

1 Q Mr. Saxon, was there also a condition that
2 related to the possession of weapons?

3 A Yes.

4 Q What condition number is that?

5 A That is Condition 9.

6 Q What does it require?

7 A Weapons: You shall not possess, own, carry
8 or have under your control any type of weapon.

9 Q Is there any exception to the rule?

10 A No.

11 Q It said any weapon?

12 A Any type of weapon.

13 Q Is there also a condition that referred to
14 obedience to the laws?

15 A Yes, Rule 12, Laws and Conduct.

16 Q What does that say?

17 A You shall comply with all municipal, county,
18 state and federal laws and ordinances and conduct
19 yourself as a good citizen.

20 Q Mr. Saxon, during what time were you in
21 supervision of Mr. Rippo?

22 A Mr. Rippo's case was transferred to me in
23 early February of 1992.

24 Q How long was it your case?

003540

MRIPO-07058-R0003546

11

1 A Excuse me?

2 Q You said it started -- it was transferred to
3 you in early February 1992.

4 A Yes.

5 Q How long was Mr. Ripppo your parolee?

6 A Mr. Ripppo was my parolee from early February
7 of '92 until his parole was revoked on April 30th of 1992.

8 Q Was there actually a revocation hearing
9 conducted prior to the revocation of the parole?

10 A Mr. Ripppo went before the Board of Parole
11 Commissioners for parole revocation on April 30th of 1992,
12 at which time his parole was revoked.

13 Q But regarding his conviction for sexual
14 assault, and the parole which you've indicated was October
15 the 24th, 1989, what was the length of his parole?

16 A His probation expiration was life.

17 Q That is, he was to be on parole for the rest
18 of his life?

19 A Yes, sir.

20 Q Would Mr. Ripppo still have been on
21 probation, and, consequently, under sentence of imprisonment
22 as of February the 18th, 1992?

23 A Yes, he would have been.

24 Q I want to direct your attention to on or

003541

MR:ppo-07058-R0003547

11

1 about February the 8th, 1992.

2 On that date, as a result of a
3 report you had from officers of the Las Vegas Metropolitan
4 Police Department, did you and others of your department
5 respond to the address of 7205 Gowan Road?

6 A Oh, that would have been on February the
7 6th, I believe. Yes, we did.

8 Q The date was not February the 8th; it was
9 February the 6th, 1992?

10 A Yes.

11 Q What persons responded on February the 6th
12 to 7205 Gowan Road?

13 A Myself, Officer Mark Jacobs and Officer Paul
14 Ellis.

15 Q Will you spell the last names of the other
16 officers.

17 A Jacobs would be J-a-c-o-b-s; Ellis would be
18 E-l-l-i-s.

19 Q What was the purpose for the three of you
20 going to 7205 Gowan Road on that day?

21 A We had -- I had received radio traffic from
22 a Las Vegas Metropolitan Police Department officer who had
23 responded to that residence on a burglary. When the officer
24 arrived, he found three individuals in the residence, two of

003542

12

12

1 which he believed to be on probation or parole at that time,
2 and he wanted to find out if the individuals involved were
3 still on probation.

4 Officer Jacobs and I returned
5 to our building, 215 East Bonanza Road, with the names, and
6 ascertained that two of the individuals were -- one was on
7 probation, one was on parole, and one had briefly been on
8 probation; but also that he advised us that this was Mr.
9 Rippo's residence, and we ascertained that Mr. Rippo was a
10 parolee at that time.

11 Q Are you saying that your information was
12 that 7205 Gowan Road was the residence of Michael Rippo?

13 A Yes.

14 Q Was it before or after this date that his
15 case was transferred to you for supervision?

16 A It was after that date.

17 Q What happened when you and the other two
18 responded to the Gowan Road address?

19 A When we responded to the Gowan Road address,
20 we were admitted to the residence by Mr. Price.

21 Q Would that be Richard Edward Price --

22 A Yes, it would.

23 Q -- P-r-i-c-e?

24 A Yes, sir.

003548

2

1 Q Were any other persons there?

2 A Yes. There was also a Christopher Lloyd who
3 was present.

4 Q Is that L-l-o-y-d?

5 A Yes.

6 Q As a result of your records check, did you
7 know whether either Mr. Price or Mr. Lloyd were ex-felons?

8 A Yes. I knew that both were ex-felons and
9 that Mr. Price was currently on probation.

10 Q Did you find Mr. Rippo at the residence on
11 February the 6th, 1992, when you responded there?

12 A No, Mr. Rippo was not in the residence.

13 Q Did you confirm, while at the residence,
14 whether he lived there?

15 A Yes, we were advised by Mr. Price that Mr.
16 Rippo did reside there.

17 Q Did you locate any guns while you were at
18 the Gowan street address?

19 A Yes, we located two guns.

20 Q Describe the guns you found.

21 A One gun was found in the living room on the
22 floor. It was a Mack 11, semi-automatic pistol, Uzi type
23 weapon.

24 Q What do you mean an Uzi type weapon?

003544

MRIPPO-07058-RO03550

12

1 A An assault pistol.

2 Q What was the second weapon?

3 A The second one was a 12 gauge shotgun.

4 Q You've indicated that it was after this date
5 that you assumed the supervision of the parolee, Mr. Ripppo?

6 A That's true.

7 Q How soon after that date was it?

8 A Ah, there is a transfer for some reason. It
9 was done by Officer Schmelz, who was the previous officer.
10 That is dated February 6th.

11 However, the summary should
12 have obviously been done probably on February 7th or 8th;
13 but just immediately after that, we received the case.

14 Q So your predecessor and supervisor parole
15 officer was Mr. Schmelz?

16 A Yes.

17 Q Would you spell the name for the record.

18 A S-c-h-m-e-l-z.

19 Q You've mentioned that the Board of Parole
20 Commissioners ended up revoking the parole of Mr. Ripppo?

21 A Yes, sir.

22 Q What was the basis for the revocation of his
23 parole?

24 A We charged Mr. Ripppo in a violation report.

003545

12 1 It was dated March 18th, 1992.

2 Q Did you prepare the violation report?

3 A Yes, I did.

4 Q And what were the alleged violations?

5 A The violations were really for employment;
6 Rule 5, Reports; Rule 10, Associates; Rule 12, Laws and
7 Conduct; 13, special conditions to maintain steady
8 employment.

9 Q Now, when you were talking about the parole
10 agreement, the numbers of those conditions, what does the
11 rule regarding associates, Rule 10, refer to?

12 A Rule 10 would refer to Mr. Price, Mr. Lloyd
13 and Kenneth Hamilton being in Mr. Rippo's residence.

14 Q For a parolee, is there some type of rule
15 regarding what types of persons he should associate with?

16 A Yes.

17 Q Well, what is the rule?

18 A Well, it would be -- he had ten associates.
19 Four are inmates from penal institutions, and individuals of
20 bad reputation shall be avoided unless permission is granted
21 by the Department. You shall not correspond with
22 individual -- with persons confined in penal institutions --

13 23 MR. DUNLEAVY: Your Honor, he's reading from
24 a document. Could we identify the document? Could he,

003546

13
1 please, identify the report?

2 THE WITNESS: Yes. Listed as State's
3 Proposed Exhibit 121.

4 MR. DUNLEAVY: Thank you.

5 THE COURT: Okay. You may continue.

6 THE WITNESS: You shall not correspond with
7 persons confined in penal institutions unless
8 specific written permission has been granted.

9 BY MR. HARMON:

10 Q You've mentioned that Officer Schmelz was
11 your predecessor parole officer with respect to Mr. Rippo.

12 Do the records you have
13 indicate whether Mr. Schmelz had any type of conversation
14 with Mr. Rippo in connection with his supervision, where Mr.
15 Rippo characterized the sexual assault conviction for which
16 he had been paroled?

17 A I --

18 MR. DUNLEAVY: Your Honor, I'm going to
19 object. That's got to be at least double hearsay. I know
20 there is exceptions in the penalty phase, but I think this
21 is beyond even those.

22 MR. HARMON: Your Honor, there is no
23 exception. 175.552 indicates that hearsay is admissible.

24 THE COURT: Overruled.

003547

1 MR. DUNLEAVY: Not double and triple.

2 MR. HARMON: No, it doesn't put in it any
3 limitation.

4 THE COURT: Overruled.

5 MR. HARMON: Thank you.

6 BY MR. HARMON:

7 Q Do your records indicate whether Mr. Schmelz
8 had contact with the defendant at a time when there was a
9 discussion about his sexual assault conviction?

10 A I would have to review Mr. Schmelz'
11 chronological entries.

12 MR. HARMON: May I approach the witness,
13 Your Honor?

14 THE COURT: You may.

15 MR. DUNLEAVY: Wait a minute. May we see
16 what document he's referring to?

17 MR. HARMON: Yes, momentarily.

18 BY MR. HARMON:

19 Q I'm showing you a single page document.

20 Do you recognize what this is?
21 Just yes or no.

22 A Mr. Schmelz has related this to me. I do
23 not recall having read it in the record.

24 Q So this is something that you wrote down?

003548

NR1PPO-97058-R0H03554

13
1 A No, no. This is --
2 Q Whose handwriting is it?
3 A I have no idea. It's not Mr. Schmelz'.
4 Q I'm directing your attention -- and then
5 I'll take it back and let counsel look at it -- to the
6 second paragraph.

7 Do you have a recollection of
8 that statement being related to you by Steve Schmelz, the
9 parole officer who supervised Mr. Ripppo before you assumed
10 that responsibility?

11 A Yes, I did.

12 Q You remember that statement --

13 THE COURT: Do you remember that statement,
14 sir?

15 THE WITNESS: Yes, I do.

16 MR. DUNLEAVY: Your Honor, may we approach
17 for a moment?

18 THE COURT: Yes.

19 (Whereupon, an off-the-record
20 discussion was had.)

21 BY MR. HARMON:

22 Q Mr. Saxon, showing you again the document I
23 just showed you and directing your attention to paragraph
24 two only --

003549

13

1 MR. WOLFSON: Excuse me. I thought we had
2 something at the bench where we're not going to be reading
3 things in the record off this document.

4 THE COURT: I think he's going to refresh
5 his memory from that.

6 Is that where you're going?

7 MR. HARMON: Exactly.

8 MR. WOLFSON: His memory has been refreshed.

9 BY MR. HARMON:

10 Q Did Mr. Schmelz relate to you a statement
11 made to him by Michael Rippo?

12 A Yes, he did.

13 Q What did he say?

14 MR. WOLFSON: He's reading off the document.
15 Judge. He's looking down at the document and reading off of
16 it.

17 THE COURT: Do you remember what he said?

18 THE WITNESS: Yes, I do.

19 THE COURT: All right.

20 THE WITNESS: Mr. Schmelz told me
21 essentially that Mr. Rippo wished --

22 MR. WOLFSON: Objection. Essentially, that
23 means that he doesn't recall word-for-word. And I don't
24 think that's there under the rules --

003550

3

1 MR. HARMON: Well, then, I think he should
2 read what is in quotations.

3 THE COURT: Well, if you want it word for
4 word, I think you can have him read it.

5 MR. WOLFSON: All I want is the truth out of
6 this witness; and if this witness doesn't recall what he
7 said and he's saying essentially, I think that's what he
8 said --

9 THE COURT: He didn't say I think. He said
10 essentially this is what he said. I think there is a
11 difference there.

12 BY MR. HARMON:

13 Q Essentially what did he say?

14 A That Mr. Rippe would have preferred to have
15 been convicted of murder rather than sexual assault because
16 murder held a -- is an offense of better stature or more
17 impressive --

18 Q A better ring to it?

19 A Perhaps -- yes.

20 Q Is it correct to say that, in quotes, the
21 statement is that Mr. Rippe would rather have been convicted
22 of a --

23 MR. DUNLEAVY: Your Honor, now Mr. Harmon is
24 reading it into the record.

003551

MR: PPO-07058-R0003557

13
1 May we approach again?

2 THE COURT: Yes. I thought we weren't going
3 admit this document.

4 MR. HARMON: Well, we aren't, Judge. I'm
5 just interested in the second paragraph.

6 (Whereupon, an off-the-record
7 discussion was had.)

8 BY MR. HARMON:

9 Q Did Mr. Schmelz tell you that the defendant
10 said to him I'd rather have been convicted of attempted
11 murder than sexual assault because it has a better ring to
12 it?

13 A Yes.

14 Q That's the statement related to you by Mr.
15 Schmelz?

16 A Yes.

17 Q Which he told you the defendant, Mr. Rippe,
18 said to him?

19 A Yes.

20 MR. HARMON: Thank you.

21 That's all, Your Honor.

22 THE COURT: Cross-examination.

23 (Whereupon, a sotto voce at
24 this time.)

003552

CROSS-EXAMINATION

BY MR. DUNLEAVY:

Q Did that statement mean that you have problems in prison when you've got a sexual assault conviction that you wouldn't have if you had an attempt murder conviction?

A I have no -- I've never worked in a prison. I don't really know what the pecking order amongst inmates says.

Q And you don't have any clue whether somebody convicted of sexual assault might have more trouble than someone convicted of attempted murder?

A I have heard probably the same stories you have. I don't know, you know; conjecture on my part.

Q Just conjecture.

Now, Mr. Harmon went in to great detail about the report you wrote, the revocation report. And you went through and talked about Mr. Price, Mr. Hamilton, Mr. Lloyd, and the fact that there was some guns at the house and they were arrested for those weapons; is that correct?

A Yes, two of the individuals were arrested.

Q And is there any way you could know whether or not Mr. Rippe even knew if they were there?

003558

MRIPPO-07058-R0003559

4

1 A No, I don't.

2 Q And you didn't -- you didn't allege that in
3 your report, that he knew they were there; is that correct?

4 A That's correct.

5 Q You did point out that he had the new
6 charges from February 20th, 1992, the case we're here on
7 today; is that correct?

8 A Yes.

9 Q He was also \$40 behind in paying supervision
10 fees?

11 A Yes.

12 Q And he had a warrant out for unlawful
13 transfer of license plates and failure to use a seat belt?

14 A Yes.

15 Q Now, you said that there was references to
16 Rule 13.

17 A Yes.

18 Q Now, you have spelled out Rule 4, 5, 10, 12.
19 Where is Rule 13 spelled out in
20 your report?

21 A Do you have a copy of the report, Mr.
22 Dunleavy?

23 Q Yes.

24 A If you look at section one, alleged

003554

4
1 violation, it -- you'll see it right there. It is the last
2 entry.

3 Q Just that one sentence: Special condition
4 two, maintain steady employment?

5 A Yes.

6 Q All the others have paragraphs following
7 them up, do they not?

8 A I believe, if you also refer to that, that
9 under Section II, types of violation, you'll notice a new
10 charge, Rule 4, employment, and Rule 13, special condition
11 two, maintain steady employment.

12 Q Do you know if he had been employed at all?

13 A Yes, sir, he had.

14 Q Where?

15 A He worked for Tommy's Maintenance for a
16 brief period; and according to this monthly report, he had
17 worked for various asphalt contractors.

18 Q Now, you indicated that he was barred from
19 having association with ex-felons?

20 A That's true.

21 Q Do you know if the owner of Tommy's
22 Maintenance was an ex-felon?

23 A It's my understanding that he is.

24 Q Did he have approval for this employment?

003555

1 A Normally, our department does not require
2 approval to be employed by an ex-felon. We realize you have
3 to work with whom you have to work with.

4 Q Now, he was on parole for the rest of his
5 life; is that correct?

6 A That's true.

7 Q And so any violation could, in fact, send
8 him back to prison for the rest of his life?

9 A That's correct.

10 Q And if you go back to prison on revocation
11 for a life sentence, do you basically start that life
12 sentence all over again?

13 A Not absolutely. The parole board can revoke
14 you for up to three years; and, at that time, you meet the
15 parole board again, who would decide --

16 Q So you go back to your parole board?

17 A Yes.

18 Q And your parole board is going to look at
19 your activities, your -- so forth in prison to make an
20 evaluation of whether or not you've earned the right to go
21 back out on the streets?

22 A I believe that's correct.

23 Q How many years have you been doing this?

24 A Almost eleven.

003556

MR100-07058-R0003562

4

1 Q And how often have you seen the parole
2 board, when someone is revoked on a life sentence, for a
3 murder charge, be reinstated to the street?

4 A I would have no idea on the numbers.

5 Q Have you ever seen it?

6 A Yes. People do come back out on parole.

7 Q Who, that were violated for murder?

8 A For being violated for murder, probably not,
9 no.

10 MR. DUNLEAVY: Thank you.

11 No further questions.

12 THE COURT: Redirect?

13 MR. HARMON: No further questions, Your
14 Honor.

15 THE COURT: All right. Thank you very much.

16 You are excused.

17 (Whereupon, the witness
18 was excused.)

19 THE COURT: We'll take a short recess.

20 Do not converse among
21 yourselves or with anyone else on any subject connected with
22 this trial;

23 Read, watch, listen to any
24 report or commentary on the trial, by any medium of

003557

MRIPPO-87058-R0003563

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1 information, including, without limitation, radio,
2 television or newspapers; or

3 Form or express any opinion on
4 this case until it is finally submitted to you.

5 Take about ten minutes.

6

7 (Whereupon, a recess was had in
8 the proceedings, at the
9 conclusion of which the
following was had:)

1

10 THE COURT: Counsel stipulate to the
11 presence of the jury?

12 MR. SEATON: Yes, Judge.

13 MR. DUNLEAVY: Yes, Your Honor.

14 THE COURT: Call your next witness.

15 MR. HARMON: Eric Karst.

16 THE CLERK: Step forward up here, please.

17 If you would remain standing
18 and raise your right hand.

19

20 Whereupon,

21

ERIC KARST

22 having been colled as a witness by the Plaintiff and
23 having been first duly sworn to tell the truth, the
24 whole truth and nothing but the truth, was examined

003558

MRI-PG-07058-R0003564

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1 and testified as follows:

2 THE CLERK: Thank you. Please be seated.

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

5 THE WITNESS: My name is Eric Karst; last
6 name K-a-r-s-t.

7 THE CLERK: Thank you.

8

9 DIRECT EXAMINATION

10 BY MR. HARMON:

11 Q Mr. Karst, what is your business or
12 occupation, sir?

13 A I work for the Department of Prisons.

14 Q The Nevada Department of Prisons?

15 A Yes, sir.

16 Q How long have you been employed with that
17 department?

18 A Since November of 1983.

19 Q What are the nature of your duties with the
20 Nevada Department of Prisons?

21 A I work custody, correctional officer.

22 Q Officer Karst, were you employed with the
23 Department of Prisons on March the 10th, 1986?

24 A Yes, I was.

003559

MR1980-07058-R0A03565

1 Q What facility were you employed at on that
2 date?

3 A I was with the Southern Nevada Correctional
4 Center, located at Jean.

5 Q Did you have contact, on March the 10th,
6 1986, at the Jean penal facility, with an inmate identified
7 as Michael Rippo?

8 A Yes.

9 Q Would you recognize Mr. Rippo if you saw him
10 again?

11 A I believe so, yes.

12 Q Do you see him in the courtroom this
13 afternoon?

14 A The guy in the middle there looks like
15 Rippo. (Indicating)

16 Q Describe how the person is dressed that you
17 are referring to.

18 A Wearing what appears to be a tan sweater, a
19 white shirt underneath.

20 MR. HARMON: Your Honor, may the record show
21 that the witness has described the defendant, Michael Rippo?

22 THE COURT: The record will so reflect.

23 MR. HARMON: Thank you.

24 BY MR. HARMON:

003560

MRIPPO-87058-R0903566

1 Q Officer Karst, on March the 10th, 1986, were
2 you involved in routine room searches of a particular hall
3 at the Jean prison?

4 A Yes, I was.

5 Q Do you recall what hall you were searching?

6 A Cypress Hall. It's now referred to as
7 Unit 5.

8 Q Did you specifically have occasion to search
9 Room Number 524 at Cypress Hall, which was occupied by the
10 defendant, Mr. Rippo?

11 A Yes, I did.

12 Q Why are routine searches conducted of rooms
13 at the prison?

14 A It's our intention to find any items that
15 would be considered contraband, to maintain a peaceful
16 environment.

17 Q What items would be considered contraband?

18 A Well, the regulars describe contraband as
19 any item that cannot be legally purchased through the inmate
20 canteen or received through the property sergeant.

21 Q Do you recall now how many inmates shared
22 Room 524 of Cypress Hall?

23 A We have two inmates assigned to each cell.

24 Q Who were the inmates assigned, on March the

003561

MRIPPO-07058-R0803567

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1 10th, 1986, to that room?

2 A There was an inmate Mike Rippo and Kevin
3 McDermott.

4 Q Mike Rippo being the defendant in this case?

5 A Yes, sir.

6 Q You said Kevin McDermott?

7 A Yes.

8 Q Is the first name K-e-v-i-n?

9 A I believe it was, sir, yes.

10 Q Last name, M-c, cap, D-e-r-m-o-t-t?

11 A Yes, sir.

12 Q Before you conducted the room search
13 occupied by inmates McDermott and Rippo, did you ask them if
14 there was any contraband inside?

15 A I don't believe I did, but the officer I was
16 with did ask if there was any contraband that they wished to
17 declare. That's normally what we'll do.

18 Q Were you present when your fellow officer
19 made that inquiry?

20 A Yes, I was.

21 Q Was there a response by the inmates
22 McDermott and Rippo?

23 A I believe they both said no.

24 Q Thereafter, was a search conducted for

003562

MRIPPO-07058-R0R03568

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1 contraband in their cell, Room 524?

2 A Yes, sir.

3 Q What were the results of the search?

4 A There were numerous items of contraband
5 which were located and sealed into evidence and placed --
6 turned over to the lead officer and sent to admin, the
7 administration building, where the evidence vault is
8 located.

9 Q Were any weapons located?

10 A Yes, sir.

11 Q Describe what was found.

12 A Um, I found about a nine inch buck knife,
13 brand name Buck. It -- to me, it looked like the kind that
14 would be a hunting knife, had a black handle.

15 And I found a pair of nunchuks
16 that were made out of broomsticks forced down inside the
17 hollow metal handles of the mops that are used out there and
18 tied together with a rope.

19 There was a -- I believe we
20 found a compass, money, a wrench, items that were -- are
21 considered contraband.

22 Q What kind of wrench was it you found?

23 A It was an adjustable -- what's referred to
24 as a monkey wrench, the adjustable crescent wrench.

003563

2

2

1 Q Do you remember the approximate size of the
2 crescent wrench?

3 A It was large. I believe it was about at
4 least a 10 or 12 inch -- it was a large wrench.

5 Q Metal wrench?

6 A Yes, sir.

7 Q Why would a crescent wrench be considered
8 contraband at a prison facility?

9 A Um, it can be used not only as a weapon, but
10 as a method for an attempted escape. It can be used to
11 remove bolts holding the fence together and other items that
12 assist us in keeping inmates inside.

13 Q Now, you referred to the knife which you
14 said had a brand name Buck.

15 A Yes, sir.

16 Q It was a buck knife?

17 A It was a buck knife, yes, sir.

18 Q And you thought it was a hunting knife?

19 A Yes, it was. It was the kind usually -- it
20 was not a folding knife; it was a solid knife. And when you
21 buy them in the store, they usually have the sheath come
22 with them and the belt loops so that you can carry it on
23 your hip.

24 Q As I recall, you said it was about nine

003564

2

1 inches long.

2 A If I remember correctly, overall length,
3 yes.

4 Q That's what I wanted to clarify.

5 Overall --

6 A Overall length, from one side of the knife
7 to the tip, was about nine. I'd say the -- to break it
8 down, I'd say maybe the handle was four inches and the blade
9 itself was probably about five.

10 Q You also referred to some nunchuks.

11 A Yes, sir.

12 Q Did they appear to be homemade?

13 A Yes, sir.

14 Q What are nunchuks?

15 A Nunchuks are a device made popular by Bruce
16 Lee movies. It's a martial arts fighting weapon. There are
17 two rods tied together or chained together and used to swing
18 around and used as a defense and offensive weapon.

19 Q In addition to the weapons, or at least
20 potential weapons, that you have described, did you find any
21 pipe, any type of smoking material?

22 A Yeah, we found a brass pipe and it had what
23 I believed to be residue from marijuana in it.

24 MR. DUNLEAVY: Your Honor, I would object to

003565

MRI-PD-87858-R0803571

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1 believed to be. He is clearly not a chemist.

2 THE COURT: Sustained.

3 BY MR. HARMON:

4 Q You've indicated you found a brass pipe?

5 A Yes, sir.

6 Q About how large was it?

7 A It was about hand size. It could be
8 concealed in the palm of an individual's hand; maybe three
9 or four inches, I'd say. I don't remember specifically the
10 size; it was rather small.

11 Q Were those items you have now described in
12 Room 524 on March the 10th, 1986 a violation of the Jean
13 prison rules?

14 A Yes, sir.

15 Q After the items had been located, were the
16 inmates, Mr. Rippo and Mr. McDermott, asked whose property
17 they were?

18 A I believe the question was asked; and, at
19 the time, I believe Mr. Rippo stated that anything in the
20 room was identified as his. He was taking the rap for
21 everything.

22 Q Were you familiar at that time with the
23 inmate Michael Rippo?

24 A Yes. I will say familiar, yes.

003566

MRIPPO-07058-R0A03572

2

1 Q Do you know whether he had any status on the
2 prison yard?

3 A Yes. He carried some status with them, yes,
4 he did.

5 Q What does some status mean?

6 A It's a little difficult to explain. He was
7 regarded as what you would refer to as a stand up convict.
8 He carried his own. He was very seldom challenged because
9 his reputation was he wouldn't back down from any fights.
10 He was regarded as a rather
11 strong individual and well respected among the -- the white
12 inmates, and pretty much left alone by the minorities, I
13 guess you'd call it.

14 Q You've indicated he had the reputation he
15 was a strong inmate. That was even though he was small in
16 stature?

17 A Yes, sir.

18 (Whereupon, a sotto voce at
19 this time.)

20 MR. HARMON: May we have the Court's
21 indulgence, please?

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

24 BY MR. HARMON:

Q Do you know whether inmates at the Jean
prison had access to any exercise areas or weight lifting

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1 equipment?

2 A Oh, yes, they do. We have a gymnasium.

3 Q Do you know whether Mr. Ripppo was active in
4 lifting weights in the gymnasium?

5 A Yes, he was.

6 Q To your knowledge, did he build up his
7 strength in that manner?

8 A Yes. He -- he was -- he had his own time
9 picked out at the weight pile, like most people do, and
10 people pretty much let -- you know, when you achieved the
11 status, people -- the rest of the yard knows when it's
12 somebody else's turn to lift the weights, and they really
13 give up no problems when it's that time.

14 MR. HARMON: Thank you.

15 That concludes direct, Your
16 Honor.

17 THE COURT: Cross.

18

19 CROSS-EXAMINATION

20 BY MR. DUNLEAVY:

21 Q You indicated contraband was things that
22 didn't come from the commissary and didn't come from the
23 property officer; is that correct?

24 A Yes.

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3

1 Q Didn't the compass come from the property
2 officer?

3 A I'm unaware of how the compass made it in
4 the yard, sir.

5 Q Did you check it out to find out if it came
6 with a watch that he got and they forwarded it to him?

7 A If I'm not mistaken -- if it was -- I just
8 recovered the items and turned them over to the --

9 Q So you didn't check into that item?

10 A No, sir.

11 Q It was pretty clear the knife didn't come
12 from the property officer, right?

13 A I would assume that, yes, sir.

14 Q And the nunchuks looked like they were
15 something made on the premises?

16 A Yes, sir.

17 Q The knife wasn't?

18 A No, the knife was not made there.

19 Q Now, you've worked there since 1983; is that
20 correct?

21 A 1983, sir.

22 Q So you'd been there about three years.

23 And was Michael in the prison
24 at the time you were there, that full three years?

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1 A Yes, he was.

2 I believe -- there might have
3 been a moment where he was over at Southern Desert, I think,
4 and then came back immediately, during minor movements, but
5 a majority of the time, Mike Rippo was there, yes.

6 Q Now you indicated that there were routine
7 searches done at the prison?

8 A Yes, sir.

9 Q Wasn't there one, in fact, because a
10 confidential informant had told somebody to go check this
11 room out?

12 A In a manner of speaking, yes.

13 Q So it wasn't just a routine search; you knew
14 to go look at this room?

15 A It was one of a few that we were going to
16 search that night, yes, sir.

17 Q And the room was occupied by someone else;
18 is that right?

19 A Yes.

20 Q How tall was the other person?

21 A McDermott was probably about the same
22 size -- maybe an inch or two shorter than I was. So I'd say
23 he was probably about five ten.

24 Q About five ten.

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1 And the items you found were in
2 overhead lights like this or --

3 A No. There is a fluorescent light fixture
4 attached to the wall just above the mirror, which is
5 probably six and a half, maybe seven foot above the ground
6 from floor level.

7 Q And that's where the knife and the nunchuks
8 were found; is that correct?

9 A Yes, sir.

10 Q Was the wrench in the same location?

11 A No. I believe the wrench was found later
12 that after- -- during the search. I believe it was found in
13 another -- I think tucked behind the desk; underneath the
14 desk there is, like, a dead area.

15 Q Could you describe what a cell is like at
16 Jean, for the jury.

17 A Um, cell is approximately maybe eight feet
18 wide and ten feet long; maybe 12 feet long. It's got a
19 commode in there, a sink, a mirror.

20 At the time that Mr. Rippo was
21 on the yard, we provided a wall cabinet and a desk and two
22 bunks; and that's about all it was.

23 Q How is the commode and the sink configured?

24 A The commode is -- as you entered the cell --

003571

3

1 depending on which side the door is on, as you enter the
2 cell, the commode is immediately to the right or the left;
3 and then, the sink is probably about a foot away. It is
4 connected to the wall.

5 Q It's not one of those units where they're
6 all in one piece?

7 A No, sir.

8 Q Do they have any of those at Jean?

9 A Yes, we do, sir.

10 Q Did this cell he was in have bars or was it
11 a door with a window or --

12 A It was a door with a window.

13 Q So when they're locked down, they can't
14 really communicate with people next to them?

15 A Well, yeah, they can communicate with people
16 next to them.

17 Q They have to yell through the doors?

18 A Through the doors, through the vent.

19 Q Now, do you remember Mr. Rippo taking
20 responsibility for this?

21 A Yes, I do, sir.

22 Q Do you remember him giving a reason he had
23 these items?

24 A Not at the time that I was there. I think

003572

MRIPPO-07058-ROA03578

3

1 he said something about the yard was changing and a man has
2 got to protect himself, something to that effect; but I
3 don't remember the specific reasons.

4 Q Something like the population was
5 increasing, fights every day, something is going to happen,
6 and I want to be able to protect myself?

7 A It was along the lines of protecting, yes.

8 Q Have you ever had violence at the prison?

9 A Yes, we do.

10 Q It appears frequently, does it not?

11 A More frequent than it should, yes.

12 Q And you said Mike was a strong guy.

13 He's still five foot four,
14 right?

15 A Yes.

16 Q You have strong people in there that are
17 bigger than that, don't you?

18 A Yes, we do.

19 Q He worked out regularly?

20 A Say again, sir?

21 Q He worked out regularly?

22 A Yes, he did.

23 Q Probably a good idea when you're five feet
24 four and in prison, don't you think?

003573

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1 A It would be a good idea. My opinion, it's a
2 good idea to work out all the time.

3 Q Are you aware of any other reports, in the
4 history of Mike Rippo being in prison, relating to him
5 having weapons?

6 A No, not weapons, but --

7 Q Weapons?

8 A No.

9 Q What happens, if you are not a stand up
10 convict, to you when you are in prison?

11 A There is a possibility you are going to
12 be -- several different things. One could be you're turned
13 out. Another means --

14 Q Would you explain to the jury what turned
15 out means?

16 A Turned out means they turn -- the homosexual
17 lingo -- you out and you no longer maintain your status as a
18 man. You become what they call a yard bitch. And that's
19 turned out.

20 Another thing that may happen
21 is if you are weak and they're not interested in that area,
22 they'll force you to contact the people at home to send in
23 property so that they can come get the property and money
24 and other items of that nature. It's all the process of

003574

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1 survival.

2 Q Working out and being stand up is kind of a
3 survival instinct inside?

4 A Along the lines of the strong survive, the
5 weak perish.

6 Q That's pretty much the code they live by in
7 the prison, is it not?

8 A Yes, it is.

9 MR. DUNLEAVY: No further questions.

10 MR. HARMON: No redirect.

11 MR. DUNLEAVY: One more.

12 BY MR. DUNLEAVY:

13 Q Was there ever any report of Mr. Rippo
14 having used the knives or the nunchuks on anyone?

15 A Not that I'm aware of, no.

16 MR. DUNLEAVY: Thanks. Nothing further.

17 MR. HARMON: Nothing further, Judge.

18 THE COURT: Thank you, Officer Karst.

19 You are excused.

20 (Whereupon, the witness
21 was excused.)

22 MR. SEATON: Bill Leaver.

23 THE BAILIFF: Thank you.

24 THE CLERK: Please remain standing and raise

003575

4
1 your right hand.

2
3 Whereupon,

4 WILLIAM LEAVER

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
10 THE CLERK: Thank you.

11 Please be seated.

12 Will you state your name and
13 spell it for the record.

14 THE WITNESS: William Leaver; L-e-a-v-e-r.

15 THE CLERK: Thank you.

16
17 DIRECT EXAMINATION

18 BY MR. SEATON:

19 Q Mr. Leaver, you were previously qualified as
20 an expert in this case, were you not?

21 A Yes, sir, I was.

22 Q And I would ask you some questions based on
23 that expertise as a questioned documents examiner.

24 Did you, on February the 29th,

003578

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1 1995, examine certain items?

2 A February 29th of 1996, yes, sir, I did.

3 MR. WOLFSON: Typo, Mr. Seaton.

4 MR. SEATON: Is it a typo?

5 Okay. I'm sorry.

6 BY MR. SEATON:

7 Q Did I ask you this afternoon to bring two
8 particular letters with you?

9 A Yes, sir.

10 Q Do you have those with you?

11 A Yes, I do.

12 Q May I have them at this time, please.

13 A They're sealed in these packages. You will
14 have to open them.

15 MR. SEATON: Do you have scissors?

16 Court's indulgence.

17 Before you start to open, Mr.

18 Leaver --

19

20 (Whereupon, a sotto voce at this time.)

21

22 MR. SEATON: With counsel's permission, I'll
23 have Mr. Leaver now open the packages which, for the record,
24 are evidence envelopes that he brought in to court with him.

003577

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1 BY MR. SEATON:

2 Q Have you had these in your possession since
3 you did the examination?

4 A Yes, sir, I have.

5 Q And are they presently sealed now, as you
6 begin to open them?

7 A Yes, sir.

8 MR. SEATON: All right. If you would open
9 them and withdraw the two letters that we spoke of today.

10 BY MR. SEATON:

11 Q Would it help to have my copies to --

12 A No, sir, I can --

13 Q All right. Did you extract one of them?

14 A Yes. I extracted a letter that begins -- on
15 the text, it says:

16 Dear Alice: Guess where I'm at
17 right now, and it ends with: I love you; X0. PS: If you
18 have anything, come down Monday (sic), please.

19 Q And is it three pages in length?

20 A Yes, it is.

21 MR. SEATON: All right. I'll have it
22 marked.

23 If you would find the other
24 one, please.

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1 (Whereupon, as requested by
2 counsel, Plaintiff's Exhibit
3 122 was marked for
4 identification.)

5 BY MR. SEATON:

6 Q And the record should reflect you've opened
7 the second of two packages.

8 Was it also in a sealed
9 condition, Mr. Leaver?

10 A Yes, sir, it was.

11 Q And you have drawn out another letter.
12 Is this the second of the two
13 that I had asked for?

14 A Yes. It begins -- its date is September
15 27th, '93.

16 Hey, Sexy Baby: Man did I ever
17 enjoy myself; and it ends with the words: Love to you
18 forever, Michael; XO, XO, XO. Who loves you? I do, I do.

19 MR. SEATON: I will have that marked into
20 evidence.

21 (Whereupon, as requested by
22 counsel, Plaintiff's Exhibits
23 123 and 124 were marked for
24 identification.)

BY MR. SEATON:

Q Let me now show you what has been marked by
the clerk as State's Proposed Exhibit -- well, let's start
off with just one -- well, no, I'm going to do all three of

003579

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1 them, 122, 123, and 124.

2 Do you recognize each of those
3 letters?

4 A Yes, I do.

5 Q And the first letter, we have not talked
6 about it. It is Exhibit -- was that 12- --

7 A 122.

8 Q 122. That's the one that starts: Dear
9 Tina?

10 A Yes, sir.

11 Q Those three letters, did you compare each of
12 them to the known handwriting of Michael Rippo?

13 A Yes, sir, I did.

14 Q And were you able to come to a conclusion as
15 to whether or not he was the author of those three
16 documents?

17 A Yes, I was.

18 Q And what was that opinion?

19 A My opinion was that State's Proposed
20 Exhibits 122, 123 and 124 are the handwriting and signatures
21 of Michael Rippo.

22 MR. SEATON: Thank you.

23 I move for their admission.

24 THE COURT: Any objection?

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MR. WOLFSON: No.

THE COURT: They will be admitted.

(Whereupon, State's Exhibits
122, 123 and 124 were admitted
into evidence.)

MR. HARMON: No further questions.

MR. WOLFSON: Court's indulgence.

THE COURT: Cross-examination.

(Whereupon, a sotto voce at
this time.)

MR. WOLFSON: I have no questions.

Thank you.

THE COURT: Thank you, Mr. Leaver.

You are excused.

(Whereupon, the witness
was excused.)

THE COURT: Call your next witness.

MR. HARMON: Gerry Shehan.

Whereupon,

GERRY LYNNE SHEHAN

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.

003581

MRIPPO-07058-R0903587

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1 Will you state your name and
2 spell it for the record.

3 THE WITNESS: Gerry, G-e-r-r-y; Lynne,
4 L-y-n-n-e; Shehan.

5 THE CLERK: I'm sorry?

6 THE WITNESS: Which?

7 THE COURT: The last one.

8 THE WITNESS: G-e-r-r-y, L-y-n-n-e,
9 S-h-e-h-a-n.

10 THE CLERK: Thank you.

11
12 DIRECT EXAMINATION

13 BY MR. HARMON:

14 Q Is it Officer Shehan?

15 A Yes, sir.

16 Q Officer Shehan, where are you employed?

17 A Las Vegas Metropolitan Police Department.

18 Q How long have you worked with that
19 department?

20 A Sixteen years.

21 Q What are the nature of your duties?

22 A I'm a corrections officer.

23 Q What is a corrections officer?

24 A I -- I'm in charge of the inmates. I'm in

003582

RENEE SILVAGGIO, CCR 122 391-0379

JA003759

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1 charge of the care and custody of them; and, at this point,
2 what we're talking about today, was when we were in booking,
3 so I was what we call a booking officer.

4 Q Were you, specifically, on February the 4th,
5 1993, a booking officer assigned to the Clark County
6 Detention Center?

7 A Yes, sir.

8 Q On that date, did you have contact with an
9 individual identified as Michael Rippo?

10 A Yes, sir.

11 Q Do you see Mr. Rippo in court today?

12 A Yes.

13 Q Will you point to him and describe some
14 article of clothing he's wearing.

15 A Well, I -- it's this gentleman right here.
16 (Indicating)

17 Q And how is he dressed in court?

18 A He's got a sweater on.

19 MR. HARMON: Your Honor, may the record show
20 the witness has identified the defendant, Mr. Rippo?

21 THE COURT: The record will so reflect.

22 MR. HARMON: Thank you.

23 BY MR. HARMON:

24 Q Did something occur at about 8:45 in the

003583

5

1 morning on February the 4th, 1993, which involved yourself
2 and the defendant, Mr. Rippo?

3 A Yes.

4 Q Tell us what happened.

5 A Well, I was told to take some inmate workers
6 and go back to -- he was housed in Z-17. At that point, I
7 didn't even know who he was.

8 Q He, referring to the defendant?

9 A To -- yes.

10 It was a group of Elko inmates
11 that had come down from Elko, prob- -- I guess the night
12 before, and they were all housed together in Z-17. That's a
13 holding cell.

14 And I was told to just go in,
15 pull all the guys out and have the workers go in and clean
16 the room, which is common practice. It's normally done on a
17 daily basis. So that's what I did.

18 And I asked all the guys to
19 come out. And one gentleman -- I can't remember if he
20 didn't have his pants on or if his pants were down. It's
21 been so many years, I don't remember -- but he was
22 inappropriately dressed, whatever it was, and I asked him to
23 put his pants on.

24 That's all I said, put your

003584

MRIPo-07059-R0003590

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1 pants on, so he could step out of the cell with the other
2 individuals and be appropriately dressed while we cleaned
3 the cell out.

4 Q Who did you tell to put his pants on?

5 A Mr. Rippo. Everybody else came out without
6 a problem. He was the only person that was going to give me
7 an argument.

8 Q What was the reaction of Mr. Rippo when
9 you --

10 A Well, he -- I got a barrage of -- excuse me,
11 ladies and gentlemen -- of fuck you, and, you know, I -- God
12 it's been -- you know, just fuck you. And that's common,
13 you know. And then he told me that -- that he would have no
14 problem blowing my head off and putting me out of my misery.

15 So I -- some backup came and
16 then he called me a fat fucking bitch, which is also very
17 common; and then they removed them all and took them to a
18 dress out in four, where -- he was going to be moved to
19 either 2-C or 5-C, which is a disciplinary housing. And
20 that was basically my involvement.

21 And then when he got into the
22 dress out, he -- when I walked down the hall a few minutes
23 later, he had given another corrections officer a problem,
24 and he was on the floor face down.

003585

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6 1 Q To your knowledge, in connection with these
2 incidents on February the 4th, 1993, was Mr. Rippo advised,
3 that he quite possibly faced disciplinary action as a result
4 of this conduct?

5 A He said that -- he said that he didn't care.
6 He was facing the death death penalty.

7 MR. HARMON: Thank you.

8 That's all, Your Honor.

9 THE COURT: Cross.

10

11 CROSS-EXAMINATION

12 BY MR. DUNLEAVY:

13 Q Wasn't the reason you responded to that area
14 because someone overflowed the toilet and the floors were
15 wet?

16 A The sergeant told me to go back there and
17 clean it out.

18 Q Is that a yes or a no?

19 A I don't remember why; just the sergeant told
20 me to go clean it out. I cleaned it out.

21 Q Wasn't it an area that was crowded and Mr.
22 Rippo was sleeping on the floor?

23 A I don't remember where he was sleeping. He
24 was in that room. That's all I remember.

003586

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1 Q Do you remember if the pants you wanted him
2 to put on were wet?

3 A No, they weren't wet.

4 Q Oh, you remember that?

5 A I don't remember them being wet. I don't
6 remember anybody in there being wet or that as an issue with
7 any other inmate.

8 Q You went back there to clean it up?

9 A That -- I was ordered back to clean it up.
10 That's what I did.

11 Q And it had been flooded; is that right?

12 A That I do not know.

13 Q Isn't there a report on that?

14 A There may be. I don't know.

15 Q You don't recall that?

16 A No.

17 Q Now, did he physically assault you?

18 A No.

19 Q He used the F word?

20 A Oh, yeah. He -- that -- well, by then,
21 backup had come.

22 Q And because of the F word, he got locked
23 down; is that correct?

24 A No. He basically got locked down for

003587

6

1 telling me that he could -- would blow my head off and he --
2 and that he was going to put me out of my misery. That's
3 threatening an officer.

4 Q And he had a gun?

5 A No, but that's not the issue.

6 Q So it was talk, but no weapon or anything?

7 A Yeah, it was talk.

8 Q But you can get locked down for using talk
9 against an officer?

10 A Absolutely.

11 Q And that's all there was to it?

12 A Well, for being uncooperative -- you can get
13 locked down for being uncooperative; you can get locked down
14 for threatening; you can get locked down for disrupting.

15 Q There is a lot of reasons that can you get
16 locked down?

17 A Yes, sir.

18 Q It's a very rigid society over there, isn't
19 it?

20 A Well, it has to be.

21 Q And you said he was there with a bunch of
22 people from Elko?

23 A Yeah.

24 Q Isn't Elko a juvenile facility?

003583

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1 A I don't -- maybe.

2 Q Wasn't there a group of people from Ely?

3 A I'm sorry. I'm sorry. Ely. I'm sorry,
4 Ely, yes. I'm sorry.

5 Q And that's all you know about this incident,
6 is what you've told us today?

7 A That's it. That was my involvement with
8 him.

9 MR. DUNLEAVY: No further questions.

10 MR. HARMON: Nothing further, Judge.

11 THE COURT: Thank you very much, Officer.

12 You are excused.

13 (Whereupon, the witness
14 was excused.)

15 THE COURT: Next witness.

16 MR. HARMON: Your Honor, I would represent
17 to the Court that our remaining witnesses will be from the
18 families of the victims in this case, and the Court has
19 indulged them. They've been permitted to be in the
20 courtroom, so that they might witness the proceedings.

21 We have five such witnesses.

22 We will conclude our presentation with their remarks. And
23 the first will be --

24 MR. DUNLEAVY: Your Honor, may we approach

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1 for one second before they do?

2 THE COURT: Yes.

3 (Whereupon, an off-the-record
4 discussion was had.)

5 THE COURT: All right. We're going to take
6 a short recess. We have to hear something outside your
7 presence.

8 So don't converse among
9 yourselves or with anyone else on any subject connected with
10 this trial;

11 Read, watch, listen to any
12 report or commentary on the trial; or

13 Form or express any opinion on
14 this case until the matter is submitted to you.

15 Go ahead. Go on outside for a
16 while.

17 (Whereupon, a recess was had in
18 the proceedings, at the
19 conclusion of which the
following was had:)

20 THE COURT: Will counsel stipulate to the
21 presence of the Jury?

22 MR. SEATON: Yes, Judge.

23 MR. DUNLEAVY: Yes, Your Honor.

24 THE COURT: Mr. Harmon, call your next

7

003590

RENEE SILVAGGIO, CCR 122 391-0379

JA003767

7

1 witness.

2 MR. HARMON: Norman Jacobson.

3 THE CLERK: Step forward, please.

4

5 Whereupon,

6

NORMAN JACOBSON

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

11 THE CLERK: Thank you. Please be seated.

12 Will you state your name and
13 spell it for the record.

14 THE WITNESS: My name is Norman Jacobson;
15 J-a-c-o-b-s-o-n.

16 MR. HARMON: Mr. Jacobson, we need to have
17 you speak directly into the microphone, sir.

18 THE COURT: All right?

19 THE WITNESS: Okay.

20 THE COURT: Speak loud, if you can, please.

21

22

DIRECT EXAMINATION

23 BY MR. HARMON:

24 Q Do you reside outside of the state of

003591

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1 Nevada?

2 A Yes, I do.

3 Q In which state do you live?

4 A Montana.

5 Q Are you the father of Lauri Jacobson?

6 A No, I am -- well, I am her father, but she

7 is adopted.

8 Q When was she adopted by the family?

9 A At infancy; two weeks -- three weeks old.

10 Q You are married?

11 A Yes.

12 Q What is your wife's name?

13 A Maureen.

14 Q Has your wife Maureen been here in court
15 throughout the proceedings?

16 A Yes, she has.

17 Q Did your daughter Lauri Jacobson have any
18 brothers or sisters?

19 A Yes. She has two brothers, Kurt and Mark.
20 Mark is adopted too.

21 Q Did Lauri Jacobson have any children?

22 A Yes. She had one child, Brittany, yes.

23 Q And how old is Brittany now?

24 A Brittany now is 12 years old.

003592

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1 Q Mr. Jacobson, do you have some remarks which
2 you have prepared that you would like to state to the Court
3 and Jury describing what type of person your daughter Lauri
4 Jacobson was and what the impact has been upon the family by
5 having her killed?

6 A Yes, I do.

7 Q Will you do that now, sir?

8 A Yes. If you will pardon me for reading
9 this.

10 We adopted Lauri when she was
11 just a few weeks old. She joined her two brothers, ages two
12 and four. She was a joy to watch as she matured into a -- a
13 beautiful young lady.

14 At five, she sang in the
15 children's choir at church and also joined a competitive
16 swimming team with her brother for nine years. And during
17 that time, she grew very close to Mark, who swam with her.

18 Lauri was very active in sports
19 all through school. She was very active in the Girl Scouts;
20 and one year, she was chosen to be on the cover of the
21 National Girl Scout calendar.

22 Lauri -- excuse me -- Lauri was
23 also very active in 4-H throughout grade school and high
24 school. She was raising pigs and lambs, and her Junior

003593

7

1 year, she won a reserve champion on her market hog.

2 As a sixth grader, Lauri took
3 part in a play, Oliver, that was put on by the Children's
4 Theatre. It was a great experience, along with her dance
5 classes, which she really loved. She liked to perform. She
6 was chosen as a member of the high school drill team all
7 four years.

8 Lauri had a personality that
9 drew people to her, both young and old. In high school, she
10 was asked by her principal to help new students around in
11 school so that they would get to the classes and they'd know
12 the ropes in school.

13 This, even, was her trait right
14 up to the end. She trusted people. She wanted to help
15 people. And she would often call. On her weekly calls, she
16 would tell of helping certain people out.

17 And right -- right after her
18 death, a friend of Lauri's called and -- and talked to me
19 really close to probably a half hour, 45 minutes. And the
20 basic gist of the conversation was really two-fold. And one
21 is he -- he really felt guilty that he made Lauri move out
22 of his apartment because his girlfriend didn't want Lauri
23 there; and as a result, she moved into the Katie Arms
24 apartment.

003594

7 1 And then the second thing was
2 that some of her friends were really taking advantage of
3 her, and so he would take her down to the 7-Eleven store and
4 see that she cashed her check and made out a money order for
5 her rent, because others would try to get loans from her;
6 and as a result, she wouldn't have the money to pay the rent
7 in order to stay where she was.

8 After high school, Lauri moved
9 to Salt Lake with a friend, and she enrolled in community
10 college as a medical secretary and graduated from there.

11 She worked in that field for a
12 few years, and then finally, she said she had to get out of
13 it because she -- she didn't like to see sick kids or abused
14 children, basically it was what it had amounted to.

8 15 During this time, she was
16 married and she had a beautiful little daughter, which we've
17 already talked about.

18 Lauri was a very caring mother.
19 And -- excuse me -- and on the date she was murdered, ah,
20 Brittany called her and, ah, she never answered.

21 And Brittany basically cried
22 for, well, two days, until she found out what happened. And
23 basically Lauri would call her back as soon as she did call,
24 so that she knew -- you know, that she could visit with her.

003595

8

1 Brittany, at the time, really
2 is probably too young to realize the implications of all
3 what was going on. She has been in counseling, and we -- we
4 feel that she'll need more counseling as she gets older and
5 really realizes the implications of what has taken place.

6 Mark was really closest to
7 Lauri, and he came down and visited her just a few days
8 before her death; and that -- that visit -- excuse me -- I
9 should be able to handle this -- but that visit really
10 haunts Mark quite a bit, and he has been in counseling,
11 and -- not as often now as before.

12 Kurt, our oldest son, really
13 doesn't talk much about it, about his daught- -- or his
14 sister's death, but there is no question at all in what he
15 thinks or feels about this situation.

16 Both of Lauri's brothers have
17 children, and they -- they, um, basically -- I guess the
18 thing that probably bothers them is that their children
19 won't know Lauri, which we have to expect, because they've
20 watched her work with Brittany, showing her a lot of, you
21 know, just being outdoors, just nature, working with her and
22 teaching, I guess, love and respect for not only people, but
23 everything.

24 As for my wife and I, it has

003596

8 1 been difficult at times to sit here and to contain the rage
2 that comes up once in a while. You know, if there is a
3 hell, I think it can't get much worse than what we've been
4 going through, but I -- I don't -- I don't ask for sympathy
5 or anything. Our daughter is -- you know, our daughter's
6 trauma was ended shortly, where others have not.

7 The extent of the trauma that
8 we feel really is dependent, you know, in a way as to what
9 moment in Lauri's life flashes before us unexpectedly, if
10 it's, you know, the first moment that we saw our daughter or
11 when she had her first dance lesson or when she graduated
12 from school or when she, you know, had her daughter, or if
13 it's, you know, the -- the last few seconds of Lauri's life
14 that we think about, no matter what our memories are, we
15 really only know that our lives have been changed and
16 they've been changed forever.

17 Q Mr. Jacobson, have you and your wife
18 prepared a short scrapbook that contains photographs of your
19 daughter at various times in her life?

20 A Yes, we have. And I think some of those
21 pictures show some of the activities that I've mentioned,
22 yes.

23 Q Does the scrapbook highlight certain
24 activities during Lauri Jacobson's life?

003597

8

1 A Yes, they do -- or it does.

2 MR. DUNLEAVY: Your Honor, may we approach
3 for a moment?

4 THE COURT: Yes.

5 (Whereupon, an off-the-record
6 discussion was had.)

7 MR. HARMON: May I approach the witness,
8 Your Honor?

9 THE COURT: You may.

10

11 (Whereupon, as requested by
12 counsel, Plaintiff's Exhibit
13 125 was marked for
14 identification.)

15 BY MR. HARMON:

16 Q Mr. Jacobson, I'm showing you proposed
17 Exhibit 125.

18 Does this appear to be the
19 scrapbook which contains various photographs taken of your
20 daughter Lauri Jacobson during her life?

21 A Yes, it does.

22 Q Is there certain commentary which has been
23 written in the scrapbook explaining what each picture
24 depicts?

25 A Yes, each -- each explaining a little bit of
26 what took place at that time, yes.

003598

8

1 Q Was your purpose in preparing this for
2 presentation in the event there was a penalty hearing in
3 this case?

4 A Yes, it was, so that they could see what
5 type of a daughter that we -- we had to raise, yes.

6 MR. HARMON: Thank you.

7 Your Honor, the State offers
8 proposed Exhibit 125.

9 MR. DUNLEAVY: For the record, Your Honor,
10 we object to it and we've never seen it. It's never been
11 provided to us to look at.

12 THE COURT: You may take a look at it now if
13 you wish.

14 MR. DUNLEAVY: I would renew my objection
15 and ask to make a record out of the presence of the jury.

16 THE COURT: All right. You can make your
17 record outside the presence. It will be admitted.

18 (Whereupon, State's Exhibit
19 125 was admitted into
evidence.)

20 MR. HARMON: No further questions, Your
21 Honor.

22 THE COURT: Cross-examination?

23 MR. DUNLEAVY: No questions, Your Honor.

24 THE COURT: Thank you, Mr. Jacobson.

003599

8 1 You may step down.

2
3 (Whereupon, the witness
4 was excused.)

5 THE COURT: Call your next witness.

6 MR. HARMON: Orell Maxwell.

9 7 THE CLERK: Come up here and remain
8 standing.

9
10 Whereupon,

11 ORELL MAXWELL

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

16 THE CLERK: Thank you. Please be seated.

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

19 THE WITNESS: Orell Maxwell; O-r-e-l-l,
20 M-a-x-w-e-l-l.

21
22 DIRECT EXAMINATION

23 BY MR. HARMON:

24 Q It is Mrs. Maxwell?

003600

9

1 A Right.

2 Q We need to make sure that the microphone
3 picks up what you say.

4 A Okay.

5 Q Did you know Lauri Jacobson?

6 A Yes, I did.

7 Q Did she become part of your family?

8 A Yes, she was.

9 Q Explain how that occurred.

10 A She married my second son.

11 Q What is the name of your son who was the
12 husband of Lauri Jacobson?

13 A David Maxwell.

14 Q Where were they married?

15 A They were married in Salt Lake City; in East
16 Canyon actually.

17 Q Did they live for a period of time during
18 their married life in Salt Lake City?

19 A Yes, they did.

20 Q Were there any children of the marriage?

21 A Yes, they had one daughter, Brittany.

22 Q Is this the same little child referred to by
23 Mr. Jacobson in his testimony?

24 A Yes.

003601

9 1 Q Mrs. Maxwell, do you have something that you
2 would like to share with the Court and jury regarding the
3 type of person that you observed Lauri Jacobson to be and
4 the effect it has been on you and Brittany because of her
5 death?

6 A Yes, I would.

7 Q Would you make your statement now, please.

8 A Thirteen years ago, my second son David
9 married Lauri Jacobson, and they had a beautiful daughter,
10 Brittany. She is now 12 years old.

11 And on the surface, she is a
12 typical, well mannered, sensitive, intelligent child; but
13 she now has a handicap: She lost her mother when she was
14 only eight, because of a selfish act by someone.

15 Our family became acquainted
16 with the wonderful, kind and thoughtful caring wife and
17 mother, Lauri Jacobson. We also have some other new
18 friends, Norman and Maureen Jacobson, and their sons Kurt
19 and Mark. And they are fine, upright, honest people of the
20 highest character, and we have come to love them and our
21 lives have been better because of them.

22 Lauri was a loving mother, who
23 we watched teach her little Brittany to be a loving, kind
24 and caring person.

003602

9

1 I saw Lauri lying on the lawn,
2 showing a blade of grass to Brittany, showing her how soft
3 and beautiful it was, and letting a lady bug crawl up her
4 arm.

5 Lauri helped Brittany to learn
6 how to use her senses, to understand the world around her.
7 She carefully taught her, from her baby days until the day
8 she was killed, to smell and touch, to taste and hear and
9 fully experience all that was around her.

10 Most children have to learn
11 these things for themselves, but Lauri loved life and she
12 had a deep sense of caring for the earth and for other
13 people and so she taught this to her daughter.

14 Dave and Brittany not only have
15 to deal with the loneliness of their daily lives, but they
16 must cope with the horror of the brutal and violent manner
17 of Lauri's death.

18 Brittany is learning to deal
19 with the loss of her mother through the loving care of her
20 single father, her grandparents, aunts, uncles, cousins, and
21 the help of a professional counselor, plus a lot of prayers.

22 But it is still hard to know --
23 it is still hard for her not to receive the weekly phone
24 calls and the frequent visits from her mother, and it's hard

003603

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1 to know how to help her cope with all of her tears and her
2 sorrow. Her mother's death has left a terrible, permanent
3 void in her life and in ours.

4 We all loved Lauri.

5 MR. HARMON: Thank you, Mrs. Maxwell.

6 Nothing further, Your Honor.

7 THE COURT: Any questions?

8 MR. DUNLEAVY: No questions, Your Honor.

9 THE COURT: Thank you, Mrs. Maxwell.

10 You are excused.

11 (Whereupon, the witness
12 was excused.)

13 THE COURT: Next witness.

14 MR. SEATON: Nicholas Lizzi.

15

16 Whereupon,

17 NICHOLAS LIZZI

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

22 THE CLERK: Thank you. Please be seated.

23 Will you state your name and
24 spell it for the record.

003604

9 1 THE WITNESS: My name is Nicholas Anthony
2 Lizzi; L-i-z-z-i.

3
4 DIRECT EXAMINATION

5 BY MR. SEATON:

6 Q Mr. Lizzi, are you related to Denise Lizzi?

7 A Yes, I'm her father.

8 Q Would you tell us a little bit about her
9 family, your family, what it consists of, who it consists
10 of.

11 A Well, she's my daughter.

12 Q And who else is in the family?

13 A My wife, Louise, and my son, Nicholas.

14 Q Did you bring with you a photo album, such
15 as the one Mr. Jacobson has just presented to the Court?

16 A Yes, I did.

17 Q May I have it, please?

18 A Sure.

19 MR. SEATON: Thank you.

20 (Whereupon, as requested by
21 counsel, Plaintiff's Exhibit
22 127 was marked for
identification.)

23 BY MR. SEATON

24 Q Mr. Lizzi, are there things that you wish to
tell the Jury about your daughter --

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1 A Yes, I would like to.

2 Q -- and what her life was about and how her
3 death has impacted you and your family?

4 A Yes, many.

5 Q Would you please do that.

6 A All right. I'll read it from my statement.

7 Q Thank you.

8 A Good afternoon.

9 Just about 30 years ago, I
10 found out I was going to be a father. On November 18th,
11 1966, my daughter was born. It was one of the happiest days
12 of my life.

13 Denise was a very active baby;
14 never ceased to amaze me. She walked and she talked early.
15 She couldn't wait to go to school like her big cousins, who
16 remind me a lot of her. They were close.

17 She loved school; hardly missed
18 a day. She liked to socialize. We always called her our
19 social butterfly.

20 When our son was born, Denise
21 was delighted. She liked to help take care of him. She was
22 his big sister.

23 Denise was so happy and full of
24 life. She had been a Girl Scout, played baseball, took

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1 ballet lessons, music lessons. In high school, she worked
2 part time so she could save for her first car.

3 She took aerobic classes and
4 acting lessons. She did some modeling. She graduated high
5 school and realized if she wanted a better paying job, she
6 would have to go back to school, so she did. She graduated
7 from Las Vegas Business College and worked with computers.
8 Denise loved to dance and went to many concerts.

9 She was always concerned about
10 other people's lives, always willing to help someone in
11 need. One time, she gave her bed to a friend who didn't
12 have one. She would give you the shirt off her back. She
13 was a very generous person. I always thought she should
14 have been a social worker.

15 When Denise was murdered, I
16 received hundreds of letters and cards and flowers from her
17 friends as far away as France. She touched so many lives in
18 her short life. She was a special person, always trying to
19 live every day to its fullest.

20 My daughter is dead four years,
21 24 days and so many hours, and my life has changed
22 dramatically. I am not the same person I was before this
23 tragedy. A piece of my heart is gone forever.

24 I have seen therapists and

003607

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1 psychiatrists, but nothing helps the pain in my heart. I
2 can never hold her or hug her again. I will never see
3 Denise in a wedding dress and never have her grandchildren
4 from her. All I have left is my memories of a wonderful,
5 loving, beautiful daughter and a horror of how I lost her so
6 brutally. No one should die like that.

7 People seem to think that time
8 heals. But the reminders are always there, the color
9 purple, Flamingo Road, certain songs on the radio, the TV
10 commercials about fathers dancing with their daughters,
11 holidays that we spent together and happiness, and now it's
12 spent in a cemetery.

13 The emotions of Joy and
14 happiness are out of my life. We have grief attacks every
15 day, just crying. My heart is broken. I can't stop
16 remembering that once I had a daughter; someone killed her;
17 and that person should be accountable for not only killing
18 her, but all the other lives this murderer has affected.

19 And now, still in shock, we
20 know she will never come home again or celebrate a birthday
21 of hers and that's sad.

22 Thank you.

23 Q Mr. Lizzi, let me show you State's proposed
24 Exhibit 127.

003608

10

1 Is this the photographic album
2 which you and your family prepared of your daughter?

3 A Yes, it is.

4 Q And does it illuminate certain moments in
5 her life?

6 A Yes, it does.

7 Q And certain notations have been made by the
8 photographs to explain the pictures?

9 A That is correct.

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

12 MR. DUNLEAVY: Same objection, Your Honor.

13 THE COURT: It will be admitted.

14 MR. SEATON: 127, Judge.

15 THE COURT: 127.

16

17 (Whereupon, State's Exhibit
18 127 was admitted into
evidence.)

19 MR. SEATON: Thank you, Mr. Lizzi.

20 I have no more questions.

21 THE WITNESS: Thank you.

22 MR. DUNLEAVY: No questions, Your Honor.

23 THE COURT: You may step down.

24 (Whereupon, the witness

003609

was excused.)

MR. SEATON: The State would call Louise

Lizzi.

Whereupon,

LOUISE LIZZI

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.

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

THE WITNESS: My name is Louise Lizzi;
L-i-z-z-i.

DIRECT EXAMINATION

BY MR. SEATON:

Q Are you the mother of Denise Lizzi?

A Yes.

Q And the wife of Nicholas who just testified?

A Yes.

Q Are there things that you wish to tell the
Jury regarding your daughter and the impact of her death

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1 upon your family?

2 A Yes, but mine is from a little different
3 perspective. It's -- I'm going to talk about when I found
4 out my daughter was killed.

5 Q If you would do that, please.

6 A I'm sorry. I -- I -- I have this memorized,
7 but I'm going to have to read it.

8 I'll never forget the day,
9 Friday, February 21st, 1992 when three girls knocked on my
10 door and said Denise was dead.

11 No, no, it was an accident,
12 they said. She was murdered. I thought they were crazy. I
13 thought they were wrong. I got angry with them.

14 I couldn't understand or
15 comprehend. I was so desperate. Surely they were wrong.
16 They had to be; there had to be a mistake.

17 My husband called the coroner.
18 He said, yes, your daughter is dead.

19 Dead. How could this be?
20 Denise was 25, healthy and beautiful. This couldn't be
21 true.

22 We wanted to make sure. We
23 wanted to see for ourselves. But the law said, no, we
24 couldn't see her until she was released.

003611

1 Released? What do you mean?

2 She was my daughter.

3 But we weren't allowed to see
4 her -- until she was cleaned up from the autopsy. I hear
5 the word autopsy and still I don't believe. I must see her;
6 I must make sure; but I'm not allowed. Before I could see
7 her to make sure, it is on the news. They say her name,
8 Denise Lizzi. They say she's found in a closet with another
9 girl, Lauri Jacobson.

10 People started calling. What
11 should I do? My son was in school; doesn't know. My
12 elderly father doesn't know. My brother and his wife and
13 children don't know.

14 Will someone tell them, or will
15 they hear it on the news before I know for sure it's true?
16 You see, I still don't believe. I just kept saying it can't
17 be true. Why would anyone want to kill my daughter?

18 People started coming over. My
19 son came home and my husband told him. My brother tells my
20 father. We are all in shock, but still hoped that there had
21 been a mistake.

22 Denise's grandmother and uncles
23 and cousins in New York had to be told. I don't know how to
24 do this. My poor husband has the gruesome task of telling

003612

11

1 them. They come to Las Vegas to help us with our grief.

2 The next day, we're finally
3 allowed to see Denise. The shock of seeing your child lying
4 there, so lifeless, so fake, is something you never forget.
5 No one is ever prepared for this. It's such a shock to your
6 system.

7 I kept remembering the day she
8 was born. We had been blessed by God. She was such a gift
9 that we always cherished. And I'm now looking at her in a
10 mortuary.

11 I examine her and I still
12 see -- I still can't see it to believe. We decided to have
13 a closed casket. We can't have anyone see her like this, so
14 cold, so lifeless, so dead.

15 In a matter of hours, my family
16 has changed. We are suspicious of everyone. We want to
17 know who did this. The police find my daughter's car.
18 Still we don't know who did this. We become paranoid.

19 Every time we go out, we think
20 this person could be standing next to us. Your mind runs
21 away and you just keep praying the police will find the
22 person responsible for this tragedy.

23 I don't remember eating or
24 sleeping or -- all I remember doing is crying. I felt like

003613

MR:PO-07058-R0803619

11

1 someone ripped my heart out, and I have never lost that
2 pain. I think of the grandchildren I will never have and my
3 heart breaks. And Denise loved children so much.

4 I will never be the same person
5 I was before this tragedy. I go through the motions, but my
6 heart is just not in it. I try to act and look normal, but
7 the hurt is so bad that I feel like the living dead.

12

8 I can't tell you how many times
9 I've picked up the phone to tell Denise something and then
10 remembered she's gone. She's just not there anymore.

11 I wake up in the mornings and
12 think: Is this nightmare over? But, soon, I realize it
13 will never be over. I'll never be able to hug, kiss or
14 comfort her again. I'll never be able to hear her voice.
15 It is more than traumatic. It's my lifetime sentence.

16 I can't forget the horror of
17 her death. I'm tired -- I'm tired of saying this can't be
18 true. I finally know it is true.

19 I have waited four years for
20 this day, four years of heartache and stress, four years of
21 countless court appearances and parole hearings and
22 involvement with this criminal justice system.

23 What is justice?

24 These four years, it's a long

003614

12

1 time to wait for Justice. There is no happiness here, only
2 a little sense of relief. All I have left now are my
3 memories, memories of a daughter that would never hesitate
4 to help someone in need, memories of a sweet, kind daughter
5 who I will mourn for the rest of my life.

6 MR. SEATON: Thank you, Mrs. Lizzi.

7 THE COURT: Any questions?

8 MR. DUNLEAVY: No questions.

9 THE COURT: Thank you, Mrs. Lizzi.

10 You are excused.

11 (Whereupon, the witness
12 was excused.)

13 MR. SEATON: I call Nick Lizzi.

14

15 Whereupon,

16 NICHOLAS LIZZI, JR.

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

21 THE CLERK: Thank you. Please be seated.

22

23 DIRECT EXAMINATION

24 BY MR. SEATON:

003615

12

1 Q You are the brother of --
2 A Yes.
3 Q Well, would you spell your name, please?
4 A Nicholas Lizz1; L-1-z-z-i.
5 Q And you are the brother of Denise?
6 A Yes.
7 Q What is your age?
8 A I'm 22. I'll be 23 next week.
9 Q How old would she have been today?
10 A Denise?
11 Q Yes.
12 A She would be going on 30, 29.
13 Q She was your older sister?
14 A Yes.
15 Q Do you have things you wish to tell the
16 jury?
17 A Yes, I do.
18 Q Would you, please.
19 A Yes. Thank you.

20 I want to let you know I'm
21 reading from this paper only because limitations have been
22 set on what can be said. Otherwise, I would have spoken to
23 you directly.

24 It's been a lengthy and

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1 difficult and strenuous period of time for me and my family
2 to finally reach this point, over four years, four years of
3 speculation on what actually occurred on or about February
4 18th, 1992.

5 Granted, this trial has not
6 answered all of our questions, but it does bring some
7 closure to this traumatic and devastating part of our life.

8 My relationship with my sister
9 was not the strongest of brother-sister relationships. We
10 did have a seven year difference in our ages. However, we
11 were at a point in which we were getting closer.

12 We had, over the year or two
13 prior to her death, broken the simple brother-sister
14 relationship barrier and were building a friendship.

15 For example, in May of 1991, my
16 sister came over on the day of my senior prom. She came
17 over to make sure I looked good for my date and helped me
18 get ready. Not only that, but we washed each other's cars,
19 and she let me borrow her 300ZX for the evening and the
20 following week.

21 My father came home from work
22 that evening, just before I left to pick up my date. He
23 took some pictures of me and my sister standing in front of
24 the lawn of the house we lived in since 1980. Little did I

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MRI: PPO-07058-R0003523

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1 know that on May 18th, 1991, exactly nine months before her
2 murder, it would be the last picture we ever took together.

3 I remember in October of 1991,
4 Denise called me about midnight one Friday night. I had
5 just gotten home after being out with some friends. She
6 wanted me to come over and spend the night at Denny's house
7 with her. She said Denny was out of town and didn't want --
8 and she didn't want to be alone. So I went over.

9 It was things like this that
10 were improving our relationship, a relationship that would
11 be coming to a halt just a few months from this time.

12 I didn't see much of Denise
13 after this point. For one reason or another, we kept
14 missing each other.

15 For instance, about two weeks
16 prior to her death, it was raining one evening and my mother
17 was working and my dad and I had gone out. When we came
18 home, there was a towel wadded up in front of our garage
19 door. We always entered through the garage, so we noticed
20 it immediately when we arrived home.

21 Under the towel was a note from
22 Denise. She wrote she forgot her keys to the house, but
23 wanted us to know she had stopped by.

24 On Thursday, February 20th,

003618

13

13

1 1992, I was getting my car serviced and the 12 o'clock news
2 came on in the waiting room. I remember the news report
3 clearly, the body bags being carried out of the apartment;
4 two unidentified women found dead in a closet; the black
5 Datsun with the key still in the ignition.

6 I thought to myself, how
7 strange. I had no clue what was in store for me come the
8 next day. Friday, February 21st, 1992, started out a normal
9 day. I was attending U.N.L.V. full-time and had classes all
10 morning.

11 I arrive home about 12 in the
12 afternoon. I opened the garage and left my car in the
13 driveway because I was going to work on some projects.

14 As I was walking into the
15 garage, the door opened. My dad pushed the button to close
16 the garage. I started to get angry, wondering why he was
17 closing the garage, and asked him what he was doing.

18 But before the garage was fully
19 closed, as I'm walking towards him, I saw the most
20 detrimental, hurtful look on his face I had ever seen. I
21 instantly knew there must have been some large tragedy,
22 perhaps a death in the family, but never in a billion years
23 did I think my father would grab me and cry out Denise was
24 murdered as he burst out into tears.

003613

13

1 I was overwhelmed with shock
2 and disbelief. I went in my room and sat on the bed,
3 thinking this can't be real. I must be dreaming.

4 But when I went in the family
5 room and saw my mother, I knew it was undeniably real. She
6 couldn't even talk. She sat there crying and staring into
7 the air, it seemed for days.

8 I didn't know what to say. I
9 don't even think she was comprehending what was going on
10 anymore at this point; just felt like life had just stopped
11 for all of us.

12 Throughout the day, the phone
13 rang continuously, since the names were released on the
14 11:30 news, before even I knew. Friends and family came
15 from all over, some people we hadn't even seen in years.

16 The pictures on the news were
17 horrible. They could only keep showing the body bags being
18 carried out of the apartment, and each channel had their own
19 version of what happened.

20 The days to follow were just as
21 bad. We had to go to the mortuary, pick a coffin and a plot
22 and what clothes to bury Denise in; had to view her in the
23 coffin and decide to keep the casket closed because she
24 looked so fake, covered with makeup to hide the trauma she

003620

13 1 had been through. We had to hold ourselves together like we
2 never have before, and we still do today.

3 Until the day of the funeral, I
4 had not realized how many hearts Denise had touched and how
5 many friends she had. The church was packed. There was
6 standing room only; and the procession that led to the
7 cemetery was as far as the eye could see.

8 In April of 1992, Denise's car
9 was finally released from the police. I picked up the car
10 from the repair shop where it was being repainted. The car
11 was a mess. Black fingerprint dust was all over the place,
12 a lot of parts missing and broken, and it took me several
13 months to get the car back in to its original condition.

14 Every time I look at the car in
15 the driveway, I picture Denise getting out of it; and
16 sometimes I still do that. Or when I see the car drive
17 away, when someone else drives it, I picture Denise in it;
18 and if the horn beeps, I remember she always used to beep
19 the horn as she was driving away. And her spirit will
20 always be there; it will always be her car, no matter who is
21 driving it.

22 The months and years leading up
23 to today have not been easy. We moved into a new house in
24 1992. We do not put up Christmas trees or Christmas lights,

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NR1P0-07058-RO003627

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1 which is something I always enjoyed, but the house was too
2 empty and quiet. I always expect Denise to be calling or
3 coming over to visit. Instead, I was visiting her grave.

4 I have been in depression, to
5 some extent, every day since her death. Had she died of
6 natural causes, I could handle it better. But knowing she
7 was murdered in the horrible way she was makes it ever so
8 difficult to trust any human being. It overwhelms me that
9 anyone is capable of committing such heinous crimes and
10 lives on this planet.

11 The extensive delays in this
12 case have made a bad situation even worse. I can't count
13 how many times this case was set for trial and delayed for
14 one reason or another. It is very painful to have to come
15 and see the defendant trying to move on with his life while
16 my sister is insensibly dead.

17 I will wind up alone as my
18 parents die, as I have no other brothers and sisters. I
19 will never be called Uncle Nick by my sister's children she
20 never had.

21 I could go on about my feelings
22 for days; however, I think I've said enough to make you
23 realize what a devastating effect this senseless murder of
24 my sister had on me and my family.

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1 Thank you.

2 MR. SEATON: Thank you, Nick.

3 THE COURT: Any questions?

4 MR. DUNLEAVY: No questions.

5 THE COURT: Thank you. You are excused.

6 (Whereupon, the witness
7 was excused.)

8 MR. SEATON: Could we approach the bench,
9 Judge?

10 THE COURT: Yes.

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

13 MR. SEATON: Judge, the State would move for
14 introduction into evidence of State's proposed Exhibit 126,
15 which are certified judgments of conviction for burglary and
16 sexual assault against the defendant, Michael Rippe.

17 (Whereupon, as requested by
18 counsel, Plaintiff's Exhibit
19 126 was marked for
20 identification.)

21 THE COURT: Any objection?

22 MR. DUNLEAVY: No objection, Your Honor.

23 THE COURT: State's 126 will be admitted.

24 (Whereupon, State's Exhibit
126 was admitted into
evidence.)

MR. SEATON: And, Judge, if I might inquire

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1 of the clerk if all of the evidence that has been proffered
2 during the penalty hearing has been admitted?

3 THE CLERK: Yes, it has.

4 MR. SEATON: The State would rest.

5 THE COURT: Okay. The defense will begin
6 tomorrow morning. Okay. I'm going to ask the jury to
7 come -- we'll get started at 9:30 tomorrow morning -- I have
8 a very light calendar -- and, hopefully, we'll complete this
9 case tomorrow.

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

13 Read, watch, listen to any
14 report or commentary on the trial by any medium of
15 information, including, without limitation, newspaper,
16 television or radio; or

17 Form or express any opinion on
18 this trial until the case is finally submitted to you.

19 Have a good evening.

20
21 (The following proceedings were
22 had in open court outside the
presence of the jury:)

23 THE COURT: The record will reflect we're
24 outside the presence of the jury.

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1 THE COURT: Mr. Dunleavy?

2 MR. DUNLEAVY: Your Honor, first, when
3 Officer Saxon was on the stand, Mr. Harmon handed him a
4 document that he wanted the information from one paragraph
5 in particular to be basically read into the record.

6 We had never seen that
7 document. It was supposedly a statement attributable to our
8 client. It was against his interest. We had never seen it.
9 It had never been provided to us in any discovery.

10 We've had repeated Brady
11 violations throughout this case. I want to put on the
12 record, once again, in the penalty phase, they're producing
13 documents they have never disclosed to the defense. We've
14 never had a chance to prepare cross-examination or to
15 evaluate it in any way.

16 And there is no sanctions we
17 can get against the State. They can get away with anything.
18 Nothing ever happens to them. It's like the rules don't
19 apply. As long as we violate them, who cares? There should
20 be some meaningful sanctions imposed.

21 We also had motions about the
22 testimony of the family members; and there was limitations
23 set: That it would not be cumulative; that they would not
24 make comments about the defendant; that they would not make

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MRIPPO-87053-R003631

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1 comments about the facts of the case; and almost every one
2 of them violated that, in one respect or another.

3 The State knows we can't jump
4 up in the middle of these people and keep objecting. That
5 could kill our client. They know that. So they just sit
6 back, confident that they can get away with it.

7 They also brought in two photo
8 books that they have never shown to us and that we submit
9 went well beyond the narrow confines of Payne. Payne didn't
10 say absolutely anything the State can think of to do. Payne
11 said a snapshot of the victim's life and that the Eighth
12 Amendment and the United States Constitution guarantees of
13 due process had to be jealously guarded. That's not what's
14 carrying here.

15

15 The State has a reputation of
16 trying to sandbag people in the penalty phase and kill
17 people. It's not proper. And I would submit the only
18 appropriate remedy available to the Court would be to strike
19 the motion to seek the death penalty.

20 MR. HARMON: Your Honor, I don't know what
21 reputation counsel is talking about. Perhaps that is his
22 perception.

23 I'm telling him, and I'm
24 telling the Court, we don't try to sandbag anyone. We have

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1 been very cooperative throughout these proceedings, in going
2 beyond what we're required to do, by sharing with the
3 defense witnesses we had intended to call. We've provided a
4 list from A to Z in this case.

5 Your Honor, the fact is there
6 are copious reports regarding the Rippo case, which have
7 accumulated through the years; and as we prepared, both for
8 the guilt and penalty phase, we have procured additional
9 reports; and with all good conscience, I can assure the
10 Court that we haven't tried to withhold anything.

11 I would concede, if we accept
12 at face value what counsel has said, that occasionally,
13 inadvertently, they have not received things in the
14 timeliness which I'm sure they prefer; but, Judge, until
15 they come over and actually inspect our file, we have no way
16 of knowing for sure what they have or don't have.

17 In this particular instance, my
18 partner, Mr. Seaton, prepared much of the penalty hearing's
19 material while we were at trial on the Warehouse matter,
20 because he had the time to do it.

21 And regarding the statement
22 alluded to by counsel, which encompasses the statement by
23 Mr. Rippo's former parole officer, Steve Schmelz, that is
24 not Brady material, Judge.

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1 As the Court knows, Brady
2 material is exculpatory evidence. And this was a short
3 statement; it was certainly relevant. Both sides have
4 striven to show either that Mr. Rippo was remorseful or was
5 not so, for his offenses, and it was simply one short
6 sentence; and, frankly, when I was examining Mr. Saxon, I
7 thought the defense had this single document.

8 If it turns out they didn't, I
9 apologize to them and to the Court. But it was not
10 deliberate; it was not intentional; it's just one of those
11 things that happened.

12 In fact, we would have called
13 Steve Schmelz to be a witness, but he's unavailable. He's
14 out of the jurisdiction, so that was impossible to do.

15 Your Honor, regarding the
16 victim impact statements, as the Court knows, until Payne
17 versus Tennessee, things were very one sided at a penalty
18 hearing.

19 Our United States Supreme
20 Court, and I might say, with due respect to them, belatedly,
21 decided to make the penalty hearing an even playing field;
22 and they decided that jurors were entitled to know what the
23 specific harm was which occurred as a result of a homicide;
24 and the only persons in a position to share with specificity

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15

1 the harm are family members.

2 Payne didn't place any
3 limitations beyond a general due process limitation; but
4 what Payne made clear is that such evidence was now relevant
5 and admissible.

6 And our legislature, in Nevada,
7 when our statutory scheme was enacted in 1977, specifically
8 N.R.S. 175.552, made relevant and admissible at a penalty
9 hearing evidence that related to the offense, evidence
10 regarding the character of the defendant, and evidence
11 regarding the victim.

12 Now, the defense filed motions
13 in limine in this case and we had a hearing; and, Judge, we
14 instructed each of our victim impact witnesses regarding the
15 parameters of appropriate statements to the jury.

16 Judge, Payne doesn't place any
17 limitations on the number of witnesses. It doesn't say what
18 their specific relationship must be to the decedents. In
19 fact, on three separate occasions, our state Supreme Court,
20 in the Smith case, S-m-i-t-h, in the Guy case, G-u-y, and
21 also in the Lane case, L-a-n-e, stated that there is no
22 appropriate limitation, as the defense has argued, from
23 Chapter 176 and from N.R.S. 213.005.

24 Those relationships, as each of

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1 the three cases I've referenced stand for, do not apply to a
2 penalty hearing.

3 Judge, there are many, many
4 things that these witnesses could have said. They did their
5 best, conscientiously, to abide by the Court's ruling.

16

6 What they said was appropriate.
7 It obviously came from their hearts.

8 And although we're going to be
9 the first to confess that, like every other penalty hearing,
10 this hasn't been perfect perhaps, the defendant has not been
11 deprived of a fair hearing.

12 We presented witnesses; hearsay
13 is admissible; evidence of the defendant's character are
14 admissible; and certainly insight into the types of people
15 Lauri Jacobson and Denise Lizzi were is admissible.

16 They are not just names. They
17 are not just statistics. And we are entitled, as we have
18 done, to attempt to personalize them in the eyes of the
19 jury.

20 Thank you.

21 THE COURT: All right. The record is made.
22 My ruling stands.

23 We will be in recess.

24

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(Proceedings adjourned until Thursday,
March 14, 1996, at 9:30 a.m.)

* * * * *

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

1 INST

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—FILED IN OPEN COURT—

MAR 14 1996 19

LORETTA BOWMAN, CLERK

By *Josephine* Deputy

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 penalty hearing. 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

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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.

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INSTRUCTION NO. 3

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The trial jury shall fix the punishment for every person convicted of murder of the first degree.

INSTRUCTION NO. 4

The jury shall fix the punishment at:

- (1) Life imprisonment without the possibility of parole,
- (2) Life imprisonment with the possibility of parole, or
- (3) Death.

INSTRUCTION NO. 5

Life imprisonment with the possibility of parole is a sentence of life imprisonment which provides that a defendant would be eligible for parole after a period of ten years. This does not mean that he would be paroled after ten years, but only that he would be eligible after that period of time.

Life imprisonment without the possibility of parole means exactly what it says, that a defendant shall not be eligible for parole.

If you sentence a defendant to death, you must assume that the sentence will be carried out.

Although under certain circumstances and conditions the State Board of Pardons Commissioners has the power to modify sentences, you are instructed that you may not speculate as to whether the sentence you impose may be changed at a later date.

INSTRUCTION NO. 6

In the penalty hearing, evidence may be presented concerning aggravating and mitigating circumstances relative to the offense, and any other evidence that bears on the defendant's character.

Hearsay is admissible in a penalty hearing.

INSTRUCTION NO. 7

The State has alleged that aggravating circumstances are present in this case.

The defendants have alleged that certain mitigating circumstances are present in this case.

It shall be your duty to determine:

(a) Whether an aggravating circumstance or circumstances are found to exist; and

(b) Whether a mitigating circumstance or circumstances are found to exist; and

(c) Based upon these findings, whether a defendant should be sentenced to life imprisonment or death.

The jury may impose a sentence of death only if (1) the jurors unanimously find at least one aggravating circumstance has been established beyond a reasonable doubt and (2) the jurors unanimously find that there are no mitigating circumstances sufficient to outweigh the aggravating circumstance or circumstances found.

Otherwise, the punishment imposed shall be imprisonment in the State Prison for life with or without the possibility of parole.

A mitigating circumstance itself need not be agreed to unanimously; that is, any one juror can find a mitigating circumstance without the agreement of any other juror or jurors. The entire jury must agree unanimously, however, as to whether the aggravating circumstances outweigh the mitigating circumstances or whether the mitigating circumstances outweigh the aggravating circumstances.

INSTRUCTION NO. 8

The law does not require the jury to impose the death penalty under any circumstances, even when the aggravating circumstances outweigh the mitigating circumstances. Nor is the defendant required to establish any mitigating circumstances in order to be sentenced to less than death.

INSTRUCTION NO. 9

You are instructed that the following factors are circumstances by which Murder of the First Degree may be aggravated:

1. The murder was committed by a person under sentence of imprisonment, to-wit: Defendant was on parole for a Nevada conviction for the crime of Sexual Assault in 1982.

2. The murder was committed by a person who was previously convicted of a felony involving the use or threat of violence to the person of another. Defendant was convicted of Sexual Assault, a felony, in the State of Nevada, in 1982.

3. The murder was committed while the person was engaged in the commission of or an attempt to commit any Burglary and the person charged:

(a) Killed the person murdered; or

(b) Knew that life would be taken or lethal force used; or

(c) Acted with reckless indifference for human life.

4. The murder was committed while the person was engaged in the commission of or an attempt to commit any Kidnapping and the person charged:

(a) Killed the person murdered; or

(b) Knew that life would be taken or lethal force used; or

(c) Acted with reckless indifference for human life.

5. The murder was committed while the person was engaged in the commission of or an attempt to commit any Robbery and the person charged:

(a) Killed the person murdered; or

(b) Knew that life would be taken or lethal force used; or

(c) Acted with reckless indifference for human life.

6. The murder involved torture.

INSTRUCTION NO. 10

A person who is on parole at the time he commits murder is under a sentence of imprisonment.

The offense of Sexual Assault is a Felony.

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INSTRUCTION NO. 11

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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. 12

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. 13

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

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

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

INSTRUCTION NO. 14

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.

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INSTRUCTION NO. 15

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2 The essential elements of murder by means of torture are (1) the act or acts which caused the
3 death must involve a high degree of probability of death, and (2) the defendant must commit such act or
4 acts with the intent to cause cruel pain and suffering for the purpose of revenge, persuasion or for any
5 other sadistic purpose.

6 The crime of murder by torture does not necessarily require any proof that the defendant intended
7 to kill the deceased nor does it necessarily require any proof that the deceased suffered pain.
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INSTRUCTION NO. 16

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Mitigating circumstances are those factors which, while they do not constitute a legal justification or excuse for the commission of the offense in question, may be considered, in the estimation of the jury, in fairness and mercy, as extenuating or reducing the degree of the defendant's moral culpability.

You may consider any aspect of the defendant's character or record and any of the circumstances of the offense as a basis for a sentence less than death.

INSTRUCTION NO. 17

Murder of the first degree may be mitigated by any of the following circumstances, even though the mitigating circumstance is not sufficient to constitute a defense or reduce the degree of the crime:

(1) The defendant has no significant history of prior criminal activity.

(2) The murder was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(3) The victim was a participant in the defendant's criminal conduct or consented to the act.

(4) The defendant was an accomplice in a murder committed by another person and his participation in the defendant's criminal conduct or consented to the act.

(5) The defendant acted under duress or under the domination of another person.

(6) The youth of the defendant at the time of the crime.

(7) Any other mitigating circumstances.

INSTRUCTION NO. 17

The burden rests upon the prosecution to establish any aggravating circumstance beyond a reasonable doubt and you must be unanimous in your finding as to each aggravating circumstance.

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INSTRUCTION NO. 19

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2 A reasonable doubt is one based on reason. It is not mere possible doubt, but is such a doubt as
3 would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the
4 entire comparison and consideration of all the evidence, are in such a condition that they can say they feel
5 an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable
6 must be actual, not mere possibility or speculation.
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INSTRUCTION NO. 20

The jury is instructed that in determining the appropriate penalty to be imposed in this case that it may consider all evidence introduced and instructions given at both the penalty hearing phase of these proceedings and at the trial of this matter.

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INSTRUCTION NO. 211
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In your deliberation you may not discuss or consider the subject of guilt or innocence of a defendant, as that issue has already been decided. Your duty is confined to a determination of the punishment to be imposed.

INSTRUCTION NO. 22

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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. 23

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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. 24

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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. When you have agreed upon your verdicts, they should be signed and dated by your foreman.

INSTRUCTION NO. 25

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2 The Court has submitted two sets of verdicts to you. One set of verdicts reflects the three
3 possible punishments which may be imposed. The other verdict is a special verdict. They are to reflect
4 your findings with respect to the presence or absence and weight to be given any aggravating
5 circumstance and any mitigating circumstances.
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INSTRUCTION NO. 26

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 was given you in these instructions, and return a verdict which, according to your reason and candid judgment, is just and proper.

Given March 14, 1996

Gerald J. Berger

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1 VER

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3 -FILED IN OPEN COURT-
4 MAR 14 1996 19

5 LORETTA BOWMAN, CLERK

6 By *Josephine* Deputy

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

10:12 p.m.

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, having found the Defendant, MICHAEL DAMON
17 RIPPO, Guilty of COUNT I - MURDER OF THE FIRST DEGREE (Lauri M. Jacobson) and having
18 found that the aggravating circumstance or circumstances outweigh any mitigating circumstance or
19 circumstances impose a sentence of,

20 ☐ Life in Nevada State Prison With the Possibility of Parole.

21 ☐ Life in Nevada State Prison Without the Possibility of Parole.

22 ☒ Death.

23
24 DATED at Las Vegas, Nevada, this 14 day of March, 1996

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26 *Richard A. [Signature]*
27 FOREPERSON
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DISTRICT COURT
CLARK COUNTY, NEVADA

—FILED IN OPEN COURT—

MAR 1 4 1996 19

By *[Signature]* LORETTA BOWMAN, CLERK
Dep
10:12 pm

THE STATE OF NEVADA,
Plaintiff,

-vs-

MICHAEL DAMON RIPPO

Defendant.

Case No. C106784
Dept. No. IV
Docket C

SPECIAL
VERDICT

We, the Jury in the above entitled case, having found the Defendant, MICHAEL DAMON RIPPO, Guilty of COUNT II - MURDER OF THE FIRST DEGREE (Denise M. Lizzi), designate that the aggravating circumstance or circumstances which have been checked below have been established beyond a reasonable doubt.

- ☒ The murder was committed by a person under sentence of imprisonment, to-wit: Defendant was on parole for a Nevada conviction for the crime of Sexual Assault in 1982.
- ☒ The murder was committed by a person who was previously convicted of a felony involving the use or threat of violence to the person of another. Defendant was convicted of Sexual Assault, a felony, in the State of Nevada, in 1982.


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- ☒ The murder was committed while the person was engaged in the commission of or an attempt to commit any Burglary and the person charged:
 - (a) Killed the person murdered; or
 - (b) Knew that life would be taken or lethal force used; or
 - (c) Acted with reckless indifference for human life.
- ☒ The murder was committed while the person was engaged in the commission of or an attempt to commit any Kidnapping and the person charged:
 - (a) Killed the person murdered; or
 - (b) Knew that life would be taken or lethal force used; or
 - (c) Acted with reckless indifference for human life.
- ☒ The murder was committed while the person was engaged in the commission of or an attempt to commit any Robbery and the person charged:
 - (a) Killed the person murdered; or
 - (b) Knew that life would be taken or lethal force used; or
 - (c) Acted with reckless indifference for human life.
- ☒ The murder involved torture.

DATED at Las Vegas, Nevada, this 14 day of March, 1996.


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THE STATE OF NEVADA,

Plaintiff,

-vs-

MICHAEL DAMON RIPPO

Defendant.

DISTRICT COURT
CLARK COUNTY, NEVADA

—FILED IN OPEN COURT—

MAR 1 4 1996

19

LORETTA BOWMAN, CLERK

By *[Signature]* Der
10:18 pm

Case No. C106784
Dept. No. IV
Docket C

SPECIAL
VERDICT

We, the Jury in the above entitled case, having found the Defendant, MICHAEL DAMON RIPPO, Guilty of COUNT I - MURDER OF THE FIRST DEGREE (Lauri M. Jacobson), designate that the aggravating circumstance or circumstances which have been checked below have been established beyond a reasonable doubt.

- ☒ The murder was committed by a person under sentence of imprisonment, to-wit: Defendant was on parole for a Nevada conviction for the crime of Sexual Assault in 1982.
- ☒ The murder was committed by a person who was previously convicted of a felony involving the use or threat of violence to the person of another. Defendant was convicted of Sexual Assault, a felony, in the State of Nevada, in 1982.

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☒ The murder was committed while the person was engaged in the commission of or an attempt to commit any Burglary and the person charged:

- (a) Killed the person murdered; or
- (b) Knew that life would be taken or lethal force used; or
- (c) Acted with reckless indifference for human life.

☒ The murder was committed while the person was engaged in the commission of or an attempt to commit any Kidnapping and the person charged:

- (a) Killed the person murdered; or
- (b) Knew that life would be taken or lethal force used; or
- (c) Acted with reckless indifference for human life.

☒ The murder was committed while the person was engaged in the commission of or an attempt to commit any Robbery and the person charged:

- (a) Killed the person murdered; or
- (b) Knew that life would be taken or lethal force used; or
- (c) Acted with reckless indifference for human life.

☒ The murder involved torture.

DATED at Las Vegas, Nevada, this 14 day of March, 1996.


FOREPERSON

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—FILED IN OPEN COURT—
MAR 14 1996

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DISTRICT COURT
CLARK COUNTY, NEVADA

By *Loretta Bowman* Clerk
Deputy
10:18 pm

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, having found the Defendant, MICHAEL DAMON RIPPO, Guilty of COUNT II - MURDER OF THE FIRST DEGREE (Denise M. Lizzi) and having found that the aggravating circumstance or circumstances outweigh any mitigating circumstance or circumstances impose a sentence of,

☐ Life in Nevada State Prison With the Possibility of Parole.

☐ Life in Nevada State Prison Without the Possibility of Parole.

☒ Death.

DATED at Las Vegas, Nevada, this 14 day of March, 1996

Arthur A. Lusk
FOREPERSON

CE31

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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

JOINT APPENDIX
Volume 16 of 48

Vol.	Title	Date	Page
2	Affidavit	02/14/94	JA00371-JA00377
2	Affidavit	03/07/94	JA00400-JA00402
18	Affidavit of David M. Schieck Regarding Supplemental Brief in Support of Writ of Habeas Corpus	08/17/04	JA04316-JA04320
3	Amended Indictment	01/03/96	JA00629-JA00633
3	Amended Notice of Intent to Seek Death Penalty	03/23/94	JA00583-JA00590
8	Answer in Opposition to Defendant's Motion for Mistrial Based on an Alleged Discovery Violation	02/08/96	JA01873-JA01886
17	Answer in Opposition to Motion for New Trial	05/01/96	JA04008-JA04013
48	Criminal Court Minutes	10/27/08	JA11603
2	Defendant's Motion to Strike Aggravating Circumstances Numbered 1 and 2 and for Specificity as to Aggravating Circumstance Number 4	08/20/93	JA00274-JA00281
18	Errata to Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)	03/12/04	JA04257-JA04258

Vol.	Title	Date	Page
19	Findings of Fact, Conclusions of Law and Order	12/01/04	JA04411-JA04413
48	Findings of Fact, Conclusions of Law and Order	11/17/08	JA11604-JA11611
1	Indictment	06/05/92	JA00235-JA00238
15	Instructions to the Jury	03/06/96	JA03358-JA03398
16	Instructions to the Jury	03/14/96	JA03809-JA03834
17	Judgment of Conviction	05/31/96	JA04037-JA04039
11	Motion for Disclosure of Exculpatory Evidence Pertaining to the impact of the Defendant's Execution Upon Victim's Family Members	02/28/96	JA02620-JA02624
2	Motion for Discovery of Institutional Records and Files Necessary to Rippo's Defense	08/24/93	JA00286-JA00294
3	Motion for a Witness Deposition	06/19/94	JA00621-JA00628
17	Motion for New Trial	04/29/96	JA04002-JA04007
2	Motion in Limine to Exclude Testimony of Defendant's Prior Bad Acts	08/23/93	JA282-001 to JA282-005
2	Motion of Defendant for Discovery and to Inspect All Evidence Favorable to Him	10/21/92	JA00254-JA00259
11	Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause	02/28/96	JA02603-JA02606
2	Motion to Disqualify the District Attorney's Office	02/07/94	JA00334-JA00345
2	Motion to Exclude Autopsy and Crime Scene Photographs	08/23/93	JA00282-JA00285
11	Motion to Preclude the Consideration of Victim Impact Evidence Pursuant to NRS 175.552, 200.033, and 200.035	02/28/96	JA02613-JA02619
11	Motion to Preclude the Introduction of Victim Impact Evidence Pertaining to Victim Family Members' Characterizations and Opinions About the Crime, the Defendant, and/or the Appropriate Sentence	02/28/96	JA02625-JA02629
2	Motion to Quash and for a Protective Order	09/09/93	JA00298-JA00303

Vol.	Title	Date	Page
	on an Order Shortening Time		
11	Motion to Require a Pretrial Judicial Review of all Victim Impact Evidence the State Intends to Introduce at the Penalty Phase	02/28/96	JA02607-JA02612
2	Notice of Alibi	09/20/93	JA00295-JA00297
19	Notice of Appeal	10/12/04	JA04409-JA04410
48	Notice of Appeal	04/15/09	JA11659-JA11661
19	Notice of Entry of Decision and Order	12/15/04	JA04414
48	Notice of Entry of Decision and Order	03/16/09	JA11648-JA11658
36	Notice of Entry of Order Appointing Counsel	02/15/08	JA08669-JA08672
1	Notice of Intent to Seek Death Penalty	06/30/92	JA00239-JA00241
42	Notice of Motion and Motion for Leave to Conduct Discovery	05/21/08	JA09989-JA10014
42	Exhibits to Motion for Leave to Conduct Discovery	05/21/08	JA10015-JA10025
42	1 Reporter's Transcript of Proceedings, <u>State v. Bailey</u> , Case No. C129217, Eighth Judicial District Court, July 30, 1996		JA10026-JA10034
42	2 Answers to Interrogatories p. 7, <u>Bennett v. McDaniel</u> , et al., Case No. CV-N-96-429-DWH (RAM), February 9, 1998		JA10035-JA10037
42	3 Reporter's Transcript of Proceedings, partial, <u>State v. Bennett</u> , Case NO. C083143, September 14, 1998		JA10038-JA10040
42	4 Non-Trial Disposition Memo, Clark County District Attorney's Office regarding Joseph Beeson, in <u>Bennett v. McDaniel</u> , Case No. CV-N-96-429-DWH, District of Nevada, October, 1988		JA10041-JA10042
42	5 Reporter's Transcript of Evidentiary Hearing, partial, <u>State v. Bennett</u> ,		JA10043-JA10050

Vol.	Title	Date	Page
42	Case No. C083143, November 18, 1999		JA10051-JA10057
42	6 Decision, <u>Bennett v. McDaniel</u> , Case No. C83143, Eighth Judicial District Court, November 16, 2001		JA10058-JA10061
42	7 Declaration of Michael Pescetta regarding locating exhibits in Parker file, <u>Bennett v. McDaniel, et al.</u> , Case No. CV-N-96-429-DWH, District of Nevada, January 8, 2003		JA10062-JA10066
42	8 Las Vegas Metropolitan Police Department Memorandum re: <u>State v. Butler</u> , Case No. C155791, December 30, 1999		JA10067-JA10085
42	9 Transcript of Defendant's Motion for Status Check on Production of Discovery, <u>State v. Butler</u> , Case No. C155791, Eighth Judicial District Court, April 18, 2000		JA10086-JA10087
42	10 Letter from Office of the District Attorney to Joseph S. Sciscento, Esq., re <u>State v. Butler</u> , Case No. C155791, Eighth Judicial District Court, November 16, 2000		JA10088-JA10092
42	11 Letter from Law Offices of Sam Stone to Hon. Michael Douglas, District Court Judge, <u>State v. Butler</u> , Case No. 155791, Eighth Judicial District Court, December 7, 2000		JA10093-JA10107
42	12 Motion for New Trial, <u>State v. Butler</u> , Case No. C155791, Eighth Judicial District Court, January 17, 2001		JA10108-JA10112
42	13 Affidavit of Carolyn Trotti, <u>State v. Butler</u> , Case No. C155791, January 19, 2001		JA10113-JA10135
42	14 Opposition to Motion for New Trial Based on Allegations of Newly Discovered Evidence, <u>State v. Butler</u> , Case No. C155791, Eighth Judicial District Court, February 16,		

Vol.	Title	Date	Page
42	2001		JA10136-JA10141
42	15 Reply to State's Opposition to Defendant's Motion for New Trial, <u>State v. Butler</u> , Case No. C155791, Eighth Judicial District Court, February 27, 2001		JA10142-JA10144
42	16 Order, <u>State v. Butler</u> , Case No. C155791, Eighth Judicial District Court, March 8, 2001		JA10145-JA10154
42	17 Fax Transmission from Terri Elliott with the Office of the Special Public Defender, <u>State v. Butler</u> , Case No. C155791, Eighth Judicial District Court, March 19, 2001		JA10155-JA10161
42	18 Order affirming in part, reversing in part and remanding, <u>State v. Butler</u> , Case No. 37591, May 14, 2002		JA10162-JA10170
42	19 Reporter's transcript of jury trial, <u>United States v. Catania</u> , June 11, 2002		JA10171-JA10177
42	20 Reporter's transcript of jury trial, <u>United States v. Catania</u> , June 13, 2002		JA10178-JA10184
42	21 Transcript of Status Conference/Scheduling Conference Before the Honorable Howard K. McKibben, United States District Judge, Case No. CV-N-00-101-HDM (RAM), District of Nevada, January 14, 2003 (Doyle)		JA10185-JA10200
42	22 Answer in Opposition to Motion for New Trial; or in the Alternative, Motion for New Appeal, <u>State v. D'Agostino</u> , Case No. C95335, Eighth Judicial District Court, September 21, 1993		JA10201-JA10207
	23 Declaration of Tim Gabrielsen, and partial FBI production in <u>Echavarria v. McDaniel</u> , et al., CV-N-98-0202, June 2004		

Vol.	Title	Date	Page
42 43	24 Motion for Leave to Conduct Discovery, <u>Emil v. McDaniel, et al.</u> , August 24, 2001		JA10208-JA10238 JA10239-JA10353
43	25 Criminal Complaint and Minutes of the Court, <u>State v. Kenny</u> , Case No. 85F-3637, Justice Court, Las Vegas Township, 1985 (Emil)		JA10354-JA10357
43	26 Notice of Denial of Request, Clark County District Attorney, <u>State v. Emil</u> , Case No. C82176, Eighth Judicial District Court, August 13, 1985		JA10358-JA10362
43	27 Various reports of the Las Vegas Metropolitan Police Department, Detention Services Division, produced in <u>State v. Haberstroh</u> , Case No. C076013, regarding investigation into the identity of Clark County Detention Center inmate who manufactured a shank, 1987		JA10363-JA10383
42	28 Deposition of Sharon Dean in <u>Haberstroh v. McDaniel</u> , Case No. C076013, Eighth Judicial District, October 15, 1998 and December 7, 1998		JA10384-JA10434
42	29 Deposition of Arlene Ralbovsky in <u>Haberstroh v. McDaniel</u> , Case No. C076013, Eighth Judicial District, December 7, 1998 and January 28, 1999		JA10435-JA10449
43 44	30 Deposition of Patricia Schmitt in <u>Haberstroh v. McDaniel</u> , Case No. C076013, Eighth Judicial District, December 7, 1998 and January 28, 1999		JA10450-JA10488 JA10489-JA10554
44	31 Recorder's Transcript Re: Evidentiary Hearing, <u>State v. Haberstroh</u> , Case No. C076013, Eighth Judicial District Court, January 28, 2000		JA10555-JA10563

Vol.	Title	Date	Page
44	32 Order, <u>Hill v. McDaniel, et al.</u> , Case No. CV-S-98-914-JBR (LRL), District of Nevada, May 20, 1999		JA10564-JA10568
44	33 FBI memorandum to SA Newark, <u>Homick v. McDaniel</u> , (Homick 167), August 31, 1977		JA10569-JA10570
44	34 FBI memorandum, New York to Newark <u>Homick v. McDaniel</u> , (Homick 168), January 31, 1978		JA10571-JA10573
44	35 FBI Teletype, FM Director to Las Vegas (Homick 166), September, 1985		JA10574-JA10576
44	36 FBI Teletype San Diego to Las Vegas (Homick 165), October, 1985		JA10577-JA10582
44	37 Chronological record, <u>Homick v. McDaniel</u> (Homick 10), November 1985		JA10583-JA10584
44	38 FBI notes re Homick receiving money from LVMPD employee, <u>Homick v. McDaniel</u> , December 11, 1985		JA10585-JA10589
44	39 FBI notes, <u>Homick v. McDaniel</u> , December 1985 and January 1986		JA10590-JA10593
44	40 FBI notes, <u>Homick v. McDaniel</u> (Pennsylvania) January 4, 1986		JA10594-JA10595
44	41 FBI redacted notes, <u>Homick v. McDaniel</u> (New Jersey), January 7, 1986		JA10596-JA10597
44	42 FBI redacted notes, <u>Homick v. McDaniel</u> (Homick), January 9, 1986		JA10598-JA10599
44	43 FBI redacted notes, <u>Homick v. McDaniel</u> (Pennsylvania), January 13, 1986		JA10600-JA10601
44	44 FBI redacted notes, Homick v. McDaniel (Las Vegas), January 14, 1986		JA10602-JA10603

Vol.	Title	Date	Page
44	45 FBI 302 interview of Norma K. Thompson, <u>Homick v. McDaniel</u> , March 18, 1986		JA10604-JA10606
44	46 FBI Director Webster letter to redacted LVMPD officer thanking him/her for work in connection with joint investigation, <u>Homick v. McDaniel</u> , June 10, 1986		JA10607-JA10608
44	47 FBI Director Webster letter to redacted LVMPD officer thanking him/her for work in connection with joint investigation, <u>Homick v. McDaniel</u> , June 10, 1986		JA10609-JA10610
44	48 FBI Director Webster letter to redacted LVMPD officer thanking him/her for work in connection with joint investigation, <u>Homick v. McDaniel</u> , June 10, 1986		JA10611-JA10612
44	49 FBI Director Webster letter to redacted LVMPD officer thanking him/her for work in connection with joint investigation, <u>Homick v. McDaniel</u> , June 10, 1986		JA10613-JA10614
44	50 FBI Director Webster letter to redacted LVMPD officer thanking him/her for work in connection with joint investigation, <u>Homick v. McDaniel</u> , June 10, 1986		JA10615-JA10616
44	51 FBI Director Webster letter to redacted LVMPD officer thanking him/her for work in connection with joint investigation, <u>Homick v. McDaniel</u> , June 10, 1986		JA10617-JA10618
44	52 FBI Director Webster letter to redacted LVMPD officer thanking him/her for work in connection with joint investigation, <u>Homick v. McDaniel</u> , June 10, 1986		JA10619-JA10620

Vol.		Title	Date	Page
44	53	FBI Director Webster letter to redacted LVMPD officer thanking him/her for work in connection with joint investigation, <u>Homick v. McDaniel</u> , June 10, 1986		JA10621-JA10622
44	54	FBI 302 memorandum of interview of Tim Catt, <u>Homick v. McDaniel</u> (Homick 164), August 18, 1988		JA10623-JA10625
44	55	Reporter's transcript of evidentiary hearing, partial, <u>State v. Homick</u> , March 7, 1989		JA10626-JA10637
44	56	Reporter's transcript of motions, <u>State v. Homick</u> (Homick 48), April 10, 1989		JA10638-JA10640
44	57	Reporter's transcript of jury trial Vol. 6, <u>State v. Homick</u> , April 25, 1989		JA10641-JA10652
44	58	Reporter's transcript of jury trial, partial, Vol. 7, <u>State v. Homick</u> , April 26, 1989		JA10653-JA10660
44	59	Reporter's transcript of jury trial Vol. 11, <u>State v. Homick</u> (Homick 52), May 2, 1989		JA10661-JA10664
44	60	Reporter's transcript of penalty hearing, <u>State v. Homick</u> , Vol. 1 (Homick 108), May 17, 1989		JA10665-JA10668
44	61	Reporter's transcript of trial, partial, Vol. 83, <u>State v. Homick</u> , November 10, 1992		JA10669-JA10673
44	62	Letter from Eric Johnson/Walt Ayers, Assistant United States Attorneys to Mark Kaiserman denying FBI joint investigation with LVMPD, <u>Homick v. McDaniel</u> , January 28, 1993		JA1674-JA10676
44	63	Letter from AUSA Warrington Parker to Judge Cooper, <u>Homick v. McDaniel</u> , May 7, 1993		JA10677-JA60678

Vol.		Title	Date	Page
44	64	Letter from AUSA Warrington Parker to Judge Cooper, <u>Homick v. McDaniel</u> , May 11, 1993		JA10679-JA10680
44	65	Reporter's transcript on appeal, <u>State v. Homick</u> Vol. 140 (Homick 102) June 29, 1994		JA10681-JA10684
44	66	Chart detailing evidence of joint investigation - joint activity between LVMPD and FBI, <u>Homick v. McDaniel</u> , October 9, 2003		JA10685-JA10692
44	67	Chart detailing evidence of joint investigation - information sharing between LVMPD and FBI, <u>Homick v. McDaniel</u> , October 9, 2003		JA10693-JA10696
44	68	Chart detailing evidence of joint investigation - admissions, <u>Homick v. McDaniel</u> , October 9, 2003		JA10697-JA10705
44	69	Declaration of Joseph Wright, <u>Homick v. McDaniel</u> (Homick 176), October 9, 2003		JA10706-JA10707
44 45	70	Petitioner's Motion for Leave to Conduct Discovery, <u>Homick v. McDaniel</u> , October 10, 2003		JA10708-JA10738 JA10739-JA10756
45	71	Recorder's Transcript Re: Evidentiary Hearing, <u>State v. Jiminez</u> , Case No. C77955, Eighth Judicial District Court, April 19, 1993		JA10757-JA10786
45	72	Transcript of Proceedings Sentence, <u>State v. Bezak</u> , Case No. CR89-1765, Second Judicial District Court, November 27, 1989 (Jones)		JA10787-JA10796
45	73	Response to Motion to Compel Discovery, <u>Jones v. McDaniel, et al.</u> , Case No. CV-N-96-633-ECR, District of Nevada, March 1999		JA10797-JA10802

Vol.		Title	Date	Page
45	74	Declaration of David J.J. Roger, Chief Deputy District Attorney, concerning <u>Jones v. McDaniel</u> , Case No. CV-N-96-633 ECR, District of Nevada, June 30, 1999		JA10803-JA10805
45	75	Transcription of VCR Tape of the Adam Evans hearing in front of Judge Hardcastle, <u>In The Matter of Adam Owens Evans</u> , Case No. J52293, Juvenile Court (Lisle)		JA10806-JA10809
45	76	Excerpt of trial record, <u>State v. Lisle</u> , Case No. 129540, Vol. 10 page 15, March 12, 1996		JA10810-JA10812
	77	Not Used		
	78	Not Used		
45	79	Letter from Inv. Larry A. Schuchman, City of Orlando, Florida, Police Department, to Inv. Bob Milby, Nevada Division of Inv. and Narcotics re Terry Carl Bonnette, January 29, 1981 (Milligan)		JA10813-JA10816
45	80	Notice of Entry of Decision and Order and Amended Findings of Fact, Conclusions of Law, and Order, <u>State v. Miranda</u> , Case No. C057788, Eighth Judicial District Court, February 13, 1996		JA10817-JA10838
45	81	Reporter's Transcript of Proceedings, <u>State v. Rippo</u> , Case No. C106784, Eighth Judicial District Court, February 8, 1996		JA10839-JA10846
45	82	Reporter's Transcript of Calendar Call, <u>State v. Morelli</u> , Case Nos. C64603 and C64604, Eighth Judicial District Court, January 12, 1984 (Snow)		JA10847-JA10859

Vol.		Title	Date	Page
45	83	Reporter's Transcript of Proceedings (Testimony of Richard Morelli), <u>State v. Snow</u> , Case No.C61676, Eighth Judicial District Court, April 17, 1984		JA10860-JA10884
45	84	Letter from Melvyn T. Harmon, Chief Deputy, Office of the District Attorney, To Whom It May Concern re Richard Joseph Morelli, July 20, 1984 (Snow)		JA10885-JA10886
45	85	Deposition of Melvyn T. Harmon, Esq., <u>Snow v. Angelone</u> , Case No. 6-12-89-WPHC, Seventh Judicial District Court, September 25, 1992		JA10887-JA10921
45	86	<u>Las Vegas Review Journal</u> excerpt, May 3, 2004, "Police Say Binion Witness Not Credible" (Tabish)		JA10922-JA10924
45	87	Letter from Kent R. Robison of Robison, Belaustegui, Robb and Sharp, to E. Leslie Combs, Jr., Esq. Re: <u>Kathryn Cox v. Circus Circus, et al.</u> , October 16, 1995, in relation to <u>Witter v. McDaniel</u> , CV-S-01-1034-RLH (LRL), District of Nevada		JA10925-JA10929
45	88	LVMPD Certificate of [Informant] Management Course completion, April 14, 1994		JA10930-JA10931
45	89	Las Vegas Metropolitan Police Department Cooperating Individual Agreement and Special Consent and Waiver of Liability		JA10932-JA10934
45	90	David J.J. Roger letter to Nevada State Parole Board Chairman regarding Robert Bezak (Jones), December 3, 1990		JA10935-JA10936
45	91	Declaration of Herbert Duzant dated May 15, 2008		JA10937-JA10938
45	92	Records request to Juvenile Justice Division dated May 14, 2008		JA10939-JA10948

Vol.		Title	Date	Page
45	93	Records request to Nassau County Department of Social Services dated May 15, 2008		JA10949-JA10973
46	94	Records request to Central Medicaid Office dated May 15, 2008		JA10974-JA10996
46	95	Records request to Central Medicaid Office dated November 29, 2007		JA10997-JA11007
46	96	Records request to Office of the Clark County District Attorney dated November 27, 2007 (re Bongiovanni)		JA11008-JA11010
46	97	Records request to Office of the United States Attorney dated November 27, 2007 (re Bongiovanni)		JA11011-JA11013
46	98	Records request to the Clark County District Attorney dated December 5, 2007 (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11014-JA11026
46	99	Records request to Clark County District Attorney dated December 5, 2007 (re Victim/Witness information)		JA11027-JA11034
46	100	Records request to Franklin General Hospital dated November 29, 2007		JA11035-JA11050
46	101	Records request to Justice Court, Criminal Records dated December 5, 2007		JA11051-JA11055
46	102	Records request to Nassau County Department of Social Services dated November 28, 2007		JA11056-JA11069
46	103	Records request to Nevada Department of Corrections dated November 29, 2007 (re: Levine)		JA11070-JA11080

Vol.	Title	Date	Page
46	104 Records request to Nevada Department of Parole and Probation dated November 29, 2007 (re Levine)		JA11081-JA11095
46	105 Records request to Nevada Department of Parole and Probation dated April 12, 2007 (re: Rippo)		JA11096-JA11103
46	106 Records request to Word of Life Christian Center Pastor David Shears, Assistant Pastor Andy Visser dated November 29, 2007		JA11104-JA11110
46	107 Response to records request from Nevada Department of Parole and Probation dated December 3, 2007		JA11111-JA11112
46	108 Response to records request from Office of the District Attorney dated January 28, 2008 (re Victim Witness)		JA11113-JA11114
46	109 Response to records request from Word of Life Christian Center Assistant Pastor Andy Visser dated December 11, 2007		JA11115-JA11116
46	110 Records request to Franklin General Hospital dated May 16, 2008 (re: Stacie Campanelli)		JA11117-JA11128
46	111 Records request (FOIA) to Executive Offices for the United States Attorneys dated November 27, 2007		JA11129-JA11132
46	112 Records request (FOIA) to the FBI dated November 27, 2007		JA11133-JA11135
46	113 Response to records request to Executive Offices for the United States Attorneys, undated		JA11136-JA11137
46	114 Records request to Nevada Division of Child and Family Services dated May 16, 2008 (re: Stacie)		JA11138-JA11144
46	115 Records request to Claude I. Howard Children's Center dated May 16, 2008 (re: Stacie Campanelli, Carole Ann Campanelli (deceased))		JA11145-JA11156

Vol.	Title	Date	Page
46	116 Records request to Clark County School District dated May 16, 2008 (re: Stacie Campanelli and Carole Ann Campanelli (deceased))		JA111457-JA11171
46	117 Records request to University Medical Center dated May 16, 2008 (re: Stacie Campanelli and Carole Ann Campanelli (deceased))		JA11172-JA11185
46	118 Records request to Valley Hospital Medical Center dated May 16, 2008 (re: Stacie Campanelli and Carole Ann Campanelli (deceased))		JA11186-JA11199
46	119 Records request to Desert Springs Hospital Medical Center dated May 16, 2008 (re: Stacie Campanelli and Carole Ann Campanelli (deceased))		JA11200-JA11213
46	120 Records request to Reno Police Department, Records and ID Section dated May 16, 2008		JA11214-JA11221
47	121 Records request to Washoe County Sheriff's Office dated May 16, 2008		JA11222-JA11229
47	122 Records request to Sparks Police Department dated May 16, 2008		JA11230-JA11237
47	123 Response to records request to Justice Court re: Michael Beaudoin		JA11238-JA11239
47	124 Response to records request to Justice Court re: Michael Thomas Christos		JA11240-JA11241
47	125 Response to records request to Justice Court re: Thomas Edward Sims		JA11242-JA11244
47	126 Response to records request to Justice Court re: request and clerk's notes		JA11245-JA11248
	127 Omitted.		

Vol.	Title	Date	Page
47	128 Subpoena to Clark County District Attorney, Criminal Division (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11249-JA11257
47	129 Proposed Order to the Clark County District Attoreny		JA11258-JA11267
47	130 Subpoena to Central Medicaid Office, New York, New York		JA11268-JA11272
47	131 Subpoena to Claude I. Howard Children's Center		JA11273-JA11277
47	132 Subpoena to City of New York, Department of Social Services		JA11278-JA11282
47	133 Subpoena to Desert Springs Hospital		JA11283-JA11288
47	134 Subpoena to Las Vegas Metropolitan Police Department Fingerprint Bureau		JA11289-JA11295
47	135 Subpoena to Las Vegas Metropolitan Police Department Communications Bureau		JA11296-JA11301
47	136 Subpoena to Las Vegas Metropolitan Police Department Confidential Informant Section		JA11302-JA11308
47	137 Subpoena to Las Vegas Metropolitan Police Department Criminalistics Bureau		JA11309-JA11316
47	138 Subpoena to Las Vegas Metropolitan Police Department Evidence Vault		JA11317-JA11323
47	139 Subpoena to Las Vegas Metropolitan Police Department Criminal Intelligence Section		JA11324-JA11330
47	140 Subpoena to Las Vegas Metropolitan Police Department Narcotics Sections I, II, and III		JA11331-JA11337

Vol.	Title		Date	Page
47	141	Subpoena to Las Vegas Metropolitan Police Department Property Crimes Bureau		JA11338-JA11344
47	142	Subpoena to Las Vegas Metropolitan Police Department Records Bureau		JA11345-JA11352
47	143	Subpoena to Las Vegas Metropolitan Police Department Robbery / Homicide Bureau		JA11353-JA11360
47	144	Subpoena to Nevada Parole and Probation (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11361-JA11368
47	145	Proposed Order to the Nevada Department of Parole and Probation		JA11369-JA11373
47	146	Subpoena to Las Vegas Metropolitan Police Department Gang Crimes Bureau		JA11374-JA11379
47	147	Subpoena to Las Vegas Metropolitan Police Department SWAT Division		JA11380-JA11385
47	148	Subpoena to Las Vegas Metropolitan Police Department Vice Section		JA11386-JA11392
47	149	Subpoena to Clark County Public Defender (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11393-JA11399
47	150	Subpoena to Henderson Police Department (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11400-JA11406

Vol.	Title		Date	Page
47	151	Subpoena to Nevada Department of Health and Human Services, Division of Child and Family Services		JA11407-JA11411
47	152	Subpoena to Reno Police Department (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11412-JA11418
47	153	Subpoena to Sparks Police Department (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11419-JA11427
47	154	Subpoena to University Medical Center		JA11428-JA11432
47	155	Subpoena to Valley Hospital		JA11433-JA11438
47	156	Subpoena to Washoe County Public Defender (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11439-JA11445
47	157	Subpoena to Washoe County Sheriff's Office, Records and ID Section (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11446-JA11453

Vol.	Title	Date	Page
47	158 Subpoena to Washoe County Sheriff's Office, Forensic Science Division (re: Michael Beaudoin, James Ison, David Jeffrey Levine, Michael Thomas Christos, Thomas Edward Sims (deceased), William Burkett (aka Donald Allen Hill), Diana Hunt and Michael Rippo)		JA11454-JA11460
47	159 Deposition Subpoena to Dominic Campanelli		JA11461-JA11463
47	160 Deposition Subpoena to Melody Anzini		JA11464-JA11466
47	161 Subpoena to the Clark County District Attorney's Office (re: Nancy Becker)		JA11467-JA11471
48	162 Subpoena to Nancy Becker		JA11472-JA11476
48	163 Subpoena to Clark County Human Resources Department (re: Nancy Becker)		JA11477-JA11481
48	164 Subpoena to Nassau County Department of Social Services		JA11482-JA11486
48	165 Subpoena to the Clark County School District		JA11487-JA11490
48	166 Subpoena to the Clark County District Attorney's Office (re: Gerard Bongiovanni)		JA11491-JA11495
48	167 Subpoena to the Office of the United States Attorney (re: Gerard Bongiovanni)		JA11496-JA11499
48	168 Subpoena to the Clark County District Attorney, Victim-Witness Assistance Center		JA11500-JA11505
48	169 Proposed Order to the Clark County District Attorney, Victim-Witness Assistance Center		JA11506-JA11508

Vol.	Title		Date	Page
48	170	Subpoena to the Office of Legal Services, Executive Offices for United States Attorneys -- FOIA (re: Bongiovanni)		JA11509-JA11513
48	171	Subpoena to the Federal Bureau of Investigation (re Bongiovanni)		JA11514-JA11518
48	172	Subpoena to the Las Vegas Metropolitan Police Department, Criminal Intelligence Section, Homeland Security Bureau, Special Operations Division (re Bongiovanni)		JA11519-JA11522
48	173	Subpoena to Leo P. Flangas, Esq. (re: Bongiovanni)		JA11523-JA11526
48	174	Subpoena to Nevada Department of Investigation		JA11527-JA11530
48	175	Subpoena to Bureau of Alcohol, Tobacco and Firearms		JA11531-JA11534
48	176	Subpoena to Robert Archie (re: Simms)		JA11535-JA11538
48	177	Subpoena to Nevada Department of Corrections (re: lethal injection)		JA11539-JA11545
48	178	Deposition subpoena to Howard Skolnik, NDOC		JA11546-JA11548
48	179	Deposition subpoena to Robert Bruce Bannister, D.O., NDOC		JA11549-JA11551
48	180	Deposition subpoena to Warden Bill Donat		JA11552-JA11554
48 1	181	Deposition subpoena to Stacy Giomi, Chief, Carson City Fire Department		JA11555-JA11 557
37	Opposition to Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction)		05/21/08	JA08758-JA08866
37	Exhibits to Opposition to Motion to Dismiss		05/21/08	JA08867-JA08869

Vol.	Title	Date	Page
37	329. <u>Leonard v. McDaniel</u> , Eighth Judicial District Court, Case No. C126285, Reply to Opposition to Motion to Dismiss, filed March 11, 2008.		JA08870-JA08884
37	330. <u>Lopez v. McDaniel</u> , Eighth Judicial District Court, Case No. C068946, State's Motion to Dismiss Petition for Writ of Habeas Corpus, filed February 15, 2008.		JA08885-JA08890
38	331. <u>Sherman v. McDaniel</u> , Eighth Judicial District Court, Case No. C126969, Reply to Opposition to Motion to Dismiss, filed June 25, 2007.		JA08991-JA09002
38	332. <u>Witter v. McDaniel</u> , Eighth Judicial District Court, Case No. C117513, Reply to Opposition to Motion to Dismiss, filed July 5, 2007.		JA09003-JA09013
38	333. <u>Floyd v. McDaniel</u> , Eighth Judicial District Court, Case No. C159897, Recorder's Transcript of Hearing Re: Defendant's Petition for Writ of Habeas Corpus, filed December 28, 2007.		JA09014-JA09020
38	334. <u>Floyd v. McDaniel</u> , Eighth Judicial District Court, Case No. C159897, State's Opposition to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Motion to Dismiss, filed August 18, 2007.		JA09021-JA09027
38	335. <u>State v. Rippo</u> , Eighth Judicial District Court, Case No. C106784, Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction), filed February 10, 2004.		JA09028-JA09073
38	336. <u>Rippo v. State</u> , Nevada Supreme Court, Case No. 28865, Appellant's Opening Brief.		JA09074-JA09185

Vol.	Title	Date	Page
38	337. <u>State v. Salem</u> , Eighth Judicial District Court, Case No. C124980, Indictment, filed December 16, 1994.		JA09186-JA09200
38 39	338. <u>State v. Salem</u> , Eighth Judicial District Court, Case No. C124980, Reporter's Transcript of Proceedings, Thursday, December 15, 1994.		JA09201-JA09240 JA09241-JA09280
39	339. Declaration of Stacie Campanelli dated April 29, 2008.		JA09281-JA0289
39	340. Declaration of Domiano Campanelli, February 2008, Mastic Beach, N.Y.		JA09290-JA09300
39	341. Declaration of Sari Heslin dated February 25, 2008.		JA09301-JA09305
39	342. Declaration of Melody Anzini dated February 26, 2008.		JA09306-JA09311
39	343. Declaration of Catherine Campanelli dated February 29, 2008.		JA09312-JA09317
39	344. Declaration of Jessica Paret-Asaro dated March 9, 2008.		JA09318-JA09323
39	345. Declaration of Mark Beeson dated March 26, 2008.		JA09324-JA09328
39	346. State's Trial Exhibit 1: Laurie Jacobson photograph		JA09329-JA09330
39	347. State's Trial Exhibit 2: Denise Lizzi photograph		JA09331-JA09332
39	348. State's Trial Exhibit 99: Michael Rippo		JA09333-JA09334
39	349. State's Trial Exhibit 31: Autopsy photo Denise Lizzi		JA09335-JA09336
39	350. State's Trial Exhibit 53: Autopsy photo Laurie Jacobson		JA09337-JA09338
39	351. State's Trial Exhibit 125: Laurie Jacobson victim-impact scrapbook photographs		JA09339-JA09360

Vol.	Title	Date	Page
39	352. State's Trial Exhibit 127: Denise Lizzi victim-impact scrapbook photographs		JA09361-JA09374
39	353. Declaration of Jay Anzini dated May 10, 2008		JA09375-JA09377
39	354. Declaration of Robert Anzini dated May 10, 2008		JA09378-JA09381
39	355. Juvenile Records of Stacie Campanelli		JA09382-JA09444
39	356. Blackstone District Court Case Inquiry: Case No. C136066, <u>State v. Sims</u> , Case Activity, Calendar, Minutes		JA09445-JA09450
39 40	357. Justice Court Printout for Thomas Sims		JA09451-JA09490 JA09491-JA09520
40 41	358. Justice Court Printout for Michael Beaudoin		JA09521-JA09740 JA09741-JA09815
41	359. Blackstone District Court Case Inquiry: Case No. C102962, <u>State v. Beaudoin</u> , Case Activity, Calendar, Minutes		JA09816-JA09829
41	360. Blackstone District Court Case Inquiry: Case No. C95279, <u>State v. Beaudoin</u> , Case Activity, Calendar, Minutes		JA09830-JA09838
41	361. Blackstone District Court Case Inquiry: Case No. C130797, <u>State v. Beaudoin</u> , Case Activity, Calendar, Minutes		JA09839-JA09847
41	362. Blackstone District Court Case Inquiry: Case No. C134430, <u>State v. Beaudoin</u> , Case Activity, Calendar, Minutes		JA09848-JA09852
41	363. Justice Court Printout for Thomas Christos		JA09952-JA09907
41	364. Justice Court Printout for James Ison		JA09908-JA09930

Vol.	Title	Date	Page
41	365 <u>State v. Rippo</u> , Eighth Judicial District Court, Case No. C106784, Order dated September 22, 1993		JA09931-JA09933
41	366 Declaration of Michael Beaudoin dated May 18, 2008		JA09934-JA09935
41	367 <u>State v. Rippo</u> , Eighth Judicial District Court, Case No. C106784, Amended Indictment, dated January 3, 1996		JA09936-JA09941
41	368 State's Trial Exhibits 21, 24, 26, 27, 28, 32, 34, 38, 39, 40, 41, 42, 45, 46, 47, 48, 51, 56, 57, 58, 60, 61, 62		JA09942-JA09965
41	369 State's Trial Exhibit 54		JA09966-JA09967
41	370 Letter from Glen Whorton, Nevada Department of Corrections, to Robert Crowley dated August 29 1997		JA09968-JA09969
41	371 Letter from Jennifer Schlotterbeck to Ted D'Amico, M.D., Nevada Department of Corrections dated March 24, 2004		JA09970-JA09971
41	372 Letter from Michael Pescetta to Glen Whorton, Nevada Department of Corrections dated September 23, 2004		JA09972-JA09977
41	373 <u>State v. Rippo</u> , Eighth Judicial District Court, Case No. C106784, Warrant of Execution dated May 17, 1996		JA09978-JA09981
41	374 Declaration of William Burkett dated May 12, 2008		JA09982-JA09984
41	375 Handwritten Notes of William Hehn		JA09985-JA09986
48	Objection to Proposed Order	11/21/08	JA11612-JA11647
48	Opposition to Motion for Discovery	06/09/08	JA11558-JA11563
2	Order	11/12/92	JA00264-JA00265
2	Order	11/18/92	JA00266-JA00267
2	Order	09/22/93	JA00320-JA00321

Vol.	Title	Date	Page
3	Order	04/22/94	JA00619-JA00320
15	Order	03/08/96	JA03412
41	Order Appointing Counsel	02/13/08	JA09987-JA09988
5B	Order Sealing Affidavit	09/30/93	JA 1401-180 to JA 1401-185
2	Order to Produce Handwriting / Handprinting Exemplar	09/14/92	JA00252-JA00253
17	Petition for Writ of Habeas Corpus (Post-Conviction) and Appointment of Counsel	12/04/98	JA04040-JA04047
19 20	Petition for Writ of Habeas Corpus (Post- Conviction)	01/15/08	JA04415-JA04570 JA04571-JA04609
20	Exhibits to Petition for Writ of Habeas Corpus	01/15/08	JA04610-JA04619
20	101. <u>Bennett v. State</u> , No. 38934 Respondent's Answering Brief (November 26, 2002)		JA04620-JA04647
20	102. <u>State v. Colwell</u> , No. C123476, Findings, Determinations and Imposition of Sentence (August 10, 1995)		JA04648-JA04650
20	103. <u>Doleman v. State</u> , No. 33424 Order Dismissing Appeal (March 17, 2000)		JA04651-JA04653
20	104. <u>Farmer v. Director, Nevada Dept. of Prisons</u> , No. 18052 Order Dismissing Appeal (March 31, 1988)		JA04654-JA04660
20	105. <u>Farmer v. State</u> , No. 22562, Order Dismissing Appeal (February 20, 1992)		JA04661-JA04663
20	106. <u>Farmer v. State</u> , No. 29120, Order Dismissing Appeal (November 20, 1997)		JA04664-JA04670
20	107. <u>Feazell v. State</u> , No. 37789, Order Affirming in Part and Vacating in Part (November 14, 2002)		JA04671-JA04679
20	108. <u>Hankins v. State</u> , No. 20780, Order		JA04680-JA04683

Vol.	Title	Date	Page
20	of Remand (April 24, 1990)		JA04684-JA04689
109.	<u>Hardison v. State</u> , No. 24195, Order of Remand (May 24, 1994)		
20			JA04690-JA04692
110.	<u>Hill v. State</u> , No. 18253, Order Dismissing Appeal (June 29, 1987)		
20			JA04693-JA04696
111.	<u>Jones v. State</u> , No. 24497 Order Dismissing Appeal (August 28, 1996)		
20			JA04697-JA04712
112.	<u>Jones v. McDaniel, et al.</u> , No. 39091, Order of Affirmance (December 19, 2002)		
20			JA04713-JA04715
113.	<u>Milligan v. State</u> , No. 21504 Order Dismissing Appeal (June 17, 1991)		
20			JA04716-JA04735
114.	<u>Milligan v. Warden</u> , No. 37845, Order of Affirmance (July 24, 2002)		
20			JA04736-JA04753
115.	<u>Moran v. State</u> , No. 28188, Order Dismissing Appeal (March 21, 1996)		
20			JA04754-JA04764
116.	<u>Neuschafer v. Warden</u> , No. 18371, Order Dismissing Appeal (August 19, 1987)		
20			JA04765-JA04769
117.	<u>Nevius v. Sumner (Nevius I)</u> , Nos. 17059, 17060, Order Dismissing Appeal and Denying Petition (February 19, 1986)		
20			JA04770-JA04783
118.	<u>Nevius v. Warden (Nevius II)</u> , Nos. 29027, 29028, Order Dismissing Appeal and Denying Petition for Writ of Habeas Corpus (October 9, 1996)		
20			JA04784-JA04788
119.	<u>Nevius v. Warden (Nevius III)</u> , Nos. 29027, 29028, Order Denying Rehearing (July 17, 1998)		
20			JA04789-JA04796
120.	<u>Nevius v. McDaniel, D. Nev. No. CV-N-96-785-HDM-(RAM)</u> , Response to Nevius' Supplemental Memo at 3 (October 18, 1999)		

Vol.	Title	Date	Page
20	121. <u>O'Neill v. State</u> , No. 39143, Order of Reversal and Remand (December 18, 2002)		JA04797-JA04803
20	122. <u>Rider v. State</u> , No. 20925, Order (April 30, 1990)		JA04804-JA04807
20	123. <u>Riley v. State</u> , No. 33750, Order Dismissing Appeal (November 19, 1999)		JA04808-JA04812
20	124. <u>Rogers v. Warden</u> , No. 22858, Order Dismissing Appeal (May 28, 1993), Amended Order Dismissing Appeal (June 4, 1993)		JA04813-JA04817
21	125. <u>Rogers v. Warden</u> , No. 36137, Order of Affirmance (May 13, 2002)		JA04818-JA04825
21	126. <u>Sechrest v. State</u> , No. 29170, Order Dismissing Appeal (November 20, 1997)		JA04826-JA04830
21	127. <u>Smith v. State</u> , No. 20959, Order of Remand (September 14, 1990)		JA04831-JA04834
21	128. <u>Stevens v. State</u> , No. 24138, Order of Remand (July 8, 1994)		JA04835-JA04842
21	129. <u>Wade v. State</u> , No. 37467, Order of Affirmance (October 11, 2001)		JA04843-JA04848
21	130. <u>Williams v. State</u> , No. 20732, Order Dismissing Appeal (July 18, 1990)		JA04849-JA04852
21	131. <u>Williams v. Warden</u> , No. 29084, Order Dismissing Appeal (August 29, 1997)		JA04853-JA04857
21	132. <u>Ybarra v. Director, Nevada State Prison</u> , No. 19705, Order Dismissing Appeal (June 29, 1989)		JA04858-JA04861
21	133. <u>Ybarra v. Warden</u> , No. 43981, Order Affirming in Part, Reversing in Part, and Remanding (November 28, 2005)		JA04862-JA04873

Vol.	Title	Date	Page
21	134. <u>Ybarra v. Warden</u> , No. 43981, Order Denying Rehearing (February 2, 2006)		JA04874-JA04879
21	135. <u>Rippo v. State; Bejarano v. State</u> , No. 44094, No. 44297, Order Directing Oral Argument (March 16, 2006)		JA04880-JA04883
21	136. <u>State v. Rippo</u> , Case No. C106784, Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction), February 10, 2004		JA04884-JA04931
21	137. <u>State v. Rippo</u> , Case No. C106784, Findings of Fact, Conclusions of Law and Order, December 1, 2004		JA04932-JA04935
21	138. <u>Rippo v. State</u> , S. C. Case No. 44094, Appellant's Opening Brief, May 19, 2005		JA04936-JA04986
21	139. <u>Rippo v. State</u> , S. C. Case No. 44094, Respondent's Answering Brief, June 17, 2005		JA04987-JA05048
22	140. <u>Rippo v. State</u> , S. C. Case No. 44094, Appellant's Reply Brief, September 28, 2005		JA05049-JA05079
22	141. <u>Rippo v. State</u> , S. C. Case No. 44094, Appellant's Supplemental Brief As Ordered By This Court, December 12, 2005		JA05080-JA05100
22	201. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 28865, Opinion filed October 1, 1997		JA05101-JA05123
22	202. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 44094, Affirmance filed November 16, 2006		JA05124-JA05143
22	203. Confidential Execution Manual, Procedures for Executing the Death Penalty, Nevada State Prison		JA05144-JA05186

Vol.	Title	Date	Page
22	204. Brief of Amici Curiae in Support of Petitioner, United States Supreme Court Case No. 03-6821, David Larry Nelson v. Donal Campbell and Grantt Culliver, October Term, 2003		JA05187-JA05211
22	205. Leonidas G. Koniaris, Teresa A. Zimmers, David A. Lubarsky, and Jonathan P. Sheldon, <u>Inadequate Anaesthesia in Lethal Injection for Execution</u> , Vol. 365, April 6, 2005, at http://www.thelancet.com		JA05212-JA05214
22 23	206. Declaration of Mark J.S. Heath, M.D., dated May 16, 2006, including attached exhibits		JA05215-JA05298 JA05299-JA05340
23	207. "Lethal Injection: Chemical Asphyxiation?" Teresa A. Zimmers, Jonathan Sheldon, David A. Lubarsky, Francisco Lopez-Munoz, Linda Waterman, Richard Weisman, Leonida G. Kniaris, <u>PloS Medicine</u> , April 2007, Vol. 4, Issue 4		JA05341-JA05348
23	208. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 28865, Appellant's Opening Brief		JA05349-JA05452
23	209. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 28865, Appellant's Reply Brief		JA05453-JA05488
23	210. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 44094, Appellant's Opening Brief, filed May 19, 2005		JA05489-JA05538
24	211. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 44094, Appellant's Reply Brief, filed September 28, 2005		JA05539-JA05568
24	212. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 44094, Appellant's Supplemental Brief as Ordered by this Court filed December 22, 2005		JA05569-JA05588

Vol.	Title	Date	Page
24	213. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 44094, Order Directing Oral Argument filed March 16, 2006		JA05589-JA05591
24	214. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 44094, Transcript of Oral Argument on June 13, 2006		JA05592-JA05627
24	215. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 44094, Appellant's Petition for Rehearing filed December 11, 2006		JA05628-JA05635
24	216. Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction) and attached exhibits filed August 8, 2002		JA05636-JA05737
24	217. Letter dated August 20, 2004 from Rippo to Judge Mosley		JA05738
24	218. <u>State v. Rippo</u> , Case No. 106784, Amended Notice of Intent to Seek Death Penalty, filed March 24, 1994		JA05739-JA05741
24	219. <u>State v. Rippo</u> , Case No. 106784, Jury Instructions, filed March 6, 1996		JA05742-JA05782
25	220. <u>State v. Rippo</u> , Case No. 106784, Notice of Alibi, filed September 2, 1993		JA05783-JA05785
25	221. Affidavit of Alice May Starr dated January 26, 1994		JA05786-JA05791
25	222. Letter dated October 12, 1993 from Starr to President Clinton		JA05792-JA05795
25	223. <u>State v. Rippo</u> , Case No. 106784, Order Sealing Affidavit (and exhibits), dated September 30, 1993		JA05796-JA05801
25	224. Las Vegas Metropolitan Police Department Property Report dated September 30, 1993		JA05802-JA05803

Vol.	Title	Date	Page
25	225. Letter dated November ??, 1993 from Starr to Rex Bell, District Attorney		JA05804-JA05807
25	226. <u>State v. Rippo</u> , Case No. C57388, Draft Affidavit in Support of Motion to Withdraw Guilty Plea		JA05808-JA05812
25	227. Justice Court Record, Thomas Edward Sims		JA05813-JA05881
25 26 27	228. Justice Court Record, Michael Angelo Beaudoin		JA05882-JA06032 JA06033-JA06282 JA06283-JA06334
27	229. Las Vegas Metropolitan Police Department Voluntary Statement of Michael Angelo Beaudoin dated March 1, 1992		JA06335-JA06349
27	230. Justice Court Record, Michael Thomas Christos		JA06350-JA06403
27	231. Justice Court Record, David Jeffrey Levine		JA06404-JA06417
27	232. Justice Court Record, James Robert Ison		JA06418-JA06427
27	233. MMPI (Minnesota Multiphasic Personality Inventory) Scoring for Diana Hunt dated September 2, 1992		JA06428-JA06434
27	234. Handwritten Declaration of James Ison dated November 30, 2007		JA06435-JA06436
27	235. Handwritten Declaration of David Levine dated November 20, 2007		JA06437-JA06438
27	236. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Government's Trial Memorandum, filed August 25, 1997		JA06439-JA06483
27	237. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Motion to Dismiss for Outrageous Government Misconduct, filed September 13, 1996		JA06484-JA06511

Vol.	Title	Date	Page
28	238. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 2, December 3, 1997		JA06512-JA06689
28 29	239. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 3, December 4, 1997		JA06690-JA06761 JA06762-JA06933
29 30	240. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 4, December 8, 1997		JA06734-JA07011 JA07012-JA07133
30 31	241. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 6, December 10, 1997		JA07134-JA07261 JA07262-JA06332
31	242. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 8, December 15, 1997		JA07333-JA07382
31 32	243. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 9, December 16, 1997		JA07383-JA07511 JA07512-JA07525
32	244. <u>Rippo v. State</u> , Nevada Supreme Court Case No. 28865, Respondent's Answering Brief, filed February 14, 1997		JA07526-JA07641
32	245. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Government's Trial Memorandum, filed December 2, 1997		JA07642-JA07709
32	246. <u>State v. Salem</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. 124980, Criminal Court Minutes		JA07710-JA07713
32	247. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. 106784, Motion for New Trial, filed April 29, 1996		JA07714-JA07719
32	248. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Superseding Criminal Indictment, filed May 6, 1997		JA07720-JA07751

Vol.	Title	Date	Page
33	249. In the Matter of the Application of the United States for an Order Authorizing the Interception of Wire Communications dated October 11, 1995		JA07752-JA07756
33	250. Clark County School District Records for Michael D. Rippo		JA07757-JA07762
33	251. Neuropsychological Assessment, Thomas F. Kinsora, Ph.D., dated February 1, 1996		JA07763-JA07772
33	252. Addendum to Neurological Assessment Report, Thomas F. Kinsors, Ph.D., dated March 12, 1996		JA07773-JA07775
33	253. Pre-Sentence Report, <u>State v. Rippo</u> , Case No. 97388, dated April 23, 1982		JA07776-JA07782
33	254. Psychiatric Evaluation, Norton A. Roitman, M.D., dated February 17, 1996		JA07783-JA07789
33	255. SCOPE printout for Carole Ann Rippo		JA07790
33	256. Progress Reports dated October 15, 1981		JA07791-JA07792
33	257. Supplemental Report, Case No. 23042, Juvenile Division, Clark County, Nevada, filed April 29, 1981		JA07793-JA07801
33	258. Order, Case No. 23042, Juvenile Division, Clark County, Nevada, filed May 9, 1981		JA07802-JA07803
33	259. Terms of Probation, Case No. 23042, Juvenile Division, Clark County, Nevada, filed May 1, 1981		JA07804-JA07805
33	260. Transcript of Proceedings, Case No. 23042, Juvenile Division, Clark County, Nevada, filed May 14, 1981		JA07806-JA07811

Vol.	Title	Date	Page
33	261. Petition No. 1, Recommendation for Adjudication and Order of Approval, Case No. 23042, Juvenile Division, Clark County, Nevada, filed April 19, 1981		JA07812
33	262. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed April 8, 1981		JA07813
33	263. Certification, Case No. 23042, Juvenile Division, Clark County, Nevada, filed October 19, 1981		JA07814
33	264. Probation Officer's Report, Case No. 23042, Juvenile Division, Clark County, Nevada, filed April 29, 1981		JA07815-JA07823
33	265. Baseline Psychiatric Evaluation, Southern Desert Correctional Center, by Franklin D. Master, M.D., dated April 9, 1982		JA07824
33	266. Confidential Psychological Evaluation by Eric S. Smith, Ph.D., Timothy L. Boyles, M.A., James F. Triggs, Ed.D., dated February 11, 1982		JA07825-JA07827
33	267. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed January 27, 1982		JA07828-JA07829
33	268. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed January 27, 1982		JA07830-JA07831
33	269. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed January 27, 1982		JA07832-JA07833
33	270. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed January 27, 1982		JA07834-JA07835
33	271. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed January 27, 1982		JA07836-JA07837

Vol.	Title	Date	Page
33	272. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed January 27, 1982		JA07836-JA07837
33	273. Las Vegas Metropolitan Police Department Arrest Report dated January 27, 1982		JA07838
33	274. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed January 29, 1982		JA07839-JA07840
33	275. Certification Report, Case No. 23042, Juvenile Division, Clark County, Nevada, filed February 23, 1982		JA07841-JA07853
33	276. Petition, Case No. 23042, Juvenile Division, Clark County, Nevada, filed February 2, 1982		JA07854
33	277. Judgment of Conviction, Case No. C57388, <u>State v. Rippo</u> , Clark County, Nevada, filed May 28, 1982		JA07855
33	278. Psychological Report: Corrections Master, dated June 2, 1982		JA07856-JA07859
33	279. Test of Educational Development dated March 9, 1983		JA07860-JA07862
33	280. Psychological Evaluation dated December 2, 1983		JA07863
33	281. Parole Progress Report, March 1985 Agenda		JA07864-JA07865
33	282. Institutional Progress Report, March 1987 Agenda		JA07866-JA07868
33	283. Psychological Evaluation for Parole dated January 29, 1987		JA07869
33	284. Psychological Evaluation for Parole dated August 12, 1988		JA07870
33	285. Parole Progress Report, September 1988 Agenda		JA07871-JA07872

Vol.	Title	Date	Page
33	286. Psychological Evaluation dated August 23, 1989		JA07873
33	287. Parole Progress Report, September 1989 Agenda		JA07874-JA07875
33	288. Parole Officers' Notes beginning December 4, 1989		JA07876-JA07884
33	289. Institutional Progress Report dated May 1993		JA07885-JA07886
33	290. Health Services, Psychology Referral Form dated April 28, 1993		JA07887
33	291. Handwritten notes dated February 17, 1994		JA07888
33	292. Handwritten notes dated March 9, 1994		JA07889
33	293. Handwritten exam notes (Roitman) dated January 13, 1996		JA07890-JA07894
33	294. Psychological Panel Results Notification dated January 10, 1996		JA07895
33	295. Norton A. Roitman, Addendum, dated March 11, 1996		JA07896-JA07897
33	296. Bongiovanni Off the Bench, <i>Las Vegas Sun</i> , April 18, 1996		JA07898-JA07899
33	297. Fraud probe led to judge, <i>Las Vegas Sun</i> , April 18, 1996		JA07900
33	298. Charge opens judge's race, <i>Las Vegas Sun</i> , April 18, 1996		JA07901-JA07902
33	299. Judge Bongiovanni Indicted, <i>Las Vegas Sun</i> , April 18, 1986		JA07903
33	300. Judge's actions examined, <i>Las Vegas Review-Journal</i> , April 19, 1996		JA07904-JA07906
33	301. Mental Health Progress Notes dated June 20, 1993		JA07907
33	302. Affidavit of David M. Schieck dated March 16, 1998		JA07908

Vol.	Title	Date	Page
33	303. Declaration of Carole A. Duncan dated January 19, 2000		JA07909-JA07910
33	304. Union Free School #24, Pupil History Record, Michael Campanelli		JA07911-JA07912
33 34	305. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 7, October 27, 1998		JA07913-JA08006 JA08007-JA08039
34	306. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 8, October 28, 1998		JA08040-JA08155
34	307. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Emergency Motion to Disqualify John Fadgen, Esq. From Representing Defendant Bongiovanni at Trial, July 24, 1997		JA08156-JA08225
	308. OMITTED		
34	309. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Notice of Tape Recordings Intended for Use in Government's Case in Chief, filed August 2, 1996		JA08226-JA08246
35	310. Letter from Donald J. Green requesting additional discovery dated July 9, 1996		JA08247-JA08253
35	311. <u>United States v. Bongiovanni</u> , CR-S-96-98-LDG(RJJ), Transcript of Jury Trial Day 5, December 9, 1997		JA08254-JA08399
35	312. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. 106784, Answer in Opposition to Motion for New Trial, filed May 1, 1996		JA08400-JA08405

Vol.	Title	Date	Page
35	313. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. 106784, Defendant's Motion to Strike Aggravating Circumstances Numbered 1 and 2 and for Specificity as to Aggravating Circumstance Number 4, filed August 20, 1993		JA08406-JA08413
35	314. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. 106784, State's Response to Defendant's Motion to Strike Aggravating Circumstance Numbered 1 and 2 and for Specificity as to Aggravating Circumstance Number 4, filed February 11, 1994		JA08414-JA08417
35	315. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. 106784, Special Verdict filed March 14, 1996		JA08418-JA08419
35	316. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. 106784, Special Verdict filed March 14, 1996		JA08420-JA08421
35 36	317. Social History		JA08422-JA08496 JA08497-8538
36	318. Parental Agreement, Case No. 23042, Juvenile Division, Clark County, Nevada, dated April 29, 1981		JA08539
36	319. Mark D. Cunningham, Ph.D., and Thomas J. Reidy, Ph.D., <u>Integrating Base Rate Data in Violence Risk Assessments at Capital Sentencing</u> , 16 Behavioral Sciences and the Law 71, 88-89 (1998)		JA08540-JA08564
36	320. Letter from Michael Rippo to Steve Wolfson dated April 17, 1996		JA08565
36	321. Report of Jonathan Mack, Ph.D.		JA08566-JA08596

Vol.	Title	Date	Page
36	322. Trial Exhibit: Photograph of Michael Rippo		JA08597
36	323. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. 106784, Application and Order for Fee in Excess of Statutory Amount for Investigator, filed December 3, 1996		JA08598-JA08605
36	324. Wiretap Transcript, Tommy Simms [sic], dated June 8, 1992		JA08606-JA08609
36	325. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case Nos. 57388, 57399, Reporter's Transcript of Proceedings -- Continued Initial Arraignment, heard March 25, 1982		JA08610-JA08619
36	326. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case Nos. 57388, 57399, Reporter's Transcript of Further Proceedings and/or Continued Initial Arraignment heard March 30, 1982		JA08620-JA08626
36	327. <u>State v. Rippo</u> , Eighth Judicial District Court, Clark County, Nevada, Case No. C106784, Instructions to the Jury, filed March 14, 1996		JA08627-JA08652
36	328. Declaration of Elisabeth B. Stanton, dated January 15, 2008		JA08653-JA08664
48	Reply to Opposition to Motion to Dismiss	06/09/08	JA11564-JA11574
48	Reply to Opposition to Motion for Leave to Conduct Discovery	09/16/08	JA11575-JA11585
1	Reporter's Transcript of Arraignment	07/06/92	JA00242-JA00245
2	Reporter's Transcript of Arraignment	07/20/92	JA00246-JA00251
36	Reporter's Transcript of Defendant's Motion for Appointment of Counsel	02/11/08	JA08665-JA08668
2	Reporter's Transcript of Defendant's Motion to Continue Trial Proceedings; Defendant's Motion to Disqualify District	02/14/94	JA00378-JA00399

Vol.	Title	Date	Page
	Attorney's Office		
19	Reporter's Transcript of Evidentiary Hearing	09/10/04	JA04347-JA04408
48	Reporter's Transcript of Hearing	09/22/08	JA11586-JA11602
2	Reporter's Transcript of Hearing in re Attorney General's Motion to Quash and for Protective Order	09/20/93	JA00316-JA00319
2	Reporter's Transcript of Hearing in re Motion to Continue Jury Trial	09/10/93	JA00304-JA00315
3	Reporter's Transcript of Motions Hearing	03/09/94	JA00565-JA00569
18	Reporter's Transcript of Preliminary [sic] Hearing	11/27/02	JA04202-JA04204
19	Reporter's Transcript of Proceedings before the Honorable Donald M. Mosely	08/20/04	JA04321-JA04346
17	Reporter's Transcript of Proceedings: Argument and Decision	05/02/02	JA04048-JA04051
1	Reporter's Transcript of Proceedings: Grand Jury	06/04/92	JA00001-JA00234
3	Reporter's Transcript of Proceedings: Jury Trial, Vol. I; 10:00 a.m.	01/30/96	JA00634-JA00641
3 4	Reporter's Transcript of Proceedings: Jury Trial, Vol. II; 1:30 p.m.	01/30/96	JA00642-JA00725 JA00726
4	Reporter's Transcript of Proceedings: Jury Trial, Vol. III; 3:30 p.m.	01/30/96	JA00727-JA00795
4	Reporter's Transcript of Proceedings: Jury Trial, 11:15 AM	01/31/96	JA00796-JA00888
4 5	Reporter's Transcript of Proceedings: Jury Trial, 2:30 PM	01/31/96	JA00889-JA00975 JA00976-JA01025
5	Reporter's Transcript of Proceedings: Jury Trial, Vol. I; 10:20 a.m.	02/01/96	JA01026-JA01219
5	Reporter's Transcript of Proceedings: Jury Trial, Vol. VI; 10:20 a.m.	02/02/96	JA01220-JA01401
5B	Reporter's Transcript of Proceedings: Jury Trial, Vol. 1, 1:30 p.m.	02/05/96	JA01401-001 to JA01401-179
5 6	Reporter's Transcript of Proceedings: Jury Trial, Vol. II; 2:30 p.m.	02/02/96	JA01402-JA01469 JA01470-JA01506

Vol.	Title	Date	Page
7	Reporter's Transcript of Proceedings: Jury Trial, 10:15 AM	02/06/96	JA01507-JA01688
8	Reporter's Transcript of Proceedings: Jury Trial, 2:30 PM	02/06/96	JA01689-JA01766
8	Reporter's Transcript of Proceedings: Jury Trial, 1:45 PM	02/07/96	JA01767 JA01872
8 9	Reporter's Transcript of Proceedings: Jury Trial, 10:15 AM	02/08/96	JA01887-JA01938 JA01939-JA02054
9 10	Reporter's Transcript of Proceedings: Jury Trial, 10:45 AM	02/26/96	JA02055-JA02188 JA02189-JA02232
10	Reporter's Transcript of Proceedings: Jury Trial, 11:00AM	02/27/96	JA02233-JA02404
11	Reporter's Transcript of Proceedings: Jury Trial, Vol. I, 10:30 a.m.	02/28/96	JA02405-JA02602
12 13	Reporter's Transcript of Proceedings: Jury Trial, Vol. I, 10:35 a.m.	02/29/96	JA02630-JA02879 JA02880-JA02885
13	Reporter's Transcript of Proceedings: Jury Trial 9:00 AM	03/01/96	JA02886-JA03064
13	Reporter's Transcript of Proceedings: Jury Trial Vol. I, 10:30 a.m.	03/04/96	JA03065-JA03120
14	Reporter's Transcript of Proceedings: Jury Trial, 11:00 a.m.	03/05/96	JA03121-JA03357
16	Reporter's Transcript of Proceedings: Jury Trial Vol. 1 11:30 a.m.	03/13/96	JA03594-JA03808
17	Reporter's Transcript of Proceedings: Jury Trial, 9:30 AM	03/14/96	JA03841-JA04001
3	Reporter's Transcript of Proceedings: Motions Hearing	03/18/94	JA00575-JA00582
3	Reporter's Transcript of Proceedings: Motions Hearing	04/14/94	JA00591-JA00618
15	Reporter's Transcript of Proceedings: Penalty Phase 10:00 a.m.	03/12/96	JA03413-JA03593
2 3	Reporter's Transcript of Proceedings Re: Defendant's Motion to Disqualify District Attorney's Office	03/07/94	JA00403-485 JA00486-564

Vol.	Title	Date	Page
2	Reporter's Transcript of Proceedings re: Oral Request of District Attorney	01/31/94	JA00322-JA00333
3	Reporter's Transcript of Proceedings: Ruling on Defense Motion	03/11/94	JA00570-JA00574
17	Reporter's Transcript of Proceedings: Sentencing	05/17/96	JA04014-JA04036
15	Reporter's Transcript of Proceedings: Verdict	03/06/96	JA03403-JA03411
2	Response to Defendant's Motion for Discovery of Institutional Records and Files Necessary to His Defense	02/07/94	JA00351-JA00357
36 37	State's Motion to Dismiss and Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)	04/23/08	JA08673-JA08746 JA08747-JA08757
2	State's Motion to Expedite Trial Date or in the Alternative Transfer Case to Another Department	02/16/93	JA00268-JA00273
2	State's Opposition to Defendant's Motion for Discovery and State's Motion for Reciprocal Discovery	10/27/92	JA00260-JA00263
2	State's Opposition to Defendant's Motion to Exclude Autopsy and Crime Scene Photographs	02/07/94	JA00346-JA00350
18	State's Opposition to Defendant's Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)	10/14/02	JA04154-JA04201
2	State's Response to Defendant's Motion to Strike Aggravating Circumstance Numbered 1 and 2 and for Specificity as to Aggravating Circumstance Number 4	02/14/94	JA00367-JA00370
18	State's Response to Defendant's Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)	04/06/04	JA04259-JA04315
2	State's Response to Motion to Disqualify the District Attorney's Office and State's Motion to Quash Subpoenas	02/14/94	JA00358-JA00366
18	Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)	02/10/04	JA04206-JA04256

Vol.	Title	Date	Page
17 18	Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)	08/08/02	JA04052-JA04090 JA04091-JA04153
15	Verdicts	03/06/96	JA03399-JA03402
16	Verdicts and Special Verdict	03/14/96	JA03835-JA03840

COPY

DISTRICT COURT
CLARK COUNTY, NEVADA

The State of Nevada,)	
)	
Plaintiff,)	
)	Case No. C106784
vs.)	Dept. No. IV
)	Docket No. "C"
Michael Damon Rippo,)	
#0619119)	
Defendant.)	
)	
)	

Before the Honorable Gerard J. Bongiovanni
Wednesday, March 13, 1996, 11:30 o'clock a.m.
Reporter's Transcript of Proceedings

JURY TRIAL

VOLUME I

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

003417

RENEE SILVAGGIO, CCR 122 391-0379

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

003418

I N D E X

WITNESSES ON BEHALF OF THE STATE:	PAGE
HUNT, John	
Direct Examination by Mr. Seaton	6
Cross-Examination by Mr. Wolfson	16
Cross-Examination by Mr. Dunleavy	17
Redirect Examination by Mr. Seaton	19
Recross-Examination by Mr. Dunleavy	20
DUNN, David	
Direct Examination by Mr. Harmon	21
Cross-Examination by Mr. Dunleavy	25
CURTIS, George	
Direct Examination by Mr. Harmon	26
Cross-Examination by Mr. Dunleavy	34
Redirect Examination by Mr. Harmon	36
Recross-Examination by Mr. Dunleavy	36
MARONEY, Tom	
Direct Examination by Mr. Harmon	38
Cross-Examination by Mr. Wolfson	44
Redirect Examination by Mr. Harmon	59
Recross-Examination by Mr. Wolfson	64
TRIGGS, Jonna	
Direct Examination by Mr. Seaton	67
Cross-Examination by Mr. Dunleavy	79
KEOUGH, James	
Direct Examination by Mr. Harmon	90
Cross-Examination by Mr. Wolfson	104
Redirect Examination by Mr. Harmon	115
Recross-Examination by Mr. Wolfson	117
SAXON, Howard Lee	
Direct Examination by Mr. Harmon	119
Cross-Examination by Mr. Dunleavy	137

003419

I N D E X (Continued)

WITNESSES ON BEHALF OF THE STATE:	PAGE
KARST, Eric	
Direct Examination by Mr. Harmon	143
Cross-Examination by Mr. Dunleavy	153
LEAVER, William	
Direct Examination by Mr. Seaton	161
SHEHAN, Gerry Lynne	
Direct Examination by Mr. Harmon	167
Cross-Examination by Mr. Dunleavy	171
JACOBSON, Norman	
Direct Examination by Mr. Harmon	176
MAXWELL, Orell	
Direct Examination by Mr. Harmon	185
LIZZI, Nicholas	
Direct Examination by Mr. Seaton	190
LIZZI, Louise	
Direct Examination by Mr. Seaton	195
LIZZI, Nicholas Jr.	
Direct Examination by Mr. Seaton	201

EXHIBITS ON BEHALF OF THE STATE:	Marked	Admitted
120 Defendant's Statement	93	97
121 Parole Agreement	121	122
122 Letter	163	165
123 Letter	164	165
124 Letter	164	165
125 Scrapbook	183	184
126 Judgment of Convictions	208	209
127 Photo Album	190	194

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1 Las Vegas, Nevada, Wednesday, March 13, 1996, 11:30 a.m.

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3 * * * * *

4
5 THE COURT: State of Nevada versus Michael
6 Damon Rippa.

7 Let the record reflect the
8 presence of the defendant, with his attorneys Steve Wolfson,
9 Philip Dunleavy; Dan Seaton and Mel Harmon for the State.

10 Counsel stipulate to the
11 presence of the Jury?

12 MR. SEATON: Yes, Judge, we will.

13 MR. DUNLEAVY: Yes, Judge.

14 THE COURT: You may call your next witness.

15 MR. SEATON: John Hunt.

16 THE COURT: Right over here, sir.

17 THE CLERK: Remain standing and raise your
18 right hand.

19 Whereupon,

20 JOHN HUNT

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

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THE CLERK: Thank you. Please be seated.

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

THE WITNESS: My name is John Hunt; H-u-n-t.

DIRECT EXAMINATION

BY MR. SEATON:

Q Mr. Hunt, how are you employed?

A I'm retired now from Metro.

Q What are you retired from?

A I had a heart attack --

Q No, no. What job did you do before?

A Oh. I worked the detective bureau for Metro
for many years.

Q How many years?

A Ten years with the detective bureau and ten
years in patrol.

Q So 20 years in total you were with Metro?

A Right, right.

Q And for how long have you been retired?

A Ah, since '91.

Q In December of 1981, were you a police
officer with the Metropolitan Police Department?

A Yes, I was.

003422

1 Q And did you work in the detective bureau at
2 that time?
3 A Yes, I did. I worked burglary detail.
4 Q The burglary detail.
5 Were you investigating
6 burglaries in December of 1981 in the Tropicana and Mount
7 Vista area of town?
8 A Yes, I was.
9 Q That's here in Clark County, Nevada?
10 A Yes, it is.
11 Q In doing that, did you ever get called to
12 the house of an individual by the name of JoAnne Pinther?
13 A Yes, I did.
14 Q P-i-n-t-h-e-r; is that correct?
15 A Yes.
16 Q First of all, can you tell us, did that
17 happen in December of 1981?
18 A Yes, it did.
19 Q Do you remember the date?
20 A I believe it was the 18th.
21 Q Of December.
22 Did you go to Mrs. Pinther's
23 house?
24 A Yes, I did.

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Q Now don't do that to me.

I'm sorry.

A I believe it was --

MR. WOLFSON: May the record reflect the District Attorney is having problems this morning.

BY MR. SEATON:

Q Why did you go there?

A She had apparently called the burglary detail and she said that she had -- and talked to me -- her son, I believe his name was Tim, and his friend, I believe his name was Ulrich -- the last name I don't remember. I believe it was Steven or something.

Q Was that Stallcup?

A No, Ulrich.

And I had received information that these two boys, one being the victim's son, Tim Pinther, knew of some burglaries in the area; and his mother had been burglarized the day previous, which I believe was the 20th, and I think it occurred on the 19th or something like that.

Q As a result of that phone call, did you go to the Pinthers' house?

A Yes, I did.

Q And did you have a discussion with the boys?

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A Yes, I did.

Q What did they tell you?

A They said they had been to an address of an individual by the name of Stallcup, and this individual -- and the reason they went over there is because they knew this individual, because he's the same age and generation, et cetera, was in stolen property.

Q Stallcup was dealing in stolen property?

A Right.

Q What other information did they give you?

A And they had found -- they had been over there previous already, you know, before they talked to me, and they had some jewelry that they had taken from Stallcup; and Stallcup -- Stallcup had told Pinther and Ulrich that he had received it from a Mike Rippo and a Christopher Yara.

Q As a result of getting that information, what did you do?

A I responded over to Christopher Yara's house, because, apparently, Mike Rippo had been a runaway at that time.

Q Do you remember the address of that particular house?

A I believe it was El Casida, 41 -- or 4777; something like 4177.

003425

MR:ppo-07058-R0903431

1

1 Q Okay.

2 A I believe. I don't know.

3 Q And that was here in Las Vegas?

4 A Uh-huh.

5 Q Is that a yes?

6 A Yes.

7 Q When you went over there, did you meet

8 with -- did you see Norman Yara?

9 A Yes, I did.

10 Q Did you have a conversation with him?

11 A Yes, I did.

12 Q As a result of that conversation, did he
13 give you consent to go into the attic of his house and look
14 around?

15 A Yes, he did.

2

16 Q When you did that, what did you find?

17 A We found two rifles, one being a Sacco, a
18 30.06, and we found an over-and-under shotgun, 12 gauge; and
19 there were four other handguns there that we couldn't come
20 up with a victim.

21 Q So there were two rifles and four pistols?

22 A Right.

23 Q One of the rifles was a 30.06, did you say?

24 A Right.

003426

RENEE SILVAGGIO, CCR 122 391-0379

JA003603

2

1 Q All right.

2 A And also we found an Intelelevision that was
3 reported stolen in the burglary.

4 Q When you spoke to Mr. Yara, did he indicate
5 that he knew that those items had been stolen?

6 A Yes, he did.

7 Q Did he indicate who lived with him at the
8 time?

9 A He indicated that Mike Rippo had been living
10 with him because he had run away.

11 Q And did he indicate whether or not Mike
12 Rippo was in on the burglaries with him?

13 A Yes, he indicated to me that he and Rippo
14 did the burglaries; but what he told me at that time was
15 that Rippo had kind of, you know, got him into it, but
16 that's just what he was saying.

17 Q Yara told you that Rippo was the ring
18 leader?

19 A Basically.

20 Q That he started it all?

21 A Right.

22 Q Did you ask him to help you with finding
23 those burglaries, where the people lived, where they got
24 burglarized?

003427

2

1 A Yes, I did.

2 Q Was he any help?

3 A No. He said that he wouldn't give me --
4 divulge any information as to where they came from.

5 However, I ran the serial
6 numbers and I came up with -- actually two victims that
7 lived in that area. And the victim of a -- the
8 over-and-under and the Sacco 30.06 came back to -- I believe
9 his name was Facral (ph), and -- and the other victim, I
10 don't recall his name.

11 Q Did Mr. Yara tell if you most of it was --
12 these burglaries were homes or businesses?

13 A Homes.

14 Q Was Mr. Yara arrested?

15 A Yes, he was.

16 Q And did you put out a warrant for the arrest
17 of Mr. Ripppo?

18 A Right.

19 Q Did you locate Mr. Ripppo?

20 A I would -- yeah. Approximately a month
21 later -- I believe it was, like, the 20th of January, I was
22 contacted by the juvenile home and they indicated to me that
23 he was in custody on another charge and that if I wanted to
24 come and serve the warrant, that I could do that.

003428

2 1 Q Would this be the 20th of January, 1982?

2 A Correct.

3 Q Did you go to the juvenile facility to see

4 Mr. Rippo?

5 A Yes. I went there along with Detective

6 Horton, who also worked the burglary detail.

7 Q Did you have a conversation with him?

8 A Yes, we did.

9 Q Did you Mirandize him --

10 A Yes, we did.

11 Q -- before you had that conversation?

12 Did he speak to you

13 voluntarily?

14 A Yes.

15 Q Is Mr. Rippo here in court today?

16 A Yes, he is.

17 Q Would you point to him and tell us where

18 he's seated and what he's wearing?

19 A Sure, he's wearing that tan or beige

20 sweater, sitting in the center of the table. (Indicating)

21 MR. SEATON: May the record reflect

22 identification of the defendant, Judge?

23 THE COURT: The record will reflect the

24 identification of the defendant.

003423

2

1 BY MR. SEATON:

2 Q What did he tell you when you had the
3 conversation?

4 A Well, he ad- -- admitted to doing
5 burglaries, but he would not reveal any times or dates or
6 anything to -- to help us. He was like if -- unless you can
7 prove it, you know, I'm not going to reveal anything.

8 Q But he did tell you that he had done
9 burglaries?

10 A Oh, yes.

11 Q Did he indicate that it was more than just
12 one?

13 A Yes.

14 Q Was it several burglaries at least?

15 A More than several.

16 Q More than several?

17 A Yeah.

18 Q A lot of burglaries?

19 A A lot of burglaries.

20 Q What was his -- you've already told us that
21 he wasn't willing to help you unless you could somehow prove
22 them.

23 What was his general attitude
24 about his having committed the burglaries?

003430

2

1 A Well, it was like a nonchalant attitude,
2 that, you know, seasoned career criminals had; and I was
3 only dealing with a 16 year old individual; and I had been
4 on Metro long enough to know the difference.

5 Q Did he seem more hardened than most typical
6 16 year olds?

7 A Yes. It's why I would remember something
8 like that.

9 There are names that you would
10 remember in your career, and I can still remember
11 individuals that I have dealt with going back 20 years.

12 Q Do you remember all of the people you've
13 dealt with or just special ones?

14 A Just individuals with the -- an attitude,
15 that you are going to eventually run across this individual
16 again or there is going to be other problems.

17 MR. HARMON: Thank you.

18 That concludes direct
19 examination.

20 THE COURT: Cross.

21

22 CROSS-EXAMINATION

23 BY MR. WOLFSON:

24 Q Mr. Hunt, did you prepare reports regarding

003431

MRIPPO-07058-R0A03437

2 1 these incidents?

2 A Yes, I did.

3 Q Have you had a chance to review them prior
4 to your testimony today?

5 A Some of them, yes.

6 Q Have you reviewed them today, this morning?

7 A Yes. I reviewed, like I said, parts of it.
8 I didn't have --

9 Q Do you remember what you said in your report
10 regarding why Mr. Rippo couldn't remember some of the
11 locations of the burglaries?

12 A Yeah. I remember that he indicated that he
13 couldn't remember because he was high on drugs.

14 Q The District Attorney didn't ask you that
15 question, did he?

16 A No.

17 Q Did you also say in your report -- and I'm
18 quoting from it:

19 Subject Rippo stated that he
20 had done other burglaries in that area; however, he
21 was hazy on the locations, as he indicated to
22 Detectives Hunt and Horton that he was high on
23 drugs, and stated that he could not tell or show
24 these detectives where the other burglaries were

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3

1 at.

2 A Yeah. I believe that from -- my impression
3 was he was telling me that this was an excuse, as -- as most
4 burglars that I've dealt with.

5 Q Did you put that you felt he was giving you
6 an excuse in your report?

7 A No.

8 Q Did you put that he had a nonchalant
9 attitude in your report?

10 A No, I didn't.

11 MR. WOLFSON: Judge, may Mr. Dunleavy ask
12 Just a couple questions?

13 THE COURT: All right.

14

15 CROSS-EXAMINATION

16 BY MR. DUNLEAVY:

17 Q You indicated there was a number of
18 burglaries in the area.

19 A Uh-huh, yes.

20 Q And a 30.06 was recovered?

21 A That's correct.

22 Q More than one?

23 A More than one 30.06?

24 Q Uh-huh.

003433

3

1 A No.

2 Q Do you know if it come from a Mr. Wagner?

3 A A Mr. who?

4 Q Wagner?

5 A No. It was from a Mr. Facral. (Phonetic)

6 Q Do you know if there was another man by the
7 name of Wagner that had lost a gun?

8 A I don't know at this time, no.

9 Q What about a 12 gauge taken from a Mr. Tarr?

10 A I don't know that either.

11 Q Or an M-1 was taken from somebody?

12 A I don't know. I don't have that
13 information.

14 Q So you don't remember all the victims that
15 were out there?

16 A I remember 13 burglaries that he was a
17 suspect in, and I made him on -- or the criminalistics lab
18 made him on one of those, on fingerprints.

19 Q And there may have been more?

20 A There may have been more, yes.

21 MR. DUNLEAVY: No further questions.

22 Thank you.

23

24 REDIRECT EXAMINATION

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3

1 BY MR. SEATON:

2 Q All those burglaries have the same MO?

3 A Yes, they did.

4 Q And there is one other question I forgot to
5 ask: Did he show any remorse for the crimes that he
6 committed?

7 A No. There was no remorse. It would be --
8 from my years of experience, usually when someone is
9 remorseful is that they have learned a lesson; and it was an
10 attitude that I have personally seen and an opinion of
11 what -- that this was an individual that could care less
12 what happened tomorrow or behind him.

13 MR. SEATON: Thank you.

14 MR. DUNLEAVY: Excuse me.

15 THE COURT: More questions?

16
17
18 RE CROSS-EXAMINATION

19 BY MR. DUNLEAVY:

20 Q You indicated that he lived in the moment;
21 basically he didn't care much on the past; wasn't worried
22 about the future?

23 A Yeah.

24 Q Did you deal with a lot of juveniles that

003435

3

1 got in trouble?

2 A Yes.

3 Q Isn't that pretty common among them, that
4 they are living in the moment?

5 A I don't believe it's common among all
6 juveniles, no.

7 Q Well, not all juveniles.

8 Not all juveniles are in
9 Juvenile hall, are they?

10 A I recall Mr. Rippo because he was unusually
11 non-remorseful.

12 Q Have you ever had people that just don't
13 show emotion?

14 A Sometimes.

15 Q You don't know what's going on inside them,
16 do you?

17 A No.

18 MR. DUNLEAVY: Thank you.

19 No further questions.

20 MR. SEATON: Nothing further.

21 THE COURT: Thank you, Mr. Hunt.

22 You are excused.

23 (Whereupon, the witness
24 was excused.)

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3

1 THE COURT: Call your next witness.

2 MR. HARMON: David Dunn.

3
4 Whereupon,

5 DAVID DUNN

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

10 THE CLERK: Please state your full name and
11 spell it for the record.

12 THE WITNESS: David Dunn; D-u-n-n.

13
14 DIRECT EXAMINATION

15 BY MR. HARMON:

16 Q Is it Detective Dunn?

17 A Yes, it is.

18 Q Detective Dunn, where are you employed?

19 A Las Vegas Metropolitan Police Department.

20 Q How long have you worked with that
21 department?

22 A Twenty-eight years.

23 Q Were you employed with the Metropolitan
24 Police Department on January the 18th, 1982?

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- 3
- 1 A Yes, I was.
- 2 Q What were your duties at that time?
- 3 A I was at that time assigned to the sexual
- 4 assault unit.
- 5 Q Detective Dunn, on January the 18th, 1982,
- 6 at about four o'clock p.m., did you receive a telephone call
- 7 from a female individual?
- 8 A Yes, I did.
- 9 Q Where were you when you received the
- 10 telephone call?
- 11 A I was in -- at my desk -- at that time, we
- 12 were in City Hall -- when I received the phone call.
- 13 Q Did the caller identify herself?
- 14 A Yes, she did.
- 15 Q By what name?
- 16 A Katherine Smith.
- 17 Q Did she also give you an address?
- 18 A Yes, she did. It was 4775 South Topaz,
- 19 Number 128.
- 20 Q That was in Las Vegas?
- 21 A Yes.
- 22 Q Did the caller explain why she was getting
- 23 in touch with the police department?
- 24 A Yes, she did.

003438

1 Q What did she tell you?

2 A She indicated to me at the time that there
3 was a man known to her on the front porch of her residence
4 waving a weapon around.

5 Q Did she state what type of weapon this man
6 known to her was waving around?

7 A She stated it was a handgun.

8 Q Did she identify the subject known to her?

9 A Yes, she did. She stated his name was
10 Michael Rippo.

11 Q Did she explain what her concern was?

12 A Not to me, no.

13 Q Describe the manner of the lady you were
14 speaking with who identified herself as Katherine Smith.

15 A She was very excited, almost to the point
16 where she was incoherent.

17 Q Will you estimate about how long the
18 telephone conversation lasted?

19 A I would guess less than ten minutes.

20 Q As a result of the telephone conversation,
21 did you notify other officers in the police department?

22 A No, I did not. What I did was transfer the
23 call to dispatch and they took the call from there.

24 Q Explain what you mean by dispatch.

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4

1 A Okay. That's where the officers are sent on
2 calls by a number of people who are in the communications
3 section.

4 Q Would that be uniformed, then, patrol
5 officers would be sent by dispatch to a location?

6 A That's correct, yes.

7 Q Did you have any further involvement besides
8 the telephone conversation you have just described?

9 A Only that I learned later the subject was
10 taken into custody.

11 MR. HARMON: Thank you.

12 That concludes direct, Your
13 Honor.

14 THE COURT: Cross-examination.

15

16

17

18

CROSS-EXAMINATION

19 BY MR. DUNLEAVY:

20 Q How did this call get to you?

21 A It rang at my desk. How it came to me, I
22 have no idea.

23 Q Did you know Miss Smith?

24 A No.

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4

1 Q You never talked to her before?

2 A Not to my knowledge.

3 Q You didn't know her or even know her family
4 or anything?

5 A Not to my knowledge, no.

6 Q And you just basically took the call and
7 transferred it to dispatch?

8 A Correct.

9 MR. DUNLEAVY: No further questions.

10 THE COURT: Anything else by the State?

11 (Whereupon, a sotto voce at
12 this time.)

MR. HARMON: No, Your Honor.

13 THE COURT: Redirect?

14 Thank you, Detective. You are
15 excused.

16 (Whereupon, the witness
17 was excused.)

18 THE COURT: Call your next witness, please.

19 MR. HARMON: George Curtis.

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

22

23 Whereupon,

24

GEORGE CURTIS

003441

4

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

5 THE CLERK: Thank you. Please be seated.

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

8 THE WITNESS: George Curtis; last name
9 C-u-r-t-i-s.

10
11 DIRECT EXAMINATION

12 BY MR. HARMON:

13 Q Is it Officer George Curtis?

14 A Yes, it is.

15 Q Officer Curtis, where are you employed?

16 A Las Vegas Metropolitan Police Department.

17 Q How long have you worked with that
18 department?

19 A Seventeen years and four months.

20 Q Were you employed on January the 18th, 1982?

21 A Yes, I was.

22 Q On that day, shortly before four o'clock
23 p.m., were you dispatched to the location of 4775 South
24 Topaz Avenue, Apartment 128, in Las Vegas?

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4

1 A Yes, I was.

2 Q Did you have some reason for responding to
3 that particular area?

4 A Yes. There was a wanted subject that was to
5 be taken into custody at that location.

6 Q Who was the wanted subject that you had
7 information was at that location?

8 A A subject by the name of Michael Ripppo.

9 Q Tell us what happened after you arrived in
10 the area of 4775 Topaz, Apartment 128.

11 A I arrived with one other unit, which was a
12 two man unit, Officer Staley and Officer -- there was
13 another officer involved. They took --

14 Q Will you spell Staley for the record,
15 please.

16 A S-t-a-l-e-y.

17 Q Thank you.

18 A He -- these officers took a particular
19 position at that apartment complex and I took up a position
20 just opposite of theirs in order to approach the apartment
21 in question.

22 Q From the position that you maintained could
23 you see the porch and front area of Apartment 128?

24 A Yes, I could.

003448

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1 Q Did you observe a subject?

2 A Yes, I did.

3 Q Describe what you saw.

4 A It was a white male subject. He was wearing
5 dark clothing. He had a hat on, which was like a pullover
6 type of a hat; had a dark jacket on, dark pants and tennis
7 shoes.

8 Q Where was this subject in relation to the
9 front door of Apartment 128 when you saw him?

10 A He was at the front door.

11 Q Tell us what happened then.

12 A The subject was -- appeared to be, in my
13 mind, attempting to gain entry to the apartment.

14 Shortly after noticing this,
15 the subject turned away from me and began walking away from
16 my location.

17 Q Now, you've mentioned that you had gone to
18 this location for the purpose of arresting an individual you
19 believed to be in the area.

20 A Yes. I had gained information that morning
21 about a subject named Michael Rippo, was given his
22 description and what he was wanted for, and I had been
23 conducting an investigation all that morning in order to
24 locate this individual.

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1 Q Were there active arrest warrants for the
2 subject Michael Rippo?

3 A Yes, there was.

4 Q What warrants were outstanding?

5 A We had two warrants for possession of stolen
6 property; and the investigation also included our sexual
7 assault detail wanting this individual.

8 Q Was a detective assigned to the sexual
9 assault detail someone who had provided information to you?

10 A Yes. He provided the information for that
11 briefing that morning.

12 Q Who was the detective that provided the
13 information to sexual assault?

14 A It was over at the briefing lab. It was
15 Detective McLaughlin.

16 Q Can you spell McLaughlin, please.

17 A That's a good question. I'd have to look to
18 see how he spells it. M-c something.

19 Q Did you also intend to arrest the subject,
20 Michael Rippo, for sexual assault?

21 A I attempted to -- or I was going to arrest
22 him for that also, because of information given to me by
23 Detective McLaughlin.

24 Q You've indicated that the subject began to

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1 walk away from the front door area of Apartment 128 of 4775
2 Topaz?

3 A Yes, he did.

4 Q Was he apprehended at some point?

5 A Yes. As he began walking away from me -- he
6 never did notice me. He began walking away from me and he
7 was walking into the direction of Officer Staley and the
8 other officer involved. It was moments later that these
9 officers yelled to the subject, later identified as Michael
10 Rippo, that they were the police and put his hands in the
11 air.

12 Q Did the subject comply with that request?

13 A Yes, he did. Immediately, he put his hands
14 in the air, and I came up behind him and placed him down on
15 the ground, in a felony type of prone position, and
16 handcuffs were placed on this person.

17 Q Did you do a pat down search at the time of
18 the arrest for weapons?

19 A Yes. Immediately, again, due to the
20 information we had that the subject was armed and dangerous,
21 I began searching his body and did, in fact, find a weapon.

22 Q Describe the weapon you found.

23 A It was a large caliber; turned out to be a
24 .357 Python chrome revolver, loaded.

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1 Q What do you mean it was loaded?

2 A It had six rounds of three caliber live
3 ammunition rounds in it.

4 Q Do you recall now where it was, on the
5 person of the subject, that you located the .357 revolver?

6 A Yes, it was concealed underneath his shirt.
7 It was tucked in the right pants area above his pocket.

8 Q During the course of the arrest, did you
9 verify the identity of the person who had been arrested?

10 A Yes. I had asked him his name.

11 Q Did he identify himself?

12 A Yes, he did.

13 Q By what name?

14 A The first name he gave me was Michael. And
15 I would have to refer to my reports as to what the -- the
16 last name was. But upon asking him a second time, he gave
17 me Michael Rippo.

18 Q Thereafter, was Mr. Rippo transported to the
19 Clark County Juvenile Services?

20 A Yes. I transported him to Clark County
21 Juvenile Hall.

22 Q Was he booked in to Juvenile on certain
23 charges?

24 A Yes, he was.

003447

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1 Q On what charges, sir?

2 A Well, originally, I was going to book him
3 specifically on the possession of stolen property charges.
4 At that time, I talked to Detective McLaughlin on the phone
5 and he was arrested for the charges which he wanted me to
6 place on the individual, which was sexual assault.

7 Q In connection with the sexual assault, did
8 the arrest also conclude grand larceny-auto and battery with
9 intent to commit sexual assault?

10 A Yes.

11 Q Did you additionally book Mr. Rippo on the
12 two active arrest warrants for possession of stolen
13 property?

14 A According to my reports, they were not able
15 to locate those at that particular time. I arrested him for
16 carrying a concealed weapon.

17 Q What did the carrying a concealed weapon
18 relate to?

19 A It had to do with the fact that he had a
20 .357 revolver on his person at the time that I stopped him.

21 Q Was the revolver concealed on his person?

22 A Yes. It was concealed halfway in the pants
23 and concealed by a shirt and a large jacket.

24 Q Until you patted him down, did you know that

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1 he had a gun on his person?

2 A We had information the subject was possibly
3 armed with a weapon; however, I did not know specifically
4 what weapon and I didn't know until I found him.

5 Q As a result of the conversation you had with
6 Detective McLaughlin of the sexual assault unit, did you
7 have occasion to impound the shoes that were being worn by
8 Mr. Rippo?

9 A I impounded his clothing, which included his
10 shoes and the weapon and the ammunition.

11 MR. HARMON: Thank you.

12 That concludes direct, Your
13 Honor.

14 THE COURT: Cross-examination.

15

16 CROSS-EXAMINATION

17 BY MR. DUNLEAVY:

6

18 Q Did you talk to Mrs. Smith?

19 A I refreshed my memory with my reports before
20 I came in here, and part of the report stated that I ended
21 up talking to individuals in Apartment 128 prior to locating
22 Rippo.

23 I couldn't tell you to this
24 date whether it was Mrs. Smith or not.

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1 Q Do you remember finding out that Mr. Rippo
2 had been staying in that apartment --

3 A Yes.

4 Q -- with her son?

5 A I don't know whether it was her son or not.
6 I couldn't tell you.

7 Q Were there other young juvenile males in the
8 area or in that apartment?

9 A I don't recall that, sir.

10 Q But you did find out he had been staying
11 there?

12 A Yes.

13 Q Did you find out why he had left or why she
14 had called the police?

15 A Why she had called the police because he was
16 there now?

17 Q Uh-huh.

18 A Because I had come earlier that day in order
19 to talk to individuals in that -- in that apartment to see
20 if, in fact, he was there.

21 Q So you were already looking for him in that
22 area?

23 A I was already looking for him in that
24 particular area.

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6

1 Q Specifically in that apartment?

2 A Yes.

3 Q You had information that he had been staying
4 there?

5 A Yes. Information he had been staying there
6 prior and that he was kicked out for some reason.

7 Q Do you know if the Smith boy was ever
8 arrested on burglary charges?

9 A I don't recall that, sir.

10 MR. DUNLEAVY: No further questions.

11 THE COURT: Any redirect?

12 MR. HARMON: One question, Your Honor.

13

14

15

16

REDIRECT EXAMINATION

17 BY MR. HARMON:

18 Q Officer Curtis, did you do any type of check
19 to determine the status of the revolver that you recovered
20 from the defendant?

21 A Yes. I ran the serial number of the
22 revolver and it returned as a stolen piece of property taken
23 in a burglary in 1977.

24 MR. HARMON: Thank you.

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That's all, Your Honor.

THE COURT: Anything else?

RE-CROSS-EXAMINATION

BY MR. DUNLEAVY:

Q It was stolen in 1977?

A According to my reports; it was a '77 DR
number.

Q So you have no idea how it ended up here in
1982 -- or '81?

A I couldn't tell you.

MR. DUNLEAVY: Thank you.

No further questions.

THE COURT: Is that it?

MR. HARMON: Yes, Your Honor.

THE COURT: Thank you, Officer Curtis.

You are excused.

(Whereupon, the witness
was excused.)

THE COURT: Call your next witness.

MR. HARMON: Tom Maroney.

THE BAILIFF: Say again, sir.

MR. HARMON: Tom Maroney.

003452

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1 Whereupon,

2 TOM MARONEY

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

7 THE CLERK: Thank you. Please be seated.

8 Will you state your name and
9 spell it for the record.

10 THE WITNESS: My first name is Tom; last
11 name is Maroney, spelled M-a-r-o-n-e-y.

12 THE CLERK: Thank you.

13
14 DIRECT EXAMINATION

15 BY MR. HARMON:

16 Q Mr. Maroney, what is your business or
17 occupation?

18 A I work for the Clark County Family Court.
19 I'm a probation supervisor.

20 Q Is it also known as the Clark County
21 Juvenile Court Services?

22 A That's correct. That's the old name.

23 Q How long have you worked for the Clark
24 County Family Court?

003453

6

1 A I've worked in excess of 22 years.

2 Q During those 22 years, have you had various
3 duties with Juvenile Court Services?

4 A Yes. It was -- I was a youth counselor for
5 nine years. I was a parole officer for nine years. And
6 I've been a probation supervisor going on five years.

7 Q During the course of your duties, have you
8 served as a parole officer for the defendant Michael Ripppo,
9 who is present in the courtroom?

10 A Yes, I did.

11 Q During what time frame?

12 A I need to refer to my report.

13 Q Do you have a certain report, prepared by
14 you, in court today?

15 A That's correct. It's a certification
16 report.

17 Q Is it dated March the 4th, 1982?

18 A Yes, it is.

19 Q Will reference to the report assist you in
20 refreshing your memory regarding the time frame you served
21 as a parole officer for the defendant?

22 A Yes.

23 MR. HARMON: May he refer to his report,

24 Your Honor?

003454

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1 THE COURT: He may.

2 THE WITNESS: Thank you.

3 Mr. Rippo was released from the
4 Spring Mountain Youth Camp on August 26th, 1981. At this
5 point, I was assigned as his parole officer.

6 BY MR. HARMON:

7 Q You've already referred to a certification
8 report prepared by you.

9 Were you involved in procedures
10 originating in the juvenile court system, to have Mr. Rippo,
11 while still a juvenile, certified to be prosecuted as an
12 adult?

13 A Yes, I was.

14 Q And what was your involvement in that
15 procedure?

16 A When Mr. Rippo was assigned to my case load,
17 it was -- I think it was -- I can't recall what the exact
18 date was, but he ran away from home -- his mother reported
19 to me -- on November 2nd, 1981.

20 He was then again arrested on
21 January the 18th, 1982. At that point, it was the
22 recommendation of the District Attorney that certification
23 proceedings be -- be initiated.

24 It was my responsibility to

003455

6 1 report to the Court what -- there is a Kent decision. I had
2 to go over the Kent decision to see whether or not he met
3 the criteria for the Kent decision for certification.

4 Q As a result of your investigation, did you
5 submit a certification report to the juvenile court?

6 A Yes, I did.

7 Q What was your recommendation?

8 A The recommendation of the parole department
9 was a recommendation for certification to adult status.

10 Q Did that recommendation relate to specific
11 pending charges against Mr. Ripppo?

12 A Absolutely.

13 Q What were the pending charges?

14 A It was -- the charges were sexual assault,
15 battery with intent to commit sexual assault, grand
16 larceny-auto, burglary, carrying a concealed weapon,
17 possession of stolen property; and then there was two
18 additional counts of burglary added.

19 Q Did the offenses involving sexual assault,
20 battery with intent to commit sexual assault, grand larceny
21 and one count of burglary relate to a victim identified as
22 Laura Martin?

23 A Yes.

24 Q I think you indicated that there were two

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1 additional burglary counts pending.

2 A Yes.

3 Q What were the names of those victims and the
4 location of the alleged burglaries?

5 A Okay. It was -- in reference to Petition
6 Number 10, the victim was Salvador Delgado -- that's spelled
7 D-e-l-g-a-d-o -- and his address at that time was 5322
8 Chattanooga Avenue, Las Vegas, Nevada.

9 In reference to Petition 11,
10 the victim was Vasana, V-a-s-a-n-a, Rogers. Her address was
11 5127 Blanton -- that's B-l-a-n-t-o-n -- Drive, Las Vegas,
12 Nevada.

13 Q Was it your understanding that both of the
14 burglaries involving Salvador Delgado and Vasana Rogers were
15 residential burglaries?

16 A Yes, that's my understanding.

17 Q During the course of your investigation, and
18 as a parole officer for Mr. Rippo, did you discuss these
19 pending allegations with him?

20 A Yes, I did.

21 Q Did he make certain admissions to you
22 accepting responsibility for all of the allegations?

23 A Yes, he did.

24 Q What was the disposition of this petition to

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1 have him certified to be prosecuted in the adult system?

2 A He was certified to adult status.

3 Q You've already alluded to one incident, I
4 think you said it was in November, 1981, where Mr. Rippo ran
5 away from home.

6 A That's when it was reported to me.

7 I actually spo- -- Mrs. -- Mrs.
8 Anzini called me on October the 28th. She was telling me
9 she had problems with her son. I spoke to him and Miss
10 Anzini -- Michael came in on -- it was October 29th. I
11 spoke to him at that point. I thought the problem was
12 resolved. He took off that weekend. He ran away. He
13 remained at large until his arrest on January 18th.

14 Q January the 18th, 1982?

15 A That's correct.

16 Q Was there an occasion later, subsequent to
17 the January 1982 arrest, when Mr. Rippo escaped from Clark
18 County Juvenile Services?

19 A Yes, he did.

20 Q On what date did that occur?

21 A I -- I'm not sure.

22 Q Will referring to any of the reports you
23 have with you assist you in refreshing your memory?

24 A No. I know he escaped. I don't have that

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information.

Q Do you know where he escaped from?

A He escaped from the Juvenile Detention Center. He stayed at large for about -- must have been -- I would say less than two weeks. Then his mother brought him in and turned him in.

Q So he was at large for about a week, I think you said?

A A week to ten days.

Q You said he escaped from the Detention Center.

Do you know how he got out?

A As I recall, he -- they kicked out a window or they went through a window. That's before we had bars in between.

Q What is the date of birth of Michael Ripppo, your parolee?

A It was February 26th, 1965.

MR. HARMON: That concludes direct, Your Honor.

THE COURT: Cross-examination.

MR. WOLFSON: Thank you. Thank you.

CROSS-EXAMINATION

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1 BY MR. WOLFSON:

2 Q Sir, did you bring your entire certification
3 report with you to court today?

4 A I just have the sheets. I don't have the --
5 any of the exhibits.

6 Q I think I have your certification report,
7 and my copy is 13 pages long. (Indicating)

8 Is that what you have in front
9 of you? Without the exhibits I'm talking about.

10 A I don't know how many pages that is.

11 The last sheet should say
12 Thomas L. Maroney, Steven H. Hanrahan.

13 Q And that last page, the last category on
14 that last page, is entitled Recommendation; is that right?

15 A Yes, that's correct.

16 Q Okay. You didn't bring with you though any
17 of the exhibits --

18 A No, I didn't.

19 Q -- to your certification, to court, did you?

20 A I did not.

21 MR. WOLFSON: Does the District Attorney
22 have an objection to me admitting this into evidence? I
23 will have it marked, of course.

24 MR. HARMON: You are talking the contents of

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1 the certification report?

2 MR. WOLFSON: And its exhibits.

3 MR. HARMON: We have no objection.

4 MR. WOLFSON: Thank you.

5 THE COURT: They will be admitted as

6 Defense --

7 THE CLERK: M.

8 THE COURT: -- Defense M.

9 (Whereupon, Defendant's Exhibit
10 M was admitted into evidence.)

11 MR. WOLFSON: Thank you, Mr. Maroney.

12 BY MR. WOLFSON:

13 Q Let me show you what's been admitted as
14 Defendant's Exhibit M.

15 And let me ask you if that is,
16 in fact, your certification report that you have been
17 testifying in relation to, as well as the exhibits?

18 A To the best of my recollection, it is.

19 Q Well, take just a moment, if you will --
20 because you are right, it's somewhat lengthy, and I want to
21 make sure that you recognize it as the entire package that I
22 presume you submitted to the court.

23 A Yes.

24 Q Thank you. Because it's my only copy, I'm

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1 going to have to ask you to turn a little this way because I
2 have a few questions about it.

3 A All right.

4 Q Did you include a category in your report,
5 under school and employment?

6 A Yes, I did.

7 MR. WOLFSON: Okay. And that's on page
8 seven, counsel.

9 MR. HARMON: Thank you.

10 BY MR. WOLFSON:

11 Q Could you please read to the jury lines 20
12 through 22 from this page.

13 A Okay. A school progress report from Western
14 High School, dated October 15th, 1981, shows the subject
15 minor maintaining a B average in all classes.

16 Q Thank you.

17 Now, what do you base that on?
18 Did you actually obtain his school records?

19 A Yes, that's normally what we do.

20 Q And base this statement on your review of
21 his school records?

22 A To the best of my recollection, yes.

23 Q Okay. Now, did you also note that as for
24 employment, the subject minor, on or about October 16th,

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1 1981, obtained a job at Wendy's Old Fashioned Hamburger
2 Restaurant, located on Decatur Boulevard, and that he
3 maintained this job until his runaway of November 2nd, 1981?

4 A Yes.

5 Q I mean, those are your records, right?

6 A Those are my words.

7 Q So you probably verified that employment
8 through either pay stubs from Michael or contacting the
9 employer himself --

10 A Not necessarily. A lot of times, you talk
11 to the parent; the parents tell you that he had a job; or
12 you speak to the client; the client will tell you that.

13 Q Okay.

14 A It didn't necessarily go to the job to
15 verify employment because employers are not happy to have
16 individuals working for them that have criminal backgrounds,
17 that or delinquent juveniles.

18 Q I'm going to ask you to refer to page 11 of
19 this report -- and I believe this comes under the general
20 category of evaluation -- and I'm going to ask you to read
21 to yourself line 19, and that general paragraph, if you
22 will.

23 A Read to myself?

24 Q Please.

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1 A (Complies.)

2 Q Now, Officer, are these your words, and, in
3 particular, you stated:

4 Michael Rippo has significant
5 intelligence and awareness to fully comprehend the
6 consequences of his anti-social behavior.

7 A Yes.

8 Q Are those words that you would have chosen?

9 A Yes.

10 Q All right. So you stated that, in your
11 opinion, he had significant intelligence?

12 A Yes.

13 Q Now, you used the word significant.

14 Why would you use the word
15 significant rather than just Michael has intelligence and
16 awareness? Is it because you thought he had more than
17 average intelligence?

18 A Yes. Michael was very bright. And the
19 reason I wrote that, he knew the difference between right
20 and wrong. He was a very bright, bright boy when I had him.

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

23 MR. WOLFSON: Judge, your indulgence for
24 just a moment.

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1 THE COURT: Okay.

2 (Whereupon, a sotto voce at
3 this time.)

4 BY MR. WOLFSON:

5 Q Mr. Maroney, I want to show you what's been
6 labeled as D-2, (indicating), which is part of defendant's
7 Exhibit M, and ask you if you recognize what this is?

8 A (Complies.)

9 Q Do you recognize what that is, sir?

10 A This seems to be a letter from his
11 parents -- or his mother.

12 Q A letter from his parents -- and I didn't
13 hear you.

14 A His mother.

15 Q His mother?

16 A Yeah.

17 Q It is signed, is it not, Jim and Carol
18 Anzini, on page three?

19 A Let me check.

20 Yes, it is -- yes, Jim and
21 Carol.

22 Q Did you ever meet Michael's parents
23 face-to-face?

24 A On two separate occasions, as I can recall.

Q I mean, this is --

003465

ME:ppo-07058-ROB03471

8 1 A I never met the father. I met Mrs. Anzini.

2 Q And this goes back a long time. I
3 understand that.

4 You haven't probably seen Carol
5 in 15 years, have you?

6 A No.

7 Q Would you recognize her if you saw her?

8 A I probably wouldn't.

9 Q Okay. But you included this as an exhibit
10 to your certification report --

11 A Yes.

12 Q -- did you not?

13 A Yes, I did.

14 Q Why do you include a letter from a
15 Juvenile's mother in your report?

16 A I believe that, as an officer, I am
17 responsible to present all information so that the Judge can
18 make a -- a sensible logical decision in reference to a
19 case.

20 MR. WOLFSON: Judge, with the Court's
21 permission, I would like this witness to read this letter
22 into the record.

23 THE COURT: You may do so.

24 BY MR. WOLFSON:

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1 Q And I'm referring to D-2.

2 A All three pages?

3 Q Yes, if you don't mind, please.

4 A No problem.

5 Q And, once again, this is a letter from, as
6 you know, Carol -- Michael's mother, please.

7 A The letter is addressed to the Honorable
8 Judge Stephen Huffaker, Juvenile Court Judge.

9 Dear Judge Huffaker: We are
10 writing this letter to you in hopes of shedding
11 some light on our son Michael Rippo's case, which
12 is being brought before you.

13 We are a normal, middle class
14 American family and Michael was always a normal
15 boy, giving us less discipline or personality
16 problems than most boys his age.

17 As he grew older, we did notice
18 that he was becoming increasingly concerned with
19 his height, or lack of it -- Michael is only five
20 foot one -- often feeling as though his lack of
21 physical stature was preventing him from desired
22 achievements; and yet he always did very well
23 scholastically, at his job, socially and at home.

24 It wasn't until February of

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1 1981 that Michael presented any problems at all.
2 His relationship with his stepfather, Jim Anzini,
3 had always been the best any father could hope for,
4 as Michael considered Jim his real father.

5 When Michael began to find
6 fault with his stepfather and be argumentative, we
7 assumed it was the normal apron string breaking of
8 a 15 year old. It was only a matter of a very
9 short time between the change in his attitude
10 towards us and his running away from home and
11 subsequent commission of a burglary.

12 We were shocked at so sudden
13 and marked a change in Michael and requested the
14 Judge that he be sent to Spring Mountain -- or
15 Spring Mountain Ranch back then -- despite the fact
16 that the juvenile probation officer recommended a
17 suspended sentence and probation.

18 We sincerely believed that if
19 he would no longer honor us as authority figures,
20 that the disciplinary action of the Spring Mountain
21 Ranch would be for his benefit.

22 We were disappointed when
23 Michael received no help at Spring Mountain. He
24 seemed simply to be detained there rather than

003468

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1 rehabilitated. We visited him often, noticing that
2 his attitude would vacillate before repentance and
3 rebelliousness.

4 When they released him, after
5 three months and 25 days, it seemed more for the
6 sake of making room for others than that they
7 believed that he was aided or changed.

8 While Michael was at Spring
9 Mountain, our family was hit with the news that
10 Jim's -- Jim, Michael's stepfather, has terminal
11 cancer and is dying. We were -- we were surprised
12 when Michael's reaction was one of numbness.

13 When Michael was released to
14 our custody, he began to show signs of improvement.
15 He got a job at Wendy's, a local fast food
16 restaurant, and was highly esteemed by his boss.
17 And yet the family crisis was so severe, with Jim's
18 fatal illness, that Michael seemed to be falling
19 into more and more depression and expressed
20 feelings of very low self esteem.

21 He ran away from home again,
22 and we believe that he greatly felt the stress of
23 Jim's bout with cancer. We think that because
24 Michael was afraid of being sent back to Spring

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1 Mountain if he came home, Michael must have felt he
2 had no choice but to hang around with what was a
3 bad crowd. We think that he may have gotten
4 involved with drugs at that time.

5 We have seen Michael as often
6 as we have been able, since his arrest, and it is
7 our absolute conviction that he is very emotionally
8 disturbed. We do not know the cause or whether the
9 problem is drug related or caused, or even if he is
10 innocent or guilty. Regardless of his innocence or
11 guilt, we know that he has serious emotional and
12 mental problems.

10

13 Michael is accused of having
14 committed a -- committed as heinous a crime as
15 any one human being can do to another. We abhor
16 the thought that he could, indeed, be guilty of
17 such an act, but we could not be considered true
18 parents if we did not love him and try to do what
19 we could to sincerely help him.

20 We also feel that if Michael
21 is, indeed, guilty, society must be protected --
22 and even though restitution for such an act cannot
23 be made -- the crime cannot be undone.

24 We do not feel that

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1 incarcerating a 16 year old boy as an adult in an
2 adult penal system will do any good for the victim,
3 society, Michael or any moral or ethical justice.
4 The only thing that would be gained would be the
5 satisfaction of Michael -- of Michael's life
6 permanently ruined as punishment for what he did.

7 Your Honor, you, of all people,
8 know better than even we that an adult penal system
9 will abuse, corrupt and most likely permanently
10 damage any chance for rehabilitation Michael might
11 have.

12 We do not live under the Mosaic
13 law. If Michael is found guilty of rape and
14 beatings, the punishment the Court would give will
15 not be that Michael be raped and beaten; and yet
16 that is probably what his sentence will be if
17 Michael is remanded into the adult penal system.

18 We do not wish to sound as if
19 we do -- as if we too do not believe in the
20 possibility of Michael's innocence. We only wish
21 to discuss the possibility of the worst. If the
22 worst should, indeed, be the case -- Michael has
23 told us that he does not even have a conscious
24 memory of it and was under the influence of PCP

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1 when it occurred.

2 Would you throw away Michael's
3 whole life based on the drug induced act of a
4 post-pubescent child?

5 Again, we say that this would
6 not help the victim or society or any sense of
7 justice. We would gladly see him incarcerated in
8 an institution that could protect society while it
9 helped him to repent and reconcile himself. We
10 have heard of such places. We are not afraid for
11 Michael to pay a price -- only to pay with
12 everything he has or ever will have.

13 God turns man's crimes and the
14 machinations of Satan to his glory. We can only
15 hope and pray for such a result for our son.

16 Michael, when we speak to him,
17 is totally confused, and has expressed feelings
18 that he's the cause of his stepfather's cancer, as
19 well as his own plight. We feel worthless and that
20 his --

21 MR. WOLFSON: Excuse me. He feels?

22 THE WITNESS: Yes, yes.

23 MR. WOLFSON: Is that right?

24 THE WITNESS: He feels worthless and that

003472

1 his life is worthless. We are somewhat fearful
2 that he could take his own life. We think that
3 some of this might be the results -- result of drug
4 taking.

5 We feel very much alone in his
6 defense. Although we have a wonderful court
7 appointed attorney, Mr. Courtney -- that's
8 C-o-u-r-t-n-e-y -- we feel that we are greatly
9 outnumbered by the attitudes and the numbers of
10 people who have jumped to a wrong conclusion that
11 Michael is a hopelessly criminal person.

12 We know Michael better than
13 anyone else in this world. We know with God's
14 help, Michael can pull himself together. Michael
15 has many talents and abilities which could make him
16 a very useful and productive member of society and
17 we know that Michael wants to be this type of
18 person.

19 It just -- it's just that in
20 his -- in this one short year, Michael has --
21 Michael had to face a lot of stress. He got mixed
22 up with some bad companions, changed his thinking
23 to match theirs, and then he did these wrong
24 things.

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10 1 But we know Michael has many
2 good qualities. His thinking and his conduct can
3 be straightened out if only Michael could get the
4 help and guidance that we are ashamed that we have
5 not been able to give him.

6 Judge Huffaker, we realize that
7 it is your calling to judge your fellow human
8 beings and we honor that. We know that you use all
9 the mental and spiritual reasoning and inspiration
11 at your command. We only ask that in reviewing our
12 son's case, the best, most creative solution be
13 found, to benefit all involved, and if you can see
14 it in your heart to consider mercy in your
15 resolution of Michael's case.

16 In the end, we are his parents
17 and are committed to the best thing for him and all
18 concerned, whatever that might be.

19 Our prayers will be with you,
20 whatever the outcome of Michael's case.

21 Sincerely, Jim and Carol
22 Anzini.

23 MR. WOLFSON: Thank you very much, sir.

24 I have no further questions.

THE COURT: Redirect?

003474

MR. HARMON: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. HARMON:

Q Mr. Maroney, was Judge Huffaker the Judge who made the decision regarding certifying Mr. Rippo be prosecuted as an adult?

A I don't recall what Judge was on the bench at that time.

Q Well, you just read to us a letter directed to Judge Huffaker.

A The letter was directed to him. Let me see. There is no way I could know that. I -- there would need to be an order.

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

THE COURT: You may.

BY MR. HARMON:

Q I'm showing you an adult certification order.

Do you recognize what that is?

A Yes, I do.

Q If you refer to the report, will that refresh your recollection regarding the name of the Judge?

003475

RENEE SILVAGGIO, CCR 122 391-0379

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1 MR. DUNLEAVY: The report or the order?

2 THE WITNESS: It's the order.

3 MR. HARMON: Yeah, it is an order.

4 BY MR. HARMON:

5 Q Will that refresh your memory regarding the
6 name of the Judge --

7 A Yes.

8 Q -- who entered the order certifying Mr.
9 Rippo to be proceeded against as an adult?

10 A Yes.

11 Q Who was the Judge?

12 A Judge Stephen Huffaker.

13 Q On what date was the order entered?

14 A The 18th of March, 1982.

15 Q At that time, Mr. Rippo was what age?

16 A He was 17, I believe.

17 Q You indicated earlier that you didn't
18 remember for sure the date when Mr. Rippo escaped from the
19 Juvenile Court Services.

20 A That's correct.

21 MR. HARMON: May I again approach the
22 witness, Your Honor?

23 THE COURT: Yes.

24 BY MR. HARMON:

003476

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1 Q I want to show you, Mr. Maroney, a
2 transcript of the juvenile court proceedings, which carries
3 the date Thursday, March the 4th, 1982.

4 A Okay.

5 Q Will you refer to the remainder of the
6 transcript and then tell us if it refreshes your memory
7 regarding the date of the escape by Mr. Ripppo?

8 A Yes, it does.

9 According to the report, the
10 presentation I made to the Court, he escaped on March 4th,
11 1982.

12 Q In fact, did you indicate how long before
13 the court hearing it was on that date that Mr. Ripppo had
14 escaped?

15 A According to the transcript, I did. It
16 says:

17 Yes, Your Honor, I would like
18 to request a continuance. Michael escaped from
19 detention about an hour and a half ago. We have
20 people out looking for him right now.

21 Q Was that your representation to Judge
22 Huffaker?

23 A Yes.

24 Q I think you've indicated, as a result, a

003477

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1 week or ten days later then, he was brought to the court by
2 one or both of his parents?

3 A Yes.

4 Q And, apparently, the certification order was
5 issued on March the 18th, 1982?

6 A Yes.

7 Q Why did you recommend that a 17 year old be
8 certified to stand trial as an adult?

9 A That was an extremely difficult decision.
10 1982, not many juveniles were certified to adult status.
11 That was something that we just didn't do. Our attitude was
12 that our young people need to be rehabilitated.

13 But Mr. Rippo's crimes, the
14 fact that he just came out of an institution, as a --

15 Q Referring to the Spring Mountain Youth Camp?

16 A -- had intelligence, knows the difference
17 between right and wrong, and he commits such a heinous
18 offense -- and I knew that we couldn't take care of him at
19 the Spring Mountain system, because at Spring Mountain, the
20 average stay there was generally five months, five and a
21 half months, which is what it is now, and we couldn't serve
22 him. And he escaped from detention; he was on runaway
23 status.

24 The violence, the fact that he

003478

MR1PPO-07058-R0003484

11 1 was carrying a weapon, all these things occurred while he
2 was on runaway status; what he did to the victim, Laura
3 Martin, those things were terrible and the community had to
4 be protected.

5 MR. HARMON: Thank you.

6 That's all, Your Honor.

7 THE COURT: Recross?

8
9 RECROSS-EXAMINATION

10 BY MR. WOLFSON:

11 Q So he escaped perhaps because he panicked
12 before his court hearings?

13 A I don't know what reason he escaped for, but
14 he did escape, yes.

15 Q Was the institution up in Elko, Nevada an
16 option for our system for Michael at that time?

17 A Yes, it was.

18 Q And that is an institution which has a
19 little bit more security than the Spring Mountain Youth
20 Camp, does it not?

21 A Spring Mountain Youth Camp, like Elko,
22 they're not locked institutions; they're open campuses.

23 They have -- a stay at the Elko
24 institution was six months -- six to nine months, and that's

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1 part of the reason why that recommendation was made. It's
2 not a locked facility by any means.

3 Q But, at the age of 16, if one was committed
4 to that Elko institution, one could stay there until their
5 18th birthday, could they not, under law?

6 A Under law, they could; but, in actuality, it
7 doesn't occur. We don't have determinate sentences. We
8 have indeterminate sentencing. So it's always up to the
9 institution when they release.

10 Q Did Elko have any kind of counseling
11 services on the part --

12 A At that time, I don't believe they did.
13 They do now.

14 MR. WOLFSON: No further questions.

15 MR. HARMON: No further questions, Your
16 Honor.

17 THE COURT: Thank you, Mr. Maroney.

18 You are excused.

19 (Whereupon, the witness
20 was excused.)

21 THE COURT: All right. At this time, we'll
22 take our lunch recess. We'll begin again at 1:45.

23 Remember: Do not discuss this
24 case among yourselves or with anyone else;

003483

1 Read, watch, listen to any
2 report or commentary on any subject connected with this
3 case, by any medium of information, including, without
4 limitation; or

5 Form or express any opinion on
6 the case until the matter is submitted to you.

7

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

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003481

1 Las Vegas, Nevada, Wednesday, March 13, 1996, 1:55 p.m.

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5 THE COURT: Counsel stipulate to the
6 presence of the Jury?

7 MR. SEATON: We do, Your Honor.

8 MR. DUNLEAVY: Yes, Your Honor.

9 THE COURT: Call your next witness.

10 MR. SEATON: Jonna Triggs.

11
12 Whereupon,

13 JONNA TRIGGS

14 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 THE CLERK: Thank you. Please be seated.

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

21 THE WITNESS: Jonna, J-o-n-n-a, Triggs,
22 T-r-i-g-g-s.

23 THE CLERK: Thank you.

24
003482

DIRECT EXAMINATION

BY MR. SEATON:

Q Miss Triggs, what is your occupation?

A I'm a psychologist with the state.

Q With the State of Nevada?

A Yes.

Q And for how long have you been employed in that position?

A I've been employed as a doctor, a local psychologist, since 1984.

Q And prior to that?

A Prior to that, I worked at the Clark County Juvenile Court Services.

Q In what capacity?

A I was a psychologist.

Q I see.

So you have worked either for the County or the State of Nevada for how many years?

A Since 1981.

Q Since 1981?

A Yes.

Q What is your education?

A I have a Bachelor's in Arts from Penn State and I have a Master's in Education and a Doctorate in

003483

MEIPPO-07058-R0903489

1 Education from the University of Nevada at Las Vegas.

2 Q And did you receive training as a
3 psychologist?

4 A I received training as a school
5 psychologist. I did not get licensed as such, but I did get
6 training as a school psychologist.

7 Q In February of 1982, were you working for
8 the County of Clark?

9 A '92 or 82?

10 Q 1982.

11 A Yes, Clark County Juvenile Court Services.

12 Q And what were your duties at that particular
13 time?

14 A My duties were to do psychological
15 evaluations of the people referred to juvenile court,
16 victims of abuse and neglect or delinquent behaviors. I was
17 assigned to the violent offender program.

18 Q In those days, if the District Attorney's
19 Office or whomever started the process -- if a defendant was
20 being certified up to District Court to be tried as an
21 adult, did you have any role in that?

22 A Yes, I did.

23 Q In what capacity?

24 A We evaluated individuals who were referred

003484

1 for certification to determine if that was the appropriate
2 course.

3 Q I want to show you what's been marked as
4 Defendant's Exhibit M.

5 Do you recognize this as a
6 certification report; and do you recognize that particular
7 certification report?

8 A This looks like a court report.

9 Q Do you see the name on the front?

10 A Yes.

11 Q And do you recognize that name?

12 A Yes, I do.

13 Q Did you have anything to do with the
14 certification of Michael Rippo?

15 A I was one of three psychologists who did
16 perform that evaluation.

17 Q Would you look to the very back of that
18 package of papers -- I think it's the last three sheets --

19 A I found it.

20 Q Do you see a psychological evaluation?

21 A Yes, I do.

22 Q And by whom was that prepared?

23 A That was done by Dr. Eric Smith, Mr. Timothy
24 Boylan and me.

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1 Q The three of you worked in conjunction with
2 one another?

3 A That's correct.

4 Q Three individuals did the psychological
5 review?

6 A Dr. Smith was the supervising psychologist;
7 Tim Boylan and I were associates; but in this particular
8 certification, the three of us worked together.

9 Q Why was that?

10 A Um, I can only speculate that certifications
11 were so rare at that time. I'd only be --

12 MR. DUNLEAVY: I'd object to speculation,
13 Your Honor, even in the penalty phase.

14 THE COURT: Sustained.

15 MR. SEATON: I'll withdraw the question.

16 BY MR. SEATON:

17 Q Were you aware of the charges that Mr. Rippo
18 was facing when you assisted in preparing that psychological
19 evaluation?

20 A Yes, I was.

21 Q And did you know the particulars of the
22 sexual assault charge that he was facing?

23 A I only knew the charges. I didn't know
24 the -- I didn't read the police report or -- if that's what

003486

MRIPPO-07058-R0803492

1

1 you are asking me.

2 Q That's what I was asking you.

3 Did the three of you interview

4 Mr. Rippo?

5 A Yes, we did.

6 Q That would be Eric Smith, Tim Boylan and
7 yourself?

8 A Yes.

9 Q When that interview took place, did he
10 indicate how he had been supporting himself?

11 A He indicated that he had been committing
12 residential burglaries to support himself.

13 Q Did he indicate anything about the number,
14 whether it was a few or a lot?

15 A There were multiple residential burglaries
16 that he indicated he had been performing to sustain himself.

17 Q During the period of time that you spoke
18 with him, regarding his crimes and his criminal background,
19 did he ever show any signs of remorse at all?

20 A None. I can remember none. As a matter of
21 fact, he showed pride in the crimes that he committed.

22 Q How do you mean he had showed pride?

23 A I remember one example where he indicated he
24 particularly liked to burglarize homes that had the bars on

2

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2

1 the windows, because he liked to demonstrate that he could
2 get in, that no one was really safe from him.

3 Q And he was talking to you, a psychologist,
4 and was taking pride in that fact?

5 A That's correct.

6 Q Did he mention anything to you about an
7 individual by the name of Norman Yara?

8 A I remembered it by re-reading this. It
9 refreshed my memory.

10 Q All right.

11 A I did not independently recollect that.

12 Q And what do you -- once having your memory
13 refreshed, what do you recall about that incident?

14 A He volunteered that he supplied the gun for
15 a Russian Roulette incident that had occurred the Christmas
16 before.

17 Q Who had been playing Russian Roulette?

18 A The individual that you just named.

19 Q Norman Yara?

20 A That's correct.

21 Q And had he, in fact, shot himself?

22 A That was my understanding.

23 Q And Mr. Rippo indicated that he had supplied
24 the gun?

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2

1 A That's correct.

2 Q And when was that? When did that take
3 place?

4 A Mr. Rippo informed us that it took place in
5 Christmas of '81, just prior to our evaluation of him in
6 February.

7 Q Do you have a type of examination called a
8 Mental Status Exam?

9 A Right.

10 Q Did you give it to Mr. Rippo?

11 A Yes.

12 Q What were the results of that particular
13 exam?

14 A In a Mental Status Exam, what -- we
15 attempted to just rule out psychoses or major effective
16 disorders, in an attempt to decide whether or not someone is
17 competent; and that's how we determine that, by asking some
18 specific questions.

19 Q Is that right?

20 And how did that turn out with
21 Mr. Rippo? For example, how were his speech patterns?

22 A Normal.

23 Q Do you look for things like psychomotor
24 activities?

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2

1 A Right. If there were any -- any particulars
2 or unusual motor behavior. We saw none.

3 Q All right. How was his memory?

4 A Excellent.

5 Q Do you look for orientation in terms of how
6 they relate to what's going on?

7 A Yes. In that report, he was oriented -- the
8 time, place and person means he knew who he was, where he
9 was and why we were examining him.

10 Q Are you looking for particular mental
11 disturbances --

12 A Yes.

13 Q -- when you interview someone in this
14 situation?

15 A Yes.

16 Q And were you looking for those when you
17 interviewed Mr. Ripppo?

18 A Yes.

19 Q Did you notice anything in the way of a
20 mental disturbance on the part of Mr. Ripppo?

21 A No. When we asked him those questions, like
22 do you hear things or see things, ruling out psychoses, we
23 came up with none. He had none of those indicators.

24 Q Are there a number of indicators which you

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2

1 are checking for?

2 A Yes.

3 Q Do you mention them in your report?

4 A Yes.

5 Q Could you just name a few of them for us so
6 we have a better idea.

7 A Well, his memory was intact. He had no --
8 as I mentioned, no hallucinations, no evidence of paranoia,
9 no dillusions.

10 He appeared to have average to
11 above average intelligence, and was not depressed, because
12 he didn't indicate that he was suicidal and he had made no
13 attempt. He had good social skills; he related very well;
14 he had good charisma.

15 Q He was how old at this time?

16 A Sixteen.

17 Q Sixteen years old?

18 A Uh-huh.

19 Q And he was talking to -- I take it, the
20 three of you were all adults?

21 A That's correct.

22 Q And he had no difficulty in relating to you?

23 A Absolutely none.

24 Q Did he do better than most 16 year olds do?

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2

1 A He interacted very well.

2 MR. DUNLEAVY: Is that a yes or no?

3 THE WITNESS: Yes.

4 BY MR. SEATON:

5 Q Did he express anything having to do with
6 his fears while he was in the interview with you?

7 A He didn't want to be in detention.

8 Q He was afraid of being in detention?

9 A He didn't like being in detention.

10 Q All right. Did he -- did he express any
11 attitude about the potential for being certified as an
12 adult, as opposed to being treated as a juvenile?

13 A He was -- did not want to be certified to
14 adult status.

15 Q He expressed that to you?

16 A He was -- as I can recollect, that he was
17 concerned about that.

18 Q Were you aware that he had been sent to
19 Spring Mountain?

20 A Yes.

21 Q That's the youth camp?

22 A Yes.

23 Q And you were familiar with that institution?

24 A Yes.

003492

MRIPPO-07058-R0103498

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1 Q In fact, was it not a part of your own
2 institution?

3 A That's correct.

4 Q In your judgment had that institution had
5 any affect on him whatsoever?

6 A It didn't appear to, no.

7 Q In those days were you aware whether or not
8 that institution had -- had programs to counsel the young
9 men who went up there and stayed there?

10 A I'm not absolutely sure whether there were.

3

11 Q You are not that familiar with what they did
12 up there?

13 A No. If I -- if I said so, it would be
14 vague. It was --

15 Q Okay.

16 A -- it was a long time ago. I just don't
17 remember.

18 Q And as a result of the interview and the
19 testing, the evaluation of Mr. Ripppo, did the three of you
20 end up recommending certification to adult status?

21 A Yes, we did.

22 Q Why?

23 A Well, based on his previous commitment to
24 Spring Mountain and the apparent -- it had no effect on him.

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3

1 and the -- the type of crimes that he had been charged with,
2 we made the decision that we could serve him no longer in
3 juvenile -- in the juvenile system and there was nothing
4 more we could do for him.

5 Q Over the years, have you done a lot of these
6 kinds of evaluations?

7 A At juvenile court, certification of adult
8 status was rare.

9 Q I'm just talking about psychological
10 evaluations of juveniles for whatever purpose.

11 A Oh, over the last 15 years, yes.

12 Q A lot?

13 A Hundreds.

14 Q Do you have an independent recall of Mr.
15 Rippo?

16 A Yes, I do.

17 Q Why do you have that independent recall of
18 someone 15 years ago?

19 A Like I said, certifications were rare. He
20 manifested no remorse, and it was -- it was a chilling
21 experience for me. I remember it quite well.

22 MR. SEATON: Thank you.

23 I have no further questions.

24 THE COURT: Cross-examination.

003494

CROSS-EXAMINATION

BY MR. DUNLEAVY:

Q You've been doing these for 15 years, right?

A Yes.

Q How many of them do you clearly remember?

A I can't say that I remember, not very much.

Q Pretty unusual?

A To remember?

Q Uh-huh.

A Yes.

Q Now, you indicated that you had never seen
the police reports on the crime?

A No, I did not.

Q Who actually wrote this report?

(Indicating)

A The three psychologists listed dictated the
the report to the secretary of Dr. Smith, and she took it in
shorthand; so the three of us combined dictated that report.Q Now, you have details in here about the type
of the crime, that she would have been bound, right?

A Yes.

Q That her hair had been cut?

A Yes.

Q Where did you get that information, if you

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3

1 never saw the police reports?

2 A All I can assume is that the other two
3 psychologists had read the police reports. I didn't.

4 Q Is it valid psychological criteria to assume
5 other people have information and that it's reliable?

6 A I don't remember. It's 15 years ago. I
7 really don't remember, but I don't think I read the police
8 report.

9 Q When the State asked you, your memory was
10 very good on this case.

11 A I remember the man.

12 Q As long as the State asked the questions?

13 A That's not correct.

14 Q Never saw the police report?

15 A I don't remember having seen the police
16 report.

17 Q Now, in your evaluation of whether or not
18 someone has mental problems, do you think it's important to
19 look at what kind of activity he was engaged in?

20 A Yes.

21 Q So wouldn't that say you should look at the
22 police report?

23 A I knew the charges. I didn't know the
24 details of the sexual assault. And that was the question.

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3

1 Q Did you ever see the letter written by his
2 parents relating to this certification?

3 A No, I didn't.

4 Q Did you ever look at the discussions the
5 parents had with the judge when he first went to Spring
6 Mountain?

7 A No, I did not.

8 Q Are you aware that they indicated they
9 thought he has mental problems and needed help?

10 A No, I don't.

11 Q Did you look at any reports or evaluations
12 done on him while he was at Spring Mountain?

13 A I had nothing to do with him while he was at
14 Spring Mountain.

15 Q So the answer is no, you didn't look at
16 those reports?

17 A The answer is no.

18 Q How much time would you actually spend with
19 Michael Rippo?

20 A During the interview?

21 Q Uh-huh.

22 A Do you want me to guess?

23 I -- I have no independent
24 recollection of the time.

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3

1 Q Days?

2 A No.

3 Q Hours?

4 A An hour perhaps.

5 Q An hour.

6 And you indicated he had an
7 above average IQ or above average intelligence?

8 A Well, the sentence -- it says in the last
9 part of this report: A high general mental capacity would
10 suggest average or above average.

11 Q Did you give him an IQ test?

12 A No.

13 Q Did you give him the M.M.P.I.?

14 A No.

15 Q Is there a whole battery of test that can be
16 given to look for problems?

17 A Yes.

18 Q And how many of those tests were given?

19 A Only two.

20 Q Out of how many?

21 A Hundreds.

22 Q Did you think that some of the activities
23 described in the document, here as to how this crime went
24 about, could be relevant?

003498

MRI-PFO-07058-ROH03504

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1 A Relevant to what?

2 Q His mental status.

3 A I don't know.

4 Q Did you give any thought to why he would
5 have put mittens on?

6 A To hide his fingerprints?

7 I don't know.

8 Q Why he would ask how big her boyfriend was?

9 A Because Mr. Rippo was short in stature?

10 I don't know.

11 Q Did you give that consideration?

4

12 A To what?

13 Q His mental state.

14 A Those weren't questions that I asked during
15 the Mental Status Exam.

16 Q Were you aware that the victim had told him
17 that her boyfriend was due at about eight o'clock, between
18 eight and nine?

19 A I do remember that being part of the
20 information that we had.

21 Q And that was about 7:40 in the morning?

22 A Yes.

23 Q And Mike's response was to unplug the clock.

24 Do you think that could

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1 indicate anything?

2 A I don't know.

3 Q That after he had cut her clothes off, he
4 put a tube top on her.

5 A I don't know what significance that has.

6 Q Did you give it any consideration at all?

7 A No.

8 Q Didn't think there was anything strange
9 about that?

10 A (No audible response.)

11 Q Have you handled a lot of sexual assault
12 cases?

13 A At that time or now?

14 Q Now.

15 A I have had some.

16 Q How many of them, in the middle of the
17 sexual assault, does the perpetrator stop and dress the
18 victim?

19 MR. SEATON: Judge, I'm going to object to
20 the form of that question. There is no evidence before this
21 jury that the defendant dressed the victim. She asked for a
22 tube top. He let her have it.

23 THE COURT: Sustained.

24 MR. DUNLEAVY: Your Honor, the testimony was

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1 her hands were tied behind her back and the tube top was put
2 on.

3 THE COURT: The Jury will remember the
4 testimony.

5 BY MR. DUNLEAVY:

6 Q Did you give that any consideration?

7 A No.

8 Q Were you aware that he repeatedly asked her
9 whether or not she wanted to have sex?

10 A No.

11 Q Were you aware that the victim said that she
12 wasn't sure if penetration had ever occurred?

13 A No.

14 Q What about that he supposedly explored her
15 vagina with a pen, a writing instrument?

16 A I didn't read the details of the sexual
17 assault report.

18 Q And could those kind of things give you any
19 insight of what his mental state might have been?

20 A It could have.

21 Q What kind of treatment did the Juvenile
22 system have in 1982 for mentally disturbed offenders?

23 A What they typically did, if they were truly
24 mentally disturbed, was to transfer them over or order them

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1 into the Division of Child and Family Services, then known
2 as Mental Hygiene and Mental Retardation.

3 Q Now you caveated that with truly mentally
4 disturbed.

5 What was the criteria in 1983
6 to be found truly mentally disturbed?

7 A There were a variety of ways back then. If
8 someone in detention felt that an individual exhibited
9 behaviors that were just unusual or abnormal, they would ask
10 either the psychology unit or the Children's Behavioral
11 Services to assist in making those determinations.

12 Q So if the counselor in a module said, gee,
13 this person is acting strangely -- for instance, he's been
14 counseled not to do certain things, but he continues to do
15 them, they can refer it for further evaluation and
16 psychiatric treatment?

17 A That's correct; psychological. I don't
18 believe we had a psychiatrist at the juvenile court at that
19 time.

20 Q What about Elko; did they have psychiatric
21 facilities?

22 A They have Elko Mental Health, which is close
23 to the Nevada Boys Training Center in Elko, but it is not my
24 understanding that Elko, the training center, has a

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1 psychiatrist. They do have a full-time psychologist, to the
2 best of my understanding.

3 Q Now, you indicated that one of the criteria
4 you looked at was the fact he had already been to Spring
5 Mountain?

6 A Yes.

7 Q Were you aware that he was never put on
8 probation; he went straight to Spring Mountain?

9 A No.

10 Q Were you aware that the recommendation was
11 for probation, but he was sent to Spring Mountain anyway?

12 A No.

13 Q Were you aware that his parents asked him to
14 be sent to Spring Mountain?

15 A No.

16 Q Have you reviewed the certification reports?

17 A All I reviewed was the psychological that we
18 did 15 years ago.

19 Q I'd like you to look at page 12 of that
20 initial report.

21 A I've got it.

22 Q What does it mean when someone is
23 institutionalized?

24 A That he's used to being in an institution.

003503

MRI-P0-07058-R0003509

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1 Q Look at page 12, if you would, beginning at
2 lines 10 through 15. Review that and see if that sounds
3 like information you have.

4 A Do you want me to just read 10 through 15?

5 I've done that.

6 Q Okay. Does that indicate that basically
7 what happened is in the first offense, he was sent to Spring
8 Mountain and became institutionalized?

9 A That's what it looks like.

10 Q Now, if you turn to page 13, if you would,
11 please, at the top of the page, lines two through four --

12 A Yes.

13 Q -- does that indicate he needed long-term
14 treatment for rehabilitation?

15 A That's what this probation officer stated,
16 yes.

17 Q And down at line 17 through 20 --

18 A I read it.

19 Q -- does that, in fact, say:

20 Due to the seriousness of the
21 charges and insofar as the State of Nevada has no
22 long-term treatment facility for violent
23 Juvenile offenders past the age of 18 years, it is,
24 therefore, respectfully recommended that the

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1 subject minor be certified as an adult.

2 A That's what it says.

3 Q So, in other words, because we don't have
4 any long-term treatment facility, certify him as an adult
5 and send him to prison?

6 A That's what the probation officer wrote,
7 yes.

8 MR. DUNLEAVY: Thank you.

9 I have no further questions.

10 MR. SEATON: Nothing further.

11 THE COURT: Okay. Thank you.

12 You are excused.

13 THE WITNESS: Thank you.

14 (Whereupon, the witness
15 was excused.)

16 THE COURT: Call your next witness, please.

17 MR. HARMON: Jim Keough.

18 THE CLERK: Remain standing and raise your
19 right hand.

20

21 Whereupon,

22 JAMES KEOUGH

23 having been called as a witness by the Plaintiff and
24 having been first duly sworn to tell the truth, the

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1 whole truth and nothing but the truth, was examined
2 and testified as follows:

3 THE CLERK: Thank you. Please be seated.

4 Would you state your name and
5 spell it for the record, please.

6 THE WITNESS: James, J-a-m-e-s; Keough,
7 K-e-o-u-g-h.

8 THE CLERK: Thank you.

9

10 DIRECT EXAMINATION

11 BY MR. HARMON:

12 Q Mr. Keough, what is your business or
13 occupation?

14 A I'm a retired parole and probation officer,
15 polygraph examiner, investigator. Right now, I have an
16 active license in California. My Nevada licenses are in
17 abeyance.

18 Q Did you, for a number of years, work with
19 the State of Nevada Adult Parole and Probation Department?

20 A Yes, I did.

21 Q How many years were you employed by that
22 agency?

23 A I believe five years and two months.

24 Q During April, 1982, were you a parole and

003506

MRIPPO-07058-R0003512

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1 probation officer with the State of Nevada?

2 A Yes, sir, I was.

3 Q Was this also in the adult system?

4 A Yes, it was.

5 Q Did you have occasion to conduct a
6 presentence investigation in April, 1982 regarding a subject
7 identified as Michael Damon Rippo?

8 A Yes, I did.

9 Q What was your purpose, Mr. Keough, in
10 conducting the investigation?

11 A My purpose was to arrive at a recommendation
12 for the Court, a departmental recommendation to the Court;
13 and that would have been in a presentence report.

14 Q Prior to the matter having been referred to
15 your office, and specifically to you, had the defendant, Mr.
16 Rippo, entered pleas of guilty to two felony crimes?

17 A Yes, sir.

18 Q What were the offenses to which he had
19 entered pleas of guilty?

20 A Sexual assault and robbery.

21 Q And burglary?

22 A Or burglary, sorry.

23 Q Were there two separate cases?

24 A Yes, there was.

003507

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1 Q Did the sexual assault offense relate to
2 Case Number 57388?

3 A Would that be the parole and probation
4 department number or the court number?

5 Q That would be the court number.

6 A Yes, sir.

7 Q Did the burglary offense relate to Case
8 Number 57389?

9 A Yes, sir.

10 Q Do you either have a recollection or have
11 records that can refresh your memory regarding the Judge
12 before whom the pleas of guilty were entered?

13 A This would be Judge Guy.

14 Q In Department XI of the Eighth Judicial
15 District Court?

16 A Yes, sir.

17 Q As part of your presentence investigations
18 on these matters, did you make an effort to contact victims
19 involved in both the sexual assault and the burglary?

20 A Yes, I did.

21 Q Were both of those felony crimes in this
22 state?

23 A Yes.

24 Q Burglary and sexual assault?

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MRIPe-07058-R0R03514

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1 A Yes.

2 Q Did you also contact the defendant, Michael
3 Damon Rippo?

4 A Yes.

5 Q Did you, in fact, obtain any type of written
6 statement from him?

7 A Yes. He completed a written statement. We
8 furnished paper and instructions to jail personnel; they
9 delivered them; and then the defendant was to maintain them
10 for the interview later.

11 (Whereupon, as requested by
12 counsel, Plaintiff's Exhibit
13 120 was marked for
14 identification.)

15 BY MR. HARMON:

16 Q Mr. Keough, do you recall, at this time,
17 whether the original statement received from the defendant
18 was handwritten or was it typewritten?

19 A I honestly don't recall.

20 Q Event- --

21 A I would -- I would assume, pretty safely
22 assume, that it was handwritten, but nothing -- nothing to
23 really indicate that.

24 Q Did you eventually prepare two presentence
reports to be considered by Judge Guy at the time he imposed
punishment?

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NRIPPO-07058-RO03515

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1 A Yes, I did.

2 Q Were you actually present at the time of the
3 sentencing?

4 A Yes.

5 Q In your presentence report that related to
6 the sexual assault case, Case Number 57388, did you include
7 in the report a typewritten version of the defendant's
8 statement which was submitted to the Department of Parole
9 and Probation?

10 A Yes. The secretary would have typed the
11 statement and included it, regardless of whether it was
12 handwritten or typed.

13 MR. HARMON: May I approach the witness,
14 Your Honor?

15 THE COURT: You may.

16 BY MR. HARMON:

17 Q Mr. Keough, the clerk has just marked a
18 two-page document as State's proposed Exhibit 120.

19 Are you, by examining the
20 document, in a position to tell us what it reflects?

21 A This would be the defendant's statement
22 prior to his sentencing.

23 Q Are you referring to page one of proposed
24 Exhibit 120?

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1 A Yes.

2 Q Does this appear to have been extracted from
3 your presentence report?

4 A Yes, I believe it is.

5 Q Does it appear to be page five?

6 A Yes.

7 Q Have you had a chance to examine proposed
8 Exhibit 120 with page five of your presentence report
9 prepared back in April 1982?

10 A Yes, I have.

11 Q Is page one of proposed Exhibit 120 true and
12 correct?

13 A I'm certain that it's exactly the same.

14 Q In fact, after you had made the comparison,
15 did you initial proposed 120 in the lower right-hand corner?

16 A Yes.

17 Q Direct your attention to the second page of
18 proposed Exhibit 120.

19 Does this appear to be an
20 extract that is the first paragraph from page six of your
21 presentence report?

22 A Yes, I'm sure it is.

23 Q And is the first paragraph of page six, that
24 is, as it is reflected on page two of proposed Exhibit 120,

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1 true and accurate?

2 A Yes.

3 Q What was the date that you formally prepared
4 the two presentence reports in the burglary and sexual
5 assault cases?

6 A It appears that I was almost late. It would
7 have been the 22nd, because the report -- the jail interview
8 was the 22nd. The report was dated the 23rd.

9 Q Were your presentence reports completed on
10 or about April 23rd, 1982?

11 A Yes.

12 Q Is that the date they both bear?

13 A Right.

14 MR. HARMON: Your Honor, the State offers
15 proposed Exhibit 120.

16 MR. WOLFSON: Is that just his statement,
17 Mr. Harmon, or is it the entire P.S.I.?

18 MR. HARMON: No, it's just page five of the
19 statement of the defendant, and the first paragraph of page
20 six.

21 MR. WOLFSON: Thank you. I have no
22 objection.

23 THE COURT: 120 will be admitted.

24 (Whereupon, State's Exhibit

003512

MRIPPO-07058-R0003518

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120 was admitted into evidence.)

MR. HARMON: Thank you, Your Honor.

BY MR. HARMON:

Q In addition to the statement submitted by the defendant, did you conduct any type of oral interview with Michael Ripppo?

A Yes. I had an interview at the Jail, probably early morning of the day I dictated the report.

Q Did you go over any materials with him at the time you conducted the oral interview?

A I went over everything that was available to me. If I had his written statement, I went over that, over at the Jail, or the police report, the victim statements, and so on.

Q When you went over the police reports with him, did he express any agreement or disagreement with the police reports?

A He recalled -- or he didn't recall putting the -- putting the coat hanger around the victim's neck. He remembered tying her with the robe, tying her up, but he -- he tied her face -- or her hands to the front of her face. I don't recall with what.

Q Did he indicate, during the oral interview,

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1 anything to you about the use of nunchuks?

2 A He acknowledged striking her, but said that
3 it was only twice specifically.

4 Q Did he indicate whether he took anything
5 from the area of the crime scene?

6 A The automobile; he took the victim's
7 automobile.

8 Q Did Mr. Ripppo say why he took the car?

9 A I don't honestly recall. I -- oh, I -- he
10 was -- the victim, for whatever reason, insisted that he
11 take it. I'd have to make an assumption to know that
12 reason.

13 Q Well, I'm showing you again Exhibit 120,
14 and -- the second page.

15 Did you indicate, back at the
16 time of the report, that he took her auto when she tearfully
17 asked him to?

18 A Yes, that's it.

19 Q Did Mr. Ripppo tell you whether he had
20 actually achieved penetration of the sexual assault victim?

21 A I remember that clearly. He -- he admitted
22 only that he had touched the -- I'm not sure of the
23 technical term -- the perimeter; that he had not entered the
24 victim's vagina.

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1 Q Regarding Case Number 57389, which involved
2 burglary, did you determine whether the insurance company
3 had reimbursed the burglary victim for any loss?

4 A Yes. I was unable to contact the victim;
5 and I reached the insurance company, and they said that they
6 had paid 803 -- I believe it was \$803, in satisfaction of
7 this claim; and that another 1300, a collection of some
8 sort. I don't recall if it was watches or records.

9 Q Mr. Keough, to your recollection, was the
10 burglary a business or residential burglary?

11 A Residential, 'cause I recall he smeared an
12 egg on the wall. I assume it was residential.

13 Q By he, you mean the defendant?

14 A Right.

15 Q Regarding the exact figures, just for
16 accuracy, I'm showing you what does appear to be a copy of
17 your presentence report in the burglary case.

18 Is it reflecting, at the bottom
19 of page four, that the amount paid by the insurance company
20 was \$803.44?

21 A That's correct.

22 Q And there was apparently \$1300 in loss --

23 A That they denied.

24 Q -- that was not covered by the insurance

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RENEE SILVAGGIO, CCR 122 391-0379

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7
1 policy?

2 A That's right. They denied the claim. They
3 failed to pay.

4 Q On what date were the sentences imposed?

5 A The day after I dictated it. As I say, I
6 was running late for the court.

7 MR. HARMON: May I again approach the
8 witness?

9 THE COURT: You may.

10 BY MR. HARMON:

11 Q I'm showing you, Mr. Keough, what appears to
12 be a copy of the transcript of the sentencing proceedings.

13 By examining the cover sheet of
14 the transcript, does that refresh your memory regarding the
15 actual date of sentencing?

16 A Right. I recall that it must have been
17 continued, because it seems to me the original sentencing
18 date was pretty close to when I dictated the report.

19 Q According to the transcript, was the actual
20 sentencing date April the 27th, 1982?

21 A Yes, right.

22 Q Was it Judge Guy who imposed the sentence?

23 A Yes, sir, Judge Addelmar Guy.

24 Q Were you present at the time the sentences

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1 were imposed?

2 A I was.

3 Q Was Mr. Rippo, the defendant, there?

4 A Yes, he was.

5 Q Did he have counsel?

6 A Yes.

7 Q Was there a deputy District Attorney also
8 present?

9 A Yes, sir.

10 Q Regarding the sexual assault case, Case
11 57388, what was the punishment imposed by Judge Guy?

12 A Life with possibility of parole.

13 Q Regarding the burglary charge, Case 57389,
14 what was the punishment?

15 A That was five years concurrent, at the same
16 time, to be served --

17 Q Five years to be run concurrently with the
18 life with possibility of parole?

19 A Yes.

20 Q Imposed as to the sexual assault case?

21 A Yes.

22 Q And I think you've indicated concurrently
23 means the sentences ran at the same time?

24 A Yes, sir.

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1 Q Not separately?

2 A Uh-huh; yes.

3 Q Did you determine whether the defendant had
4 been on any type of parole status at the time he committed
5 the burglary and the sexual assault crimes?

6 A Yes. He -- records -- juvenile hall --
7 juvenile court records at the hall reflect that he had a
8 parole officer, but I was never able to contact him.

9 Q Do you recall now, independently of the
10 record, from what facility the parole grant had been given
11 the defendant?

12 A It was youth parole.

13 Q I want to direct your attention to page four
14 of your presentence report, the paragraph identified as
15 parole adjustment.

16 If you look at that, will that
17 refresh your memory regarding the parole status?

18 A Yes, that does.

19 Q From what facility had the defendant, Mr.
20 Rippo, been paroled?

21 A Spring Mountain, the youth camp at Mount
22 Charleston.

23 Q And had he been paroled in August 1981?

24 A Yes; yes, sir.

003518

7 1 Q Specifically, August the 26th, 1981?

2 A Yes, sir.

3 Q So is it correct that he was still subject
4 to that parole status at the time he committed burglary and
5 sexual assault?

6 A I would say so.

7 Q Do you recall if you had direct contact
8 during your presentence investigation with the sexual
9 assault victim, Laura Martin?

10 A I had telephone contacts; they were by
11 phone.

12 Q Did you determine from her the extent of
13 injuries she had suffered?

14 A She related that she had stitches, two black
15 eyes, and bruises on her body.

16 Q Do you recall indicating, in your report,
17 that she had numerous stitches due to lacerations on her
18 head?

19 A Yes.

20 Q Do you remember if there was any mention by
21 her of the need for psychological counseling?

22 A Yes. She indicated that.

23 Q Did she express any fear as a result of what
24 had happened to her?

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1 A She most certainly did.

2 Q What did she tell you?

3 A That she was afraid of him; that she just
4 more or less felt that he was -- I got the impression she
5 felt that he was just acting crazy. That was it, as I
6 recall.

7 Q Did she tell you that she felt extreme fear?

8 A Yes.

9 Q Did she further describe the defendant being
10 a very sick individual?

11 A That was her feeling, yes.

12 MR. HARMON: Thank you.

13 That concludes direct.

14 THE COURT: Cross-examination, Mr. Wolfson?

15

16 CROSS-EXAMINATION

17 BY MR. WOLFSON:

18 Q Mr. Keough, good afternoon.

19 A Good afternoon to you, Mr. Wolfson.

20 Q The exhibit, which has been admitted, is a
21 typed document that was prepared by Michael Rippo, isn't it?

22 A It was submitted with his name on it. I
23 assume -- he may have had some help with it. I don't know.

24 MR. WOLFSON: Do you have the exhibit?

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1 MR. HARMON: It's right here.

2 MR. WOLFSON: Thank you, sir.

3 BY MR. WOLFSON:

4 Q Showing you what's been marked as Exhibit
5 120, which is a two-page document, which you've identified
6 as Michael Rippa's statement --

7 A That's correct.

8 Q -- that is the statement that he provided to
9 you to include in your report that goes to the Judge?

10 A Right. He would either have given it to me
11 at the Jail interview or he would have sent it through the
12 mail from Metro.

13 Q Okay. But you have no reason to believe
14 that he wasn't the author of this document, do you?

15 A No, no, no, no.

16 Q And it's very common, is it not -- in fact,
17 isn't it required by law that for every presentence report
18 that goes to a judge for sentencing, that a defendant be
19 provided with an opportunity to address the court in the
20 form of a written statement?

21 A Yes.

22 Q It's not unusual?

23 A No, no. We expect it.

24 Q Very common, very normal, happens in almost

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1 every case in this courthouse every day?

2 A We expect it.

3 Q Okay. And Michael Rippo cooperated by
4 providing you with that statement, did he not?

5 A I feel he did, yeah.

6 Q What division of the probation department
7 were you in back in April of 199- -- or 1982?

8 A Presentence report unit.

9 Q And isn't it true you were assigned to a
10 particular court or set of courts at that time?

11 A No. I -- I had no particular court or set
12 of courts. I was -- took what I got and --

13 Q Okay. And how many presentence reports
14 would you prepare on a weekly basis?

15 A Um, it's difficult to say. It's easier to
16 say on a monthly basis. I mean, perhaps -- a minimum of
17 perhaps 16 and a maximum -- ordinary times, a maximum of
18 perhaps 28.

19 Q Twenty-eight?

20 A Yes, sir.

21 Q Per month?

22 A Yes, sir.

23 Q Did you have a relatively heavy case load or
24 a light case load back then?

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1 A I would have to say it would have been
2 pretty much a routine case load. They were heavier than
3 now.

4 Q They were heavier then than they are now?

5 A Yes.

6 Q And did you actually go over and visit
7 Michael in the jail for your one-on-one interview?

8 A Yes, I did.

9 Q And you sat down in a jail cell with Michael
10 for this interview?

11 A In an interview room, right.

12 Q Now, your interview of Michael, that is a
13 separate thing from his written statement, is it not?

14 A Yes, it is.

15 Q His written statement is his own product,
16 versus your interview with him is your give and take of
17 information; is that right?

18 A Right.

19 Q Did you record this interview?

20 A You mean tape record it?

21 Q Yes.

22 A No, no. I just took notes as it went along.

23 Q Now, when you took notes, you used those
24 notes, in part, to write your entire report, did you not?

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1 A Yes, sir.

2 Q Let me ask you to look to Exhibit Number
3 120, please.

4 A Surely.

5 Q That was Exhibit 120, please.

6 A Surely.

7 Q Did Michael deny his involvement with the
8 burglary and sexual assault?

9 A No.

10 Q He admitted it, didn't he?

11 A Yes.

12 Q Did Michael say whether or not he was under
13 the influence of any drugs when he committed the offense?

14 A In his written statement, he indicated that
15 he was under the -- he felt he was under the influence of
16 phencyclidine, which had been added to a marijuana cigarette
17 a few hours earlier prior to the incident.

18 Q Didn't he, in fact, say, quote: A couple of
19 hours earlier, I had smoked a joint, laced with angel dust
20 for the first time?

21 And I'm directing your
22 attention to about 20 lines down from the beginning of his
23 statement.

24 A I don't -- I have floaters in my eye.

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1 Q I didn't hear you.

2 A I have floaters in my eye. They kind of --

3 Q Okay.

4 A Okay. I have it.

5 Q Did he, in fact, say that?

6 A Yes.

7 Q Did you know what angel dust was?

8 A Yes, I did.

9 Q What is angel dust?

10 A Phencyclidine.

11 Q And what is phencyclidine?

12 A It's -- PCP or illegal drug. It's a --

13 Q Do you have any background or knowledge of
14 what types of effects a person who takes PCP might
15 experience?

16 A Different -- different people in different
17 situations have given me different accounts of how it
18 influenced them.

19 Q Why don't you tell us about some of them.

20 A Some just indicated that it made them -- to
21 use their vernacular -- goofy; just not their own -- their
22 own selves.

23 Q What about others?

24 A Some said that they became mean and some

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1 didn't recall that they became mean. They learned it from
2 the police.

3 And it would depend on the
4 quantity. Some had to be gaffled up with special rigging so
5 they wouldn't break their own legs, someone else's.

6 Q From what you know right now about PCP, Mr.
7 Keough, is it a mild drug or a more serious drug?

8 A It's considered serious certainly.

9 Q Didn't Michael also say that, in fact,
10 quote: I guess I -- he said stated, but he probably meant
11 started -- I guess I started hitting her because I was
12 hallucinating?

13 Did he use the word
14 hallucinating?

15 A That was the thing that struck me --

16 Q Well, first answer my question.

17 Did he use the word
18 hallucinating?

19 A Yeah, he surely did.

20 Q Let's go on.

21 A He misspelled it, but he used it; came
22 close.

23 Q You were going to say something about --

24 A Oh, I was going to say that he was

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9

1 hallucinating because his girlfriend left him or something,
2 as I recall; something of that sort.

3 Q Did Michael express any remorse for his
4 crime, in this statement? (Indicating)

5 A In the statement, he did.

6 Q In fact, didn't he say, well, they are --
7 excuse me. He says: I have nothing but remorse for what I
8 did, not only to her, but to everyone else I may have hurt.

9 A I don't recall.

10 Q Well, isn't it in there, Mr. Keough?

11 A Yes, it is, yes.

12 Q Do you have your full P.S.I. in front of
13 you, Mr. Keough?

14 A Yes, I do.

15 Q Would you -- or could I ask you to refer to
16 page six of it, please.

17 A Which one?

18 Q Of the sexual assault.

19 A Right.

20 Q Did you include a section under narcotics in
21 this presentence report?

22 A I did.

23 Q Do you have it there?

24 A I'm getting to it right here. Yes.

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1 Q Whose language is that in this section under
2 narcotics? Is that Michael's writing or is that your
3 writing?

4 A That would be my dictation.

5 Q Did you say something in this report about
6 what Michael said about the effect or sensitivity that the
7 phencyclidine may have had on him?

8 A Well, he seemed to be of the opinion that he
9 was particularly sensitive to it.

10 Q What did he say?

11 A He felt certain that he is particularly
12 sensitive to phencyclidine.

13 Q What else did he say?

14 A And that being under the influence of that
15 substance contributed directly to his sexual assault of the
16 24 year old female victim.

17 Q Did you attempt to have a conversation with
18 Michael's parole officer from Spring Mountain?

19 A I'm sure I did, because I indicated that I
20 was unable to connect with him.

21 Q Right. On page four of your report, didn't
22 you state: Efforts to obtain an interview with his,
23 Michael's, parole officer had been unsuccessful?

24 A Yes.

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1 Q Now, that's a parole officer that works for
2 the same probation and parole department that you worked in
3 back then?

4 A No, sir.

5 Q Is parole officers --

6 A That's a separate and distinct agency.

7 Q Well, juvenile services, right?

8 A I believe so. I'm not --

9 Q But, I mean, it's --

10 A It's over my --

11 Q You were a parole or probation officer?

12 A Right.

13 Q And you couldn't get in touch with another
14 State of Nevada parole officer?

15 A I was not able to at that time.

16 Q How much time and effort did you make to try
17 and get in touch with that officer?

18 A I would imagine I called and left a message
19 and then followed up with another call perhaps and perhaps
20 another message.

21 Q And who was his parole officer back then, do
22 you recall?

23 A I don't recall.

24 Q Finally, you wrote an evaluation in your

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1 presentence report, did you not?

2 A Yes, I did.

3 Q And that's contained on page seven?

4 A Yes.

5 Q And you gave the opinion that this
6 individual, meaning Michael, was very personable, seems
7 rather bright, and possesses the ability to communicate
8 effectively.

9 You stated that, did you not?

10 A Yes, sir, I did.

11 Q What do you base that on?

12 A I base it partly on his written statement, a
13 lot of misspelled words, but there were a lot of reports
14 that would suggest that he was brighter than the average --

15 Q All right.

16 A -- that passed through my office.

17 Q Did you also base this opinion on your
18 interview of him?

19 A Yes.

20 Q How did you end your evaluation?

21 Could you please read that to
22 the jury, in other words, the next sentence?

23 A Hopefully he will benefit from the
24 therapeutic measures, counseling services,

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1 vocational training and academic opportunities
2 within the prison system.

3 Q Do you have an independent recollection of
4 your interview with Michael Ripppo?

5 A Yes, I do.

6 Q Okay. Is this Michael sitting next to me?
7 (Indicating)

8 A Yes.

9 MR. WOLFSON: That concludes my examination.

10 Thank you.

11 THE WITNESS: Yes, sir.

12 THE COURT: Redirect?

13 MR. HARMON: Thank you, Your Honor.

14

15 REDIRECT EXAMINATION

16 BY MR. HARMON:

17 Q Mr. Keough, after you had made your
18 evaluation of Mr. Ripppo, the defendant, did you make a
19 recommendation to Judge Guy regarding his punishment?

20 A Yes, I did.

21 Q For sexual assault?

22 A Excuse me. Yes, I did.

23 Q What did you recommend?

24 A Life with the possibility of parole.

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NR1P0-07058-R0003537

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1 Q You've been asked a number of questions on
2 cross-examination about Exhibit 120 --

3 A Yes.

4 Q -- the statement of the defendant.

5 A Yes.

6 Q Is that a statement which would have been
7 prepared by him after he entered pleas of guilty --

8 A Yes.

9 Q -- to sexual assault and burglary?

10 A Immediately upon receiving a referral from
11 the court, generally the next morning, I would stop by the
12 jail -- I did most of my Jail business in the morning -- and
13 leave it for him.

14 Q Would the defendant be made aware that this
15 statement was being prepared in connection with a
16 presentence investigation?

17 A Yes, sir. There was a cover letter or form
18 for that.

19 Q And, therefore, that any statement he made
20 is something that his sentencing judge would be considering
21 at the time of the formal rendition of sentence?

22 A I'm sure.

23 MR. HARMON: Thank you.

24 That's all, Your Honor.

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10

1 THE COURT: Anything else?

2

3

RECROSS-EXAMINATION

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BY MR. WOLFSON:

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Q Mr. Keough, back in 1982, can you give us an

6

estimate of how many presentence reports you wrote for

7

offenders that were found guilty or pled guilty to crimes

8

that carried possible life sentences?

9

A That would be pretty hard to do.

10

Q Is this the only one you did --

11

A No.

12

Q -- a P.S.I. on?

13

A No.

14

Q Isn't it true that it's quite common for a

15

person who is found guilty, whether by jury or by guilty

16

plea, of a crime that carries a possible life sentence, to,

17

in fact, receive a recommendation from the probation

18

department for a life sentence?

19

A No.

20

Q So if I brought in somebody from the

21

probation department who has the statistics on people who

22

were found guilty of sexual assault, where the possibility

23

was five to life, your opinion is that it was uncommon to

24

get a recommendation from the probation department for a

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1 life sentence?

2 A It's easier for me to answer it the other
3 way.

4 It would be uncommon to receive
5 less than the maximum sentence. Half of them or what?

6 Q I'm talking about a recommendation from the
7 probation department --

8 A Okay.

9 Q -- not what the person gets in court.

10 A Okay.

11 Q I'm talking about the recommendation from
12 the probation department.

13 It was common, on a sexual
14 assault case, for P and P to recommend life, wasn't it?

15 A I don't believe so. I'd have to say no.

16 Q I don't have --

17 A I have to think about it a little longer
18 than the other, because the other was easy. I know we don't
19 always, but generally.

20 MR. WOLFSON: I have no further questions.

21 MR. HARMON: Nothing further, Judge.

22 THE COURT: Thank you, Mr. Keough.

23 You are excused.

24 THE WITNESS: Thank you, Judge.

003534

1 (Whereupon, the witness
2 was excused.)

3 THE COURT: Call your next witness, please.

4 MR. HARMON: Howard Saxon.

5
6 Whereupon,

7 HOWARD LEE SAXON

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

12 THE CLERK: Thank you. Please be seated.

13 Would you state your name and
14 spell it for the record, please.

15 THE WITNESS: Yes. My name is Howard Lee
16 Saxon; S-a-x-o-n.

17
18 DIRECT EXAMINATION

19 BY MR. HARMON:

20 Q Mr. Saxon, what is your business or
21 occupation?

22 A I'm a state parole and probation officer.

23 Q How long have you worked as a state parole
24 and probation officer?

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1 A Approximately ten years, ten months.

2 Q With whom are you employed?

3 A The State of Nevada Division of Parole and
4 Probation.

5 Q Were you employed in that capacity in
6 February and March, 1992?

7 A Yes, I was.

8 Q During that period of time, did you become
9 involved in the supervision of a subject identified as
10 Michael Damon Rippo?

11 A Yes, I did.

12 Q Do you recall what the offense was, in
13 connection with your supervisory duties regarding Mr. Rippo?

14 A Yes. Mr. Rippo was a parolee for sexual
15 assault.

16 Q Do you either independently recall or do you
17 have records that you can refer to to indicate what the date
18 was of Mr. Rippo's parole on his conviction for sexual
19 assault?

20 A Yes, I do. I have a copy of Mr. Rippo's
21 parole agreement.

22 Q What was the date of his parole?

23 A Mr. Rippo was granted parole on October
24 24th, 1989.

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1 MR. HARMON: Your Honor, may I approach the
2 witness?

3 THE COURT: You may.

4 MR. HARMON: You just referred, Mr. Saxon,
5 to having a copy of the parole agreement.

6 I'm showing you now what the
7 clerk has marked as proposed Exhibit 121.

8 (Whereupon, as requested by
9 counsel, Plaintiff's Exhibit
10 121 was marked for
11 identification.)

12 BY MR. HARMON:

13 Q Do you recognize what proposed 121 is a copy
14 of?

15 A Yes, I do.

16 Q What is it?

17 A It's a copy of Mr. Rippo's parole agreement.

18 Q Is it a document which reflects a signature
19 by the parolee, Michael Rippo?

20 A Yes, it is.

21 Q Is proposed Exhibit 121 a true and accurate
22 copy of the original parole agreement?

23 A Yes, it is.

24 MR. HARMON: Your Honor, the State offers
proposed Exhibit 121.

MR. DUNLEAVY: No objection, Your Honor.

003537

THE COURT: 121 will be admitted.

(Whereupon, State's Exhibit
121 was admitted into
evidence.)

MR. HARMON: Thank you.

BY MR. HARMON:

Q In the parole agreement, which is now before
the Court as Exhibit 121, are certain terms and conditions
set forth that the parolee must comply with if he is to
satisfy the conditions of his parole?

A Yes, they are.

Q Was there a condition that related to
employment?

A Yes, there was -- yes, there is.

Q What is that condition, Mr. Saxon?

A That is Condition 4; and it's also addressed
in -- in a special condition of parole, which is special --
which is Condition 13.

Q What were the terms of the parole agreement
regarding employment of the defendant?

A Rule 4 reads: Employment and/or program:
You shall seek or maintain employment or maintain a
program approved by the Department of Parole and
not change such employment or program without with
first obtaining permission;

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And Rule 13: Special
conditions of your parole: Special Condition 2
reads: Maintain steady employment.

Q In Exhibit 121 of the parole agreement, is
there also a condition that relates to narcotic drugs and/or
alcohol?

A Yes, there are two special conditions -- or
two conditions that refer to that.

Q What are those conditions?

A Rule 6: Intoxicants: You shall not --
you shall not drink or partake of any alcoholic
beverage -- in Mr. Rippo's case -- to excess.

Upon request by any parole or
peace officer, you shall submit to a medically
recommended test for blood alcohol content.
Failure to submit shall constitute a violation of
your parole. Test results of .1 on blood alcohol
or higher shall be sufficient proof of excess.

And Rule 8: Narcotics, reads:

You shall not use, purchase nor
possess any narcotics drug, nor any dangerous drug
unless first prescribed by a licensed physician.
You shall submit to narcotics or drug testing as
required by any parole officer.

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