

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

2
3 RONALD ROSS,

) No. 52921

4 Appellant,

5 v.

6 THE STATE OF NEVADA,

7 Respondent.
8

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9 **APPELLANT'S APPENDIX – VOLUME IV – PAGES 705-790**

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JUN 26 2009

EIGHTH JUDICIAL DISTRICT COURT
CRIMINAL DIVISION
CLARK COUNTY, NEVADA

E. M. F.
CLERK OF COURT

STATE OF NEVADA,)

Plaintiff,)

vs.)

CASE NO. C236169

RONALD ROSS,)

DEPT. XVII

Defendant.)
_____)

BEFORE THE HONORABLE MICHAEL P. VILLANI,
DISTRICT COURT JUDGE

TRANSCRIPT RE: JURY TRIAL - VOL. II

WEDNESDAY, NOVEMBER 13, 2008

APPEARANCES:

For the Plaintiff:

JESSICA WALSH, ESQ.
DENA RINETTI, ESQ.

For the Defendant:

CRAIG JORGENSEN, ESQ.

1 LAS VEGAS, NEVADA

THURSDAY, NOVEMBER 13, 2008

2 PROCEEDINGS

3 (The proceedings began at 11:12:23 a.m.)

4

5 THE COURT: All right. This is Case Number C236169,
6 State of Nevada versus Ronald Ross. Mr. Ross is present with
7 his attorney, Mr. Jorgenson. And we have Ms. Walsh, Ms.
8 Rinetti for the State.

9 We previously met in chambers to go over some of the
10 jury instructions, and we have instructions one through 28.
11 Does the State have any objection to the giving of those
12 instructions?

13 MS. WALSH: No, Your Honor.

14 THE COURT: Does the State request any additional
15 instructions?

16 MS. WALSH: No, Your Honor.

17 THE COURT: And are you satisfied with the verdict
18 form actually that your office prepared?

19 MS. WALSH: Yes, Your Honor.

20 THE COURT: All right. Mr. Jorgenson, you're
21 familiar with instructions one through 28?

22 MR. JORGENSEN: Yes, Judge.

23 THE COURT: Any objection to those instructions?

24 MR. JORGENSEN: No, Judge.

25 THE COURT: Request for any additional instructions?

1 MR. JORGENSEN: No, Judge.

2 THE COURT: All right. And you're satisfied with
3 the verdict form?

4 MR. JORGENSEN: Yes, Judge.

5 THE COURT: Okay. Again, I just want to just
6 double-check that you've discussed with your client the jury
7 instruction that advises the -- the jury that it is a
8 constitutional right for your client not to testify and not be
9 compelled to testify and the State cannot make any comments;
10 you've discussed that instruction with your client?

11 MR. JORGENSEN: Right.

12 THE COURT: And based upon your discussion with him
13 it's -- a decision has been made not to -- for the Court not
14 to give that instruction; is that correct?

15 MR. JORGENSEN: Right.

16 THE COURT: All right. We'll give the instructions
17 before opening. We'll come back at 1 o'clock. And like I
18 said before please -- if there's any PowerPoints please have
19 those up and running, double-check with Michelle to make sure
20 every -- everything's compatible. And then we'll start
21 promptly at 1 o'clock.

22 Mr. Ross, did you have a question?

23 MR. JORGENSEN: He's asking about what the verdict
24 forms look like.

25 THE COURT: Okay. All right.

1 MS. WALSH: Thanks, Judge.

2 THE COURT: See everybody back at 1:00.

3 (Off record)

4 THE COURT: Everybody have a pen and notepad? All
5 right. This is Case Number C236169, State of Nevada versus
6 Ronald Ross. Mr. Ross is present with Mr. Jorgenson. We have
7 Ms. Walsh, Ms. Rinetti for the State of Nevada.

8 Ladies and gentlemen, this is the time set to resume
9 the trial. The presentation of the evidence was concluded
10 yesterday, as -- as you recall. You're now ready for closing
11 argument. Before we start the closing arguments I will read
12 to you the jury instructions which are the -- the law and the
13 laws that apply to this particular case.

14 I will identify the jury instructions and they are
15 numbered. You can take notes regarding the jury instructions
16 -- some of the attorneys may refer you to some of the
17 instructions -- but understand you will have your own separate
18 packet of jury instructions to take back with you to the jury
19 room, so you don't have to -- if you want to take notes that's
20 fine, but, again, you'll have your own packet to -- to go back
21 there with you. So at this time I will read the jury
22 instructions to you.

23 It is your duty as jurors to follow these
24 instructions and to apply the rules of law to the facts as you
25 find them from the evidence. You must not be concerned with

1 the wisdom of any rule of law stated in these instructions
2 regardless of any opinion you may have as to what the law
3 ought to be. It would be a violation of your oath to base a
4 verdict upon any other view of the law than that given in the
5 instructions by the Court.

6 Instruction number 2: If in these instructions any
7 rule, direction, or idea is repeated or stated in different
8 ways no emphasis thereon is intended by me and none may be
9 inferred by you. For that reason you are not to single out a
10 certain sentence or any individual point or instruction and
11 ignore the others, but you are to consider all the
12 instructions as a whole and regard each in light of all the
13 others. The order in which the instructions are given has no
14 significance as to their relative importance.

15 Instruction number 3: An information is but a
16 formal method of accusing a person of a crime and is not of
17 itself any evidence of his guilt. In this case it is charged
18 in an information that on or between March 17th, 2007, and
19 March 31st, 2007, Defendant committed the offense of burglary,
20 felony, NRS 205.060; larceny from a person, felony, NRS
21 205.270; possession of credit card without cardholder's
22 consent, felony, NRS 205.690; fraudulent use of a credit card,
23 felony, NRS 205.760; theft, felony, NRS 205.0835 and 205.0832;
24 and conspiracy to commit larceny, gross misdemeanor, NRS
25 205.220, 205.222, and 199.480. It is the duty of the jury to

1 apply the rules of law contained in these instructions to the
2 facts of the case and determine whether or not the Defendant
3 is guilty of one or more of the offenses charged.

4 Count I, burglary: did on or about March 17, then
5 and there wilfully, unlawfully, and feloniously, enter with
6 the intent to commit larceny that certain building occupied by
7 the Tropicana Hotel and Casino located at 3801 Las Vegas
8 Boulevard South, Las Vegas, Clark County, Nevada.

9 Count II, larceny from the person: did on or about
10 March 17, 2007, then and there wilfully, unlawfully, and
11 feloniously, under circumstances not amounting to robbery,
12 with intent to steal or appropriate to his own use, take from
13 the person of another, to wit, Georgia Stathopoulos, without
14 her consent, personal property, to wit, wallet and contents.

15 Count III, burglary: did on or about March 17,
16 2007, then and there wilfully, unlawfully, and feloniously,
17 enter with the intent to commit a felony, to wit, obtaining
18 property under false pretenses and/or felony theft and/or
19 forgery that certain building occupied by Sheikh Shoes located
20 at 3525 South Maryland Parkway, Las Vegas, Clark County,
21 Nevada.

22 Count IV, possession of credit or debit card without
23 cardholder's consent: did on or about March 17, 2007, then
24 and there wilfully, unlawfully, feloniously, have in his
25 possession without consent of the cardholder a credit or debit

1 card, to wit, a Visa credit card issued in the name of Georgia
2 Stathopoulos, with intent to circulate, use, sell, or transfer
3 said card with the intent to defraud said Georgia Stathopoulos
4 and/or the issuer of said credit or debit card.

5 Count V: did on or about March 17th, 2007, then and
6 there wilfully, unlawfully, feloniously, with intent to
7 defraud, use a credit or debit card, to wit, by presenting a
8 Visa credit card issued in the name of Georgia Stathopoulos to
9 Deja Jarmin at Sheikh Shoes, 3525 South Maryland Parkway, Las
10 Vegas, Clark County, Nevada, for the purpose of obtaining
11 merchandise, Defendant not being the cardholder, nor being
12 authorised by the cardholder to use said card.

13 Count VI, theft: did on or about March 17, 2007,
14 then and there knowingly, feloniously, and with -- without
15 lawful authority, commit theft by obtaining personal property
16 in the amount of \$250 or more, lawful money of the United
17 States, of Sheikh Shoes, 3525 South Maryland Parkway, Las
18 Vegas, Clark County, Nevada, by a material misrepresentation
19 with the intent to deprive the person of the property in the
20 following manner, to wit, by said Defendant falsely
21 representing that he was in lawful possession of a Visa card
22 -- credit card and that he had authorization to use said card,
23 thereby obtaining the personal property of Sheikh Shoes by a
24 material misrepresentation with intent to deprive the --
25 deprive them of the property.

1 Count VII, conspiracy to commit larceny: did on or
2 about March 17, 2007, then and there meet with another and
3 between themselves and each of them with the other wilfully
4 and unlawfully conspire and agree to commit a crime, to wit,
5 larceny, and in furtherance of said conspiracy Defendant
6 committed the acts as set forth in Counts IV through VI, said
7 acts being incorporated by this reference as though fully set
8 forth herein.

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

20 Instruction number 5: The Defendant is presumed
21 innocent until the contrary is proved. This presumption
22 places upon the State the burden of proving beyond a
23 reasonable doubt every material element of the crimes charged
24 and that the Defendant is the person who committed the
25 offenses. A reasonable doubt is one based on reason. It is

1 not mere possible doubt but is such a doubt as would govern or
2 control a person in the more weighty affairs of life. If the
3 minds of the jurors, after the entire comparison and
4 consideration of all the evidence, are in such a condition
5 that they can say they feel an abiding conviction of the truth
6 of the charges there is not a reasonable doubt. Doubt to be
7 reasonable must be actual, not mere possibility or
8 speculation. If you have a reasonable doubt as to the guilt
9 of the Defendant he is entitled to a verdict of not guilty.

10 Instruction 6: Every person who, by day or night,
11 enters any building with the intent to commit a larceny and/or
12 a felony therein is guilty of burglary. Force or breaking as
13 such is not a necessary element of the crime.

14 Instruction 7: The intention with which entry was
15 made is a question of fact which may be inferred from the
16 Defendant's conduct and all other circumstances disclosed by
17 the evidence.

18 Instruction number 8: Larceny is defined as the
19 stealing, taking, and carrying away of personal goods or
20 property of another with the intent to permanently deprive the
21 owner thereof. In the state of Nevada the following crimes
22 are a felony: larceny from a person; fraudulent use of a
23 credit or debit card; and theft of \$250 or more.

24 Instruction 9: It is not necessary that the State
25 prove that the Defendant actually committed a larceny and/or a

1 felony inside the building after he entered in order for you
2 to find him guilty of burglary. The gist of the crime of
3 burglary is the unlawful entry with a criminal intent.
4 Therefore, a burglary was committed if the Defendant entered
5 the building with the intent to commit a larceny and/or felony
6 regardless of whether or not the crime occurred.

7 Instruction 10: A person who enters an
8 establishment with the intent to commit a larceny and/or a
9 felony therein is guilty of burglary even though the entry was
10 made through the public entrance during business hours. The
11 authority to enter a building -- a building open to the public
12 extends only to those who enter with a purpose consistent with
13 the reason the building is open. An entry with intent to
14 commit a larceny and/or a felony therein cannot be said to be
15 within the authority granted customers of a business
16 establishment. The fact, therefore, that the establishment is
17 open to the general public is not a defense to the charge of
18 burglary so long as the Defendant is shown to have made the
19 entry with the intent to commit a larceny and/or a felony
20 therein.

21 Instruction 11: Every person who, in the commission
22 of a burglary, commits any other crime may be prosecuted for
23 each crime separately.

24 Instruction 12: Every person who, under
25 circumstances not amounting to robbery with intent to steal or

1 appropriate to his own use, takes from the person of another
2 without his consent any money, property, or thing of value is
3 guilty of larceny from the person.

4 Instruction number 13: For the purpose of larceny
5 property is deemed taken from the person of the victim if the
6 property was within the victim's reach, inspection,
7 observation, disposition, or control so the victim could
8 dispose of it if the victim's willpower was not overcome.

9 Instruction 14: The term taking, as that term is
10 used as an element of the crime of larceny, means that the
11 personal goods or property of another are taken from the
12 possession of the person who is entitled to them and into the
13 possession of the person accused of the crime. The term
14 carrying away, as that term is used as an element of the crime
15 of larceny, means that the taking is followed by an
16 asportation or carrying away of the property so as to
17 supercede the possession of the owner. The taking element is
18 separate and distinct, and taking, which is not followed by a
19 carrying away or asportation, cannot itself support a larceny
20 conviction. In order to constitute an asportation or carrying
21 away it is not necessary that personal property be removed
22 from the building in which it is located. But any removal of
23 the property from its original status, such as would
24 constitute a complete severance from the possession of the
25 owner, constitutes an asportation or carrying away even though

1 the transfer of possession existed for only a brief period of
2 time. What constitutes sufficient asportation to support a
3 conviction for larceny is a question of fact for the jury.

4 Instruction 15: Any person who possesses a credit
5 card without consent of the cardholder and with the intent to
6 circulate, use, sell, or transfer the credit card with intent
7 to defraud is guilty of possession of credit card without
8 cardholder's consent.

9 Instruction 16: A person who, with the intent to
10 defraud, use a credit card where the person possesses the
11 credit card without the consent of the cardholder, is guilty
12 of fraudulent use of credit card.

13 Instruction 17: Any person who, without lawful
14 authority, knowingly obtains property of another person of a
15 value greater than \$250 by a material misrepresentation with a
16 specific intent to permanently deprive the other property --
17 the other -- the other -- deprive the -- the other of the
18 property is guilty of theft. Material misrepresentation means
19 the use of any pretense or the making of any promise,
20 representation, or statement, a present, past, or future fact,
21 which is fraudulent and which, when used or made, is
22 instrumental in causing the wrongful control or transfer of
23 the property. The pretense may be verbal or it may be a
24 physical act. The amount involved in a theft shall be deemed
25 to be the highest value by any reasonable standard of property

1 which is obtained.

2 Instruction 18: Conspiracy is an agreement or
3 mutual understanding between two or more persons to commit a
4 crime. To be guilty of conspiracy a Defendant must intend to
5 commit or to aid in the commission of the specific crime
6 agreed to. The crime is the agreement to do something
7 unlawful. It does not matter whether it was successful or
8 not.

9 Instruction 19: It is not necessary in proving a
10 conspiracy to show a meeting of the alleged conspirators or
11 the making of an express or formal agreement. A formation and
12 existence of a conspiracy may be inferred from all
13 circumstances tending to show a common intent and may be
14 proved as the same way as any other fact may be proved either
15 by direct testimony of the fact or by circumstantial evidence
16 or by both direct and circumstantial evidence.

17 Instruction 20: Each member of a criminal
18 conspiracy is liable for each act and bound by each
19 declaration of every other member of the conspiracy if the act
20 or the declaration is in furtherance of the object of the
21 conspiracy. The act of one conspirator pursuant to or in
22 furtherance of a common design of the conspiracy is the act of
23 all the conspirators. Every conspirator is legally
24 responsible for an act of a coconspirator that follows as one
25 of the probable and natural consequences of the object of the

1 conspiracy even if it was not intended as part of the original
2 plan and even if he was not present at the time of the
3 commission of such act.

4 Instruction number 21: You are here to determine
5 the guilt or innocence of the Defendant from the evidence in
6 this case. You are not called upon to return a verdict as to
7 the guilt or innocence of any other person. So if the
8 evidence in this case convinces you beyond a reasonable doubt
9 of the guilt of the Defendant you should so find even though
10 you may believe one or more persons are also guilty.

11 Instruction 22: The evidence which you are to
12 consider in this case consists of the testimony of the
13 witnesses, the exhibits, and any facts admitted or agreed to
14 by counsel. There are two types of evidence: direct and
15 circumstantial. Direct evidence is the testimony of a person
16 who claims to have personal knowledge of the commission of the
17 crime which has been charged, such as an eyewitness.
18 Circumstantial evidence is the proof of a chain of facts and
19 circumstances which tend to show whether a Defendant is guilty
20 or not guilty. The law makes no distinction between the
21 weight to be given either direct or circumstantial evidence.
22 Therefore, all of the evidence in the case, including the
23 circumstantial evidence, should be considered by you in
24 arriving at your verdict. Statements, arguments, and opinions
25 of counsel are not evidence in the case. However, if the

1 attorneys stipulate to the existence of a fact you must accept
2 the stipulation as evidence and regard that fact as proved.
3 You must not speculate to be true any insinuation suggested by
4 a question asked a witness. A question is not evidence and
5 may be considered only as it supplies meaning to the answer.
6 You must disregard any evidence to which an objection was
7 sustained by the Court and any evidence ordered stricken by
8 the Court. Anything you may have seen or heard outside the
9 courtroom is not evidence and must also be disregarded.

10 Instruction number 23: The credibility or
11 believability of a witness should be determined by his manner
12 upon the stand, his relationship to the parties, his fears,
13 motives, interests, or feelings, his opportunity to have
14 observed the matter to which he testified, the reasonableness
15 of his statements, and the strength or weaknesses of his
16 recollections. If you believe that a witness has lied about
17 any material fact in the case you may disregard the entire
18 testimony of that witness or only a portion of his testimony
19 which is not proved by other evidence.

20 Instruction number 24: Although you are to consider
21 only the evidence in this case in reaching your verdict you
22 must bring to the consideration of the evidence your everyday
23 common sense and judgment as reasonable men and women. Thus
24 you are not limited solely to what you see and hear as the
25 witnesses testify. You may draw reasonable inferences from

1 the evidence which you feel are justified in the light of
2 common experience, keeping in mind that such inferences should
3 not be based on speculation or guess. A verdict may never be
4 influenced by sympathy, prejudice, or public opinion. Your
5 decision should be the product of sincere judgment and sound
6 discretion in accordance with these rules of law.

7 In your deliberations you may not discuss or
8 consider the subject of punishment as that is a matter which
9 lies solely with the Court. Your duty is confined to the
10 determination of the guilt or innocence of the Defendant.

11 Instruction 26: When you retire to consider your
12 verdict you must select one of your number to act as
13 foreperson who will preside over your deliberations and will
14 be your spokesperson here in court. During your deliberations
15 you will have all of the exhibits which were admitted into
16 evidence, these written instructions, and forms of verdict
17 which have been prepared for your convenience. Your verdict
18 must be unanimous. As soon as you've agreed upon a verdict,
19 have it signed and dated by your foreperson and then return
20 with it to this room.

21 Instruction number 27: If, during your
22 deliberations, you should desire to be further informed on any
23 point of law or hear again portions of the testimony you must
24 reduce your request to writing signed by the foreperson. The
25 officer will then return you to court where the information

1 sought will be given to you in the presence of and after
2 notice to the District Attorney and the Defendant and his
3 counsel. Playbacks of testimony are time-consuming and are
4 not encouraged unless you deem it a necessity. Should you
5 require a playback you must carefully describe the testimony
6 to be played back so that the court recorder can arrange her
7 notes. Remember, the Court is not at liberty to supplement
8 the evidence.

9 Now you will listen to arguments of counsel who will
10 endeavor to aid you to reach a proper verdict, refresh in your
11 minds the evidence, and by showing the application thereof to
12 the law. But whatever counsel may say you will bear in mind
13 that it is your duty to be governed in your deliberations by
14 the evidence as you understand it and remember it to be, and
15 by the law as given to you in these instructions with the sole
16 fixed and steadfast purpose of doing equal and exact justice
17 between the Defendant and the State of Nevada.

18 State, your closing, please.

19 MS. RINETTI: Please the Court, Counsel, ladies and
20 gentlemen of the jury. There are two things that the State
21 must prove in every criminal trial. The first one is that a
22 crime has been committed, and the second is that the Defendant
23 committed that crime. So I'm going to go through each count
24 and describe what facts have been presented -- in fact, not
25 only the point that a crime was committed but the Defendant

1 committed that crime.

2 So let's start with burglary. Burglary. Every
3 person who, by day or night, enters any building with the
4 intent to commit larceny or -- and/or a felony therein is
5 guilty of burglary. And in this case we've charged two counts
6 of burglary: one for the Tropicana casino and one for the
7 Sheikh shoe store. Now, what we have to prove on both of
8 those counts both for the Tropicana casino as well as the
9 Sheikh shoe store is that the Defendant entered that
10 establishment with the intent to commit a larceny and/or a
11 felony. So let's go through them.

12 Count I, burglary. Defendant entered the Tropicana.
13 Well, we saw it on the video and we saw the Defendant and --
14 and then an unidentified man approach the victim, Georgia.
15 Detective Flenner recognized Ronald Ross, the Defendant, on
16 that video. You also heard testimony from Georgia who on the
17 stand point to the Defendant and said that's the man that sat
18 next to me on that slot machine. And you saw the video of
19 that gentleman over there sitting next to Georgia.

20 And it's with intent to commit a larceny. And
21 unfortunately, we can't get into the mind of the Defendant, so
22 we have to look at his actions and see whether or not he
23 intended to commit a felony or a larceny when he entered the
24 Tropicana Hotel. Well, all we have to do is look at his
25 actions within the video. You see him approach the victim

1 with an unidentified man, starts distracting her, the wallet
2 is taken, the -- the handoff is made, the unidentified male
3 goes one direction, and the Defendant goes the other way.

4 And that's all about at 1 o'clock. It's interesting
5 to note that in 40 minutes the Defendant has left the
6 Tropicana but had shopped around in the shoe store for at
7 least 20 to 30 minutes according to the witnesses at the shoe
8 store and was able to purchase items at the shoe store, all
9 within 40 minutes, which means that the Defendant left the
10 Tropicana casino soon after taking Georgia's wallet thereby
11 inferring that the Defendant entered the Tropicana casino with
12 the intent to commit a larceny.

13 Count III is with the shoe store. The Defendant
14 entered the shoe store. We saw -- the Defendant was seen on
15 video by Off -- Detective Flenner, and also Kevin Hancock came
16 in and said they both reviewed the video from the shoe store,
17 and they both recognized that it was the Defendant that
18 entered that shoe store.

19 And you also have the tran -- the previous
20 transcript of Deja Jarmin, who was actually the salesperson
21 that dealt with the Defendant. And she said in that testimony
22 the Defendant is the one that I helped on March 17th, 2007,
23 and the Defendant's the one that gave me the credit card. And
24 you also have Luis Valadez who is the -- present and working
25 on that day and said yes, the Defendant came in and he made a

1 purchase.

2 And you also remember when Kevin got up on the
3 stand, and he said that Deja had told him that Phillie was
4 looking for him that day. And you heard from Detective
5 Flenner that the Defendant is from Philadelphia. Phillie was
6 looking for Kevin on March 17th, 2007, within that shoe store.

7 Then it's with the intent to commit a felony, and in
8 this case it's fraudulent use of a credit card and theft. And
9 again, you can't look into the mind of the Defendant, so we
10 have to look at his actions. So what was the purpose of him
11 entering the shoe store? Was it to get a bite to eat, was it
12 talk (indiscernible) friends? No. The only purpose of going
13 into that shoe store was to use the stolen credit card. And
14 he bought \$490 worth of merchandise about 40 to 45 minutes
15 after he stole Georgia's wallet. There was no other reason
16 for him to go into that shoe store other than to use that
17 stolen credit card, and he did so soon after he stole that
18 credit card.

19 The other charge that we've -- that is alleged is
20 larceny from a person. Larceny from a person. Every person
21 who, under circumstances not amounting to robbery with the
22 intent to steal or appropriate to his own use, takes from the
23 person of another without his consent any money, property, or
24 thing of value.

25 So what does the State have to prove?

1 (Indiscernible) there are circumstances not amounting to
2 robbery. And when you think about robbery you think of, you
3 know, some kind of a violent act. Larceny doesn't amount to
4 robbery because there's no force used. Then we have to have
5 the intent to steal. Taking of a -- from another, without
6 consent, money, property, or thing of value.

7 So let's go through each element. Circumstances not
8 amounting to robbery. Obviously, you all saw the video
9 yesterday of the Defendant and the unidentified man and the --
10 the handoff and the jacket and the wallet underneath the
11 jacket. There was no actual force used. Georgia didn't, you
12 know -- you know, didn't say there was a struggle for the
13 wallet.

14 And you saw the video; there was only some slight,
15 you know, crouching with the -- the victim in order to kind of
16 distract her. And Georgia didn't realize her wallet was taken
17 until several minutes later when she went up to her room. And
18 then again, because there wasn't any forced used it was just
19 pickpocket.

20 With the intent to steal. And what you also have to
21 do is to look at the video. What did the Defendant do? He
22 walked towards the victim, saw her, walked past her, and then
23 turned around and said ah, got my target, older lady, playing
24 slot machines, this is it. And you could see as he was
25 turning he actually put the jacket over his arm, draped it

1 over his arm, and then proceeded to go towards Georgia with
2 the unidentified man.

3 And you heard from Detective Flenner that there was
4 some -- they used a common distract method as far as blocking
5 people so they couldn't see the exchange was going to be made,
6 the fact that there's two people, the fact that they were kind
7 of diverting Georgia's attention upwards so she wouldn't
8 notice what was happening right at her side.

9 And you also heard from Georgia that when the
10 Defendant approached her he asked two things: one, what she
11 had won; and two, how to play the machine. But you saw in the
12 video that soon after the handout -- handoff Defendant left.
13 He never played the machine. It was just one of -- of his
14 methods of distracting the victim.

15 The taking from another. A taking from another is
16 defined in your jury instructions as if the property was
17 within the victim's reach, inspection, disposition, or
18 control. And you heard from her Georgia that her purse was
19 right at her side and that she had her wallet -- she'd taken a
20 dollar out to play the -- the machine, and she had laid the
21 wallet right next to her; and that she last saw her wallet at
22 the slot machine -- she took the money out to play the
23 machines. So it was right in her control, her dominion and
24 control, right next to her.

25 And then you have to have without consent. And, of

1 course, you heard from Georgia she -- on the stand that the
2 Defendant did not have permission to take her wallet; never
3 said sure, go ahead, take my money and my credit cards. She
4 never said that.

5 And then money, property, or thing of value. And
6 Georgia explained it was her wallet that was taken as well as
7 some credit cards that were in there, driver's license, and
8 other things. I think she called her wallet her center of the
9 purse.

10 Now we're going to go to Count VII. I'm going to
11 switch it up a bit and talk about the conspiracy to commit
12 larceny. Conspiracy. Conspiracy is an agreement or mutual
13 understanding between two or more persons to commit a crime.
14 To be guilty of conspiracy a Defendant must intend to commit
15 or to aid in the commission of the specific crime agreed to.
16 Now, conspiracy's a difficult thing because Defendants or
17 people don't get together when they decide to commit crimes
18 and write down a contract like we're going to do this and
19 you're going to get 20 percent, I'm going to get 40 percent,
20 and this other guy's going to get the rest. Doesn't happ --
21 doesn't work like that.

22 So what we have to look at is their actions on that
23 day, their actions during that incident, to see whether or not
24 a conspiracy existed between the Defendant and the
25 unidentified man in that video. And when you saw on the video

1 is those two men, the Defendant and the unidentified man --
2 man, walk towards Georgia. You saw the Defendant see Georgia,
3 he took a couple of steps and then turned around adjusting his
4 jacket in order to use it as a prop. You saw both the
5 Defendant and the unidentified man approach Georgia.

6 And then as doctor -- Detective Flenner testified
7 to, they used some comic -- common distract methods as far as
8 making sure that Georgia was looking up. In fact, the
9 unidentified man was standing kind of behind Georgia and kind
10 of behind the Defendant in order to block passer-byers from
11 seeing what was going on.

12 And you also saw the handoff. And you also saw the
13 fact that after the handoff was made the unidentified man went
14 one way and the Defendant went another way. Another
15 interesting point is that 40 to 45 minutes later the Defendant
16 and that unidentified man meet back up and are seen in that
17 shoe store wearing the same clothing as what they were wearing
18 at the Tropicana.

19 The other -- another crime that's been charged is
20 possession of a credit card or -- a credit card or debit card
21 without cardholder's consent, which is defined as any person
22 who possesses a credit card without consent of the cardholder
23 and with the intent to circulate, sell, or transfer the credit
24 card with the intent to defraud. So let's go through the
25 elements of possession of credit card without cardholder's

1 consent.

2 The first one is the Defendant had to have
3 possession of the credit card. And you heard from -- through
4 the te -- the former testimony of Deja Jarmin, who was the
5 sales clerk at the shoe store, that the Defendant, who she
6 positively identified, was the person that approached her and
7 used Georgia's credit card. And I think one of the questions
8 was did he actually physically sign in blue ink for the -- the
9 purchases with that credit card, and Deja said yes.

10 And you're also going to (indiscernible) that the
11 Defendant presented the actual credit card because there's
12 that carbon copy and where they have to actually physically,
13 you know, swipe the credit card. I don't think they do that
14 much nowadays, but they swiped it back and forth so it makes
15 the imprint of the actual card and its numbers.

16 And you also heard through Deja's former testimony
17 that she physically swiped Georgia's credit card through the
18 credit card machine and that the transaction went through, and
19 that's how she got the -- that is how he got the credit card
20 receipt for the Defendant to sign. So the credit card was
21 actually presented by the Defendant to Deja.

22 And was -- did he possess -- did the Defendant
23 possess that credit card without consent of Georgia? And sure
24 enough you heard from Georgia that the Defendant, who she
25 doesn't know, didn't have permission to have her credit card.

1 Then you have to have with intent to use. Well,
2 here this is fairly easy because the Defendant actually uses
3 Georgia's credit card at the shoe store and purchases \$490
4 worth of items, and, in fact, afterwards signs up for one of
5 those VIP memberships using his name and number.

6 Well, it's also with the intent to defraud. Again,
7 the Defendant misrepresented that he was the actual
8 cardholder. And you saw when you looked at that credit card
9 receipt that blue ink he signed his name Georgia and you heard
10 from Georgia that's not her signature, and, in fact, her
11 name's spelled wrong; it's spelled with a K on the credit card
12 receipt, and there's no K in her last name.

13 So he intended to defraud by having that credit card
14 because he was going to use it. He mis -- misrepresented that
15 he was the credit card holder and would get some items from
16 the shoe store.

17 The other charge -- the crime charged is fraudulent
18 use of credit or debit card, which is defined as a person who,
19 with the intent to defraud, uses a credit card where the
20 person possesses the credit card without consent of
21 cardholder. And here, again, when you -- with the intent to
22 defraud and again within 40 min -- 40 to 45 minutes the
23 Defendant, seen on video at the Tropicana, is seen by three
24 people at the shoe store. Deja, Kevin, and Luis, they all see
25 him at the shoe using the Defendant -- using Georgia's credit

1 card. He used that credit card and he used it as the
2 cardholder. He signed his name as Georgia and he actually
3 spelled it wrong. He intended to defraud because he was -- he
4 -- he represented that he was the cardholder when, in fact, he
5 was not.

6 And he actually used that credit card. And you
7 heard through the former testimony of Deja that she positively
8 identified the Defendant as the person that came into the shoe
9 store, that she helped, that she rang up, and she used a Chase
10 Visa credit card. And you also saw the carbon copy of the
11 credit card, Georgia's credit card, that was used, as well as
12 the credit card receipt.

13 And you also heard from Detective Flenner as well as
14 the manager, Kevin Hancock, that when they reviewed the video
15 they both could positively identify the Defendant as the
16 person who was in the shoe store that day using the credit
17 card.

18 And then without cardholder's consent. Again,
19 Georgia testified she didn't -- she didn't allow the Defendant
20 to have her credit card let alone use it. In fact, she went
21 to great lengths to make sure, you know, like calling all her
22 credit card companies to make sure that no one used her credit
23 cards.

24 And then we have theft. Theft is any person who,
25 without lawful authority, knowingly obtains property of

1 another person of a value greater than \$250 by a material
2 misrepresentation with specific intent to permanently deprive
3 the other of the property.

4 First element is knowingly obtains property of
5 another. And again, we heard through Deja's testimony it was
6 the Defendant that went to the shoe store, bought \$400 -- \$490
7 worth of merchandise, and left with that merchandise. That
8 wasn't his merchandise because it wasn't his credit card.
9 That property belonged to the shoe store.

10 With a value greater than \$490. You saw the credit
11 card receipt for \$490. And you also heard from Kevin Hancock
12 who said yeah, I could tell this was the transaction because
13 I'm pretty good now -- I've been at the store a while -- with
14 all the boxes that it probably totaled about \$490.

15 And again, the element of by a material
16 misrepresentation. The fact the Defendant represented to
17 (indiscernible) that that was his credit card and then he
18 signed the name Georgia, that he was Georgia, and that they
19 could take the money out of the account, and then he spelled
20 the name wrong all goes to the fact that it was a material rep
21 -- misrepresentation on the part of the Defendant when he
22 entered that shoe store, used the credit card to take the
23 property that belonged to the shoe store.

24 And finally, with the intent to permanently deprive.
25 Defendant walks out with the -- with the items purchased. He

1 doesn't go oh, I'm sorry, this isn't my credit card, here you
2 go, here's the stuff back. Actually, in fact, I think some of
3 the -- the store employees say actually he came back a couple
4 times later. He didn't come back with the stuff saying oh,
5 sorry, guys, here's the stuff back, no harm no foul. No, he
6 came back to buy more stuff.

7 So those are the charge -- the -- the crimes that
8 we've alleged. And we're going to ask that now that you've
9 seen all the evidence, heard of all -- all of them, and now
10 all the arguments by counsel that you find the Defendant
11 guilty of every crime charged. Thank you.

12 THE COURT: Thank you, Ms. Rinetti.

13 Mr. Jorgenson?

14 MR. JORGENSEN: Ladies and gentlemen of the jury,
15 it's now my opportunity to address you concerning what you
16 heard yesterday and what you (indiscernible) embark on as you
17 go back into the jury room.

18 And when I was talking with the detective who had
19 viewed the videos I was asking him -- and I did at some length
20 -- what he could see looking into the shoe store video.
21 That's the video we don't have. And he said because of the
22 way it was zoomed out you couldn't discern facial features,
23 but you could tell what the person was wearing, the gender,
24 the skin color, clothing.

25 So I then ask him well then, what you're telling us

1 is the person who you saw at the shoe store video, even though
2 you can't make out a face, is the same person when comparing
3 physical shape, clothing, the hat, the jersey with a number 6
4 on it, and the pants, that's the same person you saw in the
5 Tropicana video, which is the one we do have. And he said
6 yes.

7 The prosecutor, when the prosecutor had a chance to
8 follow up with some questions after I sat down, said all
9 right, let me back you up a little bit, you know for sure that
10 the person in the Tropicana video is, in fact, Mr. Ross; is
11 that correct. And -- because I -- I asked the -- I asked the
12 detective that -- what he -- what he could only really say for
13 positive is the two people he -- the -- the -- the person he
14 saw is the (indiscernible) the subject of the -- of the shoe
15 video was the same person that was the object of the Tropicana
16 video. And the prosecutors had him add to that by saying that
17 may be true, but also I am -- and this is the detective -- I'm
18 positive that the person who was in the Tropicana video is, in
19 fact, Mr. Ross, the person who's here at trial.

20 Well, that then asks or brings to mind the question
21 of then what are you folks doing here. If we have the
22 detective who is certain, positive, that Mr. Ross is the
23 person we see in the Tropicana video and is the same person
24 who is seen using the stolen credit card 45 minutes later then
25 -- then why have we gone through a two-day trial, why are you

1 12 people sitting here or you 13 people sitting here -- why do
2 we go through all this trouble? We already know what
3 happened.

4 And the answer is it doesn't make a difference
5 ultimately if the detective knows or doesn't know. You are
6 the group of people who will decide what is, in fact -- what
7 -- what, in fact, happened. You're the one who have to be
8 satisfied, not the detective, not Georgia.

9 Georgia said yeah, the person who was sitting next
10 to me as I was playing that slot machine was Mr. Ross. I
11 asked her how tall was he. She wasn't sure. I said was he
12 wearing facial hair. She wasn't sure. How old was he look?
13 Gave me a range. She was understandably vague as to how this
14 person looked in terms of describing him because whoever this
15 person was she only saw him in a matter of minutes 20 months
16 ago. So -- but when I asked her she was positive the person
17 who she -- who was -- the person sitting next to her was Mr.
18 Ross.

19 Once again, then what's your -- what's your duty
20 here? Well, it's not whether or not -- the question isn't
21 whether or not the detective's convinced or whether Georgia's
22 convinced; it's whether you folks are convinced.

23 Now, you have that videotape to go back in your jury
24 room with. You watch the videotape. You'll have a chance to
25 watch it a dozen times or more if you want to. And I would

1 ask you to watch that and say to yourself are you, as 12
2 citizens, convinced beyond a reasonable doubt that the person
3 in that videotape is, in fact, Mr. Ross.

4 And if you can look at that videotape and say to
5 yourself you could be certain that it's anybody in particular
6 then you're able to see things that I can't see in there. But
7 that's what you have to decide. You look at that tape.
8 That's ultimately what you're going to have to make your
9 decision on. You have the videotape.

10 Now, I -- it's important to -- to remember the
11 detective wasn't there on the Tropicana casino floor. He's
12 not telling us yeah, at 1 o'clock on -- on March 17th of 2007
13 I was sitting in the Tropicana, I could see Georgia sitting
14 down the -- down the aisle, I saw her hit the -- the -- the --
15 the jackpot on the penny poker, and this videotape is an
16 accurate representation of what I saw on the ground.

17 He's not saying that. He's saying he watched the
18 videotape just like you and I watched the videotape, and he's
19 saying from looking at that yeah, he's positive that's Mr.
20 Ross. Well, you'll go back into the jury room, and you can
21 decide whether or not you think he's stretching or not or
22 whether or not that makes sense to you.

23 What we do know is that someone -- or -- is that
24 someone took Georgia's wallet at the casino. We don't know
25 how long that person had been inside the casino when it

1 happened, if it was a man or a woman who took the wallet. We
2 don't know if that person entered into the casino originally
3 intending to steal a wallet or was there, like Georgia and her
4 husband was there, getting something at the buffet and then
5 saw a wallet lying on the ground that had dropped out of the
6 purse between the buffet and the table or was sitting somehow
7 inside an elevator that she had taken up to the elevator cart.

8 She personally doesn't know where the -- where the
9 wallet came out of. She knows she -- she's pretty sure it --
10 she used it at the -- at the buffet, she thinks she pulled a
11 dollar out of it when she got to the slot machine, but she
12 doesn't know for sure that it's gone until she's in her hotel
13 room. Well, there is quite a bit of square feet between the
14 buffet, the slot machine, and her hotel room. She's in the
15 elevator, she's walking to the slots, she's walking to the
16 elevator, she's walking to her room.

17 So ultimately, we don't know. If you can look at
18 that video and say to yourself you see the wallet being taken
19 then I guess that's what you decide because you have a chance
20 to ultimately decide that.

21 So what we know is a wallet was taken. Or that her
22 credit card that was in that wallet was used about 45 minutes
23 later about a mile away or two miles away at a shoe store.

24 Now, what do we know about the person who actually
25 used that credit card? And the answer is not as much as you

1 might think. We know from listening to the detective, who
2 watched the videotape -- watched both videotapes, that the
3 person who, from the zoomed out picture at the shoe store
4 video, looking from the back, has a hat on, a -- a baseball
5 hat turned backwards, has a jersey on that's number 6, appears
6 to be male, appears to be black skinned, and has similar if
7 not identical shape and size as the person who's dressed the
8 same way as the Tropicana video.

9 He says he can -- he's seen the two videos and they
10 appear to be the same person. Now, he wasn't there when Mr.
11 Ross was in the shoe store on the 17th. He came a couple of
12 days later and watched the videotape with the -- with Kevin,
13 the manager. Kevin, on the other hand, says when he watched
14 the videotape he recognized on the videotape seeing a guy that
15 he had been acquainted with, Phillie. And how does he know
16 Phillie? Because Phillie -- he saw it was Phillie's hair.
17 Well, that suggests that when he saw a videotape of Mr. Ross,
18 Mr. Ross wasn't wearing a hat. You don't see someone's hair
19 in the picture that we saw because he's got a baseball cap on.

20 Kevin, who watched the videotape, says he sees Mr.
21 Ross come up to the counter. Now, how does he know for sure
22 that's the -- the credit card transaction in question? He
23 says well, he can look at the monitor and he can see what's
24 being rung up. Well, the detective who was watching the same
25 videotape at the same time said no, the screen was -- the

1 image is from the opposite side. It's -- you can see the back
2 of the customer and the front of the -- of the cashier, and
3 you can't see the screen. And you couldn't see what was being
4 rung up, nor could you see what was being handed over. All he
5 could see was a timestamp on the video.

6 Then you have Deja who indicates when he is talked
7 to maybe an hour after he does a transaction with a credit
8 card, a credit card that turns out to be stolen, he remembers
9 back and he says yeah, I saw Mr. Ross come in -- he didn't
10 call him Mr. Ross; he called him Phillie, which, according to
11 Kevin, he'd never heard the word Phillie before or he hadn't
12 told -- Kevin hadn't told him who Phillie was -- but the
13 indication is that Deja knows Kevin separately (indiscernible)
14 he says he comes in with a girl.

15 Well, the detective sees the person at 13:55, which
16 is when the card is being used in the system, the person who
17 he saw come in the front door and shop and approach the
18 cashier and pay with a stolen credit card, that has the hat
19 and the jersey and the pants that match up with the Tropicana,
20 came in with a man. We're talking about two separate people.
21 We're talking about two separate groups of people.

22 What we know is that someone used Georg -- somebody
23 took Georgia's card, probably from the Tropicana. Whether
24 that person went to the Tropicana intending to do that I don't
25 know and I'm not sure how anybody could know; that the person

1 who is in the videotape talking with Georgia appears to be
2 dressed exactly the same as the person who was later on in the
3 shoe store is what the detective says, and I don't see any
4 reason to doubt that, but is that Mr. Ross?

5 Deja indicates in a -- in a real sense no because
6 Deja says that Mr. Ross came in but he came in with a girl.
7 And he was telling that to Georgia an hour after it had
8 actually happened.

9 What Kevin is telling us is what he saw on a
10 videotape two or three days later, and he personally witnessed
11 none of it because he was on break.

12 What the detective is telling us is simply what he
13 saw in the videotape because he wasn't at the shoe store until
14 two or three days later himself because this happened on a
15 Saturday and, as you remember, the detective doesn't work on
16 Saturdays or Sundays.

17 So Mr. Ross comes into the shoe store anywhere from
18 a half a dozen to eight times during March. He makes friends
19 with Kevin to the point where he tells Kevin that he's from
20 Philadelphia. He probably makes friends with Deja because
21 Deja knows his nickname to be Phillie, and he knows that
22 independently of Kevin because Kevin said he never told him
23 about his nickname being Phillie until after this
24 investigation started.

25 And you remember that Deja is telling Georgia an

1 hour after it happened, prior to him talking with his
2 supervisor, that Phillie had come in -- a guy named Phillie
3 had come in and used the card.

4 Now, think of what Deja's facing. He's working five
5 days a week or whatever. The shoe store's been open a year --
6 a month or two. He's an employee. Someone comes up and uses
7 a credit card with a women -- woman's name on it, and he lets
8 that credit card go through. Look -- think about it. He
9 clearly must not have asked whatever person had that -- who
10 offered that credit did not ask for an ID because if --had he
11 asked for the ID it would have been quickly obvious that
12 whoever was holding that card was not Georgia Stathopoulos.

13 Independent of the fact that whoever signed this
14 card signed it misspelling the last name, whoever was standing
15 there, unless they had gone to the trouble in this 45 minutes
16 (indiscernible) obtaining a false ID with the name Georgia
17 Stathopoulos on there, who -- whenever at 12:53 or no, at --
18 yeah, I'm sorry, at 1:53, whenever he -- he -- he processed
19 that card -- and we know that Deja processed the card because
20 he's the person who is the -- he is the guy listed as being
21 the -- the clerk who processed this receipt -- he did not --
22 he didn't ask for ID, which is, as I asked him
23 at the preliminary hearing, are you supposed to ask for ID and
24 he said yes, in fact, I got in trouble for not asking for ID.

25 So an hour after during a Saturday day, busy or not

1 I'm not sure, he gets a call from a lady in a panic saying I
2 lost my credit card an hour ago, the credit card company says
3 it was -- it was used an hour ago in your store, my name is
4 Georgia whatever, and she might have said it was for card
5 amount so-and-so and gave him a credit card number. He then
6 went and -- went to the system and saw, number one, that it
7 was him that accepted it, and he's trying to think back to an
8 hour ago as to who was it who -- who prob -- who is it that
9 did that transaction.

10 Does he know for sure that it was Mr. Ross? He is
11 as sure as that he's -- that Mr. Ross was the person who used
12 the card as the fact that Mr. Ross came in with a girl. But
13 that doesn't match the person on the video. That Mr. Ross was
14 in that day sounds like that's uncontested. Whether or not
15 Mr. Ross is the one -- that actually is the one who tendered
16 the card, that's what you have to decide.

17 But Deja, you can imagine, is in a position of
18 realizing that \$500 worth of credit card things went through
19 on his watch, and he didn't do it properly, and so now he's
20 trying to come up (indiscernible) answer. He remembers Mr.
21 Ross coming in.

22 Now, I'll tell you what the one thing that if we had
23 would end up resolving the case one way or the other, and that
24 is if we would have got, if the -- if the detective would have
25 asked, some kind of handwriting analysis to take this

1 signature and match it up with Mr. Ross or anybody else. And
2 we could have, like a fingerprint, told whether or not this is
3 Mr. Ross's signature.

4 Well, the detective didn't do that. And I imagine
5 the detective didn't do that because he saw the Tropicana
6 video and he says oh, that's Mr. Ross in there. He sees the
7 shoe store video, and he says you can't tell by the face who
8 that person is but it's wearing the same clothes. And so he
9 doesn't decide he needs to go to the trouble of getting in a
10 handwriting analysis to see whether or not if this signature
11 is, in fact, Mr. Ross's signature. So you don't have that
12 when you go back into the jury room.

13 What we do know is whoever signed this was wearing a
14 red hat, had a jersey on with a number 6 on it, and entered
15 the store with a man. And that's not Mr. Ross. Mr. Ross
16 wasn't wearing a hat, as Kevin told us, and he came in with a
17 woman, as Deja told us who, if I remember right, is a man even
18 though he has a name that sounds like a woman. Deja is a man
19 if I'm -- if my memory of the preliminary hearing is correct.

20 The question ultimately, and in conclusion, the
21 question ultimately is not whether or not there was a -- a --
22 a larceny from the person, from Georgia, whether there was a
23 misuse of a credit card and obtaining shoes under false
24 pretenses at the shoe store. The question is who did it.

25 And I would suggest as you go back into the jury

1 room and look at the videotape, look at the -- the paperwork,
2 that you will decide that you're not nearly as positive as the
3 detective is that the person in that streaked, noisy videotape
4 that (indiscernible) the Tropicana if -- if you can tell
5 anything other than it appears to be a 20-something black guy
6 and that he's got a red -- that he's got a cap on and a long
7 jersey, looks like a basketball jersey, with a number 6 on it.
8 That you can tell.

9 Can you tell that's Mr. Ross? Can you go back into
10 the jury room and watch that videotape as many times as you
11 want and come and say to yourself I got an abiding conviction
12 that's Mr. Ross? Well, if you do then you'll believe that's
13 the same person that was in the shoe store because the
14 detective says they were dressed the same. Can't tell from
15 the face if it was the same but they're dressed the same.

16 What I would suggest is you go back in there and
17 take your obligation to study this case seriously. And
18 realize that not the detective and not anybody else, you are
19 the guys who decide what happened that day or you decide if
20 you're satisfied that you have been convinced beyond a
21 reasonable doubt; that you'll decide there is -- that -- that
22 the person who's in that Tropicana videotape is not Mr. Ross
23 or that you can't tell who it is; and that Mr. Ross, when he
24 came into the store -- the shoe store later on that day, came
25 in with a woman and wasn't wearing a hat and is not the person

1 in the videotape. And while we don't know who committed this
2 crime it wasn't Mr. Ross. Thank you.

3 THE COURT: Thank you, Mr. Jorgenson.

4 Ms. Walsh?

5 MS. WALSH: Thanks, Judge. Thank you, Judge.

6 Thank you, ladies and gentlemen. Mr. Jorgenson said
7 it doesn't make a difference what the detective says, it's all
8 up to you, you're the ones who decide. And that's true;
9 you're the finders of the fact, you're the jury, you decide
10 this case. But how do you decide?

11 You decide by listening to the evid -- to the
12 testimony in this case, by listening to the evidence. And
13 what is the evidence in this case? The evidence is the
14 detective's testimony. The evidence is Georgia's testimony.
15 The evidence is Deja's testimony. And it's your job to judge
16 their testimony and see if what they're saying does make sense
17 to you. And what you should know by now that it does. It
18 makes a lot of sense. It is the Defendant that committed
19 these crimes, and we know that for a number of ways.

20 How do we know that it's the Defendant? We have the
21 identification, identification in court by Georgia, Luis,
22 Kevin, Deja, the detective. All those people came in here,
23 got on this witness stand, and said that's the guy. The photo
24 lineups by Luis Valadez, Kevin Hancock, and Deja Jarmin all
25 separately independently of each other identify the Defendant

1 through the photo lineup.

2 And you heard the testimony of those witnesses.

3 They didn't talk about it amongst each other. You heard the
4 testimony from Detective Rader; he didn't do the photo lineup
5 where they're all together or they all know who each other one
6 picked. They all pick the Defendant, Ronald Ross, as the guy
7 who they saw in the store that day.

8 And you heard testimony from Luis, Kevin, and Deja
9 that the Defendant is a regular customer. They're not just
10 relying on their memory of this guy who came in who was just
11 one of random thousands of customers that they've probably
12 seen and were able to pick out this guy. They remember him
13 because they know him.

14 Is that all just the biggest coincidence ever that
15 all these people are able to identify the Defendant? Or is it
16 proof beyond a reasonable doubt that it's the Defendant
17 (indiscernible) talking about? Is it just a coincidence that
18 all of them -- Georgia, who has nothing to do with the people
19 at the shoe store, is able to identify the same guy who used
20 her credit card 40 minutes later? They all point to the same
21 guy. And not just to any guy; to the Defendant.

22 Now, Mr. Jorgenson also said it's up to you to see
23 if the detective's testimony about it being Mr. Ross on the
24 video, does it make sense. And we have a lot of testimony
25 about the video. You have the video from the Tropicana;

1 you've seen it. You know what the Defendant is wearing that's
2 (indiscernible). We have the testimony from Luis, Kevin, and
3 Deja and the detective about the video.

4 And there was some question is the video that
5 Detective Flenner is talking about, how do we know that's the
6 video that corresponds with this transaction. Well, first of
7 all, Deja said an hour after I got the information that a
8 fraudulent credit card was used we immediately went, we pulled
9 the video, my assistant manager, my regional manager, and we
10 showed that video to the detective. And he was asked is the
11 video that you show the detective a fair and accurate
12 description of what happened for that transaction. He said
13 yes, the transaction that I watched on the video that I showed
14 the detective is the same transaction.

15 And then Kevin Hancock later on watched a video, and
16 he said the angle that he watched -- because remember they
17 said they have a couple of different angles at the store which
18 common sense we know stores have more than one surveillance --
19 (indiscernible) he could see -- he was able to see the cash
20 register, he was able to see the transaction was \$490. He had
21 the receipt that the Defendant signed for what merchandise he
22 bought. The merchandise on a counter matched the receipt, and
23 the information that was coming up on the computer matched.

24 So we do know that the testimony from Kevin and the
25 testimony from Detective Flenner are coming from the

1 transaction that was signed for by the Defendant for the
2 credit card that you have in evidence.

3 And what did the detective say? The Defendant
4 enters the shoe store with same second suspect. And Mr.
5 Jorgenson talked a lot about testimony from Deja that he came
6 in with a woman. That wasn't the testimony of Deja -- and you
7 should be able to remember this. He was asked I want to turn
8 your attention again to that early afternoon of March 17th,
9 2007. Could you tell us your observations of the Defendant on
10 that day when he entered your store. The answer was I recall
11 that he had on -- I believe it was a T-shirt and a jersey when
12 he walked in with his friend. So he walked in with his
13 friend. And then he was asked to describe the friend. He
14 said no, he was a black -- a black guy. No mention in Deja's
15 testimony of a girl. Came in with a guy.

16 Where does this girl come from? This girl comes
17 from Georgia, this woman who, over two years ago, had her
18 credit card stolen who's now trying to remember the details of
19 what someone told to her two years ago about what he came in
20 -- who he came in with, did he come in with a man, did he come
21 in with a woman. Credibility of the witnesses. Which are you
22 going to believe? The clerk who actually waited on them or
23 our victim who's trying to recall minor details two years
24 later? That's up to you to decide.

25 So he enters this store with the same second

1 suspect, he's wearing the same clothing. It's clear that
2 we're talking about a guy wearing a jersey, number 6 on it,
3 has a jacket, has a hat. Kevin said he probably couldn't
4 remember what type of hair the Defendant had. Maybe that's
5 because he had the hat on.

6 Kevin Hancock is able to identify the Defendant off
7 the video immediately. He knows the Defendant. In fact, the
8 Defendant asked for Kevin when he initially came into the
9 store, but Kevin was on break, so that's why Luis waits on
10 him. But as soon as he goes back a few days later and watches
11 the same transaction he says I know that guy, that's Phillie,
12 and he picks him out of a photo lineup identifying the
13 Defendant, Ronald Ross.

14 And the Detective Flenner is able to identify the
15 Defendant off both the videos. He's able to identify the
16 Defendant off the Tropicana video saying yes, I know Ronald
17 Ross and this is Ronald Ross, and he's wearing the exact same
18 clothing 40 minutes later, using the credit card of a woman
19 that he just stole it from at the Tropicana. That's how we
20 know it's the Defendant on both videos.

21 And you also have the timing. The wallet's stolen
22 around 1:00, the transaction's completed around 2:00, the
23 store is about 15 minutes away from the Tropicana, he's in the
24 store for 20 to 30 minutes, and Georgia's credit card was
25 used.

1 How else could this have happened if it's not the
2 Defendant? He's identified as being the one who took the
3 credit card at the Tropicana. Who else could have picked up
4 the credit card, put on the same jersey that's the same
5 number, with the same hat, with the same coat, and then walks
6 into a store and uses her credit card?

7 We talked about reasonable doubt, and for doubt to
8 be reasonable it has to be actual, not mere possibility or
9 speculation. And is that just a mere possibility, a huge
10 speculation, that all of that could have occurred in that
11 short 20 minutes, 20, 25 minutes that we went from the time of
12 the card being taken to the time we get to the shoe store?

13 And then the Defendant introduces himself as
14 Phillie, the person that Kevin ID's off the video is Phillie,
15 and the Defendant is from Philadelphia. You heard that from
16 Detective Flenner, born and from Philadelphia. How we know
17 it's the Defendant.

18 So, ladies and gentlemen, ask you to really think
19 about and listen to what you remember about Deja's testimony
20 because Deja was the one who actually waited on the Defendant,
21 he's the one who remembered who bought these items, he's the
22 one who pulled the video and said yes, this is the
23 transaction. He says he comes in with a guy, wearing a
24 jersey, buys \$490 worth of merchandise -- you have the receipt
25 and you have the carbon copy -- he uses a credit card. He

1 didn't check the ID -- he got in trouble for it -- because he
2 was a known customer. He had seen Phillie in the store before
3 -- or, excuse me, he had seen this person in the store before
4 that he later -- Kevin identified as Phillie, he had
5 previously used a credit card, everything was fine there. He
6 didn't check it, got in trouble for it. The Defendant is the
7 one who signed the receipt, that blue ink that we have in
8 evidence.

9 And then one hour later he's called and informed
10 that it was a fraudulent transaction, and that's when he
11 watches the video. It's not like we're talking about three
12 weeks later where he's now waited on multiple customers
13 between the time that the Defendant came in. We're only
14 talking about a short hour.

15 Now, Mr. Jorgenson would have you believe -- and he
16 only talked about the crimes of burglary and larceny from the
17 person because this case really isn't about what crime was
18 committed; it's more about how we know it's the Defendant and
19 how we know it is the Defendant. He said we don't know when
20 the wallet was taken from Ms. Stathopoulos at the Tropicana.
21 We don't know. It could have fell on the floor or somebody
22 could have picked it out of her pocket. But we do know
23 because we have the video in evidence.

24 If we could play the video?

25 We have Detective Flenner's testimony about the

1 distract thefts and how individuals operate when they're
2 conducting a distract theft; that it's common to pick out an
3 elderly victim who's not really surrounded by a lot of people.
4 He walks by. You see her, look at her, notice her, prepares
5 the coat, and comes back. What else are we doing with our
6 coat if we're not preparing to pick the pocket -- to pick the
7 wallet out of a purse that's open? If we're not going to
8 stick around to play the machine, what are we doing asking a
9 woman how you play it, how does it work, explain it to me?
10 What else are you doing if you're not distracting her and
11 getting her attention away from the wallet? What are you
12 doing with this other person who's acting as a blocker? What
13 are you doing having this other person stand this close to the
14 victim if not to make sure passer-bys don't see what you're
15 about to do with your coat and your hand that's hidden by your
16 coat?

17 And we talked about larceny from the person, and you
18 can see in the video she does have a black strap right there
19 on her shoulder. She testified she couldn't remember if the
20 strap was on her shoulder or if it wasn't -- if it was off.

21 And if we can pause it right there, please.

22 What else was that that we just saw if not a handoff
23 of a wallet? Who gives a coat to somebody like that? I have
24 my coat draped around my arm and I'm going to give it to
25 someone, I'm going to pick it up and I'm going to say here you

1 go, here's my coat. You don't put it over to the side and say
2 okay, here's my coat. The person who's taking it doesn't grab
3 it like this and then walk away. If the wallet wasn't taken
4 right there then what was that, what was going on there? The
5 only possible explanation is you just saw the handoff between
6 two people operating as a distract theft team, one person
7 lifted, now he's still acting as distracting her from noticing
8 that the second person is now walking away with a coat that
9 has the wallet inside. We know when the wallet was taken. It
10 was right there.

11 And we know what the intent of the Defendant was
12 because you saw what he did. You saw him looking for the
13 right victim. You saw him lift the wallet. We know he leaves
14 because the timing says he has to have left almost immediately
15 after taking the wallet. And we know these guys are working
16 together because they're seen together at the shoe store.
17 Detective Flenner said that's something that commonly happens
18 in these types of thefts, because Georgia only paid attention
19 to the Defendant, who's the one that was standing right next
20 to her and talking to her. So if she would have immediately
21 noticed that her wallet was missing, security would have been
22 looking for Mr. Ross. And Mr. Ross wouldn't have been found
23 with the property, and he could have said oh, not me, I don't
24 have it, where's my stuff. It's because the guy I'm working
25 with just walked off with it and we're going to meet up later,

1 and they did.

2 And that's what happened that day, ladies and
3 gentlemen. You know it. You know it's the Defendant for all
4 of those reasons we just talked about. It's the Defendant on
5 this tape, it's the Defendant at Sheikh Shoes, same clothing,
6 a mere 30 minutes at the most after he appears on this
7 videotape. And for all that we ask that you return a verdict
8 of guilty.

9 THE COURT: All right. Thank you, Ms. Walsh.

10 The clerk will now swear in the marshal to take
11 charge of the jury.

12 THE CLERK: You do solemnly swear that you will keep
13 this jury together in some private and convenient place; that
14 you will not permit any person to speak with them, nor speak
15 to them yourself unless it be by order of the Court, except to
16 ask them whether they have agreed upon a verdict; and that you
17 will return them into court when they have so agreed, so help
18 you God?

19 THE BAILIFF: (Indiscernible)

20 (Jury retires to deliberate)

21 THE DEFENDANT: Your Honor, a quick question?

22 THE COURT: Why don't you talk to your attorney
23 first, sir.

24 We are out -- for the record, we're outside the
25 presence of the jury. I'd appreciate it if everyone can stay

1 within 15 minutes of the courtroom, and we'll call you as soon
2 as a verdict's reached.

3 (Off record)

4 THE COURT: This is Case Number C236169, State of
5 Nevada versus Ronald Ross. Mr. Ross is present with counsel,
6 Mr. Jorgenson. Representatives of the State for the -- from
7 the District Attorney's Office, Ms. Walsh and Ms. Rinetti.

8 I've been advised that we do have a verdict. And
9 who is our foreperson?

10 (No audible response.)

11 THE COURT: Sir, can you please hand the verdict
12 form to the marshal. The clerk will now read the verdict.

13 THE CLERK: District Court, Clark County, Nevada.
14 State of Nevada, Plaintiff, versus Ronald Ross, Defendant,
15 Case Number C236169, Department XVII. Verdict:

16 We, the jury, in the above-entitled case find the
17 Defendant, Ronald Ross, as follows. Count I, burglary:
18 guilty of burglary;

19 We, the jury, in the above-entitled case find the
20 Defendant, Ronald Ross, as follows. Count II, larceny from
21 the person: guilty of larceny from the person;

22 Count III, burglary: guilty of burglary;

23 Count IV, possession of credit or debit card without
24 cardholder's consent: guilty of possession of credit or debit
25 card without cardholder's consent;

1 Count V, fraudulent use of credit or debit card:
2 guilty of fraudulent use of credit or debit card;

3 VI, theft -- or Count VI, theft: guilty of theft;

4 Count VII, conspiracy to commit larceny: guilty of
5 conspiracy to commit larceny.

6 Dated this 13th day of November, 2008, signed by the
7 foreperson, juror number 1, Robbie Davies.

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

10 THE JURY: Yes.

11 THE COURT: Do either party wish to have the jury
12 polled?

13 MR. JORGENSEN: No, Judge.

14 MS. WALSH: No, Judge.

15 THE COURT: All right. The clerk will now record
16 the verdict in the official minutes. And the Defendant is
17 remanded to custody. We're going to set this matter for
18 sentencing, refer it to the Department of Parole and Probation
19 for preparation of presentence investigation report, and
20 imposition of sentence on the following day.

21 THE CLERK: That will be December 23rd at 8:00 a.m.

22 THE COURT: Ladies and gentlemen, I'd like to thank
23 you for your service performing your -- your civic duty. I
24 know it's late in the afternoon here, and even though it was a
25 short trial I -- I often watch the jury and I could see that

1 everyone was very attentive and -- and watched this -- and
2 watched the witnesses testify and listen to the evidence very
3 carefully.

4 At -- at each break I read you an admonishment that
5 ordered you not to discuss the case with anyone else regarding
6 -- discuss the case with anyone. You are now released from
7 that admonishment, so you can talk with your friends,
8 neighbors, coworkers about the case. Also, you can talk to
9 any of the attorneys if you would like to do that. Oftentimes
10 after a trial some of the jurors may have some questions of
11 the attorneys -- why did you do something a certain way -- or
12 if you just have any questions about the case or anything
13 about the criminal procedure -- be more than happy to ask them
14 those questions or -- as well as you can ask me any questions.
15 If the attorneys have any questions for you you're not
16 obligated to answer any questions. You're not obligated to
17 ask them any questions also. But is a good -- it is a good
18 learning tool for them. Sometimes you might just have a
19 comment, what you thought was good with their presentation or
20 what have you.

21 What I'd like to do is just meet you in your -- in
22 the deliberation room and personally thank you for your
23 service, and at that time the attorneys may, if they would
24 like to, come back. And if you don't want to talk to them
25 that's fine; if you do then that -- you're free to do that as

1 well. I know it's late in the afternoon or early evening
2 here, and we want to get you on your way.

3 And so I'd like to again thank you for your service
4 on behalf of the Eighth Judicial District Court. I appreciate
5 you performing your civic duty and, in particular, in my
6 department. And I thank you for your service.

7 And so we are adjourned.

8 (The proceedings ended at 5:52:05 p.m.)

9 * * * * *

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

13 
14 _____
15 Sean Rowley, Transcriptionist

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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.

CASE NO. C236169

DEPT. XVII

13
14 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

15 THURSDAY, JANUARY 29, 2009

16
17 **RECORDER'S TRANSCRIPT OF HEARING RE:**
18 **SENTENCING**

19 **APPEARANCES:**

20 For the State:

DENA I. RINETTI, 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; THURSDAY, JANUARY 29, 2009

2 [Proceeding commenced at 8:22 a.m.]

3
4 THE COURT: C236169, State of Nevada versus Ronald Ross. Mr. Ross is
5 present in custody with Mr. Jorgenson, Mr. Nelson for the State. Time set -- set for
6 sentencing. On November 13, 2008 --

7 MR. NELSON: Judge, I apologize to interrupt you, but this is Ms. Dena
8 Rinetti's case, so she should be on her way to handle it.

9 THE COURT: All right.

10 [Matter trailed]

11 [Matter recalled at 8:51 a.m.]

12 THE COURT: All right. C236169, State of Nevada versus Ronald Ross. Mr.
13 Ross is present in custody and Ms. Rinetti for the -- Mr. Jorgenson, Ms. Rinetti for
14 the State. Counsel, approach please?

15 [Bench Conference]

16 THE COURT: All right, sir, it's my understanding that you're disputing some
17 of the felony convictions that have been presented by the State; is that correct, sir?
18 You're saying these are not you?

19 THE DEFENDANT: Yes.

20 THE COURT: No. Is that correct?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. Well, I don't want to give you the label of habitual felon
23 if, in fact, they are not you. And so we're going to continue this for sixty days for
24 both attorneys to -- Mr. Jorgenson to provide documentation to establish they're not
25 you. The State to -- to provide documentation that they are you. She'll get booking

1 photos and fingerprint reports; and so we'll continue this for sixty days.

2 MS. RINETTI: Your Honor, if I could just put something on the record --

3 THE COURT: All right.

4 MS. RINETTI: -- for the State? Just for the record, I wanted to -- just for the
5 record just to note that Defendant had previously contested the previous felony
6 convictions both in New Jersey as well as Philadelphia were not him; that was back
7 in 2007 in case C219404. Ultimately the case was passed about five or six different
8 times for the defense to get some kind of proof that the Defendant wasn't in New
9 Jersey or Philadelphia during those times. The defense was unable to do so.

10 We filed a notice of habitual in this case in November 2008. We filed a
11 sentencing memorandum listing all of the name, convictions as well as copies of the
12 certified judgments of convictions on January 5th of 2009. Defense has had ample
13 opportunity to bring this to the State's attention yet again that now again the
14 Defendant is contesting the fact that the -- his previous eighteen felony convictions
15 are not him.

16 THE COURT: Well, I don't know what information was provided in the other
17 case. If there was proof provided in those then I want to make your job easier if you
18 can pull the records of his other case, but if they're disputing them and they are
19 under a -- under a -- some A.K.A's and different names, so that's my concern and I
20 don't know what they did in the previous case if they just went ahead without double
21 checking. I don't want this to come back 'cause we didn't double check.

22 And so that's what we're going to do, sir. I hope you're not playing
23 games with this Court --

24 THE DEFENDANT: No, sir.

25 THE COURT: -- 'cause that could have an adverse impact on your sentence

1 in this case if you are. 'Cause that tells me you're not accepting responsibility for
2 your conduct; all right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: So I'll accept you what you're saying is that they're not you and
5 so we'll get booking photos and fingerprints.

6 THE DEFENDANT: Can I speak to my attorney for a minute?

7 THE COURT: Sure. Which one, you have two there? Both? Why don't you
8 talk to both just in case?

9 [Matter trailed]

10 [Matter recalled at 9:01 a.m.]

11 THE COURT: Where are we at?

12 MR. RENNIE: We're ready, Your Honor.

13 MR. JORGENSEN: We just need to get a -- a continued sentencing date?

14 THE DEFENDANT, JEROME FORD: Can I -- can I -- can I say something?
15 My -- I'd like to have my attorney present. He's not here, Mr. Hart; and I would like
16 for him to be here.

17 THE MARSHAL: We haven't called your case.

18 THE COURT: We're not talking about you, sir.

19 THE DEFENDANT, JEROME FORD: Oh, I'm sorry. Excuse me. I thought
20 you said Ford.

21 THE COURT: No, we don't have a case unless an attorney shows up.

22 THE DEFENDANT, JEROME FORD: I'm sorry. I apologize.

23 THE COURT: All right. Sixty days?

24 MR. JORGENSEN: Please.

25 THE CLERK: April 2nd, 8 a.m.

1 MR. JORGENSEN: Court's indulgence. Great.

2 THE CLERK: April 2nd, 8 a.m.

3 MR. JORGENSEN: Oh, I'm sorry that -- that's a Thursday. That's my -- one
4 of my Justice Court days.

5 THE CLERK: How about April --

6 MR. JORGENSEN: The following.

7 THE CLERK: -- 7th?

8 MR. JORGENSEN: Perfect.

9 THE CLERK: Okay. April 7th, 8 a.m.

10 [Proceeding concluded at 9:01 a.m.]

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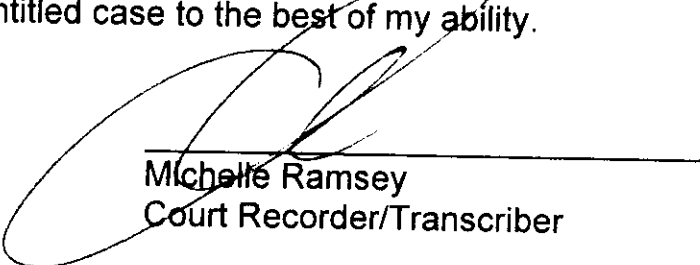
ATTEST: I hereby certify that I have truly and correctly transcribed the audio/video
proceedings in the above-entitled case to the best of my ability.

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Michelle Ramsey
Court Recorder/Transcriber

1 TRAN



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3
4 EIGHTH JUDICIAL DISTRICT COURT
5 CRIMINAL DIVISION
6 CLARK COUNTY, NEVADA
7

E. J. Villani
CLERK OF COURT

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,
DISTRICT COURT JUDGE

17
18 TRANSCRIPT RE: SENTENCING

19 TUESDAY, APRIL 7, 2009

20 APPEARANCES:

21
22 For the Plaintiff:

DENA RINETTI, ESQ.

23 For the Defendant:

CRAIG JORGENSEN, ESQ.

1 LAS VEGAS, NEVADA

TUESDAY, APRIL 7, 2009

2 P R O C E E D I N G S

3 (The proceedings began at 8:26:14 a.m.)

4
5 THE COURT: C236169, State of Nevada versus Ronald
6 Ross.

7 UNIDENTIFIED SPEAKER: Your Honor, this is Mr.
8 Jorgenson's case of our office.

9 THE COURT: This is the time set for sentencing.
10 Are you ready to proceed, Mr. Jorgenson?

11 MR. JORGENSEN: Yes, Judge.

12 THE COURT: All right. The jury returned a verdict
13 of guilty on Counts I through VII; based upon that he is
14 hereby adjudged guilty of those counts. Any argument by the
15 State?

16 MS. RINETTI: Yes, Your Honor. As you may remember
17 we were here about a month ago. The -- the State's seeking
18 habitual treatment in this case, and the Defendant had
19 contested the 18 prior felony convictions. And this Court had
20 asked us to get some booking photos or fingerprint cards in
21 order to establish identity, because the Defendant has used
22 about 21 different aliases both here as well as New Jersey as
23 well as Pennsylvania. And we were able to, in about a month,
24 find five different booking photos representing five different
25 felony convictions.

1 The first one would be -- first of all, he's not
2 contesting his identity in Case C219404, in which he was
3 adjudicated guilty on May 22nd, 2007, by Judge Bixler and was
4 given a 19- to 48-month sentence on an attempt larceny from
5 the person.

6 The next case that the State was going to submit as
7 part of our package for seeking habitual treatment is Case
8 92061676. It -- the certified judgment of conviction is
9 Exhibit S in our sentencing memorandum. If I could approach,
10 on -- on Exhibits 3, 4, and 5 we have various booking photos
11 that go along with that case, as well as Exhibit 4, which is
12 his presentence report investigation from that case, which not
13 only lists that -- that instant case but also the -- the other
14 14 prior felony convictions that were not contested at the
15 sentencing hearing in that case.

16 The next case would be Case 94071697. The certified
17 judgment of conviction is Exhibit O in our sentencing
18 memorandum that was previously filed in January. In that case
19 the Defendant was adjudicated guilty of one count of theft.
20 If -- Your Honor, if I could back to the first case I had
21 mentioned in New Jersey, 92061676, which is the Exhibit S
22 which I had provided also Exhibits 3, 4, and 5 to Your Honor
23 with the booking photos, the Defendant was adjudicated guilty
24 on July 21st, 1994, of two counts of theft, both felony
25 convictions. In case 94071697, which is Exhibit O in our

1 sentencing memorandum of the certified judgment of conviction,
2 the Defendant was adjudicated guilty on July 21st, 1994, for
3 one count of felony theft by unlawful taking.

4 Your Honor, if you look at Exhibit number 5 as well
5 there's a booking photo as well as inmate information that not
6 only lists the charge, the date of the booking, the commitment
7 number identified to this Defendant, as well as the indictment
8 number 94071697, which charges theft by unlawful taking.

9 The next felony conviction is 010601123. The
10 certified judgment of conviction is Exhibit N in our
11 sentencing memorandum. On August 23rd, 2002, the Defendant
12 was adjudicated guilty of one count of felony bail jumping.
13 And if you also look at Exhibit 3 that I handed you this
14 morning there's a booking photo that represents him being
15 booked into that case, 010601123. It also lists the
16 indictment number, the charge, and the sentencing date in that
17 case as well.

18 So based upon our limited resources, in the last
19 month we were able to come up five different felony
20 convictions that have booking photos. We do have other
21 information if the Court is not inclined just to go based upon
22 those five felony convictions. I was able to get fingerprint
23 cards, original fingerprint cards, for four different cases,
24 two coming out of New Jersey and two coming out of
25 Pennsylvania. If this Court's inclined I can always submit

1 those for a forensic request, but I didn't get those
2 fingerprint cards until yesterday, and it would take some time
3 in order to do a comparison with this Defendant.

4 But based upon what information we have right now
5 the State's going to ask you to adjudicate the Defendant
6 guilty under the large habitual statute under those five
7 felony convictions: the one case in Nevada and the three
8 cases in New Jersey. I think based upon that we have five
9 felony convictions, and the Defendant is -- is eligible for a
10 large habitual.

11 As far as my sent -- as far as my argument for
12 sentencing I'm going to ask that you adjudicate him guilty to
13 10 to life in this case. If you look at his presentence
14 report investigation in this case his adult record started in
15 1988 and has not stopped until the present time. He has 18
16 prior felony convictions. Granted we've only given you five
17 prel -- felony convictions that have booking photos, but
18 there's numerous other ones included in that presentence
19 report investigation from the case back in 1994.

20 Your Honor, he -- he -- his entire -- if you look it
21 up, all -- all of his charges that he's been adjudicated
22 guilty of, they're all very common in the fact that he goes to
23 casinos and robs elderly or disabled individuals. And if you
24 look back on the New Jersey case from 1994 in which he was
25 adjudicated guilty of two counts of theft, in one instance he

1 took the victim's money from a -- the Steamboat Casino in
2 Atlantic City, the victim was disabled and 52 years old; the
3 other victim in that case was 58 years old, and his wallet was
4 taken from the Sands Casino in Atlantic City. Then in 1994 he
5 also committed a larceny from the person, adjudicated guilty
6 of a theft at a Bally's where he stole a victim's wallet who
7 was 64 years old. Then in 2001 he was adjudicated guilty of
8 bail jumping for not making his sentencing dates in those two
9 cases.

10 Your Honor, what I'd like to highlight is the last
11 couple of years of the Defendant's life. In August 15th,
12 2005, he was charged with theft related to a -- a theft at a
13 casino; also on August 24th, 2005; as well as September 2nd,
14 2005. All of these cases are open cases in New Jersey. And
15 I'll approach with Exhibit number 6 that I've marked --
16 includes a booking photo as well as all the inmate information
17 from those three active cases. According to the District
18 Attorney's Office in New Jersey he has already entered a plea
19 of guilt and was waiting sentencing. He was -- according to
20 the District Attorney's Office the Defendant at -- entered a
21 plea of guilty to three -- on all three different cases, and
22 the plea agreement contemplated the Defendant spending four
23 years concurrent to each count.

24 He was out on bail as part of the negotiations in
25 New Jersey. Once released, he came here and committed Case

1 C220915, which is presently scheduled for sent -- for trial.
2 In that case the Defendant stole a wallet from a victim over
3 65 years of age at the New York, New York on January 6th --
4 9th, 2006.

5 And he's also alleged to have committed, on January
6 10th, 2006, a larceny from the person at the Fremont Hotel,
7 the victim being 78 years old.

8 Then he committed -- then while he was out on bond
9 on the case that he was adjudicated guilty in Case C219404 he
10 picked up two new cases. Case C220916, which went to trial in
11 front of Judge Herndon, and the Defendant was found guilty.
12 In that case the Defendant was found guilty of committing a
13 larceny from the person and burglary on January 11th, 2006,
14 wherein he stole a victim's wallet at JCPenney's, the victim
15 being 74 years old. He was also found guilty of a crime of
16 burglary and larceny from a person from a crime arising out of
17 January 16th, 2006, where he stole a victim's wallet at the
18 Golden Nugget, the victim being 84 years old.

19 Then, Your Honor, while out on bail on all those
20 cases he picks up this instant case where, on March 17th,
21 2007, he stole a victim's wallet at the Tropicana casino, the
22 victim being 57 years old.

23 Your Honor, it's just a pattern of behavior. This
24 Defendant -- preys on older individuals, some of them
25 disabled. He's [sic] goes in and out of these casinos. He's

1 been given at least four or five different grants of
2 probation, has never learned his lesson. I think under the
3 habitual statute this Defendant fits into the preview of why
4 we have the habitual statute. The Defendant has never learned
5 since 1988 to the present. The -- any chance of probation,
6 his periods of incarceration have never deterred his criminal
7 behavior. And so I'm going to ask that you adjudicate him
8 guilty of the large habitual sentence -- as a large habitual,
9 and sentence him to 10 to life.

10 THE COURT: All right. Thank you. Actually,
11 Counsel, just so I'm clear, the Counts I and II in this
12 particular case dealt with the casino; is that correct? And
13 then the III through VII were -- was the shoe store?

14 MS. RINETTI: That's correct, Your Honor.

15 THE COURT: Okay. All right.

16 Mr. Ross, do you have anything to say before I
17 impose your sentence?

18 THE DEFENDANT: Yes. Thank you for allowing me to
19 speak. I had sent a letter to the courts in October -- I
20 think you were out on jury duty, and Judge (indiscernible)
21 received it, and he said it would be made a part of the
22 record. And I didn't know did -- did you have it?

23 THE COURT: I don't have it with me. We'll check
24 our file. It doesn't appear to be in the file.

25 THE DEFENDANT: He said that he -- he received it,

1 he read it; he said he would make it a part of the record. It
2 should be in the transcripts. The date was October 30th that
3 we had --

4 THE COURT: Do you have an --

5 THE DEFENDANT: -- the hearing.

6 THE COURT: -- extra copy of that, sir, or does your
7 attorney?

8 THE DEFENDANT: (Indiscernible) no. I sent it
9 straight to you in --

10 THE COURT: Do you have that, Mr. Jorgenson, a copy
11 of --

12 MR. JORGENSEN: I don't --

13 THE COURT: -- that letter?

14 MR. JORGENSEN: -- Judge.

15 THE COURT: Why don't you tell me what was in it,
16 sir?

17 THE DEFENDANT: There were some issues that I had
18 about pretrial leading up to the contesting of my case and
19 just some things I wanted to put on the record about my speedy
20 trial issues that I wanted -- several things that I wanted
21 done in my case that I don't think that was properly done --
22 and I wanted to make the Court aware of it. And he
23 acknowledged it; he said that he -- he would make the Court
24 aware of it.

25 THE COURT: Well, sir, it sounds like those items

1 may relate to any appeal issues or post-conviction relief. So
2 today we're here for sentencing. Do you --

3 THE DEFENDANT: All right.

4 THE COURT: -- have anything to say in mitigation --

5 THE DEFENDANT: Yes.

6 THE COURT: -- of your sentence?

7 THE DEFENDANT: Yes. The PSI report that was taken,
8 there was a lot of mistakes in there, and I wanted to know
9 (indiscernible) the Court correct it before sentencing, after
10 sentencing. There were some things in there that wasn't
11 correct. And --

12 THE COURT: Did you discuss those with your attorney
13 so he can highlight those for me, or do you --

14 THE DEFENDANT: Yes.

15 THE COURT: -- wish to do that?

16 THE DEFENDANT: Okay. Can I do (indiscernible)

17 THE COURT: Sure.

18 THE DEFENDANT: All right. Lastly, them cases that
19 she -- all the -- the cases that she uses -- ask for habitual
20 criminal, I'm not trying to mitigate them but they non-violent
21 cases; most of them are remote. And she asking for 10 to life
22 for -- a lot of stuff she's saying just not -- it's just not
23 true. It's not -- it's -- it's just simply not true. And I
24 don't think she got the -- she's saying it but she's probably
25 misled. It's just not true. It -- just you don't have the

1 evidence to support a lot of stuff that she's saying. And I'm
2 contesting a lot of the stuff that she's saying. That's about
3 it, so --

4 THE COURT: Well, sir, aren't these you in these
5 pictures here?

6 THE DEFENDANT: Yes. I'm not -- yeah, that's --

7 THE COURT: Okay.

8 THE DEFENDANT: -- me. I believe --

9 THE COURT: All right. Thank --

10 THE DEFENDANT: -- so.

11 THE COURT: All right. Thank you.

12 THE DEFENDANT: I see it from here.

13 THE COURT: Mr. -- Mr. Jorgenson --

14 THE DEFENDANT: But she was saying 18 felonies from
15 1988 and conviction in New Jersey at the Showboat casi -- I
16 never pleaded guilty to not -- no case in New Jersey
17 (indiscernible) was facing four years. There's no such thing
18 as a Steamboat casino in New Jersey. She's -- it's -- it's
19 just a lot of stuff that she's saying that it's not true.
20 Even in my PSI they -- they still -- it was two cases; on the
21 morning of trial she came in and dismissed a whole case, said
22 I finally looked at the video, and it's just not you, Mr.
23 Ross, so I'm going to dismiss this -- this -- this case. The
24 PSI, not only do they (indiscernible) any recommendation but
25 they also use that as for the -- for the -- restitution.

1 So it's -- the case never happened. She looked at
2 the video 19 months into the case and realized it wasn't me,
3 so she dismissed it. But the P & P's still referring to it;
4 they said it was in the original information, so they put it
5 down. But that weighed heavy into they recommendation, and if
6 I'm ever to seek parole, if it's in my PSI report, I'm going
7 to be sanctioned again for something that never happened.

8 THE COURT: Well, at this point, sir, I'm just
9 considering the five felonies that were mentioned, not -- I'm
10 not considering the 18.

11 THE DEFENDANT: And --

12 THE COURT: So you --

13 THE DEFENDANT: -- all the --

14 THE COURT: -- dispute those, I --

15 THE DEFENDANT: All the --

16 THE COURT: -- understand?

17 THE DEFENDANT: -- five felonies are non-violent.
18 Your Honor, I can remember one time where you was representing
19 a guy, he was alleged to have broken into a federal judge's
20 house, and you was his attorney at the time. And you was
21 arguing against a large habitual because you said they were
22 non-violent cases. And the guy was so messed up he kicked the
23 door in, and the door was open; he didn't even have to kick
24 the door. But you said when -- in one of your arguments and
25 you cited some cases -- Walker versus Dees (phonetic) -- you

1 cited several cases that was against large habitual for a non-
2 violent offender. Even though there's reprehensible his
3 record it still didn't warrant a large habitual.

4 And after -- after the argument was over with, as
5 you was leaving, I said that was a heartfelt argument that you
6 gave. And you said something to me, but you had left after
7 that. But I don't know how that guy [sic] case turned out in
8 the long run, but I can remember in this court building not
9 long ago where you, yourself, argued against a judge giving
10 somebody a large habitual for non-violent offenses.

11 And I'm just asking you now that you are on the
12 other side, I'm in the guy position, and you are on the side
13 as the judge, to -- maybe you remember the case or maybe you
14 don't; it happened a while ago. But I can -- I remember it
15 like it was yesterday, and I remember the words that you were
16 saying versus this guy receiving a life sentence for a non-
17 violent offense. I don't know what's your position on that,
18 but I just hope you can remember it, and maybe it'll weigh in
19 on my sentence.

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

21 Mr. Jorgenson?

22 MR. JORGENSEN: Judge, we're here to accomplish --
23 or the State's asking you in addition to finding him guilty,
24 which is based on the jury's verdict, to make a factual
25 finding of habituality and then proceed under the statute that

1 allows you to give him a different sentence if you have been
2 convinced that he fits the factual settings in two or more or
3 three or more prior convictions.

4 The -- our position last time we were here for
5 sentencing was that just as each and every element of the
6 crime charged has to be established beyond a reasonable doubt
7 by the State to sustain a conviction in front of the finder of
8 facts, each and every element of the factual allegation of
9 habitual criminality has to be proven by the State beyond a
10 reasonable doubt to the finder of fact. The difference here
11 is you're the finder of fact, not the jury.

12 And so my client's advice, he disp -- simply did not
13 -- he disputes all of his prior convictions or takes the
14 position that under the US and Nevada constitution he has a
15 right to not incriminate himself and to remain silent; he --
16 it's not his job to answer the question from either the State
17 or the bench saying Mr. Ross, aren't these really your
18 convictions anymore than in the middle of a trial can a jury
19 stand up and say Mr. Ross, didn't you really do this crime.

20 So we're here now, and the State has gone quite a
21 bit further than where we were in the past in terms of showing
22 proof beyond a reasonable doubt. There's two parts to
23 deciding whether or not there has been convictions for NRS
24 207, habitual criminal. One is does there exist out there a
25 felony conviction? In other words, is there a court case in a

1 county or a city or a state in which that it details a
2 conviction?

3 Short of bringing the files from that county, if
4 it's out of state, we get -- or the procedure is to have
5 someone who works for that county, who is authorized to handle
6 those records, to copy the pertinent parts of a conviction,
7 usually the judgment of conviction, and then certifies it
8 saying I've looked at this copy that I'm sending you, and I've
9 looked at the copy that it's in -- I -- the original in the
10 file, they match up one to one, it's the same thing, and then
11 they emboss it or however their state provides for that,
12 saying it's a certified judgment of conviction. That makes
13 that document then competent.

14 It does not address the question is it relevant.
15 That next question is addressed by deciding if the person who
16 is mentioned in that certified judgment of conviction actually
17 happens to be the same person who is the Defendant at the
18 sentencing. And when we here originally we had convictions
19 with people with different names, different birth dates,
20 different states, and our objection was that there's simply no
21 link at all between these documents that come from different
22 courts talking about felony convictions and Mr. Ross.

23 So the State, in an -- in an effort to link these
24 two up to make them relevant, has brought photographs. Now, I
25 would suggest that ultimately to be able to establish whether

1 or not, for instance, this person who is in Exhibit O -- this
2 person who was arrested in New Jersey in 1994, booked in,
3 charged, and then convicted as outlined in Exhibit O -- if
4 that person is my client, the way it -- a way, not the only
5 way, but a certain way to resolve the issue would be to obtain
6 the prints of the person who was booked in, in July of 1994,
7 or whatever month that was, along with the booking photo
8 because -- but the photo is not usually left alone because
9 we're not, as humans, that good at matching up photographs.

10 We -- a photograph is great but it's not completely
11 dispositive. We have the unique identifiers of a set of
12 fingerprints, and then we compare that with the guy who is in
13 front of you. Now, the State says they do have some prints,
14 but I gather that it's not prints from these; it's from --
15 prints from a different state.

16 So the question is, to the trier of fact, as to the
17 existence of these prior convictions -- and that is this Court
18 -- does Exhibits S, N, O, and T, which is the ones we're
19 referring to, rise to the level of proof beyond a reasonable
20 doubt? Now, in S --

21 Which is the -- the local one?

22 MS. RINETTI: No. That's --

23 MR. JORGENSEN: T?

24 MS. RINETTI: T is the local one.

25 MR. JORGENSEN: In Exhibit T we have what is the

1 normal circumstance. And in the 20 years I've been doing this
2 and -- and fighting people -- fighting -- representing people
3 charged with habitual criminality, I would say 95 out of 100
4 prior convictions come out of Clark County. That -- out of
5 state convictions are really not that usual in determining
6 prior convictions.

7 If you include in-state convictions, convictions
8 from Reno or -- or Tonopah, you'd probably get 98 percent of
9 convictions. We just don't see very many out of state
10 convictions for habitual criminality, and I guess that's due
11 to the way a person who commits a crime normally doesn't move
12 around that much. It -- that's just -- factually, that's just
13 what happens.

14 Now, what happens if a person gets arrested and
15 brought down to the detention center tomorrow, they pull his
16 prints, they send them up to Carson City. Carson City runs
17 him through their analyzer and immediately sees if it matches
18 up with somebody already in the system, and, if he does, he'll
19 already have a state ID number; that's in -- in the scope.
20 And he'll also have a -- a Clark County number. And they will
21 then just know that's him because they have -- they'll -- the
22 process does that match, the match that I'm talking about.

23 So as to Exhibit T, Exhibit T, I would suggest,
24 appears to be competent, it appears to be relevant. But with
25 the other exhibits I think they're competent in the sense that

1 they're certified judgments. I think we're safe in saying
2 there is files somewhere in New Jersey that have these
3 convictions, and these are accurate copies of that. The
4 question is are they relevant to Mr. Ross? Are -- is the
5 person that got arrested in 1994, 2002, 2005, if -- or -- or
6 what -- if I got the dates wrong. The point is in those three
7 different years in New -- New Jersey, are they Mr. Ross or
8 not?

9 I would suggest that absent a match-up of the
10 fingerprints of the person who was booked in, in New -- in the
11 New Jersey jail in Newark or wherever it was, in Atlantic
12 City, if that matches up with my client. And absent that, I
13 don't think the Court can decide beyond a reasonable doubt
14 that these are relevant.

15 So I would ask the Court to rely on Exhibit T, not
16 accept Exhibits O, N, and S as being relevant in our case
17 because they're not proof beyond a reasonable doubt.

18 And I -- and I think that that really ultimately
19 does not hurt the state or hurt our community. My client has
20 a one to 10 felony on Count I, a one to four felony on Count
21 II, another one to four in Count III, another one to four in
22 Count V, a one to five in Count VI, and a gross misdemeanor.
23 By using the sentencing ranges in those sentences and running
24 them consecutive, running them concurrent, I think you can
25 keep our community safe without having to resort to the

1 habitual criminal statute and -- or, at the most, treating
2 this as a small habitual criminal and a five to 12 and a half
3 or a five to 15. I think that matches what happened where a
4 lady has her purse taken from her and then someone tries to
5 buy some shoes later on with a bad credit card.

6 Does that deserve -- does -- does the community need
7 to pay for a person's life in prison to make sure that they're
8 safe? I would suggest no. I think that you have plenty of
9 leeway in a one to 10 and a one to four and a one to five
10 running concurrent or running consecutive to walk away from
11 the bench this morning knowing that you have made Nevada safe
12 from people who commit property crimes.

13 So I'd ask the Court to not rely on Exhibits O, N,
14 and S as your role of -- as a fact finder, due to the fact
15 that they've not been proven beyond a reasonable doubt, and
16 sentence him under the normal guidelines. And I apologize; I
17 haven't done the calculation of his current credit for time
18 served.

19 THE COURT: Thank you. Anything else, Mr.
20 Jorgenson?

21 MR. JORGENSEN: No, Judge. Oh, one other thing. In
22 the restitution amount, my client was pointing out that Parole
23 and Probation was asking for restitution in that Santa Fe
24 case, and when we all looked at the -- the surveillance video
25 it was clear that that was a different person, and the State

1 dismissed those prior to the case -- the trial, so we didn't
2 use them at trial.

3 Parole and Probation, understandably, because they
4 -- they deal with, you know, dismissed counts, I don't fault
5 them from looking at it and treating it as if it's part of the
6 case because they wouldn't have known it was the unusual
7 circumstance of the State simply saying Counts XII to XV, or
8 whatever the Santa Fe counts were, that they simply don't
9 apply to us. But I would ask the Court when you're deciding
10 restitution to simply leave that Santa Fe portion out because
11 that really was nothing to do with this case.

12 THE COURT: Let me hear from the State on the Santa
13 Fe issue.

14 MS. RINETTI: Your Honor, that's fine. Before trial
15 the -- the State had voluntary -- voluntarily dismissed those
16 counts for the Santa Fe, so the State's not opposed to not
17 having any restitution regarding the Santa Fe case and
18 actually striking the language in the off -- of the offense
19 synopsis regarding the Santa Fe because, indeed, the vol --
20 the State voluntarily dismissed those counts.

21 THE COURT: So the restitution remaining will be
22 \$270; is --

23 MS. RINETTI: That's --

24 THE COURT: -- that correct?

25 MS. RINETTI: -- correct, Your Honor.

1 THE COURT: All right. Anything else, Mr. Jorgenson
2 or State?

3 MS. RINETTI: Your Honor, the only thing I would --
4 I would add, just for the record, the booking photos that were
5 given to -- to Your Honor as Exhibits 3, 4, and 5 --
6 specifically 3 and 5 -- with the booking photos, attached to
7 those booking photos are inmate printouts from New Jersey that
8 detail not only the inmate number, which is on the bottom of
9 the booking number, but also the date of the booking number.
10 And those inmate numbers correspond to the input -- the inmate
11 information printout that's behind the booking photo that
12 lists the charges that the Defendant was adjudicated guilty
13 of, and all those numbers are the same.

14 THE COURT: All right. The Court's going to receive
15 as exhibits State's proposed 3 through 6.

16 MS. RINETTI: Your Honor, and I also did 1 and 2.
17 Exhibit number 1 is just the cert -- the affidavit saying that
18 they were (indiscernible) that everything that was presented
19 to Your Honor was a certified copy, the booking photos as well
20 as the in -- inmate information. And in -- then Exhibit
21 number 2 is just another photograph of the Defendant -- and I
22 would ask that the State take judicial notice of that -- with
23 a different num -- name. I believe the name on Exhibit number
24 2 is Kevin Johnson. But the New Jersey inmate number is
25 46457B, which is the same inmate number in all the other ju --

1 ju -- judgments of conviction out of New Jersey.

2 THE COURT: All right. In reviewing the photographs
3 it's clear to this Court that the person depicted in the
4 photographs are, in fact, the Defendant in -- in court today.

5 In accordance with the law of the state of Nevada
6 this Court does now sentence you, sir, on Count I to life in
7 prison with the possibility of parole after 10 years;

8 Count II, life in prison with the possibility of
9 parole after -- after 10 years, Count II to run concurrent to
10 Count I;

11 On Count III through VII, life in prison,
12 possibility of parole after 10 years, and that would -- III
13 through VII inclusive. Counts III through VII to run
14 consecutive to Counts I and II.

15 This is under the large habitual statute. And does
16 someone have -- and also restitution in the amount of \$270.
17 Does someone have a correct credit for time served?

18 MS. RINETTI: I have that according to the PSI most
19 of his credit for time served was given to Judge Bixler's
20 case. I have a credit for time served of 145 days.

21 THE COURT: Mr. Jorgenson?

22 MR. JORGENSEN: I don't think Judge Bixler has
23 sentenced him yet.

24 THE COURT: Actually, he didn't. That sentencing is
25 set for --

1 MS. RINETTI: Judge Bixler, in 404, has already --
2 he already sentenced him back on May 22nd of 2007.

3 THE COURT: Okay.

4 MR. JORGENSEN: Well, he -- and --

5 THE DEFENDANT: (Indiscernible) I got 200 days
6 credit --

7 MR. JORGENSEN: And he --

8 THE DEFENDANT: -- as far as that --

9 MR. JORGENSEN: -- cleaned that up --

10 THE DEFENDANT: -- sentence in September.

11 MR. JORGENSEN: September when?

12 THE DEFENDANT: September 15th.

13 MR. JORGENSEN: Yeah. I think he gets credit from
14 September 15th as which -- when that Bixler case flattened out
15 and he's been held only on our cases. So how many days did
16 you have from Sep --

17 THE DEFENDANT: Two hundred.

18 MR. JORGENSEN: Two hundred even?

19 THE DEFENDANT: (No audible response.)

20 MR. JORGENSEN: I think that's what it is, Judge.

21 THE COURT: All right. I'll give him 200 days
22 credit for time served. Also, he's ordered to pay a \$25
23 administrative assessment fee, a \$150 DNA fee, and submit to
24 DNA testing.

25 (The proceedings ended at 8:58:32 a.m.)

SCREEN CAPTURE: Santa Fe Station Casino Security Video, Time Index: 9 minutes, 24 seconds

Picture of a burglary suspect in the Santa Fe Station Casino. State witnesses, including Metro Tourist Safety Detective Julie Holl, identified this man as Ronald Ross. See AA 19, 24. (Note: the suspect in this screen capture is wearing a basketball jersey with the number "6" on it). The testimony resulted in Ross being bound up to District Court and held in custody, without trial, for over 18 months. On the first day of trial, Deputy District Attorney Walsh dismissed all the Santa Fe Station Casino charges, because it was "immediately apparent it [was] not Mr. Ross" on the video. AA 439 (emphasis added).



Appendix Page 789 – Santa Fe Video

Appendix Page 790 – Tropicana Video

(Sent via United States Mail)

RONALD ROSS,) No. 52921
)
 Appellant,)
)
 v.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
)

Employee, Clark County Public
Defender's Office