

1 into evidence, put the red seal on the back and impound it.

2 Q All right. You spoke of a brown paper bag and
3 then an envelope. Let's start with the bag first. Here's
4 proposed Exhibit 155. Do you recognize that?

5 A Yes, I do.

6 Q And what do you recognize that to be?

7 A That is the pneumatic tube. It's item three on
8 my diagram and it was collected at the scene on the shoulder.

9 Q Now, do you -- on your diagram, State's 148, do
10 you have a legend on the side which corresponds to the
11 particular items?

12 A Yes, I do.

13 Q And then where on this -- and I'm going to zoom
14 in so we can see it better.

15 A Okay.

16 Q Where is -- number 3, you said?

17 A It's on the shoulder.

18 Q I apologize. When you say three, are you
19 referring to the number that you assign to it?

20 A Yes. It's the number that we assign to it at
21 the scene and then it's impounded under the same number.

22 Q All right. It's a different number that I just
23 gave to you?

24 A Yes.

25 Q Okay.

1 A Number three, right there. You can see number
2 three.

3 Q All right. Now, this particular piece of
4 evidence, this envelope that we have here -- or bag, is that
5 in the same or substantially similar condition other than the
6 cut that's already been made along the side?

7 A Yes, it is. It's had a blue forensic seal
8 attached which means it's been opened and a chain of custody
9 with somebody at the forensics section and then it's --
10 everything else is intact.

11 Q Okay. Now, going over the seals, is there a
12 red seal at the top?

13 A Yes. The red seal is the one that I place when
14 I impound it into evidence. It has my initials and my P
15 number, which is my identification number with the department,
16 and then the date that I seal it.

17 Q All right. You spoke of a blue seal.

18 A Mm-hmm.

19 Q This?

20 A Yes. There's a blue seal down here and it has
21 a -- another person's initial and P number and the date they
22 got it.

23 Q In your training and experience, have you come
24 across these blue seals before?

25 A Yes, I have.

1 Q And the blue seals are associated with what
2 part of the Metropolitan Police Department?

3 A Our forensic laboratory section. They do our
4 comparison of DNA, of latent prints, firearms.

5 Q So is that seal put on after you impounded this
6 piece of evidence with the vault?

7 A Yes, it was.

8 Q Okay.

9 MR. PESCI: Move for the admission of State's 155
10 and its contents.

11 THE COURT: Any objection?

12 MS. ARMENI: No, Your Honor.

13 MR. GENTILE: No, objection.

14 THE CLERK: 155 and 155 A.

15 THE COURT: And contents.

16 MR. ARRASCADA: No, Your Honor.

17 (State's Exhibits 155 and 155A admitted.)

18 BY MR. PESCI:

19 Q All right. Could you take out what's in 155.
20 What are we looking at?

21 A This is a pneumatic bank tube. It was located
22 on the side shoulder and it was out of place, so it was
23 something that I collected.

24 Q Okay. Later on was that processed?

25 A Yes, it was processed for latent prints later.

1 Q What does it mean to process something for
2 latent prints?

3 A Latent prints are prints that you can't see,
4 you can't physically see, so we apply powders or chemicals to
5 allow us to visualize it and to either photograph it or
6 actually recover it with a tape lift or we have micro seal
7 which is kind of a putty that's put on it and you can pull it
8 off of weird surfaces like this.

9 Q Was that done in this case?

10 A Yes. In this case, we superglue processed it,
11 and -- which is a process that we have a tape -- you put
12 superglue in a tin, it heats it up, and then water will come
13 in and actually it will deposit on the print that is on your
14 item. And because of the type of surface this item was, I
15 knew that it would work on this type of item.

16 Then I processed it with powder and was able to
17 recover a partial print on it.

18 Q All right. Now, you, I think, testified in the
19 beginning that you have some training and experience on latent
20 prints?

21 A Yes, I do.

22 Q All right. You just spoke of a partial print.
23 What is a partial print?

24 A A partial print is not a perfect print, so it's
25 not an entire finger, it's not an entire palm print. It's

1 just a little piece of one of the sections of your hand.

2 Q How do you preserve or lift or obtain a print
3 from the scene?

4 A In this case, I used the micro seal which we
5 put it on and it adheres to the surface. It dries. And then
6 when I lift it, you can actually see the print that was on it.

7 Q What do you do to lift it?

8 A The actual putty like substance is pulled off
9 of it and then photoed and that is our lift in this case. In
10 other cases we use tape.

11 Q Now, are you an examiner of fingerprints?

12 A No, I'm not.

13 Q So as far as comparing that fingerprint with
14 something else, is that done by you or someone else?

15 A That would be done in our latent print
16 section --

17 Q Okay.

18 A -- forensics.

19 Q Would you mind putting that back in 155.
20 I'm showing you State's Proposed Exhibit 152 and ask
21 you if you recognize this.

22 A Yes, I do.

23 Q All right. How do you recognize that?

24 A It has the event number. It has my signature
25 and the initials and date that I spoke of before on the back.

1 Q And has that been opened?
2 A Yes, it has.
3 Q Okay. Other than that opening, is it in the
4 same or substantially similar condition as when you impounded
5 or collected that piece of evidence?
6 A Yes, except for adding the evidence seal from
7 our evidence vault.
8 Q That was something after you impounded it?
9 A After we impounded it, they put a label on it
10 so that they can keep track of it.
11 Q Are you the person that impounded it?
12 A Yes.
13 MR. PESCI: I move for the admission of 152.
14 MS. ARMENI: No, objection.
15 MR. ARRASCADA: No, objection.
16 THE CLERK: What number?
17 THE WITNESS: 152.
18 MR. PESCI: And it's contents.
19 (State's Exhibit 152 admitted.)
20 MR. PESCI: Is that admitted, Your Honor?
21 THE COURT: Yes. I'm sorry.
22 MR. PESCI: I apologize.
23 BY MR. PESCI:
24 Q Ma'am, could you take out what's inside there.
25 A (Complying.)

1 Q And what do we have there?

2 A This is 33 Palomino Club advertisement cards.

3 Q And where were they found?

4 A These were found on the shoulder area next to

5 the victim. It's number two --

6 Q Okay. So going back to State's 148 --

7 everything that's circled now, marked on your legend is number

8 two --

9 A Yes.

10 Q -- and that appears next to the body?

11 A Yes.

12 Q Okay. Could you return those to the envelope,

13 please.

14 A Yes.

15 Q Thank you.

16 Was there other evidence found in the area where the

17 body is?

18 A Yes.

19 Q Showing you specifically State's 154, do you

20 recognize that?

21 A Yes, I do.

22 Q What is that?

23 A This is a -- 28 Palomino VIP cards.

24 Q And where did those come from?

25 A These came from the vehicle that you see here,

1 the Kia. They were --

2 Q Did you number that for the legend or is there
3 any sort of numbering on there?

4 A No, there is not.

5 Q Was there any other car out there?

6 A No, it was the only car out there.

7 Q Okay.

8 A This was located in a bag on top of the front
9 passenger seat.

10 Q Okay. Was that located at that time or later
11 on?

12 A We did a cursory search there, but later we
13 actually brought it back to our crime scene lab, sealed it,
14 and then we opened it back at the lab and searched it and did
15 our processing.

16 Q Okay. When you opened it back at the lab and
17 did your processing, is that where you obtained the specific
18 items?

19 A Yes.

20 Q And what's the number on those again?

21 A 154.

22 MR. PESCI: Move for the admission of 154 and its
23 contents, Your Honor.

24 THE COURT: Any objection?

25 MS. ARMENI: No, objection.

1 State's 11, do you recognize that?

2 A Yes, sir, I do.

3 Q Now, what did you say you do with that -- with
4 this scene when you approached and saw this?

5 A Again, I don't remember the exact order, but I
6 know -- I don't remember the young man and the two females
7 being up close to the body, but I remember backing them off,
8 securing the scene with crime tape, meaning putting up the
9 crime -- the yellow tape on both ends of the scene so nobody
10 else could interfere with the scene. I approached the vehicle
11 to make sure it was unoccupied. I did that with my gun drawn.
12 I believe I was still the only officer out there at that time.

13 Q Let me stop you for a second. You mentioned a
14 minute ago something about tape, some kind of -- let me zoom
15 in on 11. Are we looking at some tape here?

16 A Yes. It's blurry, but I believe that's it,
17 yes, sir.

18 Q All right. Let's do it this way. I'm showing
19 you State's 11 up close.

20 A Yes, that's the crime scene tape that we --

21 Q All right. And you were involved -- or part of
22 the process of securing that scene?

23 A Yes, sir.

24 Q What's the rationale for securing the scene?

25 A Just to secure any evidence or anything that

1 might be in the scene to keep unauthorized persons out of
2 there. We back any witnesses or anybody else that would have
3 arrived up beyond to scene and nobody else arrived in there
4 until I'm relieved by a supervisor or superior officer.

5 Q Did you call all the people in? You just
6 testified you weren't sure if there was anyone else out there
7 at that point?

8 A No, I do not recall if another officer was
9 out -- I was the first officer to arrive and I don't remember
10 when the next one arrived.

11 Q But did you call in asking for others to
12 arrive?

13 A I don't know if I called and asked for others.
14 I know others were dispatched as well. I know others were in
15 route as I was already out there.

16 Q Okay. And we've seen some other cars in these
17 photos and those were other police personnel?

18 A Yes, sir.

19 Q Okay. You said that you approached this car
20 depicted in State's 10 and you said you had your gun drawn?

21 A Yes, sir.

22 Q Why was that?

23 A The unknown. I'm not sure what was in there,
24 if there was another -- if there was a suspect in there, if
25 there was another victim in there. You don't know what you're

1 approaching. You can't see inside the vehicle, so...

2 Q Did you find anything?

3 A Nothing -- no people.

4 Q All right. Did you actually open the door and

5 go look --

6 A No, not at all.

7 Q What did you do, just looking to ascertain

8 whether there was --

9 A What's called quick peeks. We approach it down

10 low, kind of, you know, where you're using it as cover or

11 concealment from what might be in there and quick peeks

12 looking up in the window going back down, doing that all the

13 way around the vehicle to make sure nobody was in there.

14 Q Did you have a flashlight or something with

15 you?

16 A I know I carried a flashlight. I don't know --

17 Q Would that be something you would normally use?

18 A Absolutely.

19 Q Okay. And then after you -- is it commonly

20 referred to as clear the vehicle?

21 A Yes.

22 Q Did you clear the vehicle?

23 A Yes.

24 Q To make sure there's no one else there?

25 A That's correct.

1 Q Did you also look at the body?

2 A Yes, sir.

3 Q When you looked at the body, did you make a

4 determination as to whether you thought the person was alive

5 or not?

6 A He appeared dead to me.

7 Q You mentioned that you backed up the male and

8 the two females?

9 A Yeah. I -- I don't remember how far I -- back

10 they were or exactly where they were in relation to the body,

11 but, yeah, just to give ourselves enough area to keep the

12 scene secure.

13 Q And did you ask some questions about what they

14 had seen and heard?

15 A Yes.

16 Q Eventually were they asked to fill out

17 voluntary statements?

18 A Yes, sir.

19 Q Were you a part of that process or do you know

20 if other personnel was doing that?

21 A I don't recall, but I -- I think I may have

22 handed them the statements to fill out while waiting for

23 others or before -- I don't recall if I gave them the

24 statement or not.

25 Q Okay. At a scene like this, at some point, do

1 other police personnel take over?

2 A Yes, absolutely.

3 Q And how does that come about?

4 A Once a supervisor arrives, they would take over
5 and say, Hey, I've got it from here, go sit over there and
6 make sure no cars come into the scene or go over there, help
7 out with witnesses. If -- I know homicide would have
8 responded out and ID techs or crime scene analysts would have
9 responded out there, and once the homicide -- being their
10 case, they would have taken over as well.

11 Q Before homicide gets there, is it one of your
12 immediate supervisors in patrol that's in charge?

13 A Yes, or a senior officer.

14 Q And was the scene handed over, then, to a
15 senior officer at some point?

16 A Yes.

17 Q Did you remain out at that scene?

18 A Oh, yes, I was there for hours. Yes, sir.

19 Q Were you a part of securing that scene --

20 A Yes, sir.

21 Q -- out there for hours? Is that a yes?

22 A Yes, sir, I'm sorry.

23 Q It's being recorded, sir.

24 A Yes, sir.

25 MR. PESCI: Pass the witness.

1 THE COURT: All right. Who would like to go next?

2 MS. ARMENI: We have no questions, Your Honor.

3 THE COURT: All right. Mr. Arrascada.

4 MR. ARRASCADA: No questions, Your Honor.

5 THE COURT: Detective, thank you for your testimony.

6 Please don't discuss your testimony with anyone else who may
7 be called as a witness and you are excused.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: All right. State, call your next
10 witness.

11 MR. PESCI: State calls Paijik Karlson.

12 THE COURT: Come on up to the witness stand, please,
13 and please remain standing, facing our court clerk who will
14 give the oath.

15 PAIJIK KARLSON, STATE'S WITNESS, SWORN

16 THE CLERK: Please be seated and please state and
17 spell your name.

18 THE WITNESS: My name is Paijik Karlson,
19 P-a-i-j-i-k, Karlson with a K, K-a-r-l-s-o-n.

20 DIRECT EXAMINATION

21 BY MR. PESCI:

22 Q Ma'am, where are you from?

23 A Thailand.

24 Q And is English your second language?

25 A Yes.

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1 Q Do you feel comfortable enough to speak to the
2 jury in English today?

3 A Yes.

4 Q Okay. If you have any questions of what we're
5 asking, just stop us; is that all right?

6 A Yes.

7 Q Who was Timothy Hadland to you?

8 A Timothy Hadland's my boyfriend.

9 Q And did he have a nickname?

10 A TJ.

11 Q TJ?

12 A Yes.

13 Q When did you meet TJ?

14 A December 25, 2004.

15 Q Okay. And how did you meet?

16 A I met him at the bar.

17 Q At the bar? How did you start to have a
18 relationship? Did you start dating? What happened?

19 A We talked first and we dated after that.

20 Q And how long did you date for?

21 A Six months by the phone.

22 Q I'm sorry, by the phone?

23 A Six months by the phone.

24 Q Okay. Then eventually did you two live
25 together?

1 A Yes.

2 Q Do you know about when that was?

3 A That was 2005 -- 2004 when I come back from

4 Thailand.

5 Q When who came back from Thailand?

6 A Me.

7 Q Did TJ go with you?

8 A No, he picked me up from the airport.

9 Q Did you know TJ to work during the time period

10 when you were dating?

11 A He worked, yes.

12 Q Do you know where he worked?

13 A He worked at the -- he worked by himself. He

14 worked with the --

15 Q He worked --

16 A He had his own business.

17 Q He had his own business? All right.

18 And whatever your answer is, it just needs to be out

19 loud so the woman who is recording it will catch it.

20 A Okay.

21 Q Is that a yes?

22 A Yes.

23 Q Okay. Did you know him to ever work at the

24 Palomino Club?

25 A Yes, after we lived together.

1 Q So after you and TJ were living together, TJ
2 was working at the Palomino Club?
3 A Not the first time. After that.
4 Q Do you know how he got the job there or how
5 that came about?
6 MR. GENTILE: Objection. Foundation.
7 THE COURT: All right. Sustained.
8 MR. PESCI: I'm asking if she knows how that came
9 about.
10 THE COURT: Well, this is a yes or no answer.
11 Do you know?
12 THE WITNESS: He know someone so he tried to get a
13 job.
14 BY MR. PESCI:
15 Q Okay. Do you know who it was that he knew?
16 MR. GENTILE: Foundation.
17 THE COURT: Well, I think we have to know if she
18 knew and then he could say, How do you know, so...
19 MR. GENTILE: Well, it should be --
20 THE WITNESS: He tell me he get a job, yes.
21 MR. GENTILE: Can she be ordered to answer yes or
22 no?
23 THE COURT: Okay. If it's a yes or no question --
24 THE WITNESS: Yes.
25 THE COURT: -- just try to answer yes or no --

1 THE WITNESS: I'm sorry.

2 THE COURT: -- and then Mr. Pesci can follow up with
3 how do you know or what do you know or --

4 THE WITNESS: Okay.

5 THE COURT: -- so on. Okay?

6 BY MR. PESCI:

7 Q How do you know?

8 A He knows friend and he go there and get --
9 apply and he --

10 Q Do you know who that friend was?

11 MR. GENTILE: Objection. Foundation.

12 MR. PESCI: Well, it's whether she knows or not. I
13 don't see how she's --

14 THE COURT: Right. No --

15 MR. GENTILE: Well, but he's got to establish how
16 she learned. So I'll say it differently --

17 THE COURT: Well, if she doesn't know, then how do
18 we ask her how did she learn?

19 MR. GENTILE: Okay. I agree with that.

20 THE COURT: First he can ask her if she knows and
21 then the follow up would be, Well, how is it that you know
22 this, or, How did you learn that information, or whatever.

23 BY MR. PESCI:

24 Q Let me ask you this way: How did you know that
25 TJ worked at the Palomino?

1 A He knows friend -- he tell me. He go get a job
2 and then...

3 Q So TJ told you that?

4 A Yes.

5 Q So is your knowledge about this from TJ
6 himself?

7 A Yes.

8 Q Okay. Do you know who the friend is that
9 helped him with the job at the Palomino?

10 MR. GENTILE: Objection. Hearsay.

11 MR. PESCI: I said does she know, Judge, that's the
12 question.

13 THE COURT: Well, do you know, yes or no, who the
14 friend was?

15 THE WITNESS: I know the name, but I don't -- never
16 met him.

17 THE COURT: You never met him so you didn't witness
18 a conversation or anything like that; is that right?

19 THE WITNESS: Yes. He told me, but he told me.

20 THE COURT: TJ told you?

21 THE WITNESS: Yes.

22 THE COURT: But you never saw this friend?

23 THE WITNESS: No.

24 THE COURT: Okay. Go on, Mr. Pesci.

25 MR. PESCI: Thank you, Judge.

1 BY MR. PESCI:

2 Q What did you know about what TJ did at the
3 club?

4 MR. GENTILE: Same objection. Hearsay.

5 MR. ARRASCADA: Objection, hearsay.

6 MR. GENTILE: Without a foundation.

7 THE COURT: Yeah.

8 BY MR. PESCI:

9 Q Did TJ ever talk about his job? I mean, you
10 guys are dating, you're living together. Does he come home at
11 night and say, I'm not going to talk about my day's work?

12 A We don't talk -- he work first and he --
13 usually we work, but we don't talk about work.

14 Q Okay.

15 A He tell me he get a job and I drop him off most
16 of the time.

17 Q Did you actually drop TJ off at work?

18 A Yes.

19 Q At the Palomino?

20 A Yes.

21 Q All right. And on any of these occasions where
22 he went to work at the Palomino, when he came back home after,
23 did he ever talked to you -- TJ, talk to you about him working
24 at the Palomino and his time at the Palomino?

25 A Some things, sometimes, yes, but not a lot.

1 Q Okay. Did there come a point in time when TJ
2 was no longer working at the Palomino as far as you knew?
3 A He tell me about it, yes.
4 Q Okay. What did he tell you?
5 MR. GENTILE: Objection, hearsay.
6 MR. ARRASCADA: Hearsay.
7 THE COURT: Sustained.
8 MR. PESCI: It's not being offered for the truth of
9 the matter asserted, Your Honor.
10 THE COURT: Well, then why is it being offered?
11 MR. GENTILE: Then it's not relevant.
12 MR. PESCI: To explain the relationship that he had
13 with the other individuals when he was or was not working.
14 THE COURT: Well, that's still then being offered
15 for the truth.
16 At some point in time you became aware that TJ was
17 no longer working at the Palomino; is that right?
18 THE WITNESS: He tell me he -- yes.
19 THE COURT: Okay.
20 THE WITNESS: He tell me he --
21 THE COURT: Okay. Go on, Mr. Pesci.
22 BY MR. PESCI:
23 Q So don't say what he said. Did you have a
24 conversation with TJ about him no longer working at the
25 Palomino Club?

1 A Yes.

2 Q Now, when he had these conversations with you
3 about him no longer working at the Palomino, how did TJ
4 appear? What was his demeanor?

5 A I need --

6 MR. GENTILE: Objection. That actually is an
7 assertion and it's out of court. I object.

8 MR. PESCI: It's her observation. She's the
9 recipient of --

10 THE COURT: Overruled.

11 BY MR. PESCI:

12 Q She's saying you can answer the question.
13 That's what she meant by overruled.

14 A But I need it one more time. Can you answer
15 that --

16 Q All right. When TJ would talk to you about him
17 no longer working at the Palomino, don't tell us what he said,
18 but when he talked to you about no longer working at the
19 Palomino, how did he appear to you --

20 MR. GENTILE: Objection. Foundation. That --

21 THE WITNESS: How did he appear?

22 MR. GENTILE: May we approach?

23 THE COURT: Yes.

24 Well, we're going to argue and then --

25 (Off-record bench conference)

1 THE COURT: All right. Go on, Mr. Pesci.

2 Mr. Pesci's going to ask you some other questions.

3 Go on.

4 BY MR. PESCI:

5 Q Let's put a time frame on this. I want to kind
6 of go off the subject and we'll come back in a few minutes.

7 I want you to focus on May 19, 2005. Did there come
8 a time when you and TJ went camping at Lake Mead?

9 A Yes.

10 Q Now, who did you go out there with?

11 A TJ.

12 Q How did you get there?

13 A He drive.

14 Q What did you drive?

15 A His --

16 Q I'm sorry?

17 A We drive truck.

18 Q A truck?

19 A Yes.

20 Q Did you say Sportage?

21 A Yes.

22 Q And was that the car that you drove out there
23 in?

24 A Yes.

25 Q Whose idea was it to go camping?

1 A TJ.

2 Q Did you want to go camping?

3 A No.

4 Q Had you been camping before?

5 A No.

6 Q With that time in your head, how long before

7 you went camping did TJ stop working at the Palomino?

8 A About two or three week.

9 Q Two or three weeks?

10 A About -- before he quit.

11 Q So two or three weeks before May 19th of 2005?

12 A Yes.

13 Q Now, between that time of going camping and the

14 time that TJ stopped working at the Palomino, were the two of

15 you still living together?

16 A Yes.

17 Q Did you speak with him often?

18 A We speak a lot, yes.

19 Q Did -- had you been living with him for -- how

20 long at that time?

21 A About a year.

22 Q Without saying what he said, did you have

23 conversations on many different subjects with TJ during the

24 time that you lived together?

25 A Say that again, please. Sorry. Slow, please.

1 Q I'm sorry. I apologize.
2 THE COURT: Did you talk about different things with
3 him?
4 THE WITNESS: We talk many things, yes. Yes.
5 BY MR. PESCI:
6 Q Did you know TJ well from living with him?
7 A He's a good man.
8 Q Okay. Did you ever see him emotional?
9 A At time, yes.
10 Q Okay. Describe the emotional --
11 THE COURT: Well, just -- no. Describe what you
12 observed.
13 THE WITNESS: He nervous.
14 BY MR. PESCI:
15 Q Okay. And how is it that you, knowing him, saw
16 that he was nervous? What was nervous about him?
17 A Usually he calm, but he talk. He worried
18 about -- he's getting worried, getting nervous.
19 Q Getting worried about what?
20 MR. GENTILE: Objection.
21 THE COURT: Sustained.
22 THE WITNESS: He --
23 THE COURT: No, no. When I --
24 MR. PESCI: Hold on a second.
25 THE COURT: Mr. Pesci's going to ask you a different

1 question.

2 BY MR. PESCI:

3 Q Did you have conversations, after the time TJ
4 left the Palomino and before you went camping, about him
5 leaving the Palomino?

6 THE COURT: Did you talk about him leaving the
7 Palomino?

8 THE WITNESS: Yeah, he talk about that. He --

9 THE COURT: Okay. Now, there's going to be
10 another --

11 Try to have smaller sentences, Mr. Pesci.

12 MR. PESCI: Sure.

13 BY MR. PESCI:

14 Q All right. So we know what time we're talking
15 about. We're talking about after TJ left the Palomino and
16 before camping. Okay?

17 A Okay.

18 Q All right. You said you had conversations
19 about TJ leaving the Palomino? That's what you just said a
20 minute ago?

21 A Yes.

22 Q All right. Describe how TJ was when he talked
23 to you about that. Don't say what he said, just how did he
24 appear to you?

25 MR. ARRASCADA: Your Honor, I have to object to

1 foundation. It's asking for hearsay.

2 THE COURT: Overruled.

3 MR. PESCI: You can answer that.

4 THE COURT: You can say what you observed about his
5 physical appearance.

6 THE WITNESS: Okay.

7 MR. GENTILE: That's asked and answered. She's
8 already --

9 THE WITNESS: He's nervous and he wasn't himself.

10 BY MR. PESCI:

11 Q Nervous and wasn't himself?

12 A Yes.

13 Q And that's when he was talking about leaving
14 the Palomino?

15 A Yes.

16 Q All right. Now, focusing on that night, the
17 19th, going back to that night, what did you do when you first
18 got out there to the lake?

19 A I take out my food, start cooking.

20 Q And did TJ ever get a phone call while he was
21 out there?

22 A Not at first. He called his mom first and...

23 Q Now, when he called his mom, were you there
24 with him?

25 A Yes.

1 Q Did you have a campsite set up?
2 A We set up already, yes.
3 Q When TJ was on the phone, was he near you?
4 A He just near -- around enough to hear when he
5 talked to his mom.
6 Q Okay. Could you hear TJ while he was on the
7 phone?
8 A Yes.
9 Q Could you hear the other person on the phone?
10 A No.
11 Q And how did you know that it was his mom? What
12 was it about what he said?
13 A Because he tell his mom -- he say he feel good,
14 he's happy.
15 Q And did you see TJ make that call to his
16 mother?
17 A He used my phone.
18 Q Did TJ receive a call?
19 A Yes.
20 Q And was that on your phone or a different
21 phone?
22 A On his phone.
23 Q Okay. Had you seen TJ's phone before this?
24 A Yes, I see.
25 Q Where did TJ get that phone?

1 come -- go meet Angelo.

2 Q Meet who?

3 A Angelo.

4 Q And who -- do you know who Angelo is?

5 A He's coworker.

6 Q Coworker of who?

7 A The Palomino Club.

8 Q The Palomino Club. Did you ever meet Angelo?

9 A Yes.

10 Q And when did you meet him?

11 A I see him at work and he come in the house one

12 time.

13 Q When you say in the house, whose house?

14 A Our house. We rent house.

15 Q Where you and TJ were living?

16 A Yes.

17 Q So TJ tells you he was going to go meet Angelo?

18 A Yes.

19 Q Did he tell you why?

20 A Yes.

21 Q What did he say?

22 A He going to go get marijuana.

23 Q Marijuana?

24 A Yes.

25 Q Did you want the marijuana at your -- where you

1 were camping?

2 A No.

3 Q What did you say?

4 A I don't want it. He say he's going to go get

5 it.

6 Q Okay. And based on that, did TJ leave the

7 campsite?

8 A Yes.

9 Q He left where you were?

10 A At the lake.

11 Q Okay. When he left, was it dark out?

12 A We set a fire. Yes, it dark.

13 Q Okay. You set -- you had a fire and it was

14 dark?

15 A Yes.

16 Q Do you remember about what time that was when

17 he left?

18 A It was about -- between 9:00 and 10:00, between

19 that.

20 Q Okay. Did you ever see TJ again after he left?

21 A No.

22 Q At some point did you become concerned?

23 A Yes.

24 Q What did you do, based on that?

25 A I call my friend and I call his mom.

1 Q When you say his mom, do you mean TJ's mom?
2 A Yes.
3 Q Were you able to get ahold of TJ?
4 A No.
5 Q While you were on the phone and out there
6 looking, did something grab your attention?
7 A He never answered the phone.
8 Q Did you call TJ on his phone?
9 A Many time, yes.
10 Q You did not get an answer?
11 A No.
12 Q Did you ever see some lights out there that
13 kind of got your attention?
14 A I see one light when -- little high up the
15 hill, yes.
16 Q You saw a light up the hill?
17 A Yes.
18 Q What did you do?
19 A I did nothing. I just not feel good. I don't
20 know what happened. I just don't know.
21 Q Did you stay there at the campsite or did you
22 go somewhere else?
23 A I walked.
24 Q Where did you walk to?
25 A Try to get at the street.

1 Q Did you make it to the street or where did you
2 go to?

3 A No, I don't make it. It's too far.

4 Q Did you go somewhere else?

5 A I can't -- yes, I go, I walk, but I couldn't go
6 that far. I don't know way out.

7 Q Did you end up going back to the campsite or --

8 A Yes.

9 Q All right. And were you still trying to find
10 TJ?

11 A Yes.

12 Q At some point did the police come and speak
13 with you?

14 A Not that night.

15 Q Okay. When did they speak to you?

16 A In the morning.

17 Q And where did you spend the night?

18 A In the camp.

19 Q When they spoke to you in the morning, where
20 was that? How did that happen?

21 A Right outside when I tried to walk and they
22 have mobile homes -- have mobile homes to the sidewalk, the
23 side of the street.

24 Q Did you go to these mobile homes?

25 A Yes, I asked him -- I tried to get out, so I

1 talked to him and after that, cop come.

2 Q The police came?

3 A Yes.

4 Q And what did the police tell you?

5 A They tell me TJ's been killed.

6 Q Did they ask you questions about the night

7 before?

8 A No.

9 Q Did they talk to you about what had been going

10 on?

11 A No.

12 Q Did you eventually give them a statement?

13 A Yes.

14 Q Did they ask you questions during that

15 statement?

16 A Yes.

17 Q Did they ask you your knowledge about TJ

18 working at the Palomino?

19 A Yes.

20 Q Did they ask you --

21 MR. GENTILE: Objection. What they asked is

22 irrelevant. I mean, he could certainly ask her questions. He

23 can ask her about her knowledge, but --

24 THE COURT: Well, unless he's going to just what

25 information the police had, it can be considered for that, but

1 I don't know any relevancy beyond that.

2 BY MR. PESCI:

3 Q Did you talk to them about TJ working at the
4 Palomino?

5 A Yes.

6 Q And was that just the morning after TJ was
7 killed?

8 A Yes.

9 Q Did you talk to them about your understanding
10 of TJ's relationship with people at the Palomino?

11 A Yes.

12 Q Did you talk to them about a person named PK?

13 A Yes.

14 Q And what did you know about the relationship
15 between PK and TJ?

16 MR. GENTILE: Objection. Relevance.

17 MR. ARRASCADA: Objection; hearsay, relevance.

18 MR. GENTILE: And hearsay.

19 THE COURT: And foundation.

20 MR. GENTILE: And foundation. Mr. Pesci knows the
21 rules of evidence, Your Honor. This is --

22 THE COURT: Mr. Gentile, you don't need to
23 editorialize, please.

24 BY MR. PESCI:

25 Q We'll save the relevance for closing arguments.

1 But as far as your conversation with them, did you
2 talk to them about the relationship as you understood it
3 between PK and TJ?

4 MR. ARRASCADA: Objection. Hearsay.

5 MR. GENTILE: And relevance.

6 MR. ARRASCADA: And relevance.

7 THE COURT: And she can say if she -- all right.

8 Did you give them information about that
9 relationship?

10 THE WITNESS: Yes.

11 THE COURT: Okay.

12 Go on.

13 MR. PESCI: Thank you, Judge.

14 BY MR. PESCI:

15 Q Did you talk to the police about the
16 relationship between TJ and Little Lou?

17 MR. GENTILE: Your Honor --

18 MR. ARRASCADA: Same objection. May we approach?

19 THE COURT: I'll see counsel up here.

20 (Off-record bench conference)

21 THE COURT: The only relevance is to the course the
22 police took.

23 I have a question. How many police officers
24 interviewed you that morning?

25 THE WITNESS: One man, two women.

1 THE COURT: One man and two women.

2 THE WITNESS: Yes.

3 THE COURT: And were they wearing like police
4 uniforms or were they in plain clothes?

5 THE WITNESS: Plain clothes, not uniform.

6 THE COURT: Just regular clothes, okay. Thank you.
7 Mr. Pesci.

8 MR. PESCI: Thank you, Judge.

9 BY MR. PESCI:

10 Q Okay, ma'am, don't say what was said. What I
11 want to understand is did you talk to the police about the
12 relationship that TJ had with PK?

13 A Yes.

14 Q Okay. Did you talk to the police about the
15 relationship that TJ had with Little Lou?

16 MR. ARRASCADA: Your Honor, I'm going to object. It
17 lacks foundation. It's lacks relevance and it's calling for
18 hearsay.

19 THE COURT: Overruled.

20 BY MR. PESCI:

21 Q Do you know who Little Lou is?

22 A The son of Palomino Club.

23 Q How do you know that?

24 A Because he tell me.

25 MR. GENTILE: Objection. Foundation --

1 THE WITNESS: TJ tell me.

2 THE COURT: Sustained.

3 MR. GENTILE: Move to strike.

4 THE COURT: Sustained.

5 The only relevance is to what information the police
6 had and why they directed their investigation in a particular
7 way. So you can ask her questions just going to that,
8 Mr. Pesci.

9 MR. GENTILE: Is it stricken, Your Honor?

10 THE COURT: Sure.

11 BY MR. PESCI:

12 Q Have you been into the Palomino?

13 A Yes.

14 Q And when you were at the Palomino, did you ever
15 come into contact with anybody there by the name of Little
16 Lou?

17 A I worked there one night.

18 Q Okay. Did you ever come into contact with
19 someone by the name of Little Lou that night?

20 A Yes. He's -- he's my boss.

21 Q That night when you were there, Little Lou was
22 your boss?

23 A Yes.

24 Q Okay. So you actually had personal interaction
25 with the person named Little Lou?

1 A Yes.

2 Q Now --

3 MR. PESCI: Court's indulgence.

4 Pass the witness.

5 THE COURT: All right. Any cross from --

6 MR. GENTILE: Yes, please.

7 THE COURT: All right.

8 CROSS-EXAMINATION

9 BY MR. GENTILE:

10 Q These things that you told the police about the
11 relationship between TJ and PK, that's stuff that TJ told you;
12 am I right?

13 A Yes.

14 Q These things that you told the police about the
15 relationship between TJ and Little Lou, those are things that
16 TJ told you, correct?

17 A I talked to Lou, yes, Little Louis, yes.

18 Q You talked to Lou?

19 A Yes.

20 Q Okay. Now, I have some questions. You say
21 that Deangelo -- you called him Angelo?

22 A Yes.

23 Q But you know his name is Deangelo, right?

24 A Yes, Deangelo.

25 Q Describe him for us.

1 A He's black.

2 Q Okay.

3 A Short, 5 -- about 5 --

4 Q What did his hair look like? Do you remember?

5 A What his hair look like? Short.

6 Q When you knew him, he had short hair?

7 A Yes.

8 Q Okay. And when he came to your house, he had

9 short hair?

10 A Yes.

11 Q He didn't have curly dreadlock type hair?

12 A No.

13 Q Okay. Have you seen him since TJ died?

14 A One time.

15 Q And that was at your house?

16 A No, at the border -- the court.

17 Q At the court?

18 A Yes.

19 Q Okay. He had short hair then, right?

20 A Yes.

21 Q All right. When he came to your house, you say

22 he had short hair?

23 A Yes.

24 Q All right. And he -- can you see this man

25 here? See him?

1 A One time, yes. First night I worked.
2 Q Okay. He's never been to your house, has he?
3 A No.
4 Q Okay. What other people who work at the
5 Palomino were at your house?
6 A Only Deangelo.
7 Q Only Deangelo, right?
8 A Yes.
9 Q Okay. And TJ and Deangelo were friends; am I
10 correct?
11 A I thought -- yes.
12 Q You thought so?
13 A I thought so.
14 Q Right. TJ and Deangelo used to work together?
15 A Yes.
16 MR. PESCI: Objection. Calls for hearsay.
17 THE COURT: Lay a foundation.
18 MR. GENTILE: Okay.
19 BY MR. GENTILE:
20 Q You used to drop TJ off at the Palomino Club?
21 A Yes.
22 Q You used to pick him up at the Palomino Club?
23 A Yes.
24 Q TJ -- you saw that TJ worked out in front of
25 the Palomino Club?

1 A Yes.

2 Q He was a doorman?

3 A Yes.

4 Q He let people out of cabs and into the club?

5 A Yes.

6 Q Okay. And you saw that he worked together with

7 Deangelo, did you not?

8 A I don't saw, but I seen him, he's been around.

9 Q Okay. This name Linda, is that your real name?

10 A My nickname.

11 Q Your nickname?

12 A Yes.

13 Q You're a dancer, aren't you?

14 A Yes.

15 Q Okay. And you use the name Linda when you're

16 dancing?

17 A Yes.

18 Q Okay. And that's how you met TJ? You met him

19 at a bar?

20 A Yes.

21 Q And you were dancing at the bar?

22 A Yes.

23 Q And that was not the Palomino Club --

24 A No.

25 Q -- am I correct?

1 A No.

2 Q Different club?

3 A Yes.

4 Q You said that TJ worked by himself. He had his
5 own business?

6 A Yes.

7 Q What business was that?

8 A He worked for tile.

9 Q Tile?

10 A Patio, yes.

11 Q He laid tile?

12 A Yes.

13 Q Okay. You worked at the Palomino Club one
14 night?

15 A One night, yes.

16 Q Never again?

17 A No.

18 Q Never before?

19 A I wish I never been there.

20 Q And the only time that you had ever been to the
21 Palomino other than working would be to pick up TJ or drop TJ
22 off?

23 A Yes.

24 Q And then you would stay outside?

25 A Yes.

1 Q Now, on the night that you went to the lake
2 with TJ, the last night that you saw him, when he left you,
3 did you know how much money he had with him?

4 A Not much, about --

5 Q That's not the question I asked you. I said,
6 did you know --

7 A Yes.

8 Q How much?

9 A 40 or 50 bucks. That's what I see.

10 Q You saw him with about 40 or \$50?

11 A Between that, yes.

12 MR. GENTILE: If I may have a moment.

13 THE COURT: That's fine.

14 BY MR. GENTILE:

15 Q Now, you said that TJ -- his real name is
16 Timothy?

17 A Yes.

18 Q He's also been called TJ; am I right?

19 A Yes.

20 Q And some people call him cash daddy, don't
21 they?

22 A No.

23 Q He has a tattoo cash daddy, right?

24 A Yes. Yes, he has.

25 Q And some people call him cash daddy?

1 MR. PESCI: Objection. Asked and answered.
2 THE COURT: Overruled.
3 THE WITNESS: I don't know that.
4 BY MR. GENTILE:
5 Q You've never heard anybody call him that?
6 A No.
7 Q Okay. And Deangelo was at your home one time?
8 A One time, yes.
9 Q And how long before -- and this was after TJ
10 left the Palomino Club --
11 A I don't remember.
12 Q -- after he didn't work there anymore; am I
13 right?
14 A He still worked there.
15 Q When Deangelo came over?
16 A I believe he still worked there.
17 Q Okay. And did you see them cut up some money
18 that night?
19 A . I never see him cut up money.
20 Q You never saw that. Okay.
21 MR. GENTILE: Thank you.
22 THE COURT: Is that it, Mr. Gentile?
23 MR. GENTILE: That's it.
24 THE COURT: All right. Thank you.
25 Mr. Arrascada.

1 MR. ARRASCADA: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. ARRASCADA:

4 Q So you worked one night at the Palomino --

5 A Yes.

6 Q -- as a dancer?

7 A Yes.

8 Q TJ brought you there to dance that night?

9 A Yes.

10 Q And you knew that Anabel was the boss, correct?

11 A Yes.

12 Q And it was Anabel, the boss, that fired TJ; is
13 that correct?

14 A He say he quit. I don't know he got fired.

15 MR. ARRASCADA: Court's indulgence.

16 THE COURT: That's fine.

17 BY MR. ARRASCADA:

18 Q That one night that you did dance, was that --
19 that was when TJ was working at the club, correct?

20 A Yes.

21 Q And that was -- was that back in January of
22 2005?

23 A I don't remember what, but I only remember one
24 night.

25 Q One night dancing?

1 A Yes.

2 Q And that night that you worked there, did TJ

3 and Deangelo smoke marijuana?

4 A I don't see it.

5 Q Did you have an impression that TJ was high on

6 marijuana that night?

7 A When that night?

8 Q The night you worked at the Palomino.

9 A I -- I worked. I don't know.

10 Q Did you go home that night with TJ after you

11 worked?

12 A We go together, yes.

13 Q Okay. And was he high on marijuana, if you

14 know?

15 A I don't remember.

16 Q You don't remember?

17 A He usually smoke at home.

18 Q Okay. And with Deangelo?

19 A No, not Deangelo. .

20 Q At home, not with Deangelo?

21 A Deangelo only there one night.

22 Q Okay. At the club when they're together,

23 they'd smoke together, though, right?

24 A I don't see. I don't know.

25 Q Okay. Now, out at the lake, you were speaking

1 about TJ's walkie-talkie phone, right?

2 A Yes.

3 Q That was his new phone, right?

4 A Yes.

5 Q His brand-new phone, correct?

6 A Yes.

7 Q It wasn't a Palomino Club phone, was it?

8 A No.

9 Q Okay. It was TJ's phone?

10 A Yes.

11 MR. ARRASCADA: Okay. Thank you.

12 THE COURT: Redirect?

13 MR. PESCI: Yes, thank you.

14 REDIRECT EXAMINATION

15 BY MR. PESCI:

16 Q Ma'am, you were just asked some questions about
17 TJ quitting or being fired from the club. Do you remember
18 that?

19 A Yes.

20 Q Okay. I think you said it was your
21 understanding that TJ quit working at the club?

22 A Yes, he tell me he quit.

23 Q All right. Did he ever have conversations
24 about going back to work at the club?

25 MR. ARRASCADA: Objection. Hearsay.

1 THE WITNESS: No, he --
2 THE COURT: She said there was never a conversation.
3 THE WITNESS: He's not going back to work.
4 BY MR. PESCI:
5 Q He's not going back to work at the club?
6 A Yeah. He tell me he's not going to.
7 MR. ARRASCADA: Objection. Hearsay.
8 THE COURT: Sustained.
9 MR. PESCI: All right. They're asking you about
10 whether he quit or whether he was fired --
11 MR. ARRASCADA: Objection. That wasn't the
12 question.
13 MR. GENTILE: It was the answer.
14 BY MR. PESCI:
15 Q Do you remember being asked questions about --
16 THE COURT: Right. I mean --
17 BY MR. PESCI:
18 Q -- quitting or fire -- or being fired from --
19 A He tell me he quit.
20 MR. GENTILE: Objection.
21 THE COURT: Mr. Pesci.
22 MR. PESCI: I'm just asking if she remembers.
23 THE COURT: No, I -- everyone, that means everyone,
24 not just the two of us, to visit, as pleasant as that might
25 be.

1 (Off-record bench conference)

2 THE COURT: Just to clarify, you can ask that one or
3 two other questions.

4 MR. PESCI: Okay.

5 BY MR. PESCI:

6 Q Just so it's really clear, you were asked a few
7 minutes ago by Mr. Arrascada -- he was the second attorney to
8 ask you questions on cross -- about whether or not Anabel
9 Espindola had fired TJ. Do you remember that question?

10 A Yes.

11 Q Okay. And your answer was what, as far as
12 whether TJ was fired or quit?

13 A TJ quit.

14 Q Thank you. That's it.

15 Showing you State's Proposed Exhibit 1, ma'am, can
16 you tell me who's depicted in State's 1?

17 MR. GENTILE: It's beyond the scope.

18 MR. ARRASCADA: Objection, Your Honor, it's beyond
19 the scope.

20 THE COURT: It is. I was waiting for that.

21 MR. GENTILE: Beyond the scope. Objection.

22 THE WITNESS: It's TJ --

23 MR. PESCI: We can recall her, Judge.

24 THE COURT: Yeah. I mean, you're right. It is
25 beyond the scope of --

1 MR. GENTILE: I'll withdraw the objection. Let's
2 get on -- I mean, excuse me. Let's go ahead.
3 MR. PESCI: So the answer stands, Your Honor?
4 THE COURT: Yes.
5 MR. PESCI: Thank you. Pass the witness.
6 THE COURT: Recross?
7 MR. GENTILE: Nothing further.
8 THE COURT: Anything, Mr. Arrascada?
9 MR. ARRASCADA: No, Your Honor.
10 THE COURT: Ma'am, thank you for your testimony.
11 I'm about to excuse you, but before I do, I must admonish you
12 that you're not to discuss your testimony with anyone else who
13 may be called as a witness in this case.
14 THE WITNESS: Yes.
15 THE COURT: All right. Thank you. You are excused
16 and just go ahead through the double doors. Thank you.
17 MR. GENTILE: Can we approach?
18 THE COURT: Yeah. I was actually going to take a
19 recess.
20 Ladies and gentlemen, let's just take a quit
21 ten-minute recess.
22 MR. GENTILE: Don't let her go.
23 THE COURT: Jeff, would you just take the witness
24 into the vestibule, please.
25 All right. Ladies and gentlemen, we're going to go

1 ahead and just take a ten-minute recess, and once again,
2 you're reminded that the admonition is still in place. During
3 the recess, don't talk about the case. Don't do anything
4 relating to the case. And notepads in your chairs and follow
5 Jeff through the double doors. And we'll see you all back
6 here in ten minutes.

7 (Jury recessed at 3:29 p.m.)

8 THE COURT: And, Mr. Gentile, the reason that you
9 asked the witness to remain was you thought we had a juror
10 question; is that right?

11 MR. GENTILE: I thought we had a juror question. I
12 apologize.

13 THE COURT: So the witness can be excused.

14 MR. GENTILE: Yeah.

15 THE COURT: Basically we did have a jury -- just so
16 you know, the way I do juror questions, if it's something that
17 doesn't go to the witness or is clearly inadmissible, I just
18 don't ask it, but I'll give it to you later.

19 MR. GENTILE: Okay.

20 THE COURT: If it's something that clearly I can
21 ask, I may just go ahead and ask it without calling the
22 attorneys to the bench. If it's something I have a question
23 on that may be objectionable, I'll call the attorneys to the
24 bench and show you the question, or if you'll already up here,
25 I'll show you the question.

1 Anyway, the question was -- from the juror is
2 clearly not for this witness. Why is Deangelo Carroll not
3 testifying?

4 MR. PESCI: Judge, for the record, if I could really
5 quick, I went out to check the hall. I had the door open.
6 While I did, the jury walked out. I apologize I had the door
7 open just so everybody knows.

8 THE COURT: I think that's fine. And just so you
9 know, all of the -- the clerk writes on the jury -- for the
10 record, Mr. Gentile, you might be interested in this. The
11 clerk writes on the jury questions "asked" or "not asked" and
12 then all of those are made a Court's exhibit.

13 All right.

14 MR. ARRASCADA: 15 minutes, Your Honor?

15 THE COURT: I said ten minutes and that was like two
16 minutes ago.

17 (Court recessed at 3:31 p.m. until 3:47 p.m.)

18 (In the presence of the jury.)

19 THE COURT: All right. Court is now back in
20 session. The record will reflect the presence of the State,
21 the defendants and their counsel, the officers of the Court
22 and the members of the jury.

23 Mr. Pesci, the State may call its next witness.

24 MR. PESCI: The State calls Kristin Grammas.

25 THE COURT: All right.

1 MR. PESCI: May I approach your clerk?

2 THE COURT: Sure.

3 Ma'am, just come on up here, please, to the witness
4 stand and then just remain standing facing our court clerk.

5 KRISTIN GRAMMAS, STATE'S WITNESS, SWORN

6 THE CLERK: Please be seated and please state and
7 spell your name.

8 THE WITNESS: Kristin Grammas, K-r-i-s-t-i-n,
9 G-r-a-m-m-a-s.

10 MR. PESCI: May I proceed?

11 THE COURT: Yes, please.

12 MR. PESCI: Thank you.

13 DIRECT EXAMINATION

14 BY MR. PESCI:

15 Q Ma'am, what do you do for a living?

16 A I am a senior crime scene analyst for the Las
17 Vegas Metropolitan Police Department.

18 Q And what do you do in that job?

19 A We respond to crime scenes to collect and
20 preserve any and all evidence.

21 Q And as a senior crime scene analyst, is your
22 job different than if you're not a senior crime scene analyst?

23 A Yes. As a senior crime scene analyst, we
24 respond to murders, officer involved shootings, serious person
25 crimes whereas our Crime Scene Analyst Is only respond to

1 property crimes.

2 Q All right. It's CSA, not CSI?

3 A We're CSAs, yes.

4 Q Is it like the TV show CSI?

5 A No, it's not.

6 Q I didn't notice a gun on your head as you
7 walked in.

8 A Not today, no.

9 Q Do you have a Hummer here?

10 A No.

11 Q Now, did -- back on May 19 into May the 20th of
12 2005, were you a senior crime scene analyst?

13 A I was a Crime Scene Analyst II.

14 Q Okay. And is that a step up from crime scene
15 analyst?

16 A Yes. You could still handle person calls as
17 long as there's a supervisor for the murders. Other than
18 that --

19 Q Did you have a supervisor that night?

20 A Yes, we did.

21 Q Do you have any training and experience in this
22 area?

23 A Yes. I attended the University of Nevada Las
24 Vegas and the Community College of Southern Nevada with major
25 course work in criminal justice and minor course work in

1 anthropology.

2 I've attended multiple bloodstain schools, crime
3 scene investigation schools and crime scene photography
4 schools. I've also completed the American Institute of
5 Applied Science forensic science course. It's an extensive
6 course in crime scene photography, crime scene diagramming,
7 pretty much everything crime scene -- latent print processing.

8 And I'm the current secretary of the Nevada state
9 division of the II, which is a forensic science organization.

10 Q Have you responded to numerous -- what kind of
11 scenes did you call them, murder scenes or --

12 A Homicide scenes, yeah.

13 Q And on that day on May the 20th, 2005, had you
14 responded to many crime scenes?

15 A Yes, I had.

16 Q Have you come to court before and testified in
17 this capacity?

18 A Yes, I have.

19 Q If you were to guess, about how many times?

20 A Around 30 probably, 20 to 30.

21 Q All right. When you responded out that night,
22 who did you respond with?

23 A Senior crime scene analyst Stephanie Smith and
24 my supervisor Dave Refino.

25 Q And was there a breakdown as to who would do

1 what at the scene?

2 A Yes. When we arrive at the scene, our
3 supervisor decides who's going to do what portions of the
4 scene. I was tasked with evidence and the diagram and
5 Stephanie was tasked with the photographs and writing a
6 report.

7 Q All right. Let's start with the diagram and
8 then we'll go to the evidence.

9 A Okay.

10 Q When you say you're tasked with the diagram,
11 what does that mean?

12 A When I'm at the scene, I prepare a rough sketch
13 of what I see basically so that I can bring it to a courtroom
14 so it makes sense to you guys.

15 Q Let me stop you. Showing you State's Proposed
16 Exhibit 148, do you recognize that?

17 A Yes, I do.

18 Q And how do you recognize that?

19 A This is the crime scene diagram that I prepared
20 after a rough sketch into the computer system that we have.

21 Q Is the rough sketch what you did out at the
22 scene?

23 A Yes.

24 Q Is this computer generated based on your rough
25 sketch?

1 A Yes, it is.

2 Q How do you formulate your rough sketch?

3 A We do measurements at our scene and then we put
4 those into the computer diagram so everything is placed
5 exactly where it was at the scene.

6 Q Is this an accurate depiction of that sketch?

7 A Yes, it is.

8 Q Is this, in essence, a copy of it?

9 A Yes, it is.

10 MR. PESCI: Move for the admission of State's 148.

11 THE COURT: Any objection?

12 MS. ARMENI: No, Your Honor.

13 THE COURT: All right. 148 --

14 MR. ARRASCADA: No, Your Honor.

15 THE COURT: -- will be admitted.

16 (State's Exhibit 148 admitted.)

17 BY MR. PESCI:

18 Q How do you know it's specific to this event
19 that you're hear testifying about?

20 A It has the event number on it, the location,
21 and the victim's name.

22 Q All right. Just so the ladies and gentlemen of
23 the jury know, what is an event number?

24 A The event number is generated at the beginning
25 of the night, so the beginning of this night, because it was

1 on May 19th when this call came out, it's 05 for being in
2 2005, May, '05, and 19th for the day. And then it's the
3 3516th call we had that night.

4 Q Was this at the end of the day on the 19th?

5 A Yes, it was.

6 Q That's when you first responded?

7 A I responded on the 20th, yes.

8 Q Okay. I'm going to show you State's Proposed
9 Exhibit 159 and ask if you recognize what's depicted there.

10 A Yes, I do.

11 Q And what do you recognize that to be?

12 A This is a -- it looks like a topical photo of
13 the actual scene out there, the area.

14 Q Okay. Is that an aerial of that area?

15 A Yes, it is.

16 Q Does it depict the road that you responded to?

17 A Yes.

18 Q Is it an accurate aerial of that location?

19 A . Yes.

20 MR. PESCI: Move for the admission of State's 159.

21 THE COURT: Any objection?

22 MR. ARRASCADA: No, objection, Your Honor.

23 THE COURT: That will be admitted.

24 (State's Exhibit 159 admitted.)

25 THE COURT: Isn't that 148?

1 MR. PESCI: Judge, this one was 159.

2 THE COURT: Oh, I'm sorry. Thank you.

3 BY MR. PESCI:

4 Q Looking at 148, I believe that's what we have
5 up here right now, is this the diagram that you spoke of?

6 A Yes, it is.

7 Q All right. Now, when you told us the division
8 of labor, you talked about the diagram and then you talked
9 about evidence. What do you mean you're given the evidence?

10 A At the scene Stephanie would take all the
11 photographs of everything, prior to us finding evidence, and
12 then after with placards of what evidence there is. She takes
13 all the notes on the actual scene. And then I'm responsible
14 for ferreting out what evidence it is, putting the placards on
15 it for it to be photoed and then collecting it and processing
16 it the way we decide at the scene.

17 Q All right. So we'll come back to the
18 photographing and processing in just a minuting. The
19 collecting aspect, how does that help?

20 A At the scene after it's all been photographed
21 and we're ready to leave, I take the evidence. It's placed in
22 a brown paper bag or envelope, depending on what type of
23 evidence it is. It's folded over so no contamination can get
24 into it and then it's transported back to our crime scene
25 section where later I will actually initial it and impound it

1 Anabel Espindola sent Deangelo Carroll to Little Lou's
2 room/office and on that body wire Little Lou mouthed off and
3 said some pretty stupid stuff. That's why we're here.

4 The question is talking about rat poison, does that
5 mean you're responsible four days before for the death of
6 Mr. Hadland? Nowhere on that tape, nowhere on that tape are
7 you going to hear Little Lou say, Man, I'm so glad I got you
8 to go kill TJ. Nowhere are you going to hear, Man, I'm so
9 glad I called you about bats and bags and got you to come meet
10 with my dad so then you guys could enter into a conspiracy to
11 go do something to Mr. Hadland. You're not going to hear
12 that.

13 There will be evidence that between the 19th of
14 May 2005 when Mr. Hadland was killed up by Lake Mead and Room
15 6 at Simone's, four days later, that Little Lou did learn
16 about the death of Mr. Hadland, a former employee of the club.
17 He did learn that Anabel was involved. He's known Anabel
18 Espindola since he was nine years old and he loves her.

19 The prosecutor in their opening said -- and played
20 snippets of tape where Little Luis, on the transcript part
21 rolling down, talks about rat poison, talks about a bottle of
22 gin. He said those things. He said those things. No if ands
23 or buts about it, 100 percent, those words came out of his
24 mouth.

25 The main thrust of the case that they're going to

1 present is by saying those things he must be responsible for
2 the death of Mr. Hadland. So let's look at the whole tape and
3 that's what I'm asking of you in the next week or so. This
4 tape is 34 minute and 56 seconds long. There's a lot of
5 conversation back and forth. The first ten minutes or so
6 Little Luis doesn't say anything. And I'm going to ask you to
7 look at this tape very critically and to evaluate the full
8 tape, the entire wire, keeping in mind that Deangelo Carroll
9 knew fully well that the recorder was on and Little Luis did
10 not.

11 I'm going to ask you to check out the reactions
12 between the parties when something is said on the tape. I'm
13 going to ask you to look at the tape and to see, is there some
14 way I can tell who's really in control here, who's in charge,
15 who's calling the shots? Can I tell what happened up at Lake
16 Mead four days earlier based on what's talked about in Room 6
17 at Simone's? Does this conversation on this wire tell us
18 anything that we need to know in determining what happened to
19 Mr. Hadland? When you do this critical evaluation of the
20 tape, one thing's going to be crystal clear. There's three
21 people in the room: Deangelo Carroll, Anabel Espindola, and
22 Little Lou, Luis Hidalgo, III.

23 Let's first talk about Mr. Carroll. We'll hear
24 about Mr. Carroll and we'll hear on that body wire that he
25 drove up to Lake Mead with three people in the van. It wasn't

1 Little Luis and it wasn't Little Luis' van. We'll hear on
2 this tape that he's directing all of his conversation, all of
3 his important questions about money, about what to do next,
4 about attorneys -- they are all directed to one person.
5 There's only three people in the room. And you'll hear on
6 that wire those conversations, those remarks were not directed
7 to Little Luis. They were all directed to the next person,
8 Anabel Espindola.

9 We'll hear from Anabel Espindola. She'll say, What
10 did you do? What did you do? I told you to go to plan B.
11 We'll hear from her that plan B meant -- and she'll testify to
12 this -- plan B meant come back to the club. Don't do anything
13 to Hadland, come back.

14 Deangelo Carroll will tell her, Ms. Anabel, I don't
15 know what happened. Kenneth Counts went F'ing stupid. And
16 you heard enough of the tape earlier to know that the F word
17 was used quite a bit, so when I talk to you about the tape,
18 I'll leave those out for the most part. He went stupid and he
19 shot the dude. Nothing we could do about it. Ain't none of
20 us had no pistol. That's what he said.

21 And on our copy of the tape, the full 34 minutes and
22 56 seconds, that's at the 13 minute and 56 second mark.
23 You'll hear from Deangelo Carroll's own mouth on the wire that
24 he'd been picked up by the police, that he'd been released by
25 the police and thanked for his cooperation. You'll learn from

1 the witness stand that that's not fully true. You'll learn
2 from the witness stand that he had been picked up and you'll
3 learn from the witness stand that he was cooperating with the
4 police to try to get evidence for the police to have and
5 for -- ultimately for jurors to have.

6 You'll hear evidence that on May the 20th, 26 hours
7 or a little less than that, about 22 hours after the killing
8 of Mr. Hadland, Mr. Carroll was taken to the homicide office
9 and stayed for a lengthy period of time.

10 Immediately after he was in that homicide office and
11 was interviewed or interrogated or talked to by police he was
12 allowed to leave. The police drove him home and drove him to
13 help them get Rontae Zone. Rontae Zone came in at 1:00 a.m.
14 that morning, 26 hours later, 1:00 a.m. on the 21st of May,
15 and he gave a statement to the police.

16 The next day Deangelo Carroll drove -- he drove
17 Jayson Taoipu to the police office so they could get a
18 statement from him. Deangelo Carroll was motivated to not be
19 arrested for his involvement for driving Kenneth Counts and
20 these other guys up to the lake.

21 The police made the choice to allow Deangelo Carroll
22 to stay out of jail for a few days. They were trying to get
23 with him to use him to get more evidence. They took a little
24 recording device and they placed it -- like a beeper, placed
25 it on him and they sent him to get evidence. And where did he

1 go? He didn't go to Room 6 of Simone's where Little Lou
2 sleeps, where Little Lou works. He went to Anabel Espindola
3 in the main office. Anabel sent him down the hall to Little
4 Luis' room so they could talk behind a closed door.

5 He didn't just go in and talk, but he came up with a
6 scenario. After talking with the police, he came up with a
7 few new facts and he said -- the facts you'll hear on the
8 tapes, Kenneth Counts is threatening to kill us. We need more
9 money. Deangelo and Jayson, they're going to rat me out. We
10 need more money. This, in fact, was not true. These were
11 things that he created with the police to try to get a
12 reaction from Anabel so that she would say something on the
13 wire. He knew fully well that he was wired up and he was
14 trying to get information because he was trying to not get
15 arrested.

16 So who was truly in charge? Well, that wasn't the
17 one I wanted, but that's okay. That's fine. We'll get to
18 that in a minute.

19 I'm going to read you three snippets and we'll play
20 this over and over. And you heard these earlier on the
21 prosecutor's opening.

22 Talk may be cheap, but we're going to hear from the
23 witness stand that Anabel Espindola gave \$1,000 in hard cash
24 to Deangelo Carroll on the 23rd. That's at the end of the
25 wire. You didn't hear that in the part they played. That's

1 further down, but she left the room and came back and gave him
2 \$1,000, not Little Lou.

3 At the -- on their version, the 14 -- I believe it
4 was 14 minutes and ten seconds, on the full version, it's
5 right around the 20, 21-minute mark, Anabel Espindola says,
6 quote, You want to lose it all? If I lose the shop and I lose
7 the club, I can't help you or your family. She didn't say, If
8 Mr. H loses the shop or the club or if Little Lou loses the
9 shop or the club. The words out of her mouth on this wire
10 are, If I lose the shop and I lose the club, Deangelo, I can't
11 take care of you.

12 There was also a part on the earlier tape that I
13 think is important for you to listen to when it's played in
14 evidence, and it was the part about finding an attorney. And
15 there was a lot of talk about that. And at one point she
16 said, I'm going to go talk to the attorney tomorrow. And on
17 there you may have heard it, He's outrageous. He's going to
18 want you to go ahead and wrap these other guys up and there's
19 no fucking way.

20 So here we are four days after the death of
21 Mr. Hadland. The question is who's really in charge of what
22 happened on the 19th. Well, who's in charge? It's not
23 Deangelo. Who's in charge? It's not a defense lawyer four
24 days after, after attorneys have been consulted. She's saying
25 there's no way we're going to turn people in for their

1 involvement in this crime. Anabel Espindola was in charge.
2 She was in charge on the 23rd, and by the words out of her
3 mouth, she was in charge sooner than that.

4 What did Anabel do in direct relation to controlling
5 Deangelo Carroll and his actions? Well, she said, Deangelo --

6 How about the next one? Yeah.

7 All right. Deangelo, you need a prepaid phone. You
8 need this phone so we can stay in touch so I can send you
9 messages. You heard on the wire the prosecutor played and
10 you'll hear from the witness stand, she says, I'm going to
11 give you a code name, this code name of Boo so that way you'll
12 know the messages are really from me. She was talking about
13 being the sole person to kind of control Deangelo after the
14 fact, how he would operate, how he would cooperate with police
15 or say things, how he could stay undetected for his
16 involvement.

17 Let's go down two more, please, not two more slides,
18 two more clips.

19 She tells Deangelo that, You've got to resign from
20 the club for personal reasons and that -- I'm going to give
21 you some money so that you can maintain yourself. I'm not
22 going to leave you hanging. Does this shed some light as to
23 who's really in charge of what went on on the 19th?

24 She also made some comments on what she expected to
25 happen on the 19th. And she said --

1 Can you pull all three of them up?

2 Let's look at the one at the bottom. What we really
3 wanted was him beaten up, if anything. We didn't want him
4 dead. Then she goes on to say, Are you so stupid? Are you so
5 heartless? How could this happen? Once you saw that guy had
6 a gun, why didn't you just turn around?

7 She's saying on the tape that she knew what -- she
8 knew something was going to happen, some sort of
9 confrontation, and she's saying on the tape nobody was
10 supposed to die. When she's saying, He's supposed to get
11 beaten up, she's going to testify on the witness stand what
12 she means by that. She's not going to testify that she was
13 talking about Little Lou and I wanted you to beat him up.
14 She's not going to say that.

15 The entire tape shows that Anabel Espindola was in
16 charge certainly on the 23rd of May and it suggests very
17 strongly that she was in charge on the 19th of May when
18 Deangelo Carroll got behind the wheel of Anabel Espindola's
19 van and drove up to Lake Mead to meet Mr. Hadland.

20 I've talked about the other two, so let's talk for a
21 second about Little Luis' statements on the body wire. When
22 you listen to the whole wire, ask yourself, does any of these
23 statements help us understand what he knew and when he knew it
24 or did he know this stuff beforehand on the 21st? Does this
25 help us know whether he ever entered a conspiracy to do

1 anything to Mr. Hadland?

2 The best, the most solid evidence in this case is we
3 know Mr. Carroll's motivation. I think we can understand it.
4 I think many of us would want to have -- to do whatever we
5 could to stay unarrested. He was wearing a wire. He was
6 going in to get people and to get evidence, and at that
7 critical part when Little Lou opened his mouth, he turned to
8 him and said, What are you saying? You had nothing to do with
9 this.

10 Why? There's no explanation for that other than he
11 had nothing to do with it. It would make sense if he tried to
12 argue it in a way that roped somebody else in to get him off,
13 but it makes no sense for him to say, You were guilty as can
14 be but shut up, I don't want to get you on this tape. That
15 doesn't make sense. Out of Deangelo Carroll's mouth is the
16 best evidence in the case, Little Lou, you had nothing to do
17 with it.

18 The prosecutor started out his opening statement to
19 you by saying Little Luis Hidalgo would be heard saying, I
20 told you you should have taken care of TJ. Well, we heard the
21 tape they played and we'll hear it again. I didn't hear that
22 on the tape. And even if you listen to it 50 times, 100
23 times, and you decide ultimately that you do hear it, it
24 doesn't mean -- or it doesn't have to mean, You've got to go
25 kill the guy.

1 Deangelo Carroll, when he left Simone's on the
2 23rd of May with this wire on, he left and met right back up
3 with the police. And before the police listened to any of
4 that tape, they said, What happened? Did you get anything?
5 And in that debriefing session Deangelo Carroll never said,
6 Yeah, I got Little Lou saying, You've got to do this to TJ.
7 That wasn't part of his debriefing to the police.

8 I would like to talk to you now about three facts
9 that are not on the tape on the 23rd, three facts that the
10 prosecutor mentioned and three facts which will be in issue
11 and in dispute in the trial.

12 The first is about the conversation from Anabel
13 Espindola that she says happened at 4:58, 5:00 o'clock at
14 Simone's where she got off the phone with Deangelo Carroll,
15 turned and looked at Mr. Hidalgo and his son and said, TJ's
16 out there badmouthing the club. And her story, her statement,
17 her testimony is expected to be -- and by the way, Mr. Gentile
18 raised this in his opening. This was -- this was a story
19 shared with police in February of last year, 32 and a half
20 months after her arrest, and Mr. Gentile talked to you about
21 her plea deal. The one thing that he did not mention to you
22 is that you'll hear testimony of her sentencing range. And he
23 mentioned -- or he may have mentioned, or if he did not, I
24 will mention she's eligible for probation. And the
25 prosecutor -- and she's eligible for probation after she

1 testifies in this case.

2 The prosecutor, as part of the plea deal, agreed --
3 Mr. DiGiacomo and Mr. Pesci, they agreed to not argue against
4 probation. And she knows that. That was part of her
5 understanding when she entered the plea. So that doesn't mean
6 she'll get probation, but it means when her lawyer's up there
7 saying, Judge, Judge, give us probation, they're not going to
8 say, We don't agree with that. They're going to sit silent on
9 that point.

10 She's going to say that this phone call came in from
11 Deangelo, that she got off the telephone and said to Mr. H,
12 Apparently TJ's out running his mouth about the club, that's
13 what Deangelo said, and that Little Lou became upset and that
14 Little Lou said, Dad, you're not going to do anything. You
15 don't take care of business.

16 And they mentioned that Rizolo and Gilardi -- Rizolo
17 and Gilardi know how to take care of business. Apparently
18 they know how to take care of it so well they both end up in
19 prison. They know how to take care of business. You're not
20 going to be like them.

21 What's not said in that conversation is, You've got
22 to go hurt Hadland. You've got to go kill Hadland. You've
23 got to hire somebody to kill Hadland. He said, You don't know
24 how to take care of business. And she's going to say
25 Mr. Hidalgo, Jr. said, Mind your own business. He didn't say,

1 That's a good idea. He said, Mind your own business, Little
2 Lou.

3 And Anabel Espindola's expected to testify at that
4 point Little Lou said, Dad, I mean, Gilardi takes care of
5 business. He even beat a customer up one time.

6 And Mr. Hidalgo goes -- said, Son, I told you, mind
7 your own business.

8 And Little Lou, upset, left. Left. That's it.
9 That's the aiding and abetting under one of the two theories.
10 We'll talk about the other theory in a second.

11 He never said Hadland should be killed, never
12 suggested a plan on how to do it, never participated in any
13 way. Even based on the star witness, it's a kid mouthing off
14 to the father and the father putting him in his place and that
15 being the end of it.

16 A conspiracy involves an agreement between people to
17 accomplish something illegal. Based on Anabel Espindola,
18 we've got nothing but a disagreement.

19 The second item the prosecutor mentioned was this
20 phone call about bats and bags where Little Lou apparently
21 picks up the telephone, calls Deangelo Carroll and says, Bring
22 bats and bags. Now, it would be nice to hear that from
23 Deangelo Carroll. What we're going to hear is Rontae Zone,
24 Deangelo's friend, the young man who was living with Deangelo.

25 Rontae Zone never spoke to Little Lou Hidalgo, never

1 talked to him, has no first-hand information about what Little
2 Lou Hidalgo may have said or may not have said. All his
3 information about bats and bags is filtered through what
4 Deangelo Carroll said. And it's filtered through on a day
5 where they were smoking pot from the time they got up until
6 the time they went to sleep.

7 Rontae Zone, who knows Deangelo Carroll pretty well,
8 will tell you that he doesn't always find him to be
9 trustworthy, that he talks a lot, doesn't also know what to
10 believe out of his mouth, but he'll say, as he best remembers
11 it, that Deangelo said that Little Lou called, said something
12 about, Bring bats and bags to the club.

13 On the wire, on the May 23rd body wire that we heard
14 some this morning -- we'll hear a lot more in the trial --
15 there's no reference at all to bats and bags. And I think
16 it's a fair question for you to have as you're listening to
17 the evidence to ask, well, if that's an important piece of
18 evidence, wouldn't the police have gotten Deangelo Carroll to
19 bring that up on this body wire, this 34-minute, 56-second
20 body wire? Wouldn't they get him to say, Hey, Little Lou, you
21 remember when you called me about bats and bags, and try to
22 get him talking about that, if that's an important piece of
23 evidence? Nowhere on the wire is the word bats and nowhere on
24 the wire is the word bags. They're never together and they're
25 never attributed to Little Lou Hidalgo.

1 Jayson Taoipu was present with Rontae Zone all day
2 and with Deangelo Carroll. He was told something about bats
3 and bags. He was told by Deangelo Carroll something about
4 bats and bags. And Jayson Taoipu says Deangelo said, Anabel
5 Espindola told me to bring bats and bags to the club. Anabel,
6 not Little Lou. Anabel is expected, from the witness stand,
7 to deny ever having made that statement.

8 The last point on the bats and bags is, do you have
9 any way of knowing, when you're listening to the evidence, was
10 this comment ever really made? And you may want to listen for
11 evidence that suggests anything about bats and bags ever being
12 gotten. There's going to be a lot of talk about phone calls
13 and getting bats and bags and what that may be code for, but
14 at the end of the day, you're not going to hear a single
15 witness say, And after that, Deangelo turned and said, I've
16 got to go get bats and bags, and he walked to the closet to
17 get a bat and walked to the kitchen to get bags. Nothing like
18 that.

19 What we're going to hear is Rontae Zone saying,
20 Deangelo told me something about bats and bags. I don't know
21 if that call was made or not, that's the best memory I have.
22 That's it.

23 The third item of proof outside of this tape that
24 the prosecution talked about and is relying on the case is a
25 phone call. There's this phone call at 7:42 p.m. between

1 Little Lou Hidalgo to Deangelo Carroll's house. Absolutely
2 true. Little Lou called him all the time. Deangelo worked at
3 the club. He promoted. He handed out flyers at the club and
4 that was part of Little Lou's responsibility, to make sure
5 those guys were out on the strip passing things out, giving
6 items out to the cab drivers.

7 You'll hear from a defense witness that on this
8 night Deangelo Carroll was supposed to have a special pickup
9 from a group of businessmen who were in a hotel and that they
10 were trying to make sure -- because Deangelo wasn't always so
11 responsible -- trying to make sure this pickup was made.
12 Absolutely, little Lou called at 7:42 p.m. trying to find the
13 employee who was not at work. It's interesting the
14 significance placed on that call as --

15 I'm looking for the phone records. I'll give you a
16 minute to catch up with me. I changed the order a little bit
17 and I forgot to let Andy know. There we go. Thank you.

18 What the records are going to show is on May the
19 19th Deangelo Carroll tried to contact Timothy Hadland five
20 times. The first time was a chirp with no time at all. He
21 chirped him again at 10:53 for eight seconds, 10:54 for 21
22 seconds, 11:13 for 14 seconds, and then the last attempt was
23 at 11:27. And based on that, the police are going to tell you
24 they believe that Mr. Hadland was alive at 11:27. He was
25 found and 9-1-1 was called at 11:44. So to the best of their

1 estimation, he was killed somewhere in that time period.

2 Contrast Little Lou's 7:42 call, one call at 7:42,
3 with all the communication between the two key people,
4 Deangelo Carroll and Anabel Espindola. Deangelo called seven
5 times, appeared to be six communications. He called her from
6 his house to Simone's, 4:58 p.m. This allegedly is when this
7 thing about TJ's out badmouthing the club that ultimately the
8 State's theory lead to his death. That call was at 4:59. He
9 called again at 7:27. Then there's a series of chirps later
10 in the night, the last one being significantly ten minutes
11 after Mr. Hadland who was attempted to be reached at 11:27.
12 Those are calls from Deangelo to Anabel Espindola.

13 Anabel wasn't just received. She was trying to
14 contact Deangelo as well. She attempted to chirp him at 8:13
15 and that's -- you know, let them know, I'm available, here I
16 am, 8:13. 8:15, there's some sort of talk for six seconds.
17 She tries him at 11:08 and then again they're switching little
18 chirps at 11:37.

19 This may be too small for you guys to see. I'll try
20 your other TV down here.

21 What we have at the end of the day, in contrast to
22 one call which is supposed to have such great incriminating
23 value in this case, we have 12 communications or attempted
24 communications between Deangelo Carroll and Anabel Espindola.
25 That's not hunches, that's not speculation. Those are facts.

1 When all the evidence is in, you'll know who was in
2 constant contact on the 19th. You'll know who the main people
3 were in the phone conversation -- or on the body wire on the
4 23rd. You'll know who was in charge and you'll know that
5 based on Anabel Espindola's expected testimony that she's
6 going to say Little Lou never mentioned killing anybody, much
7 less killing Hadland. And you're going to hear Deangelo
8 Carroll on that tape who's trying to get incriminating
9 evidence say, Little Lou had nothing to do with it.

10 On the murder charge and on the conspiracy charge,
11 that's the evidence. He's not guilty. And at the end of this
12 case, we'll ask you to please find him not guilty of those two
13 charges.

14 THE COURT: All right. Thank you, Mr. --

15 MR. ADAMS: I'm not quite done yet. I need to talk
16 about the other two charges for a few minutes.

17 THE COURT: I'm sorry.

18 MR. ADAMS: The last two charges are two charges not
19 referenced by Mr. Gentile because they don't apply to his
20 client. They're two charges related to the comment about rat
21 poison of Mr. Zone and Mr. Taoipu. And I told you earlier
22 Little Lou said it, and he did. The question for you is did
23 he mean it. No question those words came out of his mouth.
24 No question they're on the wire. The question is was he
25 trying to have a first-degree murder done on those two people.

1 To evaluate that, to evaluate whether these were
2 stupid words or whether they were intentional words trying to
3 get people killed, you've got to look at all the evidence.
4 One thing to look at is did Little Lou leave his room to go
5 find Deangelo Carroll so that something terrible would happen
6 to Mr. Zone and Mr. Taoipu? The evidence will be no.

7 Mr. Carroll came to Luis Hidalgo's room. Luis
8 Hidalgo was sick. You can hear him coughing and hacking on
9 the wire. He was sick in his own room. Deangelo Carroll came
10 to his room before the 23rd.

11 Is there going to be any evidence -- and listen for
12 evidence -- that Little Lou was out in these three days
13 between Mr. Hadland's death and the wire? Is there any
14 evidence that Little Lou Hidalgo was going out trying to
15 figure out who was with Deangelo so they could be eliminated?
16 I don't expect you're going to hear any evidence about that.

17 And then most importantly, if this was such an
18 intentional comment, what do we hear on that wire on May the
19 24th? On May the 24th, the day after, they played a little
20 snippet of it, he says, The witnesses got on the bus, they got
21 some money. They got on the bus and took off. Did Little Lou
22 say, How did you let those guys get away? I gave you Jen, I
23 gave you Ray, I told you to get rat poison. You've got to go
24 find those guys so they don't snitch on you later, man.

25 You don't hear that on the tape. There was none of

1 that. The question at the end of the day is, did Little Lou's
2 comments mean he was really trying to have a first degree
3 murder done?

4 The judge told you earlier about the presumption of
5 innocence. The presumption of innocence remains with a client
6 throughout the case. If there's evidence that can be
7 interpreted two ways --

8 MR. DIGIACOMO: Objection, Your Honor.

9 THE COURT: Yeah.

10 MR. DIGIACOMO: Thank you.

11 THE COURT: Can you rephrase what you're about to
12 say.

13 MR. ADAMS: Yes.

14 MR. DIGIACOMO: Well, then I'd argue it's
15 argumentative as well, Judge.

16 THE COURT: Well --

17 MR. ADAMS: If there are facts out there, you have a
18 duty to interpret those facts consistent with the presumption
19 of innocence. If the facts can only be viewed --

20 MR. DIGIACOMO: I object. That's a misstatement of
21 the law.

22 THE COURT: Yeah. It's sustained.

23 MR. ADAMS: If the evidence can only be viewed in a
24 way that points to guilt, look at it that way, but if it
25 doesn't, keep the presumption of innocence in mind. What

1 you'll have are comments. You'll have comments by Little Lou
2 and no steps taken before the 23rd or after the wire to have
3 anything done to these other two men.

4 At the end of the evidence, we'll ask you to please
5 acquit Luis Hidalgo on those charges as well.

6 Thank you.

7 THE COURT: All right.

8 MR. ADAMS: Thank you, Your Honor.

9 THE COURT: I was afraid to say anything. Thank
10 you, Mr. Adams.

11 Is the State prepared to call its first witness?

12 MR. DIGIACOMO: We are, Judge, but can we have a
13 five-minute break?

14 THE COURT: All right. Ladies and gentlemen, we're
15 going to take a brief break before we go into the testimony.
16 We'll give you until 2:10.

17 And once again, you're reminded of the admonishment
18 which is, of course, still in place that you're not to discuss
19 anything relating to the case with each other, with anyone
20 else. Don't read, watch, listen to reports of or commentaries
21 on any subject matter relating to this. Please don't form or
22 express an opinion on the trial.

23 If you folks can leave your pads on your chairs and
24 follow Jeff through the double doors. We'll see you all back
25 here at 2:10.

1 (Court recessed at 2:02 p.m. until 2:14 p.m.)

2 (In the presence of the jury.)

3 THE COURT: All right. Court is now back in
4 session. The record will reflect the presence of the State,
5 the defendants, their counsel, officers of the Court and
6 members of the jury.

7 Mr. DiGiacomo, please call your first witness.

8 MR. DIGIACOMO: Larry Morton.

9 THE COURT: Larry Morton.

10 Sir, just come on up here, please, to the witness
11 stand, just up those couple of stairs. And please remain
12 standing facing our court clerk.

13 LARRY RAY MORTON, STATE'S WITNESS, SWORN

14 THE CLERK: Please be seated and please state and
15 spell your name.

16 THE WITNESS: Larry Ray Morton, L-a-r-r-y, R-a-y,
17 M-o-r-t-o-n.

18 DIRECT EXAMINATION

19 BY MR. DIGIACOMO:

20 Q Good afternoon, sir. How are you employed?

21 A I'm a senior crime scene analyst for the Las
22 Vegas Metropolitan Police Department.

23 Q What does that mean you do for a living?

24 A It means that I respond to incidents, document
25 the incidents through note taking, photography, latent print

1 processing, evidence collection, preservation, also attend
2 autopsies to collect any evidence that is available from the
3 victim.

4 Q How long have you been a crime scene analyst?

5 A For 14 years.

6 Q And while we'll have other analysts who
7 actually do some of -- the scenes, were you the analyst
8 assigned to the autopsy of Timothy Hadland?

9 A Yes, I was.

10 Q Can you tell the ladies and gentlemen of the
11 jury what your duties are when you're in an autopsy.

12 A My duties at the autopsy began with documenting
13 the seal that is on the body bag. I photograph the seal. I
14 record the number on the report. Then as the bag is unsealed
15 and opened, I photograph the -- first the open bag with the
16 body usually wrapped in a sheet within the bag. Then as the
17 sheet is unwrapped, another series of photographs, then
18 photographing with the clothing on, remove the clothing,
19 photograph with the clothing off the body, then clean the body
20 up, photograph the body after it's cleaned up.

21 During this process, also I take buccal swabs. Any
22 forensic -- any evidence that is on the body that's visible at
23 the time is also collected. I also then fingerprint the body
24 and take palm prints for elimination purposes at a later date.

25 Q Specifically on May 20th, were you at the

1 autopsy of Timothy J. Hadland?

2 A Yes, I was.

3 Q Okay. And you talked about the body in your --
4 and your photography of it. In addition to your photographs,
5 is there anybody else who takes photographs of that time?

6 A The coroner's forensic technician also takes
7 photographs of the body. We work around each other doing
8 photographs pretty much of the same photograph sets prior to
9 the autopsy actually beginning.

10 MR. DIGIACOMO: May I approach, Judge?

11 THE COURT: Yes.

12 BY MR. DIGIACOMO:

13 Q I'm showing you what's been marked as State's
14 Proposed Exhibit Nos. 1 through 4 and ask you to flip through
15 those and tell me if you recognize the individual who's
16 depicted in the photograph.

17 A Yes, I do.

18 Q Is that Mr. Hadland?

19 A Yes, it is.

20 Q Now, looking at those photographs, can you
21 determine whether or not those are the photographs you took or
22 the photographs that the ME's office or the medical examiner's
23 office took?

24 A These were taken by the medical examiner's
25 office.

1 Q How do you know that?

2 A There's a gray -- may I show these?

3 Q Yeah -- well, hold on.

4 MR. DIGIACOMO: I'll move to admit 1 through 4.

5 MR. GENTILE: No objection.

6 THE COURT: All right. Those will be admitted.

7 MR. ARRASCADA: No objection either, Your Honor.

8 THE COURT: Oh, I'm sorry.

9 (State's Exhibits 1 through 4 admitted.)

10 BY MR. DIGIACOMO:

11 Q What I'll do is put them on the overhead and

12 let you answer that question, sir. I'm showing you what's now

13 been admitted as State's Exhibit No. 1.

14 A Every photograph taken by the medical

15 examiner's office has this -- this gray marker placed in the

16 photograph. My photograph would not have that marker in them.

17 If there's any markers, I would put in a ruler with my

18 initials and identification number on it.

19 Q And then that marker has unique numbers on it

20 so the medical office can make sure they -- that the picture

21 associates with the correct report with the correct person,

22 correct?

23 A Yes, that is correct.

24 Q All right. You also indicated that your

25 responsibility is to collect evidence at an autopsy. Now,

1 let's talk about this particular autopsy. Did you collect
2 some evidence that was outside the body of Timothy Hadland?

3 A As we opened the body bag and were preparing
4 the body for autopsy, we found a bullet fragment underneath
5 his head within the body bag.

6 Q And did you collect that?

7 A Yes, I did.

8 Q And during the course of the autopsy, as the
9 doctor's performing the autopsy, does there come a point in
10 time when you collect any other evidence?

11 A Any other evidence such as additional bullet
12 fragments I would collect from the doctor.

13 Q In this case, did you receive additional bullet
14 fragments from the doctor?

15 A Yes, I did.

16 Q Showing you what's been marked as State's
17 Proposed Exhibit No. 134, do you recognize that?

18 A Yes, I do.

19 Q And does that appear to be a packaging that you
20 created from the autopsy?

21 A Yes. This is a manila envelope with an
22 evidence label attached to one side of it which is the label
23 that I prepared and placed on this bag. Also there's a red
24 tape across the flap. The top flap is closed with a string
25 closure. It also bears my initials and the date that I sealed

1 this particular package.

2 Q Obviously that package is cut open, correct?

3 A Yes, it is.

4 Q And there's also a blue seal on the bottom of
5 that package, correct?

6 A Yes.

7 Q Do you know what that blue seal represents?

8 A That blue seal is placed on the packaging by
9 the forensic examiners who would open the package, take
10 anything out and examine it for forensic evidence.

11 Q With the exception of the slip put in the
12 package by the clerk and that blue seal that's on the bottom,
13 is that package in substantially or similar condition as when
14 you impounded it into the vault?

15 A Yes, it is.

16 MR. DIGIACOMO: Move to admit 134.

17 THE COURT: Any objection?

18 MR. GENTILE: No.

19 MR. ARRASCADA: No, Your Honor.

20 THE COURT: All right. 134 is admitted.

21 (State's Exhibit 134 admitted.)

22 BY MR. DIGIACOMO:

23 Q Let's pull out 134 A, B, and C. If you could,
24 describe for the ladies and gentlemen of the jury what's 134
25 A, B, and C.

1 A These are plastic vials that I prepared at the
2 autopsy and placed the bullet fragments in as I received them
3 from the doctor and the one bullet fragment that I had taken
4 from the body bag. It bears writing placed on the side, the
5 event number, item number from my evidence impound report and
6 my initials and identification number.

7 Q Is A, B, C the sum total of all the firearms
8 related evidence that was collected at the autopsy of Timothy
9 Hadland?

10 A Yes, it is.

11 MR. DIGIACOMO: Move to admit A, B and C.

12 THE COURT: Any objection?

13 MR. GENTILE: No.

14 MR. ARRASCADA: No, Your Honor.

15 THE COURT: All admitted.

16 (State's Exhibits 134A, B, and C admitted.)

17 MR. DIGIACOMO: I pass the witness, Your Honor.

18 THE COURT: All right.

19 Who would like to go first, Mr. Gentile?

20 MR. GENTILE: I would.

21 THE COURT: Thank you.

22 MR. GENTILE: May I approach the witness, Your
23 Honor?

24 THE COURT: Yes, that's fine.

25 MR. GENTILE: Thank you.

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CROSS-EXAMINATION

BY MR. GENTILE:

Q 134 A, 134 B, let's talk about A. This is a bullet fragment, if I understood you correctly.

A Yes, it is.

Q Okay. Now, let's -- why do you collect bullets?

A I collect bullets so that they can be later examined by the forensic examiner who's an expert in the area of firearms evidence.

Q Okay. And have you worked with such experts?

A Only minimally.

Q Only minimally. Okay.

Do you know if -- if something as small as 134 A has any value to such an expert?

A Without removing it, I couldn't tell you specifically, but it may.

Q Okay. But 134 B, now that looks like a real substantial sized bullet, right --

A Yes.

Q -- as far as the samples go?

And here's also C. This doesn't have -- yeah, it does, 134 C, same thing, right?

A Yes.

Q Okay. And if given to an expert, based on your

1 experience, they can identify a weapon that this -- sometimes
2 they can identify a weapon from which a bullet was fired?

3 A Yes, that is correct.

4 Q Okay. And sometimes they can take multiple
5 bullets that have been recovered from different people and
6 trace it to the same weapon?

7 A Yes.

8 Q Okay. Do you know -- can you tell from looking
9 at this package if any such testing was done by any firearms
10 identification expert in this case?

11 A The -- one of our firearms examiners, Jim
12 Krylo, placed his initials on the blue seal. So, yes, it was
13 looked at by a forensic -- a firearms examiner, yes.

14 Q Mr. Krylo?

15 A Jim Krylo, yes.

16 Q Okay. Did you speak -- don't tell us what he
17 said, but did you speak with him about anything he might have
18 done in this case?

19 A No, I did not.

20 Q All right. So we'd have to hear from him?

21 A That's correct.

22 Q Okay.

23 MR. GENTILE: Thank you.

24 THE COURT: All right. Mr. Arrascada.

25 MR. ARRASCADA: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. ARRASCADA:

3 Q Mr. Morton, correct?

4 A That's correct.

5 Q All you did was attend the autopsy in this
6 case, correct?

7 A That is correct.

8 Q You never went out to Lake Mead highway to
9 collect any evidence, right?

10 A No, I did not.

11 Q And everything you're testifying about today
12 has nothing to do with anything found at Lake Mead highway?

13 A That I wouldn't know.

14 Q It wasn't there. You found it at the autopsy?

15 A This was from the autopsy, that's correct.

16 Q That was a bad question I asked first. I
17 apologize.

18 And you did not go to the Palomino Club to process
19 evidence, correct?

20 A No, I did not.

21 Q The same question, the evidence that you're
22 testifying about was recovered at the autopsy, not the
23 Palomino Club?

24 A That is correct.

25 Q And you did not go to Simone's Auto Plaza or

1 the auto body shop and do any investigation or recovery of
2 evidence, correct?

3 A No, I did not.

4 Q And again, Items A, B, C, the bullet fragments,
5 and all the rest of your testimony comes from the autopsy, not
6 from anything that occurred -- you don't know anything from
7 Simone's Auto body; is that correct?

8 A That is correct.

9 MR. ARRASCADA: Thank you.

10 THE COURT: All right. Thank you.

11 Any redirect?

12 MR. DIGIACOMO: No.

13 THE COURT: Mr. Morton, thank you for your
14 testimony. Please don't discuss your testimony with anyone
15 else who may be called as a witness in the case. Thank you,
16 and you are excused.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: State, your next witness.

19 MR. PESCI: State calls Ismael Madrid.

20 THE COURT: All right. And if Mr. Madrid is not
21 going to be testifying about these exhibits, perhaps you can
22 collect those.

23 Sir, just follow our bailiff right up here to the
24 witness stand and then just once you get up those couple of
25 stairs, remain standing and our court clerk will administer

1 the oath to you.

2 ISMAEL MADRID, STATE'S WITNESS, SWORN

3 THE CLERK: Please be seated and please state and
4 spell your name.

5 THE WITNESS: First name is Ismael, I-s-m-a-e-l.
6 Last name Madrid, M-a-d-r-i-d.

7 THE COURT: All right. Thank you.

8 Mr. Pesci.

9 MR. PESCI: Thank you.

10 DIRECT EXAMINATION

11 BY MR. PESCI:

12 Q Sir, I want to direct your attention to May the
13 19, 2005, the late hours of that day. Where were you?

14 A I was at Lake Mead.

15 Q And when you say Lake Mead, I mean, there are
16 streets in the city called Lake Mead, but this is actually the
17 lake?

18 A I was actually at the lake.

19 Q Okay. That's here in Clark County?

20 A Yes.

21 Q And who were you there with?

22 A With two friends.

23 Q And who were those friends?

24 A Chelsea Dixon and Monique Gonzales.

25 Q And had you been at the lake the whole day?

1 What was going on that day?

2 A We went out there, I guess, for a small picnic,
3 I guess you would say, about three hours, four hours at the
4 most.

5 Q So about what time was it when you went to the
6 lake?

7 A About 7:00.

8 Q 7:00 p.m.?

9 A Yeah, about 7:00 p.m.

10 Q All right. At some point, did you and your
11 friends decide to go home?

12 A Yes.

13 Q Tell us about that, how you got there and how
14 you got home.

15 A Driving. We got there -- in my truck, we drove
16 up there. And then going back, Chelsea was driving. And as
17 we were driving back into town, we see a body lying in the
18 middle of the roadway.

19 Q Do you remember about what time it was when you
20 were driving back?

21 A Oh, roughly 11:30, 12:30 in there.

22 Q Okay. So the late hours of the 19th?

23 A Yes.

24 Q You said that you saw something as you were
25 coming back?

1 A Yes.

2 Q What is it that you saw?

3 A We saw a body laying in the middle of the
4 roadway.

5 Q All right. Now, was it Chelsea that was
6 driving?

7 A Yes.

8 Q What was she driving?

9 A A truck.

10 Q And what kind of a truck is this?

11 A A Dodge Ram.

12 Q Where were you seated in the truck?

13 A Passenger.

14 Q When was it that you were first able to see the
15 body? Where was the body situated?

16 A It was -- I mean, we almost missed it. We came
17 up pretty close. We just came right up on it. I can't -- I
18 mean...

19 Q When you say you almost missed it, are there
20 street lights out on this road?

21 A No.

22 Q Is this Lake Shore or what street was this? Do
23 you know?

24 A I can't recall.

25 Q But is this the road to drive back into the

1 city from the lake?

2 A I believe so, yes.

3 MR. PESCI: May I approach the witness?

4 THE COURT: Yes, that's fine.

5 BY MR. PESCI:

6 Q Showing you State's Proposed Exhibits 5 through
7 9 and 12, 14, and 15, take a look at those and let me know
8 when you're done.

9 A (Complying.)

10 Q State's 5 through 9, you've gone through those,
11 sir?

12 A Yes.

13 Q Do you recognize what's depicted in State's 5
14 through 9?

15 A Yes.

16 Q Are those accurate depictions of how the scene
17 looked on that night when you were there?

18 A Yes.

19 MR. PESCI: Move for the admission of 5 through 9,
20 Your Honor.

21 THE COURT: Any objection?

22 MS. ARMENI: No, Your Honor.

23 MR. GENTILE: No, Your Honor.

24 THE COURT: All right. 5 through 9 are admitted.

25 (State's Exhibits 5 through 9 admitted.)

1 BY MR. PESCI:

2 Q All right. Looking at 12, 14, and 15, did you
3 recognize those?

4 A Yes.

5 Q Are those accurate depictions as well of the
6 things that you saw there that night?

7 A Yes.

8 MR. PESCI: Move for the admission of 12, 14, and
9 15.

10 THE COURT: Any objection?

11 MS. ARMENI: No, Your Honor.

12 MR. ARRASCADA: No.

13 THE COURT: You don't have to stand.

14 That will all be admitted.

15 MR. PESCI: Thank you.

16 (State's Exhibits 12, 14, and 15 admitted.)

17 BY MR. PESCI:

18 Q Now, you said you almost missed the body?

19 A Yes.

20 Q All right. Let's look at State's 5 first.

21 Now, as we're looking at State's 5, can you show us where the
22 body is? You can touch the screen there.

23 A Right there.

24 Q Now, when you were out there that night and you
25 first came up on there, are those some cars situated behind

1 the body?

2 A Yes.

3 Q Were those there?

4 A Only one of them.

5 Q Is that why you couldn't see the body at that

6 point?

7 A Yes.

8 Q Showing you State's 6, as you got closer -- if

9 you tap the bottom right-hand corner of your screen, it will

10 clear -- thanks -- State's 6, as you got closer, is that what

11 you saw?

12 A Yes.

13 Q Eventually did you get to a point where you did

14 see the body?

15 A Yes.

16 Q How close do you think you got when -- were you

17 still in the truck at this time?

18 A No, I exited the truck.

19 Q Did anybody else get out at that point?

20 A Shortly after, yes, Chelsea did.

21 Q When you got out, what did you do?

22 A I didn't -- I was yelling, you know, Hey, can

23 you hear me? I didn't know he was dead at first.

24 Q Okay. Looking at State's 7, at that point,

25 you're telling us you're not sure if that person was alive or

1 not?

2 A Yes.

3 Q And you mentioned something about one of the
4 cars depicted in State's 7 was, in fact, out there when you
5 got there?

6 A Yes.

7 Q Could you circle that particular car?

8 A (Complying.)

9 Q And was that car facing towards you as you
10 approached or facing away from you?

11 A Facing away from us.

12 Q Eventually did you get close enough to the body
13 to ascertain whether the person was alive or not?

14 A Yes.

15 Q Showing you State's 8 -- could you clear that
16 out -- is this what you saw at that location?

17 A Yes.

18 Q Were you able to figure out whether or not he
19 was alive at point?

20 A Yes.

21 Q What did you do based on that?

22 A I called 9-1-1.

23 Q Did you have a cell phone or what was going on?

24 A Yes, I had a cell phone.

25 Q When you made contact with 9-1-1, did you tell

1 them what the situation was?

2 A Yes.

3 Q And at first, were you sure whether or not he
4 was alive?

5 A At first, no.

6 Q Showing you -- we're still looking at State's
7 8. Now, is that the side of the body that you approached when
8 you first came up?

9 A I believe so, yes.

10 Q All right. Showing you State's 12, did you
11 make it to the other side of the body eventually while you
12 were out there?

13 A Later.

14 Q All right. When you saw this, did you have a
15 better idea as to whether or not he was alive?

16 A Yes.

17 Q Now, out in that area did you see any other
18 items around the body of Mr. Hadland?

19 A Advertisement cards.

20 Q Showing you State's 14, are these those cards
21 that you're referring to?

22 A Yes.

23 Q Did you find something else in the area of
24 those cards?

25 A I don't believe so, no.

1 Q Okay. Let me approach and show you State's 15.
2 Do you see anything else in that photograph?
3 A Tube.
4 Q Okay. And was that out there at that time?
5 A Yes.
6 Q As far as you know?
7 A As far as I know, yes.
8 Q Okay. And when you talk about the tube, can
9 you point that out to the ladies and gentlemen of the jury?
10 A (Complying.)
11 Q Okay. Thank you.
12 Did police or medical arrive?
13 A Yes.
14 Q And did police eventually speak with you?
15 A Yes.
16 Q Did they ask you to fill out what's commonly
17 referred to as a voluntary statement?
18 A Yes.
19 Q Did you fill that voluntary statement out?
20 A Yes, I did.
21 Q And do you have any experience now, as you sit
22 here today, with voluntary statements?
23 A Yes.
24 Q And how is that?
25 A I'm a police officer.

1 Q At the time that this happened back on May the
2 19, 2005, were you a police officer?

3 A No, I wasn't.

4 Q Were you about to become or trying to become a
5 police officer?

6 A I had a month before I started the academy.

7 Q Did you have any experience with voluntary
8 statements before that night?

9 A No.

10 Q Since then have you handed those out to
11 witnesses?

12 A Yes.

13 Q When the police asked you to fill out your
14 voluntary statement, were you still with Chelsea and the other
15 individual?

16 A I was with them.

17 Q Were you asked to fill them out separately or
18 did you all kind of gather up together and --

19 A No. We filled them out separately.

20 Q Did you compare notes?

21 A No.

22 Q Okay.

23 MR. PESCI: Pass the witness.

24 THE COURT: All right. Thank you.

25 Ms. Armeni.

1 MS. ARMENI: Yes, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. ARMENI:

4 Q Mr. Madrid, I just have one question.

5 Exhibit 8, I don't know if you remember that -- do you still
6 have the exhibits in front of you?

7 A No.

8 Q Do you see that hat, sir, in the picture?

9 A Yes.

10 Q When you -- to the best of your recollection,
11 when you showed up, when you saw the body, was that hat there?

12 A Yes.

13 MS. ARMENI: Court's indulgence.

14 No further questions.

15 THE COURT: All right. Mr. Arrascada.

16 MR. ARRASCADA: May I also see them, please.

17 CROSS-EXAMINATION

18 BY MR. ARRASCADA:

19 Q Sir, also referring to Exhibit 8, when you
20 walked up, on the right arm there's a tattoo; is that correct?

21 A Yes.

22 Q And you saw that when you walked up?

23 A Yes.

24 Q And it's -- it says "cash daddy" on it up at
25 the top; is that correct?

1 A I believe that's what it says.

2 MR. ARRASCADA: Thank you.

3 Nothing further, Your Honor.

4 THE COURT: Okay. Thank you.

5 Redirect?

6 MR. PESCI: Sure, if I could.

7 REDIRECT EXAMINATION

8 BY MR. PESCI:

9 Q You were asked some questions about the body of
10 the victim just now, about the tattoo. Did you see that?

11 A Yes.

12 Q All right. Remember that, I should say, not
13 see. I apologize.

14 Looking at State's 8, what's that right there?

15 A Chain.

16 Q Okay. Have you responded to any robbery scenes
17 since you've become an officer?

18 A Yes.

19 Q Do you normally find things of value still on
20 the body if someone's been robbed?

21 A No.

22 MR. PESCI: Thanks.

23 THE COURT: Any recross?

24 MS. ARMENI: No, Your Honor.

25 MR. ARRASCADA: No, Your Honor.

1 THE COURT: Thank you for your testimony. Please
2 don't discuss your testimony with anyone else who may be
3 called as a witness. Thank you, and you are excused.
4 State, call your next witness.
5 MR. PESCI: State calls Officer Lafreniere.
6 THE COURT: Sir, just please remain standing, facing
7 our court clerk who's going to be administering the oath to
8 you.
9 JASON LAFRENIERE, STATE'S WITNESS, SWORN
10 THE CLERK: Please be seated, and please state and
11 spell your name.
12 THE WITNESS: Jason Lafreniere, L-a-f-r-e-n-i-e-r-e.
13 THE CLERK: I'm sorry. I got lost. Jason.
14 THE WITNESS: Yes. Yes, ma'am, Jason, J-a-s-o-n.
15 Yes, ma'am.
16 THE CLERK: Okay. Sorry.
17 THE WITNESS: Jason Lafreniere.
18 THE COURT: Is that J-a-s-o-n?
19 THE WITNESS: Yes, ma'am. Yes, Your Honor.
20 THE CLERK: L --
21 THE WITNESS: L-a-f-r-e-n-i-e-r-e.
22 THE CLERK: Thank you.
23 MR. PESCI: May I proceed, Your Honor?
24 THE COURT: You may, Mr. Pesci.

25 DIRECT EXAMINATION

KARReporting & Transcription Services

1 BY MR. PESCI:

2 Q Sir, what do you do for a living?

3 A I'm a detective with the Las Vegas Metropolitan
4 Police Department.

5 Q How long have you been with Metro?

6 A For over seven years.

7 Q How long have you been a detective?

8 A About a year and a half.

9 Q Focusing back -- or where are you a detective?
10 What --

11 A Juvenile sex abuse.

12 Q Back on May the 19th, the late hours going into
13 May the 20th of 2005, were you a detective at that point?

14 A No, sir.

15 Q What were you?

16 A I was a patrol officer.

17 Q And when you're a patrol officer, is there a
18 specific area that you patrol?

19 A Yes, sir. I patrolled the northeast area
20 command.

21 Q And did you respond out to -- was it North
22 Shore Road?

23 A I believe that was the name of it. Yes, out by
24 Lake Mead. Yes, sir.

25 Q Is that within your patrol area?

1 A Yes.

2 Q Now, when you're working as patrol and on that
3 specific night, did you have a partner? Was there somebody
4 with you?

5 A No, sir, I was by myself.

6 Q Were you dressed in uniform?

7 A Yes.

8 Q As you appear today, is this normally how you
9 dress when you're working as a detective now?

10 A As a detective, yes. When I was a patrol
11 officer, I wore the standard Las Vegas Metropolitan Police
12 Department uniform.

13 Q And were you driving a patrol unit car?

14 A Yes, a marked car. Yes, sir.

15 Q Originally how did the call get to you? How
16 were you requested to go out this?

17 A I don't know if it came through dispatch or if
18 I saw it on the screen, but we have a little computer in our
19 car and also a radio. I was dispatched to the location via
20 dispatch either over the radio or on my computer.

21 Q When you first arrived at the scene, what did
22 you see?

23 A I came in contact with a young man and I
24 believe there were two females as well. They had called in a
25 body in the road.

1 Q Let me ask you this: The young man that you're
2 referring to, is that the individual that just left the
3 courtroom?

4 A It is, yes, sir.

5 Q And when you saw Mr. Madrid out there, what did
6 you do?

7 A I -- I don't remember exactly the order it was,
8 but I spoke with him. I saw a body lying in the road. It was
9 a white male. I believe he was not wearing a shirt. He was
10 laying on his back. I approached the body. I didn't get too
11 closed. He appeared deceased. I didn't touch the body. I
12 noticed there was a vehicle off to the side of the road. I
13 don't recall if the vehicle was running or not.

14 Q Let me stop you there.

15 A Yes, sir.

16 MR. PESCI: May I approach?

17 THE COURT: Sure.

18 BY MR. PESCI:

19 Q Showing you State's Proposed Exhibits 10 and
20 11, I ask you to take a look at those and let me know if you
21 recognize those.

22 A Yes, sir. This is the scene when I arrived out
23 there off of North Shore Road.

24 Q Are those fair and accurate depictions of the
25 scene on that day?

1 A Yes, sir, they are.

2 MR. PESCI: Move for the admission of 10 and 11,
3 Your Honor.

4 THE COURT: Any objection?

5 MR. GENTILE: I'd like to see them.

6 MS. ARMENI: He showed them to us.

7 MR. GENTILE: Oh, he did? Okay.

8 MR. ARRASCADA: No objection.

9 MS. ARMENI: No objection.

10 MR. ARRASCADA: And no objection.

11 THE COURT: All right. Thank you. All right. 10
12 and 11 are admitted.

13 (State's Exhibits 10 and 11 admitted.)

14 BY MR. PESCI:

15 Q Okay. You talked about a car, correct?

16 A Yes, sir.

17 Q And I'll show you -- let's start with 10.
18 We're going to have to zoom out on that one.

19 Okay. Looking at State's 11 -- or State's 10, is
20 the car depicted here on the left-hand side?

21 A Yes, sir.

22 Q Okay. And you say as you sit here today you
23 don't recall whether it was running or not?

24 A I have no idea.

25 Q All right. And in the body, showing you

1 also hear that they are upset that he had those two kids in
2 the car who could pinpoint exactly where he was.

3 What else you also heard that should give some --

4 MR. GENTILE: Objection to what they heard. He can
5 talk about what they're going to hear.

6 THE COURT: Right. That's sustained.

7 MR. DIGIACOMO: What else you're going to hear on
8 this tape -- well, first of all, there's no question that Luis
9 Hidalgo, III, wants Rontae and Jayson killed. There's no
10 question that he wants KC to do it first, and then after he's
11 told that KC isn't the person who could do it because -- well,
12 Deangelo knows that KC's in jail, but as he tells them that
13 he's not going to be able to find KC, that he gives them a
14 bottle of Tanqueray, and you're going to hear that Deangelo
15 Carroll leaves that -- Simone's Autoplaza with a bottle of
16 Tanqueray. He wants rat poisoning in it. And even when
17 Anabel Espindola tells Luis Hidalgo, III, rat poisoning's not
18 going to work, his response isn't, You're right. It's, You
19 know what you've got to do.

20 What else you heard, which caused the recording to
21 occur on the next day, was --

22 THE COURT: We'll hear.

23 MR. DIGIACOMO: -- what Anabel Espindola said.

24 MR. ARRASCADA: Your Honor, again, objection. This
25 is argument.

1 THE COURT: All right.

2 MR. DIGIACOMO: Rephrase.

3 What you're going to hear is her statement which
4 caused the second recording. On there you heard her make a
5 statement, something to the effect of, What we really wanted
6 for him was to be beat up, not M F'ing dead. And based upon
7 that, the cops decided that they needed to send Deangelo back
8 up a second day.

9 And you're going to hear a recording from May 24th,
10 once again at Simone's, once again with Anabel and Little Lou
11 on the recording in which the discussion is had about what the
12 actual plan was.

13 (Tape being played.)

14 MR. DIGIACOMO: You'll learn that that device is
15 left in the bathroom for 28 minutes and it's dead recording
16 until Deangelo puts it back on himself and he walks out of
17 that club on the 24th. You will hear --

18 And, I'm sorry. Ms. Olsen, can you switch it back
19 to --

20 THE COURT: You know, while she's doing that, how
21 much more do you have, Mr. DiGiacomo?

22 MR. DIGIACOMO: Ten minutes, maybe.

23 THE COURT: All right. I'm sorry. Go on.

24 MR. DIGIACOMO: You will hear and you heard a
25 discussion about a lot of things. One of the things you will

1 learn during this time period is that Luis Hidalgo, Jr. is
2 inside Simone's club. Surveillance on that club puts him
3 inside the club on that date and shortly after the
4 23rd recording is done, sees him leaving with Anabel
5 Espindola.

6 The next day, once again, he's surveilled. He's in
7 that place. And eventually Luis Hidalgo, on the 24th, Jr. --
8 III, winds up leaving and the cops come into contact with him
9 and arrest him.

10 He was the person who was supposed to open the
11 Palomino Club that night, so about 5:00 o'clock when the
12 dancers are standing outside the door and they can't get in,
13 they start calling Anabel and Mr. H. And you will hear about
14 Anabel and Mr. H leaving Simone's on the 24th together and
15 then they're pulled down and then Anabel Espindola is
16 arrested.

17 After that time period, a search warrant is executed
18 on the evening of the 24th on Simone's Autoplaza. During the
19 course of the execution of the search warrant there's a lot of
20 items of evidence found, but one of them was a note, Maybe we
21 are being surveilled, keep your mouth shut.

22 When this case first started out and Mr. H was not a
23 defendant in the case, an exemplar was taken from Luis
24 Hidalgo, III, to see if he wrote that note. A forensic
25 analyst was able to conclude he's not the author of that note.

1 Eventually, later on when you hear about the arrest
2 of Mr. H, an exemplar is taken from Mr. H and the forensic
3 analyst was able to say to a reasonable degree of scientific
4 certainty that Luis Hidalgo, Jr., the father, wrote that note.

5 In addition, there's an execution of a search
6 warrant at the Palomino Club as well and there's documents
7 related to the fact that TJ was an employee there, Deangelo
8 Carroll and everything else.

9 You also heard a discussion about cell phones. Each
10 one of these individuals had a cell phone and you will learn
11 about their number. Mr. H has kind of got a green border
12 there, and I did that to help you follow along with some of
13 the colors. Luis Hidalgo, III, has paint. Anabel's is
14 purple. Deangelo's is yellow and so is Kenneth Counts, and
15 I'll tell you about that in a minute, why.

16 Now, everyone at the club has Nextels. There's two
17 ways to work a Nextel. I don't know if any of you guys have a
18 Nextel. There's Nextel regular, you talk on the phone. When
19 that happens, you do just like a normal telephone calls.
20 There's cell site coverage and you can learn the cell site
21 information about where everybody is that's talking regularly
22 on the phone. The Nextel's also have a walkie-talkie function
23 where they can just chirp back and forth and do direct
24 connects.

25 Deangelo Carroll's Nextel telephone only does direct

1 connects out of the Palomino. So if you're going to have a
2 regular telephone conversation with Deangelo Carroll, it
3 either has to be on a different cell phone or it has to be on
4 his home phone. And you'll learn during the course of this
5 case (702)643-0842 is Deangelo Carroll's home phone.

6 On May 19th of 2005, he calls Anabel Espindola's
7 phone on two occasions, one at 5:00 o'clock and one at 7:30.
8 You're also going to see that at 7:42 p.m. Little Lou calls
9 Deangelo Carroll's home. And when there are cell site
10 information, this is an actual telephone call, those are
11 minutes. So they talk for over a minute, Little Lou and
12 Deangelo Carroll.

13 And I submit to you that at the end of this case the
14 evidence is going to show that that phone call is the phone
15 call where he tells Deangelo Carroll to come to the club with
16 the baseball bats and the garbage bags.

17 Then you'll see the time period of the murder. This
18 inbound/outbound is actually a cell phone, and all of these
19 are direct connects. You're going to see direct connects
20 between Mr. H and Anabel. At one part you're going to see
21 Deangelo Carroll and Anabel Espindola direct connects, Mr. H
22 and Anabel direct connects, Deangelo Carroll and Timothy
23 Hadland, who still had his Palomino cell phone, Nextel cell
24 phone. These right here and then this call right here.

25 You heard during the course -- or you will hear

1 during the course of those tapes that a regular phone call
2 Deangelo Carroll can't make. You heard that discussion -- or
3 you will hear that discussion about the son and calling his
4 wife. As it turns out, you will hear the testimony about how
5 there was problems with the connections and eventually there's
6 an actual regular phone call made inbound to Kenneth Counts --
7 I mean, inbound to Anabel Espindola, 1.4 minutes.

8 And the cops run down the phone number, which just
9 happens to be Kenneth Counts' cell phone. Deangelo -- you
10 will find that Deangelo Carroll borrowed Kenneth Counts' cell
11 phone so he could have a regular conversation with Anabel
12 Espindola shortly before the murder of TJ Hadland.

13 You keep following those and you'll see that at
14 12:24 Mr. H calls Anabel and Anabel calls Little Lou. And
15 interestingly, at 1:48 a.m., Mr. H direct connects with
16 Deangelo Carroll.

17 Eventually, you will hear from Anabel Espindola.
18 Ms. Espindola was arrested on May 24th of 2005. She sat in
19 jail and, in fact, is still in jail for the better part of
20 three years and ultimately reached a resolution with the
21 State. And you will hear her story. And at the end of this
22 case you will be instructed on the law and you're not going to
23 be asked to find what crime she committed, but when you read
24 that law, the evidence is probably going to show you that she
25 committed second degree murder.

1 She enters a plea to what's known as voluntary
2 manslaughter with use of a deadly weapon, one step down. And
3 she remains in jail to this day and she's going to tell you
4 what she knows about this crime.

5 She's going to tell you that on the morning -- or
6 during the daytime on May 19th of 2005 she received a phone
7 call from Deangelo Carroll just like the phone records show,
8 that during the course of that phone call Deangelo Carroll
9 started telling her about TJ and TJ's talking bad about the
10 club. And she'll explain to you a little bit about the club.
11 The club was once owned by Jack Perry. He eventually had to
12 sell the club. He sells it to a Dr. Simon Sturtzer,
13 (phonetic) who's a close friend of Mr. H, and eventually
14 Mr. Sturtzer's getting such bad press because he's a doctor
15 that he wants a partner and he wants to go silent and Mr. H
16 becomes that partner.

17 Dr. Sturtzer still gets paid \$10,000 a month even
18 after Mr. H takes over the club, and the club's not making
19 that much money to cover the nut every month that they have to
20 pay Dr. Sturtzer. And Simone's isn't doing that much either.

21 She will tell you that after she receives the phone
22 call from Deangelo Carroll, she's in the house -- or she's in
23 the -- Simone's Autoplaza with both Luis Hidalgo, III, and
24 Mr. H. And the cell sites from their phone records will
25 confirm that fact. She will tell you that she told them what

1 Deangelo Carroll had told her and that the two of them started
2 an argument and during the course of that argument Luis
3 Hidalgo, III, said to his father, You're never going to make
4 the kind of money that Rizzalo and Gallardi do.

5 For those of you who don't know, Rizzalo was the
6 owner of the Crazy Horse II, here in town, and Gallardi was
7 the owner of Cheetah's and I think Jaguar's as well before his
8 legal troubles. And he says -- Little Lou says, you know, you
9 won't even have this guy beat up, Rizzalo had a customer beat
10 up who wouldn't pay. And this argument ensues in which Little
11 Lou finally leaves the club. And, in fact, when you look at
12 his cell phone records, he's hitting off a cell phone tower
13 between Simone's where he left after this argument and when he
14 gets to the Palomino Club where that phone call was made to
15 Deangelo Carroll.

16 Anabel will tell you that Mr. H was stewing. He
17 wasn't happy about the conversation. He was mad. He was
18 sitting outside her office. And she'll say that eventually
19 sometime after 7:30 or 8:00 o'clock she and Mr. H drove to the
20 Palomino Club. She'll tell you that once she got there, she
21 went into the office like she always does and she remained in
22 the office. And then eventually Mr. H and Deangelo Carroll
23 walked into the office -- or Deangelo Carroll knocked on the
24 door, him and Mr. H had a short conversation. They walked out
25 the door.

1 A short time later, Mr. H came back into the office,
2 asked her to step to the back area away from an individual by
3 the name of PK, Pilar Handley (phonetic) and she said, Go call
4 Deangelo and tell him to go to plan B. She'll tell you that
5 she went to the back. She couldn't direct connect with him.
6 She kept clicking back and forth and eventually was able to
7 get a land line connection with him, just like the phone
8 records will show you.

9 And during the course of that conversation he was
10 saying stuff about, But we're alone, and she says, Look, Mr. H
11 wants you to go to plan B, go to plan B. She'll tell you that
12 after that phone call and her conversations with Mr. H,
13 Deangelo Carroll came back to the club, that he came into the
14 office, that he said it was done and Mr. H ordered her to give
15 him five. She says five what? He says, \$5,000.

16 She'll tell you that she went and got the cash and
17 she put it on the table and Deangelo Carroll walked out of the
18 room. She'll tell you that the next day or the day after, on
19 Saturday, she went to Luis Hidalgo, Jr. After having his
20 conversation with the police that evening of the 20th, was
21 concerned, he was upset.

22 And so they called their lawyer and eventually
23 talked to an individual by the name of Jerome DePalma. And
24 the next day, on Sunday, their usual lawyer, Mr. Gentile, flew
25 back into town and they had a meeting with him on that day.

1 She'll tell you that at the end of that meeting she was
2 instructed in the presence of Mr. H not to have conversations
3 with Deangelo Carroll, that he could be wired.

4 And she'll tell you that later that night she left
5 and despite the warning that she was provided, Mr. H was
6 upset. He was scared as to what Deangelo Carroll was going to
7 do and he asked her to have a conversation with Mr. Carroll.
8 And when you listen to that recording, what you will find or
9 what you will hear is exactly what she's saying. You and Luis
10 have to stick together. You and Luis -- Luis's in a panic.
11 Even his own son admits Luis's the person in the panic.

12 And she'll tell you that during the time period of
13 that wire, Mr. H was inside the place. You will also hear
14 that the next day nobody told Deangelo to come down there. He
15 just goes walking in. And when he walked in, she had a short
16 conversation with Mr. H. She talked to him. And then you
17 heard her -- hear her leave the room and you will hear that
18 she talked to him and he ordered her to give Deangelo Carroll
19 more money. She then left and gave Deangelo Carroll more
20 money. He left and eventually she was arrested in this case.

21 Ladies and gentlemen, at the end of this case, while
22 it's complex, while it's complex conspiracy law and you're
23 going to have a lot of law provided to you related to the
24 elements of the case, there's going to be simply no conclusion
25 other than Mr. H gave the order that his son encouraged the

1 order and that ultimately they're responsible for the death of
2 Timothy Hadland.

3 Thank you.

4 THE COURT: All right. Thank you, Mr. DiGiacomo.

5 Ladies and gentlemen, we're just going to take a
6 quick ten-minute break until 11:00 o'clock. You are reminded
7 that during this break you're not to discuss this case or
8 anything relating to the case with anyone else. You're not to
9 read, watch, listen to any reports of or commentaries on any
10 subject matter relating to the case and please don't form or
11 express an opinion on the trial.

12 If everyone would please put their notepads in there
13 chairs, and I do need to remind everyone when you are in the
14 building, please make sure that you're wearing your blue
15 Department XXI jurors -- jury badges. The reason for that is
16 so that people immediately recognize you as jurors and don't
17 inadvertently discuss the case or something like that in your
18 presence.

19 So if all of you will please put your notepads in
20 your chairs and follow Jeff through the double doors, we'll be
21 back in session at 11:00.

22 (Court recessed at 10:52 a.m. until 11:02 a.m.)

23 (Outside the presence of the jury.)

24 THE COURT: Go ahead.

25 MR. ADAMS: Thank you, Your Honor. During the

1 State's opening, we approached the bench --

2 THE COURT: Yeah. The first objection was
3 referencing Mr. DiGiacomo's commenting on the state of the
4 case against Deangelo Carroll, which I told him to move on. I
5 didn't sustain the objection. I should have, but it is what
6 it is.

7 MR. ADAMS: Yes, ma'am, we objected and said that --

8 THE COURT: But then he did -- for the record, he
9 did move on after -- there's probably not going to be any
10 evidence of what Deangelo Carroll did or did not do. But
11 anyway, he moved on from that and took another -- moved on to
12 something else is what I'm trying to say.

13 MR. ADAMS: Yes, ma'am. We objected on the grounds
14 of hearsay and prejudicial effect and lack of relevance and
15 the Court overruled.

16 We do at this time raise a continuing objection to
17 the State eliciting that information from any witness in the
18 case as Deangelo Carroll's status of incarceration at this
19 point in time is irrelevant to the trial of these two
20 defendants.

21 MR. DIGIACOMO: Judge, it's not irrelevant. As you
22 heard them say at the bench, the police made a deal with him.
23 The police made no deal with him. He offered to wear a wire.
24 They took him up on that wire. We have never used -- we have
25 never provided him a deal.

1 THE COURT: Yeah. Here's the --

2 MR. DIGIACOMO: He's charged and that's going to
3 become relevant if they're going to start --

4 THE COURT: Right. If they start --

5 MR. DIGIACOMO: -- questioning that.

6 THE COURT: I mean, obviously we can't get into the
7 Kenneth Count situation. Anyone who testifies -- so it kind
8 of creates an incomplete or haphazard picture. Anyone who
9 testifies, obviously, you can get into what they were offered
10 and anything like that. Deangelo Carroll isn't going to be
11 testifying, so I don't know how it's going to come in. But if
12 the defense tries to make an issue that there was a deal and
13 he got a benefit from this, then certainly that opens the door
14 and the State can get into, Oh, no, there was no benefit. We
15 didn't favor this defendant over any other defendant. So I
16 think then it would become relevant.

17 MR. ADAMS: Correct. And we had a second objection
18 regarding the transcripts. Mr. Arrascada--

19 THE COURT: Right, which was sustained, and they did
20 not use the --

21 MR. ADAMS: I believe that was --

22 THE COURT: -- they did not use the offending -- or
23 the question part of the transcript which referred to TJ.
24 That has been redacted by Mr. DiGiacomo. He informed the
25 Court of that at the bench and then was allowed to go forward

1 and any reference to the disputed part was sustained and
2 Mr. DiGiacomo then did not reference it but told the jury to
3 listen for themselves or something to that effect.

4 And I also would address there had been previously a
5 Batson challenge made. There are two African Americans on the
6 regular jury and one African American is the second alternate
7 in Chair No. 7.

8 MR. DIGIACOMO: And first alternate, we still don't
9 know the answer to.

10 MR. GENTILE: Your Honor, it's taking us a bit of
11 time to get set up, but I believe --

12 THE COURT: That's fine.

13 MR. GENTILE: I apologize to the Court.

14 MR. ARRASCADA: Judge, on the transcript issue,
15 could we just request that throughout the trial if the
16 transcript is brought up that the limiting instruction be
17 provided to them contemporaneously?

18 THE COURT: That's fine.

19 MR. PESCI: Judge, we'd ask for that for the
20 defense's version as well.

21 THE COURT: Right. Anytime they reference the
22 transcript, I'll just remind everyone they won't have copies,
23 it's not evidence, and it's disputed and is merely being given
24 to aid them in listening to the tape, let their own -- you
25 know, something to that effect. Their own hearing of the tape

1 is what controls.

2 In response, Mr. Arrascada and Mr. Adams, the JAVS
3 people are going to come up at the break and try to set
4 something up so that you can see a monitor as well. So they
5 don't know if they'll be able to do it, but they'll try.

6 I think an hour's optimistic.

7 MR. GENTILE: I agree.

8 THE COURT: I'm not going to interrupt you, but as
9 soon as you're finished, we'll take our lunch break.

10 MR. DIGIACOMO: So if he gets to 12:15, that's 1:15,
11 and they said that --

12 You're still going to have about a half hour,
13 Mr. Adams?

14 THE COURT: 40 minutes.

15 MR. ADAMS: I'm going to be 45.

16 (Off-record colloquy)

17 THE COURT: All right. Bring them in.

18 (Jury reconvened at 11:07 a.m.)

19 THE COURT: All right. Court is now back in
20 session. The record will reflect the presence of the State,
21 the defendants, their counsel, the officers of the Court, the
22 members of the jury.

23 Mr. Gentile, are you ready to proceed with your
24 opening statement?

25 MR. GENTILE: I am, Your Honor.

1 THE COURT: All right. Thank you.

2 MR. GENTILE: Thank you.

3 DEFENDANT HIDALGO, JR. OPENING STATEMENT

4 MR. GENTILE: Good morning. When we stood up to
5 give you that brief overview of this case, what now seems like
6 a long time ago, remember, I said to you that the bottom line
7 was that Luis Hidalgo, Jr. didn't know anything about anything
8 that happened in this horrible tragic death of Timothy Hadland
9 until after it happened. Thus, the theme of this case.

10 Everybody in this jury has said that, certainly
11 everybody has heard it, we have all experienced it, and it is
12 what this case is about. Over the next hour or so, to be
13 honest, I'm going to talk to you about what the facts will
14 show. I'm going to identify for you some issues that will
15 arise in this case so that when you hear the facts as they
16 come in, you can kind of have a road map, some sort of a way
17 of putting the facts as they come in into context for the
18 decision that you're going to be asked to make when this is
19 all over with, but what I would like you to remember
20 throughout -- those three words and three others -- consider
21 the source, also something that I'm sure most of us have
22 either heard in our life -- maybe our mother said it to us,
23 and most of us have said it in our life.

24 This is a conspiracy case and the three questions
25 that you're going to be asking yourselves as the evidence

1 comes in in this case, the first one is, what's conspiracy?
2 Now, understand something, only the judge can instruct you on
3 the law. That is her exclusive province and role in this
4 case. None of the lawyers, no matter how much we've worked
5 with the law or how little, can talk to you about what the law
6 is. At the end of the case, the judge is going to instruct
7 you what the law is and then we'll be able to argue with those
8 instructions before you what the facts show as it meets the
9 elements of the law.

10 But in simple terms, conspiracy's an agreement.
11 It's an agreement to do something illegal. And obviously it
12 has to have a starting time's, and a stating time's no
13 different than any other starting time of any other agreement.
14 When two people, at least two people, get together and they
15 talk to each other and they agree to do something, you have a
16 conspiracy. Other people can join that same conspiracy later.
17 They can agree later on to accomplish the objective of that
18 conspiracy. But like anything else, a conspiracy has to have
19 an end.

20 And at the end of this case, the judge is going to
21 instruct you as to when a conspiracy ends, but obviously if
22 the objective of the conspiracy has been completed, you can't
23 very well join a conspiracy to accomplish that goal. It's too
24 late to do that and that's why we get back to timing is
25 everything. As you listen to the facts as they come into this

1 case, keep that in mind.

2 It's going to be critical. Time lines are going to
3 be critical in this case for you to reach a just and correct
4 decision.

5 The judge will instruct you at the end of the case
6 that if you did not join a conspiracy before its objective has
7 been reached, then while you may be responsible for some
8 things that you did do, you're not responsible for the
9 objective of that conspiracy. And that makes sense.

10 Another theory in this case that the State has --
11 and by the way, everything is -- everything that comes into
12 this case with respect to Luis Hidalgo, Jr., who you will
13 referred to as Louie and you will hear referred to as Mr. H by
14 people that have been calling him that his whole life,
15 everything is governed by this document. This document is
16 called an amended indictment. And as the judge said, it's
17 nothing more than a piece of paper that kind of puts on it
18 what the charges are so that you can have some guidance.

19 You don't come into a courtroom to decide whether
20 you like a guy or not. You don't come into a courtroom to
21 decide whether he's a bad guy or not, whether he did something
22 right or did something wrong. You come into a courtroom to
23 determine whether what's on this piece of paper has been
24 proven beyond a reasonable doubt.

25 And in this case -- Mr. DiGiacomo said that this is

1 kind of a complex case, and he's right. And the reason that
2 he's right is because it charges two Counts. It charges a
3 conspiracy to commit murder, an agreement to commit murder,
4 and then by its language, it incorporates by reference Count
5 2, which is the murder count.

6 In Count 2, it has four different theories about how
7 the murder may have been committed.

8 MR. DIGIACOMO: Judge, I apologize. I gave him some
9 leeway, but one, it's argumentative; and, two, it's not proper
10 opening.

11 MR. GENTILE: Your Honor, we're entitled to discuss
12 issues at this point and then go into the facts.

13 THE COURT: All right. Well, you're kind of on the
14 line, but --

15 MR. GENTILE: Thank you.

16 The second of those theories is called aiding and
17 abetting, and so one of the things you're going to be
18 wondering throughout this case is what is aiding and abetting.
19 Well, aiding is a word that you use all the time. Abetting,
20 most liking, isn't. And it has nothing to do with going to a
21 sports book. Okay.

22 What you're going to be instructed at the end of the
23 case is that, in simple terms, it means helping somebody or
24 encouraging them or hiring them, even, to do something before
25 it's done. If it's already done, it's too late; thus, timing

1 is everything in this case.

2 And so now I want to get into the second thing that
3 we talked about, and we're going to get into the evidence,
4 what the evidence will show. And the second thing we talked
5 about is consider the source. As you hear witnesses testify
6 in this case, I'm going to talk to you now about what evidence
7 you're going to hear about the credibility of those witnesses
8 so that you know before you hear them. And when we're talking
9 about consider the source and we're talking about credibility,
10 we're talking about believability. That's what it means. And
11 we deal with it in our everyday lives.

12 This man is Deangelo Rashaun Carroll. As
13 Mr. DiGiacomo says, he is not going to call him as a witness
14 in this case. I cannot call him as a witness in this case and
15 so you're going to hear from this man, but you're going to
16 hear from this man through what other people say he said in
17 their presence.

18 Now, there's going to be some objections as to
19 whether you should be able to hear that or not, and you're
20 going to hear me say "hearsay," but that's the Judge's call.
21 But because he isn't coming into this courtroom and he isn't
22 going is to be sitting over here, we're not going to be able
23 to cross-examine him.

24 The law does provide and our procedure does provide
25 another way of coming close to that, addressing his

1 credibility. Mr. Rontae Zone, most likely, will testify in
2 this case. He is another source. Mr. Carroll, of course, is
3 a source of information even though he's not coming in here.
4 Mr. Zone is going to testify about things that he heard
5 Mr. Carroll say. We will be able to cross-examine Mr. Zone
6 and we're going to get into what the evidence will show with
7 respect to him in a bit.

8 Jayson Taoipu, I do not know if the State is going
9 to call him as a witness. If the State calls him as a
10 witness, we will have an opportunity to cross-examine him. If
11 the State does not call him as a witness, then we'll have to
12 see whether something he said before or somebody that said
13 something to him comes into evidence.

14 The first thing I want to talk about in terms of
15 what the evidence is going to show as far as the
16 believability, the credibility of these witnesses deals with
17 something simple. Right now you're looking at me and you're
18 listening to me, I hope. That's called perception, right?
19 You are perceiving me at this moment. Most of you are sober,
20 maybe all of you. That's a joke. After you perceive me
21 today, an hour from now, you may forget what I said. A week
22 from now, you may forget. A year from now, you most
23 definitely won't remember. And so let's address that with
24 respect to Mr. Carroll.

25 What is the evidence going to show about

1 Mr. Carroll's perception and his memory? Well, we won't be
2 able to show anything about his memory because the man's not
3 going to be in here, and so we won't be able to cross-examine
4 him with respect to that, but we will -- you will hear --

5 MR. DIGIACOMO: I apologize, Mr. Gentile.

6 May we approach?

7 THE COURT: Yeah.

8 (Off-record bench conference)

9 MR. GENTILE: We were talking about memory. Now
10 we're talking about perception.

11 Go back to perception and memory, please. There we
12 go. Okay.

13 Mr. Carroll -- I can't do this technology stuff
14 myself.

15 Mr. Carroll -- you are going to hear testimony in
16 this case that on the 19th of May, 2005, Mr. Carroll was
17 smoking pot all day. You're going to hear evidence in this
18 case that on the 19th of May, 2005, Mr. Carroll was using
19 cocaine and so keep that in mind. You're going to have to
20 wait to hear that, but you will hear it and that is something
21 you are entitled to use to determine perception.

22 With respect to Mr. Zone and Mr. Taoipu, you're
23 going to learn that Mr. Zone and Mr. Taoipu were smoking pot
24 with Mr. Carroll all day and that's something that you can
25 take into consideration.

1 Anabel Espindola. Anabel Espindola's perception --
2 there will be no evidence in this case that she was somehow
3 under the influence of anything, at least I don't think there
4 will be, but what you're going to find out is that it took 33
5 months before she said anything to anybody similar to what she
6 is saying here in court. And so memory comes into play there.
7 She repeated it to no one for 33 months.

8 Motive. There will be evidence of motive in this
9 case. With respect to Mr. Carroll, Mr. Carroll's motive, when
10 he said some of the things that will come into in evidence
11 this case such as the tape recording, was to keep himself out
12 of jail. He was wearing a recording device that was provided
13 to him by the Federal Bureau of Investigation and the Las
14 Vegas Metropolitan Police Department. That was after he gave
15 at least a three-hour statement to Metro. And his motive in
16 wearing that device and his motive in manipulating the
17 conversation -- and you will hear testimony that he was told
18 how to create an environment in that conversation for the
19 purposes of getting responses, and his motive in doing so at
20 time was to stay out of jail.

21 Mr. Zone. Mr. Zone has not been charged in this
22 case. The testimony in this case is going to be that
23 Mr. Zone, after smoking pot all day long with Taoipu and
24 Carroll, got into a vehicle, along with Carroll, Taoipu and
25 Counts, drove out to the lake and was an eyewitness to

1 Counts -- if it be Counts -- he says Counts -- to Counts
2 shooting Timothy Hadland in the head twice.

3 The State has chosen not to charge him. Mr. Zone at
4 the time he makes his original statements is motivated to see
5 to it that he is not charged and so that's something that you
6 could take into consideration. Just listen -- just listen to
7 it. Whether you take it into consideration or not, I don't
8 care. That's your business. But listen to it because it's
9 coming.

10 Mr. Taoipu. Mr. Taoipu had a motive -- has a motive
11 for the things that he says. Mr. Taoipu you will learn was
12 charged originally with this murder. Mr. Taoipu you will
13 learn basically fled the State of Nevada for a period of time
14 and then was brought back here in a custodial setting. And
15 the time that Mr. Taoipu finally starts saying things, he said
16 them the night of the event, the next morning after he had an
17 opportunity to talk to Mr. Carroll alone. It was Mr. Carroll
18 who brought Mr. Taoipu to the police. And at that point in
19 time, he too was motivated to stay out of trouble.

20 You will learn that Mr. Taoipu ultimately did plead
21 guilty to reduced charged --

22 MR. DIGIACOMO: Judge, I apologize. Until Mr. Zone
23 testifies, that's not admissible and I object.

24 THE COURT: Overruled.

25 MR. GENTILE: I'm not talking about Zone.

1 MR. DIGIACOMO: I mean Mr. Taoipu. Excuse me.

2 THE COURT: Overruled.

3 MR. GENTILE: Mr. Taoipu entered a plea of guilty to
4 a reduced charge and was sentenced to probation. The
5 testimony in this case is going to be that he, along with
6 Zone, Carroll, and Counts went out to the lake. The testimony
7 is going to be that Counts is the one that did the killing.
8 The testimony is going to be that Mr. Taoipu had a 22
9 semiautomatic with him at the lake during the killing and the
10 testimony will be that he received probation.

11 So there will be evidence in this case that he had a
12 motive as well to say the things that he might say if he's
13 called by the State in this case.

14 Anabel Espindola. Anabel Espindola also had a
15 motive and you will hear about it. The testimony that you
16 will hear is that Anabel Espindola was arrested on the 24th of
17 May, 2005. I want to make sure I get this right. The 24th of
18 May 2005. And on the 6th of July 2005, it came to Anabel
19 Espindola's attention that the State filed a notice of intent
20 to seek the death penalty as to her. Anabel Espindola's
21 attorney, along with the attorney for Mr. Luis Hidalgo, III,
22 challenged that action on the part of the State.

23 And so that you understand, this man was not
24 arrested until February of last year 2008. He was not
25 arrested in May of 2005. Timing is everything. On December

1 the 27th of 2007, after Anabel Espindola had been in jail by
2 that time two years and seven months, 31 months or so, the
3 Supreme Court of Nevada struck the death penalty in this case.

4 On the 14th of January, the State sought what's
5 called a rehearing. This was all known to Anabel Espindola.
6 She was in jail at the time. On the 15th of January, she was
7 in this courtroom and she will have to admit to that. And she
8 heard the State argue in her presence about its intention of
9 trying to reinstitute the death penalty against her. At that
10 moment she did not have -- it was kind of in limbo. The State
11 announced that day that the day before they sought a rehearing
12 on the death penalty issue. The State filed on that day an
13 amended notice of intent to seek death.

14 Also, on that day, Anabel Espindola sought bail.
15 She filed a motion for bail because the death penalty was not
16 in effect at that time as to her. And later on that day after
17 court at about 3:15 in the afternoon she had a telephone call
18 where she's speaking to Luis Hidalgo Jr., who, of course, is
19 not in jail at that time, not charged at that time. And in
20 that call you will hear her say, unless she admits it and we
21 don't need to play it, that everything that was being said by
22 the State in court on the 15th of January 2008 was a lie.

23 On the 24th of January, 2008, this Court set a bail
24 for Anabel Espindola. It was a high bail. It was \$550,000.
25 And she will tell you that. And you will hear that she wanted

1 to get out of jail and that Luis Hidalgo Jr., my client, had
2 difficulty raising the premium for the bail, which is
3 15 percent. You will hear that.

4 And so on the 2nd of February 2008, nine days after
5 the bail was set, while the petition for rehearing was
6 pending, while the possibility of the death penalty being
7 reinstated was still there, Anabel Espindola made a deal with
8 the State to testify in this case and to plead guilty to
9 reduced charges. The charges -- she has not been sentenced.
10 She has been sitting there for a year without being sentenced,
11 waiting to testify in this case.

12 After she's testified in this case, then and only
13 then will she be sentenced. She has not requested that the
14 Court sentence her beforehand as was her right to do. She
15 pled guilty to something that is called a fictional charge.
16 She said that she heard that on the day she pled guilty. And
17 the agreement that she made, while, of course, it says in it
18 that she agrees to tell the truth, the agreement that she made
19 guaranteed her that she would not have to run the risk of the
20 death penalty, and it did more than that.

21 You will learn that she has pled guilty and the deal
22 that she's got makes her eligible for probation. This is all
23 evidence that will come into this case and I ask you to
24 consider the source as you're hearing her testimony.

25 Bias. Bias, of course, means that you are favorable

1 to -- you're not supposed to be. Okay. It's what we spent
2 four days trying to find people that wouldn't be. But bias is
3 also something that you can take into consideration as this
4 case develops. And you're going to hear testimony about bias.

5 Anabel Espindola. Here we go again. You're going
6 to hear that during this 30 something months that she was
7 sitting in jail, Anabel Espindola was, of course, in a woman's
8 lockup. She still is. And during that time there were women
9 that were in jail with her that she, as they were released,
10 asked Luis Hidalgo, Jr. to help out. There were several. He
11 did.

12 You will also hear that during that period of time
13 she believed that Louie Hidalgo, Jr., my client, Mr. H, became
14 unfaithful to her with these women that she was sending to
15 him. You will hear testimony from this witness stand from a
16 woman who had a direct -- I won't call it a confrontation -- a
17 conversation with Anabel Espindola wherein Anabel Espindola
18 asked her, Are you cheating with Louie? Is Louie cheating on
19 me with you? You're going to hear that in this case. That is
20 evidence of bias. It will come in. And, of course, that was
21 heard by her before she made her deal with the State.

22 Credibility. There will be in evidence in this case
23 that Deangelo Carroll, who again you're going to only hear
24 through what other people are saying that he said in their
25 presence, that Deangelo Carroll has a prior felony conviction

1 for robbery.

2 Prior inconsistent statements. You will hear
3 testimony in this case that the witnesses who testify -- let's
4 go to the next slide, please.

5 Deangelo Carroll. You will hear certain statements
6 that he made prior to these statements or even after these
7 statements that are coming in through the people who are going
8 to say they heard him. You're going to hear things that he
9 said that were different from the things that these people are
10 saying that he said in their presence. That's an inconsistent
11 statement and, of course, it then becomes your province to
12 decide what to believe, if anything.

13 Rontae Zone has testified how many times? Probably
14 five or six times between statements that he's made, hearings
15 that he's testified at. You will hear that he has testified
16 differently about the same thing on different occasions. It
17 will be for you to decide what to do with that.

18 Jayson Taoipu, it sounds like from the last
19 objection, that the State's not going to call him, so --

20 MR. DIGIACOMO: Objection.

21 THE COURT: Yeah.

22 MR. GENTILE: But if they do -- if Taoipu is called
23 in, he will also have things that he has said before or after
24 that are different from what he's going to say here. And
25 that's evidence that you're going to hear.

1 Anabel Espindola, okay -- Deangelo Carroll, on the
2 day of -- on May the 20th of 2005, he was brought to the
3 police station, to the homicide offices, actually, and he was
4 interrogated, questioned -- you put the word on it. I don't
5 care what you want to call it. He was questioned with a
6 couple of police officers in the room and the entire thing was
7 videotaped.

8 Rontae Zone, when he went in, the entire debriefing,
9 the entire interrogation was videotaped. When Mr. Taoipu went
10 in -- I said videotaped. It was at least audio taped. I'm
11 not certain it was videotaped. When Mr. Taoipu went in, same
12 thing, verbatim recording.

13 You're going to learn that when Anabel Espindola
14 made her deal with the State, she is the only witness that was
15 not recorded. There was no recording made of her debriefing
16 at the time that she was trying to cut her deal with the
17 State. The only recording of anything that she has ever said
18 is her testimony before the grand jury and one other. She was
19 also brought in when they arrested her, obviously, and she was
20 interrogated. She didn't say much, but it was on videotape.
21 And so the initial contact was recorded, but after she changed
22 her mind and made her deal, that contact was not recorded. We
23 have absolutely no way of knowing what she had said to police
24 in the past after she made her deal.

25 Next please.

1 Character for truthfulness. You will hear testimony
2 in this case about character for truthfulness. It comes in
3 one of two ways. Either the opinion of other people who
4 actually know these people who could tell you whether they're
5 truthful or not in their opinion, and there's also what we all
6 know is reputation. Now, some people think of reputation as
7 nothing more than rumor and gossip, and that's okay, you can
8 think of it that way. But nevertheless, you will hear
9 testimony in this case, if you will, that this man Deangelo
10 Carroll, both with respect to people's opinions about his
11 truthfulness and people's -- and his reputation for
12 truthfulness, you will hear evidence in this case that he's
13 not deemed to be a truthful person by people who know him.

14 So now we'll go into what the evidence is going to
15 show about Luis Hidalgo, Jr. I think what we should probably
16 start off doing is explaining Luis Hidalgo, the name Luis
17 Hidalgo. In that photograph you see three men and one woman.
18 It is obvious from looking at it that the three men are of
19 three different generations. I bet you could already tell me
20 what their first name is. You are looking there -- and you
21 will hear testimony about Pops, who's this man, Luis A.
22 Hidalgo, Sr., Louie, or Mr. H, who's this man, also that man
23 who is Mr. Hidalgo, Jr., Louie Hidalgo, Jr., and Luisito or
24 Little Lou or Luis, depending upon who's referring to him, who
25 is Luis Hidalgo, III.

1 I'm going to talk to you about Luis Hidalgo, Jr.
2 The testimony in this case is going to show that Luis Hidalgo,
3 Jr., he is Salvadoran. He lived his whole life up in northern
4 California in the San Bruno area. And you can see him there.
5 He, at one point in time, was a civilian employee of the San
6 Bruno Sheriff's Department where he was a fingerprint
7 technician and also did process serving. Family man, three
8 children, a daughter in the Coast Guard with a high security
9 clearance in Washington, D.C. A good friend. You're going to
10 have people come in here who have known him for years and
11 years and years who are going to come in here and tell you,
12 Look, I've known this man a long time, and we get back to
13 opinion and reputation and character evidence. They're going
14 to tell you this is not that kind of guy. Okay.

15 And let's talk about how he came to Nevada. The
16 evidence is going to show that along with his father, Louie
17 Hidalgo, Jr. has been a body and fender guy. That's what I
18 was brought up talking to him -- I guess they don't call them
19 body and fender guys anymore, but you know what I'm talking
20 about, people who repair vehicles, motor vehicles. Okay. And
21 from the time that he's 18 year old, he was in that business
22 with his father. That's the family business. He did not grow
23 up in the strip club industry.

24 There came a time in the late '90s -- in the '90,
25 period, where he befriended a man by the name of Simon

1 Stertz, Dr. Stertz. Dr. Stertz is on the board -- or
2 was at least on the board of regents of Stanford Medical
3 School. And Dr. Stertz wanted to invest money and he
4 trusted Louie Hidalgo, Jr. And Louie Hidalgo, Jr. came to Las
5 Vegas, bought a piece of ground over on Bermuda and opened up
6 the biggest, the largest body -- I'm going to call it body and
7 fender because that's what I call it -- largest body and
8 fender repair store -- shop in southern Nevada. And it was
9 called Simone's Auto Body.

10 Mr. DiGiacomo in his opening statement referred to
11 Simone's as a club. Simone's is not a club. It is a body and
12 fender repair store. They make their money on insurance
13 claims and on custom paint and stuff like that, and that's why
14 he came to southern Nevada. And after operating Simone's for
15 a year and a half, he became friendly with -- he met people in
16 this community, and amongst the people that he met in the
17 community were people that were in the real estate industry,
18 which is, you will recall ten years ago you might make some
19 money on, try to get back what you spent.

20 In any case, one of the deals that was brought to
21 him was an almost five-acre parcel of property zoned for a
22 hotel, casino, resort and commercial retail. At 1848 --
23 actually, the 1800 block of North Las Vegas Boulevard, Las
24 Vegas Boulevard north in North Las Vegas.

25 Now, you will also learn that on that 4.93-acres of

1 gaming property there are three liquor licenses, have been
2 forever, two of which had topless entertainment licenses to go
3 with it, one of which had a totally nude license to go with
4 it. And so within one block, all of one block of what is
5 really gaming property, you've got three strip clubs. And
6 they were all owned by the same person who owned the real
7 estate who was Gail Perry, the trust of Paul Perry. Paul
8 Perry is the man who created the Palomino Club back in 1958.

9 And in 1968, the Palomino Club went into the adult
10 entertainment business. Prior to that, it actually was a
11 gaming property.

12 And so from 1968 until actually even now it has been
13 operating that way. And some of you, during jury selection,
14 said that you were familiar with it. But you're going to hear
15 evidence about that.

16 And Dr. Stertzner wanted to buy the piece of property
17 and he did. And Louie Hidalgo did not -- well, I shouldn't
18 say that. The evidence is going to show that there came a
19 point in time after Dr. Stertzner bought this property that
20 Louie Hidalgo took over the management of it, having never
21 been in that industry before, although he did have some
22 background in just basic saloons.

23 You're going to hear people that are going to come
24 in and tell you who have worked with him at the Palomino Club
25 that this is a peaceful, tranquil, even-tempered person, that

1 they have never seen him act out in a violent manner, that
2 they have never heard him talk that way.

3 You will also find out that he had never been --
4 until now, until last year, he'd never been in trouble with
5 the law in a sense of having been charged with any kind of a
6 crime of any serious nature, anything more than serious
7 traffic maybe, but nothing like that. And just so that the
8 record is clear, you're going to learn that he is now 58 years
9 old and when all this was going on he was 54 years old. So he
10 had managed to make it 54 years without having a problem.

11 At the time that these events were occurring that
12 bring us here, you're going to learn that he was going through
13 a hellacious divorce, a hotly contested divorce.

14 Okay. Next slide, please.

15 Now, there is no doubt that throughout this case, as
16 you're hearing evidence come in, you're going to be saying,
17 why did this happen. You're going to be asking yourself that.
18 And again, we do not dispute that this was a tragic thing that
19 happened to TJ Hadland.

20 According to the opening statement that
21 Mr. DiGiacomo made and the evidence that he says he's going to
22 put in this case, somehow Deangelo Carroll told Anabel
23 Espindola who then told Luis Hidalgo, Jr. that TJ Hadland was
24 badmouthing the Palomino Club to cab drivers, and the next
25 thing you know TJ Hadland gets killed.

1 Well, the testimony in this case is going to show
2 that as far back as anybody can remember strip clubs -- at one
3 point in time there was no other strip club other than the
4 Palomino -- strip clubs have always paid cab drivers
5 something, always something. It started out two dollars 50
6 years ago, 40 years ago. It's up to \$50 per person today, per
7 person.

8 And you're going to see, if I may, that every day
9 records are kept at every one of these clubs, every one of
10 them. You're only going to see the Palomino, but you're going
11 to hear some expert testimony, and I'll get to that in a
12 second.

13 We talked during jury selection and you're going to
14 hear testimony that -- well, February 4, 2005 -- is that
15 today?

16 THE COURT: It's either today or tomorrow.

17 MR. GENTILE: Okay. Today's the 2nd. Well, there
18 you go.

19 February 4th, 2005, TJ Hadland was already working
20 at the Palomino Club. He started January 31st. And the
21 system that existed there with respect to the payout of cab
22 drivers -- and some of you probably have seen these documents
23 before -- was that this yellow chip up here, which you're
24 going to see one of in this case, is something that is handed
25 to the cab driver, and on that chip it will say how many

1 people -- this one says two at \$25 -- the cab driver dropped
2 off. The cab driver gets that from the doorman.

3 The cab driver then takes that ticket, drives around
4 the back of the Palomino Club at that time, goes inside where
5 there's a little cage -- I call it a cage, but it's like a
6 casino cage, you know, an office, little booth. That booth
7 has cash in it. The cab driver walks up to the person who is
8 manning that booth or womaning that booth, whichever it may
9 be, hands that ticket to that person and is then given the
10 amount of cash that is on the ticket.

11 You will also learn and have that there are VIP comp
12 tickets and that the VIP comp ticket says that it is not valid
13 if arriving by taxi cab. You will hear testimony that not
14 only the Palomino Club but the industry itself runs into a
15 situation where people who work for the clubs will sell these
16 tickets, these VIP passes, to the passenger after the
17 passenger is dropped off. They will tell the passenger, It's
18 costing you 50 bucks to get in here, but if you give me \$20
19 for this ticket or \$25 for this ticket, you're going to save
20 half the money. And so the passenger pays that person the
21 money.

22 That person goes to the cage, you know, the
23 admission both at the club, presents this pass to the
24 admission booth, and at that point in time the admission booth
25 negates the cab driver's right to get paid and will call the

1 back of the house where the cab driver's going to present this
2 ticket and the cab driver either won't get paid or there'll be
3 issues and problems and maybe the cab driver will get paid
4 something.

5 And then these -- this document all the way to the
6 left basically represents a calculation of how many cabs --
7 how many customers are dropped off by a cab and how much the
8 payment per customer was.

9 On this particular day, there were 73 people dropped
10 off, \$25 per person was paid for each of those 73 people, so
11 it was a total pay out of \$1,825. There's also a different
12 amount of money paid for women because in those days the
13 Palomino, and still -- the Palomino Club operates a totally
14 nude male review that women attend. It's one of two clubs in
15 town that has always done that. But they don't pay as much
16 for women that are dropped off by cabs. And then there's also
17 promotions and other things like that.

18 This becomes important because you're going to hear
19 testimony in this case that both Deangelo Carroll and Timothy
20 Hadland, TJ Hadland, were seen by employees of the Palomino
21 Club selling the VIP passes to customers that were dropped off
22 by cab drivers and pocketing the money. I'm not saying to you
23 that that's true. What you're going to hear is that people
24 reported that and the person who saw it and reported it will
25 come in here.

1 Next slide, please.

2 By the way, anytime a cab driver dropped off
3 somebody, they had to sign another document that said they
4 didn't divert that passenger from some other club that they
5 wanted to go to and brought it to the Palomino. And the
6 reason that that's important, if I may, there was a lot of
7 litigation going on at that point in time.

8 You're going to hear the testimony of Kevin Kelly.
9 Kevin Kelly is a lawyer. He's been a lawyer here in Nevada
10 for 30 years. He served two tours of duty in Vietnam and he
11 had a saloon and the saloon wasn't doing very well, but the
12 saloon became Spearmint Rhino as a result of somebody coming
13 to him and making a deal with him and him merging with them.
14 Many of you have used -- have talked about Spearmint Rhino.

15 Mr. Kelly's going to come in and he is going to tell
16 you about the industry and how clubs are run and what they do
17 to ensure against unlawful activity taking place at those
18 clubs. And obviously it is impossible to eliminate it. It
19 can't be done, but it can be controlled. And you're going to
20 hear about those controls, but you're also going to hear about
21 the Nevada Association of Nightclubs of which Mr. Kelly was an
22 organizer.

23 And at the time in 2005, every club that served
24 alcohol in Clark County that had either totally nude, which
25 would only be one, or topless, which would be all the others,

1 entertainment was a member of the Nevada Association of
2 Nightclubs.

3 And the reason that it was created, he will tell
4 you, is because as new clubs moved into our community, they
5 threw -- they basically created a price war. If one club
6 would pay a cab driver \$30, the other club would pay 35, then
7 another club would pay 40, and there were times that the price
8 to the cab driver per drop off would change multiple times in
9 one night. And so in order to try to avoid that, this
10 organization was created.

11 He will tell you that the life blood of any topless
12 bar -- for that matter, I guess it would be any bar -- is the
13 number of customers. But the reason that it's more important,
14 perhaps, to a topless bar, he will tell you, is because a
15 topless bar makes its money from selling alcohol and from the
16 fees that the dancer pays to the club. The dancers are
17 independent contractors. They rent time in order to be there
18 to dance. They pay a flat fee. Whatever money they make is
19 theirs.

20 We will talk to you about the kind of security that
21 goes on to see to it that nothing unlawful happens on the
22 premises. And so the more customers you have, the more
23 dancers you're going to get. The more dancers you get, the
24 more revenue you generate from the dancers' fee. He will tell
25 you that's how it works.

1 And ultimately what he will tell you, ladies and
2 gentlemen, is he's going to come in here and he's going to say
3 that everybody -- all of the members of this organization
4 except one had to agree to whatever they were going to be
5 paying cab drivers at that time. At least that was its goal.
6 It didn't really work out for very long, but it was its goal,
7 except one, and that one was the Palomino Club.

8 The Palomino Club was always permitted to pay \$5
9 more per customer than whatever anybody else was paying. And
10 he will tell you that the reason for that was because a cab
11 driver might have to deadhead back and so there were some cab
12 drivers that did not want to make that run to North Las Vegas
13 because if they weren't staging, if there wasn't a lot of
14 business, then they would have to deadhead back and -- so
15 that's what you're going to hear.

16 You're going hear that the badmouthing of cab -- two
17 cab drivers was absolutely inconsequential. And anybody in
18 the industry would know that. And Louie Hidalgo knew that.

19 Rontae Zone on the 21st of May, 2005, presumably
20 here as well, he will tell you that he was asked by the
21 homicide detectives after he told them that this guy KC left
22 the Palomino Club in a taxi, he was asked what color. And he
23 told the law enforcement officers that night, There's no way I
24 know. There were so many cabs. That comes from the mouth of
25 a coconspirator and that is proof -- I won't tell you what

1 that's proof of, but you're going to hear that he told the
2 officers, There were so many cabs, I can't tell you what color
3 it was.

4 You're also going to hear from a cab driver by the
5 name of Gary McWhorter who is the man that picked up KC,
6 Kenneth Counts, and he's going to tell you that when he picked
7 him up, there was a cab staging going on over there, that
8 there were other cabs there behind him when Counts got into
9 his cab.

10 You will also hear that when the Palomino Club was
11 searched, there was \$151,000 in cash in the safes at the
12 Palomino Club. You have heard and will hear Anabel Espindola
13 on that tape that Mr. DiGiacomo played in his opening
14 statement deposits to Mr. Carroll when she says that she only
15 has \$600, where am I going to get the money. And if I tell
16 Louie, he's going to have a fit -- or whatever she says.

17 You're going to hear testimony that the police
18 counted out \$151,000 at the club when they searched it on the
19 24th of May, 2005.

20 And so we then turn our attention to something else.
21 Why did this happen? What the evidence is going to show --
22 you heard me elude to the evidence that's going to come in
23 with respect to Mr. Hadland and Mr. Carroll both having been
24 seen selling passes to customers that came to the club and got
25 out of taxis.

1 Deangelo Carroll, the testimony is going to show,
2 had a robbery conviction, was absolutely totally dependent
3 upon the good graces of the Palomino Club's owners to maintain
4 his lifestyle.

5 You're going to learn that Rontae Zone when he was
6 first questioned by the police on the 21st of May said to the
7 police that Carroll told him that something bad was going to
8 happen to somebody -- actually, he said that somebody needed
9 to be dealt with. Those were the exact words that he used,
10 dealt with, whatever that means. And when they asked him why,
11 Carroll said because -- excuse me, Zone said that Carroll told
12 him because they were snitching. They were telling. They
13 were ratting.

14 And so you will have to make a decision as you go
15 through this trial whether those terms have any application at
16 all of badmouthing a club driver -- not -- badmouthing a club
17 to a cab driver, or whether they pertain more likely to TJ
18 Hadland snitching off Deangelo Carroll and cutting off his
19 lifeline, his support line. That will be for you to decide.

20 Next.

21 You will learn that when Mr. Hadland was terminated
22 from the club, which he was, and it had nothing to do with any
23 accusation of stealing, you will learn that Deangelo Carroll
24 had taken a couple of weeks off. He was on leave. His uncle
25 had been murdered and so he took some time off. And you'll

1 have a witness come in here who will tell you that upon him
2 returning to work, upon Carroll -- excuse me -- yeah,
3 Carroll -- upon Carroll returning to work, he confronted this
4 person whom he suspected as having basically reported --
5 having seen him pull this deal with these free passes, and he
6 said to that person, Don't put me with TJ. This was upon his
7 return to work at the Palomino. Hadland was fired, no longer
8 working there, but still alive.

9 This is Kenneth Counts. The testimony in this case
10 is going to show that Kenneth Counts, whether he is or whether
11 he isn't, he was portrayed by Mr. Carroll to be a member --
12 and I want to get this right -- of the Black Pee Stone Bloods.
13 This is the man that Zone will say used the 357 magnum to
14 shoot Hadland in the head twice and kill him. You are going
15 to learn that this man was brought back to the Palomino Club
16 after this event occurred and that Mr. Carroll -- and you hear
17 it on the tape actually. You'll hear it on the tape -- that
18 this man Carroll told Anna Espindola on the tape and other
19 people, Louie Hidalgo on the night of this event, that this
20 man Carroll was on the other side of the door, that he had
21 just committed a murder, and that he was demanding money, and
22 that if he didn't get paid the money, he was going to harm
23 Carroll and he was going to harm the Hidalgos, that he was a
24 member of the Black Pee Stone Nation, Black Pee Stone Crips.
25 And his exact word were, You don't want to fuck with my boy.

1 Now, that occurred after the murder. The testimony
2 in this case is going to be that that engendered a hell of a
3 lot of fear at that moment. You will hear that the security
4 team at the Palomino Club is not armed and so there was a
5 dilemma. The dilemma was what to do.

6 The testimony's going to be that under certain
7 circumstances you might just pick up the phone and call the
8 police department and have them come over and pick somebody
9 up, but that's not what happened. What happened was the money
10 was paid, but it was paid by Anabel Espindola. Even she said
11 she paid the money. She's going to come in here and she's
12 going to tell you a different version and you can compare what
13 she says here, after you think about all the reasons that she
14 might have and all of the time that she had to look at all the
15 statements, to decide whether you believe that version or not
16 and then you can compare that version that she's talking about
17 here with the tape, the tapes that she's on, using the first
18 person, singular pronoun "I." So listen carefully.

19 In any case, I could go on, but let's just get
20 started. The case is going to be for you to decide. That's a
21 very powerful motivator and you're going to hear testimony
22 about its presence. You're going to hear testimony about a
23 357 and you're going to hear testimony about gangs. At the
24 end of the day and at the beginning of this trial, I ask you
25 to please keep in mind that timing is everything.

1 What you're going to find at the end of the day is
2 that there is no proof of any involvement that would rise to
3 the level of criminal guilt on the part of Luis Hidalgo, Jr.
4 prior to the death of Timothy Hadland. If anything, this man
5 is an accessory after the fact, if anything.

6 The judge will instruct you at the end of the case.
7 At that point in time, I'm going to ask that you follow your
8 oath and return a verdict of not guilty as to Count 1,
9 conspiracy, and as to Count 2, the murder.

10 THE COURT: All right. Thank you, Mr. Gentile.

11 Ladies and gentlemen, we're going to go ahead and
12 take our lunch recess now. We will be in recess for the lunch
13 break until 1:15.

14 And once again, you're reminded of the admonishment
15 that is still in place not to discuss the case or anything
16 relating to the case with each other or anyone else. Don't
17 read, watch, listen to reports or commentaries on any subject
18 relating to the case. Please don't visit any of the locations
19 in question -- any of the locations at issue. Don't do any
20 independent research and please don't form or express an
21 opinion on the case.

22 If everyone will please leave their notepads in
23 their chairs and follow Jeff through the double doors, we'll
24 see you all back here at 1:15.

25 (Court recessed at 12:14 p.m. until 1:23 p.m.)

1 (In the presence of the jury.)

2 THE COURT: All right. Court is now back in
3 session. The record will reflect the presence of the State --

4 MR. GENTILE: We would request of the Court to sit
5 behind the bar.

6 THE COURT: That's fine --

7 Through the deputy district attorneys, the
8 defendants and their counsel, the officers of the Court and
9 the members of the jury.

10 Mr. Adams, are you ready to make your opening
11 statement?

12 MR. ADAMS: Yes, ma'am, thank you.

13 THE COURT: All right.

14 DEFENDANT HIDALGO, III OPENING STATEMENT

15 MR. ADAMS: Good afternoon. The afternoon of May
16 the 23rd in a little room in Simone's Auto body Shop, the man
17 who was sent by the police to get incriminating evidence, to
18 get incriminating evidence, stopped Luis Hidalgo, III, stopped
19 him when he first made a comment and he said, What are you
20 saying? You had nothing to do with this, nothing to do with
21 this.

22 Little Luis wasn't present. He didn't pay and he
23 did not participate in the death of Mr. Hadland. He didn't.
24 The evidence is going to show that four people were present
25 when Mr. Hadland was killed. Deangelo Carroll drove a van, a

1 van that was owned by Anabel Espindola. He drove it filled
2 with three other people: Jayson Taoipu who had a .22 caliber
3 weapon under his seat, maybe unloaded; Rontae Zone who was
4 along for the ride and smoking pot; and Kenneth Counts. Louie
5 Hidalgo wasn't there. Little Louie wasn't there.

6 Who paid? Well, they said in their opening that
7 you'll hear testimony that Anabel Espindola laid five large,
8 \$5,000 in cash in the office of the Palomino Club and that
9 Deangelo Carroll took that \$5,000. What you didn't hear was
10 that Little Lou wasn't in that office on that night. He
11 didn't participate. He didn't pay.

12 Anabel Espindola will come in and she's expected to
13 testify that there was this conversation beforehand where he
14 got into some kind of disagreement with his father. In that
15 conversation she's expected to testify that Little Luis
16 Hidalgo never said, Dad, dad, you've got to kill Hadland.
17 Dad, dad Hadland needs dead. Dad, beat him up real bad. The
18 State's star witness is going to come in and not say those
19 things. She's going to say there was an argument and that
20 Little Luis said, Dad, you don't take care of your business.
21 He wasn't present. He didn't pay and he did not participate.

22 So why are we here? Well, we're here because of
23 what the State didn't share with you, the body wire from
24 May 23rd, four days after Mr. Hadland was killed up at Lake
25 Mead. Four days later in Room 6 of Simone's Auto body Shop,

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A conviction shall not be had on the testimony of an accomplice unless he or she is corroborated by other evidence which in itself, and without the aid of the testimony of the accomplice, tends to connect the defendant with the commission of the offense; and the corroboration shall not be sufficient if it merely shows the commission of the offense or the circumstances thereof.

An accomplice is hereby defined as one who is liable for prosecution, for the identical offense charged against the defendant on trial in the cause in which the testimony of the accomplice is given.

To be an accomplice, the person must have aided, promoted, encouraged, or instigated by act or advice the commission of such offense with knowledge of the unlawful purpose of the person who committed the offense.

INSTRUCTION NO. 42

To corroborate the testimony of an accomplice there must be evidence of some act or fact related to the offense which, if believed, by itself and without any aid, interpretation or direction from the testimony of the accomplice, tends to connect the defendant with the commission of the offense charged.

However, it is not necessary that the evidence of the corroboration be sufficient in itself to establish every element of the offense charged, or that it corroborate every fact to which the accomplice testifies.

In determining whether an accomplice has been corroborated, you must first assume the testimony of the accomplice has been removed from the case. You must then determine whether there is any remaining evidence which tends to connect the defendant with the commission of the offense.

If there is not such independent evidence which tends to connect the defendant with the commission of the offense, the testimony of the accomplice is not corroborated.

INSTRUCTION NO. 43

The fact that a witness was given an inducement in exchange for her cooperation may be considered by you only for the purpose of determining the credibility of that witness. The existence of such an inducement does not necessarily destroy or impair the credibility of the witness. It is one of the circumstances that you may take into consideration in weighing the testimony of such a witness.

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INSTRUCTION NO. 44

The determination of whether someone is an accomplice is left to the jury to decide, unless the witness' own statement leaves no doubt that he is subject to prosecution for the charged crime.

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INSTRUCTION NO 45

In deciding whether to believe testimony given by an accomplice, you should use greater care and caution than you do when deciding whether to believe testimony given by an ordinary witness. Because an accomplice is also subject to prosecution for the same offense, an accomplice's testimony may be strongly influenced by the hope or expectation that the prosecution will reward testimony that supports the prosecution's case by granting the accomplice leniency. For this reason, you should view with distrust accomplice testimony that supports the prosecution's case. Whether or not the accomplice testimony supports the prosecution's case, you should bear in mind the accomplice's interest in minimizing the seriousness of the crime and the significance of the accomplice's own role in its commission, the fact that the accomplice's participation in the crime may show the accomplice to be an untrustworthy person, and an accomplice's particular ability, because of inside knowledge about the details of the crime, to construct plausible falsehoods about it. In giving you this warning about accomplice testimony, I do not mean to suggest that you must or should disbelieve the accomplice testimony that you heard at this trial. Rather, you should give the accomplice testimony whatever weight you decide it deserves after considering all the evidence in the case.

INSTRUCTION NO. 416

The accomplice corroboration rule is a separate and distinct legal requirement from the statements of a co-conspirator made in the course of and in furtherance of a conspiracy. When an accomplice testifies, their testimony must be corroborated. The other evidence in the case, including co-conspirator statements in the course and in furtherance of the conspiracy may be evidence utilized to establish the corroboration.

INSTRUCTION NO. 47

You are the sole judges of the credibility of the witnesses who have testified in this case, which means that you must decide which witnesses are to be believed and how much weight, if any, is to be given to the testimony of each witness.

In determining the credibility of a witness, you may consider anything which tends in reason to prove or disprove the truthfulness of his testimony, such as: his or her conduct, attitude and manner while testifying; whether the facts testified to by him or her are inherently believe able or unbelievable; his or her ability and opportunity to hear or see that about which he or she testified; his or her memory; his or her ability to relate such matters, whether or not there was any bias, interest or other motive for him or her not to tell the truth; any statement previously made by him or her that was consistent with his or her testimony or, conversely, any statement previously made by him or her that was inconsistent with his or her testimony; any admission by him or her that he or she did not tell the truth; and the reasonableness of his or her testimony considered in light of all the evidence in the case.

Also, in considering a discrepancy in a witness's testimony, you should consider whether such discrepancy concerns an important fact or only a trivial detail. 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.

Evidence of good character for truthfulness may be considered in judging the credibility of a witness.

INSTRUCTION NO. 48

The fact that a witness had been convicted of a felony, if such be a fact, may be considered by you only for the purpose of determining the credibility of that witness. The fact of such a conviction does not necessarily destroy or impair the witness' credibility. It is one of the circumstances that you may take into consideration in weighing the testimony of such a witness.

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INSTRUCTION NO. 49

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A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

INSTRUCTION NO. 50

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 51

When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

INSTRUCTION NO. 52

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN:

Valerie Adon
DISTRICT JUDGE

ORIGINAL

FEB 17 2009

CLARK COUNTY, NEVADA

BY: Denise Husted 3:05 PM
A DENISE HUSTED, DEPUTY

-VS-

Defendant.

DEPT NO: XXI

VERDICT

We, the jury in the above entitled case, find the Defendant LUIS HIDALGO, III, as follows:

COUNT 1 – CONSPIRACY TO COMMIT MURDER

(please check the appropriate box, select only one)

- ☐ Guilty of Conspiracy To Commit Murder
- ☒ Guilty of Conspiracy To Commit A Battery With A Deadly Weapon or Battery Resulting In Substantial Bodily Harm
- ☐ Guilty of Conspiracy To Commit A Battery
- ☐ Not Guilty

1 We, the jury in the above entitled case, find the Defendant LUIS HIDALGO, III, as
2 follows:

3 **COUNT 2 – MURDER WITH USE OF A DEADLY WEAPON**

4 *(please check the appropriate box, select only one)*

- 5 ☐ Guilty of First Degree Murder With Use of a Deadly Weapon
6 ☐ Guilty of First Degree Murder
7 ☒ Guilty of Second Degree Murder With Use of a Deadly Weapon
8 ☐ Guilty of Second Degree Murder
9 ☐ Guilty of Involuntary Manslaughter
10 ☐ Not Guilty

11
12 We, the jury in the above entitled case, find the Defendant LUIS HIDALGO, III, as
13 follows:

14 **COUNT 3 – SOLICITATION TO COMMIT MURDER**

15 *(please check the appropriate box, select only one)*

- 16 ☒ Guilty of Solicitation To Commit Murder
17 ☐ Not Guilty

18
19 We, the jury in the above entitled case, find the Defendant LUIS HIDALGO, III, as
20 follows:

21 **COUNT 4 – SOLICITATION TO COMMIT MURDER**

22 *(please check the appropriate box, select only one)*

- 23 ☒ Guilty of Solicitation To Commit Murder
24 ☐ Not Guilty

25
26 DATED this 17 day of February, 2009

27 
28 FOREPERSON

JOC.

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED
2009 JUL 10 A 8 27
CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

-vs-

LUIS ALONSO HIDALGO, III
#1849634

Defendant.

CASE NO. C212667

DEPT. NO. XXI

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
- CONSPIRACY TO COMMIT MURDER (Category B Felony) in violation of NRS
199.480, 200.010, 200.030, COUNT 2 - MURDER WITH USE OF A DEADLY
WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165, COUNT
3 - SOLICITATION TO COMMIT MURDER (Category B Felony) in violation of NRS
199.500, COUNT 4 - SOLICITATION TO COMMIT MURDER (Category B Felony) in
violation of NRS 199.500; and the matter having been tried before a jury and the
Defendant having been found guilty of the crimes of COUNT 1 - CONSPIRACY TO
COMMIT A BATTERY WITH A DEADLY WEAPON OR BATTERY RESULTING IN
SUBSTANTIAL BODILY HARM (Gross Misdemeanor) in violation of NRS 199.480,
200.481, COUNT 2 - SECOND DEGREE MURDER WITH USE OF A DEADLY

MURDER

WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165, COUNT
3 - SOLICITATION TO COMMIT MURDER (Category B Felony) in violation of NRS
199.500, COUNT 4 - SOLICITATION TO COMMIT MURDER (Category B Felony) in
violation of NRS 199.500; thereafter, on the 23rd day of June, 2009, the Defendant was
present in court for sentencing with his counsel, JOHN ARRASCADA, ESQ., and
CHRIS ADAMS, ESQ., and good cause appearing.

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee
including testing to determine genetic markers, the Defendant is SENTENCED to the
Nevada Department of Corrections (NDC) as follows: AS TO COUNT 1 - TO TWELVE
(12) MONTHS in the Clark County Detention Center (CCDC); AS TO COUNT 2 - TO
LIFE with a MINIMUM Parole Eligibility of ONE HUNDRED TWENTY (120) MONTHS,
plus an EQUAL and CONSECUTIVE term of LIFE with a MINIMUM Parole Eligibility of
ONE HUNDRED TWENTY (120) MONTHS for the Use of a Deadly Weapon, COUNT 2
to run CONCURRENT with COUNT 1; AS TO COUNT 3 - TO A MAXIMUM of
SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR
(24) MONTHS, COUNT 3 to run CONCURRENT with COUNTS 1 & 2; AS TO COUNT 4
- TO A MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility
of TWENTY-FOUR (24) MONTHS, COUNT 4 to run CONCURRENT with COUNTS 1, 2
& 3; with ONE THOUSAND, FOUR HUNDRED, NINETY-TWO (1,492) DAYS credit for
time served.

DATED this 25th day of June, 2009

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

CLERK OF THE COURT

Valerie P. Adair
VALERIE P. ADAIR
DISTRICT JUDGE

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NOAS
ARRASCADA & ARRASCADA, LTD.
JOHN L. ARRASCADA, ESQ.
Nevada Bar No. 4517
CHRISTOPHER W. ADAMS, ESQ.
145 Ryland Street
Reno, Nevada 89503
(775) 329-1118
(775) 329-1253(facsimile)
Attorneys for LUIS A. HIDALGO, III

FILED
JUL 16 3 55 PM '09
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,		
	Plaintiff,	CASE NO. C212667/C241394
		DEPT. XXI
vs.		
LUIS A. HIDALGO, III, #1849634,		
LUIS A. HIDALGO, JR., #1579522		
	Defendant.	

LUIS A. HIDALGO III's NOTICE OF APPEAL

Notice is hereby given that Defendant, Luis A. Hidalgo III., by and through his attorneys, John L. Arrascada, Esq. of the law firm of Arrascada & Arrascada Ltd., and Christopher W. Adams, Esq., hereby appeals to the Supreme Court of the State of Nevada all pre-trial motions, the judgment of conviction, the jury verdict and all post-trial motions. The judgment of conviction was entered on June 25, 2009.

///
///
///

RECEIVED JUL 20 2009

AFFIRMATION

[NRS 239B.030]

I, JOHN L. ARRASCADA, do hereby affirm that the preceding NOTICE OF APPEAL
filed in the Eighth Judicial District Court, Case No. C241394:

Does not contain the Social Security number of any person.

DATED this 15 day of July, 2009

ARRASCADA & ARRASCADA, LTD.

By: 
JOHN L. ARRASCADA, ESQ.

State Bar No. 4517

145 Ryland Street

Reno, Nevada 89503

(775) 329-1118

Attorneys for LUIS A. HIDALGO, III

CERTIFICATE OF SERVICE

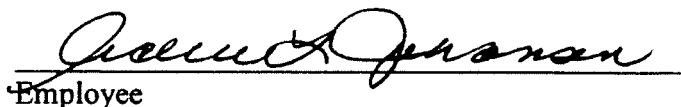
Pursuant to NRCP 5(b), I certify that I am an employee of Gordon & Silver, and
that on this date, I served a true and correct copy of the attached document in a sealed
envelope on the parties identified below:

_____ Via hand delivery

Addressed to:

David Roger, Esq.
Clark County District Attorney
Marc Digiacomio
Chief Deputy District Attorney
200 Lewis Ave.
Las Vegas NV 89155-2211

Dated this 14 day of July, 2009


Employee

1 **ORDR**

2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MARC DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006955
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED

2009 AUG -4 A 8:58



DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,)

9 Plaintiff,)

10 -vs-)

11 LUIS ALONSO HIDALGO, III)
12 #1849634)
13 LUIS HIDALGO, JR.)
14 #1579522,)

15 Defendants.)

CASE NO: C212667 / C241394

DEPT NO: XXI

16 **ORDER DENYING DEFENDANTS MOTION FOR JUDGMENT OF ACQUITTAL,**
17 **OR IN THE ALTERNATIVE, MOTION FOR NEW TRIAL**

18 DATE OF HEARING: 5/1/2009

19 TIME OF HEARING: 9:30 A.M.

20 THIS MATTER having come on for hearing before the above entitled Court on the
21 1st day of May and the 23rd day of June, 2009, the Defendants being present, DOMINIC
22 GENTILE and PAOLA ARMENI for Defendant LUIS HIDALGO JR. and JOHN
23 ARRASCADA and CHRIS ADAMS for Defendant LUIS HIDALGO, III, the Plaintiff being
24 represented by DAVID ROGER, District Attorney, through MARC DIGIACOMO and
25 GIANCARLO PESCI, Chief Deputy District Attorneys, and the Court having considered the
26 matter, including briefs, transcripts, arguments of counsel, and documents on file herein,
27 now therefore, the Court makes the following findings of fact and conclusions of law:

28 ///

///

1 1. NRS 175.381 allows for the Court to set aside the verdicts and enter a Judgment of
2 Acquittal if the evidence is insufficient to support the charges. NRS 176.515 allows for the
3 Court to grant a new trial. Unless based upon new evidence under NRS 176.515, the motion
4 for either Judgment of Acquittal or New Trial must be made within seven (7) days of the
5 verdict.

6 2. On February 24, 2009, the seventh day after verdict, the Court signed an *ex parte*
7 application to extend time to file a motion for new trial. Although the order did not
8 reference a motion for judgment of acquittal, the Court finds that it has jurisdiction to
9 consider both statutes and the entire Motion before the Court.

10 3. As to the motion for judgment of acquittal, the court finds there was sufficient
11 evidence that the conspiracy to harm Timothy Hadland engaged in by Defendants went
12 beyond a simple battery and that the conspiracy intended to do significant harm to Mr.
13 Hadland and that there was sufficient evidence to infer Defendants' knowledge and
14 utilization of a deadly weapon. As such, the Court will not set aside the verdicts and enter a
15 judgment of acquittal.

16 4. As to whether or not the Court, as the thirteenth juror, will set aside the verdicts
17 and order a new trial based upon conflicting evidence, the Court's personal belief is the
18 conspiracy to harm Timoth Hadland went beyond a simple battery and the conspiracy
19 intended to do significant harm to Mr. Hadland. Additionally, Defendants had knowledge
20 of and utilization of a deadly weapon. As such, the Court will not set aside the verdicts
21 based upon its own personal interpretation of the evidence.

22 5. Defendant asserts misconduct occurred during the deliberation stage of the trial.
23 The common law and statutory rule that a jury's verdict may not be impeached by affidavits,
24 testimony or statements of the jurors themselves clearly precludes consideration of this
25 allegation. See Meyer v. State, 119 Nev. 554, 80 P.3d 447 (2003); NRS 50.065. The
26 allegation that the jury misinterpreted the instructions of the Court is premised directly on a
27 statement of a juror about his mental processes which are contained in the affidavit of Ms.
28 Armeni. The Court finds that such mental processes are specifically the type and nature of

1 allegations which are precluded from consideration by both NRS 50.065 and Meyer. As
2 such, those portions of Ms. Armeni's affidavit which reference such mental processes are
3 stricken. Moreover, even if the Court were to consider the allegation of the defense, the
4 mere fact that the jury heard something different on the tape does not necessarily mean that
5 the jury misconstrued the instructions of the Court. The fact that Ms. Espindola and Mr.
6 Hidalgo, III did not correct Deangelo Carroll when he used the pronoun "He," could be
7 considered an adoptive admission by those parties. As such, the jury would have properly
8 been following the instructions of the Court.

9 6. As to the allegation that the verdict forms are fatal to the verdict, the Court finds
10 this argument without merit. The jury instructions, as a whole, clearly indicate the law as it
11 relates to when a Defendant may be held liable for another person's use of a deadly weapon.
12 Jurors are presumed to follow the instructions on the law. See Richardson v. Marsh, 481
13 U.S. 200, 206, 107 S.Ct. 1702 (1987). The fact that the verdict form for the conspiracy
14 count did not separate out the two separate felony battery theories in no way suggests the
15 jury did not follow the law. This is particularly true where the jury convicted defendants of
16 the deadly weapon enhancement on the murder counts indicating they found the
17 enhancement beyond a reasonable doubt. While the exact thought process of the jury may
18 have been clearer if the Court had separated out the Conspiracy to Commit Battery
19 Constituting Substantial Bodily Harm and Conspiracy to Commit Battery With A Deadly
20 Weapon, the Court finds that failure to do so did not prejudice Defendants.

21 7. As to the admissibility of Jayson Taoipu's testimony from the Kenneth Counts
22 trial, the Court stands by its decision to not admit the testimony. Defendant LUIS
23 HIDALGO, III sought to admit just a miniscule portion of the transcript to establish one fact.
24 Defendant LUIS HIDALGO, III objected to the entire transcripts being read, and to
25 impeachment of that portion of the transcript as allowed under NRS 51.069. The Court
26 found that the prior testimony was not properly admissible as there was no reason for the
27 State in the severed trial of Kenneth Counts to have impeached Mr. Taoipu on a fact wholly
28 irrelevant to the issue before the jury in Kenneth Counts. As such, the Court found that it

1 would be inappropriate to admit just the one portion of the transcript as prior testimony as it
2 was not reliably tested, and as such, hearsay.

3 8. Finally, Defendant Hidalgo, Jr. asserts that the language of "slight evidence of a
4 conspiracy" reduced the burden of proof of the State in jury instruction number 40. Jury
5 instruction number 40 was a correct statement of the law as it relates to how the jury is to
6 assess statements of co-conspirators during the course and in furtherance of the crime. The
7 instruction does not in any manner relate to the burden of proof on the underlying charge. In
8 contradistinction, jury instructions number 16, 23, 24, 26, 28, 29, 30, 35, 36, and 37 each
9 reference the State's burden of proof of beyond a reasonable doubt. Additionally, during
10 deliberations, the Court responded to a question from the jury which reiterated the burden of
11 proof. Not only are jurors presumed to follow the instructions on the law, Richardson v.
12 Marsh, 481 U.S. 200, 206, 107 S.Ct. 1702 (1987), but it seems inconceivable that the jury
13 could have misunderstood those six (6) words in instruction 40 considering that the jury was
14 instructed more than ten (10) times on the State's burden of proof.

15 9. THEREFORE, IT IS HEREBY ORDERED that DEFENDANTS MOTION FOR
16 JUDGMENT OF ACQUITTAL, OR IN THE ALTERNATIVE, NEW TRIAL shall be, and
17 it is, hereby denied.


18 DATED this 30th day of July, 2009.

19
20 VALERIE ADAIR

21 DISTRICT JUDGE

22 DAVID ROGER
23 District Attorney
Nevada Bar #002781

24 BY


25 MARC DIGIACOMO
26 Chief Deputy District Attorney
27 Nevada Bar #006955
28

COPY
DISTRICT COURT
CLARK COUNTY, NEVADA

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Alfonso J. ...
CLERK OF COURT

STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO: C212667/C241394
)	DEPT NO: XXI
vs.)	
)	
LUIS ALONSO HIDALGO, aka)	
LUIS ALONSO HIDALGO, III, and)	Transcript of
LUIS ALONSO HIDALGO, JR.,)	Proceedings
)	
Defendants.)	

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 5

MONDAY, FEBRUARY 2, 2009

APPEARANCES:

FOR THE STATE:	MARC DiGIACOMO, ESQ. Chief Deputy District Attorney GIANCARLO PESCI, ESQ. Deputy District Attorney
FOR LUIS ALONSO HIDALGO, JR.:	DOMINIC P. GENTILE, ESQ. PAOLA M. ARMENI, ESQ.
FOR LUIS ALONSO HIDALGO, III:	JOHN L. ARRASCADA, ESQ. CHRISTOPHER ADAMS, ESQ.

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1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 2, 2009, 9:02 A.M.

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

3 (Outside the presence of the jury.)

4 THE COURT: You guys, before Denise reads the
5 indictment, just double check that she's got the right thing.

6 MR. GENTILE: There are two separate ones.

7 THE COURT: Right, I know, the indictments -- just
8 make sure because there's been a few. Just make sure she's
9 got the right thing.

10 (Off-record colloquy)

11 (Pause in proceedings)

12 (Jury reconvened at 9:26 a.m.)

13 THE COURT: All right. The Court is now in session.

14 The record will now reflect the presence of the
15 State through Mr. Pesci and Mr. DiGiacomo, the presence of the
16 defendant Mr. Hidalgo, Jr., with his attorneys Ms. Armeni and
17 Mr. Gentile, the presence of the defendant, Mr. Hidalgo, III,
18 along with his attorneys Mr. Arrascada and Mr. Adams, the
19 officers of the Court and the 15 members of the jury.

20 Good morning, ladies and gentlemen. After a very
21 long, arduous process, you have been selected as the 15
22 members of our jury. In a moment I'm going to have the clerk
23 administer the oath to the jury. That will be followed up by
24 some introductory comments from me and then the opening
25 statements from the attorneys.

1 And, Jeff, did you have a chance to pass out the
2 notepads?

3 THE MARSHAL: They're on their chairs.

4 THE COURT: All right. Thank you.

5 All right. Ms. Husted, if you'll please administer
6 the oath to the members of the jury.

7 THE CLERK: Yes, Your Honor.

8 (Clerk swears jury)

9 THE COURT: Ladies and gentlemen, I will now take a
10 few minutes to talk to you about what to expect in this case.
11 My comments are intended to serve as an introduction to the
12 trial. At the end of the trial, I will give you more detailed
13 instructions in writing and those instructions will control
14 your deliberations.

15 This is a criminal case brought by the State of
16 Nevada against the defendants. The case is based on two
17 indictments. The clerk will now read the two indictments and
18 state the pleas of the defendants.

19 Ms. Husted.

20 THE CLERK: Yes, Your Honor.

21 (Clerk reads Indictment)

22 THE COURT: All right. Thank you.

23 Ladies and gentlemen, you should distinctly
24 understand that the indictments just read to you are simply
25 descriptions of the charges made by the State against the

1 defendants. It is not evidence of anything. It does not
2 prove anything. Therefore, each defendant starts out with a
3 clean slate. Each defendant has plead not guilty and is
4 presumed innocent.

5 This is a criminal case and there are two basic
6 rules you must keep in mind. First, the defendants are
7 presumed innocent unless and until proved guilty beyond a
8 reasonable doubt.

9 A defendant is not required to present any evidence
10 or prove his innocence. The law never imposes upon a
11 defendant in a criminal case the burden of calling any
12 witnesses or introducing any evidence.

13 Second, to convict, the State must prove beyond a
14 reasonable doubt that the crime was committed and the
15 defendant is the person who committed the crime.

16 It will be your duty to decide from the evidence to
17 be presented whether the defendant is guilty or not guilty.
18 You are the sole judges of the facts. You will decide what
19 the facts are from the evidence which will be presented. The
20 evidence will consist of testimony of witnesses and documents
21 and other things received into evidence as exhibits. You must
22 apply the facts to the law which I shall give you and in that
23 way reach your verdict.

24 It is important you perform your duty of determining
25 the facts diligently and consciously, for ordinarily, there is

1 no way of correcting an erroneous determination of facts by
2 the jury.

3 You should not take anything I may say or do during
4 the trial as indicating my opinion as to how you should decide
5 the case or to influence you in any way in your determination
6 of the facts. At times I may even ask questions of witnesses.
7 If I do so, it is for the purpose of bringing out matters
8 which should be brought out and not in any way to indicate my
9 opinion about the facts or to indicate the weight or value you
10 should give to the testimony of a witness.

11 There are two kinds of evidence direct and
12 circumstantial. Direct evidence is testimony about what the
13 witness personally saw, heard or did. Circumstantial evidence
14 is indirect evidence. It is proof of one or more facts from
15 which one can find another fact.

16 By way of example, direct evidence that it had
17 rained during the night would be the testimony of a witness
18 who said, I was outside last night and it was raining and my
19 hair got all wet and my shoes got all wet.

20 Circumstantial evidence that it had rained during
21 the night would be the testimony of a witness who said, When I
22 went to bed last night, it was cloudy and overcast, and when I
23 woke up in the morning, I looked out the window and my car was
24 all wet and the streets and the sidewalks were wet and there
25 was water running down the gutter.

1 You may consider both direct and circumstantial
2 evidence in deciding this case. The law permits you to give
3 equal weight or value to both, but it is for you to decide how
4 much consideration to give to any evidence. Certain things
5 are not evidence and you must not consider them as evidence in
6 deciding the facts of the case. They include: Statements and
7 arguments by the attorneys, questions and objections of the
8 attorneys, testimony I instruct you to disregard, and anything
9 you may see or hear if court is not in session, even if what
10 you see or hear is done or said by one of the parties or by
11 one of the witnesses.

12 Remember, evidence is sworn testimony by a witness
13 while court is in session and documents and other things
14 received into evidence as exhibits.

15 There are rules of law which control what can be
16 received into evidence. When a lawyer asks a question or
17 offer an exhibit into evidence and the lawyer on the other
18 side thinks that it is not permitted by the rules, that lawyer
19 may object. If I overrule the objection, the question may be
20 answered or the exhibit received. If I sustain the objection,
21 the question cannot be answered and the exhibit cannot be
22 received.

23 Whenever I sustain an objection to a question,
24 ignore the question and do not guess at what the answer might
25 have been. Sometimes I may order evidence stricken from the

1 record and tell you to disregard or ignore such evidence.
2 This means that when you are deciding the case, you must not
3 consider the evidence which I told you to disregard.

4 It is the duty of a lawyer to object to evidence
5 which the lawyer believes may not be permitted under the
6 rules. You should not be prejudiced in any way against the
7 lawyer who makes objections on behalf of the party the lawyer
8 represents.

9 Also, I may find it necessary to admonish a lawyer.
10 If I do, you should not be prejudiced towards the lawyer or
11 client because I found it necessary to admonish him or her.

12 At the end of the trial, you will have to make your
13 decision based on what you recall of the evidence. You will
14 not have a written transcript to consult and it is difficult
15 and time consuming for the court recorder to play back lengthy
16 testimony; therefore, I urge you to pay close attention to the
17 testimony as it is given.

18 If you wish, you may take notes to help you remember
19 what witnesses said. If you do take notes, please keep them
20 to yourself until you and your fellow jurors go to the jury
21 room to decide the case. Do not let note taking distract you
22 so that you do not hear other answers by witnesses. You
23 should rely upon your own memory of what was said and not be
24 overly influenced by the notes of other jurors.

25 Do not make up your mind about what the verdict

1 should be until after you've gone to the jury room to decide
2 the case and you and your fellow jurors have discussed the
3 evidence. It is important that you keep an open mind.

4 A juror may not declare to a fellow juror any fact
5 relating to this case of which the juror has knowledge. If
6 any juror discovers during the trial or after the jury has
7 retired that that juror or any other juror has personal
8 knowledge of any fact in controversy in this case, that juror
9 shall disclose that situation to me in the absence of the
10 other jurors.

11 This means that if you learn during the course of a
12 trial that you have personal knowledge of any fact that is not
13 presented by the evidence in this case, you must declare that
14 fact to me. You communicate to the Court through the bailiff.

15 During the course of this trial, the attorneys for
16 both sides and all court personnel other than the bailiff are
17 not permitting to converse with members of the jury. These
18 individuals are not being antisocial. They are bound by
19 ethics in the law not to talk to you. To do so might
20 contaminate your verdict.

21 The trial will proceed in the following manner: The
22 deputy district attorney will make an opening statement which
23 is an outline to help you understand what the State expects to
24 prove. Next, the defendant's attorney may, but does not have
25 to, make an opening statement.

1 Opening statements serve as an instruction to the
2 evidence which the party making the statement intends to
3 prove. The State will then present its evidence and counsel
4 for the defendant may cross-examine the witnesses.

5 Following the State's case, the defendant may
6 present evidence and the deputy district attorney may
7 cross-examine those witnesses. However, as I have already
8 said, the defendant is not obligated to present any evidence.

9 After all the evidence has been presented, I will
10 instruct you on the law. After the instructions on the law
11 have been read to you, each side has the opportunity to
12 present oral argument. What is said in closing argument is
13 not evidence. The arguments are designed to summarize and
14 interrupt the evidence. Since the State has the burden of
15 proving the defendant's guilty beyond a reasonable doubt, the
16 State has the right to open and close the arguments.

17 After the arguments have been completed, you will
18 retire to deliberate on your verdict. Jurors are now
19 permitted to ask questions of the witnesses. I ask that if
20 you have a question for one of the witnesses that you write it
21 down using a full sheet of note paper, then wait until all of
22 the attorneys have had a chance to question that witness,
23 because very frequently one of the attorneys will ask one of
24 your questions. Then get either my attention or our bailiff's
25 attention and he will get the question from you.

1 Please don't be offended if I don't ask one of your
2 questions. That does not mean it's not a good question. It
3 doesn't mean it's not an interesting question, but the
4 questions from the jurors are governed by the same rules of
5 evidence that govern the questions from the attorneys. So
6 your question could call for hearsay or other types of
7 inadmissible evidence, and for that reason, I may not ask it.

8 That concludes my opening remarks.

9 Is the State ready to proceed with its opening
10 statement?

11 MR. DIGIACOMO: Yes, Your Honor. Thank you.

12 STATE'S OPENING STATEMENT

13 MR. DIGIACOMO: I told you you should have taken
14 care of TJ. Those are the words of Luis, Little Lou Hidalgo,
15 III, the son, on May 23, 2005. And at the end of this case,
16 one thing will certainly not be in question is what "taking
17 care of" means. Because on May 19th out at Lake Mead Timothy
18 J. Hadland was certainly taken care of. He was executed with
19 two shots to the head from a .38 or .357 caliber revolver.

20 On May 19th at about 11:45, a motorist rolls up on
21 this scene, calls the police, the police arrive on scene.
22 They find TJ out in the middle of the street. They find his
23 car still running. It's actually his girlfriend's, Paijik
24 Karlson's car. It's on the side of the road.

25 They find that an empty canister -- it's called a

1 pneumatic tube. Most people have used that before, either at
2 a bank, or if you've gone to a Walgreens and done your
3 prescription, this is the tube that sucks through the vacuum.
4 They find TJ's cell phone, which becomes very important in the
5 case, and lying right next to the body of Timothy J. Hadland
6 is the calling card of the Palomino.

7 When the police are out there and processing the
8 scene, they pick up TJ's phone and they start going through it
9 and the very last person that they happen to see on the --
10 calling TJ was an individual by the name of Deangelo. At this
11 point the cops have no idea who Deangelo is. In fact, they
12 don't even know that Paijik Karlson is down at the lake at the
13 campsite.

14 Eventually they find Paijik and Paijik tells them
15 that, I was here with TJ, we were camping, he got phone calls
16 from Deangelo, they were going to meet up over some marijuana
17 that -- Deangelo had some marijuana for TJ. And so TJ drove
18 out to meet them on North Shore Road.

19 So you find out that Deangelo's an employee at the
20 Palomino Club so the cops think that the next best thing to do
21 is to go down and check out to Palomino Club.

22 The Palomino Club is an old time gentlemen's club
23 here. It has been around for decades. If any of you know
24 where North Las Vegas Boulevard runs into North Las Vegas,
25 there's a Jerry's Nugget Casino across the street, and that's

1 the Palomino Club that sits on the corner right across the
2 street.

3 By May of 2005, the Palomino was owned by an
4 individual by the name of Mr. H, the defendant, the father in
5 this particular case. It is managed by his girlfriend,
6 Mr. H's girlfriend, Anabel Espindola, and another person who
7 works there and is listed as a manager of the club is Luis
8 Hidalgo, III, or Little Lou.

9 On the afternoon of the 20th, the day after the
10 murder, the police get ahold of Mr. H. They ask him to come
11 down to the Palomino Club and they ask him about Deangelo, and
12 he says, Well, that's Deangelo Carroll, my employee, but I
13 don't -- I can't give you any information on him. You're
14 going to have to come back later that night and talk to the --
15 to Ariel, who was another manager of the club, and she'll be
16 able to give you the information about Deangelo. I don't know
17 anything about him. That's Deangelo Carroll.

18 Deangelo Carroll -- you're going to hear a lot of
19 testimony about Deangelo in this particular case. Deangelo
20 Carroll works for the Palomino Club, had been there since
21 September Of 2004. He has a somewhat colorful history. And
22 let me tell you right up front, you're going to not like
23 Deangelo Carroll. You are not going to believe some of what
24 he says, but you're not going to have to judge his credibility
25 because he's not a witness in this case. He's a defendant and

1 you're going to hear that he's still a defendant today.

2 MR. ADAMS: Your Honor, may we approach?

3 THE COURT: Sure.

4 (Off-record bench conference)

5 MR. DIGIACOMO: Some of the other players in this
6 particular case you're going to need to know about. Deangelo
7 Carroll is actually a full-time employee. You'll see that he
8 has employee records at the Palomino. He's got a work card
9 for the Palomino. Now, what Deangelo Carroll does, he's a
10 little bit of a jack-of-all-trades. He does a little bit of
11 this, sometimes he'll take over the DJ booth when the DJ booth
12 needs someone to work out for it. But a lot of the time he
13 uses a white Chevy Astro van to do what's known as promoting
14 for the Palomino Club.

15 The Palomino Club's not down in the area where all
16 the other strip clubs are in Las Vegas, so they rely heavily
17 on cabs, and you've heard something about this in jury
18 selection, to bring their customers to them, to the Palomino
19 Club. And then those cab drivers get tipped out. The way it
20 kind of works is a cab driver rolls up and he's got two people
21 in his car. The doorman writes down two on a little sheet of
22 paper, gives it to the cab driver. The cab driver drives
23 around back and there's a cashier back there who then pays out
24 the tip to the cashier and then those two people who got out
25 of the cab pay at the front door to get into the Palomino

1 Club.

2 Well, in order to provide information to the cab
3 drivers as to the payout and to get more people to come up
4 there, they have Deangelo Carroll going out and passing out
5 flyers. And there's actually a list of information to give to
6 the various cab drivers. And he enlists the help of two
7 individuals, two kids basically, Jayson Taoipu and Rontae
8 Zone.

9 Jayson's 15 or 16 at the time; Rontae's barely 18
10 years old. And they go out and Rontae and Jayson aren't
11 employees in the true sense of the word of the Palomino Club.
12 They get tipped a certain amount of money at the end of the
13 night for doing -- passing out this paperwork.

14 The last person you're going to need to know about
15 is an individual by the name of Kenneth Counts or as you're
16 going to hear him repeatedly referred to in this case as KC.
17 He's the shooter. He's ultimately the person that Deangelo
18 Carroll goes and gets to go out to the lake with him, with
19 Jayson and Rontae in the car, and he's the person who actually
20 gets out of the car and fires twice into the head of Timothy
21 Hadland.

22 So what are you going to know? First you're going
23 to know about May 19. I already told you Deangelo's using
24 that white Chevy Astro van to go promote for the club and he
25 has the two kids Jayson and Rontae with him. Well, during the

1 daytime he starts telling Jayson and Rontae that Mr. H, the
2 owner of the Palomino Club, wants to do something to an
3 individual. He wants to hurt an individual. He wants -- as
4 one of them puts it, he wants to put out a hit on one of the
5 individuals, that he wanted somebody, quote, taken care of.

6 And Jayson, you will hear, says, Yeah, I'm down with
7 that. I'm good. And Rontae says, Woe, hey. And what Rontae
8 will tell you is, hey, Deangelo, I thought he was talking big,
9 I didn't really believe him. But essentially Rontae says, I
10 don't really want to be involved.

11 Deangelo Carroll does give Jayson a .22 caliber
12 revolver -- semiautomatic firearm, and he attempts on at least
13 one occasion to give Rontae the bullets. They go out that day
14 and they actually do some promoting, Jayson, Rontae, and
15 Deangelo. And sometime in the evening hours they're back at
16 Deangelo Carroll's house when Little Lou, the son, calls and
17 tells them to come back to the club. And when he tells them
18 to come back to the club, he tells them to bring some baseball
19 bats and trash bags.

20 And at that point you will hear from Rontae Zone
21 that when Deangelo Carroll gets off the phone he tells them,
22 Hey, we've got to go back to the club. We need to bring the
23 baseball bats and the garbage bags. And at that point they
24 drive to the club.

25 When they get to the club, Deangelo Carroll goes in

1 the club. When he comes out of the club, they get in the car.
2 They drive over to E Street, which happens to be Kenneth
3 Counts' house. Deangelo Carroll goes in the house. He comes
4 out of the house with Kenneth Counts. He's dressed in black
5 and he's wearing gloves.

6 They get in the van and they all start heading out
7 towards Lake Mead. As they're driving out there, Deangelo's
8 calling TJ back and forth about having marijuana for him. TJ
9 eventually agrees to meet Deangelo.

10 During the trip, as -- if any of you, if you head
11 out towards -- out towards Lake Mead, as you get out towards
12 those mountains, and there's a little guard shack out there as
13 you go pass into the Lake Mead area there, well, right about
14 there is when you start having some severe cell phone
15 problems. And what you will learn is that Deangelo has to
16 keep looping back and forth because he's losing cell phone
17 coverage. And he does it on a couple of occasions. He passed
18 by that guard shack.

19 During this trip you'll hear that there's a phone
20 call from Anabel to Deangelo and eventually when they arrive
21 at the location you'll hear that there's some conversation
22 with TJ. TJ gets out of the car and he's kind of walking
23 towards the car. Kenneth Counts slides out of that side door.
24 And you've already seen what he does to TJ.

25 Once they -- the murder occurs, Kenneth Counts jumps

1 back in the car and they drive off. The van does a U-turn,
2 drives directly back to the Palomino. At first Deangelo
3 enters the Palomino and then KC enters the Palomino and
4 eventually KC exits the Palomino first. And there will be
5 some discrepancy as to whether it's 5,000 or \$6,000, but he
6 gets -- he has \$6,000.

7 Jayson and Rontae, they're in the van and they see
8 KC leave the Palomino in a yellow cab. Eventually Deangelo
9 comes out of the club. They take the van. Deangelo punctures
10 the tires on the van because they're afraid they might have
11 driven over some blood or something that would link the van
12 back to the murder scene and they throw the tires away and
13 they get new tires.

14 What you will learn when the cops check out the
15 yellow cab story -- let me back up for just a second as to how
16 we get there. That morning Jayson, Rontae, and Deangelo go
17 and have breakfast. There's some time period during the day
18 on the 20th, and eventually at 7:30 at night when the police
19 are at the Palomino Club, you will learn that Deangelo Carroll
20 walks into the Palomino Club. They stop Deangelo. They talk
21 to him a few minutes. He agrees to come down to the police
22 station and what proceeds from there is a lengthy interview.

23 At the end of that interview, they take Deangelo
24 Carroll and his vehicle and they drive him home. And when
25 they get home, they find Rontae Zone in Deangelo Carroll's

1 house. They ask Rontae to go with them. Rontae comes out of
2 the house. He goes down to the police station. Most of what
3 I just told you about what happened during the days of the
4 19th and the 20th you're going to learn from the interview
5 that was given by Rontae Zone that night and the testimony
6 he's going to give to you.

7 And he indicates that KC took a yellow cab. The
8 cops were able to identify KC at Kenneth Counts. They start
9 searching and, low and behold, what do they find? They find a
10 trip sheet from yellow cab. On the back of the trip sheet at
11 12:00 o'clock in the evening, this is the early morning hours
12 of the 20th, 12:26 to 12:31, a pick up at the Palomino. And
13 what you'll hear about this is the person tells them they want
14 to go to 513 Wyatt. And what he says is initially the person
15 only has hundred dollar bills and he says he can't change
16 hundred dollar bills. He sends him back in the club to get
17 change.

18 He indicates that an African male adult gets back in
19 his car, tells him 513, and as he's driving him over to 513,
20 he asks him to get out at 508. So that's why the cab driver
21 notes down 508 because he didn't get out at 513. And the cab
22 driver watches the individual not go into 508, but actually
23 walk behind it. And what you'll learn in this case, that's
24 Kenneth Counts' home.

25 Based upon the interview with Rontae and the other

1 information that they've gathered, the police want to go
2 looking for Kenneth Counts. As the SWAT team comes down Burns
3 Avenue there at the corner of Burns and E Street, Kenneth
4 Counts runs from his home into his aunt's home across the
5 street, and the cops eventually get a search warrant and have
6 to pull Kenneth Counts out of the attic of that home.

7 When they do a search warrant on that home, they
8 find VIP cards in the name of -- or from the Palomino. They
9 have fingerprints from Kenneth Counts on them. They have
10 fingerprints from Deangelo Carroll on them.

11 After they got the shooter into custody, the police
12 actually -- because they had been up 72 hours -- sleep on the
13 22nd, but on the 23rd they put what -- a surreptitious
14 recording device on Deangelo Carroll and they send Deangelo
15 Carroll into Simone's Autoplaza. And the reason that they
16 send him in there is that Simone's Autoplaza is also owned by
17 Mr. H. And there's an office there that he has as well as
18 Anabel Espindola as well as Luis Hidalgo, III, actually lives
19 in room six, the back room of this place.

20 You're going to hear these recordings and there's
21 some things you're going to need to know about these
22 recordings. First and foremost, there of terrible quality.
23 The reason being this, it's a surreptitious recording device
24 that's placed on Deangelo Carroll so you can actually hear
25 kind of like his clothing rubbing against it, but then you're

1 also going to hear the whispering of the coconspirators during
2 the entire recording.

3 And eventually when they get this recording off of
4 Deangelo Carroll, they can hear certain things, but it's of
5 poor quality and it eventually gets sent to the FBI and it
6 also gets sent to an independent agency in Toledo, Ohio and
7 what you'll eventually hear is an enhanced version of the
8 recordings.

9 None of the statements are going to be changed, but
10 some of the background noise and other things. So you will
11 have the original poor quality, you will have the enhancement.
12 And I'm going to tell you right now you're not going
13 understand every word. You'll probably get about 90 percent
14 of the words after you listen to it over and over and over
15 again. But one thing is going to be a hundred percent clear
16 when we're done, that the order was given by Mr. H, Luis
17 Hidalgo, III, was involved in it and that the order was to
18 kill Timothy Hadland.

19 You will also hear a second recording that occurs on
20 May 24th and since -- at some point you're going to need to
21 hear these recordings. You're going to need to hear them on
22 multiple occasions. I'm going to play portions of them for
23 you now.

24 Ms. Olsen, can you flip to the --

25 (Tape being played.)

1 MR. ADAMS: Your Honor, we have an objection to
2 the --

3 THE COURT: Okay.

4 MR. ARRASCADA: May we approach?

5 THE COURT: Yeah. Approach on this.

6 (Off-record bench conference)

7 THE COURT: Ladies and gentlemen, just so you know,
8 the transcript was prepared by the State. It is not going to
9 be evidence in the case. It's something that they're offering
10 you to guide you in listening to the tape. The contents of
11 the transcript are disputed. And again, it won't be evidence.
12 What will control is your hearing and interpretation of what
13 is on the tape, not any transcript.

14 Is that -- anything else? All right.

15 Now go on, Mr. DiGiacomo.

16 (Tape continues)

17 MR. DIGIACOMO: And the tape goes on for longer than
18 that. There's actually about another five minutes of
19 conversation that you'll hear.

20 Let's talk a little bit about what you heard on that
21 tape. Never take a single piece of evidence to try and find
22 out the answer to a complex story, but this is a very good
23 piece of evidence to find out --

24 MR. GENTILE: Objection. Argument.

25 THE COURT: Sustained.

1 MR. DIGIACOMO: Let's talk about certain things.
2 When you first heard that, what went through your mind is that
3 13 minutes and 30 seconds Deangelo Carroll makes a statement
4 to Little Lou that says, What are you worried about? You had
5 nothing to do with this. At the end of this case, I'm going
6 to suggest to you that that statement doesn't mean he had
7 nothing to do with the case. That statement means that
8 Deangelo Carroll knows nothing about conspiracy law and you
9 will hear what the meaning of that statement is.
10 So as you sit here today, ask yourself what he meant
11 at 22:15 when you heard Little Lou say, Next time you do
12 something stupid like this, I told you you should have taken
13 care of TJ. And then --
14 MR. ADAMS: Objection to that, Your Honor. That was
15 not in the transcript.
16 THE COURT: That's sustained. Sustained.
17 MR. DIGIACOMO: Sorry. I wasn't allowed to tell
18 them what it's going to say?
19 THE COURT: Well, just go on, Mr. DiGiacomo. .
20 And ladies and gentlemen, I'll just remind you, as I
21 said in the opening, this is the State's impression or -- of
22 what the evidence will be. At the end of the day, it's what
23 you recall of the evidence and what you yourselves hear in the
24 tape.
25 Go on.

1 MR. DIGIACOMO: Thank you.

2 I won't tell you what it says. Let's listen to it
3 again.

4 MR. ARRASCADA: Judge, now this is getting --

5 (Tape being played.)

6 MR. ARRASCADA: Your Honor, we want to object --

7 THE COURT: How much are you going to play,

8 Mr. DiGiacomo?

9 MR. DIGIACOMO: Just that whole --

10 MR. ARRASCADA: Your Honor, we're raising an
11 objection that's argumentative.

12 THE COURT: All right.

13 MR. DIGIACOMO: Argumentative?

14 THE COURT: Well, it was -- you can play a little
15 bit more. It is getting argumentative.

16 MR. DIGIACOMO: And you'll have that tape back
17 there, 22:15. Write it on your note pads because when you're
18 back there, you're not going to have the transcript. And do
19 it in Real Player, by the way, because if you play it in a
20 different player on the computer, it actually -- the time will
21 be slightly off, but 22:15.

22 In addition to what you will learn during the course
23 of the time period, what else he's talking about is, How do
24 you know this guy KC, that the conspirators are upset that he
25 used someone else as opposed to doing it himself, and you'll

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A. HIDALGO, III

Appellant,

v.

STATE OF NEVADA,

Respondent.

Electronically Filed
Feb 03 2011 04:17 p.m.
Tracie K. Lindeman
Docket No. 54272

Direct Appeal from a Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Judge
District Court Case No. C212667/C241394

APPELLANT LUIS A. HIDALGO, III'S APPENDIX

VOLUME I

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ORIGINAL

FILED IN OPEN COURT
EDWARD A. FRIEDLAND
CLERK OF THE COURT

JAN 28 2009

BY: Denise Husted
DENISE HUSTED, DEPUTY

1 INFO
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MARC DIGIACOMO
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8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 LUIS ALONSO HIDALGO, III,
13 #1849634

14 Defendant.

Case No: C212667
Dept No: XXI

FOURTH AMENDED
INFORMATION

15
16 STATE OF NEVADA }
17 COUNTY OF CLARK } ss.

18 DAVID ROGER, District Attorney within and for the County of Clark, State of
19 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

20 That LUIS ALONSO HIDALGO, III, the Defendant above named, having committed
21 the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030,
22 193.165); MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010,
23 200.030, 193.165), and SOLICITATION TO COMMIT MURDER (Felony - NRS
24 199.500), on or between May 19, 2005, and May 24, 2005, within the County of Clark,
25 State of Nevada, contrary to the form, force and effect of statutes in such cases made and
26 provided, and against the peace and dignity of the State of Nevada,

27 //

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7 6.

1 COUNT 1 - CONSPIRACY TO COMMIT MURDER

2 Defendant LUIS ALONSO HIDALGO, III, along with co-conspirators KENNETH
3 JAY COUNTS, ANABEL ESPINDOLA, DEANGELO RESHAWN CARROLL and
4 JAYSON TAOIPU did, on or about May 19, 2005, then and there meet with each other
5 and/or Luis Hildago, Jr. and between themselves, and each of them with the other, wilfully,
6 unlawfully, and feloniously conspire and agree to commit a crime, to-wit: the murder of
7 TIMOTHY JAY HADLAND, and in furtherance of said conspiracy, the Defendants and/or
8 their co-conspirators, did commit the act as set forth in Count 2, said acts being incorporated
9 by this reference as though fully set forth herein.

10 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

11 Defendant LUIS ALONSO HIDALGO, III, along with co-conspirators KENNETH
12 JAY COUNTS, ANABEL ESPINDOLA, DEANGELO RESHAWN CARROLL and
13 JAYSON TAOIPU did, on or about May 19, 2005, then and there wilfully, feloniously,
14 without authority of law, and with premeditation and deliberation, and with malice
15 aforethought, kill TIMOTHY JAY HADLAND, a human being, by shooting at and into the
16 body and/or head of said TIMOTHY JAY HADLAND, with a deadly weapon, to-wit: a
17 firearm, the Defendant being liable under one or more of the following theories of criminal
18 liability, to-wit: (1) by aiding and abetting the commission of the crime by, directly or
19 indirectly, counseling, encouraging, hiring, commanding, inducing or otherwise procuring
20 each other to commit the crime, to-wit: by DEFENDANT Luis Hidalgo, III and/or Luis
21 Hidalgo, Jr., procuring Defendant DEANGELO CARROLL to beat and/or kill TIMOTHY
22 JAY HADLAND; thereafter, Defendant DEANGELO CARROLL procuring KENNETH
23 COUNTS and/or JAYSON TAOIPU to shoot TIMOTHY HADLAND; thereafter, Defendant
24 DEANGELO CARROLL and KENNETH COUNTS and JAYSON TAOIPU did drive to the
25 location in the same vehicle; thereafter, Defendant DEANGELO CARROLL calling victim
26 TIMOTHY JAY HADLAND to the scene; thereafter, by KENNETH COUNTS shooting
27 TIMOTHY JAY HADLAND; and/or (2) by conspiring to commit the crime of battery
28 and/or battery with use of a deadly weapon and/or battery resulting in substantial bodily

1 harm and/or to kill TIMOTHY JAY HADLAND whereby each and every co-conspirator is
2 responsible for not only the specific crime intended, but also for the natural and foreseeable
3 general intent crimes of each and every co-conspirator during the course and in furtherance
4 of the conspiracy.

5 COUNT 3 - SOLICITATION TO COMMIT MURDER

6 Defendant LUIS ALONSO HIDALGO, III did, on or between May 23, 2005, and
7 May 24, 2005, then and there willfully, unlawfully, and feloniously counsel, hire, command
8 or other solicit another, to-wit: DEANGELO CARROLL, to commit the murder of
9 JAYSON TAOIPU; the defendant being liable under one or more theories of criminal
10 liability, to-wit: (1) by directly or indirectly committing the acts constituting the offense;
11 and/or (2) by aiding and abetting the commission of the crime by, directly or indirectly,
12 counseling, encouraging, hiring, commanding, inducing or otherwise procuring ANABEL
13 ESPINDOLA to commit the crime.

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1 COUNT 4 - SOLICITATION TO COMMIT MURDER

2 Defendant LUIS ALONSO HIDALGO, III did, on or between May 23, 2005, and
3 May 24, 2005, then and there willfully, unlawfully, and feloniously counsel, hire, command
4 or other solicit another to-wit: DEANGELO CARROLL, to commit the murder of
5 RONTAE ZONE; the defendant being liable under one or more theories of criminal liability,
6 to-wit: (1) by directly or indirectly committing the acts constituting the offense; and/or (2) by
7 aiding and abetting the commission of the crime by, directly or indirectly, counseling,
8 encouraging, hiring, commanding, inducing or otherwise procuring ANABEL ESPINDOLA
9 to commit the crime.

10
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12 BY


13 MARC DIGIACOMO
14 CHIEF DEPUTY DISTRICT ATTORNEY
15 Nevada Bar #006955
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27 DA#05FB0052A/dd
28 LVMPD EV#0505193516
CONSP MURDER;MWDW - F
(TK7)

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INST

ORIGINAL

FILED IN OPEN COURT
EDWARD A. FRIEDLAND
CLERK OF THE COURT

FEB 17 2009

BY: Denise Husted
DENISE HUSTED, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

LUIS HIDALGO, III, and
LUIS HIDALGO, JR,

Defendant.

CASE NO: C212667/C241394
DEPT NO: XXI

INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

MEMBERS OF THE JURY:

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

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

INSTRUCTION NO. 2

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

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

A Fourth Amended Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt and does not create any presumption or permit any inference of guilt.

In this case, it is charged in a Fourth Amended Information that on or between the 19th day and the 24th day of May, 2005, the Defendant, LUIS HIDALGO, III, having committed the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 193.165); MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165), and SOLICITATION TO COMMIT MURDER (Felony - NRS 199.500), within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 - CONSPIRACY TO COMMIT MURDER

Defendant LUIS ALONSO HIDALGO, III, along with co-conspirators KENNETH JAY COUNTS, ANABEL ESPINDOLA, DEANGELO RESHAWN CARROLL and JAYSON TAOIPU did, on or about May 19, 2005, then and there meet with each other and/or Luis Hildago, Jr. and between themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit: the murder of TIMOTHY JAY HADLAND, and in furtherance of said conspiracy, the Defendants and/or their co-conspirators, did commit the act as set forth in Count 2, said acts being incorporated by this reference as though fully set forth herein.

COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

Defendant LUIS ALONSO HIDALGO, III, along with co-conspirators KENNETH JAY COUNTS, ANABEL ESPINDOLA, DEANGELO RESHAWN CARROLL and JAYSON TAOIPU did, on or about May 19, 2005, then and there wilfully, feloniously, without authority of law, and with premeditation and deliberation, and with malice aforethought, kill TIMOTHY JAY HADLAND, a human being, by shooting at and into the body and/or head of said TIMOTHY JAY HADLAND, with a deadly weapon, to-wit: a

1 firearm, the Defendant being liable under one or more of the following theories of criminal
2 liability, to-wit: (1) by aiding and abetting the commission of the crime by, directly or
3 indirectly, counseling, encouraging, hiring, commanding, inducing or otherwise procuring
4 each other to commit the crime, to-wit: by DEFENDANT Luis Hidalgo, III and/or Luis
5 Hidalgo, Jr., procuring Defendant DEANGELO CARROLL to beat and/or kill TIMOTHY
6 JAY HADLAND; thereafter, Defendant DEANGELO CARROLL procuring KENNETH
7 COUNTS and/or JAYSON TAOIPU to shoot TIMOTHY HADLAND; thereafter, Defendant
8 DEANGELO CARROLL and KENNETH COUNTS and JAYSON TAOIPU did drive to the
9 location in the same vehicle; thereafter, Defendant DEANGELO CARROLL calling victim
10 TIMOTHY JAY HADLAND to the scene; thereafter, by KENNETH COUNTS shooting
11 TIMOTHY JAY HADLAND; and/or (2) by conspiring to commit the crime of battery
12 and/or battery with use of a deadly weapon and/or battery resulting in substantial bodily
13 harm and/or to kill TIMOTHY JAY HADLAND whereby each and every co-conspirator is
14 responsible for not only the specific crime intended, but also for the natural and foreseeable
15 general intent crimes of each and every co-conspirator during the course and in furtherance
16 of the conspiracy.

17 COUNT 3 - SOLICITATION TO COMMIT MURDER

18 Defendant LUIS ALONSO HIDALGO, III did, on or between May 23, 2005, and
19 May 24, 2005, then and there willfully, unlawfully, and feloniously counsel, hire, command
20 or other solicit another, to-wit: DEANGELO CARROLL, to commit the murder of
21 JAYSON TAOIPU; the defendant being liable under one or more theories of criminal
22 liability, to-wit: (1) by directly or indirectly committing the acts constituting the offense;
23 and/or (2) by aiding and abetting the commission of the crime by, directly or indirectly,
24 counseling, encouraging, hiring, commanding, inducing or otherwise procuring ANABEL
25 ESPINDOLA to commit the crime.

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1 //

2 **COUNT 4 – SOLICITATION TO COMMIT MURDER**

3 Defendant LUIS ALONSO HIDALGO, III did, on or between May 23, 2005, and
4 May 24, 2005, then and there willfully, unlawfully, and feloniously counsel, hire, command
5 or other solicit another to-wit: DEANGELO CARROLL, to commit the murder of
6 RONTAE ZONE; the defendant being liable under one or more theories of criminal liability,
7 to-wit: (1) by directly or indirectly committing the acts constituting the offense; and/or (2) by
8 aiding and abetting the commission of the crime by, directly or indirectly, counseling,
9 encouraging, hiring, commanding, inducing or otherwise procuring ANABEL ESPINDOLA
10 to commit the crime.

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

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2 An Amended Indictment is but a formal method of accusing a person of a crime and
3 is not of itself any evidence of his guilt and does not create any presumption or permit any
4 inference of guilt.

5 In this case, it is charged in an Amended Indictment that on or about the 19th day of
6 May, 2005, the Defendant, LUIS HIDALGO, JR., having committed the crimes of
7 CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 199.480); and
8 MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030,
9 193.165), committed at and within the County of Clark, State of Nevada, as follows:

10 COUNT 1 - CONSPIRACY TO COMMIT MURDER

11 did, on or about May 19, 2005, then and there, meet with Deangelo Carroll and/or
12 Luis Hidalgo, III and/or Anabel Espindola and/or Kenneth Counts and/or Jayson Taoipu and
13 between themselves, and each of them with the other, wilfully, unlawfully, and feloniously
14 conspire and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy,
15 Defendant and/or his co-conspirators, did commit the acts as set forth in Count 2, said acts
16 being incorporated by this reference as though fully set forth herein.

17 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

18 did, on or about May 19, 2005, then and there wilfully, feloniously, without authority
19 of law, and with premeditation and deliberation, and with malice aforethought, kill
20 TIMOTHY JAY HADLAND, a human being, by shooting at and into the body and/or head
21 of said TIMOTHY JAY HADLAND, with a deadly weapon, to-wit: a firearm, the Defendant
22 being liable under one or more of the following theories of criminal liability, to-wit: (1) by
23 directly or indirectly committing the acts with premeditation and deliberation and/or lying in
24 wait; and/or (2) by aiding and abetting the commission of the crime by, directly or indirectly,
25 counseling, encouraging, hiring, commanding, inducing or otherwise procuring another to
26 commit the crime, to-wit: by defendant along with LUIS HIDALGO, III procuring
27 DEANGELO CARROLL to beat and/or kill TIMOTHY JAY HADLAND; thereafter,
28 DEANGELO CARROLL procuring KENNETH COUNTS and/or JAYSON TAOIPU to

1 shoot TIMOTHY HADLAND; thereafter, DEANGELO CARROLL and KENNETH
2 COUNTS and JAYSON TAOIPU did drive to the location in the same vehicle; thereafter,
3 DEANGELO CARROLL calling victim TIMOTHY JAY HADLAND to the scene;
4 thereafter, by KENNETH COUNTS shooting TIMOTHY JAY HADLAND; defendant
5 paying \$5000.00 or \$6000.00 to DEANGELO CARROLL for the killing of TIMOTHY JAY
6 HADLAND; and/or (3) by conspiring to commit the crime of battery and/or battery resulting
7 in substantial bodily harm and/or battery with use of a deadly weapon on the person of
8 TIMOTHY JAY HADLAND whereby each and every co-conspirator is responsible for the
9 reasonably foreseeable general intent crimes of each and every co-conspirator during the
10 course and in furtherance of the conspiracy and/or (4) by conspiring to commit the crime of
11 murder of TIMOTHY JAY HADLAND whereby each and every co-conspirator is
12 responsible for the specific intent crime contemplated by the conspiracy.

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

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INSTRUCTION NO. 5

In this case the Defendants are accused in an Information or Indictment alleging an open charge of murder. This charge includes and encompasses murder of the first degree, murder of the second degree and involuntary manslaughter.

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INSTRUCTION NO. 6

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

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INSTRUCTION NO. 2

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

INSTRUCTION NO. 8

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

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

INSTRUCTION NO. 9

Murder of the first degree is murder which is perpetrated by means of any kind of willful, deliberate, and premeditated killing. All three elements--willfulness, deliberation, and premeditation--must be proven beyond a reasonable doubt before an accused can be convicted of first-degree murder.

Willfulness is the intent to kill. There need be no appreciable space of time between formation of the intent to kill and the act of killing.

Deliberation is the process of determining upon a course of action to kill as a result of thought, including weighing the reasons for and against the action and considering the consequences of the action.

A deliberate determination may be arrived at in a short period of time. But in all cases the determination must not be formed in passion, or if formed in passion, it must be carried out after there has been time for the passion to subside and deliberation to occur. A mere unconsidered and rash impulse is not deliberate, even though it includes the intent to kill.

Premeditation is a design, a determination to kill, distinctly formed in the mind by the time of the killing.

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

INSTRUCTION NO. 10

The law does not undertake to measure in units of time the length of the period during which the thought must be pondered before it can ripen into an intent to kill which is truly deliberate and premeditated. The time will vary with different individuals and under varying circumstances.

The true test is not the duration of time, but rather the extent of the reflection. A cold, calculated judgment and decision may be arrived at in a short period of time, but a mere unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation and premeditation as will fix an unlawful killing as murder of the first degree.

INSTRUCTION NO. 11

Murder which is immediately preceded by lying in wait is murder of the first degree.

The term "lying in wait" is defined as a waiting and watching for an opportune time to act, together with a concealment by ambush or some other secret design to take the other person by surprise. The lying in wait need not continue for any particular period of time provided that its duration is such as to show a state of mind equivalent to premeditation or deliberation.

To constitute murder by means of lying in wait there must be, in addition to the aforesaid conduct by the defendant, an intentional infliction upon the person killed of bodily harm involving a high degree of probability that it will result in death and which shows a wanton disregard for human life.

INSTRUCTION NO. 12

Although your verdict must be unanimous as to the charge, you do not have to agree on the principle of guilt or theory of liability. Therefore, even if you cannot agree on whether the facts establish premeditated and deliberate murder, or lying in wait, or liability as a principle, an aider and abettor or as a co-conspirator, so long as all of you agree that the evidence establishes Defendant's guilt of murder in the first degree, your verdict shall be Murder of the First Degree.

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

Murder of the Second Degree is:

1. Murder with malice aforethought, but without the admixture of premeditation and deliberation, or
2. An involuntary killing which occurs in the commission of an unlawful act, which, in its consequences, naturally tends to destroy the life of a human being; or
3. An involuntary killing which is committed in the prosecution of a felonious intent.

INSTRUCTION NO. 14

Involuntary Manslaughter is the killing of a human being, without any intent to do so, in the commission of an unlawful act or a lawful act which probably might produce such a consequence in an unlawful manner; but where the involuntary killing occurs in the commission of an unlawful act, which, in its consequences, naturally tends to destroy the life of a human being, or is committed in the prosecution of a felonious intent, the offense is Murder.

Battery Resulting In Substantial Bodily Harm and Battery With Use of a Deadly Weapon are felonies. A Battery is a misdemeanor.

INSTRUCTION NO. 15

A conspiracy is an agreement between two or more persons for an unlawful purpose. To be guilty of conspiracy, a defendant must intend to commit, or to aid in the commission of, the specific crime agreed to. The crime is the agreement to do something unlawful; it does not matter whether it was successful or not.

A person who knowingly does any act to further the object of a conspiracy, or otherwise participates therein, is criminally liable as a conspirator. However, mere knowledge or approval of, or acquiescence in, the object and purpose of a conspiracy without an agreement to cooperate in achieving such object or purpose does not make one a party to conspiracy. Conspiracy is seldom susceptible of direct proof and is usually established by inference from the conduct of the parties. In particular, a conspiracy may be supported by a coordinated series of acts, in furtherance of the underlying offense, sufficient to infer the existence of an agreement.

A conspiracy begins when two or more persons enter into agreement for an unlawful purpose. A conspiracy to commit a crime does not end upon the completion of the crime. The conspiracy continues until the co-conspirators have successfully gotten away and concealed the crime. However, a person cannot become a member of a conspiracy after the object of the conspiracy has been accomplished. If a person was not a member of the conspiracy before its objective was accomplished but assists the conspirators afterwards, he is an accessory after the fact, not a co-conspirator.

INSTRUCTION NO. 112

Once a person joins a conspiracy, that person remains a member until he withdraws from it. A person can withdraw from a conspiracy by taking some positive action which disavowed or defeated the purpose of the conspiracy. It is not enough if the evidence shows that the defendant merely ceased his own activities in furtherance of the conspiracy.

The state has the burden of proving beyond a reasonable doubt the defendant did not withdraw from the conspiracy.

INSTRUCTION NO. 17

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2 It is not necessary in proving a conspiracy to show a meeting of the alleged
3 conspirators or the making of an express or formal agreement. The formation and existence
4 of a conspiracy may be inferred from all circumstances tending to show the common intent
5 and may be proved in the same way as any other fact may be proved, either by direct
6 testimony of the fact or by circumstantial evidence, or by both direct and circumstantial
7 evidence.
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INSTRUCTION NO. 16

Each member of a criminal conspiracy is liable for each act and bound by each declaration of every other member of the conspiracy if the act or the declaration is in furtherance of the object of the conspiracy.

The act of one conspirator pursuant to or in furtherance of the common design of the conspiracy is the act of all conspirators. Every conspirator is legally responsible for a specific intent crime of a co-conspirator so long as the specific intent crime was intended by the Defendant. A conspirator is also legally responsible for a general intent crime that follows as one of the probable and natural consequence of the object of the conspiracy even if it was not intended as part of the original plan and even if he was not present at the time of the commission of such act.

Specific intent is the intent to accomplish the precise act which the law prohibits. A general intent crime is one that does not require specific intent.

INSTRUCTION NO. 19

Murder in the First Degree is a specific intent crime. A Defendant can not be liable under conspiracy and/or aiding and abetting theory for First Degree Murder for acts committed by a co-conspirator, unless, Defendant also had a premeditated and deliberate specific intent to kill.

Murder in the Second Degree may be a general intent crime. As such, Defendant may be may liable under conspiracy theory or aiding and abetting theory for Murder of the Second Degree for acts committed by a co-conspirator if the killing is one of the reasonably foreseeable probable and natural consequences of the object of the conspiracy or the aiding and abetting.

INSTRUCTION NO. 20

Where two or more persons are accused of committing a crime together, their guilt may be established without proof that each personally did every act constituting the offense charged.

All persons concerned in the commission of a crime who either directly and actively commit the act constituting the offense or who knowingly and with criminal intent aid and abet in its commission or, whether present or not, who advise and encourage its commission, with the intent that the crime be committed, are regarded by the law as principals in the crime thus committed and are equally guilty thereof.

A person aids and abets the commission of a crime if he knowingly and with criminal intent aids, promotes, encourages or instigates by act or advice, or by act and advice, the commission of such crime with the intention that the crime be committed.

The State is not required to prove precisely which defendant actually committed the crime and which defendant aided and abetted.

INSTRUCTION NO. 21

As a matter of law, one cannot aid and abet a murder after it has been accomplished.

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INSTRUCTION NO. 22

Where several parties join together in a common design to commit any lawful act, each is criminally responsible for the reasonably foreseeable general intent crimes committed in furtherance of the common design. In contemplation of law, as it relates to general intent crimes, the act of one is the act of all. Battery, Battery Resulting In Substantial Bodily Harm and Battery With A Deadly Weapon are general intent crimes. Second Degree Murder can be a general intent crime.

Additionally, a co-conspirator is guilty of the offenses he specifically intended to be committed. First Degree Murder is a specific intent crime.

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2 You are instructed that if you find that the State has established that the defendant has
3 committed conspiracy to commit murder you shall select conspiracy to commit murder as
4 your verdict. You may find the defendant guilty of conspiracy to commit a Battery With a
5 Deadly Weapon and/or Battery Resulting in Substantial Bodily Harm if:

6 1. You have not found, beyond a reasonable doubt, that the defendant is guilty of
7 conspiracy to commit murder, and

8 2. All twelve of you are convinced beyond a reasonable doubt the defendant is guilty
9 of the crime of conspiracy to commit a Battery With a Deadly Weapon and/or Battery
10 Resulting in Substantial Bodily Harm.

11 If you are convinced beyond a reasonable doubt that the crime of conspiracy has been
12 committed by the defendant, but you have a reasonable doubt whether such conspiracy was
13 to commit murder or battery with a deadly weapon, or battery resulting in substantial bodily
14 harm, you must give the defendant the benefit of that doubt and return a verdict of
15 conspiracy to commit a Battery With a Deadly Weapon and/or Battery Resulting in
16 Substantial Bodily Harm.

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INSTRUCTION NO. 24

You are instructed that if you find that the State has established that the defendant has committed conspiracy to commit Battery With a Deadly Weapon and/or Battery Resulting in Substantial Bodily Harm you shall select conspiracy to commit Battery With a Deadly Weapon and/or Battery Resulting in Substantial Bodily Harm as your verdict. You may find the defendant guilty of conspiracy to commit a Battery if:

1. You have not found, beyond a reasonable doubt, that the defendant is guilty of conspiracy to commit Battery With a Deadly Weapon and/or Battery Resulting in Substantial Bodily Harm, and

2. All twelve of you are convinced beyond a reasonable doubt the defendant is guilty of the crime of conspiracy to commit a Battery.

If you are convinced beyond a reasonable doubt that the crime of conspiracy has been committed by the defendant, but you have a reasonable doubt whether such conspiracy was to commit battery with a deadly weapon, or battery resulting in substantial bodily harm, or battery you must give the defendant the benefit of that doubt and return a verdict of conspiracy to commit a Battery.

INSTRUCTION NO. 25

Battery means any willful and unlawful use of force or violence upon the person of another.

A battery which occurs with a deadly weapon is a felony.

A battery which results in substantial bodily harm is a felony.

"Substantial bodily harm" means:

1. Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ; or

2. Prolonged physical pain.

A battery which occurs without a deadly weapon or does not result in substantial bodily harm is a misdemeanor.

INSTRUCTION NO. 26

An accessory after the fact is one who, after the commission of a felony harbors, conceals or aids such offender with intent that he may avoid or escape from arrest, trial, conviction or punishment, having knowledge that such offender has committed a felony or is liable to arrest. One cannot be both an accessory after the fact and an aider and abettor or conspirator for the completed offense.

A defendant is not required to establish that he was an accessory after the fact beyond a reasonable doubt, but if along with all of the evidence in this case it raises in the minds of the jury a reasonable doubt as to whether the defendant was only an accessory after the fact, then, in that event, it would be your duty to return a verdict of not guilty.

INSTRUCTION NO. 27

A person who counsels, hires, commands or otherwise solicits another to commit murder, if no criminal act is committed as a result of the solicitation, is guilty of solicitation to commit murder.

Solicitation to commit murder requires the specific intent to kill.

INSTRUCTION NO. 28

Mere presence at the scene of the crime and knowledge that a crime is being committed are not sufficient to establish that the defendant aided and abetted the crime, unless you find beyond a reasonable doubt that the defendant is a participant and not merely a knowing spectator. However, the presence of one at the commission of a crime of another is evidence which can be considered in determining whether or not he is guilty of aiding or abetting, as well as the defendant's presence, companionship, and conduct before, during and after the participation in the criminal act.

INSTRUCTION NO. 29

You are instructed that if you find that the State has established that the defendant has committed first degree murder you shall select first degree murder as your verdict. The crime of first degree murder includes the crime of second degree murder. You may find the defendant guilty of second degree murder if:

1. You have not found, beyond a reasonable doubt, that the defendant is guilty of murder of the first degree, and

2. All twelve of you are convinced beyond a reasonable doubt the defendant is guilty of the crime of second degree murder.

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

INSTRUCTION NO. 30

You are instructed that if you find that the State has established that the defendant has committed murder you shall select the degree murder as your verdict. The crime of murder includes the crime of involuntary manslaughter. You may find the defendant guilty of involuntary manslaughter if:

1. You have not found, beyond a reasonable doubt, that the defendant is guilty of murder, and

2. All twelve of you are convinced beyond a reasonable doubt the defendant is guilty of the crime of involuntary manslaughter.

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

INSTRUCTION NO. 31

You are instructed that if you find a defendant guilty of Murder of the First Degree, or Murder of the Second Degree, you must also determine whether or not a deadly weapon was used in the commission of this crime.

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INSTRUCTION NO. 32

"Deadly weapon" means any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death; or, any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death.

You are instructed that a firearm is a deadly weapon.

INSTRUCTION NO. 33

If more than one person commits a crime, and one of them uses a deadly weapon in the commission of that crime, each may be convicted of using the deadly weapon even though he did not personally himself use the weapon.

An unarmed offender "uses" a deadly weapon when the unarmed offender is liable for the offense, another person liable to the offense is armed with and uses a deadly weapon in the commission of the offense, and the unarmed offender had knowledge of the use of the deadly weapon.

INSTRUCTION NO. 34

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

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

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

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

INSTRUCTION NO. 35

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

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INSTRUCTION NO. 30

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

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

INSTRUCTION NO. 38

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

INSTRUCTION NO. 38

In arriving at a verdict in this case as to whether the defendant is guilty or not guilty, the subject of penalty or punishment is not to be discussed or considered by you and should in no way influence your verdict. Sentencing is a subject left to the discretion of the Court.

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INSTRUCTION NO. 39

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

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

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

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

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

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

INSTRUCTION NO. 40

Whenever there is slight evidence that a conspiracy existed, and that the defendant was one of the members of the conspiracy, then the statements and the acts by any person likewise a member may be considered by the jury as evidence in the case as to the defendant found to have been a member, even though the statements and acts may have occurred in the absence and without the knowledge of the defendant, provided such statements and acts were knowingly made and done during the continuance of such conspiracy, and in furtherance of some object or purpose of the conspiracy.

This holds true, even if the statement was made by the co-conspirator prior to the time the defendant entered the conspiracy, so long as the co-conspirator was a member of the conspiracy at the time.

The statements of a co-conspirator after he has withdrawn from the conspiracy were not offered, and may not be considered by you, for the truth of the matter asserted. They were only offered to give context to the statements made by the other individuals who are speaking, as or adoptive admissions or other circumstantial evidence in the case.

An adoptive admission is a statement of which a listener has manifested his adoption or belief in its truth.