riverside --

20 THE COURT: Riverside? Okay. Is -- is it you have
21 a problem with the judicial system in general or the one in
22 Riverside County?

23 JUROR NUMBER 229: In general. Now that cut it for
24 everywhere. It doesn't matter.

25 THE COURT: Okay. And you -- you want the judicial

1 system to work; is that correct?

2 JUROR NUMBER 229: (No audible response.)

3 THE COURT: You want it to -- I mean, you --

4 JUROR NUMBER 229: I can speak --

5 THE COURT: -- you don't want --

6 JUROR NUMBER 229: -- freely --

7 THE COURT: -- what happened --

8 JUROR NUMBER 229: -- and sum it up.

9 THE COURT: I'm sorry?

10 JUROR NUMBER 229: I can speak freely and sum it up.

11 THE COURT: Absolutely, sir.

12 JUROR NUMBER 229: It's a lot of BS.

13 THE COURT: Okay. Well, how can we make the system

14 better?

15 JUROR NUMBER 229: From me, I just don't want to do

16 my thing. I don't have any use for courts and all that stuff.

17 THE COURT: And you felt that you were -- obviously,

18 you were not brought -- you were not convicted, and you felt

19 you were --

20 JUROR NUMBER 229: Correct.

21 THE COURT: -- (indiscernible) --

22 JUROR NUMBER 229: Judge said found not guilty.

23 THE COURT: Okay. And so you don't feel that you

24 can serve on any jury; is that -- is that what you're saying,

25 sir?

1 JUROR NUMBER 229: Exactly. I've got no use for
2 courtroom or anybody in it.

3 THE COURT: Okay. How about a civil jury?

4 JUROR NUMBER 229: Same difference.

5 THE COURT: Have you -- have you ever been involved
6 in a civil case, sir?

7 JUROR NUMBER 229: I've seen the games that get
8 played behind the doors when the jury's out of the room. I've
9 -- I don't trust anything.

10 THE COURT: All right. All right. Thank you, sir.

11 Anyone else in the gallery? Yes, sir, in the second
12 row?

13 JUROR NUMBER 212: Joseph Stanmus, 212. Just to
14 note, I -- I work with the DA. And I'm a casino operator; I
15 work with the DA with check fraud, credit card fraud, the
16 employee dishonesty, and have in the last two years. So --

17 THE COURT: I'm sorry? And -- and what's your title
18 or what --

19 JUROR NUMBER 212: Operations manager --

20 THE COURT: And --

21 JUROR NUMBER 212: -- of the casino. I've just
22 worked with the DA in the past, including, like I said, check
23 fraud, credit card fraud, and employee dishonesty.

24 THE COURT: Okay. And the fact that you -- that
25 you've worked with these type -- with cases involving fraud

1 and -- and use of credit cards, would that cause you to have
2 any bias for or against either side in this case?

3 JUROR NUMBER 212: No.

4 THE COURT: You can put aside the type of work you
5 do and just listen to the evidence in this case only?

6 JUROR NUMBER 212: Yes.

7 THE COURT: All right. Thank you, sir.

8 Anyone else in the second row? Anyone in the back
9 row? Yes, ma'am?

10 JUROR NUMBER 245: My credit card was not stolen,
11 but apparently some place that I used it here in Las Vegas,
12 the number must have been compromised some way, and someone in
13 New York used it.

14 THE COURT: And was that -- your card taken here in
15 Clark County?

16 JUROR NUMBER 245: It -- it wasn't stolen.
17 Apparently, wherever I used it somebody double-swiped it or
18 whatever they do.

19 THE COURT: And it's some -- someone in New York --
20 someone in another state got your number?

21 JUROR NUMBER 245: Yes. And they used it in New
22 York state. But the bank stopped the use of it after a
23 certain amount.

24 THE COURT: And was that situation investigated by
25 the police department?

1 JUROR NUMBER 245: Not to my knowledge, no. The
2 bank kind of took care of it and stopped it in its tracks.

3 THE COURT: Okay. And again, there's -- there's
4 allegation involving credit cards in this case. The fact that
5 you were involved in a situation with credit cards, would that
6 cause you to have any bias or prejudice against Mr. Ross in
7 this case?

8 JUROR NUMBER 245: No.

9 THE COURT: All right. Thank you, ma'am.

10 Anyone else in the back row? Yes, sir?

11 JUROR NUMBER 240: (Indiscernible). My father was
12 assaulted by an officer and I was assaulted.

13 THE COURT: Was that here -- I'm sorry? Did you say
14 in Clark --

15 JUROR NUMBER 240: No. San Francisco County.

16 THE COURT: All right. Both situations in San
17 Francisco?

18 JUROR NUMBER 240: Yes.

19 THE COURT: All right. The fact that you were --
20 you and your father were both assaulted in -- in San Francisco
21 by the local police, would that cause you to have any bias or
22 prejudice against the police in this case?

23 JUROR NUMBER 240: I -- against all police
24 basically.

25 THE COURT: I'm sorry?

1 JUROR NUMBER 240: Against all police.
2 THE COURT: Okay.
3 JUROR NUMBER 240: Yeah.
4 THE COURT: Because it was a couple of bad apples
5 that spoiled the whole basket?
6 JUROR NUMBER 240: Not necessarily. But for me it
7 does, yes (indiscernible).
8 THE COURT: Okay. All right. Thank you, sir.
9 Anyone else in the back row? All right. Thank you.
10 And some of you may have answered to this --
11 answered part of this next question here. Is -- just one
12 moment, please. Has any -- has anyone here, a family member,
13 or anyone closely associated with you, ever been accused of a
14 crime? And we're talking more than just a traffic offense.
15 Anyone been here accused of a crime. Anyone in the jury box
16 area? Yes, ma'am?
17 JUROR NUMBER 195: My ex-husband was charged with
18 attempted murder.
19 THE COURT: I'm sorry? Who?
20 JUROR NUMBER 195: My ex-husband.
21 THE COURT: Okay. And was that -- was your husband
22 prosecuted? Your ex-husband.
23 JUROR NUMBER 195: Yes.
24 THE COURT: All right. And was he prosecuted by the
25 District Attorney's Office?

1 JUROR NUMBER 195: I believe so.

2 THE COURT: Okay. And the fact that he was

3 prosecuted by the DA's Office, does that cause you to have any

4 bias or prejudice against the two deputy DAs here today?

5 JUROR NUMBER 195: No.

6 THE COURT: All right. All right. Thank you.

7 Yes, sir?

8 JUROR NUMBER 194: Lloyd Johnson, 194. My youngest

9 son has been arrested a few times for grand larceny; just took

10 a bunch of stuff to a pawn shop that he'd gotten from his

11 brother. And a few other things: traffic violations, driving

12 under the influence, blah, blah, blah.

13 THE COURT: All right, sir. And was your son

14 prosecuted?

15 JUROR NUMBER 194: Yes.

16 THE COURT: Okay. Was he prosecuted by the DA's

17 Office?

18 JUROR NUMBER 194: Yes.

19 THE COURT: All right. And does that cause you to

20 have any ill will or ill feelings towards the DAs in this

21 case?

22 JUROR NUMBER 194: Only to the degree that I -- I --

23 I think had they acted on it sooner under my request that --

24 that it may not have gotten as far out of hand as it did.

25 THE COURT: Okay. But do you -- do you have any ill

1 feelings towards them because they did, in fact, prosecute
2 him?

3 JUROR NUMBER 194: No. No. Unh-unh (negative.)

4 THE COURT: Okay. All right. Thank you, sir.

5 Anyone else in the second row? Let's go to the back
6 to the -- the first -- back row first.

7 JUROR NUMBER 179: 179, Robbie Davis. A close
8 friend of mine was charged with assault, and I appeared as a
9 witness in the case.

10 THE COURT: I'm sorry? In about --

11 JUROR NUMBER 179: I appeared as a witness in the
12 case.

13 THE COURT: Witness for the State or witness for
14 him?

15 JUROR NUMBER 179: Witness for him.

16 THE COURT: Okay. And was that here in Clark
17 County?

18 JUROR NUMBER 179: No. California.

19 THE COURT: Okay. All right. Thank you, sir.

20 Anyone else in the back row? Yes, ma'am?

21 JUROR NUMBER 183: 183. Domestic violence. My ex
22 (indiscernible)

23 THE COURT: Okay. And was that prosecuted by the
24 DA's Office?

25 JUROR NUMBER 183: No. You mean go to court or