

14

1 were on the floor?

2 And tell us the position you  
3 were in on the floor, if you would.

4 A I was, like, in a crouched -- crouched  
5 position.

6 Q On your hands and knees?

7 A Yes.

8 Q With your head up or down?

9 A My face down.

10 Q Were you totally nude at this time?

11 A Yes, yes.

12 Q And that was when he kicked you?

13 A Yes.

14 Q And what else did he do?

15 A Then he took these wooden things, and they  
16 had a chain in the middle, and he started beating me with  
17 them.

18 Q Do you know what they're called?

19 A I know now they're called nunchuks, but I  
20 didn't know what they were. I never seen anything like  
21 that.

22 Q Describe them for us.

23 A They were -- they're two pieces of wood and  
24 they have a thick chain in the middle.

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1 Q And you said he beat you with them?

2 A Um, yes. He -- he hit me across the back of  
3 my head, and I was screaming. And -- um, the one time, I --  
4 I thought I was going to pass out, but I knew if I passed  
5 out, I thought I was going to die.

6 Q Did there come a time when you were able to  
7 work the tube top out of your mouth?

8 A Yes, I did. I -- when I started passing  
9 out, I -- I knew that I -- I had to try to talk to him;  
10 and -- and I pushed the tube top off with my shoulders and  
11 I -- and I started talking to him. And I -- I begged him  
12 not to hurt me anymore, and I said he could have my car and  
13 I --

14 And he said -- he said that he  
15 didn't -- he said: Well, it's broke. Your boyfriend is  
16 coming over to work on it. What do you think I am, stupid?

17 And I said, no, he's just  
18 coming to do a tune up. And I said it's -- and I told him  
19 where my keys were and -- and I told him that he could have  
20 my car.

21 Q Did he say anything about leaving you?

22 A He -- he said he couldn't leave me because I  
23 knew what he looked like, and when I -- well, when he was --  
24 he was hitting me with those things, I -- before -- I think

003300

14 1 it was before I got that off, I looked up and I saw he had a  
2 knife pointing to me.

3 Q What part of your body was the knife  
4 pointing at?

5 A To my back.

6 Q And that was when he said he couldn't leave  
7 you because you knew who he was?

8 A Yes. And I told him that I wouldn't tell  
9 anybody, just to leave me alone and just not to hurt me  
10 anymore; and I was begging, just -- just to go.

11 Q Did he say what he would do in the event you  
12 did tell somebody?

13 A He told me he would come back and he would  
14 kill me.

15 Q Did you believe him?

16 A Yes.

17 Q How about the hangers?

18 A He had put hangers around my -- my neck and  
19 tried to choke me with them.

20 Q When did that happen, can you recall?

21 A I was -- I was really pretty hysterical.  
22 I -- I -- I think that was after he hit me with the  
23 nunchuks.

24 Q With the nunchuks.

003301

1 Were they wooden or wire  
2 hangers?

3 A Wire hangers.

4 Q Had he unwound the wire hangers so as to  
5 make them a long piece or were they still together, or do  
6 you know?

7 A I don't know. I think they were unwound --

8 Q And he --

9 A -- because he was pulling. (Indicating)

10 Q And what exactly did he do with them in  
11 relationship to your neck?

12 A I was -- I couldn't breathe. I was --

13 Q Did he wrap them around your neck?

14 A Yes.

15 Q Was he pulling on them?

16 A Yes.

17 Q Were you having a hard time breathing?

18 A Yes. I -- I thought I was going to die.

19 Q I'm sorry?

20 A I thought I was going to die.

21 Q Did he get your car keys?

22 A I told him they were either in my purse or  
23 my coat pocket, and he went and got them.

24 Q Did he leave?

003302



15

1 A Yes, he did.

2 Q What kind of a car did you have?

3 A I had a little Fiat, a dark blue Fiat. It  
4 was like a sedan.

5 Q At a later time, did you discover that the  
6 car was gone?

7 A I was -- I was told that. I -- I just ran  
8 to the -- to the sliding glass door, because there was -- I  
9 had a big rocking chair and it was in front of the front  
10 door and I --

11 Q Had you put it there?

12 A No.

13 Q How do you know it was put in front of the  
14 door?

15 A It was a huge -- it's an antique rocking  
16 chair with wood, and it was just -- it was shoved in front  
17 of the front door.

18 Q Was it, like, just put in front of the door  
19 or shoved up under the door handle or what?

20 A I think it was shoved up under, like, trying  
21 to -- under the doorknob.

22 Q And you had not done that?

23 A No.

24 Q Did you go to any one of the doors when

003303

15

1 you -- after he left?

2 A I went to the slide- -- sliding glass door  
3 and I tried to lock it.

4 Q Were you able to?

5 A No.

6 Q What did you do after that?

7 A I was looking around for the phone and --

8 Q Were your hands still tied?

9 A Yes.

10 Q Were you able to get those bindings off of  
11 your hands?

12 A I had to go to the kitchen and get a knife  
13 and cut them off myself.

14 Q And that was the bathrobe tie?

15 A Uh-huh.

16 Q Is that a yes?

17 A Yes.

18 Q And you were able to cut through those ties  
19 and undo yourself?

20 A Yes.

21 Q Were you naked at that time?

22 A Yes, I was.

23 Q Did you get your clothes on?

24 A I went and got my robe.

003304

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1 Q Did you try and use the telephone?

2 A Yes, and it wouldn't work.

3 Q Had it worked prior to this?

4 A Yes.

5 Q It was operable the night before?

6 A Yes. Well, then he used it. I thought he  
7 used it. I heard the phone.

8 Q But when you tried to use it, it was  
9 inoperative?

10 A Yes.

11 Q Were you able to get the attention of the  
12 neighbors?

13 A I -- I moved the chair and I was screaming  
14 for a long, long time, and nobody would answer the door.  
15 And -- then, finally someone opened their door and they let  
16 me in and I -- I don't remember much after that.

17 Q Can you tell us what things were missing?

18 You said the car was missing,  
19 you were told. Anything else out of the apartment?

20 A I think my brother or I had a -- like a  
21 cassette thing, like a recorder, that -- that he took.

22 Q That belonged to your brother?

23 A Yes.

24 Q And it was gone?

**003305**

15

1 A Yes.

2 Q Anything else?

3 A I don't recall. I don't recall.

4 Q Mrs. Conrady, I'm going to show you a series  
5 of photographs --

6 MR. DUNLEAVY: Your Honor, may we approach  
7 for a moment?

8 THE COURT: Yes.

9 (Whereupon, an off-the-record  
10 discussion was had.)

11 BY MR. SEATON:

12 Q Now, Miss Conrady, I want to show you these  
13 photographs. And I'm going to look at the backs to get the  
14 numbers right.

15 I'm showing you Exhibits 111,  
16 112, 113, 114, and 115. And I would ask you to look each of  
17 these over and tell us if you recognize what they depict.

18 Just look at all of them and  
19 then we can talk.

20 A (Complies.)

21 Q Do you recognize all of those photographs?

22 A Yes, I do.

23 Q And what are they photographs of?

24 A My injuries at the hospital and later.

003306

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1 Q Did you go to the hospital after this event  
2 occurred?

3 A I went in an ambulance.

4 Q Some of the pictures were taken in the  
5 hospital?

6 A Yes, they were.

7 Q You obviously were in hospital clothes, as  
8 opposed to street clothes in those photographs?

9 A Yes.

10 Q And the others were taken two days later in  
11 your street clothes?

12 A Yes.

13 Q Do they fairly and accurately show the  
14 injuries that you received at the hands of Mr. Ripppo?

15 A Yes. I -- I -- I had an injury on my leg  
16 where he kicked me, but there is no pictures of that.

17 Q He kicked you in your leg also?

18 A Yes.

19 MR. SEATON: Judge, I'd move for the  
20 introduction into evidence of -- I think it's 111 through  
21 114 -- maybe -15 -- yeah, it is; it's 111 through 115.

22 THE COURT: They will be admitted.

23 (Whereupon, State's Exhibits  
24 111 through 115 were admitted  
into evidence.)

003307

MR. SEATON: May I show them to the jury?

THE COURT: You may.

(Whereupon, the exhibits were  
published to the Jury.)

BY MR. SEATON:

Q Showing you Exhibits 116 and 117, do you  
recognize the automobile depicted in both of those  
photographs?

A Yes. This is my car -- was my car.

Q This was your 1970 Fiat -- '75 Fiat?

A Yes.

Q You recognize the area where it's located?

A No.

Q Do you recognize any of the items on the  
ground, particularly shown in Exhibit -- well, actually in  
both, 116, but mostly 117, do you recognize any of those  
items?

A They were my things out of my car.

Q Did you place the car there?

A No, I did not.

Q Did you have anything to do with the items  
being scattered about?

A No, I did not.

Q Do these photographs fairly and accurately

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16

1 depict your car as it looked back in 1982?

2 A Yes.

3 MR. SEATON: I'd move for the admission of  
4 116 and 117 as well, Judge.

5 MR. DUNLEAVY: No objection, Your Honor.

6 THE COURT: 116 and 117 will be admitted.

7 (Whereupon, State's Exhibits  
8 116 and 117 were admitted  
9 into evidence and published  
to the jury.)

10 BY MR. SEATON:

11 Q What injuries did you receive?

12 Describe them for us, if you  
13 will.

14 A I had about 15 stitches behind my ear and I  
15 think a concussion, and my eyes were black and swollen, and  
16 I had a -- huge bump on my leg that they thought I might  
17 have chipped a bone in there.

18 Q Did you have any difficulty with your  
19 vision?

20 A Um, I have -- it took, like, a month for my  
21 eyes to not be red.

22 Q Mrs. Conrady, going back to 1982,  
23 immediately after this occurred, and for the next short  
24 period of time, can you tell us what kind of an effect these

003308

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1 injuries and this -- these events had upon you.

2 A Well, I never went back to the apartment. I  
3 was staying with my parents. I was -- I didn't go to work  
4 for a long time. Um, I -- I've never lived alone since.

5 Q Since then, since that happened?

6 Did you have to take any drugs?

7 A Um, they gave me Valium, I think, at the  
8 hospital for when I first got home.

9 Q Did you get any counseling?

10 A I did get counseling.

11 Q Did that do any good?

12 A It -- it helped, but, um, when you go  
13 through something like this, you just -- you never forget  
14 it.

15 Q How has it affected you in your later years?

16 A Um, just, like I said, I don't -- I'm never  
17 alone. I -- I have my children and I'm very protective over  
18 them. I -- I don't have babysitters, only my family. My  
19 husband teases me sometimes, but --

20 Q How about your attitude toward men before you  
21 got married?

22 A Um, I didn't like men at all for a long  
23 time. And I was going to move away and just -- just be by  
24 myself. And my husband is a -- is a great man.

003310



16

1 Q He's been there?

2 A Yes, he has.

3 Q Prior to your husband coming into your life,  
4 how about your self esteem?

5 A I had very low self esteem and I think you  
6 kind of always do. You're frightened a lot. I -- I  
7 don't -- I don't like to put myself in any kind of sit- --  
8 position. I'm always aware of my surroundings at all times.

9 Q How long did these events take place? How  
10 long was Mike Rippo in your apartment, that you are aware  
11 of?

12 A It seemed like forever. It was, um, over --  
13 over an hour, maybe two hours. It just -- Just didn't ever  
14 seem like it was going to end.

15 Q And tell us -- characterize for us, if you  
16 will, his demeanor, the way he acted throughout this entire  
17 procedure.

18 A Like I said, he -- he mumbled and he was  
19 just a very, very violent person.

20 Q Towards you?

21 A Yes.

22 Q You told us that, at one point in time, you  
23 were able to work the tube top out of your mouth so that you  
24 could speak with him and you did talk to him a great deal.

003311

16

1 Was there a reason behind that?

2 A I -- I knew that if I didn't do something, I  
3 was going to die, and I just was trying to talk to him and  
4 trying to -- just get him to leave me alone and  
5 understand -- you know, just begging him not to hurt me any  
6 more.

7 Q As it turned out, he left you?

8 A Yes, he did.

9 Q And he left you alive?

10 A Yes, he did.

11 Q Did he ever, at any time during the time  
12 that he was in your apartment, show you any remorse for what  
13 he had done to you?

14 A Absolutely not.

15 Q He didn't say he was sorry?

16 A No.

17 Q He didn't even act that way?

18 A No.

19 Q Was he always mean and violent to you?

20 A Yes.

21 Q Could you discern whether or not he was  
22 under the influence of any kind of substance, alcohol or  
23 drugs, or anything like that?

24 A No, I --

003312

16 1 MR. DUNLEAVY: Your Honor, there is no  
2 foundation she's qualified on that.

3 THE COURT: Sustained.

4 BY MR. SEATON:

5 Q Did you notice anything unusual about his  
6 behavior, other than that he was mean and violent?

7 A Unusual, as far as maybe the mumbling and  
8 the -- but not -- he hadn't been drinking.

9 Q Did you notice any odor on his breath?

10 A Not at all.

11 Q He got very close to you, did he not?

12 A Yes.

13 Q Did you notice any unusual aspects to his  
14 eyes in that --

15 A No.

16 Q -- the pupils were dilated?

17 A My brother had left some liquor bottles  
18 there and he never touched them or went to them the whole  
19 time that he was there. And --

20 Q When he walked, did he have any kind of a  
21 stagger?

22 A No. He was not under, you know, any -- that  
23 I could see, any kind of influence of anything.

24 Q But, you were under his influence?

003313

17 1 A Yes.

2 MR. SEATON: I have nothing further.

3 THE COURT: All right. Let's take about a  
4 ten-minute recess.

5 Remember: Do not discuss this  
6 case among yourselves or with anyone else; or

7 Read, watch, listen to any  
8 report or commentary on this case by any medium of  
9 information; or

10 Form or express any opinion on  
11 this case until the matter is finally submitted to you.

12 (Whereupon, a recess was had in  
13 the proceedings, at the  
14 conclusion of which the  
following was had:)

15 THE COURT: Mrs. Conrady still here?

16 MR. SEATON: I don't think anyone has told  
17 her to come back in, Judge.

18 Judge, for the record, we'd  
19 stipulate to the presence of the Jury.

20 THE COURT: Okay.

21 MR. DUNLEAVY: We do, too.

22 THE COURT: Okay. Thank you.

23 Cross-examination, Mr.  
24 Dunleavy?

003314

17

CROSS-EXAMINATION

BY MR. DUNLEAVY:

Q Good morning, ma'am.

A Good morning.

Q Conrady --

A Yes.

Q -- is that it?

I'm terrible with names, so

I'll try and remember.

I'm only going to ask you a few

questions.

When you came in, you were

asked if you could identify Mr. Rippe, and you picked him  
out.

Do you remember identifying him

from a photo lineup back in 1982?

A Yes, I do.

Q And would you recognize that photograph if  
you saw it?A I'm sure that I would. I -- well, I can't  
say that. It's been a long, long time ago.(Whereupon, a sotto voce at  
this time.)

003315

17

1 BY MR. DUNLEAVY:

2 Q What photographs were you shown?

3 A They gave me yearbooks to look through at  
4 the beginning, and I could not identify from the yearbook.

5 So then, they put out small  
6 photographs, and I -- on a table, and I picked it out from  
7 that.

8 Q And do you remember what the picture looks  
9 like or looked like that you identified?

10 A I'm sure -- it was a long, long time ago.

11 Q Would you remember it?

12 A I -- I can't -- I'm -- I think  
13 psychologically, all these years, that I could tell you all  
14 what he was wearing, but I kind of blocked that out for my  
15 own benefit; but when I saw him, I --

16 Q Well, if I show you a photograph, would you  
17 recollect --

18 A Oh, I'm sure that I would recognize it.

19 Q And if you don't, that's fine.

20 I show you what's been marked  
21 as Defense Exhibit L and ask you if this appears to be the  
22 photograph you saw; not the --

23 A It doesn't look like -- that doesn't look  
24 like the same photograph, but that's him.

003316

17

1 Q That's what he looked like when you saw him  
2 back in 1982, because, obviously, he's changed since 1982?

3 A Obviously, yes; but the face is --

4 Q He's the same person?

5 A Yes, it is.

6 Q Now, you said that when he came in, he asked  
7 you where is Mark --

8 A Yes.

9 Q -- or who is Mark or something like that?

10 A Yes.

11 Q And did he talk to you about having met your  
12 brother out at the Jacuzzi?

13 A No.

14 Q Do you remember him mentioning the Jacuzzi?

15 A No.

16 Q No. I'd like to show you your statement,  
17 page two, the very top, and see if that refreshes your  
18 recollection.

19 A Well, he might have mumbled something. It's  
20 been a long time. I --

21 Q I understand.

22 A I don't know.

23 Q But he did mention apparently something  
24 about your brother being out at the Jacuzzi?

003317

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17

1 A Yes.

2 MR. SEATON: Judge, that is not the state of  
3 the statement he just showed her.

4 BY MR. DUNLEAVY:

5 Q He did talk about the Jacuzzi, right?

6 A I -- if I wrote it, that's -- that's -- then  
7 that -- I remembered it at the time.

8 Q This is a lot fresher than what you remember  
9 today. It's been, what, 14 years?

10 A Yes.

11 Q Now, you also indicated that he showed you a  
12 picture of your boyfriend and asked you about his size,  
13 whether he was a big guy or not?

14 A Yes.

15 Q Did he comment on that one way or the other  
16 after he asked?

17 A Did he comment on my boyfriend?

18 Q Uh-huh.

19 A He just asked if he like -- if he liked to  
20 fight.

21 Q And then he asked you, in your statement  
22 here: Do you want to fuck; is that correct?

23 A Yes.

24 Q How many different times did he ask that, do

003318

18



18

1 you remember?

2 A Quite a few times.

3 Q Did he also ask you why don't you want to?

4 A Yes, he did.

5 Q And then you testified about the point where  
6 he had you on the bed and asked you to spread your legs; is  
7 that correct?

8 A Yes, yes.

9 Q Do you remember being asked, at the  
10 hospital, right after this, whether or not he had achieved  
11 penetration?

12 A I remember some extensive talk about it,  
13 yes.

14 Q And the options were yes, no or unknown.

15 A I don't recall that.

16 Q You don't remember answering unknown?

17 A No, I don't remember.

18 Q In your statement, did you indicate that he  
19 put his penis at my vagina?

20 A I -- I don't remember.

21 Um, what I remember talking to  
22 the officers about, and them talking to me about, is that  
23 they were saying sex, and to me that was, like, with my  
24 boyfriend, and this wasn't the same as that.

003319

18

1 Q Showing you page three, beginning where it  
2 says I believe --

3 A Yes.

4 Q -- is that an accurate description of what  
5 happened?

6 A Yes.

7 Q It said I had my eyes closed, but I felt him  
8 put his penis at my vagina; he started to push, and I begged  
9 him, please; then he said, why don't you want to; come on;  
10 and then he pulled away and said get up.

11 Is that correct?

12 A Yes.

13 Q Is that the only time he attempted to have  
14 intercourse?

15 A To have intercourse?

16 Q Yes.

17 A Yes.

18 Q And he was in your -- in your apartment for,  
19 you said, over an hour?

20 A Yes.

21 Q And he also -- he said -- several times, you  
22 mentioned he kept mumbling. What was he saying? Could you  
23 understand him?

24 A It's been a long time, but he --

003320

18 1 Q He would leave the room you were in and go  
2 into other rooms mumbling?  
3 A No, he never left me. He just would kind of  
4 pace.  
5 Q Don't you remember --  
6 A I never had any chance to get away.  
7 Q Well, I -- I know.  
8 But he tied you up and went in  
9 the other room mumbling?  
10 A Yes.  
11 Q And was he talking pretty much non-stop all  
12 the time he was there?  
13 A Not talking.  
14 Q Mumbling?  
15 A Yes, mumbling.  
16 Q So we all understand, what is mumbling to  
17 you? I mean, what does it mean to you?  
18 A I mean saying things and just kind of going  
19 off, things that I didn't -- didn't understand; just talking  
20 and where is this or where is that, and -- and just very  
21 strange.  
22 Q It wasn't a coherent flowing conversation?  
23 A Well, he wasn't talking to me.  
24 Q Was there anyone else in the room?

003321

18

1 A No.

2 Q So he was talking to himself or to imagined  
3 others, something like that?4 A Not an imagined other; Just, like, when he  
5 would -- talk about my boyfriend, and then I couldn't hear  
6 what he was saying or -- you know; and asking me things  
7 about Mark.8 And that's what -- I was so  
9 confused. I did not under- -- I knew that my brother did  
10 not know this person. I knew my brother's friends. And I  
11 did not understand how he knew my brother Mark.12 Q And somehow a conversation came up about  
13 whether or not you cut hair?

14 A Yes.

15 Q Do you remember how that came up?

16 A Because of the scissors.

17 Q Were they a special kind of scissors used  
18 for hair cutting or were they just household scissors?

19 A I don't recall.

20 Q And he did cut some of your hair; is that  
21 correct?

22 A Yes.

23 Q A lot or --

24 A Not a lot.

003322

18 1 Q It doesn't show in the photographs?

2 A No.

3 Q Have you ever dealt with anyone who is on  
4 PCP?

5 A No, I have not.

6 Q Do you know what the effects of it are?

7 A No, I do not.

8 MR. DUNLEAVY: Your Honor, I would ask for  
9 the admission of Defense Exhibit L.

10 MR. SEATON: I don't know its relevance,  
11 Judge. He didn't -- she couldn't identify it. She said it  
12 looks like him. We could get a lot of pictures that look  
13 like him --

14 THE COURT: I think you said it's the same  
15 face.

16 Didn't you say that?

17 THE WITNESS: Well, that's -- I mean, if you  
18 have -- that's a picture.

19 MR. DUNLEAVY: Of him?

20 THE WITNESS: Yes, but I don't think that's  
21 the one I picked in the lineup.

22 MR. DUNLEAVY: But this is one that looks  
23 like what he looked like at the time.

24 MR. SEATON: Judge, I don't mind. I'll let

003323

18 1 it come in.

2 THE COURT: All right. We'll admit it.

3 (Whereupon, Defendant's Exhibit  
4 L was admitted into evidence.)

5 MR. DUNLEAVY: I have no further questions,  
6 Your Honor. I would ask to publish the photograph to the  
7 Jury.

8 THE COURT: You may.

9 (Whereupon, the exhibit was  
10 published to the Jury.)

11 MR. WOLFSON: Your Honor, I have just a few  
12 questions, with the permission of the Court. It will just  
13 be very brief.

14 MR. SEATON: Well, Judge, I think the rule  
15 is one person asking the questions. I think Mr. Dunleavy is  
16 perfectly capable of asking questions of this witness.

17 MR. WOLFSON: First of all, the rule doesn't  
18 say that only one lawyer may ask questions. The rule says  
19 the Court controls the manner in which lawyers interrogate  
20 and ask witnesses questions.

21 And I just have about two or  
22 three questions.

23 THE COURT: Okay. I'll allow it. Go ahead.

24 MR. WOLFSON: Thank you.

003324

19

CROSS-EXAMINATION

BY MR. WOLFSON:

Q Ma'am, this is the first time you've had to testify about what happened, in a court of law; isn't that true?

A Yes.

Q After the incident, you, of course, cooperated with the police and you provided them with all of the information concerning this incident, didn't you?

A Yes.

Q And you do know that a case was filed against Michael for these crimes, don't you?

A Yes.

Q And you later learned, I'm assuming, that Michael pled guilty to a crime or crimes involving this incident.

Did you learn that?

A That he pled guilty to what he did to me?

Q Yes.

A Yes.

Q So you never had to testify until today; is that right?

A That's right.

MR. WOLFSON: Thank you. That's all. Thank

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19

1 you.

2 THE COURT: Redirect?

3 MR. SEATON: No, Judge.

4 THE COURT: Thank you very much.

5 Ma'am, you are excused.

6 (Whereupon, the witness  
7 was excused.)8 THE COURT: The State may call its next  
9 witness.

10 MR. SEATON: Joe Matvay.

11

12 Whereupon,

13 JOSEPH MATVAY14 having been called as a witness by the Plaintiff and  
15 having been first duly sworn to tell the truth, the  
16 whole truth and nothing but the truth, was examined  
17 and testified as follows:

18

19 THE CLERK: Thank you.

20 Would you be seated, please.

21 State your name and spell it  
22 for the record.

23 THE WITNESS: My name is Joseph G. Matvay.

24 The spelling of my last name is M-a-t-v-a-y.

003326



19

DIRECT EXAMINATION

BY MR. SEATON:

Q How are you employed?

A I'm a crime scene analyst supervisor with the Las Vegas Metropolitan Police Department.

Q And for how many years have you served in that capacity as a supervisor?

A Approximately one and a half years.

Q And how long have you been working with the crime lab?

A Approximately 16 and one-half years.

Q And could you briefly tell us what your duties are as a crime scene analyst.

A According to the police department manual, as a crime scene analyst, my job is to protect, gather, preserve and identify any and all physical evidence that indicates a crime has been committed, as well as the perpetrator of that crime.

This includes, but is not limited to, photographing crime scenes to provide a pictorial record of their appearance, searching crime scenes for potential physical evidence, collecting and impounding that physical evidence for later analysis, as well as processing crime scenes for latent impressions and the

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19

1 subsequent analysis of those latent impressions recovered  
2 from crime scenes.

3 Q Do you have certain expertise in footwear  
4 impressions?

5 A I do.

6 Q Could you tell us briefly what that -- first  
7 of all, what are footwear impressions; and then, how do you  
8 get -- come about your expertise?

9 A A footwear impression is a design or pattern  
10 that is left behind on an object or a surface from the outer  
11 sole or sole of a shoe that an individual may be wearing.

12 I have a Bachelor of Science  
13 degree in biology, as well as over 30 law credits in  
14 criminal justice and related areas, including courses in  
15 criminal evidence, crime scene investigation, and  
16 criminalistics.

17 In addition, I've attended and  
18 successfully completed numerous law enforcement officers  
19 training schools, including the National Law Enforcement  
20 Crime Scene Investigation School, the Federal Bureau of  
21 Investigations' Crime Scene Investigation school, the  
22 University of Louisville Scientific Investigation of Crime,  
23 the University of Louisville's Homicide Investigation  
24 School, Northwestern University's Advances in Crime Scene

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1 Technology school, Northwestern University's Investigative  
2 Photography school, Michigan State University's Forensic  
3 Pathology Investigation of Violent Death school, the Federal  
4 Bureau of Investigations' Fingerprint Classification school,  
5 the F.B.I.'s Latent Fingerprint Techniques school, the  
6 Federal Bureau of Investigations' Latent Fingerprint  
7 Photography school, the Federal Bureau of Investigations'  
8 Forensic Photography school, the F.B.I. Administrative  
9 Advance Latent Fingerprint Techniques school, as well as  
10 others.

11 Q Did you get good grades?

12 A Usually all As.

13 Q Mr. Matvay, have you testified in courts of  
14 law?

15 A I have.

16 Q On how many occasions, would you say?

17 A Approximately 250 occasions.

18 Q And have you qualified as an expert in the  
19 area of footwear comparisons?

20 A I have.

21 Q On January the 16th, 1982, did you have an  
22 occasion to go to 4775 Topaz?

23 A I did.

24 Q To a particular apartment?

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MR1 po-02058-R0003335

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1 A Yes. It was Apartment 227.

2 Q What were your duties at that time?

3 A I responded to that particular apartment to  
4 investigate the scene of a sexual assault.

5 Q And did you do so?

6 A Yes, sir.

7 Q During the course of that investigation, did  
8 you impound certain evidence?

9 A Yes, sir.

10 Q Could you tell us, with respect to clothing,  
11 any evidence that you may have impounded?

12 A There were numerous articles of clothing  
13 that I saw inside that particular apartment that I  
14 subsequently recovered and impounded. These included a pink  
15 colored pair of panties that was on a chair in the bedroom  
16 at the west end of the apartment. The panties were cut down  
17 the front of that particular garment.

18 I also found and recovered a  
19 white colored sweat shirt that was cut down the front of the  
20 garment. This was lying on the carpet in the bedroom.

21 Additionally, I recovered a  
22 purple colored sweat shirt that was cut down the back of the  
23 item. This, likewise, was lying on the carpet in the  
24 bedroom.

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20

1 And in the living room, at the  
2 east end of the apartment, there were two items that I found  
3 and recovered. These included a pink colored tube top that  
4 was cut, as well as a pink colored belt that also was cut.  
5 Both of these items bore apparent blood on them.

6 Q Did you find any hangers which you impounded  
7 into evidence?

8 A Yes, sir.

9 Q How many?

10 A Two.

11 Q What was their nature?

12 A In the bedroom, there was a wire clothes  
13 hanger that was unfastened at the top and the hanger was  
14 bent and twisted.

15 Q What do you mean by unfastened at the top?

16 A With respect to that clothes hanger,  
17 normally there is a curl in the wire near the top of the  
18 hanger that keeps it together. That curl was undone.

19 Q Was the wire then a -- a long -- elongated  
20 piece of wire?

21 A Yes, sir.

22 Q Rather than in the shape of a coat hanger?

23 A Yes, sir.

24 Q All right. And what more could you tell us

003381

20

1 about it?

2 A There was the one that I just mentioned in  
3 the bedroom at the west end of the apartment.

4 And, additionally, there was a  
5 similar wire clothes hanger that was lying on the carpet in  
6 the living room at the east end of the apartment. That also  
7 was undone or unfastened at the top, and was bent and  
8 twisted as well.

9 Q Did you find any electrical cords?

10 A Yes, sir.

11 Q Could you tell us how many, where, what  
12 their length was and where their condition was.

13 A Inside the apartment, there were five  
14 sections of cut electrical cord, three of which were in the  
15 bedroom at the west end of the apartment; one of those bore  
16 several knots and had multiple ends to it. They were all  
17 lying on various areas of the carpet in the bedroom.

18 Q Was that particular electrical cord cut in  
19 any manner?

20 A Yes, all sections were cut.

21 Q All right. What else?

22 A Additionally, in the living room, there were  
23 two other sections of cut electrical cord. These were both  
24 lying on the love seat in that particular room of the

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20

1 apartment.

2 Q Do you know the lengths of these various  
3 cords.

4 A I don't recall the exact lengths. If you  
5 want me to, I could consult my report to give you those  
6 exact dimensions.

7 Q Do you have your report with you?

8 A I do.

9 Q If you would do that, please.

10 I'm sorry. You had mentioned  
11 that there were five different cords which you impounded.

12 As to the first one with the  
13 knots in it, did you have any notations as to how long it  
14 was?

15 A No, but in my report, I indicated that it  
16 was one section of electrical cord, bearing several knots,  
17 having five cut ends and one male electrical plug at the one  
18 end.

19 Q Do you have any independent recollection as  
20 to approximately how big that cord was, how long it was?

21 A I don't.

22 Q Did you measure the other cords which you  
23 found?

24 A Yes, sir.

003333

20

1 Q And did you note the length of those various  
2 cords?

3 A Yes, sir.

4 Q Would you tell us the -- you mentioned that  
5 there were two others in the bedroom, besides the one with  
6 the five knots.

7 How long were the other two  
8 that were in the bedroom?

9 MR. DUNLEAVY: Your Honor, I'm going to  
10 object. What in the world is the relevance of how long  
11 these cords were?

12 MR. SEATON: Whether or not they can go  
13 around somebody's ankles.

14 MR. DUNLEAVY: So what? This is a 1992 case  
15 that he pled guilty to.

16 THE COURT: Overruled.

17 THE WITNESS: One of the other sections that  
18 I found and recovered from the bedroom, I've indicated in my  
19 report that it was one section of electrical cord  
20 approximately 20 and one-half inches in length; and with  
21 respect to the third section of electrical cord that I  
22 recovered from the bedroom, I have indicated that it was one  
23 section of electrical cord approximately 28 inches in  
24 length.

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1 Q And how about the two in the living room  
2 that you found?

3 A The one section I've indicated was one  
4 section of electrical cord approximately 15 inches in  
5 length; while the other was one section of electrical cord  
6 approximately 20 inches in length.

7 Q Mr. Matvay, did you impound a knife?

8 A I did.

9 Q And tell us the description of that knife,  
10 please.

11 A In the bedroom, there was a knife lying on  
12 the carpet at the foot of the bed. It was labeled Kitchen  
13 Delight and had an approximate eight and a half inch long  
14 serrated blade to it.

15 Q Did you notice whether or not there was a  
16 telephone in this particular apartment?

17 A There was.

18 Q Did you note the condition of that  
19 telephone?

20 A Yes, sir.

21 Q Tell us what it was.

22 A I observed in the living room a telephone to  
23 be lying on the carpet. The telephone consisted of two  
24 sections, the one being the hand piece and the other being

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1           1       the base or cradle of the telephone. I observed that the  
2           2       telephone was ripped from the wall.

3           Q       You say ripped from the wall.

4                       Can you further clarify that?

5           A       It was not attached to the wall outlet.

6           Q       Had it been unplugged or was it inoperative  
7           now because it had been ripped from the wall?

8           A       It was inoperative because it was broken.

9           Q       Did you test that particular telephone for  
10          any kinds of impressions that may have been left?

11          A       Yes, sir.

12          Q       Did you discover any?

13          A       I did.

14          Q       What kind of impression did you discover on  
15          that telephone?

16          A       With respect to both the hand piece, as well  
17          as the base of the telephone, I developed and recovered  
18          latent footwear impressions.

19          Q       Did you make out -- well, you've indicated  
20          already that you made out an evidence impound report; is  
21          that correct?

22          A       Yes, sir.

23          Q       And I'm showing you now what's been marked  
24          as State's proposed Exhibit 118.

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1                   Would you look through that and  
2 tell us whether or not that is an accurate copy of the  
3 impound report that you made as a result of these crimes.

4           A       Actually this is two reports. This would be  
5 my crime scene report as well as the evidence impound  
6 report.

7           Q       And does it accurately reflect all of the  
8 things you did and collected with respect to this crime?

9           A       Yes, sir.

10           MR. SEATON: I'd move for introduction,  
11 Judge.

12           MR. WOLFSON: No objection.

13           THE COURT: State's 118 will be admitted.

14                               (Whereupon, State's Exhibit  
15                               118 was admitted into  
                             evidence.)

16 BY MR. SEATON:

17           Q       Did you later go to another scene?

18           A       Yes, sir.

19           Q       Where was that?

20           A       After I completed my crime scene  
21 investigation at the apartment on Topaz, I then responded to  
22 Stephanie, approximately one-quarter of a mile north of  
23 Sunset Road.

24           Q       Is that in Green Valley, or the Green Valley

003337

1

1 area?

2 A Yes, sir.

3 Q What did you go there for?

4 A I learned that the victim's vehicle had been  
5 located at that location. It was a dark blue, 1975 Fiat  
6 automobile.7 Q Showing you what's been marked now as  
8 State's Exhibits 116 and 117, do you recognize that as the  
9 car that you went to near Stephanie and Sunset?

10 A Yes, sir, it is.

11 Q And what was the date that you went there?

12 A That was on January the 16th, 1982.

13 Q I note that in State's Exhibit 117, there  
14 are numerous items outside the car.15 Can you comment on those at  
16 all?17 A Yes. There were numerous items strewn about  
18 the vehicle. The item farthest away was approximately 150  
19 feet away from the vehicle, up to and including just below  
20 the doors of that particular vehicle. They included  
21 clothes, papers, books, as well as auto care products.

22 Q Thank you.

23 Did you do anything regarding  
24 footwear impressions with respect to this scene out at

003338

1

1 Stephanie and Green Valley?

2 A Yes, sir.

3 Q What did you do?

4 A I noticed that directly below the driver's  
5 side door, there was a footwear impression in the dirt. It  
6 was the same pattern or design of the footwear impression  
7 that I observed and recovered at the apartment on Topaz.

8 Q What about them were similar?

9 And before you -- I'm sorry.  
10 Let me interrupt and do this better.

11 You told us before that you  
12 found a footwear impression on a telephone in the living  
13 room at 4775 Topaz?

14 A Actually, it was the hand piece, as well as  
15 the base of the telephone.

16 Q Two separate footwear impressions?

17 A Yes, sir.

18 Q And did you then have an occasion to compare  
19 those footwear impressions to the footwear impression you  
20 saw out at the Stephanie-Sunset area?

21 A Yes, sir.

22 Q That was in the dirt just beneath the  
23 driver's door?

24 A That's correct.

003339

ME 122-02058-R000345

1 Q All right. And what did you notice about  
2 the comparison that you made between those footwear  
3 impressions?

4 A I noticed that the pattern of the outer  
5 sole, or the bottom of the shoe, was the same with respect  
6 to all of the impressions.

7 Q Did you ever get one of the defendant's  
8 tennis shoes?

9 A Actually both of his tennis shoes.

10 Q Both of his tennis shoes.

11 And where did those come from?

12 A They were impounded by a patrol officer by  
13 the name of George Curtis.

14 Q And how many days after this particular  
15 incident?

16 A Two days later, that being January the 18th,  
17 1982.

18 Q And did you have an occasion to compare  
19 those two tennis shoes and the soles of those tennis shoes  
20 to the footwear impressions which you had recovered both at  
21 the Topaz address and the location of the car?

22 A Yes, sir.

23 Q What was the result of your comparison?

24 A I determined that the latent footwear

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2 1 impression, which I developed and recovered from the base of  
2 the telephone, that was lying on the carpet in the living  
3 room at the west end of the apartment, was made by the right  
4 Puma tennis shoe that was subsequently impounded from the  
5 defendant Michael Ripppo.

6 Q Thank you.

7 And I'm showing you now State's  
8 111 through 115.

9 Would you look at those  
10 photographs and tell us if you recognize them.

11 A (Complies.)

12 Yes, I do recognize these  
13 photographs. They were each taken by myself.

14 Q And when and where did you take those  
15 photographs?

16 If you would refer to them in  
17 groups by number, please.

18 A With respect to Exhibits 113, 114 and 115,  
19 these photographs were taken by myself at the former  
20 Southern Nevada Memorial Hospital, Room B. I took these  
21 photographs of the victim Laura Martin.

22 Q And did you mention the ones -- the other  
23 two?

24 A Not yet.

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2

1 Q If you would, please.

2 A With respect to State's Proposed Exhibits  
3 Number 111 and 112, I took these photographs at the sexual  
4 assault unit of the detective bureau at Metro on June the  
5 18th, 1982.

6 Q Drawing your attention to State's Proposed  
7 Exhibit 115, would you hold that up and show it to the jury  
8 and then tell us the purpose for which you took that  
9 particular photograph.

10 A (Indicating). This photograph shows  
11 actually two things: The facial documentation of the  
12 victim, Laura Martin; as well as a ligature mark on the  
13 front of her neck around her throat. (Indicating)

14 Q Was there anything that you impounded at  
15 this scene that matched up to that particular ligature mark?

16 A The ligature mark apparent on her throat is  
17 consistent with the wire clothes hangers that I recovered  
18 from her apartment.

19 MR. SEATON: Thank you.

20 I have no further questions.

21 THE COURT: Cross-examination.

22 MR. WOLFSON: The defense has no questions.

23 THE COURT: Thank you, Mr. Matvay.

24 You are excused.

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2

1

THE WITNESS: Thank you, Judge.

2

(Whereupon, the witness  
was excused.)

3

4

THE COURT: The State may call its next  
witness.

5

6

MR. HARMON: Jack Hardin.

7

THE CLERK: Please remain standing and raise  
your right hand.

8

9

10

Whereupon,

11

JACK HARDIN

12

having been called as a witness by the Plaintiff and  
having been first duly sworn to tell the truth, the  
whole truth and nothing but the truth, was examined  
and testified as follows:

13

14

15

16

17

THE CLERK: Thank you.

18

Please be seated.

19

Would you state your name and

20

spell it for the record.

21

THE WITNESS: Jack Hardin; H-a-r-d-i-n.

22

23

DIRECT EXAMINATION

24

BY MR. HARMON:

003343

2 1 Q Mr. Hardin, what is your business or  
2 occupation?

3 A I'm now retired.

4 Q Do you have a background in law enforcement?

5 A Yes, sir. I worked for 13 years for the Las  
6 Vegas Police Department and retired as an assistant warden  
7 of the prisons after ten years.

8 Q An assistant warden in the State of Nevada  
9 prison system?

10 A The prison system, yes, sir.

11 Q You've indicated that you worked with the  
12 Las Vegas Metropolitan Police Department for 13 years?

13 A I was in my 13th year, yes.

14 Q Were you employed with that department in  
15 early April, 1981?

16 A Yes, sir, I was.

17 Q During that time frame, specifically April  
18 the 1st, 1981, did you have occasion to become involved in  
19 investigating a burglary which had occurred at a Radio Shack  
20 here in Las Vegas?

21 A Yes, sir.

22 Q Do you recall the approximate location of  
23 the particular Radio Shack which had been burglarized?

24 A It was around Nellis and Boulder Highway, I

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2 1 believe. Let me check my notes here.

2 Nellis and Bonanza area.

3 Excuse me.

4 Q Do you have a copy with you at the witness  
5 stand of an officer's report that you prepared?

6 A Yes, sir, I do.

7 Q Will it perhaps be necessary from time to  
8 time for you to refer to the report to refresh your memory?

9 A Most likely.

10 MR. HARMON: May he do that, Your Honor, on  
11 occasion?

12 THE COURT: Yes, he may.

13 BY MR. HARMON:

14 Q Have you determined now the location of the  
15 Radio Shack in question?

16 A Yes, sir. Nellis and Bonanza.

17 Q On April the 1st, did you receive  
18 information from an informant which caused you to go to a  
19 particular address?

20 A Yes, sir, I did.

21 Q What address did you respond to?

22 A I responded to an address of 5100 East  
23 Tropicana. Specifically the apartment I was interested in  
24 was 24-G.

003345

ME: PPO-07058-R000351

2 1 Q 5100 East Tropicana, Apartment 24-G?

3 2 A Yes, sir.

3 Q Why did you, on April the 1st, 1981, respond  
4 to that apartment?

5 A I was working general assignment division in  
6 burglary -- correction -- in the detective bureau. I  
7 received information from my informant that a burglary had  
8 occurred at the Radio Shack, and, in fact, that there was a  
9 jacket and a pry bar left on the roof.

10 I also -- the informant  
11 identified the suspects as one Michael Ripppo and a John  
12 Stevenson, both white males, approximately 16 years old.

13 He further indicated that they  
14 resided at the Stevenson's apartments, rented to the father  
15 at that address.

16 Q At the address being 5100 East Tropicana,  
17 Apartment 24-G?

18 A Yes, sir.

19 Q Do you recall about what time you responded  
20 to that location?

21 A No, I don't.

22 Q Was it during the daytime or at nighttime?

23 A It had to have been in the early evening.

24 Q Did you go there by yourself or with someone

003346

3  
1 else?

2 A No, with others.

3 Q Other Metropolitan Police Department  
4 officers?

5 A Yes. I called Juvenile detective Fred  
6 McGowan and Sergeant Winget; W-i-n-g-e-t, I believe.

7 Q What was the spelling on the first officer?

8 A I have to refer to my report.

9 Cap M-c-G-o-w-a-n.

10 Q When you arrived at the apartment on East  
11 Tropicana, did you make contact with an older gentleman?

12 A Yes, sir. I took up a point of observation  
13 on the apartment. I then saw an adult male exit the  
14 apartment and begin to work on a vehicle.

15 Q Did you make contact with that person?

16 A Yes, sir, I did.

17 Q Did you learn who it was?

18 A He identified himself as Mr. Stevenson, Sr.

19 Q Did you learn from Mr. Stevenson, Sr.  
20 whether he was familiar with the younger John Stevenson and  
21 a subject by the name of Mike Rippo?

22 A Yes, sir.

23 Q What did you learn from the elder Stevenson?

24 A I explained my po- -- my reason for

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3 1 investigating, and Mr. Stevenson stated there was a  
2 tremendous amount of electronic equipment and computer items  
3 in his residence, and he believed them to belong to Mr.  
4 Rippo, because, I believe the quote was, he's an electronic  
5 nut.

6 Q An electronics nut?

7 A Yes, sir.

8 Q During the course of your conversation with  
9 Mr. Stevenson, did you learn whether Mike Rippo was living  
10 at his address?

11 A Yes, sir.

12 Q What did he tell you?

13 A He said both subjects were living there. In  
14 fact, they had just left to go to the 7-Eleven and they  
15 would return shortly.

16 Q Both subjects meaning whom?

17 A Meaning John Stevenson, Sr. and Mark -- Mike  
18 Rippo.

19 Q As you spoke with the older Mr. Stevenson,  
20 did you have occasion at any point to see two subjects  
21 approaching 5100 East Tropicana?

22 A Yes, sir.

23 Q Tell us what happened.

24 A During my conversation with the senior

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3

1 Stevenson, the son -- meaning his son -- and Mr. Rippo  
2 approached the apartment. Upon seeing me -- actually some  
3 little kid in the area or some young juvenile tipped them  
4 off that we were there and they started running. I pursued  
5 on foot the subject and I apprehended Mr. Stevenson, Jr.

6 Q Were you successful in apprehending Mr.  
7 Rippo?

8 A I don't know exactly who took him into  
9 custody, but I booked him.

10 Q But he was also arrested --

11 A Yes.

12 Q -- that evening?

13 A Yes, sir.

14 Q After apprehending John Stevenson, Jr., did  
15 you, at any point, obtain a consent to search Apartment 24-G  
16 at 5100 East Tropicana?

17 A Yes, sir. After the person -- the foot  
18 pursuit and I took Mr. Stevenson, Jr. into custody, I walked  
19 him back to that apartment. I advised him of his rights per  
20 the Miranda.

21 And in an interview,  
22 subsequently, Mr. Stevenson, Sr., who was very cooperative,  
23 agreed to sign a consent to search form and urged his son to  
24 cooperate, which he did.

003349

3 1 We then entered the residence  
2 and Stevenson, Jr. pointed out the items.

3 Q When you say we entered the residence, are  
4 you referring to yourself and your fellow officers?

5 A Yes, sir.

6 Q What did you observe inside Apartment 24-G  
7 that day?

8 A A tremendous amount of computers and  
9 property that would belong to Radio Shacks was determined.  
10 I also recovered four weapons.

11 Q Where did you find four weapons?

12 A Inside the residence. I don't recall what  
13 closet. Stuff was in closets in the hallway.

14 Q For the record, will you identify what types  
15 of weapons these four were.

16 A One was a .22 blue steel Luger; one was a  
17 .22 caliber Luger revolver; one was a .357 Luger; and one  
18 was a Bauer, .25 caliber. All of these items were, of  
19 course, tagged and marked and placed into evidence with the  
20 appropriate DR number.

21 Q Did you determine from your conversation  
22 with the elder Mr. Stevenson whether the four firearms you  
23 have just identified belonged to him?

24 A No, sir, they didn't.

003350



4

1 Q You said they did not belong to him?

2 A They didn't belong to him. We ran a check  
3 on them and they came back negative at the time, no wants,  
4 no registration, nothing.

5 Q Did you learn, through conversation you had  
6 after the apprehension of the younger Mr. Stevenson, how it  
7 was that the guns happened to be at the residence?

8 A I don't recall.

9 Q Did you also, in addition to the firearms,  
10 impound the various items of electronics equipment that you  
11 observed inside the apartment?

12 A Yes.

13 Q Mr. Hardin, did there come a time, in  
14 connection with the investigation, that representatives from  
15 two businesses were invited to come down to the crime lab of  
16 the Las Vegas Metropolitan Police Department?

17 A The investigation revealed that Radio Shack  
18 and Holman's of Nevada were both victims, and other unknown  
19 victims of the burglary. Two representatives, one from each  
20 company, arrived at the I.D. lab and took possession of  
21 their property after it was photographed and recorded.

22 Q Was this also on April the 1st, 1981?

23 A Yes.

24 Q You've already identified the victim as the

003351

4

1 Radio Shack located at Nellis and Boulder Highway?

2 A Yes, sir.

3 Q Did a representative of that business come  
4 to the crime lab of the police department?

5 A Yes. The name was Ruby Wayland.

6 Q Will you spell Wayland for the record,  
7 please?

8 A W-a-y-l-a-n-d.

9 Q Did Miss Wayland identify property which had  
10 been taken in a burglary occurring at Radio Shack?

11 A Yes, sir, he did.

12 Q It was a mister.

13 I had indicated Miss, I think.

14 A I don't know.

15 Q Well --

16 A The representative?

17 The representative arrived from  
18 Radio Shack and took possession.

19 Q I'm trying to determine the gender of Ruby  
20 Wayland.

21 A It sounds like a female to me.

22 Q Okay. Whether male or female, is it  
23 accurate that that representative of Radio Shack identified  
24 various property stolen from their business?

003352

4

1 A Yes, sir.

2 Q Now, you've also mentioned that there was a  
3 representative of Holman's of Nevada.

4 A Yes, sir.

5 Q Is Holman's H-o-l-m-a-n-s?

6 A M-a-n, perhaps. I'm not sure of the correct  
7 spelling. I have H-o-l-m-a-n.

8 Q Was that a business located at 3515 West  
9 Charleston?

10 A Yes, sir.

11 Q Here in Las Vegas also?

12 A Yes, sir.

13 Q Do you recall the name of the representative  
14 of that business?

15 A I have to refer to my report.

16 Q Would that assist you in refreshing your  
17 memory?

18 A Yes, sir. I don't know the name.

19 Q But can you determine, from your officer's  
20 report prepared back in 1981, that a representative of  
21 Holman's of Nevada did respond to the crime lab?

22 A Yes, sir.

23 Q Did that representative also identify  
24 properties taken in a burglary of Holman's of Nevada?

003353

4

1 A Yes, sir.

2 Q And were -- these properties identified by  
3 both representatives of Radio Shack and Holman's of Nevada  
4 properties, you had been involved in impounding from 5100  
5 East Tropicana, Apartment 24-6?

6 A Yes, sir.

7 Q You mentioned earlier that you personally  
8 booked Mr. Rippo after his arrest?

9 A And Mr. Stevenson, Jr.

10 Q I think you've mentioned that they were  
11 juveniles?

12 A Yes, sir.

13 Q Where were they taken after their arrest?

14 A To the Clark County Juvenile home.

15 Q And, to your knowledge, were they booked on  
16 two counts of burglary?

17 A Mr. Rippo was booked for three counts of  
18 burglary and two counts of possession of stolen property;  
19 and additionally had a runaway juvenile charge.

20 Q All right.

21 A Mr. Stevenson was booked for one count of  
22 burglary and one count of possession of stolen property.

23 MR. HARMON: Your Honor, that concludes  
24 direct examination.

003354

MRIPPO-07058-R0903360

4

1 THE COURT: Cross-examination.

2

3

CROSS-EXAMINATION

4

BY MR. WOLFSON:

5

Q Good afternoon, sir.

6

A Good afternoon.

7

Q Could you please tell me what you based Mr.

8

Rippo's booking for a runaway on? Why did you book him for  
9 that charge?

10

A From information I received from Mr.

11

McGowan.

12

Q Who was Mr. McGowan?

13

A He's the detective with the Juvenile

14

division at the time.

15

Q When did you receive this information from

16

Officer McGowan? After you had taken Mr. Rippo into  
17 custody?

18

A You know, I don't recall.

19

Q When you went to this location on April 1st,

20

1981, did you then have that information about a runaway

21

charge, or did you learn it after you got there and

22

conducted your investigation?

23

A It indicates in my -- my reports indicate to

24

me that I had prior knowledge, that McGow- -- from Mr. --

003355

5

5

1 from Detective McGowan.

2 Q And are you referring to a report that's in  
3 front of you?

4 A Yes.

5 Q Are you referring to your officer's report  
6 of April 2nd, 1981?

7 A Yes.

8 Q What page are you referring to, if I may?

9 A Second page.

10 Q And where on that page?

11 A Second paragraph.

12 Q Okay. Thank you.

13 So from your report, you  
14 learned that Michael Rippo was listed as a runaway juvenile;  
15 is that right?

16 A Yes, sir.

17 Q What does that mean, that somebody was  
18 listed as a runaway juvenile?

19 A That means that someone had reported him as  
20 a runaway.

21 Q More likely --

22 A I don't know.

23 Q More likely a parent or a guardian?

24 A It could be.

003356

5           1           Q       And do you know, as you sit here today,  
2 anything about the listing of Mr. Rippo as a runaway?

3           A       None. I have no idea.

4           Q       Was there a warrant issued for his arrest as  
5 a result of being a listed runaway?

6           A       I don't recall.

7           Q       Is that common or uncommon?

8           A       I would think that there was some type of  
9 evidence there to warrant that type of activity.

10          Q       Well, would it be fair to say that, as a  
11 police officer, when you'd run a warrants or records check  
12 on somebody, if a juvenile is a runaway, it would show up on  
13 your computer as a runaway, and that's how you would learn  
14 that this person is a listed runaway?

15          A       Through the records check.

16          Q       So it's not necessarily that there is a  
17 warrant for his arrest, but more probably that a parent or  
18 guardian had listed their juvenile as a runaway?

19          A       Possibly.

20          Q       When were you a Metro officer, Mr. Hardin,  
21 what years?

22          A       July of '70 to '82.

23          Q       So from '70 to '82, you were a Metro police  
24 officer --

003357

5

1 A Yes, sir.

2 Q -- and then in 1982, did you become employed  
3 by the Nevada Department of --

4 A '84.

5 Q '84?

6 A I had a year and a half.

7 Q Okay. I can barely hear you, sir.

8 A I took a year and a half.

9 Q Okay.

10 A In 1984, I joined the prison system.

11 Q Okay. And how long were you employed in the  
12 prison system?

13 A I just recently retired, about a year ago.

14 Q So about 10, 11, 12 years?

15 A Yes.

16 Q When you became employed in the Department  
17 of Prisons, what rank did you first become employed as?

18 A I started out as a correctional officer  
19 trainee; and then, after a year, you are automatically moved  
20 up to a correctional officer.

21 Sixty-four days later, I made  
22 senior, which is a two striper. Less than six -- I think a  
23 year later, I made sergeant. A year to the date, I made  
24 lieutenant; and a year to the date, plus three days, I made

003358



5 1 associate warden.

2 Q From the years of approximately 1984 through  
3 1989, were you aware of whether or not there were any  
4 counseling services for sex offenders?

5 A '84 to '89?

6 Q Yes.

7 A There are some.

8 Q Pardon me?

9 A Was I aware through the present? Yes.

10 Q Okay. What kind of counseling is provided  
11 to a sex offender in the Nevada Department of Prisons?

12 And the reason I say '84  
13 through '89 is that's the relevant time period.

14 A Well, that's handled by the associate warden  
15 of the prison. I was associate warden of operations.

16 Q So this was outside of your --

17 A It was outside of my scope.

18 Q -- assignment?

19 A Yes.

20 MR. WOLFSON: Court's indulgence.

21 (Whereupon, a sotto voce at  
22 this time.)

23 BY MR. WOLFSON:

24 Q Mr. Hardin, did you ever learn how long Mr.

003359

5           1       Rippo had been at the Stevenson house up until the time you  
2           2       arrested him?

3           3       A       I was just told he was living there. No, I  
4           4       don't.

5           5       Q       You didn't learn for what period of time?

6           6       A       If I did, I don't recall it.

7           MR. WOLFSON: Okay. Thank you.

8                       That concludes my examination.

9           THE COURT: Redirect?

10          MR. HARMON: No further questions, Your  
11          Honor.

12          THE COURT: Thank you, Mr. Hardin.

13                       You are excused.

14          THE WITNESS: Yes, sir.

15                       (Whereupon, the witness  
16                       was excused.)

17          THE COURT: The State may call its next  
18          witness.

19          MR. HARMON: Don Miner.

20          THE CLERK: Step over here, please.

21          THE COURT: Over here, sir.

22          THE CLERK: Right up here, please.

23                       Remain standing and raise your  
24          right hand.

003360

Whereupon,

DON MINER

having been called as a witness by the Plaintiff and  
having been first duly sworn to tell the truth, the  
whole truth and nothing but the truth, was examined  
and testified as follows:

THE CLERK: Thank you.

Please be seated.

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

THE WITNESS: My name is Don Miner.

And what else did you want?

THE COURT: Spell it for the record.

THE WITNESS: D-o-n; M-i-n-e-r.

DIRECT EXAMINATION

BY MR. HARMON:

Q Mr. Miner, what is your business or  
occupation?

A I'm currently retired from Clark County  
Juvenile Court Services.

Q How long were you employed by Clark County

003361

6

1 Juvenile Court Services?

2 A Twenty-eight years.

3 Q What were your duties with the Clark County  
4 Juvenile Court Services during the term of your employment  
5 there?

6 A They varied. I worked in one of five  
7 divisions at any given time. I ultimately worked in each,  
8 and that included the detention center, probation,  
9 protective services, Spring Mountain Youth Camp, and  
10 which -- I don't know if I mentioned probation. I think I  
11 did, but --

12 The -- and I also worked at  
13 five different levels in that. I started as a group life  
14 supervisor in 1965. I went on to become a supervisor at the  
15 institution. I worked at probation as a probation officer.  
16 I was promoted to a program coordinator -- or Supervisor  
17 I -- excuse me -- and then to a program coordinator; and I  
18 served briefly as the supervisor of detention services.

19 MR. HARMON: May I approach the witness,  
20 Your Honor?

21 THE COURT: You may.

22 BY MR. HARMON:

23 Q Mr. Miner, I'm showing you what the clerk  
24 has marked as proposed Exhibit 119.

003362

NR1100-07058-80003368

6

1 Will you examine briefly the  
2 documents, and after you have done so, will you tell us if  
3 they appear to be Clark County Juvenile Court Services  
4 records?

5 A They do.

6 Q Do all of the documents which make up  
7 proposed Exhibit 119 appear to be copies of records  
8 prepared, kept and maintained in the ordinary course of  
9 business of Clark County Juvenile Court Services?

10 A Yes.

11 Q Are you able to tell by examining the  
12 records if they relate to a particular juvenile?

13 A Yes.

14 Q What juvenile?

15 A Michael Ripppo.

16 Q By examining the records, do you see a  
17 number of documents which appear to have been prepared by  
18 someone identified as E.E. Winn, W-i-n-n?

19 A Yes, I see that.

20 Q Do you know Mr. Winn?

21 A I knew Mr. Winn fairly well, yes. Mr. Winn  
22 is deceased now, but --

23 Q Is now deceased?

24 A Yes.

003363

6

1 Q Did he formerly work for Clark County  
2 Juvenile Court Services?

3 A He did, yes.

4 Q Did you ever supervise any of his work?

5 A I did on a second level. I supervised his  
6 supervisor.

7 Q Now, regarding the records which are before  
8 you as proposed Exhibit 119, Mr. Miner, can you tell us, in  
9 the calendar year 1981, if there were Juvenile court  
10 proceedings initiated against Michael Ripppo which involve  
11 charges of his being a runaway and two counts of burglary,  
12 the victims being identified as Holman's of Nevada and Radio  
13 Shack?

14 A Yes.

15 Q Were there such proceedings?

16 A Yes, there were.

17 Q Are you able to tell us on or about April  
18 the 29th, 1981, whether there was a disposition made by the  
19 Juvenile court judge?

20 A Yes.

21 Q According to the records before you,  
22 proposed 119, what was the disposition.

23 A I -- I'm not sure which of the charges --  
24 the CHINS charge, CHINS runaway charge, and there were two

003364

6

1 burglary charges.

2 Q Was there a commitment to the Spring  
3 Mountain Youth Camp?

4 A There was.

5 Q Did that occur on April the 29th, 1981?

6 A Excuse me a moment. Let me check this, if I  
7 may.

8 Okay. Michael Ripppo was  
9 committed to Spring Mountain -- pardon me -- on April 29th,  
10 1981, that's correct, by the Honorable Jack Butler.

11 Q What was the position of the Honorable Jack  
12 Butler?

13 A The position?

14 Q Yes. What was his position --

15 A His position was juvenile referee or acting  
16 judge at the time.

17 Q Is Butler, for the record, B-u-t-l-e-r?

18 A Yes, it is.

19 Q How long, according to the records, was Mr.  
20 Ripppo committed to Spring Mountain Youth Camp?

21 A Ah, he was committed three months and so  
22 many days, I believe. I haven't got the exact time here,  
23 but it was from April 29th, 1981 to August 26th, 1981.

24 Q According to the records before you, was Mr.

003365

MRIPPO-92058-R0003371

6 1 Rippo released from Spring Mountain Youth Camp on August the  
2 26th, 1981?

3 A He was released on August 26th, yes, 1981.

4 Q What type of facility is Spring Mountain  
5 Youth Camp?

6 A Spring Mountain Youth Camp is located in an  
7 elevation of about 9,000 feet. It's -- it's for delinquent  
8 youth; primarily, youth have been sent there for committing  
9 crimes that would be considered a felony if they were an  
10 adult.

11 Q Is it a fact that all persons sent to that  
12 facility are being handled as juveniles within the juvenile  
13 court system?

14 A Yes.

7 15 Q Do the records before you, proposed Exhibit  
16 119, indicate whether, at any time, Mike Rippo, the juvenile  
17 being processed within the system, made admissions regarding  
18 the burglaries occurring at Holman's of Nevada and Radio  
19 Shack?

20 A Yes, Mike Rippo admitted committing the  
21 burglaries at a plea hearing before the Honorable Jack  
22 Butler, on the date April 9th, 1981. That's the date I  
23 have.

24 Q Did he indicate whose idea it was to commit

003366



7

1 the burglaries?

2 A That I'm vague on, but I had thought another  
3 young man was initially mentioned of committing the  
4 burglaries with him; but, in turn, that was straightened out  
5 by Michael himself, I think, who admitted to doing them  
6 himself.

7 Q Did Mr. Rippo acknowledge entering both  
8 businesses at the time of the burglaries?

9 A To my knowledge, he did.

10 Q Do the Juvenile records, which you have at  
11 the witness stand, also contain documents prepared by the  
12 Juvenile victims assistant program?

13 A Yes.

14 Q Do those documents indicate the amount of  
15 loss to the two businesses that were burglarized?

16 A Yes, they do.

17 Q Regarding Holman's of Nevada, what was the  
18 total amount of loss incurred by that business as a result  
19 of a burglary perpetrated upon them by the juvenile Mike  
20 Rippo?

21 A That amount was \$10,186.84, I believe.

22 Q You indicated \$10,186.84?

23 A Yes.

24 Q Regarding the Radio Shack, what was the

003367

7

1 total amount of loss to that business?

2 A That amount was \$3,142.27.

3 MR. HARMON: That concludes direct  
4 examination, Your Honor.

5 THE COURT: Cross-examination.

6 Mr. Dunleavy?

7

8 CROSS-EXAMINATION

9 BY MR. DUNLEAVY:

10 Q So you've worked just about everywhere in  
11 the juvenile system in Clark County?

12 A I have, yes.

13 Q Did you prepare the report or have you  
14 reviewed the reports on this case?

15 A I reviewed the reports -- first question:  
16 No, I did not prepare the reports.

17 Second question: Yes, I have  
18 reviewed them.

19 Q And you are familiar with these kind of  
20 reports; you've been doing it for 28 years?

21 A Yes.

22 Q Now, there was a probation officer's report  
23 prepared; is that correct?

24 A Correct.

003368

7

1 Q Is that in the packet of papers you have  
2 with you?

3 A I -- yes, it is.

4 Q Okay. There is also a transcript of  
5 proceedings, dated April 29th, 1981?

6 A I believe I have that too.

7 Q And an order dated April 29th, 1981?

8 A Yes, yes.

9 Q In the probation officer's report, and I  
10 believe you already testified, Mr. Rippe -- originally, you  
11 thought there were two boys involved in the burglaries. Mr.  
12 Rippe cleared it up and said he was the one that did it; is  
13 that correct?

14 A That's what I believe I read, yes.

15 Q Do you know if he had been in trouble  
16 before?

17 A I don't think he had come before the court  
18 system prior to the runaway CHINS charge, as I recall.

19 Q And he was picked up on that in conjunction  
20 with these burglaries, was he not?

21 A I think he was.

22 Q So this was basically his first trip in to  
23 the justice system?

24 A Probably.

003369

7

1 Q Do you have any indications otherwise?

2 A None, other than that has happened often  
3 before, and it's been taken -- the situation has usually  
4 been taken care of informally with other kids.

5 Q So you don't have any information to the  
6 contrary?

7 A No, not to him, no.

8 Q And you have the transcript of proceedings  
9 from that day; is that correct?

10 A I believe I have it here.

11 Q Do you know what the recommendation was as  
12 to disposition in this case?

13 A The recommendation, I believe, was formal  
14 probation.

15 Q Do you know why he didn't get formal  
16 probation?

17 A I will have to kind of take a guess. I -- I  
18 think he didn't get it because someone else had testified  
19 that they felt he should -- it should be looked at more  
20 seriously, what had happened, than what the initial  
21 probation officer had recommended.

22 Q Would you look at page three of that  
23 transcript?

24 A Sure. This was written by Mr. Winn --

003370

7 1 Q Well, the transcript should be from the  
2 hearing; is that correct?

3 Q The transcript of proceedings, April 29th,  
4 1981.

5 A Yes.

6 Q Page three, roughly beginning at line 19, I  
7 believe.

8 A Okay. Here we go. I'm sorry. Page three.

9 Q Yes. If you would start basically line 19  
10 and read that part --

11 A Okay. Line 19?

12 Q Uh-huh.

13 A Okay.

14 THE COURT: Was that a yes?

15 MR. DUNLEAVY: Yes.

16 THE WITNESS: (Complies.) Okay.

17 BY MR. DUNLEAVY:

18 Q Does it indicate that his mother is the one  
19 that was asking that he shouldn't be returned home?

20 A It indicates to me that she felt he should  
21 be placed at Spring Mountain.

22 Q And I believe -- on line 23, did she make  
23 any specific request?

8 24 A She made the request that -- she said I

003371

8

1 think he needs psychological help.

2 Q Is that something that was in the purview of  
3 the juvenile court system, to do things like that?

4 A That could be done, yes.

5 Q Did Spring Mountain have psychological  
6 facilities?

7 A They did. They had access to --

8 Q Psychologists and so forth?

9 A They had access to them, yeah. In 1981, I  
10 don't -- yes, they did. They -- they usually would send the  
11 kids in to town for psychological testing, but -- the ones  
12 that they felt needed it.

13 Q Did they have psychiatrists or psychologists  
14 on staff out at Spring Mountain to help the children?

15 A In 1981, I don't believe they did. I  
16 believe we had to use the Juvenile Court Services location  
17 on Bonanza Road for that.

18 Q As a matter of fact, there was an order  
19 entered on April 29th, 1981 as well, was there not?

20 A Yes, I believe there was.

21 Q Would you look at that order for a moment.

22 A Sure.

23 Q Have you found the order?

24 A I have.

003372

8 1 Q Line 28 of the first page, does it make any  
2 reference to what appears to be a follow-up on the statement  
3 made by the mother?

4 A It could be interpreted as that, I would  
5 think, yes.

6 Q Didn't it say that as part of the findings  
7 that he is an emotionally disturbed child?

8 A Yes, it does say that.

9 Q This was the finding of the juvenile court?

10 A Yes.

11 Q The order that remanded him to Spring  
12 Mountain?

13 A Yes.

14 Q Now, this is the order that sent him to  
15 Spring Mountain, correct? (Indicating)

16 A Uh-huh, yes.

17 Q Does it have a date how long he has to be  
18 there?

19 A No.

20 Q How long -- how is that determined?

21 A That's usually determined by the -- there is  
22 a treatment team that outlines specific goals and objectives  
23 for the youth to accomplish while he's at Spring Mountain  
24 Youth Camp, according to his needs and why he's sent there.

003373

8

1 So the time line is not  
2 specific until after he's there for a certain period of  
3 time; and then usually that treatment team will -- will  
4 monitor his progress as he goes along, after they lay down a  
5 treatment plan, and according to his -- his ability to  
6 follow it. And he would then -- his release would then be  
7 determined on that.

8 Q So there is no definite release date --

9 A No.

10 Q It's whenever they feel that he's met all  
11 the criteria for the release?

12 A Yes, that's true.

13 Q They're not required to release him early or  
14 anything other than --

15 A No, no.

16 Q He -- he complies with the program or that's  
17 it?

18 A Yes.

19 Q And if he really abuses the system, he can  
20 go there for quite a while?

21 A That's a possibility, yeah.

22 Q Does Nevada also have a juvenile facility  
23 called Elko?

24 A Yes, they do.

003374



8

1 Q What's the difference?

2 A The difference has changed substantially  
3 over the years.

4 Q Well, we're talking 1981, '82.

5 A Okay. Well, the Nevada Youth Institution in  
6 Elko was usually considered a placement for more serious  
7 offenders.

8 Q But, if you had someone at Spring Mountain  
9 that caused serious problems, could they ship them to Elko?

10 A Oh, yes.

11 Q That was --

12 A Sure.

13 Q -- an alternative available?

14 A Yes, yes.

15 Q Is it unusual to have someone facing charges  
16 like these in the Juvenile court without an attorney?

17 A Well, I would say so, yes.

18 Q May I see the exhibit for a second?

19 A Sure, which one?

20 MR. DUNLEAVY: The one the State handed you.

21 (Whereupon, a sotto voce at  
22 this time.)

23 MR. DUNLEAVY: Is this all marked as one?

24 MR. HARMON: Yes.

THE WITNESS: Here, do you want the

003375

8

1 transcript too, sir?

2 MR. HARMON: It's all one.

3 BY MR. DUNLEAVY:

4 Q Was this yours or --

5 A Where is that -- it probably is mine. I  
6 mix -- I got some things mixed in there. My income tax;  
7 sorry.

8 MR. DUNLEAVY: May we approach the bench for  
9 Just a second, Your Honor?

10 THE COURT: Yes.

11 (Whereupon, an off-the-record  
12 discussion was had.)

13 MR. DUNLEAVY: Your Honor, I would ask that  
14 119, as a bundle, be admitted into evidence in its entirety.  
15 And I believe the State has no  
16 opposition.

17 MR. HARMON: There is no objection, Your  
18 Honor.

19 THE COURT: 119 will be admitted.

20  
21 (Whereupon, State's Exhibit  
22 119 was admitted into  
evidence.)

23 MR. DUNLEAVY: Court's indulgence for one  
24 second.

003376

(Whereupon, a sotto voce at this time.)

BY MR. DUNLEAVY:

Q Have you ever heard of people at Spring Mountain being kicked out because they need to remodel or something like that, cut the program short?

A Kicked out? Never.

Q Sent home early because they needed to paint or rere remodel or anything like that?

A Not that I recall, huh-uh.

Q So if somebody left Spring Mountain, it would be because they completed the program or if they refused to complete the program, they can go back for further adjudication?

A Well, they would leave, you know. There were exceptions, temporary leave, deaths in the family, things like that.

Q But, other than something extraordinary like that, basically the options were you left because you had satisfactorily completed the program --

A Yes.

Q -- or you left for further adjudication and transfer to Elko?

A Yes.

MR. DUNLEAVY: Thank you.

003377

9

1 No further questions.

2 THE COURT: Redirect?

3 MR. HARMON: Very briefly, Your Honor.

4

5

REDIRECT EXAMINATION

6

BY MR. HARMON:

7

Q Mr. Miner, you mentioned, both on direct and

8

cross-examination, runaway, and then you said CHINS.

9

A Yes.

10

Q Is that C-h-i-n-s?

11

A Correct.

12

Q What does that refer to?

13

A Children in need of supervision.

14

Q The description, according to the records,

15

was applicable to Mike Ripppo in 1981?

16

A I -- yes.

17

Q You've been directed on cross-examination --

18

excuse me. Could I have this, please -- to the transcript

19

of juvenile court proceedings, which occurred on April the

20

19th, 1981 -- in fact, you were asked specifically about the

21

statement made by the defendant's mother.

22

A Yes.

23

Q For the record, what is her name?

24

A Offhand, I don't know her name, so --

003378

9 1 Q Will you examine the cover sheet of the  
2 transcript of proceedings. I think you'll find the parties  
3 who were present listed there.

4 A Well, the first sheet I have here doesn't --  
5 you would have to give me a little more -- it isn't on my  
6 first sheet that I know of.

7 Q I'm sorry. Excuse me. I'm referring to the  
8 transcript of the proceedings which occurred April the 19th,  
9 1981, at the time of the juvenile court referee's  
10 disposition.

11 A Yes. The mother's name was Carol Anzini,  
12 A-n-z-i-n-i.

13 Q Now, direct your attention to page three of  
14 the transcript of those proceedings, beginning with line 19,  
15 through line 29, will you indicate to us what the statement  
16 was of the mother of Mr. Rippo?

17 A Yes. Could I read that? You want me to  
18 read that to you?

19 Q Yes, lines 19 through 29 --

20 A All right.

21 Q -- on page three of the transcript.

22 A Okay. By the mother:

23 I feel that right now, my  
24 husband is still in the home, it just blew up yesterday, and

003379

9 1 I feel that I do not trust my son anymore. And I'm afraid  
2 to have him come home right now, even when my husband does  
3 leave, which is what I want to happen, but I think he needs  
4 psychological help, some tests done on him. I don't feel he  
5 should be allowed to run free in the streets.

6 I agree with the District  
7 Attorney here, as far as associating with the Stevensons,  
8 but I feel he should be placed at Spring Mountain Youth Camp  
9 until we can decide when he's -- what is going to happen in  
10 my life. I really don't know what else to do with him right  
11 now.

12 MR. HARMON: Thank you, sir.

13 That concludes redirect, Your  
14 Honor.

15 THE COURT: Cross, Mr. Dunleavy?

16 MR. DUNLEAVY: Court's indulgence one  
17 second.

18 No further questions, Your  
19 Honor.

20 THE COURT: No more questions?

21 MR. DUNLEAVY: No questions.

22 THE COURT: Thank you. You are excused.

23 (Whereupon, the witness  
was excused.)

24 THE COURT: Do you have another witness?

003380

9 1 MR. SEATON: We do, Judge.

2 THE COURT: Okay.

3 MR. SEATON: Robert Sergi.

4 THE BAILIFF: Thank you.

5 THE CLERK: Will you step forward, please.

6 Remain standing and please  
7 raise your right hand.

8  
9 Whereupon,

10 ROBERT SERGI

11 having been called as a witness by the Plaintiff and  
12 having been first duly sworn to tell the truth, the  
13 whole truth and nothing but the truth, was examined  
14 and testified as follows:

15  
16 THE CLERK: Thank you. Please be seated.

17 Will you state your name and  
18 spell it for the record.

19 THE WITNESS: Robert Joseph Sergi.

20 THE CLERK: Spell it, please.

21 THE WITNESS: S-e-r-g-i.

22  
23 DIRECT EXAMINATION

24 BY MR. SEATON:

003381

- 9           1           Q       Mr. Sergi, how are you employed?
- 2           A       I work for the Clark County Juvenile court.
- 3           I'm a probation officer. I work at Spring Mountain Youth
- 4           Camp.
- 5           Q       How long have you worked for Juvenile?
- 6           A       I completed my 17th year March 3rd, 1990 --
- 7           Q       I'm sorry?
- 8           A       -- 1996,
- 9           Q       And how long have you worked at Spring
- 10           Mountain Youth Camp?
- 11           A       Sixteen of the 17 years.
- 12           Q       Where is it located?
- 13           A       It's at Mount Charleston.
- 14           Q       What are your duties there?
- 15           A       We provide group life supervision,
- 16           individual and groups, counseling; we teach social skills
- 17           programs; some of us coach sporting programs. It's a
- 18           diversified job.
- 19           Q       How big a camp is Spring Mountain Youth
- 20           Camp?
- 21           A       It's a residential treatment facility. It
- 22           has 80 beds.
- 23           Q       Is it always full or generally full?
- 24           A       Almost always full.

003382



9  
10  
1 Q What is the general nature of the type of  
2 person who is committed to Spring Mountain Youth Camp?

3 A Um, exclusively male; usually, um, between  
4 the ages of, ah, 13 to 17; and they're up there for offenses  
5 that preclude them staying in the community for treatment,  
6 usually serious crimes.

7 Q Are they being treated as juveniles at that  
8 particular time?

9 A Yes, they are.

10 Q They have not entered into the adult system?

11 A No, they have not.

12 Q What sort of education, training,  
13 preparation did you have prior to gaining employment at  
14 Spring Mountain Youth Camp?

15 A I have a Bachelor's degree from Stonybrook  
16 University in New York in inter-disciplinary social science,  
17 which I worked in the Murphy School District back there.

18 Q The Murphy School District?

19 A Yes.

20 Q All right.

21 A And it was a program for disruptive kids who  
22 couldn't function in the traditional classroom setting.

23 Q Have you gone to seminars, that sort of  
24 thing?

003389

10 1 A I do at least 40 hours of training every  
2 year. I'm a POST certified officer. I'm certified in  
3 the -- I've been trained and I'm certified in the Boys' Town  
4 teaching model.

5 Q What is the goal of bringing someone in to  
6 Spring Mountain Youth Camp?

7 A Our goal is pretty simple. It's a very --  
8 it's a very basic philosophy. We feel that somewhere along  
9 the line, you've lost your purpose. You've -- you don't  
10 know where you're going in your life.

11 Q The young person?

12 A Our program -- our program pushes young men  
13 to take a look at what they have done in their life, how  
14 they've gotten away from what the purpose of their life  
15 should be, and try to re-establish, through giving them  
16 social skills, counseling, letting them do group counseling,  
17 let them be involved in work programs, sporting programs;  
18 letting them have a normal life, helping them go back to the  
19 community, go back to their family and working out family  
20 problems. Those are all things that we do there; these are  
21 all skills that we teach.

22 Q Has it always been that way?

23 A Um, our model has changed over the years  
24 without a doubt; with gangs and Las Vegas becoming a much

003384

10

1 bigger town, we've had to adapt. We've been in a constant  
2 state of change to make sure that we continue to be able to  
3 service our clients.

4 Q Back in 1981, were you servicing your  
5 clients through the means and the manner that you spoke to  
6 us about just a moment ago?

7 A There was always individual and group  
8 counseling available. We always had a work program. We  
9 don't have the level of gang behavior -- we didn't have the  
10 level of gang behavior in the camp that we do --

11 Q In 1981?

12 A In '81, it was not a pervasive problem as it  
13 is now, but, essentially, our programs are all still intact.  
14 We've made -- we've made adjustments to deal with the kind  
15 of violent young men we're seeing.

16 Q The men back in 1981 who came to your camp  
17 were not as violent as they are today?

18 A I would have to say, as a whole, they are  
19 not.

20 Q You've mentioned individual counseling and  
21 group counseling.

22 Can you illuminate us a little  
23 bit more on each of those methods of treatment of your  
24 clients?

003385

10           1           A           Absolutely. I could tell you how I approach  
2           it.

3                       MR. WOLFSON: Excuse me. For the purposes  
4           of this hearing, I think it's appropriate for this gentleman  
5           to confine his remarks to what was available back in 1981.

6                       And maybe you are doing so,  
7           sir, but I think that that's where our focus should be and  
8           not what's available today.

9                       So my objection would be  
10          relevant as to only what was appropriate at that period of  
11          time.

12                      THE COURT: Sustained.

13          BY MR. SEATON:

14                      Q           Please do exactly as Mr. Wolfson has just  
15          asked.

16                      A           I'll be happy to.

17                      Q           Yes.

18                      A           In 1981, I can definitely tell you that  
19          individual and group counseling would have done on a weekly  
20          basis. Any boy on my case load met with me at least once a  
21          week and we talked about his progress. We talked about the  
22          goals and skills that were outlined for him in -- I believe  
23          we used a treatment plan called a 30 day report.

24                      Q           How does that work?

003386

10

1 A And you had work goals, you had behavioral  
2 goals, psychological goals and educational goals and family  
3 and community goals.

4 Q Did you help set those goals out --

5 A Yes, yes, you did.

6 Q -- for the young person?

7 A Uh-huh.

8 Q Okay. Is that a yes?

9 A Yes.

10 Q Okay. And that was going on in 1981?

11 A Oh, yes.

11

12 Q And you are familiar with Michael Rippo?

13 A I remember Michael.

14 Q And he was there?

15 A Yes, he was.

16 Q From April through August of 1981?

17 A Yes, he was.

18 Q Okay. So tell us, with a little more  
19 detail, about how Mike Rippo, in 1981, would have been  
20 individually and group counseled.

21 A Well, what I remember about Michael, from my  
22 individual work with him, was, Mike was pleasant to be  
23 around, but he was the kind of person who gave me the  
24 impression that he was just shining me on.

003387

NR12P0-07058-R0003391

11

1 Q What do you mean by shining you on?

2 A That is a term we use in our business. On  
3 occasion, we have young men come through our program that  
4 are compliant, they follow the rules, they're pleasant to be  
5 around, but, as a good group life supervisor should be --  
6 and I consider myself to be an excellent group life  
7 supervisor -- it's my job to observe your behavior when you  
8 don't think you're being watched.

9 And I would often hear Mike  
10 relate what he had done in the community that was, you know,  
11 breaking the law, and hear him tell a thing called war  
12 stories.

13 Q Who would he --

14 A These are accounts of what you did to get  
15 placed at the youth camp.

16 Q Who would he be talking to?

17 A To the other young men.

18 Q Not to the counselor?

19 A Occasionally they do -- Mike didn't to me.  
20 But I observed him doing this and it's something that I find  
21 upsetting because it's a glorification of a criminal  
22 lifestyle.

23 Q Did he seem to glorify the criminal  
24 lifestyle?

003388

11 1 A Well, he was -- he was animated when he was  
2 telling these stories. And I -- it would make me wonder why  
3 he would not even perceive me to be around.  
4 Q What would --  
5 A And I would confront that behavior and ask  
6 him to stop --  
7 Q What sort --  
8 A -- and he did.  
9 Q What sort of stories would he be telling  
10 that you would overhear?  
11 A Stealing from other people.  
12 Q His stealing from other people?  
13 A Uh-huh; yeah.  
14 Q He would be bragging to other juveniles  
15 about that?  
16 A Uh-huh. And not being afraid of anybody,  
17 you know. I -- I'm -- I can handle myself.  
18 Q And did he seem to take some sort of delight  
19 in these war stories?  
20 A That's what gave -- that's what made me draw  
21 my attention to him.  
22 Q Was that different from the normal behavior  
23 you observed of young people who were committed to Spring  
24 Mountain Youth Camp?

003389

11 1 A There are other young men who did that up  
2 there, but the fact is when people do that right in front of  
3 you, it concerns you as a group life supervisor. You don't  
4 want to see kids openly glorifying, you know, a criminal  
5 lifestyle, trying to impress other people with what they had  
6 done to get there.

7 Usually, most of our young men  
8 really want to put what they've done behind them or at least  
9 they don't want to talk about it.

10 Q 1981 was 15 years ago?

11 A Yes.

12 Q You seem to have a pretty good, independent  
13 recollection of Mike Ripppo. Do you?

14 A Yes, I do.

15 Q Do you remember him quite well from his time  
16 at the camp?

17 A Let me qualify that.

18 I remember Mike because Mike  
19 was certified to adult status, and when you are -- I was  
20 quite -- I had about three years in the profession at the  
21 time; and in 1981, that was something that just didn't  
22 happen all that much.

23 Q Certification was not?

24 A Certification to adult status.

003390



11

1 Kids like that, you remember  
2 what got them there; you remember their charges; you  
3 remember how they behaved when you had them. It didn't feel  
4 good to supervise someone and see them get moved to adult  
5 status.

6 Q That moving to adult status happened  
7 sometime after you had dealt with him in 1981?

8 A Uh-huh, yeah, it did.

9 Q Was there such a thing in those days as  
10 weekend passes?

11 A Yes.

12 Q What allowed a weekend pass to occur and  
13 what was it?

14 A Your behavior in the dorm was graded on a  
15 daily basis. In '81, we used a sheet that was simply a  
16 poor, below average, average, above average, good to  
17 excellent.

18 Your school grades were  
19 monitored. If you failed, you did not go home. If your  
20 dormitory performance for the week would ever drop, whatever  
21 jobs or whatever details, sports program, weren't  
22 satisfactory for the week, you didn't go home. If you got  
23 into a fight, you didn't go home. If you stole from  
24 somebody else, you didn't go home.

12

003391

12 1 Q But, if you behaved and were --

2 A Yeah.

3 Q -- compliant with the rules, then you got to

4 go home?

5 A Yeah, but you had to have a certain amount

6 of time in the program.

7 Q Right.

8 A At that time, 42 days with us would have

9 been the absolute minimum. If you were outstanding before,

10 you could have earned weekends in the community. Most young

11 men went home at 60 days.

12 Q Did Mike Rippo ever get the opportunity to

13 go home?

14 A Yes, he did.

15 Q And when he would come back from those

16 weekends passes, did you ever note anything about his

17 behavior?

18 A No. Like I said, Mike, when dealing with

19 authority, pretty much accepted decisions of authority. It

20 was his covert behavior I was concerned about.

21 Q When you speak of covert behavior, are you

22 referring to his conversations with his peers?

23 A Uh-huh, and his attitude in general towards

24 being there. I -- I didn't get the feeling he was taking it

003392

12

1 very seriously.

2 Q Tell us about that. Where did that feeling  
3 come from?

4 A Just from my interactions with him. Mike  
5 could be easily corrected, but he had that look in his eye  
6 that I'm not taking you serious. I'm going to go along with  
7 this because this is part of a program.

8 MR. DUNLEAVY: I object. This is an  
9 objective -- a look in the eye.

10 MR. SEATON: Well, I think that is this  
11 gentleman's job, which he has done for a great number of  
12 years, and he has the ability to be judgmental. That was  
13 his purpose there, and he's able -- he should be allowed  
14 today to be able to express to the Jury what his attitudes  
15 about Mike Rippo were and what caused them.

16 MR. DUNLEAVY: Your Honor, this is  
17 tantamount to testimony about mind reading. No psychiatrist  
18 in the world can say I can interpret a look in the eye and  
19 rely on it.

20 THE COURT: Sustain the objection.

21 BY MR. SEATON:

22 Q Were there things, other than a look in the  
23 eye, that Mike Rippo gave you that gave rise to feelings in  
24 yourself of not feeling good about his progress?

003393

- 12 1 A I can clarify it real simply for you.
- 2 Q Please do.
- 3 A When you are -- when you are bragging about
- 4 what you have done and you are already incarcerated for it
- 5 in the treatment for juvenile offenders and you are
- 6 confronted once about it, counseled and corrected, and then
- 7 you engage in it a second time, and you're laughing at what
- 8 you've done and how it -- and how you perceive that you've
- 9 gotten away with it or you are trying to impress somebody
- 10 else by that, I remember that.
- 11 Q And did you just describe Mike Rippo?
- 12 A After all these years, to the best of my
- 13 knowledge, I think I've given you a very good representation
- 14 of Mike Rippo.
- 15 Q Did he ever, in the times that you dealt
- 16 with him, indicate any remorse for the criminal activities
- 17 he had been involved in?
- 18 A Actually, no. That was one of my concerns
- 19 with him.
- 20 Q Is it often that you deal with young men up
- 21 there at Spring Mountain who successfully go through the
- 22 program and they become sorry for what they have done and
- 23 they express those emotions?
- 24 A Absolutely. I meet them on the street.

003394

12

1 Q Does that happen a lot?

2 A It's happened to me twice in the last four  
3 months.

4 Q And you never saw that kind of remorse from  
5 Michael Rippo?

6 A I think what I said about shining the  
7 program on and doing what he had to do to get us to release  
8 him -- I think Michael performed exactly the way he needed  
9 to to get released, to earn weekends and get out of our  
10 supervision.

11 I never got the feeling that he  
12 was taking us very seriously. I never got the feeling that  
13 he was listening to even the simple advice we were giving  
14 him.

15 Q This fellow we're talking about, is he  
16 present in court today?

17 A Yes. I can look right at him right here.

18 Q Point to him and describe what he's wearing.

19 A He's wearing the white sweater with a blue  
20 and white color.

21 MR. SEATON: May the record reflect the  
22 identification of defendant Michael Rippo, Judge?

23 THE COURT: The record will so reflect.

24 BY MR. SEATON:

003395

12 1 Q Was there any particular lifestyle that he  
2 seemed to portray while he was up there?

13 3 A To speak to his lifestyle would be  
4 difficult, other than to say that I never got the impression  
5 that he intended to end his criminal lifestyle. He's one of  
6 the people when you put out -- even when you vote as a  
7 treatment team to release the kid to the community, if he  
8 has lived up to his end of carrying out his responsibilities  
9 and doing what you ask of him -- Michael did that.

10 Did I have a feeling he really  
11 took the program to heart and really intended to make  
12 serious change? No, I didn't. And I was nervous about  
13 that, and I think my chrono-notations reflected that. You  
14 know, I didn't see any real change, but was he compliant;  
15 yeah, Mike was compliant.

16 Was he easy to work with? He  
17 was easy to supervise. It was when I wasn't supervising him  
18 that he concerned me the most, because he went back to  
19 talking about what he did to other people, stealing from  
20 them, thinking this was funny and a good way to live your  
21 life.

22 And that worries you when you  
23 are going to -- you have to put a young man back in the  
24 community. And I have respect for this community and it did

003396

13 1 worry me.

2 And that's -- when Michael got  
3 in trouble after that, it was a surprise, but it's one that  
4 I've learned to have to adjust to over the years.

5 Q You learned that he was certified as an  
6 adult for a sexual assault and other crimes committed on  
7 Laura Martin; is that correct?

8 A Yes, that's correct.

9 Q And you mentioned the word surprised.

10 Were you surprised and shocked  
11 that Michael Rippe could commit these kind of acts?

12 MR. WOLFSON: I'm going to object. I think  
13 that goes beyond this witness's expertise. I think it's  
14 inappropriate for him to give an opinion like that.

15 THE COURT: Sustained.

16 MR. SEATON: I don't have any more  
17 questions, Mr. Sergi.

18 THE COURT: Cross-examination.

19  
20 CROSS-EXAMINATION

21 BY MR. WOLFSON:

22 Q Is your last name pronounced --

23 A Sergi.

24 Q Sergi. Thank you.

003397

13

1 Mr. Sergi, how old are you  
2 today?

3 A I am 44 years old.

4 Q So you were 29 back in 1981; is that right?

5 A That's correct.

6 Q And you have been working for the Clark  
7 County Juvenile court for 17 years, 16 years up at Spring  
8 Mountain?

9 A No, I've been working for the Clark County  
10 Juvenile court for 17 years, sixteen at Spring Mountain  
11 Youth Camp.

12 Q Isn't that what I said?

13 A I don't think so.

14 Q Okay.

15 A I heard it wrong.

16 Q Okay. Let's start it over. Clark County  
17 Juvenile court for 17 years?

18 A Yes.

19 Q The last 16 have been up at Spring Mountain?

20 A Yes.

21 Q So the events of 1981 were 15 years ago.

22 You had been at Spring Mountain  
23 about a year or so; is that right?

24 A I believe I was there over two years.

003398



13

1 Q Okay. What is the age group for young men  
2 who were committed to Spring Mountain Youth Camp?

3 A I believe I told you before, it's between  
4 the ages of 13 and 18.

5 Q Does it go up to the age of 18?

6 A Yes.

7 Q In other words, when a man reaches his 18th  
8 birthday, is he released from Spring Mountain?

9 A Not necessarily, no.

10 In all likelihood, at 18, you  
11 would probably be out of the youth camp. If a Judge  
12 sentenced you to us, by the time you would be 18, you would  
13 probably be eligible to get out. We have kids who stay  
14 longer.

15 Q And how were the kids housed? Were they in  
16 dorms, sharing rooms?

17 A Yeah. It's group life. It's a dormitory.

18 Q And, once again, I'm restricting all of my  
19 questions to the year 1981, '82, if you will.

20 A Okay.

21 Q How many kids would live in the same  
22 dormitory?

23 A In '81, 15 to 20. In '81, we actually did  
24 not fill a bed the minute it was empty.

003399

MEIPPO-07058-R0003495

13 1 Q Was there any fighting amongst the young men  
2 up at Spring Mountain?  
3 A Occasionally, yes.  
4 Q I'm talking about full fist fighting.  
5 A Yes.  
6 Q Were you one of many counselors that were  
7 available to the kids up at Spring Mountain in 1981?  
8 A Yes.  
9 Q You weren't Mr. Rippo's sole counselor, were  
10 you?  
11 A No, I wasn't.  
12 Q Were you a primary counselor to Michael  
13 Rippo?  
14 A No.  
15 Q Was anybody a primary counselor to Michael  
16 Rippo?  
17 A Yes.  
18 Q Not you?  
19 A Not me.  
20 Q Who was his primary counselor?  
21 A I'm not real sure.  
22 Q Where is he today?  
23 A I believe he's retired. I've tried to pull  
24 the records, but '81 is just a long time ago.

003400

NR100-87058-P0003406

13           1           Q       Do you have any records from 1981 concerning  
2           Michael Rippo?

3           A       Me, personally, no.

4           Q       Now, you said that counseling was available,  
5           I think you said, on a weekly basis, both individual  
6           individual and group counseling; is that right?

7           A       Yes, I did.

8           Q       Do you have a college degree?

9           A       Yes, I do.

10          Q       What's your college degree in?

11          A       Inner-disciplinary social science.

12          Q       Inter?

13          A       Inner-disciplinary social science.

14          Q       And what degree?

15          A       I have a minor in -- in secondary social  
16          studies teacher.

17          Q       And what college did you receive those?

18          A       Stonybrook University in New York.

19          Q       And what year did you graduate from that?

20          A       1976.

21          Q       Before going to work at Spring Mountain,  
22          what did you do -- or Clark County juvenile court, I should  
23          say.

24          A       Briefly, after I got out of high school, I

003401

14 1 was an electrician, and then I went back to school and  
2 obtained the degree.

3 Q Okay. But you got out of school in '76, I  
4 believe you said?

5 A Uh-huh, yeah. Before I went to college, I  
6 worked directly after high school as an electrician.

7 Q Okay. You graduated college in 1976?

8 A Yes.

9 Q Between 1976 and 1981 -- or 1980, how were  
10 you employed?

11 A Ah, I worked a year for the Drackett's  
12 Products Company in Cincinnati, Ohio; was a field  
13 representative, directly out of school.

14 When I came to this town, I  
15 worked for Southern Electric, which is still in business.  
16 My employer was Gary Hosee. And when I -- I did volunteer  
17 work for the Juvenile court until I was hired.

18 Q And what did you do for the Juvenile Court  
19 during the first year before you went to Spring Mountain?

20 A I went to Spring Mountain directly. I  
21 vol- -- did my volunteer work with CHINS, children in need  
22 of supervision.

23 Q What kind of formal training did you have in  
24 the counseling of emotionally disturbed kids?

003402

14 1 A At Murphy Junior High School we had a -- it  
2 was called the alternative education program. We would sit  
3 down and develop treatment plans for kids who did not want  
4 to attend school, did not function in a normal classroom  
5 setting. We were given, oh, space at the bottom of school  
6 to develop a program for them.

7 I worked with Dr. Dan  
8 Cummerford and Bart Davis and did a -- did a large amount of  
9 counseling and got a large amount of counseling experience  
10 there.

11 I've also taken Master's  
12 courses --

13 Q I'm talking about up to 1981.

14 A Yeah, that was before then. Yeah, that was  
15 part of my educational training.

16 Q And you are not a doctor?

17 A Absolutely not.

18 Q You are not a psychologist or psychiatrist?

19 A Absolutely not.

20 Q You don't have any degrees in counseling, do  
21 you?

22 A No.

23 Q Were you aware that a juvenile court Judge  
24 had labeled Michael an emotionally disturbed child?

003403

14 1 A Every child that comes to the Spring  
2 Mountain Youth Camp is labeled an emotionally disturbed  
3 child.

4 Q Is that by law?

5 A It's in every report.

6 Q Is it in every transcript?

7 A It's in every report I read.

8 Q And were you counseling Michael Rippo for  
9 his emotional disturbances?

10 A Michael received counseling and correction  
11 from me, I'm sure, while I was up there, on the issues I'm  
12 talking about, which is correcting inappropriate comments.  
13 We don't want people talking about what they did to get up  
14 there.

15 Your past criminal activity is  
16 not something I want you to focus on. What we call them --  
17 we call them specifically war stories and it's done to  
18 enhance your reputation as a criminal, and we view it as a  
19 serious infraction of the rules.

20 I told you, and I'll repeat  
21 again, a good group life supervisor will blend in with the  
22 group. He will become part of the group. The young men  
23 will begin to trust them and talk openly in front of them.

24 That's how you make change with

003404

14 1 kids. When they're relaxed and they're not in a totally  
2 formal counseling scenario, they'll sit down and they will  
3 tell you exactly what they did to get here.

4 And I remember telling Mike, I  
5 don't want to hear your war stories. It's not good for the  
6 other guys. It's not good for you. It's part of your past  
7 you need to put behind you.

8 Q What counseling did you give him for his  
9 emotional disturbances?

10 A I didn't do direct one-on-one counseling  
11 with Michael. I did them in groups. I did them as I was  
12 working with him in projects around the dorm.

13 Like I said, they're far more  
14 valuable than sitting kids down in a room and trying to get  
15 them to take an insightful look at their life.

16 Q What's far more valuable?

17 A Having an interaction with them.

18 When you work on a work project  
19 with a young man, when you are doing sports programs with  
20 young men, when you are doing group activities with young  
21 men in the gym or the dorm, you can get a real feel for when  
22 they click in and say, oh, that was just successful. You  
23 walk up and say to them, you got that right.

24 Q What counselors gave Michael Ripppo

003405

15

1 individual counseling?

2 A Oh, that I am going to have to say I'm not  
3 positive who his case worker was.

4 Q How many hours of individual counseling  
5 would Michael have received in three and a half months?

6 A It would be hard to say because I didn't do  
7 it. If I did it, I can tell you that everybody I meet  
8 with -- in 1981, everybody, once a week, got an hour with me  
9 on my case load. I don't know other people's treatment,  
10 but -- I'm not real sure.

11 Q And did you say that not all -- or did you  
12 say that all kids who go to Spring Mountain are precluded  
13 from being on the street?

14 A I don't understand the question.

15 Q I believe in direct examination by the  
16 prosecutors, you said something like all kids who come to  
17 Spring Mountain did so because they were precluded from  
18 being --

19 A They've been removed from the community for  
20 criminal offenses.

21 Q Okay.

22 A Yes.

23 Q But not all of the kids that were committed  
24 to Spring Mountain had to be committed by law; you are not

003406



15

1 saying that, are you?

2 A I'm not sure --

3 Q Some Judges have the discretion, rather than  
4 to commit a person, to give them formal probation; isn't  
5 that right?

6 A Yeah, I believe Michael had formal  
7 probation.

8 Q But you are not sure?

9 A I'm fairly sure he had formal probation.

10 Q Before going to Spring Mountain?

11 A Yeah. We very rarely get kids or -- you  
12 know, we very rarely get people who haven't been given the  
13 benefit of staying in the community.

14 If the crime is very serious,  
15 sure, I've seen them come directly from the incident to the  
16 institution.

17 Q Were there any psychologists or  
18 psychiatrists available to the kids at Spring Mountain Youth  
19 Camp in 1981?

20 A I can name one for sure. Tim Boylan.

21 Q Tim who?

22 A Tim Boylan.

23 Q Did he go to Spring Mountain Youth Camp and  
24 counsel people?

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1 A He did. And he did -- I know he did the  
2 psychological assessments.

3 Q Did he counsel Michael Rippo?

4 A I know he interviewed him.

5 Q Well, how long does an interview take, 30  
6 minutes?

7 A I don't know how long Tim takes for an  
8 interview. I would think that I could conduct one in 30  
9 minutes or an hour.

10 Q But you don't know if this psychologist had  
11 any one-on-one or group counseling sessions with Michael  
12 Rippo?

13 A No, I don't know that for sure. I know a  
14 report was made.

15 MR. WOLFSON: Court's indulgence?

16 Thank you, sir. That's all I  
17 have.

18 THE COURT: Redirect?

19 MR. SEATON: Thank you, Judge.

20

21 REDIRECT EXAMINATION

22 BY MR. SEATON:

23 Q The report you referred to that was made, by  
24 whom was it made?

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1 A The psychological record?

2 Q Yes.

3 A Tim Boylan.

4 Q The same person you were just talking about?

5 A Yes.

6 Q Who worked at Spring Mountain?

7 A Tim works -- still works for the Clark  
8 County Juvenile court.

9 Q When Michael Rippo was there -- let's see if  
10 we understand this -- there was a psychologist, Tim Boylan,  
11 who worked at Spring Mountain?

12 A He didn't work directly. He split his time.

13 Q But he did work up on the mountain  
14 occasionally?

15 A Yes. We have a psychologist now who splits  
16 his time between the community and the camp.

17 Q Was his job to meet with, testing and  
18 counseling the kids who got put up in to Spring Mountain?

19 A Yeah. The psychologist gives you the  
20 direction you need to take when you are dealing with young  
21 men. He will point out behavioral areas that you want to  
22 deal with.

23 Psychological reports are  
24 helpful to me because they give us a pretty good insight

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1 into what areas we need to, you know, try to, you know,  
2 repair.

3 We have a lot of young men who  
4 come up with very low self esteem, you know, sense of  
5 worthlessness, they don't belong, and those are the things  
6 you want to start building on right away as soon as you can.

7 Q And all -- I think you told us that all  
8 young people who were put in to Spring Mountain are labeled  
9 by the Judge as emotionally disturbed.

10 A That's the way the report reads.

11 Q Does that necessarily mean that they're  
12 crazy or insane or have those kinds of psychological  
13 problems?

14 A No.

15 MR. DUNLEAVY: Your Honor, I don't think  
16 this man is qualified to answer that question.

17 THE COURT: Overruled.

18 BY MR. SEATON:

19 Q We just had read to us a statement that Mr.  
20 Ripppo's mother made to the Judge when he was sentenced to  
21 Spring Mountain Youth Camp.

22 And it reads like this:

23 By the mother: I feel that --  
24 right now my husband is still in the home. It just

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16 1 blue up yesterday. And I feel that I do not trust  
2 my son anymore, and I'm afraid to have him come  
3 home right now, even when my husband does leave,  
4 which is what I want to happen.

5 But I think he needs  
6 psychological help, some tests done on him. I  
7 don't feel he should be allowed to run free in the  
8 streets. I feel he should be placed at Spring  
9 Mountain until we can decide what is going to  
10 happen in my life.

11 Do you know the mother of  
12 Michael Rippo?

13 A No, I do not.

14 Q Do you know whether or not she is a  
15 psychologist?

16 A No, I do not.

17 Q Or a psychiatrist?

18 A No, I do not.

19 Q Or has any training in those fields at all?

20 A No.

21 Q She said in here that she thought he needed  
22 psychological help, some tests done on him.

23 Were those tests done?

24 A I know there was a psychological report done

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16

1 on Michael.

2 Q By Tim Boylan?

3 A I believe that Tim Boylan did the report.

4 Q Did you ever see anything in the nature of  
5 Michael Rippo that made you believe that he was somehow  
6 disturbed psychologically?7 A Mike never approached disturbed in my  
8 estimation. I wouldn't characterize his personality as  
9 disturbed.

10 Q How would you characterize it?

11 A Mike was competent. Mike knew how to --  
12 Mike knew how to get through our program with a minimum  
13 amount of time. That's something I do remember.14 And after the certification, I  
15 had to think a long, hard time about it. He was up -- he  
16 was with us a very short period of time and he satisfied the  
17 program's requirements. It didn't set well with me that  
18 he -- he did that short period of time, and it turned out to  
19 be a bad ending.

20 MR. SEATON: Thank you.

21 I have nothing further.

22 THE COURT: Anything else?

23 MR. WOLFSON: Yes.

24

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RE-CROSS-EXAMINATION

BY MR. WOLFSON:

Q Was Michael intelligent?

A Absolutely.

Q Above average intelligence?

A I can't make an assessment above average,  
but I certainly thought he was bright.Q Well, to me, bright means above average,  
because average means kind of in the middle.A Mike could have an intelligent conversation  
with you. Mike could understand the situation he was in and  
act socially appropriate.Q Do you think under the appropriate  
circumstances he could contribute to society?

MR. SEATON: Is this going to 1981 or today?

THE WITNESS: That's what I was going to ask  
you.MR. WOLFSON: I'm talking about this man's  
opinion of Michael Rippo, from what he knew of him then.

THE COURT: 1981.

THE WITNESS: Then?

BY MR. WOLFSON:

A Yes.

A Mike concerned me.

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1 Q Pardon me?

2 A Mike concerned me a great deal. I didn't  
3 feel like he really felt committed to making a change when  
4 he left.

5 Did he satisfy the program's  
6 requirements?

7 Yes, he did. And we have an  
8 obligation to boys up there who satisfy the program  
9 requirements to allow them to return to the community; and  
10 we do.

11 Q Did your program fail?

12 A He's sitting here right now. I can't look  
13 upon that as a success.

14 MR. WOLFSON: Nothing further.

15  
16  
17 FURTHER REDIRECT EXAMINATION

18 BY MR. SEATON:

19 Q Your concerns were well founded, were they  
20 not?

21 A Yes, they were.

22 Q And I don't have --

23 A It's part of the job that -- this is  
24 probably the most unpleasant day I've ever had on this job.

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MR. SEATON: Thank you. Nothing further.

THE COURT: Thank you, Mr. Sergi.

You are excused.

(Whereupon, the witness  
was excused.)

THE COURT: We'll be in recess until 10:30  
a.m. tomorrow. We'll work all day.

Remember: Do not converse  
among yourselves or with anyone else on any subject  
connected with this trial;

Read, watch, listen to any  
report or commentary on the trial by any medium of  
information, including, without limitation, newspapers,  
television or radio; or

Form or express any opinion on  
any subject connected with this trial until the matter is  
finally submitted to you.

Have a good evening.

(Proceedings adjourned until Wednesday,  
March 13, 1996, at 10:30 a.m.)

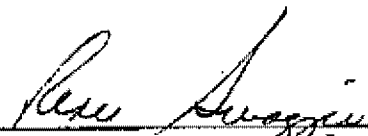
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ATTEST: Full, true and accurate transcript of proceedings.

  
RENEE SILVAGGIO, C.C.R. NO. 122  
OFFICIAL COURT REPORTER

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RENEE SILVAGGIO, CCR 122 391-0379

IN THE SUPREME COURT OF THE STATE OF NEVADA

\*\*\*\*\*

MICHAEL RIPPO,  
Appellant,  
-vs-  
E.K. McDANIEL, et al.,  
Respondent.

No. 53626

**FILED**

OCT 19 2009

TRACEY K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

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LORETTA BOWMAN, CLERK

By *[Signature]* Deput

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DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

MICHAEL DAMON RIPPO,

Defendant.

Case No. C106784  
Dept. No. IV  
Docket C

INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

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INSTRUCTION NO. 2

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

INSTRUCTION NO. 3

1  
2 The indictment originally charged the Defendant with six offenses, however only four offenses  
3 are being submitted for your consideration.

4 You are not to speculate about the reason for this modification to the charges. The reason for  
5 the change is not relevant to your decision and no presumption may be raised and no inference of any  
6 kind may be drawn from the change in the pleadings.



An Indictment is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Indictment that on or between February 18, 1992, and February 20, 1992, the Defendant committed the following offenses:

**COUNT I - MURDER**

Defendant MICHAEL DAMON RIPPO did, on or between February 18, 1992, and February 20, 1992, then and there wilfully, feloniously, without authority of law, with malice aforethought and premeditation and/or during the course of committing Robbery and/or Kidnapping and/or Burglary, kill LAURI M. JACOBSON, a human being, by strangulation, Defendant being aided or abetted by DIANA LEE HUNT in the perpetration of said crime by Defendant and/or DIANA LEE HUNT entering 3890 South Cambridge, Apt. 317, Las Vegas, Clark County, Nevada, by Defendant deciding to rob LAURI M. JACOBSON and/or DENISE M. LIZZI, by Defendant privately discussing how the crime was to be committed with DIANA LEE HUNT, by Defendant surreptitiously arranging to have another person make a diversionary telephone call to LAURI M. JACOBSON so that she might more easily be overpowered, by DIANA LEE HUNT striking LAURI M. JACOBSON on the head with a bottle, by Defendant using a stun gun to subdue DENISE M. LIZZI, by Defendant binding the hands and feet and tying gags around the mouths of both female victims, by Defendant demanding to know the location of drugs, money, and other valuables; Defendant being assisted by DIANA LEE HUNT in forcefully removing property from the person or presence of the two victims, Defendant and/or DIANA LEE HUNT killing LAURI M. JACOBSON and/or DENISE M. LIZZI, Defendant wiping off surfaces touched inside the apartment and Defendant and DIANA LEE HUNT then fleeing the scene of the crime with a stolen 1988 Nissan automobile, a stolen Citibank Gold Visa Credit Card, and other stolen property.

**COUNT II - MURDER**

Defendant MICHAEL DAMON RIPPO did, on or between February 18, 1992, and February 20, 1992, then and there wilfully, feloniously, without authority of law, with malice aforethought and premeditation and/or during the course of committing Robbery and/or Kidnapping and/or Burglary, kill

1 DENISE M. LIZZI, a human being, by strangulation, Defendant being aided or abetted by DIANA LEE  
 2 HUNT in the perpetration of said crime by Defendant and/or DIANA LEE HUNT entering 3890 South  
 3 Cambridge, Apt. 317, Las Vegas, Clark County, Nevada, by Defendant deciding to rob LAURI M.  
 4 JACOBSON and/or DENISE M. LIZZI, by Defendant privately discussing how the crime was to be  
 5 committed with DIANA LEE HUNT, by Defendant surreptitiously arranging to have another person  
 6 make a diversionary telephone call to LAURI M. JACOBSON so that she might more easily be  
 7 overpowered, by DIANA LEE HUNT striking LAURI M. JACOBSON on the head with a bottle, by  
 8 Defendant using a stun gun to subdue DENISE M. LIZZI, by Defendant binding the hands and feet and  
 9 tying gags around the mouths of both female victims, by Defendant demanding to know the location of  
 10 drugs, money, and other valuables; Defendant being assisted by DIANA LEE HUNT in forcefully  
 11 removing property from the person or presence of the two victims, Defendant and/or DIANA LEE  
 12 HUNT killing LAURI M. JACOBSON and/or DENISE M. LIZZI, Defendant wiping off surfaces  
 13 touched inside the apartment and Defendant and DIANA LEE HUNT then fleeing the scene of the crime  
 14 with a stolen 1988 Nissan automobile, a stolen Citibank Gold Visa Credit Card, and other stolen  
 15 property.

16 COUNT III - ROBBERY

17 Defendant MICHAEL DAMON RIPPO did, on or between February 18, 1992, and February 20,  
 18 1992, then and there wilfully, unlawfully and feloniously take personal property, to-wit: a 1988 Nissan,  
 19 bearing Nevada License No. 139CUS, and/or Credit Cards in her possession, from the person of  
 20 DENISE M. LIZZI, or in her presence, by means of force or violence, or fear of injury to, and without  
 21 the consent and against the will of the said DENISE M. LIZZI, Defendant being aided or abetted by  
 22 DIANA LEE HUNT in the manner described in Counts I and II.

23 COUNT IV - UNAUTHORIZED SIGNING OF CREDIT CARD TRANSACTION DOCUMENT

24 Defendant MICHAEL DAMON RIPPO did, on or about February 19, 1992, wilfully, unlawfully,  
 25 and feloniously, with intent to defraud, sign a sales slip, which evidenced a credit card transaction, at  
 26 SUNGLASS COMPANY, Meadows Mall, 4300 Meadow Lane, Las Vegas, Clark County, Nevada, by  
 27 presenting Citibank Gold Visa Credit Card No. 4271382060293848, issued in the name of DENNY  
 28 MASON, to ANGIE SPOSITO, and signing the name D. MASON to said sales slip for the purchase of

1 \$304.95 in merchandise, Defendant not being the cardholder, and not being authorized by the cardholder  
2 to use said card, or to sign the cardholder's name.

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

5 Each charge and the evidence pertaining to it should be considered separately. The fact that you  
6 may find the defendant guilty or not guilty as to one of the offenses charged should not control your  
7 verdict as to any other offense charged.

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INSTRUCTION NO. 5

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Murder is the unlawful killing of a human being, with malice aforethought, whether express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

INSTRUCTION NO. 6

Malice aforethought means the intentional doing of a wrongful act without legal cause or excuse or what the law considers adequate provocation. The condition of mind described as malice aforethought may arise, not alone from anger, hatred, revenge or from particular ill will, spite or grudge toward the person killed, but may result from any unjustifiable or unlawful motive or purpose to injure another, which proceeds from a heart fatally bent on mischief or with reckless disregard of consequences and social duty. Malice aforethought does not imply deliberation or the lapse of any considerable time between the malicious intention to injure another and the actual execution of the intent but denotes rather an unlawful purpose and design in contradistinction to accident and mischance.

INSTRUCTION NO. 7

Express malice is that deliberate intention unlawfully to take away the life of a fellow creature, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

INSTRUCTION NO. 8

Murder of the First Degree is murder which is (a) perpetrated by any kind of willful, deliberate and premeditated killing and/or (b) committed in the perpetration or attempted perpetration of Robbery and/or Kidnapping and/or Burglary.

INSTRUCTION NO. 9

Premeditation is a design, a determination to kill, distinctly formed in the mind at any moment before or at the time of the killing.

Premeditation need not be for a day, an hour or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that the act constituting the killing has been preceded by and has been the result of premeditation, no matter how rapidly the premeditation is followed by the act constituting the killing, it is willful, deliberate and premeditated murder.



INSTRUCTION NO. 10

The intention to kill may be ascertained or deduced from the facts and circumstances of the killing, such as the use of a weapon calculated to produce death, the manner of its use, and the attendant circumstances characterizing the act.

INSTRUCTION NO. 11

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Murder which is committed in the perpetration or attempted perpetration of Robbery and/or Kidnapping and/or Burglary is deemed to be murder of the first degree, whether the killing was intentional, unintentional or accidental.

The specific intent to commit Robbery and/or Kidnapping and/or Burglary must be proven beyond a reasonable doubt.

INSTRUCTION NO. 12

Robbery is the unlawful taking of personal property from the person of another, or in her presence, against her will, by means of force or violence or fear of injury, immediate or future, to her person or property, or the person or property of a member of her family, or of anyone in her company at the time of the robbery. A taking is by means of force or fear if force or fear is used to:

- (a) Obtain or retain possession of the property;
- (b) Prevent or overcome resistance to the taking; or
- (c) Facilitate escape.

The degree of force used is immaterial if it is used to compel acquiescence to the taking of or escaping with the property. A taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear.

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The value of property or money taken is not an element of the crime of Robbery, and it is only necessary that the State prove the taking of some property or money.

INSTRUCTION NO. 14

Every person who wilfully seizes, confines, restrains, conceals, kidnaps or carries away any person by any means whatsoever with the intent to hold or detain, or who holds or detains, the person:

- 1) for the purpose of committing robbery from the person; or
  - 2) for the purpose of killing the person or inflicting substantial bodily harm upon her;
- is guilty of Kidnapping.

Forcible movement of a victim is simply one of the ways kidnapping may be accomplished. The crime of kidnapping is complete whenever it is shown that a defendant willfully and without lawful authority seizes another human being with the intent to detain her against her will for the purpose of committing robbery.

When forcible movement of a victim does occur there is no requirement of a minimum distance of asportation. It is the fact not the distance of forcible movement that constitutes kidnapping.

INSTRUCTION NO. 15

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Any person who by day or night, enters any building or apartment with intent to commit Larceny and/or Robbery and/or Kidnapping, is guilty of Burglary.  
Larceny is the stealing of property and/or money.

INSTRUCTION NO. 16

If you find that a killing was not committed in the perpetration or attempted perpetration of robbery and/or kidnapping and/or burglary, and that a killing was not perpetrated by any kind of willful, deliberate and premeditated killing, you may then consider the lesser included offenses of murder of the second degree and/or Involuntary Manslaughter.

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The offense of First Degree Murder necessarily includes the lesser offense of Second Degree Murder.

If you are convinced beyond a reasonable doubt that the crime of murder has been committed by a defendant, but you have a reasonable doubt whether such murder was of the first or of the second degree, you must give the defendant the benefit of that doubt and return a verdict of murder of the second degree.



INSTRUCTION NO. 18

Murder of the Second Degree is murder with malice aforethought, but without the admixture of premeditation.

All murder which is not Murder of the First Degree is Murder of the Second Degree.

INSTRUCTION NO. 19

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2 The offenses of first degree murder and second degree murder necessarily includes the lesser  
3 offense of involuntary manslaughter.

4 If you have a reasonable doubt that the defendant is guilty of murder of the first degree and if you  
5 have a reasonable doubt that a defendant is guilty of murder of the second degree, but you do believe  
6 from the evidence beyond a reasonable doubt that the defendant is guilty of manslaughter, you will acquit  
7 him of murder and find him guilty of Involuntary Manslaughter.

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INSTRUCTION NO. 20

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2 You are instructed that involuntary manslaughter is the killing of a human being, without any  
3 intent to do so, in the commission of an unlawful act, or a lawful act which probably might produce such  
4 a consequence in an unlawful manner, but where the involuntarily killing occurs in the commission of an  
5 unlawful act, which, in its consequences, naturally tends to destroy the life of a human being, or is  
6 committed in the prosecution of a felonious intent, the offense is murder.

INSTRUCTION NO. 21

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Any person, except the cardholder or a person authorized by the cardholder, who signs a credit card, sales slip, sales draft or instrument for the payment of money which evidences a credit card transaction with intent to defraud shall be guilty of Unauthorized Signing of Credit Card Transaction Document.

INSTRUCTION NO. 22

Every person concerned in the commission of a crime, whether he directly commits the act constituting the offense, or aids or abets in its commission, and whether present or absent, and every person who, directly or indirectly, counsels, encourages, hires, commands, induces or otherwise procures another to commit a crime is a principal, and shall be proceeded against and punished as such.

INSTRUCTION NO. 23

To aid and abet is to assist or support the efforts of another in the commission of a crime.

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INSTRUCTION NO. 241  
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Where several parties join together in a common design to commit any unlawful act, each is criminally responsible for the acts of his co-conspirator committed in furtherance of the common design. In contemplation of law, the act of one is the act of all.

INSTRUCTION NO. 25

You are instructed that presence, companionship, and conduct before, during and after the offense are circumstances from which one's participation in the criminal intent may be inferred.

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INSTRUCTION NO. 26

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Mere presence at the scene of the crime and knowledge that a crime is being committed are not sufficient to establish that a defendant aided and abetted the crime, unless you find beyond a reasonable doubt that a defendant is a participant and not merely a knowing spectator.

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To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

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2 The Defendant is presumed innocent until the contrary is proved. This presumption places upon  
3 the State the burden of proving beyond a reasonable doubt every material element of the crime charged  
4 and that the Defendant is the person who committed the offense.

5 A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as  
6 would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the  
7 entire comparison and consideration of all the evidence, are in such a condition that they can say they feel  
8 an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable  
9 must be actual, not merely possibility or speculation.

10 If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not  
11 guilty.

INSTRUCTION NO. 29

The law does not compel a defendant in a criminal case to take the stand and testify and no presumption may be raised and no inference of any kind may be drawn from the failure of the defendant to testify.

INSTRUCTION NO. 30

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You are here to determine the guilt or innocence of the Defendant from the evidence in the case. You are not called upon to return a verdict as to the guilt or innocence of any other person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more persons are also guilty.

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The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

INSTRUCTION NO. 3/a

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2 A conviction shall not be had on the testimony of an accomplice unless she is corroborated by  
3 other evidence which in itself, and without the aid of the testimony of the accomplice, tends to connect  
4 the defendant with the commission of the offense; and the corroboration shall not be sufficient if it  
5 merely shows the commission of the offense or the circumstances thereof.

6 An accomplice is hereby defined as one who is liable for prosecution, for the identical offense  
7 charged against the defendant on trial in the cause in which the testimony of the accomplice is given.  
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The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.



INSTRUCTION NO. 33

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A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

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

7 A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision  
8 should be the product of sincere judgment and sound discretion in accordance with these rules of law.  
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INSTRUCTION NO. 36

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In arriving at a verdict in this case as to whether the defendant is guilty or not guilty, the subject of penalty or punishment is not to be discussed or considered by you and should in no way influence your verdict.

If the Jury's verdict is Murder in the First Degree, you will, at a later hearing, consider the subject of penalty or punishment.

INSTRUCTION NO. 36

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When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesman here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

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

Readbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a readback, you must carefully describe the testimony to be read back so that the court reporter can arrange his notes. Remember, the court is not at liberty to supplement the evidence.

INSTRUCTION NO. 38

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

3/5/96

GIVEN:

*Gerard R. Bongiovanni*  
DISTRICT JUDGE

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-FILED IN OPEN COURT-

MAR 0 0 1979 19

LORETTA BOWMAN, CLERK

By *[Signature]* Deputy  
1:42p

DISTRICT COURT  
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 MICHAEL DAMON RIPPO,

13 Defendant.

Case No. C106784  
Dept. No. IV  
Docket C

15 VERDICT

16 We, the jury in the above entitled case, find the defendant MICHAEL DAMON RIPPO, Guilty  
17 of COUNT I - MURDER OF THE FIRST DEGREE. (LAURI M. JACOBSON)

18 DATED this 6 day of February 1979.  
*March*

*[Signature]*  
FOREPERSON

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DISTRICT COURT  
CLARK COUNTY, NEVADA

FILED IN OPEN COURT -

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LORETTA BOWMAN, CLERK

By *Josephine Sel...* Deput  
1:42pm

THE STATE OF NEVADA,

Plaintiff,

-VS-

MICHAEL DAMON RIPPO,

Defendant.

Case No. C106784  
Dept. No. IV  
Docket C

VERDICT

We, the jury in the above entitled case, find the defendant MICHAEL DAMON RIPPO, Guilty  
of COUNT II - MURDER OF THE FIRST DEGREE. (DENISE M. LIZZI)

DATED this 6 day of February, 1996  
MARCH

*Richard H. ...*  
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LORETTA BOWMAN, CLERK

By *Josephine [Signature]* Deputy  
1:42 pm

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

MICHAEL DAMON RIPPO,

Defendant.

Case No. C106784  
Dept. No. IV  
Docket C

VERDICT

We, the jury in the above entitled case, find the defendant MICHAEL DAMON RIPPO, Guilty  
of COUNT III - ROBBERY.

DATED this 6 day of February, 1996.  
*412*  
MAR 11

*Richard A. [Signature]*  
FOREPERSON

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3 -FILED IN OPEN COURT-

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5 LORETTA BOWMAN, CLERK

6 By *[Signature]* Deputy

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

1.4.96

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 MICHAEL DAMON RIPPO,

13 Defendant.

Case No. C106784  
Dept. No. IV  
Docket C

14  
15 VERDICT

16 We, the jury in the above entitled case, find the defendant MICHAEL DAMON RIPPO, Guilty  
17 of COUNT IV - UNAUTHORIZED SIGNING OF CREDIT CARD TRANSACTION DOCUMENT.

18 DATED this 6 day of March, 1996.

19  
20 *[Signature]*  
21 FOREPERSON

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MRIPPO-07029-01195

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*Loretta S. ...*  
CLERK

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DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	
	)	Case No. C106784
vs.	)	Dept. No. IV
	)	Docket No. C
MICHAEL DAMON RIPPO,	)	
	)	
Defendant.	)	

Before the Honorable Gerard J. Bongiovanni

Wednesday, March 6, 1996

Reporter's Transcript of Proceedings

VERDICT

APPEARANCES:

(See separate page)

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

A P P E A R A N C E S

For the Plaintiff: MELVYN HARMON, ESQ.  
DAN SEATON, ESQ.  
Deputies District Attorney  
200 South Third Street  
Las Vegas, Nevada 89155

For the Defendant: PHILIP DUNLEAVY, ESQ.  
Attorney at Law  
2810 West Charleston Blvd.  
Las Vegas, Nevada 89102

and

STEVEN WOLFSON, ESQ.  
Attorney at Law  
302 E. Carson Ave., #400  
Las Vegas, Nevada 89101

Las Vegas, Nevada, Wednesday, March 6, 1996

\* \* \* \* \*

THE COURT: State of Nevada versus Michael  
Damon Rippo.

Let the record reflect the  
presence of the defendant, his attorney Phillip Dunleavy;  
Dan Seaton and Mel Harmon for the State.

Has the Jury reached a verdict  
in this case?

FOREMAN ESCALANTE: We have, Your Honor.

THE COURT: Mr. Escalante, you are the  
foreperson of this Jury?

FOREMAN ESCALANTE: Yes, sir.

THE COURT: Would you hand the verdict forms  
to the bailiff.

Did you reach this verdict  
today?

FOREMAN ESCALANTE: Yes, sir.

THE COURT: You didn't date the verdict.  
Give them back to the -- do you  
have a pen with you -- give this back to Mr. Escalante and  
have him date it.

1 1996; Gildardo G. Escalante, Foreperson.

2 Verdict: We, the Jury, in the  
3 above-entitled case, find the defendant, Michael  
4 Damon Ripppo, guilty of Count I, murder of the first  
5 degree, Lauri M. Jacobson.

6 Dated: This 6th day of  
7 March, 1996; Gildardo G. Escalante Foreperson.

8 Verdict: We, the Jury, in the  
9 above-entitled case, find the defendant, Michael  
10 Damon Ripppo, guilty of Count II, murder of the  
11 first degree, Denise M. Lizzi.

12 Dated: This 6th day of March,  
13 1996; Gildardo G. Escalante, Foreperson.

14 Verdict: We, the Jury, in the  
15 above-entitled case, find the defendant, Michael  
16 Damon Ripppo, guilty of Count III, robbery.

17 Dated: This 6th day of March,  
18 1996; Gildardo G. Escalante, Foreperson.

19 Ladies and gentlemen of the  
20 Jury, are these your verdicts as read, so say you one, so  
21 say you all?

22 (Jury panel answered  
23 in the affirmative.)

24 THE COURT: Before the verdicts are

1 FOREMAN ESCALANTE: Your Honor, could we  
2 have those back again?

3 We want to take a look at the  
4 dates on those. We think there might have been a  
5 typographical error.

6 THE COURT: The date is March 6th.

7 FOREMAN ESCALANTE: On the last one?

8 JUROR PEDERSEN: Look through all of them.

9 THE COURT: Yes, I think there is.

10 Do you have the jury  
11 instructions with you too?

12 FOREMAN ESCALANTE: Yes, sir.

13 THE COURT: Okay. We need those back.

14 Okay. The clerk will now read  
15 the verdicts aloud and inquire if this is the -- these are  
16 the verdicts of the jury.

17 THE CLERK: State of Nevada, Plaintiff,  
18 versus Michael Damon Ripppo, Defendant, Case Number  
19 C106784.

20 Verdict: We, the Jury, in the  
21 above-entitled case, find the defendant, Michael  
22 Damon Ripppo, guilty of Count IV, unauthorized  
23 signing of credit card transaction document.

24 Dated: This 6th day of March,

1 recorded, do either -- any of the counsel wish to have the  
2 Jury polled?

3 MR. DUNLEAVY: Yes, Your Honor, we would ask  
4 that.

5 THE COURT: Okay. The clerk will poll the  
6 Jury.

7 THE CLERK: Gildardo Escalante, are these  
8 your verdicts, as read?

9 FOREMAN ESCALANTE: Yes.

10 THE CLERK: Cindy Pedersen, are these your  
11 verdicts as read?

12 JUROR PEDERSEN: Yes.

13 THE CLERK: Krishna Shrivastava, are these  
14 your verdicts as read?

15 JUROR SHRIVASTAVA: Yes.

16 THE CLERK: Shelby Romero, are these your  
17 verdicts as read?

18 JUROR ROMERO: Yes.

19 THE CLERK: Gerald Berger, are these your  
20 verdicts as read?

21 JUROR BERGER: Yes.

22 THE CLERK: Charlotte Proto, are these your  
23 verdicts as read?

24 JUROR PROTO: Yes.



1 THE CLERK: Pamela Terry, are these your  
2 verdicts as read?

3 JUROR TERRY: Yes.

4 THE CLERK: Loren Sweeney, are these your  
5 verdicts as read?

6 JUROR SWEENEY: Yes.

7 THE CLERK: Myrna Keithley, are these your  
8 verdicts as read?

9 JUROR KEITHLEY: Yes.

10 THE CLERK: Thomas Cunningham, are these  
11 your verdicts as read?

12 JUROR CUNNINGHAM: Yes.

13 THE CLERK: Harlen Woehrle, are these your  
14 verdicts as read?

15 JUROR WOHRLE: Yes.

16 THE CLERK: Steven Flood, are these your  
17 verdicts as read?

18 JUROR FLOOD: Yes.

19 THE COURT: The clerk will now record the  
20 verdicts into the minutes of the Court.

21 And I believe we have to  
22 proceed now with the penalty phase.

23 When are the parties going to  
24 be ready to?

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1 MR. DUNLEAVY: May we approach the bench for  
2 a moment, Your Honor?

3  
4 (Discussion off the record.)  
5

6 THE COURT: Ladies and gentlemen, after  
7 discussing this matter at the bench with counsel, we're  
8 going to be unable to start the penalty phase until Monday.

9 So, return to court Monday at  
10 10:15 a.m., and we'll get that phase started as soon as  
11 possible. So, until then, you are excused.

12 The admonishment is still in  
13 effect: Not to discuss this case with anyone or amongst  
14 yourselves, or any subject connected with this trial;

15 Read, watch, listen to any  
16 report or commentary on any subject connected with the  
17 trial, by any medium of information, including, without  
18 limitation, newspaper, television and radio; or

19 Form or express any opinions on  
20 this matter until it is finally submitted to you for your  
21 deliberation.

22 Thank you very much. You are  
23 excused at this time until 10:15 Monday morning.

24 Mr. Potter, call the alternates

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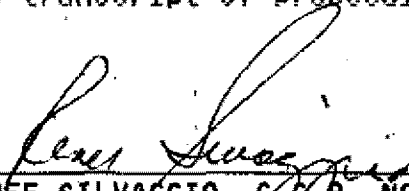
and have them return at the same time.

MR. POTTER: Okay.

(Proceedings adjourned until Monday,  
March 11, 1996, at 10:15 a.m.)

\* \* \* \* \*

ATTEST: Full, true and accurate transcript of proceedings.

  
RENEE SILVAGGIO, CCR NO. 122  
OFFICIAL COURT REPORTER

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*Letitia L. Lamm*  
CLERK

1 ORDER  
2 STEWART L. BELL  
3 DISTRICT ATTORNEY  
4 Nevada Bar #000477  
5 200 S. Third Street  
6 Las Vegas, Nevada 89155  
7 (702) 455-4711  
8 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

Plaintiff,

10 -vs-

11 MICHAEL DAMON RIPPO,  
12 ID#0619119

Defendant.

Case No. C106784  
Dept. No. IV  
Docket C

14 UPON APPLICATION of the Plaintiff being represented by STEWART L. BELL, District  
15 Attorney, through DAN M. SEATON, Chief Deputy District Attorney, and good cause appearing  
16 therefore,

17 IT IS HEREBY ORDERED that THOMAS F. KINSORA, Ph.D. and NORTON A. ROITMAN,  
18 M.D. shall provide to DAN M. SEATON, Chief Deputy District Attorney, and Defendant's Attorneys,  
19 STEVEN WOLFSON, ESQUIRE and PHILIP H. DUNLEAVY, ESQUIRE, copies of all tests, answers,  
20 scoring, notes and reports from the evaluations of Defendant, MICHAEL DAMON RIPPO, as soon as  
21 possible. These documents are to be used in the penalty phase of the above-captioned trial.

22 DATED this 8<sup>th</sup> day of March, 1996.

*Gerard J. Bongiovanni*  
DISTRICT JUDGE

24 STEWART L. BELL  
25 DISTRICT ATTORNEY  
26 Nevada Bar #000477

27 BY *Dan M. Seaton*  
28 DAN M. SEATON  
Chief Deputy District Attorney  
Nevada Bar #002473

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DISTRICT COURT  
CLARK COUNTY, NEVADA

The State of Nevada,	)	
	)	
Plaintiff,	)	
	)	Case No. C106784
vs.	)	Dept. No. IV
	)	Docket No. "C"
Michael Damon Rippe,	)	
#0619119	)	
Defendant,	)	
	)	
	)	

Before the Honorable Gerard J. Bongiovanni  
Tuesday, March 12, 1996, 10:00 o'clock a.m.  
Reporter's Transcript of Proceedings

PENALTY PHASE

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

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RENEE SILVAGGIO, CCR 122 391-0379

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APPEARANCES:

For the State: MELVYN T. HARMON, ESQ.  
DANIEL SEATON, ESQ.  
Deputies District Attorney

For the Defendant: STEVEN B. WOLFSON, ESQ.  
PHILIP H. DUNLEAVY, ESQ.  
Attorneys at Law

Law Clerk: Delwin Potter

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Las Vegas, Nevada, Tuesday, March 12, 1996, 10:00 a.m.

\* \* \* \* \*

(The following proceedings were  
had in open court outside the  
presence of the jury:)

THE COURT: State of Nevada versus Michael  
Damon Rippo.

Let the record reflect the  
presence of the defendant, and his attorneys, Steve Wolfson  
and Philip Dunleavy; Dan Seaton and Mel Harmon for the  
State.

The record will also reflect we  
are outside the presence of the jury.

Mr. Wolfson; Mr. Dunleavy?

MR. DUNLEAVY: Your Honor, we filed a motion  
on some poetry that we have been provided in discovery.

I've cited the two controlling  
cases, I believe, which is Dawson versus Delaware and  
Flannigan versus State; one is a United States Supreme Court  
case; one is a Nevada Supreme Court case.

I don't think it's a close call  
that these letters are not probative --

THE COURT: The poems?

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1 MR. DUNLEAVY: -- the poems are not  
2 probative of any specific issue.

3 What they are is they are  
4 artistic expression. They are clearly protected by the  
5 First Amendment to the United States Constitution made  
6 applicable to us by the Fourteenth Amendment.

7 And in the Dawson case, where a  
8 man was a member of the Aryan Brotherhood, which has a well  
9 established reputation for creating problems, they pointed  
10 out it wasn't admissible; it's prejudicial; it's not  
11 probative of any particular character.

12 This was not a racial crime.  
13 There was nothing about this case that has anything to do  
14 with racism or racial issues. All they are trying to do is  
15 inflame the jury by showing that our client in the past has  
16 written some racially oriented poetry. And, for one, I'm  
17 not even sure there is proof he wrote it. They're assuming  
18 he's the author.

19 There was a letter that says  
20 here's some poems I wrote, but I would submit that it's  
21 possible that somebody could commit perjury or even  
22 plagiarism in prison and not worry too much about it.

23 The bottom line is these  
24 letters are -- these poems are highly inflammatory and they

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1 are not probative of any relevant issue before this Court.  
2 The State wants to say they show that he's violent and his  
3 propensity for violence in prison.

4 His prison record speaks to  
5 that, not the poetry; and his prison record is devoid of  
6 that. He had one fight in 14 years in prison. That's not  
7 somebody with a violent propensity in prison.

8 The Court can take note: One  
9 fight in 14 years in prison is not a serious prison record.  
10 You've seen people in here with write-ups. They've got --  
11 some of them can't get by a month without getting a  
12 write-up.

13 There is no evidence to show  
14 that he has a propensity for violence. These poems, though,  
15 they are rather disgusting poems. He never carried out any  
16 of these activities. And one of the most damaging poems is  
17 talking about drive-by shootings. But the last time I  
18 looked, they didn't have guns or cars in prison. This is  
19 fantasy. This is fiction. It's not relevant and it's  
20 highly prejudicial and I would ask the Court to suppress it.

21 I would also include: In one  
22 letter that they have asked that be used -- and I don't  
23 believe the Court has had the opportunity to see them. It's  
24 dated 2/14 of '82, and it does have some damaging statements

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1 in it -- but with permission, I'll show the Court the  
2 letter.

3 A lot of it, you can't even  
4 read. It's a very poor xerox copy. And that's the best the  
5 State's got.

6 And what they want to do is  
7 pick out one or two sentences that appear to be damaging,  
8 completely out of context; and nobody can put the letter in  
9 context because nobody can read it.

10 So I would submit that it also  
11 falls under the Dawson and the Flannigan rule, in addition  
12 to the fact that it's like the State being able to redact  
13 and only use damaging portions.

14 In this letter, the majority of  
15 the letter, you are guessing what he's saying. When you get  
16 to the second and third page, the quality of the copying is  
17 so bad, there is entire paragraphs that are illegible. And  
18 I think it's improper for the State to say this is going to  
19 be an accurate picture of somebody's propensity for  
20 anything.

21 THE COURT: You have no objection to the  
22 other letters?

23 MR. DUNLEAVY: I think they're disgusting  
24 letters, but I think that the State is entitled to use them

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2 1 for their theory.

2 THE COURT: Okay. State's response?

3 MR. SEATON: Judge, the first thing that  
4 needs to be noted is that these proceedings in penalty are  
5 designed to give the jury as much insight as possible into  
6 the character of the defendant. And, certainly, his  
7 writings have got to be said to hold the greatest clue and  
8 key to his true character. He is espousing his beliefs and  
9 his desires.

10 There can be no doubt, and the  
11 State's in complete agreement with the proposition that the  
12 Constitution of the United States protects a person's racial  
13 beliefs.

14 Dawson, the United States  
15 Supreme Court case, and Flannigan, the Nevada Supreme Court  
16 case -- which, by the way, I prosecuted -- both say that,  
17 and in unmistakable terms.

18 What the defense fails to bring  
19 to light, as clearly as it should be, is that both of those  
20 cases say that that isn't a per se barrier to the  
21 introduction of that kind of evidence. If it has some  
22 relevance, both cases indicated that it's perfectly  
23 appropriate.

24 Dawson, the Supreme Court

003243

2

1 didn't like it because the prosecution failed to do the  
2 right things. They entered into a stipulation with the  
3 defense, which just said that he's a member of the gang and  
4 that the gangs are present in prison. But it didn't say  
5 what those gangs were capable of.

6 And in Flannigan, the Court  
7 said there was no nexus of the beliefs of the defendant to  
8 the particular crime.

9 I want to read for the Court  
10 what the United States Supreme Court said in Dawson, which  
11 really is dispositive of this whole issue.

12 It said, and I quote:

13 Before the penalty hearing, the  
14 prosecution claimed that its expert witness would  
15 show the Aryan Brotherhood as a white racist prison  
16 gang that is associated with drugs and violent  
17 escape attempts from prison and that advocates the  
18 murder of fellow inmates.

19 Now here's the important  
20 language. The Supreme Court said:

21 If credible and otherwise  
22 admissible evidence to that effect had been  
23 presented, we would have a much different result.

24 In other words, it would have

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2 1 been upheld. It would have been all right had the  
2 stipulation not been so narrow.

3 The Court went on to say:

4 In many cases, for example,  
5 associational evidence might serve a legitimate  
6 purpose in showing that a defendant represents a  
7 future danger to society.

8 A defendant's membership in an  
9 organization that endorses the killing of any  
10 identifiable group, for example, might be relevant  
11 to a jury's inquiry into whether the defendant will  
12 be dangerous in the future.

13 This just has to do with his  
14 association with a group, and that the group might have --  
15 might be a dangerous kind of a group; and, therefore, since  
16 he holds their beliefs, he may go out and do these things.

17 Judge, in the defendant's own  
18 words -- and I hate to use this language, but here it is:

19 I want to do a drive by and see  
20 a bunch of niggers die. I'll shoot them all in the  
21 head and for sure they'll be dead.

22 Going down further in the poem:

23 I'll laugh real loud and be  
24 real proud of unloading heavy armament on a

003245

2 1 nigger crowd. Blood will run red and on the street  
2 will be dead all the niggers that I shot and the  
3 mother fucking head.

4 Now, I ask you: What better  
5 evidence of this man's character could there possibly be  
6 than him writing these sort of things in prison about a  
7 particular identifiable group, as the United States Supreme  
8 Court says.

9 If he were only saying that he  
10 didn't like black people, and that he was -- he just was  
11 bothered by them, we couldn't get this in; but he says that  
12 he wants to commit violence on them. And it doesn't matter  
13 that he's writing about a drive-by shooting, which obviously  
14 can't happen in prison. This man was found with a nine inch  
15 knife and nunchuks in his prison cell not too long ago.

16 He has the capacity and the  
17 capability to kill, and once given a far more severe penalty  
18 than he had received in the sexual assault case, he has more  
19 propensity to violence, less reason not to do it.

3 20 So it isn't just that the State  
21 is putting on evidence about his beliefs so as to besmirch  
22 his character. We're putting these things into evidence to  
23 show the jury that he may be a danger, not only to society,  
24 but to the society that he finds himself in in prison, the

003246

3

1 other black inmates that are in there, who he, for some  
2 reason, doesn't like.

3 Judge, this is precisely the  
4 kind of evidence that Dawson and Flannigan said would be  
5 admissible if allowed in.

6 Mr. Dunleavy brought up the  
7 question of we don't even know that he wrote these. What  
8 the judge doesn't have right now is the letter that was  
9 found that contained these particular poems. It was a  
10 letter -- let me tell you the circumstances that the  
11 evidence will -- that the witness will testify to.

12 Mr. Rippo was going for a visit  
13 one day in prison. He was patted down, and in his -- just  
14 above his groin area was found a letter, and it was the size  
15 of the sheet that you have, with this poem on it, folded in  
16 half. It was taken from him.

17 There was a letter with this  
18 poem attached. And the letter was written to somebody else  
19 in the prison system. And the last line of the letter, as I  
20 recall it, was: I've enclosed poems that I have written,  
21 and then he says his name, Mike Rippo.

22 Now, these are typed poems, but  
23 he had access to a typewriter in prison. He says, in that  
24 letter signed by him, that he authored these poems. So

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3

1 there can be no doubt as to the connection between him and  
2 these writings and these thoughts and these horrendous  
3 beliefs and desires that he has to do harm to black people.

4 And so, Judge, I would submit,  
5 on the strongest of evidence, that these things are  
6 admissible and should come before the jury so they recognize  
7 who Michael Rippo really is.

8 MR. DUNLEAVY: Your Honor, the one thing  
9 that I would agree with is the Dawson case is dispositive of  
10 this case.

11 The Dawson case pointed out  
12 that the Aryan Brotherhood evidence was employed simply  
13 because the jury would find these beliefs morally  
14 reprehensible. That's what the State wants to do here;  
15 nothing else.

16 There is no way in the world  
17 the Judge -- the State can say in good faith that he's  
18 planning to do a drive by in prison. The State said he was  
19 found with a knife and some nunchuks. That's right, eleven  
20 years ago. He's never used them.

21 What they want to do is get the  
22 jury up there and say, listen, we don't have any legitimate  
23 reasons to kill this guy, but think about it: He might be  
24 dangerous in the future, so kill him for that. And that's

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3

1 improper argument.

2 This is inflammatory. It's  
3 highly prejudicial. It is not probative. It is not  
4 relevant on this case.

5 THE COURT: I think they're -- the  
6 prejudicial value outweighs any probative value. So I'm not  
7 going to allow these to be admitted. I think that letter of  
8 1982, February 14th, is too illegible to make any sense of.  
9 They will not be admitted either.

10 MR. DUNLEAVY: Do you want that letter to be  
11 marked as an exhibit?

12 THE COURT: Do you want to mark them?

13 Anything else?

14 MR. DUNLEAVY: I have nothing further.

15 THE COURT: Anything else by the State  
16 outside the presence?

17 MR. SEATON: No, Judge.

18 THE COURT: All right. Bring the Jury in,  
19 please.

20 MR. POTTER: Yes, sir.

21 (The following proceedings  
22 were had in open court in  
the presence of the Jury:)

23 THE COURT: Good morning, everyone.

24 Counsel stipulate to the

003243

3 1 presence of the Jury?

2 MR. SEATON: Yes, Judge.

3 MR. DUNLEAVY: Yes, Your Honor.

4 THE COURT: Okay. Again, I guess I have to  
5 apologize to all of you. Things came up yesterday that had  
6 to be heard outside your presence. So we lost another day.  
7 I just hope you understand.

8 At this time, we're going to  
9 move into the penalty phase of this case. We'll begin again  
10 with the opening arguments of counsel.

11 Mr. Seaton.

12 MR. SEATON: Thank you, Judge.

13 THE BAILIFF: Do you wish the lectern, sir?

14 MR. SEATON: I don't. Thank you, sir.

15 Good morning, ladies and  
16 gentlemen.

17 We are now at that phase of the  
18 trial where you are going to be considering other evidence  
19 that will hopefully help you in determining what the penalty  
20 should be for Michael Ripppo, now that you have found him  
21 guilty of the various charges that you found him guilty of.

22 As you may have guessed by now,  
23 the system is designed so that when you are hearing the  
24 evidence --

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4

1 THE BAILIFF: Excuse me.

2 MR. SEATON: That's all right.

3 -- when you are hearing  
4 evidence that has to do with the guilt or innocence of a  
5 particular defendant, there are things which you may not  
6 hear. You may also hear that evidence which has to do with  
7 the actual crime that he committed.

8 Now that you have found him  
9 guilty of the murders of Lauri Jacobson and Denise Lizzi,  
10 you will be able to hear the other evidence.

11 As Paul Harvey would say, now  
12 for the rest of the story, and there is quite a story to be  
13 heard.

14 Michael Rippo, when he was in  
15 his early years, 15 years old or thereabouts, started  
16 committing burglaries and getting involved with drugs.

17 There were two particular  
18 burglaries that he was caught and charged with having done.  
19 One was the burglary of a place called Holman's and the  
20 other was a place called Radio Shack.

21 Within those two burglaries,  
22 Michael Rippo stole -- stole over \$13,000 worth of goods, as  
23 a 15 year old. He was caught, arrested, and sent through  
24 the juvenile system for those.

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4

1 For those crimes, he was  
2 committed to a place called Spring Mountain Youth Camp.  
3 It's just up in the mountains here near Mount Charleston and  
4 Lee Canyon.

5 He did about -- if I my memory  
6 is correct -- about four months up there.

7 You are going to hear from an  
8 individual by the name of Bob Sergi, who was a counselor at  
9 Spring Mountain at that particular time; and Mr. Sergi will  
10 tell you that while Michael Rippo complied, just barely,  
11 with the rules that they had in place for him, he was a  
12 severe problem, and they recognized the difficulties that he  
13 was going to pose in the future.

14 But you'll hear that they have  
15 a set of circumstances they go through that if a person  
16 complies with their rules and regulations, they must be  
17 released back to the streets, which he was.

18 During that period of time, as  
19 an example, Mr. Rippo would get weekend passes and be  
20 allowed to come off of the mountain and back down into town.

21 When he got back, one of two  
22 things typically would happen: Either it would be  
23 discovered that he was still under the influence of drugs,  
24 or he would be bragging, which was his natural habit at that

003252

4

1 time, to his peers about the crimes that he had committed on  
2 that weekend while he was off the mountain.

3 You are going to learn that at  
4 Spring Mountain, it's set up for the -- for youthful  
5 offenders, who still have a chance in our society, and there  
6 is quite a program that had been in those days, and still is  
7 in effect, designed to try to rehabilitate and to help  
8 youngsters.

9 There is a great deal of  
10 counseling that goes on and they go out of their way,  
11 bending over backwards to try and help these kids.

12 Mr. Sergi will tell you that  
13 when Mr. Rippo left their care and their custody, that he  
14 knew that trouble was on the horizon. He just sensed it as  
15 a person who worked with those kind of individuals.

16 Mr. Rippo went back into the  
17 community, dealt with the same people that he had dealt with  
18 before, that got him into these problems, and continued  
19 along his burglary ways. He continued to enter into  
20 people's homes and to take their belongings, among which you  
21 will learn were guns. He had a particular affection for  
22 guns and liked to steal them and sell them back into the  
23 community.

24 It was at this time that Mr.

003253

NR100-87058-R0003259

4

1 Rippo did something. It was on January the 16th, 1982 -- I  
2 believe he was 16 years old at the time -- Mr. Rippo did  
3 something that gives meaning to something that you heard  
4 earlier in the trial, and probably didn't understand the  
5 entirety of.

6 Remember when Tom Sims was --  
7 had taken the stand and he talked about Mr. Rippo coming  
8 over and trying to sell the car, and then they were  
9 driving -- I think he was driving Mr. Rippo to the Stardust  
10 Hotel, and it was during that --

11 MR. DUNLEAVY: Your Honor, this is way into  
12 argument. He's supposed to be explaining what's coming out  
13 in this phase, not arguing what happened the last trial.

14 MR. SEATON: I think if counsel --

15 THE COURT: Overruled. Go ahead.

16 MR. SEATON: Thank you, Judge.

17 What you heard was that Mr.  
18 Rippo said to Mr. Sims words to the effect that: Those were  
19 fine women. I could have f'd them if I wanted to, but I  
20 didn't, and I'm cured.

21 What a strange thing to say and  
22 why would somebody say something like that?

23 And the evidence is going to  
24 explicitly tell you precisely what he meant, for on January

003254

5

5

1 the 16th, 1982, Mr. Rippo, about seven o'clock in the  
2 morning, was going over a fence and into the back patio area  
3 of an apartment on Topaz, 4775 Topaz, here in Clark County.  
4 And he was sneaking into the sliding glass door that  
5 enclosed the back of that apartment, and he went in there  
6 and went through the place looking for things to steal, when  
7 he found himself rather unsuccessful in that endeavor.

8 He went into the bedroom of  
9 that apartment, and in that bedroom was Laura Martin; and  
10 Laura Martin was doing, as every person has the inalienable  
11 right to do, that is to sleep in her own house, which is  
12 what she was doing.

13 She was dressed in sweat  
14 clothes, a sweat shirt and sweat pants. And she awoke to  
15 the horrendous assault of someone straddling her, hand over  
16 mouth and butcher knife in his hand demanding money.

17 It was this man. (Indicating)  
18 It was Michael Rippo who was starting this assault of horror  
19 on Laura --

20 MR. DUNLEAVY: Your Honor, I'm going to  
21 object to the words like horrendous and horror. That is not  
22 even supposed to be argument. This is supposed to be  
23 statements of what witnesses will testify to. Let them  
24 phrase it.

003255



5

1 MR. SEATON: And I'm telling the jury what  
2 the witnesses are going to testify to, Judge.

3 THE COURT: Okay. You may continue.

4 MR. SEATON: He -- the first thing he did  
5 was to take the tie from her bathrobe, put her hands behind  
6 her back, and tie them securely behind her back.

7 He walked her into the -- well,  
8 he didn't walk her into the living room initially. He first  
9 cut off her clothing with this knife, all the time talking  
10 about sex, wanting to f--- her, and saying it over and over  
11 again and demanding of her that she comply with it, of all  
12 things.

13 He, at one point in time, took  
14 a tube top that she was wearing -- she had put a tube top on  
15 after having been made to be nude. He cut that off of her  
16 and he gagged her. He tied it through her mouth and kept  
17 her from talking or making noise by this means.

18 He took the knife and he placed  
19 it to her breasts and he said to her at one time: I cut the  
20 nipples off of a girl once, but she was already dead, while  
21 he's holding that knife within inches of her bare breasts.

22 He hit her with his hand. At  
23 one time, he had her in the living room and he had what  
24 he -- what you will learn is called nunchuks, two pieces of

003256

MRIPPO-07058-80H03762

5

1 wood with a chain like thing in between them, and they're  
2 used as a martial arts weapon -- and he beat her with those  
3 around her head and her shoulders. And you are going to see  
4 pictures of black eyes and cuts behind the ear. Fifteen  
5 stitches, I believe, were taken.

6 Also note, I believe within  
7 this particular crime was the fact that he took electrical  
8 cords and cut them and tied her with them, tied her feet  
9 with them.

10 You are going to learn about  
11 the mind of Michael Ripppo; that at one time, when she was  
12 naked and sitting in the living room, tied and bound, he  
13 took a fountain pen and he played with it around her vaginal  
14 area as if to torment her, and she will tell you about that  
15 torment.

16 He cut the cords off of her  
17 legs and he had her in bed at this particular time and he  
18 dropped his own pants and he attempted to have sexual  
19 intercourse with her.

20 You will learn that he didn't  
21 do a very good job of it. He managed to -- to obtain slight  
22 penetration, if you will, but not the full fledged  
23 intercourse that we're familiar with.

24 All the while he was doing

003257

Rippro-07058-80003263

5 1 these things to Laura Martin, he was threatening her with  
2 this knife; he was beating her with the nunchuks; he was  
3 hitting her with his fists. And at one point he said to her  
4 I can't leave you. You know who I am. The old  
5 identification issue.

6 At about that point in time,  
7 she was able to rub with her shoulder and rub this -- the  
8 tube top, which was a fairly elastic material. I think it's  
9 a spandex kind of material -- and get it out of her mouth;  
10 and she will tell you that she started talking a mile a  
11 minute, knowing that she was going to die, believing that  
12 her only hope was to humanize herself and to talk to this  
13 man and to try to talk him out of it. And finally she  
14 offered him her car; take the keys to my car; take my car.  
15 I promise I will never tell anybody.

16 And his words were to her, if  
17 you do, I'll come back and I'll find you and I'll kill you.  
18 Not very unfamiliar territory for Mr. Rippro.

19 He left. She was able to cut  
20 the cord -- the binding on her wrists. Her feet were free  
21 at this time, I believe, and she was able to get a knife and  
22 use it behind her and cut the cords off. She went out  
23 screaming and got the attention of neighbors and the police  
24 came.

003258

6

1                   That, you are going to learn,  
2                   is the Michael Ripppo that you have been sitting in the  
3                   courtroom with for this past month or so.

4                   Two days later, on the 18th of  
5                   January, 1982, a Katherine Smith called Metro and she was in  
6                   a highly agitated, hysterical state, saying that there was a  
7                   person outside her door with a gun and she was frightened.

8                   And detectives responded and  
9                   they set up a surveillance unit and watched; and soon a man  
10                  came on the scene and he had a gun and he was trying to get  
11                  into the door of that apartment and then he gave up and left  
12                  and they put him under arrest.

13                  I don't need to tell you who  
14                  that person is. You've met him already. He's been in front  
15                  of you for several weeks. And he had a loaded .357 Magnum  
16                  on his person as he was trying to get into the door of  
17                  Katherine Smith.

18                  The defendant, at that time,  
19                  was a juvenile -- well, juvenile in age, if not in actions.  
20                  He was -- he went through a process in the juvenile system,  
21                  which you will learn is called adult certification, and it  
22                  is a process by which a juvenile is looked at by the  
23                  juvenile authorities to see whether or not the juvenile  
24                  system can still do him or her any good.

003259

6

1 And if it can, then they stay a  
2 juvenile and are not certified. If it cannot, if the person  
3 is beyond juvenile assistance, then they are certified up as  
4 an adult, is what the terminology is, and they come into  
5 these adult courtrooms that we're in today.

6 Mr. Rippe was certified as an  
7 adult, and he ultimately pled guilty to the sexual assault  
8 of Laura Martin and he was sentenced to prison.

9 He also had a burglary charge  
10 that he was sentenced for, and his sentence was life  
11 imprisonment with the possibility of parole, and eligibility  
12 was within five years. He got -- I can't remember if he got  
13 five or ten years on the burglary. It ran concurrent with  
14 or at the same time as the sexual assault time.

15 And within a few years, just a  
16 few years, this rapist was out on the streets again,  
17 paroled. He committed the crimes that you have found him  
18 guilty for, and he went back to jail, of course, on those  
19 crimes, but he also went back to prison because he was  
20 revoked on his original parole for the sexual assault.

21 And so he was spending his time  
22 in prison, not in the regular jail. And while in prison,  
23 you are going to learn a couple of interesting things about  
24 him.

003260

6 1                   Once, I believe it was back in  
2 1986, they did a search of his room. You will be surprised  
3 to hear that in prison, in the prisoner's room, in the  
4 lights up above in the ceiling, there was found a nine inch  
5 knife and a set of homemade nunchuks.

6                   Another time, more recently  
7 than that -- and the evidence will correct me if I'm  
8 wrong -- I believe it happened over in the Jail while he was  
9 down here having to do with this trial, that recently was a  
10 few years ago -- he had contact with a female corrections  
11 officer over there, and he got angry with her for one reason  
12 or another and he called her a fat, f'ing pig; he said he  
13 was going to blow her brains out, to take her out of her  
14 misery.

7 15                   That's the Michael Rippo that  
16 you are here today to sentence. That's the evidence, among  
17 a few other things, that's going to come before you.

18                   All of this evidence that you  
19 are going to see is going to let you know beyond any doubt  
20 that you have been in the presence of evil in this  
21 courtroom, and when that evidence is finished being  
22 presented, and we lawyers get through saying what we've got  
23 to say, you are going to be able to go back in the jury  
24 deliberation room and do something about that evil.

3261

7

1

Thank you.

2

THE COURT: Mr. Dunleavy.

3

MR. DUNLEAVY: I need the podium.

4

THE COURT: Get the podium.

5

The bailiff will get it, Mr.

6

Dunleavy.

7

MR. DUNLEAVY: Okay.

8

Good morning.

9

Life or death; that's the

10

question here. We've gone through the guilt phase. Now you

11

have to decide what the appropriate punishment should be.

12

The State wants you to kill

13

this man. (Indicating) Don't doubt that for a second.

14

That's why they're here. They want you to kill him.

15

But, first, you have to look at

16

the reasons behind this desire to kill him. First, the

17

State has to prove aggravating circumstances and they have

18

to be proven beyond a reasonable doubt. You will have

19

explained what those are. You have to find those beyond a

20

reasonable doubt before you can even consider the death

21

penalty.

22

After this threshold, you must

23

look at what's called mitigating circumstances. And you

24

find out that mitigating circumstances are a lot different.

7

1 As a matter of fact, a mitigating circumstance can be  
2 anything you want it to be, and it never has to be proven  
3 beyond a reasonable doubt.

4 In fact, if the State proved 20  
5 aggravating circumstances and we established not one  
6 mitigating circumstance, you never have to kill. That's a  
7 decision left to the jury and there is never any requirement  
8 that this jury kill.

9 The State has told you what  
10 they intend to prove as to what Mike Rippo's life has been  
11 like and what it's been like.

12 And you will hear a few other  
13 things: That he had a fairly normal childhood with a few  
14 minor exceptions; his first father was an alcoholic who  
15 abandoned him; his stepfather was a gambler -- compulsive  
16 gambler, who had some other problems that came up and we'll  
17 explain those to you.

18 You will also learn that Mike  
19 was a good student until about three months before he  
20 started getting in trouble; and by good student, I mean an A  
21 and B student, worked at the library, was every parent's  
22 dream.

23 Something went wrong. Mike got  
24 involved with some pretty bad kids. He got involved with

3263



7 1 some burglaries. He was starting to go the wrong direction,  
2 as many teenagers do.

3 Personally, I think some day  
4 they are going to prove that puberty causes brain damage;  
5 that perfectly good kids go crazy and do things for a while.

6 Unfortunately, in Mike's case,  
7 at age 15, he got involved in some burglaries. He got  
8 picked up. He got involved in the juvenile justice system.

9 When he got involved in the  
10 juvenile justice system was at a time when he was 15, 15 and  
11 a half. He had become very concerned with the fact that his  
12 height had stopped at five feet one. He was about 110  
13 pounds. All of his friends were outgrowing him. He had  
14 some real problems working.

15 He got involved in these  
16 burglaries. He had run away from home because his father  
17 was getting on his case a lot; all things other juveniles  
18 have done in history and not wound up this way.

19 But when Mike Rippe went to the  
20 juvenile court for the first time, he was entitled to have  
21 an attorney. He was entitled to have somebody that would  
22 advocate on his behalf and try and get them to take care of  
23 him. A lot of kids need counseling. A lot of kids need  
24 help. Mike Rippe didn't get that attorney. His mother

002264

7 1 showed up at the hearing and said I've got problems at home;  
2 take him.

3 And she threw him away into the  
4 system. She believed that the system was designed to give  
5 him this care and this help that Mr. Seaton told you about.

6 Well, you are going to find out  
7 that's not what happens at Spring Mountain. They run them  
8 through the program and they get rid of them. They don't  
9 really care what they are doing for these kids. They  
10 warehouse them.

8 11 They sent Michael Rippo out  
12 without any real counseling for the problems he had, without  
13 any help whatsoever.

14 Mike Rippo was sent back to his  
15 home, but he got his feet back on the ground, and you will  
16 see, for three months, he was an A student again. His  
17 teachers wrote glowing reports about how good he was doing  
18 in school, what a pleasure he was to have in his classroom,  
19 and then Halloween came up.

20 And on Halloween, he asked if  
21 he could go spend the weekend with a friend, and his parents  
22 said yes, but two things: You have to clean the house and  
23 clean the garage before you go, something every kid has had  
24 thrown in their face one time or another.

003265

8

1 He was really excited about  
2 going and he worked out a deal with his sisters saying,  
3 listen, if you will do it for me -- and they agreed. So he  
4 left.

5 He came back on Sunday, and,  
6 guess what? They had cleaned the house, but not the garage,  
7 and Mike was in trouble.

8 But they wouldn't talk to him  
9 about it. It was just the silent treatment. He kept asking  
10 them: What's going on, what's going to happen to me? They  
11 wouldn't talk, so finally, he asked them: Are you going to  
12 send me back to Spring Mountain? They didn't answer him.

13 A couple hours later, when they  
14 checked on him, he had run away again. This time when he  
15 ran away, he got involved with some people that were even  
16 more heavily involved in drugs and burglaries, and he got  
17 involved with them.

18 You will find out that one of  
19 people he got involved with was Mrs. Smith's son. And, in  
20 fact, he was staying in Mrs. Smith's apartment up until  
21 January 15th, 1992 -- or '82. I'm sorry.

22 She threw him out that night,  
23 about ten o'clock at night. He had nowhere to go. He  
24 didn't know what to do.

003266

8

1                   You are also going to hear that  
2           that was the first time in his life that he had used what's  
3           called a sherm stick, which is a marijuana stick laced with  
4           PCP, and it might be one of the reasons she threw him out.  
5           He was acting bizarre.

6                   Four o'clock that morning --  
7           we're now on the morning of the 16th -- he's out in the  
8           Jacuzzi area of the apartment complex and there is a  
9           gentleman and two girlfriends in the Jacuzzi. He comes up  
10          and talks to them a little bit and they notice he's acting  
11          rather bizarre, sitting against the wall. He does talk to  
12          one of the girls a little bit, and when they leave the  
13          Jacuzzi to go back to their apartment, he follows them. She  
14          describes he just tagged along, and when they went inside,  
15          he asked if he could come in.

16                   They -- the girls told him no,  
17          and he just kind of stayed outside, like a lost puppy.  
18          Finally, the man went out and got a little more abrupt with  
19          him, told him to go away, and got in his face.

20                   The three people that he had  
21          seen go into that apartment, the two girls and the man, then  
22          left, about 6:45 or -- 6:45 or so, going to work. He  
23          thought the apartment was empty and he burglarized it.

24                   Mr. Seaton has told you what

**003267**

8 1 happened when he went into that apartment, and what you will  
2 hear is it was a bizarre experience. The things he was  
3 doing, the things he was saying were bizarre; they were  
4 strange. They may have been consistent with somebody strung  
5 out on drugs. They may be consistent with somebody with  
6 mental problems.

7 But the bottom line is when he  
8 was arrested on that, he accepted responsibility. He pled  
9 guilty at age 17 -- or actually, I believe it was 16 at the  
10 time. He got life in prison and he went to prison.

11 Mr. Seaton said he spent a  
12 little time in prison and he was right back out on the  
13 streets. Seven years, eleven months later, he was back out  
14 on the streets. That may sound like a slap on the wrist to  
15 you, but think of how long that sounds to you when you were  
16 16 years old, and your place to grow up is in prison. And  
17 that's where Michael Rippo grew up was in prison, and he  
18 didn't grow up to be a saint.

19 But they're talking about his  
20 write-ups. He had a knife in his cell at one time, that's  
21 right. That was 11 years ago. You are going to see that in  
22 almost 14 years of being in prison, Mike Rippo has only had  
23 about four, five write-ups. That may not be exemplary, but  
9 24 when you live in the tightly controlled, volatile atmosphere

003268

9 1 of a prison, that ain't much.

2 You are going to find out he  
3 doesn't have any serious violence. He never stabbed  
4 anybody. There is lot of stabbings in prison. He didn't do  
5 these kind of things.

6 They're going to show you some  
7 letters he wrote. Some of them are full of hate. Some of  
8 them were written when he was 16, 17 years old.

9 Would you be full of hate if  
10 you were in the system for life when you were 16, 17 years  
11 old of age? Is that the kind of thing that's going to give  
12 you positive thoughts? Of course not.

13 He uses the N word. He does  
14 some things like that. That's not grounds to kill a man.  
15 The system created Michael Ripppo. There is no question  
16 about it. They may have thought when his parents threw him  
17 to Spring Mountain that that was going to help him, but you  
18 are going to find out Spring Mountain didn't help him.  
19 Spring Mountain didn't do anything.

20 When they put him in prison,  
21 did they get him in counseling. They got somebody that was  
22 involved in this bizarre crime. They don't give him  
23 counseling. They give him a cell. That's the treatment  
24 Michael Ripppo got.

003269

9

1                   Should he have gotten  
2 counseling? Look at his actions. Did they make sense then?  
3 Do they make sense now?

4                   When you see the evidence, you  
5 are going to hear some things about Michael from his family  
6 as well, what he grew up like, what he was like when he was  
7 a boy.

8                   When you stop and think about  
9 it, if you lived in a highly controlled, closed environment  
10 for 14 years, how many things could people find to say?

11                  Did you ever get mad and cuss  
12 somebody out? Of course, you have; everybody does. That is  
13 not deviant behavior. That's not the kind of behavior that  
14 justifies killing someone.

15                  At the end of this, you are  
16 going to see that Michael Rippo has been in the system for  
17 basically 14 years now; that Michael Rippo has never been a  
18 serious management problem in the system; and that the  
19 State's requests that you kill him based on this evidence,  
20 are not going to make any sense. Thank you.

21                  THE COURT: The State may call its first  
22 witness.

23                  MR. SEATON: Laura Conrady.

24                  THE CLERK: Remain standing and please raise

**003270**

9 1 your right hand,

2  
3 Whereupon,

4 LAURA CONRADY

5 having been called as a witness by the Plaintiff and  
6 having been first duly sworn to tell the truth, the  
7 whole truth and nothing but the truth, was examined  
8 and testified as follows:

9 THE CLERK: Thank you.

10 Please be seated.

11 Would you state your name and  
12 spell it for the record, please.

13 THE WITNESS: Laura Conrady; L-a-u-r-a,  
14 C-o-n-r-a-d-y.

15 THE CLERK: Thank you.

16  
17 DIRECT EXAMINATION

18 BY MR. SEATON:

19 Q Is it Miss or Mrs.?

20 A Mrs. Conrady.

21 Q And how long have you been married?

22 A I think about 12 years.

23 Q Do you live out of state?

24 A Yes, I do.

003271



9 1 Q Do you have children?

2 A Yes, I have three children.

3 Q What are they?

4 A I have a boy, 12; a daughter, six; and a

5 son, two.

6 Q Where did you live in January of 1981?

7 A I lived here in Las Vegas in an apartment on

8 Topaz Street.

9 Q Do you remember the address or the apartment

10 number?

11 A 2775? I don't remember.

12 Q You are not sure. Okay.

13 But it was on Topaz?

14 A Yes, it was.

15 Q And it was here in Clark County, Nevada?

16 A Yes, it was.

17 Q Were you married at that time?

18 A No, I was not.

19 Q How big an apartment was this?

20 A It was a one bedroom, with the living room

21 and bathroom in the apartment.

22 Q Did anyone live in that apartment with you?

23 A My brother was staying with me. He had just

24 come to town, and he -- I got him a job and he was sleeping

003272

9           1       on the couch.

2                   Q       What's your brother's name?

3                   A       My brother's name is Mark.

4                   Q       In 1981, how old were you?

5                   A       Twenty-four.

6                   Q       And how old was your brother?

7                   A       Um, I'm just trying to think how many

8       years -- I have three brothers. He would have been 21, I

9       think; 21.

10                  Q       How long had you lived here in Las Vegas?

11                  A       Just a couple years.

12                  Q       Where did you come --

13                  A       I was born and raised in Southern

14       California.

15                  Q       And you moved here from there?

16                  A       Yes.

17                  Q       And your parents, where did they live at

18       that time?

19                  A       In 19- --

20                  Q       '81.

21                         MR. DUNLEAVY: Your Honor, I'm going to

22       object to where her parents lived. There is no relevance to

23       that.

24                         THE COURT: Overruled.

003273

9

1 THE WITNESS: My parents lived here in Las  
2 Vegas?

3 BY MR. SEATON:

4 Q Did they live here in Las Vegas?

5 A Yes, yes.

6 Q All right. Did you have a boyfriend at this  
7 time?

8 A Yes, I did.

9 Q Did he live here in Las Vegas?

10 A Yes, he did.

11 Q Did you have a serious relationship with  
12 him?

13 A Yes.

10

14 MR. SEATON: And I believe I was misspeaking  
15 myself before, Judge. Let me clarify that.

16 I have used the year 1981 on  
17 several occasions, I think.

18 BY MR. SEATON:

19 Q Was it '81 or '82?

20 A '82; yeah, 82.

21 Q You're sure about that?

22 A Yes.

23 Q Okay. So it was January the 16th, 1982 is  
24 the date that we're talking about?

003274

10 1 A Yes.

2 Q On the 15th, the night before, did you go to

3 bed --

4 A Yes, I did.

5 Q -- there at that apartment?

6 A Yes, I did.

7 Q Was Mark there with you when you went to

8 bed?

9 A No, he was not.

10 Q Do you know where he was?

11 A He was probably out with friends. He

12 knew -- had some friends here, and because he was out, I

13 shut my bedroom door. And I usually didn't shut my door.

14 Q He was going to be coming into the apartment

15 later?

16 A Right; right.

17 Q Do you remember approximately what time it

18 was when you went to bed?

19 A Approximately midnight.

20 Q This would be the 15th going into the 16th?

21 A Right; right.

22 Q How were you dressed at that time when you

23 went to bed at midnight?

24 A Sweat pants and a sweat shirt.

003275

10           1           Q       Was that your normal method of sleeping --  
          2           A       Yeah.  
          3           Q       -- normal attire?  
          4                       Were the -- how many doors were  
          5       there leading into the apartment?  
          6           A       The front door, the sliding glass door,  
          7       and --  
          8           Q       That was it?  
          9           A       -- and a window.  
         10          Q       Okay. To the best of your knowledge, were  
         11       the doors, both the front door and the slider locked?  
         12          A       Yes. My brother had a key.  
         13          Q       There is some water for you.  
         14          A       Thank you.  
         15          Q       And the window, was it locked as well?  
         16          A       Yes.  
         17          Q       Where did the sliding glass door lead to?  
         18          A       There is a small little patio and then a  
         19       little fence.  
         20          Q       Is that on the side or the back of the  
         21       apartment?  
         22          A       No. It was by the living room.  
         23          Q       Near the front?  
         24          A       Near the front.

003278

10

1 Q Okay. When you went to sleep that night,  
2 did you sleep soundly through the night until you were  
3 awakened?

4 A Yes, yes.

5 Q What time was it approximately when you were  
6 awakened?

7 A Um, approximately seven, 7:30.

8 Q Did Mark have a job?

9 A Yes, he did.

10 Q And what time would he leave the apartment  
11 to go to his job?

12 A He had to be to work at six o'clock.

13 Q In the morning?

14 A In the morning, yes.

15 Q An hour and a half before you awakened this  
16 particular morning?

17 A Uh-huh.

18 THE COURT: You have to say yes.

19 THE WITNESS: Yes. I'm sorry.

20 BY MR. SEATON:

21 Q Were you awakened?

22 A Yes, I was awakened.

23 Q I want you to tell the jury how you were  
24 awakened.

003277

10           1           A           I woke up -- it was with a knife to my  
2           throat and --  
3           Q           Take your time.  
4           A           -- and someone sitting on top of me.  
5           Q           What was that someone doing?  
6           A           He was sitting on top of me with a knife to  
7           my throat.  
8           Q           Did he -- was he touching any part of your  
9           body with his hands?  
10          A           Well, he had my gloves, and he asked me --  
11                      MR. DUNLEAVY: I'm sorry, what kind of  
12           gloves?  
13                      THE WITNESS: He had --  
14                      THE COURT: He had on gloves, I think she  
15           said.  
16                      THE WITNESS: Some gloves.  
17          BY MR. SEATON:  
18          Q           Whose gloves did you say they were?  
19          A           They were my gloves.  
20          Q           They were your gloves.  
21          A           And asked me where my money was.  
22          Q           Did he have his hand on any part of your  
23           body?  
24          A           Well, I don't understand. He was sitting on

003278

10

1 top of me.

2 Q He was sitting on top of you?

3 Did you make a statement back  
4 in 1982?

5 A Yes, I did.

6 Q A handwritten statement to the police?

7 A Yes, I did.

8 Q If I showed you that statement, would it  
9 help refresh your memory as to what he might have been doing  
10 with his hands?

11 A Yes, it would.

12 Q And I'd like to show you the statement that  
13 is dated January 16th, 1982, and just call your attention to  
14 the first sentence. If you would just read that to  
15 yourself.

16 A Oh, I see.

17 On Saturday --

18 Q No, read it to yourself.

19 A Okay. (Complies.)

20 Q Got it?

21 A Yes.

22 Q Does that refresh your recollection as to  
23 what he was doing with his hands?

24 A Yes, it does.

003279



10 1 Q You told us, in one hand, he had a butcher  
2 knife that he was threatening you with.  
3 A Yes.  
4 Q What about the other hand?  
5 A He had it over my face.  
6 Q Where on your face did he have it?  
7 A Over my mouth. (Indicating)  
8 Q So you couldn't speak?  
9 A Right.  
10 Q Did he say anything to you?  
11 A He asked me where my money was.  
12 Q Had you ever seen this man before?  
13 A No, never.  
14 Q You didn't know him?  
15 A No, I did not.  
16 Q Didn't recognize him at all?  
17 A Not at all.  
11 18 Q Mrs. Conrady, I don't want to go through the  
19 whole thing right now, but over the period of this  
20 morning -- this morning that we're talking about -- did you  
21 have an opportunity to look at the individual a good many  
22 times?  
23 A Yes, I did.  
24 Q Did you see his face?

003280

11

1 A Yes, I did.

2 Q Is he in court with us today?

3 A Yes, he is.

4 Q Point to him, describe what he's wearing and  
5 tell us where he is.

6 A He's sitting right here with a white sweater  
7 and a blue striped shirt.

8 Q Between the two lawyers?

9 A Yes.

10 MR. SEATON: May the record reflect  
11 identification of defendant Mike Rippo?

12 THE COURT: The record will so reflect.

13 BY MR. SEATON:

14 Q That's the man who was straddling you with  
15 his hand on your face and a knife in his other hand?

16 A Yes, it is.

17 Q And he asked you for money.

18 Did you have any money?

19 A No, I did not.

20 Q Did he do anything with your hands at that  
21 time?

22 A Um, he -- he went into the other room, and  
23 then -- I -- I can't remember if he tied me up before or  
24 when he went in the other room.

003281

11 1 Q Did he tie you up at some time?

2 A Yes, he did.

3 Q With your hands?

4 A Yes.

5 Q What did he tie your hands with?

6 A A cord of some type, like a -- I don't -- I

7 thought maybe it was off my vacuum cleaner.

8 Q Let me show you your report again.

9 This has been a long time, has

10 it not?

11 A Yes. I -- I'm kind of upset.

12 Q I understand. Do you need a little time?

13 A No, I'll be okay.

14 Q You can take time if you'd like.

15 A No. I want to do it.

16 Q I want to draw your attention and have you

17 read to yourself again this particular sentence, which is

18 about six lines down, beginning with he took.

19 A Yeah, okay. (Indicating) (Complies)

20 Q Did that refresh your recollection as to --

21 A It was -- he tied my hand with my bathrobe

22 tie and then my feet were tied with the cords.

23 Q With the cords.

24 What kind of cords?

003282

ME1PFO-07058-R0003288

11

1 A Um, some type of electrical cords, like  
2 that -- that were cut off of something.

3 Q Did he -- did you see him tie your feet?

4 A Yes.

5 Q Did he wrap it?

6 A Uh-huh.

7 Q And tie knots in it?

8 A Very tight, yes.

9 Q It was tight?

10 A Very tight.

11 Q Were your hands tight as well?

12 A Very tight.

13 Q Did it hurt?

14 A Yes, it did hurt.

15 Q Did you ask him anything about how he was in  
16 the apartment?

17 A I asked him who he was and how did he get  
18 in?

19 Q What did he say?

20 A He --

21 Q What did he say; what did he do?

22 A He hit me and told me to shut up.

23 Q He hit you?

24 A Yes.

003283

NRI 00-07058-R0003289

11

1 Q What did he hit you with?

2 A His hand.

3 Q Did he hit you hard?

4 A Yes.

5 Q Did it hurt?

6 A Yes.

7 Q Did he, at any time early on, go into the  
8 other room where you could hear him talking?

9 A Yes, he did.

10 Q What was that about?

11 A I believe he used my phone and said: Are  
12 you coming?

13 And then all I heard was the  
14 phone hang up.

15 Q Now those were the only words that you  
16 heard?

17 A That was all that I heard.

18 Q Were you ever aware of anyone else being in  
19 the apartment --

20 A No.

21 Q -- other than you and Mr. Rippo?

22 A Yes.

23 Q Did he ask you any questions regarding your  
24 brother?

003284

ME100-07058-R0003290

11 1 A Yes, he did. He -- he said: Where is Mark?

2 And at that point, I was kind  
3 of confused, because I -- I never saw him before and he  
4 wasn't one of my brother's friends.

5 So I -- I said that Mark wasn't  
6 there.

7 Q Did he ask you other questions about Mark?

8 A Yeah. He -- yes.

9 Q What did he ask you?

10 A Um, you mean about --

11 Q Anything about your relationship with Mark?

12 A Oh, yes. And I told him that he was my  
13 brother.

14 He asked me if Mark was my  
15 boyfriend, I think; and I said no, that he was my brother.

16 Q At this time, were you still attired in your  
17 sweat shirt and your sweat pants?

18 A Yes, I was.

19 Q Did he do anything at this time with your  
20 sweat shirt?

21 A He cut the sweat shirt off of me.

22 Q How did he do that?

23 A With the knife.

24 Q Where did he cut the sweat shirt?

003285

ME 100-87058-R0003291

11

1 A Down the back. (Indicating)

2 Q He cut the material with the knife?

3 A Yes.

4 Q Did you have a bra on?

5 A I don't believe so.

6 Q So you were naked from the waist up --

7 A Yes.

8 Q -- at this time?

9 After that happened, did he  
10 show you a photograph and have a conversation about it?

11 A Yes, he did.

12 Q Who was the photograph of and where did it  
13 come from?

14 A I was in the photography business. I had  
15 quite a few photographs. I had a large photograph of my  
16 boyfriend.

12

17 Q And did the defendant get ahold of that  
18 photograph?

19 A Yes, he did.

20 Q What did he talk to you about regarding the  
21 photograph?

22 A He said: Who is this?

23 And I said that it was my  
24 boyfriend.

003286

12

1 And he said: Is he big? Does  
2 he like to fight?

3 And I said yes.

4 And then I -- then I told him  
5 that he was going to be coming over to work on my car.

6 Q Did you ask him at some time to put clothing  
7 on your top?

8 A Yes. I asked him if I could please have --  
9 have -- get dressed.

10 Q Up to that point in time, had he done  
11 anything with you of a sexual nature?

12 A Um --

13 Q Let me break it down. Had he touched you at  
14 all?

15 A Oh, yes.

16 Q Where did he touch you?

17 A I don't -- I don't remember.

18 Q Did he touch you in a sexual nature or  
19 just --

20 A No, just -- he was moving around and  
21 touching and mumbling and -- he was -- not at that point,  
22 no.

23 Q Okay. Did you get to put some clothing on?

24 A He -- he went to my drawer and he threw

003287



12 1 everything out and he told me to put this tube top on.

2 Q And did you?

3 A Yes.

4 Q Did he, at any time, start to do anything

5 or -- do anything with the sweat pants that you were

6 wearing?

7 A He cut them off.

8 Q How much later did this occur? Was it soon

9 or after putting the tube top on?

10 A Yes.

11 Q When you -- When -- did he cut them and take

12 them off, the sweat pants?

13 A Yes.

14 Q Did you have panties on underneath?

15 A Yes.

16 Q When he did that to you, did Mr. Rippe ask

17 you if you wanted to engage in any kind of activity?

18 A He asked if I wanted to fuck.

19 Q Were those his words?

20 A Yes, they were.

21 Q And --

22 A And I --

23 Q Go ahead.

24 A And I got pretty hysterical.

003288

12

1 Q Crying?

2 A Yes.

3 Q Had you been hysterical up to this point?

4 A Pretty much. I -- I was crying.

5 Q Did his asking you that particular question  
6 elevate the level of hysteria that you felt?

7 A Yes. I was very frightened.

8 Q Were you, at any time, asking him not to do  
9 these things?

10 A Yes, I was.

11 Q Were you begging?

12 A Yes, I was.

13 Q And when you begged for him not to do these  
14 sort of things, what was his response?

15 A He laughed.

16 Q He laughed?

17 A Yes.

18 Q You were crying and hysterical and he  
19 laughed; is that true?

20 A Yes.

21 Q Did he ask you anything about scissors?

22 A He asked me if I had any scissors; and I --  
23 and I told him they were in the living room.

24 Q Did he get them?

003289

12

1 A Yes, he did.

2 Q At this time, were you on the bed with the  
3 tube top on, but your sweat pants cut off?

4 A Yes.

5 Q And your panties still on?

6 A Yes.

7 Q Your hands were still tied behind your back?

8 A Yes.

9 Q And were your feet still tied with the  
10 electrical cord?

11 A Yes.

12 Q Were you on the bed at that time?

13 A Yes. And then -- I had a chair and he -- he  
14 had the scissors and he was saying something, did I like to  
15 cut hair?

16 And I said that sometimes I cut  
17 my brother's hair; and then he -- he put me in the -- in the  
18 chair and he cut off some of my hair.

19 Q Cut off some of your hair?

20 A Yes.

21 Q Did he do anything else with the scissors?

22 A He cut off the cords at my legs.

23 Q Had -- at this time, had he done anything  
24 with hangers?

003290

12 1 A Um, I -- I don't recall that until later.

2 Q Until later? Okay. We'll get to that  
3 later.

4 Did he put any cords around  
5 your neck?

6 A Um, yes. He put a cord around my neck when  
7 I was by the chair.

8 Q This is the chair in the bedroom?

9 A Uh-huh.

10 Q Did he lead you any place?

11 A Well, I -- I started feeling like I was  
12 going to throw up; and -- ah -- so I was -- I was gagging  
13 and he -- just kind of, like, pushed and dragged me into the  
14 bathroom, and I --

15 Q Did he use the cord to help him do that?

16 A Yes.

17 Q And you went into the bathroom?

18 A And I couldn't throw up. I was just -- I  
19 was just hysterical. I was just -- I just felt so sick,  
20 like I was going to throw up, but I -- I just couldn't throw  
21 up.

22 Q Where did he take you then?

23 A Then he took me into the bedroom.

24 Q And what did he do? What was he saying?

Q03291

12

1 A He was mumbling and saying things about my  
2 brother and that he had those -- those two girls and that he  
3 was probably fucking them; and then he kept asking -- he  
4 says: Come on. Why don't you want to fuck? I want to fuck  
5 right now. And then he put me on the bed.

13

6 Q Did he do anything with the cords around  
7 your feet at that time?

8 A I -- I can't remember. He -- well, he cut  
9 them off with the scissors, but I don't -- I don't remember  
10 if the -- if it was in the -- how I wrote it in there is how  
11 it happened. It's been a very long time.

12 MR. SEATON: Let me show you your report  
13 again.

14 MR. DUNLEAVY: Your Honor, perhaps we should  
15 just give her time to read the whole report and refresh  
16 herself.

17 THE WITNESS: I've read the report.

18 MR. SEATON: We can do it this way, Judge.

19 BY MR. SEATON:

20 Q I'm directing the witness' attention to page  
21 three of the report, and -- well, let me go back to page two  
22 just to look at something.

23 About the -- starting with the  
24 fourth line, if you would just read that to yourself.

003292

13

1 A (Complies.)

2 Q And does that refresh your memory as to what  
3 he did with the panties?

4 A Oh, I thought you said cords. That's --

5 Q Let's do the panties first. I'm sorry.

6 A Okay.

7 Q What did he do with the panties?

8 A He -- he cut my panties off with the knife.

9 Q And what did he ask you to do or what did he  
10 try to accomplish at that time?

11 A To -- he put me on the bed and spread my  
12 legs and said: I want to fuck.

13 Q At that time, would your legs have been free  
14 from the cords because he had cut them earlier?

15 A Yes.

16 Q Was he successful at pushing your legs  
17 apart?

18 A Well, I was crying and saying not to, but he  
19 pushed them, yes.

20 Q And what did he do with himself?

21 A Well, he -- he got on top of me and --

22 Q What did he do with his clothes?

23 A With his clothes? He pulled his pants down.

24 Q When he did this, did he still have the

003293

13

1 knife?

2 A Yes.

3 Q Were you able -- were you aware of him  
4 having the knife at that time?

5 A Yes.

6 Q And once he got his pants down, and you were  
7 on the bed and he had spread your legs apart, what did he  
8 do?

9 A Um, he raped me. He --

10 Q Did he have an ejaculation?

11 A No, he did not.

12 Q Was he --

13 A He was pushing.

14 Q Did he lay on top of you?

15 A Yes.

16 Q And what was he pushing with?

17 A With his penis.

18 Q And was he able to achieve any penetration  
19 at all?

20 A Yes.

21 Q In the sense of normal intercourse?

22 A No.

23 Q It was less than that?

24 A Yes.

003294

13

1 Q Were you begging him not to do that at that  
2 time?

3 A Yes.

4 Q Did he finally stop?

5 A Yes.

6 Q Did he get up?

7 A Yes.

8 Q Do you know whether or not he had  
9 ejaculated?

10 A No.

11 Q You don't know or he didn't?

12 A I don't know.

13 Q Did he take you then to the living room?

14 A Yes, he did.

15 Q How did he accomplish that?

16 A Just -- he pulled the -- the tube top down,  
17 and when we were walking through the hall, he was -- he was  
18 touching me and talking and mumbling and --

19 Q When you say touching me, you had your hands  
20 near your breasts, what --

21 A He was touching my breasts.

22 Q In a sexual fashion?

23 A Yes.

24 Q And that -- this was as you were -- he was

003295



13 1 walking you toward the living room?

2 Did he take you to a particular  
3 place in the living room?

4 A Um, the sofa.

5 Q Did he sit you down on the sofa?

6 A Yes.

7 Q When he did these sort of things, was he  
8 gentle or rough?

9 A Very rough.

10 Q Did he do anything -- once you sat down on  
11 the love seat, did he do anything with the tube top?

12 A I was pretty hysterical and he -- he cut it  
13 off and tied my mouth with it.

14 Q How did he do that?

15 A How did he -- with the knife.

16 Q He cut it off with the knife, the tube top?

17 A And then --

18 Q And what did he do with the tube top?

19 A He gagged me with it and tied it, tied it in  
20 the back.

21 Q Did he put it through your mouth so that it  
22 was partially inside your mouth and then tied around behind  
23 the back?

24 A Yes.

003296

13 1 MR. SEATON: All right. The record should  
2 reflect the witness as showing with her finger inside her  
3 mouth.

4 THE COURT: The record will so reflect.

5 MR. SEATON: Thank you, Judge.

6 BY MR. SEATON:

7 Q Did he, at this time, take the knife and  
8 place it near your breasts and say anything?

9 A He was going around my -- my nipples and  
10 said that one time he cut a girl's nipples off, but she was  
11 already dead.

12 Q It was hard to hear your first words.  
13 Did you say that he was taking  
14 the knife around your nipples when he said this?  
15 (Indicating)

16 A Yes.

17 Q Did he do anything with a fountain pen or a  
18 pen of some sort?

19 A He would move around quite a bit and mumble  
20 and -- and he had a pen and he -- he put it in -- inside me  
21 when I was sitting down on the love seat.

22 Q What do you mean inside you?

23 A In my vagina.

24 Q Did that last for any length of time?

003297

14

1 A No, no.

2 Q Did he -- you were sitting on the love seat  
3 at this time?

4 A Yes.

5 Q You had your hands tied behind your back  
6 still?

7 A Yes.

8 Q But your feet were free?

9 A Yes.

10 Q Had he done anything with hangers at this  
11 time -- by this time?

12 A No, not -- I don't recall that right --

13 Q Was it later?

14 A Yes.

15 Q Did you end up in the -- on the floor?

16 A I was very, very hysterical; and he -- like  
17 I say, he was moving around and just very violent and verbal  
18 and he -- he pushed me onto the floor, and I was with my  
19 face down and I was crying.

20 Q Did he do anything with his feet when you  
21 were on the floor?

22 A He kicked me.

23 Q He kicked you.

24 What else did he do while you

003298