

1 A Correct.

2 Q And Deangelo Carroll ended up coming into the Palomino?

3 A Yes, ma'am.

4 Q Right after 7 o'clock?

5 A I think it was around 8:30 that he came in.

6 Q Okay. But during the time you were at the Palomino Mr. Carroll

7 walked in?

8 A Yes.

9 Q I want to ask you a little bit about the note that you found at

10 Simone's.

11 A Okay.

12 Q Do you recall where you found it?

13 A Yes.

14 Q And do you remember the note -- the note I'm talking about is a

15 handwritten note --

16 A Yes.

17 Q -- that said we're under surveillance?

18 A Yes.

19 MS. ARMENI: 120?

20 THE COURT: 129, I think.

21 MR. GENTILE: No, I think it's 200-IA, just off the top of my head.

22 BY MS. ARMENI:

23 Q Do you recall the note? It's been used a lot.

24 THE COURT: I think the copy of the note is Exhibit No. 129.

25 MR. GENTILE: Okay. Well --

1 THE COURT: But you would like the original, Ms. Armeni?

2 MS. ARMENI: Actually, if she's getting it, I'll continue with my  
3 questioning.

4 BY MS. ARMENI:

5 Q Detective Wildemann, you were present at Simone's when the  
6 search warrant was executed?

7 A Yes, ma'am.

8 Q And you basically walked around Simone's?

9 A Yes.

10 Q You knew that -- you understood the format?

11 A The layout of the building?

12 Q The layout, yes.

13 A Yes.

14 Q Okay. And was it your recollection there were two customer  
15 waiting areas?

16 A I remember a big, large customer waiting area as you walk in and  
17 to the left.

18 Q Okay. To the left there was a customer waiting area?

19 A Yes.

20 Q And you -- do you recall that there was an additional one?

21 A I don't recall that.

22 Q Okay. Do you remember if -- there were CSAs present, correct,  
23 during execution?

24 A Yes, ma'am.

25 Q Do you remember CSA Smink being present?

1 A Yes.

2 Q If you looked at his report that he made about evidence he  
3 collected, would it help refresh your recollection?

4 A Sure.

5 Q And just for the record, Detective Wildemann, I'm showing you  
6 State's Exhibit 200-IA, and that's the note that I'm referring to?

7 A Yes, ma'am.

8 Q That, Maybe we are under surveillance. Keep your mouth shut?

9 A Maybe we're being undersurveilled, I think is what it says.

10 Q You're right. It's spelled incorrectly, isn't it?

11 A Yes.

12 MS. ARMENI: Court's indulgence.

13 THE COURT: That's fine.

14 MS. ARMENI: May I approach the witness, Your Honor?

15 THE COURT: You may.

16 BY MS. ARMENI:

17 Q Detective, I'm showing you the crime scene report done by Jeff  
18 Smink. You requested that report, right?

19 A Yes.

20 Q Okay. And do you see --

21 MS. ARMENI: Does the Court have --

22 THE COURT: No, you're fine.

23 MS. ARMENI: I thought I had a copy but I don't.

24 BY MS. ARMENI:

25 Q At the bottom here where it says, Scene.

1 A Okay.

2 Q Can you read that to yourself for a minute?

3 A Sure.

4 Q Does that refresh your recollection about the second waiting  
5 room?

6 A Yes. Well, I don't know that it's a second waiting room.

7 Q Okay. Well, it identifies two customer waiting areas, right, one in  
8 the northwest area --

9 A Can I see it again, I'm sorry. I didn't see it say that twice. I'm  
10 sorry, but I'm only seeing it once, and thought -- I understand this to be the  
11 customer -- the initial customer waiting area where you initially walk in has an  
12 opening that leads back to the area which I think you're headed towards.

13 Q Okay. So your understanding is there was only that one northwest  
14 customer waiting area?

15 A Yes.

16 Q And that waiting area was obviously open to the public?

17 A Yes.

18 Q It was for customers?

19 A Yes.

20 Q And that actually -- that waiting room filtered into the game room?

21 A It had an opening that went into what was described as a game  
22 room, yes.

23 Q Okay. And in that game room was the pool table?

24 A Yes.

25 Q And in that game room was the stool?

1 A Yes.  
2 Q And on that stool was the note that I had showed you, State's  
3 Exhibit 200-IA?

4 A Yes.

5 Q And that was laying face up, correct?

6 A I believe so, yes.

7 MS. ARMENI: Court's indulgence.

8 THE COURT: That's fine.

9 MS. ARMENI: Thank you, Detective.

10 No further questions, Your Honor.

11 THE COURT: All right. Mr. Adams.

12 MR. ADAMS: Do I get to go, Your Honor?

13 THE COURT: Sure.

14 CROSS-EXAMINATION

15 BY MR. ADAMS:

16 Q Detective Wildemann, let me show you what's been marked as  
17 Defense Exhibit BB.

18 A Okay.

19 Q Created for the purposes of litigation by me with a pen this  
20 morning. Do these numbers look familiar to you based upon your investigation  
21 in this case?

22 A Yes.

23 Q Including the number at the very bottom?

24 A Uh --

25 Q Does that number appear numerous times in the various exhibits

1 related to phone records that have been submitted?

2 A Yes, it does.

3 MR. ADAMS: At this point we tender Exhibit BB.

4 THE COURT: Any objection to BB?

5 MR. DIGIACOMO: I guess not, no. I don't know what --

6 THE COURT: BB will be admitted.

7 (Defense Exhibit BB admitted.)

8 MR. ADAMS: Now we have the added advantage of the detective not  
9 being able to see it.

10 THE COURT: He can step down if you're going to ask him about --

11 MR. ADAMS: We'll keep him in the dark. I think I prefer that.

12 BY MR. ADAMS:

13 Q Let me just go through these numbers, Detective, and you have  
14 the master list of phone records up there. What is the number that you have  
15 for Anabel Espindola as her cell phone number from Simone's?

16 A 604-9646.

17 Q And what is the associated Nextel push to talk or chirp number?

18 A One second, please.

19 Q I believe that's in the 139.

20 MR. DIGIACOMO: 189.

21 THE COURT: While Detective Wildemann's doing that, may I see  
22 counsel at the bench, please.

23 (Conference at the bench.)

24 THE COURT: Mr. Arrascada, just face that toward Detective Wildemann  
25 so he can anticipate the numbers that are coming up. So you can have him

1 look at that and then just kind of verify those numbers.

2 (Conference at the bench.)

3 THE COURT: All right, Mr. Adams, you may proceed or continue.

4 MR. ADAMS: All right.

5 BY MR. ADAMS:

6 Q Detective, I'm going to try to take this all the way to the back  
7 maybe so all the jurors can see it.

8 A Sure.

9 Q Is this too small for you, or can you still anticipate what numbers  
10 we're talking about now?

11 A I can anticipate it.

12 MR. ARRASCADA: Mr. Adams, is it okay if I move it so the jurors can  
13 see it?

14 MR. ADAMS: Yes.

15 BY MR. ADAMS:

16 Q Okay. Do you have the walkie talkie number associated with  
17 Anabel Espindola's cell phone?

18 A I do. Can I just do the last few digits?

19 Q Absolutely.

20 A 886 star 4.

21 Q All right. How about Deangelo Carroll's cell phone number?

22 A Give me a second.

23 Q Sure.

24 A 886 star 34.

25 Q And what is his cell phone number?

1           A     604-5322.

2           Q     And for that particular number, did you discover during the course  
3 of your investigation that that number could not make outgoing calls, that it  
4 was limited it could only chirp?

5           A     Yes.

6           Q     So unlike the other cell phone numbers that Simone's was paying  
7 for, Mr. Carroll could only have chirp access with that phone?

8           A     I believe so, yes.

9           Q     And did you have a home number for Mr. Carroll?

10          A     Yes, I did.

11          Q     And what is that home number?

12          A     643-0842.

13          Q     And what number -- who was registered for that number? Who  
14 was paying for that?

15          A     I don't recall that at this time, sir.

16          Q     How about Mr. Hidalgo Junior, Mr. H, what was his Simone's cell  
17 phone number?

18          A     604-4410.

19          Q     And how about his walkie talkie direct connect number?

20          A     He is 886 star 1.

21          Q     The next for Little Lou, Luis Hidalgo III?

22          A     604-6348.

23          Q     And how about his walkie talkie number?

24          A     886 star 13.

25          Q     In your investigation, and we'll skip Mr. Counts and go down to



1 Mr. Hadland, in your investigation did -- you found a phone or a phone was  
2 found at the scene of the crime and car of Mr. Hadland?

3 A Yes.

4 Q And you were able to determine what the number of that phone  
5 was?

6 A Yes.

7 Q And what was that number?

8 A I'm not positive off the top of my head. I'm not sure exactly  
9 which number.

10 Q Do you believe the number was 234-8019?

11 A I do believe that.

12 Q And during the review of all the phone records, did you come  
13 across a number 239-2350?

14 A I've seen it numerous times, yes.

15 Q And that was not a number paid for by Simone's or the Palomino  
16 Club?

17 A I don't know that.

18 Q Did you hear the name PK Hadland or PK Handland?

19 A Yes.

20 Q And do you know if that was his number?

21 A I don't know that.

22 Q Let's go to Mr. Counts, and is this Mr. Counts?

23 A Yes.

24 Q Were you able to determine whether he had a cell phone or not?

25 A Yes.

1 Q During the investigation?

2 A Yes.

3 Q And did you discover what his cell phone number was?

4 A It was 808-1719.

5 Q All right. And did that number appear in any of the phone records?

6 A Yes.

7 Q And that number appeared, did it not, in a phone call to Anabel

8 Espindola, or let me correct that, in a phone call to Anabel Espindola's

9 telephone?

10 A Yes, sir.

11 Q And what time was that call?

12 A It was May 19<sup>th</sup>, 2005, at 11:10:12 p.m.

13 Q 11:10:12 p.m. And how long was this call from Mr. Counts'

14 phone to Anabel Espindola's phone?

15 A 1.4 minutes, I believe.

16 Q All right. So more than a minute, almost a minute and a half?

17 A Yes.

18 Q And it was a call from Kenneth Counts' phone to Anabel

19 Espindola?

20 A Correct.

21 Q Because on the records it shows Anabel Espindola received an

22 incoming call from this number of Kenneth Counts?

23 A Yes, sir.

24 Q And after this 1.4 minute call, the call disconnected?

25 A Yes.

1 Q And Anabel Espindola attempted at 11:12:58 p.m., attempted to  
2 call Kenneth Counts back, didn't she?

3 A Correct.

4 Q And there was no answer on her return call to Kenneth Counts?

5 A It just --

6 Q Kenneth Counts' telephone?

7 A It has a duration of zero seconds.

8 Q I'd like to go through some of the calls with you from your master  
9 document --

10 THE COURT: You know what, I'm sure there's a number of calls that  
11 you're going to go through so maybe this would be a natural time to take our  
12 lunch recess.

13 MR. ADAMS: This would be a great time.

14 THE COURT: Ladies and gentlemen, we're going to go ahead and take  
15 our lunch recess until 1:30. Before we take it -- don't get up yet -- I need to  
16 inquire whether or not during the course of the trial any of the jurors have seen,  
17 read or heard anything in the news media about this case?

18 All right. And for the record, all of the jurors are indicating that  
19 they have not.

20 Thank you. Lunch till 1:30. Once again you're reminded of the  
21 admonition not to discuss the case or do anything relating to the case. Don't  
22 read, watch, listen to anything relating to the case. Please don't form or  
23 express an opinion on the trial.

24 Notepads in your chairs. We'll see you all back here at 1:30, and  
25 through the double doors.

1 (Recessed 12:19 p.m.)

2 (On the record outside the presence of the jury 1:32 p.m.)

3 MR. ADAMS: Are we on the record?

4 THE COURT RECORDER: We are now.

5 MR. ADAMS: We had earlier objections also related to phone records.  
6 Is this a good time to --

7 THE CLERK: Can we take care of 231, 232 and 233 first?

8 THE COURT: No objection to those, right?

9 MR. ADAMS: No objection.

10 MR. GENTILE: No objection.

11 THE COURT: Okay. And basically I'm just going to make a really quick  
12 record on your behalf and then you can make a more detailed record. We had  
13 some discussion I think on the record possibly yesterday, but basically my  
14 understanding is from the objection that was preserved by approaching the  
15 bench that Mr. Adams objected to everything involving the phone records on  
16 the basis he'd not been provided a copy of a probable cause affidavit or  
17 administrative subpoena or anything like that to justify the privacy intrusion  
18 involved in getting the phone records.

19 MR. ADAMS: In relation to the cell tower records, cell tower location,  
20 and only as it relates to Luis Hidalgo III. I don't think we have standing to  
21 object to the others.

22 THE COURT: All right I agree.

23 And then Mr. Gentile did not object to any of the phone records  
24 save and except the diagram that had been prepared by Detective Wildemann  
25 based on his review of the record, and you indicated that your objection was

1 the same as their objection.

2 MR. GENTILE: Whatever they say is good with me.

3 THE COURT: All right. So constitutional grounds and that was --

4 MR. ADAMS: Confrontation clause, yes, ma'am, yes, constitution.  
5 Absolutely. Fair trial right.

6 THE COURT: I was thinking of the Fourth Amendment right to privacy,  
7 but whatever.

8 MR. ADAMS: Right to privacy, that one too. And I think also in  
9 violation of right to counsel and free association. Speaking of free association,  
10 I've now had enough. Thank you, Your Honor.

11 THE COURT: Can we get started?

12 MR. DIGIACOMO: We can, and only one problem. Do we have an  
13 exhibit that says PK on it? There's no evidence that I'm aware of that has PK's  
14 cell phone number. They put it up in front of the jury; I've looked at it. I don't  
15 necessarily have a problem. I haven't gone through to check to make sure, but  
16 I certainly object that Wildemann during his testimony will confirm the  
17 information as to right or wrong. But to my recollection no information as to --

18 THE COURT: Well, if Detective Wildemann can't confirm that that's  
19 PK's number and you don't have a record, then just cross it out. I mean, I don't  
20 know where you got that from.

21 MR. ADAMS: Well, I think he can say his investigation did not extend  
22 far enough to know.

23 THE COURT: Yeah, but then you can't say that that's PK's number if  
24 we don't have a record.

25 MR. GENTILE: It doesn't say that now, Judge. It doesn't have anything

1 | written on it, does it?

2 MR. ADAMS: Well, not over there it doesn't, but I do have it over here.  
3 I'll put some -- if I can -- I'll put some yellow stickies over PK, if that's all right.

4 THE COURT: Okay. Yeah, I mean, I can't see what you've got there.

5 All right. Can we bring the jury in?

6 Get Jeff and tell him to bring them in.

7 (Jury entering 1:36 p.m.)

8 THE COURT: All right. Court is now back in session. The record will  
9 reflect the presence of the State through the Deputy District Attorneys, the  
10 presence of the defendants and their counsel, the officers of the court and the  
11 members of the jury.

12 And, Mr. Adams, you may resume your cross-examination of  
13 Detective Wildemann.

14 MR. ADAMS: Thank you very much.

15 BY MR. ADAMS:

16 Q Detective, I know you cannot see what I've now placed up in front  
17 of the jurors from where you're seated. So if you'd like to come down, I'd  
18 welcome you to come down.

19 A Do you want me to bring this, sir?

20 Q Please. And we're also going to put some of that up on the  
21 overhead if we can get everything turned on, the TV.

22 THE COURT: Oh, the TV, the big screen. Jeff needs to do that.

23 MR. DIGIACOMO: Judge, before we start can we approach?

24 THE COURT: You may.

25 (Conference at the bench.)

1 BY MR. ADAMS:

2 Q Before you come down, let me ask you this. But you can stand  
3 right there. That's fine. Do you recognize this photograph?

4 A I sure do.

5 Q It's marked State's 235?

6 A Yes, sir.

7 Q I don't believe it was introduced into evidence. Who is that?

8 A Anabel Espindola.

9 Q And was this taken the day of her arrest, May 24<sup>th</sup>?

10 A I'm not exactly sure on that one. I believe so though.

11 MR. ADAMS: Move that 235 be introduced into evidence.

12 THE COURT: No objection?

13 MR. DIGIACOMO: Well, actually I'll object to relevance unless we're  
14 going to admit them all.

15 THE COURT: Well, I'll admit 235.

16 (State's Exhibit 235 admitted.)

17 BY MR. ADAMS:

18 Q And this is Ms. Espindola?

19 A Yes.

20 MR. ADAMS: I'm happy to renumber it as ours if the Court prefer.

21 THE COURT: No.

22 MR. ADAMS: Thank you.

23 BY MR. ADAMS:

24 Q I'd like to go through phone call records with you and maybe one  
25 or two other things but primarily the phone calls. Do you have a phone call in

1 the records -- and you're looking at Exhibit 238?

2 A Yes, sir.

3 Q Do you have a phone call at 3:51 p.m. on May the 19<sup>th</sup>, 3:51:35?

4 A Yes, sir.

5 Q And who was the call made by?

6 A 239-2350.

7 MR. GENTILE: If it please the Court, may I stand over there?

8 THE COURT: Of course. That's fine.

9 BY MR. ADAMS:

10 Q And who was it made to?

11 A Anabel Espindola.

12 Q I'm not looking -- pardon me. I know you're fine; I'm just trying to  
13 arrange it. All right. And what was the duration of that call?

14 A 2.2 minutes, I believe.

15 Q And on these records, sometimes you have seconds listed and  
16 sometimes they're minutes. Do you know why there's a difference? Let me  
17 ask it this way.

18 A Well, I don't show -- I don't actually -- all I see in the column it  
19 says duration. My understanding might be that the --

20 Q This is a document not given by the phone company, right? This  
21 is a document created for the jurors?

22 A Right.

23 Q And so if there was one set of records that listed calls in minutes  
24 and one set of records that listed calls in seconds, both of those would be  
25 poured into this one master document?



1 A Yes.

2 Q And so there would be different types of information in the  
3 document?

4 A Yes.

5 Q All right. And how long this 2.2 minutes on a call to Anabel  
6 Espindola at 3:51:35 on the 19<sup>th</sup>?

7 A I'm sorry. I lost the spot.

8 Q The bottom of page 2.

9 A Got it. 2.2 is what it says.

10 Q Let's go to page 3. Again, I'm not very good with the Elmo so it's  
11 going to be too difficult to read. Is there a call at 4:58 p.m.?

12 A There's a call at 4:58:56.

13 Q And is that call from the home phone of Deangelo Carroll?

14 A Yes, sir.

15 Q And who is that call to?

16 A Anabel Espindola.

17 Q And how long is that call based on your records?

18 A 1.1 second.

19 Q Is there another call from Deangelo Carroll to Anabel Espindola at  
20 7:27 p.m.?

21 A 7:27:05 from Deangelo to Anabel.

22 Q And again, that's his home phone, correct?

23 A Yes, sir.

24 Q To Anabel Espindola's cell phone, and the duration of that call?

25 A 3.75 minutes.

1 Q 225 seconds? Can you do that math in your head? All right.  
2 More than 3 minutes?

3 A Yes.

4 Q All right. And then is there a call from Little Lou's cell phone to  
5 the home of Deangelo Carroll at 7:42 p.m.?

6 A Yes. 7:42:58, yes, sir.

7 Q All right. And that lasted how long?

8 A 1.18 minutes.

9 Q Then is there a call to Little Lou at 8:07:31?

10 A Yes.

11 Q And is that from the number at the bottom of our Exhibit BB, 239-  
12 2350?

13 A Yes, sir.

14 Q Let me back up to the top, the first call I asked you about, was  
15 that also from that number at 3:51:35?

16 A That was inbound to Anabel, correct?

17 Q Yes.

18 A Yes.

19 Q From 239-2350?

20 A Yes.

21 Q Then we have calls -- two calls from Anabel Espindola to Deangelo  
22 Carroll's home phone number at 8:13 p.m. and 8:15 p.m.?

23 A You still on the 19<sup>th</sup>, sir?

24 Q Yes, sir, all this is the 19<sup>th</sup>.

25 A 8:13 and 8:15.

1 Q We'll take them one at a time. 8:13:18, is there an attempted ca  
2 from Anabel Espindola to the house of Deangelo Carroll?  
3 A Yes, sir.  
4 Q And was that a zero second call?  
5 A Yes.  
6 Q How about at 8:15:16?  
7 A Yes, outbound Anabel to Deangelo Carroll's home phone.  
8 Q To his home phone, and what was the duration of that call?  
9 A Point 1 minutes.  
10 Q All right. So 6 seconds. And then is there a call again from  
11 Anabel Espindola at 8:42:16 to this number at the bottom of the page, 239-  
12 2350?  
13 A Yes, sir.  
14 Q And what's the length of that call?  
15 A 1.33 seconds -- excuse me, minutes.  
16 Q All right. And then we have a break in time until we get to 10:39  
17 p.m. or a break in what I'm asking you about, and is there a chirp from  
18 Deangelo Carroll's cell phone to Timothy Hadland's cell phone?  
19 A Yes.  
20 Q And what time is that?  
21 A The duration?  
22 Q Well, the time is 10:39 --  
23 A Or the time of the call, 10:39, the duration is zero.  
24 Q Okay. And then is there a chirp at 10:42:07?  
25 A Yes, there is.

1 Q And who's that from?

2 A Deangelo Carroll to Anabel Espindola.

3 Q And what is the length of time of that communication?

4 A 25.7 --

5 Q Seconds.

6 A Seconds because it's a chirp.

7 Q And the chirp records are in seconds, and the call records are in

8 minutes?

9 A I believe that to be true, yes.

10 Q Then is there a follow-up chirp from Deangelo Carroll to Anabel

11 Espindola at 10:45:25?

12 A Yes.

13 Q And what is the duration of that chirp communication?

14 A 8.3 seconds.

15 Q Let's move down to 10:45:35 or roughly within an hour of Mr.

16 Hadland's death. Is there a chirp from Anabel Espindola?

17 A Yes.

18 Q And who was she chirping?

19 A Deangelo Carroll.

20 Q And what is the length of that chirp?

21 A 12.6 seconds.

22 Q And then please look down at 10:53:41, eight minutes later.

23 A Yes.

24 Q Is there a chirp to Mr. Hadland?

25 A Yes.

1 Q And who is that by?

2 A Deangelo Carroll.

3 Q Is there another chirp within a minute and 11 seconds to TJ

4 Hadland again from Deangelo Carroll?

5 A Yes.

6 Q And what's the duration, the length of that chirp?

7 A 20.7 seconds.

8 Q What's your estimation on the time of death of Mr. Hadland?

9 A I'd have to review -- I'd have to review a couple of reports. I'm

10 not sure exactly when the 9-1-1 call was placed.

11 Q If we assume -- let's just assume there's been testimony of the

12 9-1-1 call being at 11:44 p.m. Does that seem accurate?

13 A That seems to my memory, yes.

14 Q As to your memory, all right. Let's back up now to get past the

15 11 o'clock hour on May the 19<sup>th</sup>. Was there a chirp at 11:08:06?

16 A Yes.

17 Q And who chirped who?

18 A Well, there's a number of them. So you're going -- oh, I'm sorry.

19 11:08:06.

20 Q 11:08:06 seconds?

21 A Anabel Espindola to Deangelo Carroll.

22 Q All right. Was there any length of communication based on your

23 records?

24 A No.

25 Q Was there a return chirp 4 seconds later?

1 A Yes.

2 Q Who chirped?

3 A Deangelo Carroll to Anabel Espindola.

4 Q And how long was that communication?

5 A 13 seconds.

6 Q And then we talked before the lunch break about a call from

7 Kenneth Counts to Anabel Espindola. Do you see that in your records at

8 11:10:12?

9 A Yes, sir.

10 Q And how long was that telephone call?

11 A 1.4 minutes.

12 Q 84 seconds?

13 A (Unintelligible.)

14 Q Did Anabel Espindola attempt to call Kenneth Counts' phone back

15 which is marked as KC not as the full name, not as Kenneth Counts?

16 A At 11:12:58.

17 Q And was there any length of communication in that call?

18 A No, sir.

19 Q Did Deangelo Carroll chirp at 11:13:21?

20 A Yes.

21 Q And who did he chirp?

22 A Timothy Hadland.

23 Q Is that the last known communication with Timothy Hadland

24 before his death?

25 A According to the records, yes.

1 Q How long was that communication?

2 A 13.6 seconds.

3 Q Who's the next person to communicate or attempt to  
4 communicate with Deangelo Carroll?

5 A Anabel Espindola at 11:37:35.

6 Q And was there any length of communication in that chirp?

7 A No, none.

8 Q Who did Mr. Carroll first call after that chirp by Anabel Espindola?

9 A Anabel Espindola.

10 Q And at what time?

11 A 11:37:41.

12 Q And how long was he on the line with her?

13 A 21.2 seconds.

14 Q 21.2 seconds. Let me talk to you about a few calls on the 20<sup>th</sup>.

15 Was there an additional chirp at 12:10:45 p.m., the next day, 12 hours, 12 and  
16 a half hours later from Deangelo Carroll to Anabel Espindola?

17 A Yes.

18 Q How long was that communication?

19 A 30.5 seconds.

20 Q Were there a series then of communications around 2:53 p.m. the  
21 afternoon of the 20<sup>th</sup> between Anabel Espindola and Deangelo Carroll?

22 A Yes.

23 Q Was there one at 2:53:19?

24 A Yes.

25 Q Did that last 7.4 seconds?

1 A Yes.

2 Q Was there one at 2:53:25?

3 A Yes.

4 Q Did that last -- and that was actually not a chirp; that was call?

5 A It's a call into Deangelo -- it's actually Deangelo calling Anabel.

6 Q So I have that one backwards. I don't know what that symbol

7 means, but I think that means I've got it backwards so it should be flipped.

8 And that was .28 minutes?

9 A .28 minutes, yes.

10 Q So 15 seconds roughly, a quarter of -- a little more than a quarter

11 a minute, maybe 16 seconds?

12 A Okay.

13 Q And then is there a chirp from Deangelo Carroll to Anabel

14 Espindola at 2:53:31?

15 A Yes.

16 Q Now, if they talked -- if they were in communication for 16

17 seconds, it's possible that these two cell records, one for the chirp and one for

18 the call are -- the clocks are not identical?

19 A I would say that could very well happen.

20 Q Or he could be calling on his cell phone while she's calling to his

21 land line, and there could be an overlap?

22 A Very possible.

23 Q And I suspect people who know more about phones than I know

24 might have other explanations for the timing situation?

25 A Possibility.



1 Q All right. And then the last one, Deangelo Carroll chirped Anabel  
2 Espindola at 2:54:13 p.m.?

3 A Yes.

4 Q For 8.1 seconds?

5 A Yes.

6 Q Let me back up because I don't think I asked it. The 2:53:31 chirp  
7 was the length of that 35.4 seconds?

8 A Yes, sir.

9 Q And all those calls are contained in the document that you're  
10 holding that's been admitted into evidence?

11 A Yes.

12 Q Thank you. How much money was received from -- or taken by  
13 the police, seized by the police from Kenneth Counts' house?

14 A From his house?

15 Q Yes, on E Street.

16 A I'm not exactly sure of that. I don't recall.

17 Q It was less than \$3,000, wasn't it?

18 A I'm not sure on that one, sir. I'm sorry.

19 Q Well, do you know whether or not in reviewing your records  
20 whether it was less than \$5,000?

21 A I don't know that. I'm sorry.

22 MR. ADAMS: May I have the Court's indulgence.

23 THE COURT: That's fine.

24 MR. ADAMS: Judge, should I have that marked for identification  
25 purposes if I'm going to use it tomorrow?

1 THE COURT: If you're just going to use it in closing you don't have to.  
2 If you want it as an exhibit then you do.

3 MR. ADAMS: Let me go ahead and get that marked. May I have these  
4 two pages marked, please, and I have no additional questions of the witness.

5 THE COURT: All right. Redirect.

6 MR. DIGIACOMO: Just very briefly.

7 REDIRECT EXAMINATION

8 BY MR. DIGIACOMO:

9 Q Detective, I noticed during the questioning they kept saying Anabel  
10 called Deangelo, Deangelo called Anabel; those type of questions.

11 A Yes.

12 Q So that we're clear, Anabel's phone connected with Deangelo  
13 Carroll's phone or whatever -- you're talking about phone numbers; you're not  
14 saying you know who made the phone calls?

15 A Exactly.

16 Q One last thing. How long of a communication did you have with  
17 Mr. H on the afternoon of the 20<sup>th</sup>? How long did the conversation occur with  
18 Mr. H?

19 A Over the phone or in person?

20 Q The one in person?

21 A A few minutes.

22 Q Okay. It wasn't a long, detailed interview?

23 A No, sir.

24 MR. DIGIACOMO: Nothing further.

25 MR. GENTILE: Your Honor, may we approach?

1 THE COURT: You may.  
2 And did we have any juror questions?  
3 All right. Jeff's going to go over there and get the juror questions.  
4 (Conference at the bench.)  
5 THE COURT: Okay. One of the questions goes to Mr. Adams' phone  
6 chart.  
7 And, Mr. Adams, that was marked as what?  
8 MR. ADAMS: I believe it's State's 238.  
9 THE COURT: Okay. And the juror is directing -- where is that?  
10 MR. ADAMS: Oh, the ones I marked are up here with the clerk.  
11 THE COURT: Mr. Adams directed you to a 12:10 and 45 second chirp  
12 between Deangelo Carroll and Anabel Espindola on 12:20 that lasted 30.5  
13 seconds?  
14 THE WITNESS: Yes, ma'am.  
15 THE COURT: Okay. Would you look at your records, was that  
16 12:10:45 p.m. or a.m.?  
17 THE WITNESS: 12:10:45 p.m.  
18 THE COURT: Okay. So p.m. is correct?  
19 THE WITNESS: Yes, ma'am.  
20 THE COURT: So that would have been in the -- just to make it real  
21 clear -- that would have been in the afternoon then?  
22 THE WITNESS: Yes, ma'am.  
23 THE COURT: And what was the date on that one?  
24 THE WITNESS: May 20<sup>th</sup>, 2005.  
25 THE COURT: All right. So afternoon something on May 20<sup>th</sup>, 2005?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: All right. And a juror wants to know did the GPS info tell  
3 you where each phone was?

4 THE WITNESS: That's it?

5 THE COURT: Well, no, there's more but ...

6 THE WITNESS: The GPS or the cell site information that we have works  
7 for the direct connects which is -- which would mean my cell phone calling your  
8 cell phone. We could not get cell site location or tower location for the push to  
9 talk. So the chirps as you guys have been hearing it we weren't able to get cell  
10 site information.

11 THE COURT: Okay. Now, it just tells you what cell site was used; it  
12 doesn't tell you the precise location of where the phone call was made; is that  
13 right?

14 THE WITNESS: It gives you directionality. It tells you what cell site was  
15 used and the directionality of where that call originated from.

16 THE COURT: Okay. Meaning if the caller was located north of the cell  
17 site or south of the cell site or east cell site?

18 THE WITNESS: It breaks it into thirds. It breaks the circle into thirds.  
19 So, yeah, it will give you a third, a direction, if that makes sense.

20 THE COURT: All right. But you can't tell the precise location or who  
21 was there from the records you --

22 THE WITNESS: I can tell you what phone, and I can tell you the general  
23 area, but I cannot give a precise location.

24 THE COURT: All right. I'm going to let Mr. DiGiacomo follow up if you  
25 have follow-up on any of those.

1 Do we have other juror questions?

2 While you follow up if you've got anything, Jeff is going to be  
3 retrieving the additional juror question.

4 BY MR. DIGIACOMO:

5 Q The only follow-up I have is in the chirp the defense showed you.  
6 They took certain time periods and asked you certain questions about certain  
7 phone calls during that time period, correct?

8 A Yes, sir.

9 Q But there's a lot of other phone calls and chirps in that time period  
10 looking at 238 that there's information relating to the case about?

11 A Absolutely.

12 MR. ADAMS: Judge, I do object as that's not a follow-up to the notes  
13 you just read, and he's already done redirect.

14 THE COURT: Well, overruled.

15 MR. DIGIACOMO: Well, the 12:45 --

16 THE COURT: It's okay, Mr. DiGiacomo. I said your question was fine so  
17 you don't need to say anything else.

18 MR. DIGIACOMO: Thank you.

19 BY MR. DIGIACOMO:

20 Q So there's more information in the early morning hours of May 20<sup>th</sup>  
21 that wasn't shown to the jury on -- at least on that chart, but it's on 238?

22 A Yes.

23 MR. DIGIACOMO: Nothing further.

24 THE COURT: All right. Another juror wants to know has any  
25 investigation of inquiry been made about phone number 239-2350?

1 THE WITNESS: I don't have that information with me. I don't recall or  
2 remember if that was done or not, ma'am.

3 THE COURT: Okay. So you don't recall if a detective tried to get  
4 records related to that phone number?

5 THE WITNESS: I don't remember.

6 THE COURT: Okay. So then at this point in time you don't know who  
7 owns that phone or who pays for it?

8 THE WITNESS: No, ma'am.

9 THE COURT: All right. Any follow up on that question?

10 MR. DIGIACOMO: No, Judge.

11 THE COURT: All right. Mr. Gentile?

12 MR. GENTILE: It's actually Ms. Armeni that was --

13 THE COURT: Oh, I'm sorry. It was so long ago.

14 MS. ARMENI: No, Your Honor, I don't have any questions.

15 THE COURT: And what about Mr. Adams?

16 MR. ADAMS: No, ma'am, thank you.

17 THE COURT: All right. Any other juror questions?

18 All right. Detective, thank you for your testimony. You are  
19 excused at this time.

20 MR. DIGIACOMO: May I approach the clerk for just a moment, Judge?

21 THE COURT: You may.

22 MR. DIGIACOMO: Judge, the clerk does not have in State's Proposed  
23 Exhibit 164 which are the live rounds taken out of 1676 E Street. I'd move to  
24 admit if they haven't previously been admitted.

25 THE COURT: Any objection to 164, which are the live rounds from the

1 search warrant?

2 MR. GENTILE: Relevance.

3 MR. ARRASCADA: Same, Your Honor.

4 THE COURT: Overruled. They can be admitted.

5 (State's Exhibit 164 admitted.)

6 THE COURT: Mr. DiGiacomo.

7 MR. DIGIACOMO: Are they admitted, 164?

8 THE COURT: Yes.

9 MR. DIGIACOMO: Okay.

10 THE COURT: The State rests?

11 MR. DIGIACOMO: Reserving the right to check with the clerk to make  
12 sure everything we offered has been admitted. Other than that, the State rests.

13 THE COURT: Okay. Defense, yes, who would like to go first?

14 MR. GENTILE: Call Kevin M. Kelly.

15 THE COURT: Jeff will get him.

16 Come on up to the witness stand and please remain standing facing  
17 our court clerk.

18 KEVIN KELLY

19 Having been called as a witness and being first duly sworn testified as follows:

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

21 THE WITNESS: Kevin Kelly, K-e-v-i-n, K-e-l-l-y.

22 THE COURT: All right. Thank you.

23 DIRECT EXAMINATION

24 BY MR. GENTILE:

25 Q Mr. Kelly, what city and state do you live in?

1 A Las Vegas, Nevada.

2 Q How long you been living in Las Vegas?

3 A 31 years.

4 Q And where did you live before that?

5 A Boston.

6 Q Tell us a little bit about your educational background.

7 A Graduated college in 1973, graduated law school in 1978.

8 Q What college and law school did you graduate from?

9 A Mount St. Mary's College in Maryland, New England School of  
10 Law in Boston.

11 Q What did you do -- what did you do before you started college, Mr.  
12 Kelly?

13 A I was in the military from 1966 through 1977.

14 Q And did you serve a tour of duty anywhere?

15 A I did three tours in Viet Nam, Laos, Cambodia and Thailand.

16 Q What was your assignment?

17 A I was in military intelligence.

18 MR. DIGIACOMO: Objection. Relevance, Judge.

19 MR. GENTILE: Establishing his background. He's being offered as an  
20 expert witness, and I think I'm entitled to --

21 THE COURT: Okay. I don't think we need to get too far into his military  
22 history.

23 MR. GENTILE: Believe me --

24 THE COURT: Mr. Kelly, you can answer the question just generally. Do  
25 you remember what it was?



1 BY MR. GENTILE:

2 Q I asked you -- I think I asked you what your assignments were?

3 A I was in military intelligence. In 1970 I was in charge of collecting  
4 US intelligence on missing MIAs, American prisoners of war. I was an intel  
5 analyst to the ambassadors at Laos and Cambodia doing daily briefings, black  
6 book briefings.

7 Q And how long were you in the military?

8 A Eleven years.

9 Q When did you muster out?

10 A March 2<sup>nd</sup>, 1977.

11 Q And what was your rank at that time?

12 A Captain.

13 Q When you finished your military duties, were you still -- were you  
14 in law school at that time?

15 A Yes. I was in my -- I was going to law school while in the military.  
16 I was three-quarter time, which meant I was working full time and going to law  
17 school. So I had one more year, graduated in '78.

18 Q After you graduated law school what did you do?

19 A I came to Las Vegas, took the bar exam in Massachusetts,  
20 admitted there and then came here, clerked for a judge, took the bar exam in  
21 '79 and was admitted in '79 in Nevada.

22 Q Have you been practicing -- do you still practice law?

23 A Yes.

24 Q What else do you do?

25 A I own Spearmint Rhino.

1 Q And what is Spearmint Rhino?

2 A Spearmint Rhino is a gentleman's club.

3 Q Is it part of a chain?

4 A I have a license agreement with a worldwide company. The chain  
5 Spearmint Rhino is located worldwide. It has clubs in Melbourne, the UK,  
6 Prague, Moscow, or they did have those clubs. I have nothing to do with the  
7 worldwide chain. I have a license to use the logo and the name and the brand  
8 here in Las Vegas only.

9 Q Now, tell the ladies and gentlemen of the jury -- you still practice  
10 law and you own Spearmint Rhino; am I correct?

11 A Yes, sir.

12 Q Are you in this building very often as a lawyer?

13 A Frequently.

14 Q Okay. Would you tell the ladies and gentlemen of the jury how it  
15 came to be that you wound up in the strip club business?

16 A Blame you how this happened. 1976 I was advised of a bar that  
17 was for sale, and attached to the bar was a totally nude club, and the prospect  
18 of the -- the opportunity was to buy both locations. I had no interest in opening  
19 a nude club of any type, and so I only bought the bar. It used to be called Hob  
20 Nob on Industrial -- on Highland.

21 So I bought that and on January 1<sup>st</sup> of 1997, we opened up Inferno,  
22 which was a gay bar, and kept that until February of 1999, in which we sold  
23 the majority of the interest of K-Kal, which was a corporation of Kevin Kelly,  
24 Kay Kelly, sold the majority of that, and that became Spearmint Rhino.

25 Q And so you've owned it since then?

1           A     Yes.

2           Q     Okay. Now, Mr. Kelly, did there come a point in time -- well, let  
3 me see, that's almost ten years you were in that business?

4           A     I've been actively involved in it in the last nine years.

5           Q     Okay. During that period of time did you become involved in a  
6 trade organization?

7           A     Yes.

8           Q     What was the name of that organization?

9           A     NAN it was a night -- I don't know the exact name. It was the  
10 Association of Nightclub Owners.

11          Q     Was it the Nevada Association of Nightclubs?

12          A     Nevada Nightclubs, yes.

13          Q     Okay. And what was the nature of that organization?

14          A     The organization was -- the goal was to develop a professional  
15 organization of club owners for the purpose of trying to create laws favorable to  
16 our industry and to get some uniformity within the organization, bring some  
17 credibility to the organization.

18          Q     And at -- at its height, how many members did that organization  
19 have?

20          A     I bet we had 15 or 18 owners part of that, part of the  
21 organization.

22          Q     And would that organization hold meetings?

23          A     Yes.

24          Q     How often?

25          A     Monthly.

1 Q And for how long -- is that organization still actually --

2 A I don't think it's actively -- it's definitely not actively in existence,  
3 and I don't even know that anyone has maintained its corporate status.

4 Q But was it active in the year 2005?

5 A Yes, it was.

6 Q And how often would meetings be held in those days?

7 A Monthly.

8 Q And, Mr. Kelly, in the course of that organization being active, did  
9 you come to learn about some problems -- and I'm not trying to specify any  
10 particular one -- but some problems that were basically uniform throughout the  
11 industry?

12 A Yes.

13 Q Okay. And what were the nature of the things that the members  
14 of this organization sort of all had to deal with?

15 A We had to deal with entertainers, dancers who were prostitutes  
16 going from club to club. If a girl was terminated from our club, there was no  
17 mechanism to alert the owners of any other club that we were getting rid of  
18 one problem, and possibly they were picking up the problem.

19 We had issues of owners creating paying of the cabdrivers, and that  
20 created a lot of up and down paying. One day it might be \$10, the next day it  
21 would be \$20, and it would go up and down repeatedly. We were accused of  
22 assisting diversion by --

23 Q What is diversion?

24 A If a patron gets in a cab and says, please take me to Palomino or  
25 take me to Spearmint Rhino, and the cabdriver because they might make more

1 money at some other club, Treasures or Sapphires, the driver would tell the  
2 customer that the club that they wanted to go to either burnt down or that the  
3 dancers were ugly or that there was a shooting or something of that nature  
4 causing that patron to say, no, take me to where you recommend, and they  
5 might go to the other club and get a higher bounty.

6 Q From a standpoint of uniformity, are cabs and the support of  
7 cabdrivers -- or let's put it this way -- the cooperation of cabdrivers important to  
8 the gentleman's club industry?

9 A Very important.

10 Q In what way?

11 A It's a form of advertising. We, you know, we have a budget for  
12 billboards and radio spots and TV commercials at the hotels. We have  
13 something going on with Cox. All of that is critical to getting our name out, to  
14 brand our product, and cabdrivers were a valuable tool in doing that. They  
15 would -- if the playing field were equal, we always felt that we could hold our  
16 own, and so it was something that you always tried to do to keep the  
17 cabdrivers in good company with us.

18 Q And did there come a point in time when doing that became  
19 problematic because of the practices of some clubs?

20 A Absolutely.

21 Q In what way?

22 A One of the purposes of the organization was to try and bring  
23 uniformity, continuity to the paying of cabdrivers and limo drivers, and there  
24 were drivers -- their owners were paying drivers more than what they were  
25 agreed to pay, or that they would have almost like frequent flyer miles. If you

1 bring so many people, we'll give you extra bonus coupons which can be  
2 redeemed in the back door.

3 And so we attempted to come up with an agreement among the  
4 owners that would bring uniformity to the paying of the drivers.

5 Q Did there come a point in time when there was at least for a  
6 nanosecond or a minute or maybe a day or a week, an agreement among the  
7 clubs where everybody would pay the same amount of money?

8 A Yes.

9 Q Was the Palomino Club in any way exempt from that?

10 A Yes.

11 Q In what way?

12 A We agreed that because the Palomino Club was outside of the  
13 industry, I mean, we have Highland and we have Industrial, which are certainly  
14 where the bulk of the major clubs are, and Palomino being in North Las Vegas  
15 and being totally nude, they either paid 5- or \$10 more than what the other  
16 clubs were paying.

17 Q And was the Palomino a member of that organization?

18 A Yes, it was.

19 Q So was the Palomino at least permitted by the other members of  
20 that organization to do that?

21 A Yes, they were.

22 Q Okay. And when I say the Palomino, at that time who was the  
23 owner of the Palomino?

24 A Louie.

25 Q Louie.

1               Would you stand up, Mr. Hidalgo.

2               MR. GENTILE: Would the record reflect that Mr. Kelly pointed to Mr.  
3 Hidalgo, called him Louie.

4               THE COURT: Mr. Hidalgo Junior?

5               MR. GENTILE: Mr. Hidalgo Junior, excuse me. Yes, Your Honor.

6               THE COURT: All right. Thank you.

7 BY MR. GENTILE:

8               Q     Did Mr. Hidalgo, Junior, did Louie attend meetings regularly?

9               A     Yes, fairly often, frequently.

10              Q     Would he be there alone or with somebody else from time to time;  
11 or do you recall?

12              A     He would have other people there, and I don't recall who they  
13 were, but I do remember he would have someone with him frequently.

14              Q     Now, in your experience, have you had employees leave Spearmint  
15 Rhino and go elsewhere?

16              A     Absolutely.

17              Q     Okay. And in your experience -- well, let me ask you this way.  
18 Everybody doesn't speak well of every club in your experience?

19              A     Correct, they do not.

20              Q     Okay. As important as the support of cabdrivers is to a club, have  
21 you encountered a situation where someone from your club or used to work for  
22 your club spoke badly about your club to a cabdriver?

23              A     Past and currently, yes.

24              Q     Past and currently?

25              A     Yes.

1 Q All right. Has this speaking badly had a negative impact on your  
2 business?

3 A No.

4 Q Why not?

5 A You know, maybe they just look at the source. We've spent a lot  
6 of time, money and energy to build our club with the reputation of having a  
7 good club. We've done a number of things to insure compliance with the  
8 licensing agreement, with the County, and Metro and things of that nature, and  
9 we've been fortunate. We've been very lucky, and we have -- we have about  
10 five people who had worked at the Spearmint Rhino within the last year who  
11 recently some were fired, some were passed over for promotion, but they all  
12 left one way or the other.

13 They were involved in opening another club recently, I mean, it's in  
14 existence now. There were all kinds of rumors that were circulating, coming  
15 back to me as to what they were saying about the club, about the managers,  
16 about the owner, and about the dancers, and although we hear that, it has had  
17 no effect whatsoever on the club.

18 Q Mr. Kelly, if you stop paying cabdrivers today, would that have an  
19 effect on the club?

20 A If we -- if we alone stop paying cabdrivers, yes, it would have a  
21 serious effect.

22 Q What would that effect be?

23 A Probably unofficial boycott of the club.

24 Q So talking bad about the club isn't going to hurt as much as not  
25 paying the cabdrivers?



1 A Correct.

2 Q Okay. Now, you testified in the beginning of your testimony about  
3 another problem that the industry had that you found out that everybody had  
4 which was basically prostitutes?

5 A Yes.

6 Q Okay. What, if any, controls do you have in place to deal with it --  
7 MR. DIGIACOMO: Objection. Relevance.

8 MR. GENTILE: Well, let me ask that a little differently.

9 THE COURT: Yeah.

10 BY MR. GENTILE:

11 Q Have you come to learn that the industry now, back in 2005,  
12 actually had or developed a system for dealing with prostitutes?

13 MR. DIGIACOMO: Objection. Relevance.

14 MR. GENTILE: I don't think that it is.

15 THE COURT: You mean that it isn't.

16 MR. GENTILE: I'm saying that -- he's saying that -- I said I don't think it  
17 is irrelevant. I think it goes to number one, his genuine expertise in the area,  
18 and it's been -- there's been an attempt to inject this a number of different  
19 ways.

20 THE COURT: Just very -- I'm not sure it's really relevant because we  
21 haven't gotten into the issue of prostitution, or if we have at all, just very  
22 tangentially.

23 Just answer briefly what, if anything, the organization has done to  
24 address this problem in the industry.

25 THE WITNESS: I'm not sure I can answer it organizationally. Are you

1 talking about as far as Spearmint Rhino is concerned?

2 THE COURT: No, I mean the organization of the nightclub owners.

3 MR. GENTILE: Well, Spearmint Rhino isn't the only club that operates in  
4 the same fashion with respect to internal controls.

5 BY MR. GENTILE:

6 Q Am I right?

7 A Yes, that's correct.

8 Q And you know that other numbers of the organization basically  
9 maintain the same type of control?

10 A They maintain many of the same things, yes.

11 Q All right. Can you tell us what they are?

12 MR. DIGIACOMO: Objection. First of all, foundation as to specifically  
13 the Palomino. Second of all relevance.

14 THE COURT: Yes, sustained.

15 MR. DIGIACOMO: Thank you.

16 BY MR. GENTILE:

17 Q Back in 2005, can you tell me what they were? First of all, at  
18 these meetings were those issues discussed?

19 A Many of them were, yes.

20 Q Okay. Was Mr. Hidalgo at those meetings?

21 A Yes.

22 Q Okay. And did they share information? Did the various members  
23 of the organization share information?

24 A Yes.

25 Q Okay. And among the things that were discussed was it

1 cooperation among clubs to deal with this issue?

2 A Yes.

3 Q And was Mr. Hidalgo one of the cooperators, one of the operators?

4 A Yes, he was.

5 Q Okay. Now, could you answer the question.

6 MR. DIGIACOMO: Objection. Foundation. May I voir dire the witness?

7 THE COURT: No. Just -- I mean --

8 What was the plan that the organization had to deal with the issue?

9 THE WITNESS: I was probably the newest member, newest owner of  
10 the club in terms of expertise, and there were lots of owners in the industry  
11 who had been around town much longer than I, and I was probably the  
12 neophyte in trying to get information to curb some of the issues that I observed.

13 So these conversations took place on a relatively regular basis.

14 Security was another one. But some of the things that we did and we  
15 implemented was that the -- all the dancers had to valet.

16 BY MR. GENTILE:

17 Q What does that mean? You're going to need to be a little bit more  
18 detail. When you say all the dancers had to valet, what do you mean?

19 A We didn't want dancers being able to sneak out the back door and  
20 go home with a patron. So in order to prevent that, they would have to valet in  
21 the back of the club. They would have to work a certain minimum of hours so  
22 that if a dancer was with a particular gentleman, he would say, listen, why  
23 don't we leave here and meet me out back, and we'll go to my hotel room.  
24 And so most of the clubs had some sort of minimum hours that they had to  
25 work.

1           We would -- and typically what would happen and still happens, you  
2 know, dancers may try to do that. They'll be with a particular customer for  
3 maybe a few hours. They will have a tip, and the -- they'll go to the manager  
4 and say, I have a headache; I want to go home. And the manager being all  
5 experienced would say, well, you were with Mr. Jones for a couple hours. Why  
6 don't you wait here for the six hours.

7           Lots of times we would see someone buying Rhino chips or fronting  
8 money. They'd use their credit card. They might get \$5,000 worth of Rhino  
9 chips or funny money. There were different names and different clubs, but it  
10 was the currency, if you will, to pay for dancers, and anytime we had a large  
11 tip on that when they buy, say, \$5,000 or \$2,000 or \$2500 worth of chips,  
12 you might see a \$1500 gratuity. That would be red flags that something was  
13 going on, and a manager would go and talk to that customer and say, you  
14 understand that prostitution is not allowed. Dancers may not meet you off the  
15 property. We would make sure that the tip was truly for services and not for  
16 something to be rendered later on.

17           Q     Okay. Mr. Kelly, if you learned that a dancer does meet somebody  
18 off the property, what is the response?

19           A     They're terminated.

20           MR. DIGIACOMO: Objection. Relevance.

21           THE COURT: Sustained. I don't know -- I think we're getting --

22           MR. GENTILE: One more area that I want to cover.

23 BY MR. GENTILE:

24           Q     In your experience now in almost ten years in the industry, if a --  
25 how much is the Spearmint Rhino dependent on -- let me change it. Let me

1 turn it around.

2 Palomino Club is the only club in Las Vegas that has alcohol and  
3 total nudity; am I right?

4 A Yes, sir, to my knowledge.

5 Q Pardon me?

6 A To my knowledge, yes, sir.

7 Q Okay. And yours is one of the busiest clubs in Southern Nevada;  
8 am I right?

9 A Yes, sir.

10 Q Okay. And in 2005, it was still one of the busiest clubs in  
11 Southern Nevada; am I right?

12 A Yes.

13 Q How often to your knowledge would you, your club refer a  
14 customer to another club?

15 A Frequently.

16 Q Okay. And with respect to your club itself, how often do you get  
17 referrals from another club?

18 A Frequently.

19 Q Now, if somebody -- in your experience if a low-level employee of  
20 your club talked badly about your club, is it going to impact on referral?

21 A No.

22 Q Why not?

23 A Again, the club stands on its own, and we have enough good will,  
24 if you will. We have a good reputation, and it just -- again, I mean, I speak from  
25 direct knowledge of my guys. We have over 250 employees. We have not a

1 huge turnover, but we have a reasonable number of people who are either  
2 thinking that the grass is greener somewhere else and they can get to be a  
3 manager maybe faster or a supervisor faster. You know, they talk, but so far  
4 we've been fortunate that hasn't affected us.

5 Q And if -- if you hear that somebody's talking badly about another  
6 club, is it going to affect you referring to that club?

7 A No.

8 Q For the same reasons?

9 A Yes.

10 MR. GENTILE: Nothing further.

11 THE COURT: Mr. Arrascada, do you have any questions for Mr. Kelly?

12 MR. ARRASCADA: No, Your Honor.

13 THE COURT: Cross.

14 MR. DIGIACOMO: Very briefly.

15 CROSS-EXAMINATION

16 BY MR. DIGIACOMO:

17 Q How are you?

18 A Very well, sir.

19 Q You talked about some generalities. I just want to ask you a  
20 couple things about this Nevada Association of Nightclubs, commonly referred  
21 to as the coalition?

22 A Yes.

23 Q These meetings took place at Pierro's, the monthly meetings?

24 A Not always, but many, yes. Tony Sgro's office.

25 Q Tony Sgro, okay, another lawyer. And frequently at least up until

1 the time that they wound up in legal trouble, Gilardi and Rizzo would show up  
2 at these meetings?

3 A Rick almost always until his legal problems, Gilardi infrequently.

4 Q He'd be there once in a while?

5 A Yes, once in a while.

6 Q You also testified to a lot of generalities about how the business  
7 works at least from your perspective as an owner of the Spearmint Rhino,  
8 correct?

9 A Yes.

10 Q Do you have any firsthand knowledge, ever go out there and see  
11 or specifically review the records as to the specific procedures utilized at the  
12 Palomino Club?

13 A I never went out to review records. I have been there, yes.

14 Q No, I'm asking did you see the procedures that you're talking  
15 about, like the valet parking for the girls, those type of things that you talked  
16 about?

17 A I can't say that I saw it.

18 Q Thank you.

19 MR. DIGIACOMO: Nothing further, Judge.

20 THE COURT: Mr. Gentile, any redirect?

21 MR. GENTILE: No.

22 Thank you, Mr. Kelly.

23 THE COURT: Any juror questions for Mr. Kelly?

24 All right, Mr. Kelly, thank you for your testimony. Please don't  
25 discuss your testimony with anyone else who may be a witness in this case,

1 and you are excused.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: And the defense's -- Mr. Gentile, your next witness.

4 MR. GENTILE: Well, Your Honor, I'd have to see if she's out there.

5 THE COURT: All right. Thank you.

6 MR. DIGIACOMO: Judge, may we approach?

7 THE COURT: You may.

8 (Conference at the bench.)

9 THE COURT: Juror No. 3 guessed it. We're going to take a 10-minute  
10 recess.

11 And, ladies and gentlemen, once again you're reminded of the  
12 admonition that is in place not to discuss the case or do anything related to the  
13 case on the break.

14 Notepads on your chairs, follow Jeff through the double doors.  
15 We'll be back in session at 2:40.

16 (Jury recessed 2:31 p.m.)

17 THE COURT: Are we on the record?

18 THE COURT RECORDER: We are.

19 THE COURT: All right. Go ahead, Mr. DiGiacomo.

20 MR. DIGIACOMO: Judge, so the record is clear, when they originally  
21 filed their notice of witnesses timely, it listed practically every inmate that  
22 Anabel Espindola has ever been housed with. This morning at 8:35 this  
23 morning, they served a notice of witnesses on us for four witnesses all of  
24 which showed the care of the office of Mr. Gentile.

25 Today Ms. Perez apparently arrived here because we couldn't locate



1 her prior to that. We had a -- my investigator began a conversation with her. I  
2 was not completed when she was attempted to be called to the stand. Based  
3 on the information that my investigator has gathered so far, I obviously need  
4 time to prepare the cross-examination of her. My understanding is they will not  
5 be resting this afternoon.

6 I certainly believe that I have the right to ask for her to be  
7 completely excluded based upon their late notice of her particularly since the  
8 information we have is that she used to live with Mr. H. So obviously they  
9 must have known of the existence of her prior to this morning, but certainly at  
10 the very least --

11 THE COURT: So you're asking that she be called tomorrow --

12 MR. DIGIACOMO: Correct, so I have time --

13 THE COURT: -- so that you can have time to prepare?

14 MR. DIGIACOMO: Correct.

15 THE COURT: And my question is how long -- how long would her  
16 testimony be, Mr. Gentile?

17 MR. GENTILE: Direct examination?

18 THE COURT: I mean, what's she going to say?

19 MR. GENTILE: Well, you recall yesterday -- first of all, let me say to the  
20 Court that her being not on our witness list -- there's two things that I have to  
21 just basically face up to the truth of. Her not being on our witness list was  
22 inadvertent, all right, because while I can tell you that I never spoke with her  
23 before Saturday, it wasn't that I did not know of her existence.

24 THE COURT: So you knew she was going to be a witness and it --

25 MR. GENTILE: Well, no, I honestly didn't, okay, but we should have

1 listed her, all right, because I thought that all she could offer was this -- was  
2 the issue of Anabel being angry at Louie because of --

3 THE COURT: This purported affair?

4 MR. GENTILE: Right, because she was one of the women that Anabel  
5 sent -- and Anabel admitted to that -- that --

6 THE COURT: So basically is she going to testify that she had an affair  
7 with Mr. H --

8 MR. GENTILE: No, not at all. Let me tell you what she's going to testify  
9 to, and I laid the foundation for her with Anabel yesterday. She is going to  
10 testify that in the spring of 2007 when she had basically a trustee position at  
11 the jail -- and I don't know what they call it -- they call it workers; it means that  
12 they don't have to sit in their cell -- she was in the same module as Anabel  
13 Espindola, and Anabel Espindola came back from court one day and was in her  
14 cell sobbing.

15 And so she went into the cell to comfort Anabel because she had  
16 become close with Anabel by that time. And Anabel confided in her that the  
17 reason that she was sobbing was because she was afraid that the State  
18 through its representatives were going to convict her and put her to death.

19 THE COURT: Okay. So that -- her testimony would contradict that  
20 testimony from yesterday?

21 MR. GENTILE: Right. There's more. Let me lay the rest of it.

22 THE COURT: And I'm sorry to interrupt you, but as you know, as you  
23 yourself pointed out in my chambers, jurors' biggest complaints is being left out  
24 in the hallway.

25 MR. GENTILE: Right.

1 MR. PESCI: Thank you.

2 REDIRECT EXAMINATION

3 BY MR. PESCI:

4 Q You just said that you couldn't tell the date of the print; am I  
5 correct?

6 A No.

7 Q Do prints come with a date on them?

8 A No, sir.

9 Q They're not date stamped?

10 A Do prints come -- we're talking about the latent print?

11 Q Yes, any print. I mean, I walk up and I touch this, is there a date  
12 that comes with that?

13 A No, sir.

14 Q All right. Can a print remain in a location for a good period of  
15 time?

16 A Yes, sir.

17 Q Okay. I want to show you State's Exhibit 134 and ask you to  
18 open that -- there's a clip there -- and take a look inside and see if you  
19 recognize that. Mr. Adams just asked you some questions about printing the  
20 projectiles or the firearm evidence in this case. Do you remember those  
21 questions? Do you remember those questions?

22 A Yes, sir.

23 Q Okay. And your testimony was that you were able to get a lift  
24 from some of that evidence that was of sufficient quality to make a  
25 comparison?

1           A     The -- there was one lift card that was taken from a plastic bag  
2 containing 9mm cartridges by Renhardt, and there was one print.

3           Q     What about the fragments, the ammunition itself, were you able to  
4 get any latent prints from those?

5           A     No, sir. These are bullet fragments that were taken from the  
6 autopsy, and there's -- this is not a surface where you can obtain suitable latent  
7 prints.

8           Q     Okay. So this is a difficult surface to get a print from?

9           A     Yes, sir.

10          Q     All right. Now, going back to State's 174.

11          MR. PESCI: Your Honor, we'd move for the admission of State's 174.

12          THE COURT: Any objection to 174?

13          MR. PESCI: I'm sorry, 147.

14          THE COURT: 147, which is the photocopy of the -- of money.

15          MR. ADAMS: No objection.

16          MR. GENTILE: No objection.

17          THE COURT: All right. That will be admitted as 147.

18                         (State's Exhibit 147 admitted.)

19 BY MR. PESCI:

20          Q     147, does this represent the hundred dollar bill that you were able  
21 to make an identification from?

22          A     Yes, sir.

23          Q     And you've gone through on cross-examination the fact that you  
24 were asked to look at all the money submitted to you in this case; do you  
25 remember those questions?

1 A Yes, sir.

2 Q And that you didn't make anybody other than Deangelo Carroll on  
3 any of the cash?

4 A That is correct.

5 Q That included Anabel Espindola, didn't it?

6 A That is correct.

7 Q She was one of the people that you compared it to?

8 A Yes, sir.

9 Q Anabel Espindola's print doesn't show up on a single dollar bill,  
10 hundred, twenty, anything?

11 A That is correct.

12 Q And defense counsel asked you about one package that had  
13 hundred dollar bills, \$1,000 and then \$400. Do you remember those  
14 questions?

15 A Yes, sir.

16 Q It was 4 one hundreds, was it?

17 A No, sir.

18 Q 20 twenties?

19 A It was twenties, yes.

20 MR. PESCI: Thanks. Nothing further.

21 THE COURT: All right. Let me ask these juror questions. Two are the  
22 same question actually.

23 Two jurors want to know, were any prints lifted off the gin bottle?

24 THE WITNESS: Yes, there were.

25 THE COURT: All right. And then were those prints, how many prints?

1 THE WITNESS: If I may refer to my notes?

2 THE COURT: Go ahead.

3 THE WITNESS: The gin bottle was processed by Crime Scene Analyst  
4 Renhardt. There were five latent print cards that were submitted from the gin  
5 bottle that had ridge detail. One of those five was no value for identification.

6 THE COURT: Meaning it didn't have enough detail to make --

7 THE WITNESS: For comparison purposes.

8 THE COURT: -- to compare it to anybody's prints?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: All right.

11 THE WITNESS: That left four of the print cards which had latent print  
12 detail for comparison purposes. I compared those to everybody that we had,  
13 and there was no identification. In addition to the lift cards that was submitted  
14 by Crime Scene Analyst Renhardt, there was a submission on my FMB5 which  
15 was addressed of microseal lifts.

16 Now, what a microseal lift is, it's another method of lifting a latent  
17 print off of a surface. Usually what's done the fingerprint powder, the taped  
18 fingerprint lifts, and that's what I have here, the five cards, and then since it is  
19 like a -- it's not completely a round surface. In this particular case it's more of  
20 a square surface than a round. You can take a -- you can make a rubber lift,  
21 which will adhere to that surface a little bit better sometimes than regular  
22 Scotch tape, and this is called a microseal lift.

23 Basically, this is a liquid form of a rubber compound. It's called  
24 microseal, and it will adhere to surfaces. A good example would be this pitcher  
25 right here where you have the different striations, it's very hard to get, like,

tape in here. But if you have a liquid component that could flow into that where you could just kind of peel that off, it would make it a little bit easier, and sometimes this is done, and in this case with this bottle that is what was done, and that is what is referred to as a FMB5.

There were two lifts Item 38 and 39 in my report. And basically those lifts have the same information as the fingerprint lift cards that I looked at. So it would be like I have the original lift card that Crime Scene Analyst Renhardt did, and then you have the microseal lift, which would be like a supplement to that. That would just aid me a little bit in my comparisons, and that's what I had there.

And so to answer the question, yes, there were other cards taken.

THE COURT: So in other words, Crime Scene Analyst Renhardt lifted lifts to the print cards and then you took those same areas where prints had been lifted and you went back and performed this other procedure to get a more detailed or a supplemental print, and then you were able to utilize both of those for comparison. Is that what you're telling us?

THE WITNESS: Crime Scene Analyst Renhardt, she also -- she's the one that did the microseal lift, yes. She did both, yes, ma'am.

THE COURT: All right. Thank you, Mr. Boyd. I'm going to interrupt you here. We're going to take quick 10-minute break, and then we'll finish up with the jury questions.

And once again, if anybody has any additional jury questions, hand those to Jeff on your way out the door. Just our 10-minute morning recess. Once again you're reminded of the admonition not to discuss anything related to the case --

1 MR. DIGIACOMO: Judge, can we approach before you do this?

2 THE COURT: Sure.

3 (Conference at the bench.)

4 THE COURT: Ladies and gentlemen, ten minutes. Once again don't talk  
5 about the case or anything related to the case. Notepads in your chairs. Any  
6 additional juror questions hand them to Jeff on the way out.

7 (Recess taken 10:51 a.m.)

8 (Jury entering 11:03 a.m.)

9 THE COURT: All right. Court is now back in session, and as a follow-up  
10 to what you were just testifying about regarding the gin bottle, you said four  
11 were of comparison quality; is that right?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: And who did you -- whose exemplar or known prints did  
14 you compare those four to?

15 THE WITNESS: I compared those to everybody who we had mentioned  
16 here in the case. Do you want me to read the whole list?

17 THE COURT: Sure, just so it's clear for the jury.

18 THE WITNESS: The names that I compared to the latent prints from the  
19 gin bottle: Deangelo Carroll, Kenneth Counts, Luis Hidalgo, both of them,  
20 Anabel Espindola, Vantonio William, Rontae Zone, Jason T-a-o-i-p-u, Michelle  
21 Schwanderlik, Mark Wood and also to the victim, Timothy Hadland.

22 THE COURT: And what was the result of that comparison?

23 THE WITNESS: There was no match.

24 THE COURT: Okay. So none of those people -- those fingerprints didn't  
25 belong to any of those people; is that right?



1 THE WITNESS: That is correct, ma'am, they did not.

2 THE COURT: Now, you earlier testified that some prints are of AFIS

3 quality and you might run them through the system. Were any of these prints

4 of AFIS quality?

5 THE WITNESS: From the bottle?

6 THE COURT: Just from the bottle.

7 THE WITNESS: No, ma'am.

8 THE COURT: All right. And a juror wants to know, who gets to keep

9 the money? You have nothing to do with that, do you?

10 THE WITNESS: I have nothing to do with that. It goes back to the

11 evidence vault, and they have proper disposition instructions pertaining to that.

12 THE COURT: All right. Thank you. So once you try to lift the prints

13 and make the comparison, the evidence leaves your, sort of, province; is that

14 right?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: All right. Mr. Pesci, anything else based on those last

17 questions?

18 MR. PESCI: No, thank you.

19 THE COURT: Mr. Gentile, anything else based on those last questions?

20 MR. GENTILE: No, thank you.

21 THE COURT: Mr. Adams, anything else based on those last questions?

22 MR. ADAMS: No, ma'am, thank you.

23 THE COURT: Any additional juror questions?

24 All right. Mr. Boyd, thank you very much for your testimony, sir,

25 you are excused.

1 State, call your next witness.

2 MR. DIGIACOMO: Denise Mata.

3 THE COURT: Ms. Mata, just come on up here, please, to the witness  
4 stand, just up those couple of stairs and remain standing facing our court clerk.

5 DENISE MATA

6 Having been called as a witness and being first duly sworn testified as follows:

7 MR. ADAMS: Judge, may we approach before you --

8 THE CLERK: Can I get her name?

9 MR. ADAMS: Oh, yes, certainly.

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

11 THE WITNESS: Denise Mata, D-e-n-i-s-e, M-a-t-a.

12 THE COURT: Thank you. Approach.

13 (Conference at the bench.)

14 THE COURT: Ladies and gentlemen, the testimony that you're about to  
15 hear is being offered as evidence against Mr. Hidalgo Junior, Mr. H, not as  
16 evidence against Mr. Hidalgo III.

17 Go ahead, Mr. DiGiacomo.

18 DIRECT EXAMINATION

19 BY MR. DIGIACOMO:

20 Q Ms. Mata?

21 A Yes.

22 Q Have you and I ever met before?

23 A No.

24 Q Okay. Did you know a person named Anabel Espindola?

25 A Yes.

1 Q How did you know her?

2 A I met her in jail.

3 Q And after you got out of jail did there come a point in time when  
4 you met a guy by the name of Luis Hidalgo Junior?

5 A Yes.

6 Q Mr. H?

7 A Yes.

8 Q Do you see him here in court today?

9 A Yes, I do.

10 Q Can you point him out and describe something he's wearing?

11 A He's sitting right there.

12 Q Which, there's like six people --

13 MR. GENTILE: Stand up.

14 THE WITNESS: He's wearing a gray sweater.

15 MR. GENTILE: Let the record reflect that he stood.

16 THE COURT: All right. The record will reflect she's identified Mr.  
17 Hidalgo Junior.

18 BY MR. DIGIACOMO:

19 Q I'm going to direct your attention back to around Christmastime of  
20 2008, so a couple months ago. Did there come a point in time when Mr. H  
21 asked you to do anything?

22 A I was working with him at that time.

23 Q Okay. You were working with him?

24 A Uh-huh.

25 MR. DIGIACOMO: May I approach, Judge?

1 THE COURT: You may.

2 BY MR. DIGIACOMO:

3 Q I'm going to show you what's been marked as State's Proposed  
4 Exhibit No. 223. That's an envelope, correct?

5 A Yes.

6 Q Do you know whose writing that is?

7 A Mine.

8 Q Okay. And it's an envelope from you to Anabel Espindola,  
9 correct?

10 A Right.

11 MR. GENTILE: What is the exhibit number, I'm sorry?

12 MR. DIGIACOMO: 223.

13 BY MR. DIGIACOMO:

14 Q Inside of 223 is 223A. Do you recognize the card that's inside?

15 A Yes.

16 Q And whose writing is that?

17 A Mine.

18 Q Okay. Now, did you know of a nickname that Mr. H utilized for  
19 Anabel?

20 A For her?

21 Q A nickname that he had, how's that?

22 A I know that there was a nano nano that they used to say to each  
23 other.

24 Q That they used to say nano nano to each other?

25 A To each other, that's what I've heard.

1 Q And did there come a point in time as it relates to that letter that  
2 Mr. H asked you to write a letter?

3 A There was one occasion when I -- it was after Christmas, I believe.  
4 I was writing cards to different inmates in CCDC and letters. That day I was  
5 writing Anabel a letter personally by myself, and Mr. H did ask me if I could just  
6 please write her a Christmas card.

7 Q Write her a Christmas card?

8 A Uh-huh.

9 Q On his behalf?

10 A Yeah.

11 Q And then it was -- and that's what you wrote on his behalf and  
12 signed nano nano?

13 A Uh-huh.

14 THE COURT: Is that yes?

15 THE WITNESS: Yes.

16 MR. DIGIACOMO: Move to admit 223 and 223A.

17 MR. GENTILE: No objection.

18 THE COURT: All right. That will be admitted, 223 and 223A.

19 (State's Exhibits 223 and 223A admitted.)

20 MR. DIGIACOMO: Pass the witness, Judge.

21 THE COURT: All right. Mr. Gentile.

22 MR. GENTILE: No cross-examination.

23 THE COURT: All right. Ms. Mata, thank you for your testimony. You  
24 are excused at this time.

25 MR. GENTILE: Well, wait. Excuse me. If you're going to put it in then

1 publish it. I would like to publish this document.

2 THE COURT: All right.

3 CROSS-EXAMINATION

4 BY MR. GENTILE:

5 Q If I understand, this is a Christmas card?

6 A Yes.

7 Q Right, Ms. Mata? And the words on this card were essentially  
8 dictated -- it's in your handwriting?

9 A Yes.

10 Q But Mr. Hidalgo, Mr. H asked you to write this card?

11 A Yeah.

12 Q And he asked you to write it to Anabel?

13 A Sure.

14 Q Did he seem insincere when he did it?

15 A No, not at all.

16 Q No. Did he seem sincere when he did it?

17 A Yes, sir.

18 Q Were there tears in his eyes?

19 A Most of the time -- every time he used to talk about Anabel they  
20 were.

21 Q Did you write this letter thinking in any way, shape or form that it  
22 was being written to intimidate Anabel Espindola?

23 A No, not at all.

24 Q You wouldn't do that, would you?

25 A No, because I consider Anabel a friend. I was with Anabel, too,

1 you know.

2 Q All right. And so you understood that if you were to become  
3 involved in something like that you could get in trouble?

4 A Yeah.

5 Q You had been in jail?

6 A Yeah.

7 Q You didn't want to go back?

8 A Not really, no.

9 Q Do you still consider Anabel to be a friend?

10 A I understand why she did this, you know what I'm saying. Yes, I  
11 do still consider her a friend.

12 Q Okay.

13 MR. GENTILE: I don't have anything further.

14 THE COURT: All right. Anything else?

15 MR. DIGIACOMO: No, Judge.

16 THE COURT: Any juror questions?

17 All right. Ms. Mata, now you are excused. Please don't discuss  
18 your testimony with anyone else who may be a witness.

19 And, State, call your next witness, please.

20 MR. DIGIACOMO: Detective Martin Wildemann.

21 THE COURT: Please just remain standing facing our clerk.

22 MARTIN WILDEMAN

23 Having been called as a witness and being first duly sworn testified as follows:

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

25 THE WITNESS: Detective Martin Wildemann, W-i-l-d-e-m-a-n-n.

1 DIRECT EXAMINATION

2 BY MR. DIGIACOMO:

3 Q Detective, how are you employed?

4 A With the Las Vegas Metropolitan Police Department.

5 Q How long have you been with Metro?

6 A 21 years.

7 Q And where are you currently assigned to?

8 A Homicide.

9 Q How long you been with homicide?

10 A Seven years.

11 Q Direct your attention back to May 19<sup>th</sup> into the early morning hours  
12 of May 20<sup>th</sup> of 2005, did you become involved in the investigation of the  
13 murder of Timothy J. Hadland?

14 A Yes, I did.

15 Q Did you respond out to the scene?

16 A Yes, I did.

17 Q After -- well, let me ask you this. At the scene were the duties  
18 divided among what duties you should take versus the other detectives that  
19 were out there from the homicide division?

20 A Yes, they were.

21 Q Okay. And can you tell us what your assignments were?

22 A My assignment was any interviews that needed to take place out  
23 at the scene.

24 Q And were there -- were there individuals out at the scene?

25 A Yes.



1 Q Okay. And based upon those interviews were any of them  
2 percipient witnesses to the events which you were investigating?

3 A No.

4 Q Does there come a point in time that the scene analysis or  
5 investigation is concluded?

6 A Yes.

7 Q And what do you do next in your investigation?

8 A We head back to the office for a short period of time, did some  
9 research, and I eventually went out to Lake Mead.

10 Q Who did you meet out at Lake Mead?

11 A I met the victim's girlfriend.

12 Q Paijik Karlson?

13 A Yes.

14 Q After speaking to Ms. Karlson was there a person of interest that  
15 you wanted to talk to?

16 A Yes, there was.

17 Q And who was that?

18 A Deangelo.

19 Q And did you relay that information back to the office, and was  
20 there an effort made to identify him?

21 A Yes, there was.

22 Q And by the time you got back to the office or during the time that  
23 you go back to the office, do you learn the identity of this Deangelo?

24 A Yes.

25 Q What was that?

1           A     He was identified as Deangelo Carroll.

2           Q     And did you have any information as to where Mr. Carroll worked?

3           A     The Palomino Club, he had a work card.

4           Q     Did there come a point in time when somebody from the North Las

5 Vegas Police Department relays to Metro a phone number for an individual

6 who's eventually identified as Luis Hidalgo Junior?

7           A     Yes.

8           Q     And do you see Mr. Luis Hidalgo Junior here in court?

9           A     Yes, sir, I do. He just stood up.

10          MR. DIGIACOMO: May the record reflect the defendant just stood up.

11          THE COURT: And that the detective identified him, yes.

12          MR. DIGIACOMO: Thank you, Judge.

13          BY MR. DIGIACOMO:

14          Q     Did you call the number that was provided to you for Mr. H?

15          A     Yes, I did.

16          Q     And after calling -- when you called that number, did you speak to

17 an individual?

18          A     Yes, I did.

19          Q     And what information did you relay to that individual?

20          A     I asked for Mr. Hidalgo. He said that he was him on the other end

21 of the phone. I asked him if he could possibly meet, that I needed some

22 information from him regarding a possible employee.

23          Q     Did you provide him any other information as to the nature of the

24 investigation at this point?

25          A     No.

1 Q Did Mr. Hidalgo agree to meet with you?  
2 A Yes.  
3 Q Let me ask you this. At the time, what was your desk phone  
4 number?  
5 A My desk phone number at the time was 229-3613.  
6 Q Does there come a point in time when you have a second  
7 conversation over the phone with Mr. Hidalgo?  
8 A Yes, sir, there is.  
9 Q And was that on the desk phone or a cell phone?  
10 A That was on my cell phone.  
11 Q And can you tell us at the time what your cell phone number was?  
12 A 289-5620.  
13 Q And do you call the same person you were talking to earlier?  
14 A Yes.  
15 Q And what information do you relay at this point?  
16 A At that point I was just letting him know that we had arrived at the  
17 club and wondered what his ETA was.  
18 Q Eventually did Mr. Hidalgo arrive at the club?  
19 A Yes, he did.  
20 Q And can you tell us approximately what time that was?  
21 A It was approximately 3 to 4 o'clock, right in there.  
22 Q And we're talking on Friday the 20<sup>th</sup>?  
23 A Yes.  
24 Q And at that point did you have a communication with Mr. Hidalgo?  
25 A Yes, I did.

1 Q And what is it that you said to Mr. H?

2 A I told him that we were investigating a crime that had taken place  
3 at the lake. I asked him if he had an employee by the name of Deangelo Carroll  
4 there and that if he did, if he had any paperwork regarding Deangelo Carroll's  
5 residence or phone number.

6 Q And what was the response from Mr. H at this point?

7 A He explained to me that he did have an employee by the name of  
8 Deangelo Carroll, but he didn't have access to any of those records and that we  
9 would have to come back to the club later on in the evening and speak with the  
10 manager.

11 Q What manager did he tell you to speak to?

12 A He told me her name was Ariel.

13 Q And did he tell you what time you had to come back to the club?

14 A 7 o'clock roughly.

15 Q Okay. And specifically you said you asked for both phone number  
16 and address, and he said he had neither of those items available to him?

17 A Correct.

18 Q Did you eventually go back to the club at 7 o'clock at night?

19 A Myself and Detective McGrath did, yes.

20 Q And does there come a point in time when you have contact with  
21 a Deangelo Carroll?

22 A Yes.

23 Q And the jury's heard a lot about -- from Detective McGrath -- about  
24 that, but at some point do you wind up in an interview with Deangelo Carroll?

25 A Yes, I do back at the homicide office.

1 Q And back at the homicide office how long of an interview does it  
2 take?

3 A I'm not sure exactly. It was at least a couple-hour interview.

4 MR. GENTILE: May we approach?

5 THE COURT: Yes.

6 (Conference at the bench.)

7 THE COURT: All right. Mr. DiGiacomo, you may proceed.

8 MR. DIGIACOMO: Thank you.

9 BY MR. DIGIACOMO:

10 Q Without telling us what Deangelo Carroll said, did he give the same  
11 story over the course of the two-hour interview?

12 A No, he did not.

13 Q How many different versions did he give?

14 A At least three.

15 Q Okay. After you completed the interview with Mr. Carroll, at some  
16 point he was taken back to his house?

17 A Yes, he was.

18 Q Let me back up. During the course of the interview, did you  
19 receive information from Deangelo Carroll about the murder weapon?

20 A About? I'm sorry.

21 Q The murder weapon?

22 A Yes, I did.

23 Q And initially did you do some research at some point later in time  
24 to see if you could confirm that information?

25 A Yes, we did.

1 Q And tell me initially what you were able to do.

2 A Regarding the actual weapon or the other -- there's two weapons  
3 involved so I'm not sure what you're asking?

4 Q Okay. Well, there's a weapon involved that JJ had, correct?

5 A Correct.

6 Q And then there's a weapon described that Mr. Counts had?

7 A Correct.

8 Q And Mr. Carroll provided you certain information that may be able  
9 to lead you to that weapon, correct?

10 A Correct.

11 Q And one of those related to what's in the transcript as Javon Gay?

12 A Correct.

13 Q Did you do any research into determining who Javon Gay is  
14 initially?

15 A We did. I did. I looked into who Javon Gay was. We weren't  
16 able to identify anybody by that name. I'd had a case where I thought a  
17 possibility, a Jacori might be the person involved, but that didn't pan out either.

18 Q Okay. And at some point in time in preparation for your  
19 testimony, did you listen to the actual audio recording of Deangelo Carroll?

20 A I did.

21 Q And when you listened to the audio recording, did you decide to  
22 do any further investigation of this subject matter?

23 A When I listened to the recording I realized that he was actually  
24 saying Javon Day, D-a-y.

25 Q Instead of Gay, G-a-y?

1           A     Instead of Gay. Ran him through our computer data base and  
2 found a Javon Day and found that he was involved in a crime.

3           Q     Okay. Let's back up. What information did you -- did you have on  
4 the recording other than Javon Day? Did he give you specifics about the crime  
5 that Javon Day was allegedly to have committed?

6           A     He said that Javon Day had committed a crime of shooting, shot  
7 someone in the neck, in the area, what he described as the Jets.

8           Q     Okay. And did he describe for you the caliber of the weapon that  
9 allegedly he's talking about Mr. Counts using as well as Mr. Day using?

10          A     Yes.

11          Q     And what caliber was it?

12          A     It was a .22 that he described, I believe.

13          Q     Let me back up for just a second here and go back to the  
14 transcript itself. When Mr. Carroll described for you the shooting that Mr.  
15 Counts committed, what kind of gun was he talking about?

16          A     .357.

17          Q     Okay. When Mr. -- and I don't want you confusing my question --  
18 when he was telling you about that gun, what was he saying about Javon Day?  
19 Not what the report says, but what was he telling you about Javon Day?

20          A     He was saying that that was the gun that Javon Day used in the  
21 shooting that he had committed earlier.

22          Q     Okay. And do you know at all how Deangelo Carroll knew that  
23 Javon Day had committed this alleged other crime?

24          A     I don't know that, no.

25          Q     So you don't have any information as to how he heard this

1 information?

2 A No.

3 Q Okay. Did you then run Javon Day?

4 A Yes.

5 Q And did Deangelo Carroll tell you anything about what the custody  
6 status of Javon Day was in May of '05?

7 A No.

8 Q You don't remember him telling you he was in jail right now?

9 A Oh, yes, I do. I'm sorry, I do.

10 Q Did you look up to see if Javon Day was in jail at the time --

11 MR. ADAMS: Judge, at this point I object.

12 THE COURT: Sustained.

13 BY MR. DIGIACOMO:

14 Q Did you look up the custody status of Javon Day in May of '05?

15 MR. ADAMS: Your Honor, I object that this is beyond what we  
16 discussed at the bench as well.

17 MR. DIGIACOMO: This does not have anything to do with Deangelo  
18 Carroll's statement.

19 THE COURT: Well, he can say if he looked up Javon Day's -- well, in  
20 May of '05 he was looking for a Javon Gay.

21 BY MR. DIGIACOMO:

22 Q Just the other day did you look up Javon Day's custody status as  
23 of May of '05?

24 A I did.

25 Q And where was he?



1 A He was in custody at the time of May 19<sup>th</sup>, 2005.

2 Q And did you also find a police report, an incident report related to  
3 why Javon Day was in custody in May of '05?

4 A Yes, I did.

5 Q Okay. And in that report -- well, first of all, did the shooting occur  
6 at the Jets?

7 A No. The Jets is a housing complex off of H Street, and it did not  
8 occur there. It occurred at 1108 Hassell Avenue, I believe.

9 Q How far from Hassell is the Jets?

10 MR. ADAMS: Objection to relevance, Your Honor.

11 THE COURT: Do you want to approach?

12 MR. GENTILE: Yes, please.

13 (Conference at the bench.)

14 THE COURT: The objection's withdrawn.

15 Go on, Mr. DiGiacomo.

16 BY MR. DIGIACOMO:

17 Q How far from the Jets is Hassell Street?

18 A I would say it's a half mile, roughly, a half mile.

19 Q Did -- in reading the report, what was the allegation as to what Mr.  
20 Day did?

21 A He shot a man in the neck and ran away.

22 Q Now, was the bullet recovered under the Day event that actually  
23 penetrated the victim's neck?

24 A No, it was not.

25 Q Okay. So it was a perforating gunshot wound, and the bullet was

1 never recovered?

2 A I believe so, yes.

3 Q Now, in addition to that information, were there any other firearm-  
4 related evidence recovered at the scene?

5 A A .22 casing, a .22 caliber casing was recovered at the scene of  
6 the Javon Day shooting.

7 Q Was there any -- well, let me ask you this. In your experience as a  
8 homicide detective, any way a .22 caliber casing fires a .38 caliber bullet?

9 A No, none.

10 Q Other than that information, was there any other information from  
11 that report you could utilize to either confirm or refute the information that  
12 Deangelo Carroll was telling you?

13 A No.

14 Q After the interview of Deangelo Carroll, what did you do?

15 A I followed -- Deangelo Carroll was transported back to his house. I  
16 was in a car. Deangelo Carroll took the detectives that were driving him to a  
17 location where some tires were deposited into a dumpster.

18 Q And then did you take -- were you responsible for the recovery of  
19 those tires?

20 A I took the tires out of the dumpster and transported them back to  
21 the homicide office, yes.

22 Q How many tires were there?

23 A There was four total.

24 Q And what was the condition of the four tires?

25 A They were -- seemed in good condition at the time.

1 Q Were there cuts to any of them?

2 A There were cuts in the sidewalks, I believe, yes.

3 Q Okay. Of all four of them?

4 A Yes.

5 Q All right. At some point in time did you learn about Rontae Zone

6 being with the detectives that had taken Deangelo Carroll home?

7 A Yes, I did.

8 Q And did you conduct an interview with Mr. Zone?

9 A Yes, I did.

10 Q During the course of the interview, Mr. Zone provided you his

11 version of the events, correct?

12 A Correct.

13 Q Now, the version that Mr. Zone gave you, was it consistent with

14 the first or even the second version that Mr. Carroll gave you?

15 A No, it was not.

16 Q Okay. Was it consistent with the third version?

17 A Yes, it was.

18 Q After Mr. Zone was interviewed, what did you do?

19 A After Zone was interviewed --

20 Q Let me ask you this. It's early morning hours of now Friday night

21 or Saturday morning, so at some point did you get to sleep?

22 A Yes. Yes.

23 Q And what time did you return back to the office on Saturday?

24 A We came back to the office Saturday, I would say about 3, 3:30 in

25 the afternoon.

1 Q When you pulled back into the lot, what do you see?  
2 A I saw Deangelo Carroll and a young man later identified as Jayson  
3 Taoipu sitting in front of the doors to our homicide offices.  
4 Q And eventually do you take -- or do you take a statement from  
5 Jayson Taoipu?  
6 A Yes.  
7 Q And during the course of -- well, let me ask you this. How long  
8 did he have to wait before you took the interview; do you recall?  
9 A At least a couple, couple and a half hours.  
10 Q And that's because you were doing other things related to the  
11 case?  
12 A Yes.  
13 Q After the interview of Jayson Taoipu, did you respond out to E  
14 Street for the execution of the search warrant at 1676 E Street?  
15 A Yes, I did.  
16 Q And eventually a second search warrant was executed at 1677 E  
17 Street?  
18 A Yes.  
19 Q Now, we've seen a lot of damage to the home at 1677 from  
20 SWAT activity, correct?  
21 A Correct.  
22 Q Was Mr. Counts given an opportunity to leave voluntarily from that  
23 home without there having to be any damage committed to it?  
24 A Several opportunities, yes.  
25 Q And eventually it was because of his refusal that that damage

1 occurred?

2 A Correct.

3 Q After Mr. Counts comes out, can you describe Mr. Counts'  
4 condition when he comes out of the house?

5 A He's very sweaty. He's covered in fiberglass insulation. He's  
6 panting a bit, and he's in custody. He's handcuffed.

7 Q Do you -- what do you do with him?

8 A We transport him back to the homicide offices.

9 Q And eventually do you arrest him and book him into the Clark  
10 County Detention Center?

11 A Yes, sir.

12 Q After the arrest of Kenneth Counts, did you have communication  
13 with Deangelo Carroll?

14 A I did.

15 Q How did you have communication with him?

16 A He called my cell phone.

17 Q Let me back up. Is this the first time Deangelo Carroll had called  
18 your cell phone?

19 A No, sir.

20 Q Okay. How is it that Deangelo Carroll had your cell phone?

21 A I provided him with that during our interview.

22 Q Now, up until your interview of Deangelo Carroll on May 20<sup>th</sup>, in  
23 the evening hours of May 20<sup>th</sup>, had you provided any individual the  
24 circumstances of the crime scene or anything related to your investigation?

25 A No, sir.

1 Q Did you ever talk to an individual identified as Little Lou or Luis  
2 Hidalgo III?

3 A No.

4 Q Had you ever talked to Anabel Espindola up to this point?

5 MR. GENTILE: Can we have a point? We don't have a time predicate.

6 MR. DIGIACOMO: I said up to the interview of Deangelo Carroll.

7 MR. GENTILE: I don't think we got that.

8 THE COURT: Okay. You're talking about up until the interview of  
9 Deangelo Carroll; did you understand that, Detective?

10 THE WITNESS: Yes.

11 MR. GENTILE: What's the date?

12 MR. DIGIACOMO: May 20<sup>th</sup>.

13 MR. GENTILE: Okay. The May 20<sup>th</sup>, okay.

14 BY MR. DIGIACOMO:

15 Q During the course of the interview of Deangelo Carroll, did you  
16 provide or was there information related to him about some of the physical  
17 evidence at the crime scene?

18 A With Deangelo Carroll, yes, sir.

19 Q And specifically I want to reference the fliers that are found at the  
20 feet of Timothy Hadland. Those fliers, is it the first time that that's disclosed to  
21 anybody in this case, May 20<sup>th</sup> of 2005, during the interview of Deangelo  
22 Carroll?

23 A Yes.

24 Q Now, during the time period that the search warrant is executed at  
25 1676, do you have communications with Deangelo Carroll?

1 A During the actual execution of the warrant, yes, I do.

2 Q And without telling us what he said, based upon that  
3 communication is that how you identified 1677 E Street?

4 A Yes, it is.

5 Q Now, you said after booking Kenneth Counts you had a  
6 communication with Deangelo Carroll?

7 A Yes.

8 Q And did you provide him any advice during the course of that  
9 communication?

10 MR. GENTILE: Can we have a time predicate. I mean, we're bouncing  
11 around a little bit. We're going back and forth.

12 THE COURT: All right.

13 MR. DIGIACOMO: Didn't I just say after the booking of Kenneth Counts  
14 into jail?

15 MR. GENTILE: Well, today is after that.

16 THE COURT: What day was that?

17 MR. DIGIACOMO: I got it.

18 BY MR. DIGIACOMO:

19 Q How long after booking Kenneth Counts into jail was it?

20 A Couple hours.

21 Q A couple hours?

22 A A couple hours.

23 Q We're talking early morning hours now of Sunday or late Saturday  
24 night, early morning hours of Sunday?

25 MR. GENTILE: Your Honor, I have to object to the leading. The witness

1 was there. He certainly knows what time this happened.

2 THE COURT: All right. Mr. DiGiacomo, try to ask more open-ended  
3 questions such as: What time are we talking about?

4 BY MR. DIGIACOMO:

5 Q What time did you book Kenneth Counts generally?

6 A 12 midnight, I believe, right in there we booked Kenneth Counts.

7 Q So midnight on the 21<sup>st</sup> into the morning of the 22<sup>nd</sup>?

8 A Yes.

9 Q Saturday into Sunday?

10 A Yes.

11 Q And you said within a couple hours of the booking of Kenneth  
12 Counts you received a phone call from Deangelo Carroll?

13 A Yes.

14 Q And so what are we -- what time period are we talking about?

15 A 2 to 3 in the morning, I believe, Sunday morning.

16 Q And during the course of that did you advise him of anything?

17 A Yes, I did.

18 Q What did you advise him?

19 A I advised him to let the caller know that everything was okay -- or  
20 actually, initially I advised him to go and meet the caller.

21 Q Okay. And did you change your mind about -- when you say go  
22 and meet the caller, what are you talking about?

23 A He had a call placed to him where he wanted to --

24 MR. ADAMS: Objection, Your Honor. It calls for hearsay.

25 / / /



1 BY MR. DIGIACOMO:

2 Q Without telling us what he told you, did you provide him any  
3 advice as to whether or not he should meet with anybody?

4 A Yes.

5 Q And did you provide him any advice as to who it is he should or  
6 should not meet with?

7 A No. No.

8 Q Okay. You said you initially told them to go ahead and meet with  
9 the person?

10 A Yes.

11 Q Okay. Did you change your mind at some point?

12 A I don't believe so, no.

13 Q Okay. Did you have a subsequent conversation with him,  
14 Deangelo Carroll?

15 A Yes.

16 Q Okay. At any point do you tell him not to meet with anybody?

17 MR. GENTILE: Could we have a --

18 THE COURT: I was just going to say, how long after the first  
19 conversation in the early morning hours between I think you said 2 and 3 or 1  
20 and 2, did this second contact with Deangelo Carroll occur?

21 MR. GENTILE: And we're talking about May the 22<sup>nd</sup>.

22 THE WITNESS: Which is a Sunday?

23 THE COURT: The Sunday, right.

24 THE WITNESS: I'm not sure exactly when it was, ma'am, but I know he  
25 called me Sunday, at some point Sunday.

1 THE COURT: Okay. Do you have any idea how many hours after the  
2 first call that might have been?

3 THE WITNESS: I don't. I'm sorry.

4 THE COURT: Don't guess if you don't remember.

5 THE WITNESS: I don't.

6 THE COURT: That's fine.

7 BY MR. DIGIACOMO:

8 Q But it was sometime on Sunday?

9 A Yes.

10 Q Okay. And was your advice different to him than it was the first  
11 time that you talked to him?

12 A No.

13 Q Okay. At some point did you decide you were going to do  
14 something related to Deangelo Carroll?

15 A Yes.

16 Q What was that?

17 A There came a point where we decided that we were going to send  
18 him into a business, preferably Simone's Auto Body and speak with the people  
19 that we believed to be involved with the crime.

20 Q Now, how is that you were going to go about getting the recording  
21 device to utilize on Mr. Carroll?

22 A Well, we tried to go through the normal channels that we would  
23 normally go through, and that didn't work out. We couldn't get the responses  
24 that we needed in a timely fashion. So we ended up requesting the help of the  
25 FBI.

1 Q Eventually the FBI gets involved, and we've heard some of the  
2 testimony from Detective McGrath about his contact with Deangelo. What are  
3 you doing during the wire recordings that occurred on May 23<sup>rd</sup> and May 24<sup>th</sup> at  
4 Simone's?

5 A I am surveillance outside.

6 Q Okay. And I want to talk to you -- we've heard from Zane  
7 Simpson about May 23<sup>rd</sup>, but on May 24<sup>th</sup>, were you what's known as the  
8 "eye"?

9 A Yes.

10 Q What does that mean?

11 A The eye means that I have an eyeball on the front of the  
12 establishment, and I'm able to see people as they go in and out of it.

13 Q Prior to Mr. Carroll going in there, were you able to make -- or  
14 were you able to see Mr. H enter Simone's Auto Plaza?

15 A Yes, I was.

16 Q And then --

17 MR. GENTILE: Could we have a time?

18 MR. DIGIACOMO: Well, I'm going to back up and ask him that.

19 THE COURT: Go ahead.

20 MR. DIGIACOMO: Thank you.

21 BY MR. DIGIACOMO:

22 Q Approximately what time did Mr. H, if you recall, enter the  
23 building?

24 A I don't recall without looking at the surveillance report, I apologize.  
25 I'm not sure exactly.

1 Q But you could tell us it was prior to Deangelo Carroll showing up?

2 MR. GENTILE: Objection to the leading.

3 THE WITNESS: Yes.

4 MR. DIGIACOMO: He already answered that question.

5 THE COURT: That's okay. Go on.

6 BY MR. DIGIACOMO:

7 Q After Mr. Carroll exited -- well, let me ask this. During the time  
8 period that Mr. Carroll was inside the building on May 24<sup>th</sup>, did Mr. H leave?

9 A No.

10 Q Okay. After Mr. Carroll exited, did you continue your surveillance  
11 down at Simone's, or did you do something different?

12 A After he exited I continued my surveillance until I saw Mr. H and  
13 Anabel Espindola leave.

14 Q Now, up to this point had there been any contact with Anabel  
15 Espindola?

16 A None.

17 Q Okay. Up to this point had there been any contact with Luis  
18 Hidalgo III?

19 A None.

20 Q Okay. Once you saw Anabel leave, who did she leave with?

21 A Mr. H.

22 MR. GENTILE: Could we have a time predicate.

23 THE COURT: Thank you.

24 How long after Deangelo Carroll left did you observe Mr. H and  
25 Anabel Espindola leave?

1 THE WITNESS: I observed them leave at approximately 5:30 p.m.

2 THE COURT: All right.

3 BY MR. DIGIACOMO:

4 Q Do you have any idea when Deangelo Carroll left?

5 A I'm not sure exactly. I believe it to be a couple hours before.

6 Q A couple hours before that?

7 A I believe that, yes.

8 Q What happens when Anabel and Mr. H leave?

9 A I continue surveillance. I actually initiated a rolling surveillance,  
10 and we followed them out of the area actually onto I-15 northbound.

11 Q At some point in time was there a decision as to what to do with  
12 the vehicle that you're following?

13 A Yes. We decided to -- I decided to initiate a car stop. I didn't  
14 want to do a car stop on I-15; it was busy, and we followed them into the  
15 downtown area, and I got a patrolman to stop their vehicle which took place at  
16 6<sup>th</sup> and Carson.

17 Q Once their vehicle was stopped, did you approach the vehicle?

18 A Yes, I did.

19 Q Can you tell us who the driver was?

20 A The driver was Mr. H, I believe.

21 Q Was Mr. H doing anything when you walked up to the car?

22 A He was on the phone.

23 Q Did you ask him to do anything?

24 A I asked him to hang up his phone.

25 Q And did you also make contact with Anabel?

1 A I did.

2 Q Was there anybody else in the vehicle?

3 A No.

4 Q And approximately what time in the evening was this?

5 A 6 p.m.

6 Q 6 p.m. in the evening?

7 A Yes.

8 Q Okay. And at that point what happens with Anabel?

9 A I ask her to come with me if I could talk to her. I explained to her  
10 a little bit of the situation, asked if she would come down to the homicide  
11 offices to speak with us further, and she agreed, and I transported her down  
12 there with me.

13 Q When you transport -- when you transported her down there, did  
14 she have her phone with her?

15 A No, she did not.

16 Q Did there come a point in time where you conduct an interview of  
17 Ms. Espindola?

18 A Yes.

19 Q And at some point in time she stops talking to you?

20 A Yes.

21 Q After she stops talking to you, was she eventually booked into the  
22 Clark County Detention Center?

23 A Yes.

24 Q After she's booked into --

25 MR. DIGIACOMO: Oh, you're right, Madam Clerk, that's what I was

1 looking for.

2 BY MR. DIGIACOMO:

3 Q After she's booked into the Clark County Detention Center, do you  
4 respond to any particular location?

5 A I responded to Simone's Auto Body.

6 Q And do you know approximately what time you got to Simone's  
7 Auto Body?

8 A Approximately 7:30, right in there, p.m.

9 Q And while you were at Simone's Auto Body, did you find an item  
10 of evidence inside the office of Anabel Espindola?

11 A Yes, I did.

12 Q Have you previously brought that to court for a proceeding?

13 A Yes, I did.

14 MR. DIGIACOMO: Judge, I believe it's going to be in this Justice Court  
15 sealed. If there's no objection, I'd ask to open it and pull the items out.

16 THE COURT: That's fine.

17 MR. ADAMS: No objection. What number is that, Your Honor?

18 THE COURT: It hasn't been marked yet. It's from Justice Court, and it  
19 will be marked once the contents are removed.

20 MR. GENTILE: Your Honor, what number is that?

21 THE COURT: It hasn't been marked yet.

22 I guess next in order would be what, Ms. Husted?

23 THE CLERK: It will start with 240.

24 THE COURT: 240 is the next up.

25 BY MR. DIGIACOMO:

1 Q Showing you what's about to be marked as State's Proposed  
2 Exhibit 240, does that appear to be a photocopy?

3 A Yes, it is.

4 Q Where is it that you located that particular item?

5 A In a -- I believe it was in a satchel in Anabel Espindola's office on  
6 the floor.

7 Q Does that appear to be a true, fair and accurate copy of the item  
8 that was located at that location?

9 A Yes.

10 MR. DIGIACOMO: Move to admit 240.

11 THE COURT: All right. Let's let the defense look at it.

12 Any objection to 240 from the defense?

13 MR. GENTILE: No, Your Honor.

14 MR. ADAMS: No.

15 THE COURT: All right. State's Proposed 240 will be admitted.

16 (State's Exhibit 240 admitted.)

17 BY MR. DIGIACOMO:

18 Q Now, eventually, Detective, after the arrests in this case was there  
19 requests made for some phone records?

20 A Yes.

21 Q And I don't have all the phone records here, but did you in your  
22 capacity receive phone records from Nextel?

23 A From Nextel, yes.

24 Q I'm going to show you what's previously been admitted as 188,  
25 the subscriber information, correct?



1 A Correct.

2 Q 189 is the cell phone cell site records?

3 A Correct.

4 Q 190 is the direct connect information that you had?

5 A Correct.

6 Q And 197 is the GPS locations for Southern California switch of cell  
7 towers?

8 A Correct.

9 Q Now, in preparation for your testimony, did you and other  
10 members of your team create some exhibits for demonstrative purposes with  
11 this jury?

12 A Yes.

13 Q Let's start with the one I left over here, State's Proposed Exhibit  
14 No. 238. Can you tell me what State's Proposed Exhibit No. 238 is?

15 A This is a listing of all the actual cell-to-cell calls and the direct  
16 connect calls between Luis Hidalgo Junior, Luis Hidalgo III, Anabel Espindola,  
17 Timothy Hadland and Deangelo Carroll and Kenneth Counts.

18 Q Okay. Let me back up. The cell phone records with the cell site  
19 information, that's all those calls, correct?

20 A Yes.

21 Q Okay. The direct connect information, is that the information that  
22 you were able to gather off State's Exhibit No. 190?

23 A Yes, it is.

24 Q And is it -- does the direct connect information have every direct  
25 connect connection there, or is it just the direct connects that related to the

1 individuals associated with this case?

2 A It's the direct connects related to the individuals associated with  
3 this case.

4 Q So the direct connect information either to or from Deangelo  
5 Carroll, Mr. H, Anabel Espindola, and Luis Hidalgo Junior is contained in these  
6 records?

7 A Yes.

8 Q Okay. Now, in preparation -- is this the first copy of this exhibit?

9 A That I've seen?

10 Q Yes.

11 A No.

12 Q Okay. In preparation for trial or actually during the cross-  
13 examination of a witness, did you learn that there was an error on the initial  
14 exhibit?

15 A Yes, I did.

16 Q Okay. And that related to a phone call from Mr. H to Deangelo?

17 A Yes, it did.

18 Q In your review of the records, is there ever a time that Mr. H's  
19 phone number appears to have called Deangelo Carroll or have it direct  
20 connected?

21 A No.

22 Q Does this 238 appear to be a true, fair and accurate summary of  
23 State's Exhibits 188, 198 or 189, 190 here before you with the exception of  
24 not having direct connects to people you couldn't identify to?

25 A Yes.

1 MR. DIGIACOMO: Move to admit 238.

2 MR. ADAMS: I'd like to be heard on that, Your Honor.

3 THE COURT: So you're objecting?

4 MR. ADAMS: Yes. May we approach?

5 THE COURT: Yes.

6 (Conference at the bench.)

7 THE COURT: Any objection on behalf of Mr. Hidalgo Junior for the  
8 record?

9 MS. ARMENI: No, Your Honor.

10 THE COURT: All right. That exhibit will be admitted, and that was what  
11 number?

12 MR. DIGIACOMO: 238, Judge.

13 THE COURT: Thank you. 238 is admitted.

14 (State's Exhibit 238 admitted.)

15 BY MR. DIGIACOMO:

16 Q I'm going to turn to page 3 of 238, Detective, if you'll look up  
17 there.

18 A I think you took mine.

19 Q I know, if you'd look at the screen.

20 A I'm sorry. I got it.

21 Q 702/643-0842?

22 A Yes, sir.

23 Q During the course of your investigation, did you learn who --  
24 whose home phone number that is?

25 A Yes, I did.

1 Q And whose is it?

2 A Deangelo Carroll's.

3 Q I'm going to have to back up here 'cause this one actually says  
4 Kenneth Counts. Did you learn during the course of your investigation Kenneth  
5 Counts' cell phone number?

6 A Yes, I did.

7 Q What is that?

8 A 808-1719.

9 Q So the ladies and gentlemen of the jury can see it here, I'm looking  
10 at State's Exhibit 189, and we learned 9646 is Anabel Espindola, correct?

11 A Yes.

12 Q Okay. And that number 808-1719 is Kenneth Counts, correct?

13 A Correct.

14 Q Then if we go back to State's Exhibit No. 238, chronological order,  
15 phone call Anabel to Kenneth Counts or it actually says inbound -- it actually  
16 says, inbound call Anabel's phone from Kenneth Counts?

17 A Correct.

18 Q And the second one is an outbound call from Anabel's phone to  
19 Kenneth Counts, but it's for zero minutes?

20 A Correct.

21 Q You also indicated during the course of your testimony that the  
22 cell site records with the cell phone numbers were utilized to create what's now  
23 been marked as State's Proposed Exhibit No. 239, correct?

24 A Correct.

25 Q And just so the jury's aware, is this the entire time period from the

1 19<sup>th</sup> through the 24<sup>th</sup>, or is it a limited time period for this cell site information?

2 A It's a limited time period.

3 Q And do you know approximately when this cell site information  
4 begins on this map?

5 A It looks like the 19<sup>th</sup> at approximately 11:30 a.m.

6 Q Okay. And extends through some portion of the 20<sup>th</sup>?

7 A Yes.

8 Q Okay. And did you take these records with the phone calls, match  
9 them to the cell sites and check them against the GPS locations to determine  
10 where a particular phone was hitting off a particular cell site during a particular  
11 time period?

12 A Yes.

13 Q And this is a true, fair and accurate rendition of that?

14 A Yes.

15 MR. DIGIACOMO: Move to admit 239.

16 THE COURT: Any objection?

17 MR. ADAMS: With our -- with the objection we last made.

18 THE COURT: Previous objection.

19 MR. GENTILE: I would join in that objection.

20 THE COURT: For the same reason?

21 MR. GENTILE: Yes.

22 THE COURT: All right. That's overruled.

23 So you took all of the different records that had been provided by  
24 the phone company and then using the information on those records prepared  
25 that diagram; is that what you did?

1 THE WITNESS: Yes.

2 THE COURT: Okay. So in terms of where the cell sites were you were  
3 relying on their records of the cell sites?

4 THE WITNESS: Correct.

5 THE COURT: Okay. It will be admitted.

6 (State's Exhibit 239 admitted.)

7 MR. DIGIACOMO: Thank you.

8 BY MR. DIGIACOMO:

9 Q And I'm actually not going to ask you to go through -- over much  
10 of this, but maybe you could step down just a second. Can you explain to the  
11 ladies and gentlemen of the jury when they have this in the back room how  
12 they can utilize it. So first of all, is this a map of the greater Las Vegas area,  
13 for lack of a better term?

14 A Yes. This would be Lake Mead out to the east, Mt. Charleston out  
15 to the west.

16 Q Okay. And is the Palomino Club identified on this map?

17 A Yes, it is, right there.

18 Q And is Simone's Auto Plaza identified on this map?

19 A Yes, sir, right there.

20 Q And then are each of the calls color coded or each of the people  
21 color coded?

22 A Yes, they are.

23 Q And are the color codes consistent with the way that you  
24 highlighted or the team that highlighted the cell phone records?

25 A Yes.

1 Q And so AE represents who?  
2 A Anabel Espindola.  
3 Q And so she's reflected in this orange color, for lack of a better  
4 term?  
5 A Yes.  
6 Q Okay. And then LL is who?  
7 A Little Lou.  
8 Q Okay. He's in the pink?  
9 A Correct.  
10 Q and Mr. H or MRH, he's reflected in what color?  
11 A In green.  
12 Q And TH is who?  
13 A Timothy Hadland.  
14 Q And DC?  
15 A Deangelo Carroll.  
16 Q So the jury remembers, do we have any cell site information from  
17 the direct plans?  
18 A No.  
19 Q So it's only cell phone calls we have cell site information?  
20 A That's the only thing they were able to provide us, yes.  
21 Q I'm going to show you what's been marked as State's Proposed  
22 Exhibits 234, 235, 236 and 237 and ask you if you recognize --  
23 MR. ADAMS: We would like to see them.  
24 THE COURT: Yes, I was going to say.  
25 MR. ADAMS: At some point that would be very nice.

MR. ARRASCADA: I'll join Mr. Adams up here, Your Honor, if that's okay.

MR. GENTILE: There's an objection interposed, Your Honor. Well, there is now; let's put it that way.

**THE COURT:** In a couple of words, the basis?

MR. GENTILE: Cumulative at least with respect to --

THE COURT: With two of the pictures we've already got a Deangelo Carroll picture, and so I don't know that we need another one.

MR. DIGIACOMO: There's no Deangelo Carroll in this.

THE COURT: In this one, okay.

MR. DIGIACOMO: There's no Deangelo Carroll in this one.

THE COURT: I see.

MR. ADAMS: We object to 236, Your Honor.

(Conference at the bench.)

BY MR. DIGIACOMO:

Q 237, do you recognize that guy?

A Yes, I do.

**Q Who is that?**

A Kenneth Counts.

MR. DIGIACOMO: Move to admit 237.

THE COURT: Any objection to 237, the picture of Kenneth Counts?

MR. ADAMS: No, ma'am.

MS. ARMENI: No.

THE COURT: All right. That will be admitted.

(State's Exhibit 237 admitted.)



1 BY MR. DIGIACOMO:

2 Q Detective, after gathering some evidence -- and you've testified in  
3 a few prior proceedings, correct?

4 A Correct.

5 Q Did there come a point in time of February of 2008 when you  
6 asked to be part of a conversation with Anabel Espindola?

7 A Yes.

8 Q Where did that conversation take place?

9 A At your conference room at the District Attorney's office.

10 Q And what was your understanding of the reason for the  
11 conversation with Ms. Espindola?

12 A She wanted to give you a statement.

13 Q Was that statement recorded either by audio recording or  
14 videotape?

15 A No.

16 Q Okay. And let me ask you this question. Why didn't you record  
17 the statement?

18 A I was an invited guest. I was not in my own environment there. I  
19 wasn't sure what was applicable or not. So I did not take a recording with me.

20 Q Did you or any other person during this time period make any  
21 notations as to questions you might want asked or answered during the course  
22 of the interview?

23 A I jotted down some notes, yes.

24 Q And eventually were those notes turned over to the Court?

25 A Yes.

1 Q Did you keep a copy of the notes?

2 A No, sir.

3 THE COURT: Do you recall what you used to make the notes, like what  
4 kind of paper or --

5 THE WITNESS: I think it was a legal pad. I think it was a -- I think it  
6 was a yellow legal pad.

7 THE COURT: All right. Thank you.

8 BY MR. DIGIACOMO:

9 Q At some point in time you learned that Anabel Espindola entered a  
10 guilty plea, correct?

11 A Correct.

12 MR. DIGIACOMO: Judge, I have in my hand State's Proposed Exhibit  
13 228, which is a copy of that guilty plea agreement I move to admit.

14 MR. GENTILE: Same objection as yesterday.

15 THE COURT: All right. That's sustained.

16 MR. ADAMS: We join Mr. Gentile's objection.

17 THE COURT: Sustained.

18 MR. DIGIACOMO: I pass the witness, Judge.

19 THE COURT: All right. Before we go to cross while it's fresh a juror  
20 had a question.

21 You identified Exhibit No. 240 as having been recovered from  
22 Anabel's satchel -- or in a satchel, excuse me, in Anabel's office, and we  
23 admitted Exhibit 240; is that right?

24 MR. DIGIACOMO: Correct.

25 THE COURT: And the juror wants to know what that exhibit is.

1 MR. DIGIACOMO: What is 240? What exhibit did you -- or what did  
2 you get out --

3 THE COURT: What did you find in the satchel?

4 THE WITNESS: It was a paycheck from the Palomino Club in the name  
5 of Deangelo Carroll.

6 THE COURT: And for the record, Mr. DiGiacomo, are you displaying  
7 Exhibit No. 240 on the monitor?

8 MR. DIGIACOMO: I am, part of it.

9 BY MR. DIGIACOMO:

10 Q And that paycheck, can you read from there how many hours of  
11 work it was for?

12 A In the earning section there's a heading that says, Regular, 24  
13 hours is what's listed.

14 Q And the pay start and pay ending period, what does it say there?

15 A May 15<sup>th</sup>, 2005, through May 21<sup>st</sup>, 2005.

16 Q And the check date says?

17 A May 27<sup>th</sup>, 2005.

18 MR. DIGIACOMO: I have nothing further, Judge.

19 THE COURT: All right. Thank you. Who would like to go first for the  
20 defense?

21 All right, Ms. Armeni.

22 CROSS-EXAMINATION

23 BY MS. ARMENI:

24 Q Good afternoon, Detective Wildemann.

25 A Hello.

1 Q I want to talk to you a little bit about your contact with Mr. H.  
2 A Okay.  
3 Q You called him one time from your office phone, right?  
4 A Yes, ma'am.  
5 Q And you spoke to him?  
6 A Yes.  
7 Q And then you talked -- you called him a second time, I believe,  
8 from your cell phone?  
9 A Yes.  
10 Q And once again Mr. H spoke to you?  
11 A Yes.  
12 Q And you made arrangements to meet at the Palomino?  
13 A Yes.  
14 Q And Mr. H did come down to the Palomino, right?  
15 A Yes. Yes, ma'am.  
16 Q And you asked Mr. H if he had an employee by the name of  
17 Deangelo Carroll, right?  
18 A Yes.  
19 Q And his answer was yes?  
20 A Yes.  
21 Q And then you had asked for some additional information which at  
22 the time Mr. H told you he couldn't provide?  
23 A Correct.  
24 Q But he told you to come back and speak to Ariel?  
25 A Yes, ma'am.

1 Q At 7 o'clock?

2 A Yes.

3 Q And you came back at 7 o'clock?

4 A A little bit after, yes.

5 Q Okay. And when you came back a little bit after, was Ariel  
6 present?

7 A Yes.

8 Q And during the conversation you had with Ariel, was there any  
9 discussion about the white van?

10 A I don't believe so.

11 Q Okay. So nothing was asked. At the time -- at the time that you  
12 were talking to Ariel, at that point you knew that Mr. H knew that you were  
13 inquiring about Deangelo Carroll, correct?

14 A At the time that I was speaking with Ariel?

15 Q Well, you had already -- let me back up. That was a bad question.  
16 I apologize.

17 A That's okay.

18 Q Earlier in the afternoon you had told -- you were asking Mr. H  
19 questions about Deangelo Carroll?

20 A Correct.

21 Q So is it fair to say at that point Mr. H knew that the homicide  
22 detectives were looking into Deangelo Carroll, correct?

23 A Correct.

24 Q And then fair to say that Mr. H knew that you were meeting with  
25 Ariel at around 7 o'clock?

1 trial I need to ask if anyone has seen anything about the case in the media.

2 MR. GENTILE: How about just saying in the news media, okay.

3 THE COURT: In the news media.

4 MR. GENTILE: Yeah, because some people are -- I don't want to  
5 suggest that there are some people that are less literate than others.

6 THE COURT: No, that's fine. I can say in the news media, and then if  
7 people hold up their hands -- Mr. Gentile, if people hold up their hands, I'll say,  
8 Don't tell me what you saw or heard. Was it on television or in the newspaper,  
9 and we'll go through that way, and then the people who saw something we'll  
10 question --

11 MR. GENTILE: We'll take them one at a time.

12 MR. ARRASCADA: Your Honor, we'd join in that request, Mr. Gentile's  
13 request.

14 THE COURT: All right. I guess I'll do it at the beginning before the  
15 break. Otherwise, we could just start with testimony and do it at the break and  
16 then argue about whether or not if somebody's seen or heard anything we want  
17 to excuse them.

18 It might be better to do it at the break. I think it doesn't highlight  
19 the whole things as much as marching them in this morning and that being the  
20 first question out of the Court's mouth, which suggests, oh, no, there's  
21 something in the media; we've got to address this right away. I would prefer  
22 tactically to do it at the break.

23 MR. GENTILE: No, Your Honor, we need to do it now.

24 THE COURT: Why? Because if there's -- if we're going to bring in an  
25 alternate or exclude one of them, we can decide on the break to do that. Do

1 you see what I'm saying? They're not supposed to be talking about the case  
2 anyway, and so to me, to bring them in right now really highlights the story  
3 that we're concerned about as opposed to just saying it at the break. That's  
4 just my -- like, oh, this -- you know, why all of a sudden this first morning are  
5 we bringing them in and the very first question out of my mouth is, Has anyone  
6 seen or heard anything.

7 MR. GENTILE: How about this. How about we do it when the State  
8 rests?

9 THE COURT: That's fine, or when we take a break or when the State  
10 rests is fine.

11 MR. GENTILE: Because if there is anybody it's going to take some time  
12 to be doing some voir dire examination.

13 THE COURT: Okay. All right. That's fine.

14 MR. DIGIACOMO: Yes. Your Honor, can I go to another subject?

15 THE COURT: Sure.

16 MR. DIGIACOMO: I don't know if was ever on the record. I've talked to  
17 the defense in the past about reciprocal discovery. As far as I'm aware there  
18 isn't any; however, in discussing with Mr. Gentile today, apparently Jerome  
19 DePalma had made notes of whatever conversation he had with Anabel.  
20 There's really two things related to that. One is we want the notes, obviously  
21 before Mr. DePalma gets on there, and then, I think there needs to be a voir dire  
22 examination as to what exactly he explained to Anabel about the nature of the  
23 communication that he had with her.

24 Did he explain to her that he wasn't her lawyer? Did he explain to  
25 her that --

1 MR. GENTILE: My examination of her went directly to that. She  
2 acknowledged that he was Mr. Hidalgo's lawyer and not hers.

3 MR. DIGIACOMO: I completely understand that, but she's claiming that  
4 the conversation never took place. I need to know from -- I think before it  
5 becomes legally admissible he has to say, I informed her I wasn't her lawyer  
6 and communications that she gave to me were not privileged. Otherwise, I  
7 mean, you can just accept her representations that it never happened, but in  
8 order for a conversation with a lawyer to be admissible, that lawyer needs to  
9 establish that --

10 THE COURT: Doesn't she waive that by denying the relationship  
11 herself? If she says, I had no relationship with this, to me then it's not up to  
12 the lawyer to say he has a relationship. I mean, that to me is an issue between  
13 Jerome DePalma and the bar if it ever comes to that, not an issue as to the  
14 admissibility in a separate trial of these two people because Ms. Espindola -- I  
15 mean, I certainly don't want to admit anything that's unethical for the Court to  
16 admit.

17 But to me she has waived the privilege by denying a relationship  
18 and by denying that a conversation ever -- not only did she deny the -- I would  
19 give you if she said, yes, he was my lawyer but we didn't talk, that, yes,  
20 there's still a privilege even if she denies the conversation. But if she -- she  
21 testified he wasn't my lawyer and we never talked. And so to me I don't know  
22 that -- it's her privilege, and if she doesn't -- if she doesn't assert it or believe  
23 that he was her lawyer, then I don't know where there would be a privilege.

24 MR. DIGIACOMO: There's a secondary issue that relates to that which  
25 is my understanding that the conversation occurred with Mr. H in the room, and



1 certainly I'm assuming that the Court is going to instruct the witness that he  
2 can only testify to what Anabel said. He can't testify as to what Mr. H said  
3 unless the State asks the question.

4 THE COURT: Oh, as hearsay. Right. I mean, there's obviously no  
5 privilege if there's a third person, but as hearsay, yeah. And Jerome DePalma  
6 I'm very confident already knows that.

7 MR. GENTILE: We actually discussed that. Mr. Dibble was also there,  
8 which I asked her that, and she said he wasn't.

9 THE COURT: Right.

10 MR. GENTILE: And actually --

11 THE COURT: So Dibble could testify to the communication anyway.

12 MR. DIGIACOMO: And there's no notes from Dibble is my  
13 understanding --

14 THE COURT: Isn't Jerome DePalma's notes, aren't they similar to the  
15 detective's notes of the interview with --

16 MR. GENTILE: They're identical.

17 THE COURT: -- Anabel Espindola. To me I think the analysis is the  
18 same.

19 MR. GENTILE: They're absolutely work product, but, frankly, I'm willing  
20 to give them up.

21 THE COURT: Thank you.

22 MR. GENTILE: I have read them. Everything in there isn't wonderful,  
23 okay, for my client, but I'm going to give them up. He clearly refreshed his  
24 recollection with them. We could assert a work product privilege as the State  
25 seems to think it has, but I'm willing to give them up.

1 THE COURT: Okay. Terrific.

2 So let's take two minutes and then we'll begin.

3 MR. ADAMS: Judge, one additional point is there had been pretrial  
4 litigation about the notes related to Anabel Espindola that the prosecution had  
5 with -- meetings with her, and the Court deemed them work product. We  
6 would just renew that at this point in time to make sure that the record's  
7 complete.

8 MR. DIGIACOMO: And I would take the position that when Mr.  
9 Wildemann hits the stand any notes that he made, once he hits the stand that I  
10 think they're entitled to -- I think that any notes that he made to the extent that  
11 the Court has those notes, they're entitled to them. Detective Wildemann  
12 didn't refresh it, but the statute's pretty clear that a statement of a witness and  
13 that is a statement of the witness about the subject matter he's going to testify  
14 to he's certainly can say he was a --

15 MR. GENTILE: I know. I just --

16 MR. DIGIACOMO: So I would say once he hits the stand that those  
17 notes are no longer work product. The work product privilege has been waived.  
18 So that would be the position. I don't know whether the -- if the Court still has  
19 them. I haven't seen them.

20 MR. GENTILE: We'd certainly like to see them, you know, before the  
21 State rests because we may want to call this person.

22 THE COURT: Yeah. Here's the deal on the notes. They were made a  
23 Court's exhibit which we're still looking for, candidly. So if Detective  
24 Wildemann needs to be recalled, he can be recalled or Anabel --

25 MR. GENTILE: I'm assuming that he kept a copy of his notes. He

1 wouldn't have just --

2 THE COURT: Yeah.

3 MR. GENTILE: -- he may have given you his original, but I can't imagine  
4 he wouldn't have kept a copy.

5 MR. DIGIACOMO: He has his whole case file.

6 THE COURT: Yeah, he should have them in his case file. So then it's  
7 not an issue. And like I said, Dominic, I remember it exact -- Mr. Gentile, I  
8 remember it exactly. It was one page, legal page, and it was -- I mean, I can  
9 almost visualize what it was.

10 MR. GENTILE: Things happen, and I understand that, and I'm not -- I  
11 mean, you know, at some point in time, God forbid, if there's an appellate issue  
12 in this case we may have a problem. But if the man has a copy of it --

13 THE COURT: There's no problem.

14 MR. GENTILE: -- then it moots the problem.

15 THE COURT: Well, the reason I said it was one legal page is because if  
16 he has something different, that's not what the Court saw.

17 MR. DIGIACOMO: I'm not even sure that he took notes.

18 THE COURT: Or if he only has one page I don't want --

19 MR. DIGIACOMO: I think Detective --

20 THE COURT: -- I don't want Mr. Gentile to think there could be a  
21 second page or whatever.

22 (Jury entering 9:24 a.m.)

23 THE COURT: All right. Court is now back in session. The record will  
24 reflect the presence of the State through the Deputy District Attorneys, the  
25 presence of the defendants and their counsel, the officers of the court and the

1 members of the jury.

2 Would the State please call their next witness.

3 MR. PESCI: The State calls Fred Boyd.

4 THE COURT: Mr. Boyd, just come on up here, please, sir, to the witness  
5 stand and remain standing and facing our court clerk who will administer the  
6 oath to you.

7 FRED BOYD

8 Having been called as a witness and being first duly sworn testified as follows:

9 THE CLERK: Please be seated. Please state and spell your name.

10 THE WITNESS: My name is Fred Boyd, B-o-y-d.

11 MR. PESCI: May I proceed, Your Honor?

12 THE COURT: Yes, please.

13 DIRECT EXAMINATION

14 BY MR. PESCI:

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

16 A My job title is forensic scientist. My specialty is latent print  
17 identification. I work for the Las Vegas Metropolitan Police Department  
18 assigned to the crime laboratory.

19 Q What do you do in that position?

20 A I'm a latent print examiner.

21 Q What does a latent print examiner do?

22 A We evaluate latent prints that are submitted to us by crime scene  
23 personnel or those fingerprints that we process at the lab ourselves. We  
24 evaluate those latent prints and determine if they are suitable for comparison  
25 purposes. If they are, we call those of value for comparison or value for

1 identification, and then we compare those prints to fingerprints of known  
2 individuals of regular ink prints, and then we render our conclusion based on our  
3 examination of the latent print to the known print.

4 Q Do you have any specialized training and experience in this area?

5 A Yes, sir, I do.

6 Q Could you briefly describe that for the ladies and gentlemen of the  
7 jury.

8 A I've been associated with the latent print discipline for a little over  
9 40 years. The majority of my training was with the United States Army where I  
10 went through their two-year resident instruction. I retired from the United  
11 States Army in 1988 as a Chief Warrant Officer specializing in latent print  
12 identification.

13 From there I went to the Brower County Sheriff's Office in Ft.  
14 Lauderdale, Florida, eight and a half years there as a full-time latent print  
15 examiner. And I've been here with Metro for -- this is my 13<sup>th</sup> year.

16 Q You said for 13 years with Metro?

17 A Yes, sir.

18 Q Have you testified in this capacity here in Clark County?

19 A Yes, sir, I have.

20 Q If you were to guesstimate, about how many times?

21 A Well over a hundred times.

22 Q And that's here in Clark County?

23 A Yes, sir.

24 Q Have you testified other times in other locations?

25 A Yes, I have.

1 Q Could you briefly describe the concept of fingerprints as far as  
2 their uniqueness to a particular individual.

3 A Fingerprints are formed during the third or fourth prenatal month.  
4 They stay constant to a person throughout their lives. They don't change as far  
5 as their patterns. Fingerprints do change only if there is a damage scar where  
6 the second layer of skin might be damaged, which is called the dermis. Then  
7 you would have a permanent scar. They remain constant throughout life to  
8 decomposition after death, and that's why they're so unique.

9 Q Let me ask you this. Does every time somebody touches  
10 something is a print left behind necessarily?

11 A Not all the time, no.

12 Q What affects whether a print may or may not be left behind?

13 A Well, first and most obvious is if you're wearing a glove or  
14 something like that you won't have any of the ridge structure adhering to a  
15 surface. But if there is no medium in between the skin and the surface, then  
16 you may not have a print.

17 If I go like that (demonstrating), well, there might be a little maybe a  
18 smudge or a little mark indicating that there might have been a touch. But we  
19 are concerned with the ridge detail that you have on your finger. Most  
20 commonly ridge detail is left on a piece of evidence by way of perspiration, the  
21 water, the moisture. When you touch an item and hold it down, your fingers  
22 down, that print's going to stay on top of the surface if it's a nonporous  
23 surface.

24 If it's a porous surface and if you handle it, then the perspiration  
25 that may absorb inside the surface, and you usually cannot see this print. This

1 is where the term latent comes in, latent meaning not visible. When you cannot  
2 see the print, then you have to make it visible by some sort of fingerprint  
3 powder, processing technique or possibly on a porous surface such as a paper-  
4 type product you may have to use a chemical technique to make that print  
5 visible.

6 Q And in the process of your job, do you sometimes receive latent  
7 prints from crime scene analysts?

8 A Yes, we do.

9 Q On occasions do you actually perform some of the recovery of  
10 prints processing yourself?

11 A Yes, we do.

12 Q Now, you talked a minute ago about making comparison. How is  
13 it that you go about making comparison? What do you compare?

14 A Well, we evaluate, as I mentioned a few moments ago, we  
15 evaluate the latent prints and the known prints, and we evaluate the prints for  
16 various levels of detail in that print, which there are three levels of detail. You  
17 have the basic pattern type, which is your level 1.

18 Your level 2 is your ridge paths, meaning if you have a ridge that  
19 will go up and stop or you have a ridge that will go up and break into two  
20 ridges, such as a fork-type impression or mark, these are the features that we  
21 look for, points of identification.

22 Well, we do refer to the points of identification this is what we  
23 usually look for, but we have different terms now for these features. We call  
24 them levels of detail. I like to call them they're points of consideration that we  
25 look at. And when we find these points of consideration in the same relative

1 relationship both in the question impression, the known impression, the latent  
2 impression from the crime scene evidence and the known impression that we're  
3 looking at of the ink print, then we effect our identification by finding these  
4 points in the same relative position to one another without any unexplained  
5 differences.

6 Q Let me ask you this. In the many cases that you have worked, is  
7 it common for you to receive some latents that are not of sufficient quality to  
8 make this comparison?

9 A Yes, sir.

10 Q Would you say it's more common to have them not be of sufficient  
11 quality or more common for there to be many with sufficient quality?

12 A Well, each case stands alone, and it's about half and half I would  
13 have to say. Each case stands alone. Each impression stands alone. What  
14 I'm -- based on my experience, I might find a print of value for identification  
15 where maybe somebody with less experience might not consider that print to  
16 be of value for identification.

17 Q Let me put it to you this way, and I apologize. Let's say I touch  
18 this bar here, is it possible for you to recover latent prints and not make me as a  
19 comparison on that?

20 A Yes, sir.

21 Q Can outside influence affect whether that could happen?

22 A Yes, sir.

23 Q Weather? Rain?

24 A Yes, sir.

25 Q What about how oily my hands are?



1           A     Yes, sir.

2           Q     And also the material that I touch, if you -- you spoke of  
3 something porous. If I were to touch, let's say the backing of my seat, is that  
4 less likely to produce a print as opposed to the surface on this wood?

5           A     The seat cushion would be a more difficult surface to obtain a  
6 fingerprint impression from.

7           Q     I think you testified that you have known prints that you compare  
8 the latent prints to?

9           A     Yes, sir.

10          Q     All right. And is it common in the ordinary course of business to  
11 have known prints of various individuals?

12          A     Yes, sir.

13          Q     Showing you State's Proposed Exhibits 175 through 180, I'm just  
14 asking if you recognize those?

15          A     Yes, sir, I do.

16          Q     Okay. And how do you recognize these?

17          A     I recognize these by my signature on each copy of the prints here.

18          Q     And were these the known prints that you were speaking of?

19          A     Yes, sir.

20          Q     Are these the known prints that you use to assist you in making  
21 your comparison in the particular case?

22          A     Yes, sir.

23               MR. PESCI: And, Judge, I'd move for the admission of State's 175  
24 through 180.

25               THE COURT: Any objection to 175 through 180?

1 MR. GENTILE: I'd just like to see them so that I could be sure which is  
2 which.

3 MR. PESCI: They were shown prior to us starting.

4 MR. GENTILE: Actually I didn't see them. Ms. Armeni did but --

5 MR. ADAMS: Objection to the commentary.

6 THE COURT: Mr. Arrascada and Mr. Adams, have you seen Exhibits  
7 175 through 180?

8 MR. ADAMS: We were handed exhibits; we'd like to see them again  
9 before they're introduced though. I think that's appropriate.

10 THE COURT: All right. Once Mr. Gentile's done looking at them you  
11 can look at them.

12 MR. ADAMS: Thank you.

13 THE COURT: Mr. Pesci, while they're doing that is there anything else  
14 you can move on with Mr. Boyd?

15 MR. PESCI: Sure.

16 BY MR. PESCI:

17 Q The known prints that we're speaking of, were you given a list of  
18 people to obtain known prints from?

19 A Yes, sir, I was.

20 Q Were they people that you were supposed to make this  
21 comparison that you're talking about to?

22 A Yes, sir.

23 Q Okay. Now, in the process of doing that -- I've got 145, 146  
24 and --

25 Did you receive some latent print cards in this particular case?

1 A Yes, I did.

2 Q All right. Now, ladies and gentlemen, a long time ago you heard  
3 from Kristin Grammas, the crime scene analyst.

4 Did you receive some cards from her?

5 A Yes, I did.

6 Q Okay. And in the process of looking at those latent print cards,  
7 did you make some sort of analysis or comparison from those prints?

8 A Yes, I did.

9 Q Tell us about that.

10 A May I refer to my notes, please?

11 Q Would that refresh your recollection?

12 A Yes, sir.

13 Q Please do.

14 A I received --

15 Q It appears that we've cycled through now 175 through 180.

16 MR. PESCI: Again, the State's going to ask for the admission of 175  
17 through 180.

18 THE COURT: Mr. Gentile, do you have any objection to 175 through  
19 180?

20 MR. GENTILE: No.

21 THE COURT: Mr. Adams?

22 MR. ADAMS: No, ma'am.

23 THE COURT: All right. 175 through 180 will be admitted, and I'll make  
24 a note for the clerk.

25 MR. PESCI: Thank you, Judge.

1 (State's Exhibits 175 - 180 admitted.)

2 BY MR. PESCI:

3 Q Showing you State's 175. You've just spoken to us a little bit  
4 about detail. Let's just kind of hone in on this one right here, which is in the  
5 middle of row 2 of the three different rows on State's 175, which is Deangelo  
6 Carroll's. Could you explain a little bit to the jury what you mean by the detail.

7 A Well, when you have -- we talk about three levels of detail. The  
8 first level of detail is the basic pattern that we have. We have here a loop  
9 pattern where the ridge flow flows into a loop. This is a left slant loop. If it  
10 was flowing the other way it would be a back slant loop. This loop pattern is  
11 very common.

12 There are three basic types of fingerprint patterns, arch, loops and  
13 whirls. They're broken down basically on a percentagewise per person about  
14 55, 60 percent of the world population is found to have a loop type of pattern.  
15 The other type would be a whirl-type design of about 30, 35 percent, and the  
16 other would be an arch-type flow.

17 Q So is this some of the characteristics that you're looking at to  
18 make a comparison?

19 A Uh-huh.

20 Q Is that a yes?

21 A Yes.

22 Q And on 175 to 180, are these known prints, meaning this person  
23 you know made these fingerprints?

24 A Yes.

25 Q And in this case, 175 was to Deangelo Carroll; is that correct?

1 A Is that the one that's on here?

2 Q Is 175 Deangelo Carroll?

3 A Yes.

4 Q Is 176 the known prints of Kenneth Counts?

5 A Yes, it is.

6 Q Is 177 the known prints of Antonio William?

7 A Yes, it is.

8 Q Is 178 the known prints of Rontae Zone?

9 A Yes, it is.

10 Q Was 179 the known the prints of Mark Quaid?

11 A Yes, it is.

12 Q And was 180 the known prints of Timothy Hadland?

13 A Yes, sir.

14 Q Okay. And in your experience have you received in the past

15 fingerprints actually from the decedent, the person who's dead?

16 A Yes, sir.

17 Q Now showing you State's Proposed Exhibits 145, 146, and 156

18 and ask you if you recognize those?

19 A Yes, I do.

20 Q How do you recognize those?

21 A I recognize these by my mark on each one of these exhibits.

22 Q When you say your mark, what do you mean by that?

23 A I have -- these are latent fingerprint lists that were submitted by

24 Crime Scene Analyst Grammas and one by -- taken by Crime Scene Analyst

25 Smith, and when we evaluate the prints, when we do our inventory, we give

1 each one of these our own individual mark such as --

2 Q Let me stop you here for a second. Look at specifically 145. Did  
3 you put an individual mark of yourself on that one?

4 A Yes, I did.

5 Q Is this -- is this a photocopy of the actual latent print card?

6 A Yes, it is.

7 Q There appears to be a second page attached to this particular  
8 exhibit. What is that second page?

9 A The second page is a -- the back of the fingerprint lift.

10 Q And is this a fair and accurate copy of this particular latent print  
11 card?

12 A Yes, it is.

13 MR. PESCI: Move for the admission of 145.

14 THE COURT: Any objection to 145?

15 MR. GENTILE: No objection.

16 MR. ADAMS: No, ma'am.

17 THE COURT: All right. That will be admitted.

18 (State's Exhibit 145 admitted.)

19 BY MR. PESCI:

20 Q Then while we're at it, let's look at 146. Do you recognize that  
21 one?

22 A Yes, I recognize this by my mark which is FB 89.

23 Q Did you make a mark on State's 156 as well?

24 A Yes, I did. I recognize this. This bears my mark FB 95.

25 Q Do these also both have a second page?

1 A Yes, they do.

2 Q And what is the second page on these two? Is it the same as we  
3 had on 145?

4 A The second page is the reverse side of the card.

5 Q Are these fair and accurate copies of the actual latent print cards?

6 A Yes, sir, they are.

7 MR. PESCI: Move for the admission of 146 and 156.

8 THE COURT: Any objection to 146 and 156?

9 MR. GENTILE: No objection.

10 MR. ADAMS: No objection.

11 THE COURT: All right. Those will both be admitted.

12 (State's Exhibits 146 and 156 admitted.)

13 MR. PESCI: Let's keep those there and we'll come back to that.

14 BY MR. PESCI:

15 Q Did you also look at some latent print cards that have actually  
16 been brought to court? In this case were there some latent print cards that  
17 were brought to court previously?

18 A Yes, there was.

19 Q Okay. Showing you State's Proposed Exhibits 172, 173 and 174;  
20 do you recognize those?

21 A Yes, I do.

22 Q And how do you recognize those?

23 A I recognize these. These also bear my mark.

24 Q Are these the actual physical latent print cards -- the previous  
25 exhibits were photocopies of ones similar to these?

1 A Yes, sir, they are.

2 Q Okay. And are these the latent print cards from this particular  
3 case, the ones that we're looking at now?

4 A Yes, sir, they are.

5 MR. PESCI: Move for the admission of State's 172 through 174.

6 THE COURT: Any objection to 172 through 174?

7 MR. GENTILE: No objection.

8 MR. ADAMS: No objection.

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

10 (State's Exhibits 172 - 174 admitted.)

11 BY MR. PESCI:

12 Q Did you also look at some physical evidence? Did you analyze  
13 some physical evidence in this case?

14 A Yes, I did.

15 Q Specifically did you look at a hundred dollar bill?

16 A Yes, I did.

17 Q Showing you State's Proposed Exhibits 147 and 181; do you  
18 recognize State's 147?

19 A Yes, I do.

20 Q And how do you recognize that?

21 A I recognize this by my mark.

22 Q And is this a piece of evidence that's associated with this case?

23 A Yes, it is.

24 Q And would referring to your report reflect to you or show you  
25 where was it you received this particular one hundred dollar bill? Who you got



1 it from I should say?

2 A I received this from Crime Scene Analyst Renhardt.

3 MR. PESCI: Your Honor, we'd move for the admission of State's 147.

4 THE COURT: Any objection?

5 MR. ADAMS: I guess I'd like foundation on what day Renhardt got this.

6 THE COURT: Does it indicate what day it was processed?

7 MR. ADAMS: Whether it was the 19<sup>th</sup> or the 23<sup>rd</sup>.

8 BY MR. PESCI:

9 Q Mr. Boyd, do you know that offhand?

10 A If I may --

11 Q Would looking at your report refresh your recollection?

12 A If I look at my notes that would --

13 THE COURT: Refresh your memory?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Go ahead.

16 THE WITNESS: Thank you.

17 MR. PESCI: Thank you, Judge.

18 THE WITNESS: 5/23 of '05. It would be 5/23 of '05.

19 BY MR. PESCI:

20 Q Did you prepare a report in this case?

21 A Yes, I did.

22 Q And looking at page 1 of your particular report, do you detail  
23 certain evidence that you looked at?

24 A Yes.

25 Q Do you have a number that you associate with a specific piece of

1 evidence that you attribute to it?

2 A Yes.

3 Q Like for example, in general, the FMB, what is that that shows up  
4 on your report?

5 A The FMB 4 would be the fourth package that I received in this  
6 case.

7 Q Let me stop you. Is that what you attribute -- that's a number that  
8 you give to this piece of evidence that comes to you?

9 A Yes.

10 Q So you can track what you're doing?

11 A Right, or this will be -- FMB 4 will be the fourth package. There  
12 might be a lot of other items in that package, but the actual envelope itself will  
13 be FMB 4.

14 Q And so you associate FMB 4, and does the particular package also  
15 have some sort of identification from the crime scene analyst that brought it to  
16 the evidence vault?

17 A Yes.

18 Q And specifically focusing on FMB 4, was that a sealed package  
19 booked by Louise Renhardt?

20 A Yes, it was.

21 Q All right. And now does Ms. Renhardt have a personnel number or  
22 P number?

23 A Yes.

24 Q Does 5223 ring a bell to you?

25 A Yes, it does.

1 Q In your report, do you reference her P number and then have a  
2 second number, No. 19?

3 A Yes.

4 Q All right. Is that a number associated with Ms. Renhardt's booking  
5 that particular piece of evidence under her P number, and she gives it the  
6 number of 19, the 19<sup>th</sup> piece of evidence?

7 A That is correct.

8 Q Okay. And so the hundred dollar bill that we're speaking of now,  
9 is it associated with Ms. Renhardt's 19<sup>th</sup> piece of evidence?

10 A Yes, her -- yes. Usually her package that she books in, that would  
11 be her 19<sup>th</sup> package that she would book in.

12 Q Okay. And that package contained a hundred dollar bill?

13 A Yeah, and not only one hundred bill but other items too.

14 Q Right, but the hundred dollar bill that we're working on now, did  
15 that contain that?

16 A Yes.

17 Q All right. Do you know personally where that hundred dollar bill  
18 came from?

19 A No, sir, I don't.

20 Q But looking at that particular piece of evidence, do you -- did you  
21 perform some analysis on that, which is State's 147?

22 A Yes, I did.

23 Q And what did you do to that?

24 A The hundred dollar bill was previously processed chemically by  
25 Crime Scene Analyst Renhardt. She -- when she brought the money over, I

1 looked at it, and there was a fingerprint on the hundred dollar bill.

2 Q Did you analyze that fingerprint?

3 A Yes, I did.

4 Q Did you look for points of comparison?

5 A Yes, I did.

6 Q Okay. And showing you State's 181, do you recognize what  
7 State's 181 is?

8 A Yes.

9 Q And how do you recognize State's 181?

10 A 181 is a chart that I prepared outlining the fingerprint that I found  
11 on the hundred dollar bill.

12 Q The hundred dollar bill which we're referring to as State's 147?

13 A Yes.

14 Q Okay. Is that a fair and accurate depiction of both the hundred  
15 dollar bill in 147 and the known print and the comparison that you made in this  
16 case?

17 A Yes, it is.

18 MR. PESCI: Move for the admission of State's 181.

19 THE COURT: Any objection to 181?

20 MR. GENTILE: No, Your Honor. Well, wait. Let me see this for a  
21 second. I don't have 181 in my list over here so I need to see it.

22 THE COURT: Would you show that to Mr. Gentile, please.

23 MR. GENTILE: I probably have seen it I just didn't list it.

24 THE COURT: No objection?

25 MR. GENTILE: No objection.

1 THE COURT: All right. 181 is admitted.

2 (State's Exhibit 181 admitted.)

3 BY MR. PESCI:

4 Q Looking at 181, I want to use this one as kind of our example and  
5 then move it back into some other evidence. What did you do to make a  
6 comparison, and how does this particular piece of evidence show the jury how  
7 you go about it?

8 A Upon evaluating the hundred dollar bill, it was determined that the  
9 hundred dollar bill had a print that was of comparison value or value for  
10 identification, and at this time the fingerprint was photographed and scanned in.  
11 And then upon obtaining names of individuals to compare in this particular case  
12 then I did my comparison, and upon doing my comparison I was able to effect  
13 an identification on this one --

14 Q Let me stop you. On 181 on the bottom left-hand corner, what  
15 are we looking at here?

16 A These are -- the bottom left?

17 Q Right here, this particular one.

18 A Right in here?

19 Q Yes.

20 A Are we referring to the dots?

21 Q Well, no. This particular portion of your exhibit, is this the known  
22 print of Deangelo Carroll?

23 A Oh, okay. Yes. What I have here, the exhibit is the hundred dollar  
24 bill front and back. The back of the hundred dollar bill, this is the area of the  
25 impression that I found that I have squared off. I have an arrow going over to

1 the right and another square. This little bit enlargement of the print and this  
2 print is a purplish color, this is a chemical process that's used on paper  
3 products, and this was used here, and the bottom arrow going down points to  
4 little bit more enlargement of the known print that was on the hundred dollar  
5 bill, and this print is put into a gray scale.

6 When fingerprints are taken they're taken with black ink, and so to  
7 make it the same contrast as the fingerprints that we look at, we change the  
8 contrast, and the print on the left here is the finger that I was able to effect an  
9 identification with.

10 Q Okay. So did you make an identification of Deangelo Carroll on  
11 this particular hundred dollar bill?

12 A Yes, I did.

13 Q And this Exhibit 181 shows the process that you went through to  
14 make that identification?

15 A Yes.

16 Q Okay. Now, showing you State's Proposed Exhibit 171; do you  
17 recognize that?

18 A Yes, I do.

19 Q And how do you recognize that?

20 A I recognize this by my writing on the sheet.

21 Q Okay. And what is it?

22 A This is a -- this photograph depicts --

23 Q Does this photograph depict some of the latent print processing  
24 that you performed or others within the Metropolitan Police Department  
25 performed?

1 A That Crime Scene Analyst Renhardt performed.

2 Q Is this a fair and accurate depiction of that evidence as it was

3 tested by Crime Scene Analyst Renhardt?

4 A Yes.

5 MR. PESCI: Move for the admission of State's 171.

6 THE COURT: Any objection?

7 (No audible responses.)

8 THE COURT: All right. 171 is admitted.

9 (State's Exhibit 171 admitted.)

10 MR. PESCI: Okay. Any objection on 171?

11 THE COURT: I already admitted it.

12 MR. GENTILE: The problem is that I look at them and I forget to write

13 down the exhibit number. So when he goes up there I don't know what he's

14 talking about.

15 THE COURT: He's seeing 172 now?

16 MR. PESCI: No, we're looking at 171, Judge.

17 THE COURT: All right.

18 BY MR. PESCI:

19 Q Mr. Boyd, as we look at this here, are these certain pieces of

20 evidence that were recovered in this case and that you analyzed after they were

21 taken from the scene?

22 A Yes.

23 Q Okay. Showing you State's 91. You didn't respond out to E

24 Street, did you?

25 A No, I did not.

1 Q Okay. Now, looking at State's 171, was certain latent print  
2 processing done on these various pieces of evidence to see if latent prints could  
3 be recovered?

4 A Yes.

5 Q Did you then analyze or look at those latent prints that were  
6 recovered?

7 A Yes, I did.

8 Q Now, let's go back through specifically looking at State's 172,  
9 which is in evidence. Were you able to make an identification of anyone on  
10 State's 172?

11 A Yes, I was.

12 Q To whom?

13 A Identified Deangelo Carroll right ring finger.

14 Q Okay. And do you know where this latent print came from? Is  
15 there something on the card that tells you that?

16 A Yes.

17 Q Okay. Where did that latent print come from?

18 A It came from Item 29-6.

19 Q Okay. And does it have a print location explanation on this sticker  
20 at the top?

21 A Yes.

22 Q Where is it from?

23 A The marking by Crime Scene Analyst Renhardt says on front of  
24 Palomino VIP comp card on floor of family room, Item 29.

25 Q Okay. Is that some of the photos -- I mean, some of the items



1 that we just looked at in the photo?

2 A Yes.

3 Q Okay. So we'll keep that up. So Deangelo Carroll's fingerprint  
4 shows up on one item?

5 A On 29-6.

6 Q Say what that item is.

7 A It would be this item right here.

8 Q Now, showing you State's 173. Do you recognize that?

9 A Yes, I do.

10 Q Was an identification made on that particular latent print?

11 A Yes, there was.

12 Q And who was it made to?

13 A Identified the No. 6 finger which is the left thumb of Kenneth  
14 Counts.

15 Q And where did that print -- or latent print where was it recovered  
16 from?

17 A According to the label by Crime Scene Analyst Renhardt, on back  
18 of Palomino VIP comp card on floor of family room, Item 29.

19 Q Is Item 29 depicted in State's Exhibit 171?

20 A Yes, by marking on the back 29-1.

21 Q Okay. And which one is that?

22 A 29-1 would be this one right here.

23 Q If you can circle the other VIP card again that you already had.

24 A The other one was 29-6, I believe, that one.

25 Q Now, looking at State's 174, do you recognize that? Did you

1 make an identification on that one?

2 A Yes, I did.

3 Q To whom?

4 A This card by marking FB1 identified this. There were two  
5 fingerprints that were identified to the same individual, identified right thumb  
6 and also a left thumb to Mr. Kenneth Counts.

7 Q And where did that come from?

8 A The label on this particular card, on cigar box item 26 on family  
9 room floor.

10 Q Okay. Can you indicate that on State's 171, please?

11 A No.

12 Q You cannot? You don't see a cigar box? Do you see a cigar box  
13 in State's 171?

14 A Do I see a cigar box?

15 Q Yes.

16 A I'm confused. I don't see a cigar -- no, there's no cigar box here.

17 Q Okay. All right. Thanks.

18 Now, looking at State's 146, could you tell us that particular latent  
19 print where it came from?

20 A 146 is a copy of a fingerprint lift by Crime Scene Analyst Grammas  
21 from the interior side passenger side door window of a 1995 Chevrolet Astro  
22 van, Nevada license 363NKS.

23 Q Was an identification made by you?

24 A Yes, there was.

25 Q To whom?

1 A Identified a Mr. Rontae Zone.  
2 Q And where was the location on the Astro van?  
3 A On the interior side passenger side door window.  
4 Q Interior passenger side window?  
5 A Yes.  
6 Q Okay. State's 156, did you make an identification on that?  
7 A Yes, I did.  
8 Q To whom?  
9 A Identified a Mr. Mark Quaid, Q-u-a-i-d.  
10 Q Was he one of the names of the people that you were asked  
11 originally to look for? Or let me put it this way. Did you have known prints of  
12 Mark Quaid to compare them to?  
13 A He was not one of the original names. I believe this was one of  
14 the names that your office gave me to look at.  
15 Q Okay. Is he one of the known prints that you did compare with?  
16 A Yes.  
17 Q Okay. And that's in that pile we looked at already?  
18 A Yes.  
19 Q Okay. Where was Mark Quaid's fingerprint found?  
20 A This print here on the label by Crime Scene Analyst Smith, exterior  
21 rear cargo door on the 1995 Chevrolet Astro van.  
22 Q And then looking at State's 145, was an identification made on  
23 State's 145?  
24 A Yes, there was.  
25 Q To whom?

1 A Also to Rontae Zone.  
2 Q Rontae Zone?  
3 A Yes.  
4 Q And where was that fingerprint of Rontae Zone found?  
5 A This was found from the interior side passenger side door window  
6 of a 1995 Chevrolet Astro van.  
7 Q Now, in the course of your analyzing this different evidence, were  
8 you asked to look for prints of a Luis Hidalgo the second?  
9 MR. GENTILE: I don't think that person exists.  
10 THE COURT: Luis Hidalgo Junior?  
11 THE WITNESS: No, sir.  
12 BY MR. PESCI:  
13 Q Junior? Second?  
14 A A junior.  
15 Q And a Luis Hidalgo III?  
16 A And a senior.  
17 Q Okay. Were those submitted to you by homicide as far as the two  
18 individuals with the name Luis Hidalgo?  
19 A Yes.  
20 Q Were there certain numbers that were associated with those that  
21 let you know who they were?  
22 A Yes.  
23 Q Okay. Did you make comparisons using known prints of those  
24 individuals to the evidence that we just talked about?  
25 A Yes, I did.

1 Q Did you make any matches to either of those two Luis Hidalgos?

2 A No, I did not.

3 Q And you went through this evidence looking for those?

4 A Yes, I did.

5 Q Did you make a report where you specified the specific number  
6 unique to each Luis Hidalgo?

7 A Yes, sir, I did.

8 Q Would it refresh your recollection to look at that so we would  
9 know which number was associated with which Luis Hidalgo?

10 A Yes, sir.

11 Q Okay. Could you tell us the first number?

12 A Yes, if I may look at my notes here. A name on the request on the  
13 Luis Hidalgo Junior had an ID number of 1849634.

14 Q And then the other Luis Hidalgo that you looked, what was the  
15 other ID number?

16 A The other number of Luis Hidalgo, and this came in as a senior,  
17 1579522.

18 MR. PESCI: Pass the witness.

19 THE COURT: All right. Who would like to conduct cross-examination  
20 first?

21 MR. GENTILE: I'll do it. Let me print this out if I can.

22 THE COURT: All right.

23 CROSS-EXAMINATION

24 BY MR. GENTILE:

25 Q Mr. Boyd, how are you today?

1 A How are you, sir?

2 Q Good. When we're talking about known prints I think counsel has  
3 already said they can come from many sources; am I correct?

4 A Various sources, yes, sir.

5 Q Right. And for example, anybody here with a sheriff's card,  
6 anybody in Clark County with a sheriff's card has to be fingerprinted; am I  
7 correct?

8 A Yes, sir.

9 Q And so we probably have -- would it be fair to say that there are  
10 hundreds of thousands of prints available to you simply through the work card  
11 process?

12 A Yes, sir.

13 Q Okay. And then in addition to that -- and if you work in a liquor  
14 licensed establishment, you need a work card?

15 A Yes, sir.

16 Q Okay. In addition to that, sometimes you're supplied with prints  
17 that are taken at a jail, for example?

18 A Yes.

19 Q Or I need to get fingerprinted to become a lawyer, right?

20 A Yes, sir.

21 Q The Bar Association, you'd go to the Bar Association?

22 A I would assume you would, yes.

23 Q Okay. So there's nothing about the fact that a fingerprint is  
24 provided to you in terms of a known exemplar that would necessarily indicate  
25 that it came from having been arrested; is that fair to say?

1 A Yes.

2 Q Okay. Now, you talked a little bit about certain conditions that  
3 can either heighten or reduce the probability of a latent print being left on a  
4 surface?

5 A Yes, sir.

6 Q If it's a smooth surface such as those VIP cards, that's a pretty  
7 smooth surface; isn't it?

8 A Yes.

9 Q Okay. If it's a smooth surface and it's not smudged, that's the  
10 kind of a surface that you're likely to find a latent print on; fair to say?

11 A Yes.

12 Q Okay. Money's a little different though; money's porous?

13 A A little more difficult, yes, sir.

14 Q A little more difficult. Do you maintain or maybe -- I don't mean  
15 you. I'm using you in the plural, everybody that does what you do for a living,  
16 okay?

17 A Uh-huh.

18 Q Professional. Is there a data base or statistics that indicate the  
19 probability, just straight-up probability of finding a latent print on money?

20 A No.

21 Q Okay. But it is less -- it's a little more difficult than on a smooth  
22 surface like the VIP cards; am I correct?

23 A Yes, sir.

24 Q And certain conditions of the skin at the time that someone  
25 touches the money may heighten the likelihood of a latent print being left there;

1 am I correct?

2 A Yes, sir.

3 Q And one of those conditions is if somebody is perspiring heavily;  
4 am I correct?

5 A Yes, sir.

6 Q So if I am perspiring and I pick up a hundred dollar bill, then it's --  
7 there's a greater likelihood that I will leave a latent print on that bill than if my  
8 hands are dry?

9 A Yes.

10 Q Okay. Now, that doesn't necessarily mean that I won't leave a  
11 print if my hands are dry; am I correct?

12 A That is correct.

13 Q But the likelihood is greater --

14 A Yes.

15 Q -- if my hands are perspiring at the time, right?

16 A Yes, sir.

17 Q Okay. And your best estimate, what would be the likelihood, the  
18 greater likelihood be; can you give an example? Can you give us an estimate?

19 A Just speaking of money?

20 Q Money, yeah, a hundred dollar bill.

21 A Usually money is a difficult surface basically because money is  
22 usually put in a wallet, and there's sweat in the wallet. If you have a brand  
23 new bill and if money is -- if somebody handles a brand new bill, the length of  
24 time that the person would have handled the item, as you're touching an item,  
25 your perspiration, your body chemistry is still going, the likelihood of a print



1 being left on that will be maybe a little bit better.

2           The location of the print is a factor. You may find prints more up  
3 towards the end because when you go through money you're here. You  
4 wouldn't necessarily find prints maybe down here. Maybe if it's folded you  
5 might, but more commonly maybe up on top. It's very difficult to say. Newer  
6 bills, in my experience, it might be a little bit better for prints.

7           When they make money, they make money with various chemicals  
8 and stuff to make money last a long time. It's not like a piece of paper that you  
9 have in your wallet that the fiber's coming off and what not. They make  
10 money sometimes maybe fingerprint resistant if you want to say. It's protected  
11 from sweat and what not so money doesn't tear real easily.  
12 So in my estimate newer bill is good, old bills not so good.

13           In the fingerprint world and from my experience, leaving a print on a  
14 surface it's some you get, some you don't. The ones you think you're going to  
15 get you don't. The ones think you're going to get a print on you don't, and the  
16 ones that you don't think you're going to get something well, you do. It's all a  
17 crap shoot, if I may use that term. And it is very difficult to say.

18           Q     Okay. Well, let's talk about Exhibit 181. If I understood your  
19 direct examination, this is the only -- now, you examined a good deal of money;  
20 am I correct?

21           A     Yes.

22           Q     Like how many, five bills or something like that?

23           A     In this particular case?

24           Q     Yeah.

25           A     If I may look, there's a --

1 Q Sure, go right ahead.

2 A There's a whole lot of money that we looked at in this case. In my

3 FB4, the package that had this particular hundred dollar bill in there, there was

4 Item 36, which is a thousand dollars consisting of 10 one hundred dollar bills.

5 And then there was also a --

6 Q Wait, let me stop you. Where did that item come from?

7 A The --

8 Q Or from where did that item come?

9 A From where did it come from?

10 Q Yes.

11 A I don't rightly know.

12 Q Is it in your report where the --

13 A Well, it was in the package by Crime Scene Analyst Renhardt.

14 Q Right.

15 A So you're asking where did she get it?

16 Q Right. Where did she get it?

17 A I don't know if I have that. Let me double check. Just bear with

18 me, please. I don't have that written down. That would be --

19 Q You don't know?

20 A No.

21 Q Okay. And is this the only bill of those that you examined from

22 which you were able to identify a fingerprint?

23 A Yes, sir.

24 Q You were given known exemplars, and your records indicate that

25 one was the known exemplar of Luis Hidalgo Senior, and one was the known

1 exemplar of Luis Hidalgo Junior if my understanding is correct?

2 A Well, the names on the request had junior and senior, and it had  
3 the ID number. I pulled up the fingerprint cards based on the ID numbers.

4 Q Okay. So you don't know if they were accurately denominated  
5 junior and senior?

6 A No, I do not.

7 Q You just know that there were two people named Luis Hidalgo that  
8 you were tasked to retrieve known exemplars and compare them to the various  
9 items?

10 A Yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q Okay. And who was it that told you to retrieve Exhibit 177, Mr.  
14 Vantonio Williams or maybe it's William Vantonio?

15 A Mr. Vantonio Williams upon doing -- upon the examination of the  
16 names that we had to look at, we also looked at fingerprints that were not  
17 identified, and those not identified fingerprints that were of sufficient quality  
18 that we could put into our AFIS, that's A-F-I-S, automated fingerprint  
19 identification system, those fingerprints that met that quality that we could put  
20 into our computer data base we did, and a print from the 1995 Chevy Astro  
21 van, one was of AFIS quality. We put that in the computer and a match -- or a  
22 candidate list did come back, and we subsequently identified Mr. Vantonio  
23 William to this particular print by way of our AFIS computer data base. And  
24 that's where his name came from.

25 Q Thank you. So when you do what you do, you don't limit your

1 efforts to specific individuals that are requested of you; am I correct?

2 A Well, we -- we have certain -- not all the -- no.

3 Q No, I'm not correct or?

4 A Well, we do in respect if you give me a list of names to look at,  
5 hey, Fred, look at the people, I will look at these for you.

6 Q Right.

7 A But if during this investigation, if there are any prints that we can  
8 put into our data base and maybe come up with a candidate such as we did  
9 with Mr. Williams, well, we will do that, and this is our standard procedure now  
10 that we do.

11 Q I think you answered my question, which could have been done  
12 with a yes, but I think your answer was better.

13 A Thank you.

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

15 THE COURT: That's fine.

16 BY MR. GENTILE:

17 Q Now, you recovered the fingerprints of Deangelo Carroll on the  
18 money; am I correct?

19 A Yes, sir.

20 Q And you recovered the fingerprints of Deangelo Carroll and  
21 Kenneth Counts on the VIP cards; am I correct?

22 A Yes.

23 Q All right. And you didn't recover either Counts or Carroll anywhere  
24 else, if I understand you correctly?

25 A On any other piece of evidence you're asking?

1 Q Right.

2 A We did identify Mr. Counts on a business card that had the words,

3 "Scooter Guy."

4 Q Scooter Guy?

5 A (Witness nodded.)

6 Q Anywhere else?

7 A No, sir.

8 Q Mr. Pesci asked you about whether you saw a cigar box on Exhibit

9 171, and you said you didn't. I'm going to ask you a little different question.

10 Do you see that box of Optimo there on the left?

11 A Over here?

12 Q Excuse me. Do you see the Optimo on the left?

13 A Is this where you're referring?

14 Q Yes, that's what I'm referring to. Do you remember what that

15 was?

16 A Not the paper that -- I guess I stand corrected if this is the little

17 cigar box. I was -- in my mind, I apologize.

18 Q You had envisioned a box of cigars?

19 A Right.

20 Q I understand that. Now, if we can agree that that's a cigar box,

21 okay, or a box that either currently or once held cigars, peach flavored cigars

22 from the label on it, did you find a print on there?

23 A Did I find a print on here?

24 Q Right.

25 A There was a -- yes, there was a print that was lifted from there.

1 Q Were you able to identify it?  
2 A Yes.  
3 Q And whose was it?  
4 A That was Mr. Carroll's.  
5 Q Deangelo Carroll's. Do you know what a blunt is?  
6 A Correction. Mr. Counts.  
7 Q Mr. Counts. Do you know what a blunt is?  
8 A What a what?  
9 Q If I use the term blunt and I use it in relationship to something that  
10 can be smoked, do you know what it is?  
11 A I can visualize what I think it would mean.  
12 Q But you'd be speculating?  
13 A Yes.  
14 Q Okay. Well, we won't do that then.  
15 Among the people --  
16 MR. GENTILE: Nothing further. Thank you.  
17 THE COURT: All right. Mr. Adams, do you have any cross?  
18 MR. ADAMS: Yes, ma'am.  
19 CROSS-EXAMINATION  
20 BY MR. ADAMS:  
21 Q Mr. Boyd, let me ask you a handful of questions. I represent Luis  
22 Hidalgo III, who's sitting in the very back. You don't know as you sit here  
23 whether he's one of the two Luis Hidalgos that you checked the prints of?  
24 A Not right off, but I do have dates of births that were on the cards.  
25 Q All right. And what is the date of birth for the Luis Hidalgo II,

1 Second or Junior that you have listed?

2 A Bear with me one moment. The name of Luis Hidalgo Junior  
3 which came back to ID 1849634, the date of birth on those known prints is  
4 listed as 8/15 of '81.

5 Q And how old would that make someone born in 1981 today?

6 A Well, be 27, 28.

7 Q Under 30, correct?

8 A Yes.

9 Q And we can agree, no offense, Mr. H, we can agree that the first  
10 gentleman here is probably above 30?

11 A I would assume.

12 Q All right. And the guy in the back is under 30?

13 A I would assume.

14 Q All right. And the person who would be able to tell you what print  
15 was submitted to you for comparison would be the detective who made the  
16 request of you?

17 A These, I would assume that these -- yes.

18 Q All right. And that would be Detective Wildemann?

19 A Well, there were two requests that came in that bore the name  
20 junior and senior with these ID numbers by two different detectives.

21 Q And on your report you have requested by Detective Wildemann?

22 A Yes.

23 Q So Detective Wildemann may be able to tell us if that print that  
24 was submitted to you actually is the print from Luis Hidalgo III?

25 A I would -- yes.

1 Q All right. And of that print submitted for the under 30 Luis  
2 Hidalgo, who I believe is Luis Hidalgo III, that print was not found on any piece  
3 of forensics involved in this case at all, was it?

4 A I did not identify that person to any of the prints that we have.

5 Q Let me show you State's Exhibit 203, which is in evidence. Are  
6 you -- have you touched this bag at some point in time?

7 A No, sir.

8 Q That wasn't a bottle that -- or a bag that you examined or  
9 secured?

10 A Not me, sir, no, sir.

11 Q All right. Were you ever asked to see if you could identify prints  
12 off this bag?

13 A Not off the bag, off the items --

14 Q Off the item within the bag?

15 A There were some latent print lifts that were submitted that bore  
16 the description as we have here from the bottle.

17 Q Do you know what's in the bag?

18 A I would assume based on -- appears like a bottle and the label on  
19 the outside this one's a 750ml bottle, Tanqueray No. 10 distilled gin.

20 Q All right. Well, we've not been in that bottle either, and I think  
21 these jurors have been here a long time it might be time to pull out the liquor.

22 MR. ADAMS: Do you have a problem with us cutting this open?

23 MR. DIGIACOMO: Not at all.

24 MR. ADAMS: A little eye opener to get us going this morning.

25 THE WITNESS: Do we have any gloves?



1 THE COURT: Yeah, I was just -- you read my mind.

2 THE MARSHAL: There might be some gloves right behind you. Is there  
3 a box of gloves behind you?

4 THE WITNESS: Oh, yes, there is. Thank you.

5 BY MR. ADAMS:

6 Q And let me ask you, Mr. Boyd, because this is evidence that will  
7 be back in the jury room ultimately along with a box of gloves, I'm assuming  
8 you're not going to place gloves on to keep from putting prints on something,  
9 are you?

10 A I am putting gloves on to protect myself. This has been chemically  
11 processed by crime scene, and I don't know what technique they used. I would  
12 assume maybe superglue or maybe fingerprint powder. We do have fingerprint  
13 lifts that were taken from this particular item that I did compare.

14 Q All right. So based on your training, when something you don't  
15 know what is on a bottle or an item, you just wear the gloves?

16 A Well --

17 Q And that's what you'd encourage other people to do who may be  
18 handling this material later?

19 A Well, if it was -- if it was processed with superglue and fingerprint  
20 powder, that powder will be on there, and you're going to get this black powder  
21 all over you.

22 Q Now, it doesn't harm you, right; you'd just need to wash your  
23 hands and get it off of you?

24 A Well, it's very messy. However, if they would then maybe apply  
25 some dye stain to that superglue to maybe enhance those prints that might be

1 on there, you know, you're going to have fluorescent dye on your hands. So as  
2 a precautionary measure, I always like to wear gloves especially if it's  
3 something that I know that I did not -- if I packaged this, I know how I  
4 packaged it, and I could be a little bit safer.

5 THE COURT: So there's a safety element as well as just getting your  
6 hands dirty?

7 THE WITNESS: Yes.

8 Like I said, I have not seen this before.

9 BY MR. ADAMS:

10 Q The clerk asked you to make sure that you're not cutting through  
11 tape if at all possible.

12 A Right. I'm trying to do it as easy as I can here. I don't know how  
13 they packaged it inside. I hope there's not a -- they did put it inside of a plastic  
14 bag. I would assume that maybe I'm over protecting myself by these gloves  
15 since it is in a plastic bag. Do I need to take it out of the plastic bag?

16 Q Please.

17 A Okay.

18 THE WITNESS: Your Honor, if I may be permitted to take my coat off?

19 THE COURT: Oh, absolutely. That's fine.

20 THE WITNESS: Again, that's just another precautionary measure. If I  
21 may do this here that way if there's any powder it won't be flying over here.

22 BY MR. ADAMS:

23 Q And can you identify this bottle? Just tell us what the label on it  
24 is.

25 A No. 10, Tanqueray, T-a-n-g -- or q-u-e-r-a-y.

1 Q A bottle of Tanqueray gin No. 10?

2 A Right. That's distilled gin imported. There's a bar code on the  
3 back. It has a description of what it is.

4 Q And there's some smudge marks on that bottle, aren't there, on  
5 the -- here on the back side? If you look through up against the light, it doesn't  
6 appear that's a clean bottle?

7 A There are some smudge marks on here, and there's indications of  
8 some black fingerprint powder where fingerprint lifts were taken from this  
9 bottle.

10 Q And in fact fingerprint lifts were submitted to you, weren't they?

11 A Yes.

12 Q And that's part of Item 5, FMB5 was a sealed package booked by  
13 Renhardt containing a gin bottle with lifts 38 and 39?

14 A 38 and 39 there were -- if I may -- yes.

15 Q And neither lift 38 or 39 based on your expert opinion came from  
16 Little Lou Hidalgo there in the back of the room?

17 A That is correct.

18 Q So there's no forensic evidence that you're aware of that Little Lou  
19 Hidalgo ever held, touched this bottle or handed it to somebody?

20 A No.

21 Q And you're not aware what the content is in there, whether that's  
22 gin or a mixture of gin and rat poison, are you?

23 A I have no idea.

24 Q Okay. We're not asking you to do any taste test.

25 A I'd have you test first.

1 Q Let me ask you a little about money. You were given --

2 MR. ADAMS: And how would you like, Madam Clerk, how would you  
3 like me with the bags and the gin?

4 THE CLERK: I'm going to make the bag 203A, the gin 203B or --

5 THE COURT: Let's just mark the content -- what's the number of the  
6 exhibit?

7 THE CLERK: 203.

8 THE COURT: All right. So the gin back in the bag, the plastic bag will  
9 be 203A.

10 You can mark that as admitted.

11 (State's Exhibits 203 and 203A admitted.)

12 BY MR. ADAMS:

13 Q And, Mr. Boyd, you were given a lot of money to check out,  
14 weren't you --

15 A Yes.

16 Q -- in this case? You were given a stack of money that may relate  
17 to May the 19<sup>th</sup>, a stack of money that may relate to a search warrant on Mr.  
18 Counts' house, a stack of money that came from Deangelo Carroll on May the  
19 23<sup>rd</sup>, and a stack of money that came from Deangelo Carroll on May the 24<sup>th</sup>.  
20 Is that consistent that you were asked -- you were given four different groups  
21 of money to examine?

22 MR. PESCI: I apologize. I'm going to object as to the characterization  
23 as far as the dates when certain money came.

24 THE COURT: Well, if it's indicated on the impound, if he can tell.

25 MR. ADAMS: I'll rephrase.

1 BY MR. ADAMS:

2 Q You were given FMB1 which was a packet Item 25 in your report,  
3 a packet of 5 one hundred bills?

4 A Yes, sir.

5 Q You were given FMB 2, a packet of \$95 in US currency?

6 A Yes, sir.

7 Q You were given -- and these are separate packets given to you?

8 A Yes, sir, they were.

9 Q Packed differently in different plastic bags?

10 A Yes, sir.

11 Q All right. And then FMB4 was how much money?

12 A FMB4 consisted of two items, Item 36 and 37. Item 36 was a  
13 thousand dollars; that was 10 one hundred dollar bills, and Item 37; that was  
14 \$400 that was 20, twenty dollar bills.

15 Q And so -- in this FMB4 it was one packet with two separate  
16 amounts of money in there. So there would be two smaller baggies of money  
17 within this one larger bag?

18 A That is correct, sir.

19 Q And that would be consistent with somebody given 4 one hundred  
20 dollar bills and then coming back later and given a grand, right?

21 A I don't know the circumstances, but, yeah.

22 Q And then FMB8 there was more money?

23 A Yes, sir.

24 Q A fourth pile of money?

25 A Yes, sir.



1 one print that is still outstanding, and the label on that print card was the  
2 exterior plastic bag containing 9mm cartridges, and that was listed as Item 12A  
3 by Renhardt.

4 Q And that -- the 9mm cartridges were found where, Kenneth  
5 Counts' house?

6 A Let's see. The address on those lift cards was 1676 E Street.

7 Q And again those prints don't match either Mr. Hidalgo or his son?

8 A No.

9 Q If I understand you correctly, when you're looking at money for  
10 prints, it's a tough surface to get a print off of?

11 A Basically it is.

12 Q And you feel lucky to have gotten one in this situation? Well, not  
13 lucky but it's rare --

14 A Well, yes --

15 Q -- that you find one off money?

16 A Well, yeah.

17 Q And with the print you indicated that the more somebody sweats  
18 the newer the dollar or the newer the bill, the more likely you are to be able to  
19 get a print off of that?

20 A Well, with money you have a lot of contaminants. It's in the  
21 wallet and what not, and a lot of people handle it, and there's a lot of  
22 contamination on that money. And then when you touch it, you're touching a  
23 print over a lot of contamination and stuff. And so it's a, like I say, you're  
24 lucky when you do find a print on money.

25 Q And when you found Deangelo Carroll's print on the money, you

1 were unable to tell whether he put that print -- or that print was placed on there  
2 on May the 23<sup>rd</sup> or whether he might have placed that print on there on May  
3 19<sup>th</sup> and then put the money in his pocket?

4 A Unable to tell.

5 MR. ADAMS: Thank you very much.

6 THE COURT: All right. Redirect? And did we have any juror questions?

7 All right, Jeff, go retrieve the questions.

8 And, Mr. Pesci, why don't you start while Jeff's doing that.

9 MR. ADAMS: May I ask one more, please?

10 THE COURT: Sure.

11 MR. ADAMS: Thank you. And boy if I'm lucky it will be in anticipation  
12 of the juror question.

13 THE COURT: And can you move so that Jeff --

14 MR. ADAMS: Sure.

15 THE COURT: We'd be hard pressed if there was an emergency.

16 BY MR. ADAMS:

17 Q You would have attempted to run a print on any evidence  
18 submitted to you in this case, wouldn't you?

19 A Run a print?

20 Q Or you would have attempted to lift a print, compare a print if  
21 there had been whatever evidence the prosecution or the detective submitted to  
22 you and requested that you compare a print?

23 A Yes.

24 MR. ADAMS: That's it.

25 THE COURT: All right, Mr. Pesci, go ahead.



1 the directionality north, so some of my directions were -- as  
2 north are incorrect.

3 Q Okay. And you were able to determine that when  
4 you were looking at the photographs?

5 A Yes.

6 Q Okay. I'm also going to show you State's  
7 Proposed Exhibits 231, 232, and 233 and ask you -- I know  
8 they're printed not nearly as nicely -- do those appear to be  
9 photographs you took at Simone's?

10 A Yes.

11 MR. DIGIACOMO: I offer 112 to 133 and then 231  
12 through 233.

13 THE COURT: Any objection?

14 MR. ADAMS: We do, Your Honor.

15 MR. ARRASCADA: Yes, ma'am.

16 MR. ADAMS: The same objection to 117 to 123 that  
17 the Court ruled on last week.

18 May we approach?

19 THE COURT: Yeah, because --

20 (Off-record bench conference)

21 THE COURT: Exhibit 120, 118, and 119 are all  
22 admitted.

23 (State's Exhibits 118, 119, and 120 admitted.)

24 THE COURT: These are not admitted. I'll give these  
25 back to Denise.

1 (Pause in proceedings)

2 MR. DIGIACOMO: So you ruled on those three, Judge,

3 but what about --

4 THE COURT: Well, you took the other ones away.

5 MR. DIGIACOMO: I didn't take them away.

6 THE COURT: All right. Counsel, approach again.

7 (Off-record bench conference)

8 THE COURT: Deniece.

9 THE CLERK: Yes, Your Honor.

10 THE COURT: These are a little bit -- 115, 129, 130,

11 131, 132, 133 will all be admitted. 128 is admitted, 127, 126

12 and 116.

13 (Off-record bench conference)

14 THE COURT: 114, 113 --

15 THE CLERK: 113 --

16 THE COURT: -- all right, and 112 are in.

17 THE CLERK: 113 and 112.

18 THE COURT: Okay.

19 (State's Exhibits 112 through 116, and 126 through

20 133 admitted.)

21 BY MR. DIGIACOMO:

22 Q Okay. We've already heard testimony from

23 another witness about kind of a -- the front area of Simone's,

24 so I'm going to start basically where the pool table is.

25 MR. DIGIACOMO: Do you have my admitted --

1 THE COURT: I think I gave them all to you -- oh,  
2 the ones that were previously admitted.

3 MR. DIGIACOMO: Previously admitted.

4 BY MR. DIGIACOMO:

5 Q So let's back up a little bit here. Let's  
6 start with -- back up a little bit and start with State's  
7 Exhibit No. 106. What are we looking at?

8 A A ballistic vest laying on top of a pool table.

9 Q Is that a standard ballistic vest in the sense  
10 it's a bulletproof vest?

11 A Yes.

12 Q Okay. And then the next item in 109 -- well,  
13 first of all, is that a chair with a magazine on it that my  
14 finger's on?

15 A Yes, it is.

16 Q And then 109, is that a closeup of it?

17 A Yes, with a paper note on top of the magazine.

18 Q And you eventually collected those papers?

19 A Yes.

20 Q Did you go past the pool tables? State's  
21 Exhibit No. 111, what are we looking at?

22 A A hallway area which lead to a bedroom type  
23 room and some offices.

24 Q And Room No. 6 would have been the last one?

25 A Yes.

1           Q     I know the jury can't see it, but is there a  
2 door number on there?

3           A     Yes.

4           Q     What door number is it?

5           A     6.

6           Q     And as you come through the front door, State's  
7 Exhibit No. 114, what are we looking at?

8           A     This is a photograph taken from the entryway  
9 into that Room No. 6 and the carpet area is the entryway and  
10 the doorway to the left on the left side of the photograph is  
11 a doorway leading to a bathroom. And on the right side of the  
12 photograph, which is difficult to see, would be a closet and  
13 straight ahead towards the top of the photograph would be a  
14 bedroom area.

15          Q     You mentioned the bathroom. State's  
16 Exhibit No. 129, is that a photograph of the bathroom?

17          A     Yes.

18          Q     And in that particular bathroom, did you  
19 collect anything?

20          A     Yes.

21          Q     What'd you collect?

22          A     A burnt match, some burnt ashes and I believe a  
23 lighter.

24          Q     Why'd you collect some burnt ashes?

25          A     I believed it was from burned-up paper or some

1 sort of paper product.

2 Q Now, how many crime scenes have you been to in  
3 the course of your career?

4 A Thousands.

5 Q Okay. And what kind of training and experience  
6 do you have?

7 A Roughly 3,500 hours of training from the  
8 Federal Bureau of Investigation, the Las Vegas Metropolitan  
9 Police Department, the San Bernardino County Sheriff's  
10 Department, the Long Beach State University, the San  
11 Bernardino Fire and Sheriff's Academy, and other training  
12 institutes in areas of crime scene photography, crime scene  
13 investigation, crime scene reconstruction, bloodstain pattern  
14 interpretation, latent print processing, arson investigation,  
15 and related investigative techniques.

16 I am also -- was a training officer while I was  
17 employed for San Bernardino County Sheriff's and currently a  
18 training officer with Las Vegas Metro. I'm a certified senior  
19 crime scene analyst with the International Association of  
20 Identification and I'm -- I was a Nevada -- or a California  
21 post certified instructor and I'm currently a Nevada post  
22 certified instructor.

23 Q That was a longer answer than I was looking  
24 for. My basic question was how many cigarette ash and cigar  
25 butt ash have you seen in your career?

1 A Lots.

2 Q Okay. And did this appear to be consistent  
3 with that or some other substance?

4 A Some other substance.

5 Q State's Exhibit No. 116, what have we got?

6 A That's a photograph looking into the bedroom in  
7 Room No. 6, simply a desk area located within that bedroom  
8 area.

9 Q Within the search of 116, were there certain  
10 items of identification that helped you identify who the  
11 resident of 116 was?

12 A Yes.

13 Q 118, what are we looking at?

14 A A birth certificate from the county of Alameda  
15 and a Social Security card which beared the name of Luis  
16 Hidalgo, III.

17 Q Okay. And then is there a checkbook down there  
18 in the name of Luis Hidalgo, III?

19 A Yes.

20 Q And interestingly --

21 MR. GENTILE: Objection to the commentary.

22 THE COURT: Yeah, that's sustained.

23 BY MR. DIGIACOMO:

24 Q Read that.

25 A Yes.

1 Q What does it say?

2 A Don Dible -- or D-i-b-l-e and then a phone  
3 number.

4 Q Then State's Exhibit No. 119, were these found  
5 in the room?

6 A I don't recall specifically if they were found  
7 in that room or in an office.

8 Q Okay. Do you know what they are, at least?

9 A I believe they are savings bond applications.

10 Q Order forms for saving bonds?

11 A Yes.

12 Q State's Exhibit No. 126, do you see what the  
13 person in that photograph is holding?

14 A It's a notebook and in his left hand an  
15 envelope with saving bonds.

16 Q A closeup of 127, what have we got?

17 A It's a closer up view of the envelope held in  
18 the detective's hand. It's a \$500 savings bond that had the  
19 name Luis Hidalgo, III printed on it.

20 Q I'm going to show you a couple of other ones.  
21 This is State's Exhibit No. 231. It's a photograph of one of  
22 the other offices, correct?

23 A Yes. It's an office located in the back of the  
24 auto repair place.

25 Q So when you say generally the back area, where

1 are we talking about on Defense Exhibit No. C, generally?

2 A Where it says the word "office," next to  
3 No. 111.

4 Q 232, what's that?

5 A It's a photograph of a desk with a computer  
6 keyboard and telephone on top.

7 Q Can you tell us which office that one's in?

8 A I believe in the same general area of that  
9 office. There was also an office next to that one, but I  
10 believe that's from the area I just described.

11 Q 233?

12 A That's a computer. I'm not sure of that  
13 location.

14 Q How many offices were there in this building?

15 A Quite a few.

16 Q And you took photographs of all of them?

17 A Yes.

18 Q And this is another photograph of another one  
19 of the offices?

20 A Yes.

21 Q You also said you collected some items of  
22 evidence; is that correct?

23 A Yes.

24 Q One of the items you collected, was it a check  
25 out of one of the offices or did Detective Wildemann take



1 that? Do you recall?

2 A I don't recall.

3 Q This has already been admitted, but for  
4 purposes of the record, 200 I, is that an item you collected?

5 A Yes, it is.

6 Q Okay. And then if you were to open that, what  
7 would you expect to find in there?

8 A A torn white note with handwriting, from the  
9 chair by the pool table.

10 Q Okay. That note that we just saw, Maybe we're  
11 under surveils, keep your mouth shut?

12 A Yes.

13 Q I'm showing you what's been previously opened  
14 by stipulation of counsel as State's Proposed Exhibit No. 200.  
15 Do you recognize that?

16 A Yes, I do.

17 Q And what is it?

18 A It's a paper bag which contained a -- certain  
19 items of evidence.

20 Q I want to show you State's Exhibit No. 19. Can  
21 you tell us -- I'm sorry, State's Proposed Exhibit 200 K.  
22 It's your item 19; is that correct?

23 A Yes.

24 Q And based upon your impound there, what items  
25 should be in there?

1           A     Numerous savings bond forms.

2           Q     Now, is there some document that you create to  
3 tell us where Item 19 was located?

4           A     Yes.

5           Q     Do you have that with you?

6           A     Yes.

7           Q     Can you look at it and tell us where Item 19  
8 was specifically located.

9           Counsel, for the record, he's looking at his  
10 impound --

11          A     My report says the southeast floor adjacent to  
12 the desk in the bedroom of Room No. 6.

13          Q     Okay. So that's found in Room No. 6 as well?

14          A     Yes.

15          MR. DIGIACOMO: Move to admit 200 K.

16          MR. ADAMS: I'd like to see it.

17          MR. GENTILE: May I approach after he examines it?

18          MR. ADAMS: No objection.

19          MR. GENTILE: May we approach?

20          THE COURT: All right. Yes.

21                (Off-record bench conference)

22          THE CLERK: Is K admitted, Judge?

23          THE COURT: Yes.

24          THE CLERK: Thank you.

25                (State's Exhibit 200K admitted.)

1 BY MR. DIGIACOMO:

2 Q Showing you what's been marked as State's

3 Proposed Exhibit -- you're right, 201, do you recognize that?

4 A Yes, I do.

5 Q What is it?

6 A It is a paper bag which contains a notebook

7 with receipts and numerous U.S. savings bonds.

8 Q And where was that located?

9 A I'll need to review from my report.

10 Q Okay. Go ahead.

11 A On top of the northeast table in the bedroom in

12 Room No. 6.

13 Q Let me ask you this, sir: Are all the seals on

14 here yours?

15 A Yes, it appears to be.

16 Q That one down there too?

17 A No, that one is not mine.

18 Q Okay. So other than that seal, does it appear

19 to be in substantially the same or similar condition as when

20 you impounded it?

21 A Yes.

22 MR. DIGIACOMO: Move to admit 201.

23 THE COURT: Any objection other than -- any other

24 objection to 201?

25 MR. ADAMS: We'd like to see it.

1 MR. GENTILE: Same objection as I interposed as to  
2 200 --  
3 THE COURT: All right.  
4 MR. GENTILE: -- which I don't think is actually on  
5 the record at this point.  
6 THE COURT: It's not. So you would object on behalf  
7 of Mr. Hidalgo, Jr. to the admission of the exhibit against  
8 him; is that correct?  
9 MR. GENTILE: That is correct, as was 200.  
10 THE COURT: All right.  
11 MR. GENTILE: Actually 200 K.  
12 THE COURT: All right. At this point that's  
13 overruled.  
14 While they look at that exhibit, let's take another  
15 quick five-minute break, just five minutes.  
16 And ladies and gentlemen, once again, of course, the  
17 admonition is in place not to discuss the case or do anything  
18 relating to the case. Notepads in your chairs. Please exit  
19 through the double doors, just a quick five-minute break.  
20 (Court recessed at 6:06 p.m. until 6:12 p.m.)  
21 (Outside the presence of the jury.)  
22 (Off-record colloquy)  
23 THE MARSHAL: Judge, are you ready for the jury?  
24 THE COURT: Yes, bring them in.  
25 (Jury reconvened at 6:14 p.m.)

1 THE COURT: All right. Court is now back in  
2 session.

3 And Mr. DiGiacomo -- I believe it was  
4 Mr. DiGiacomo -- was conducting direct examination.

5 MR. DIGIACOMO: I think I offered 200 and then on  
6 the break I think we broke it open and now it's 201 --

7 THE CLERK: A and B.

8 MR. DIGIACOMO: -- A and B.

9 THE COURT: All right.

10 MR. DIGIACOMO: Move to admit.

11 THE COURT: Any objection to 200 A and B other than  
12 what's already been stated?

13 MR. ADAMS: Same objection.

14 THE COURT: I'm sorry. 200 A and B will be  
15 admitted.

16 MR. ADAMS: Relevance, Your Honor.

17 THE COURT: Overruled.

18 MR. GENTILE: Same objection as earlier stated, Your  
19 Honor.

20 THE COURT: All right.

21 MR. GENTILE: Request for a limine instruction.

22 THE COURT: All right. That will be denied at this  
23 point.

24 (State's Exhibits 200 A and B admitted.)

25 MR. DIGIACOMO: Pass the witness, Judge.

1 THE COURT: All right. Cross.

2 Mr. Gentile, any cross?

3 MR. GENTILE: Court's indulgence.

4 THE COURT: All right. Mr. Arrascada, any cross?

5 MR. ARRASCADA: It will be Mr. Adams.

6 THE COURT: All right.

7 MR. ADAMS: A lengthy and zealous cross, Your Honor.

8 MR. GENTILE: May I approach the witness?

9 THE COURT: Yes.

10 CROSS-EXAMINATION

11 BY MR. GENTILE:

12 Q I'm handing you Exhibit 200. I -- actually,  
13 you know, let me put it up here. If I understand you  
14 correctly, you're the person who recovered this exhibit?

15 A Yes.

16 Q And if I understand you correctly, it was near  
17 a pool table?

18 A Yes.

19 Q Okay. And was it this side up or was it this  
20 side up?

21 A I didn't originally find it so I don't recall.  
22 Actually, let me rephrase that. It was photographed as  
23 depicted as it was found. So it was face side up.

24 Q Face side up?

25 A Yes.

1 Q You took the photograph?  
2 A Yes.  
3 Q All right. And this area that this was  
4 recovered in, if I understand you correctly, what photograph  
5 number was it? Do you remember?  
6 A Do I remember? No.  
7 MS. ARMENI: It was 109.  
8 MR. GENTILE: Let me see if I can find it.  
9 MS. ARMENI: 109.  
10 MR. GENTILE: 109.  
11 THE CLERK: Could I have that manila envelope,  
12 please.  
13 BY MR. GENTILE:  
14 Q All right. So this photograph represents where  
15 the note was when you took the photograph of it?  
16 A Yes.  
17 Q So it was sitting on top of a magazine, right?  
18 A Correct.  
19 Q And the magazine was sitting on top of a stool?  
20 A Correct.  
21 Q Okay. And the stool was where?  
22 A Along the wall adjacent to the pool table.  
23 Q All right. We don't have an easel, but I just  
24 need you to come down here for a second. I won't have you  
25 down here for long.

1 THE MARSHAL: Did you need the easel?  
2 MR. GENTILE: No, it's not worth it.  
3 BY MR. GENTILE:  
4 Q I'm going to set this up on this desk over here  
5 and ask you to take this marker. Are you oriented to this  
6 chart yet?  
7 A Yes.  
8 Q Okay.  
9 THE COURT: You're blocking the jurors.  
10 MR. ADAMS: Some of the jurors would like to  
11 participate.  
12 BY MR. GENTILE:  
13 Q Could you please take this marker and write  
14 your initials where you took this photograph.  
15 A Where I took the photograph or the --  
16 THE COURT: I think the photograph on the monitor is  
17 what he's talking about.  
18 MR. GENTILE: The one -- yeah, 109.  
19 BY MR. GENTILE:  
20 Q So where the initials JS appear, there appears  
21 to be a wall?  
22 A Yes.  
23 Q And the stool that this magazine was on and the  
24 magazine that this document was on was on top of that stool  
25 against that wall?



1           A     Yes.

2           Q     Now, did this appear to you -- of course, when  
3 you took the photographs, this place was -- had basically been  
4 cordoned off, it had been secured?

5           A     Yes.

6           Q     All right. So there wasn't any business being  
7 conducted by the auto body shop while you were?

8           A     Right.

9           Q     But did it appear to you that where this pool  
10 table -- where this stool was, excuse me, was a public area?

11          A     No.

12          Q     It did not?

13          A     No.

14          Q     All right. And when you say -- so when I say  
15 public area, I mean, was it accessible to at least the  
16 employees of Simone's?

17          A     That would be my opinion, yes.

18          Q     So it would be accessible to the employees but  
19 perhaps not the public at large?

20          A     The public would have to enter some doors and,  
21 to me, it was in an area for the employees.

22          Q     All right. But you don't know whether the  
23 public, while waiting to pick up a car, was invited to play  
24 pool in that area?

25          A     I would not know that.

1 Q Okay.

2 MR. GENTILE: Nothing further.

3 THE COURT: Mr. Adams?

4 MR. ADAMS: Yes, ma'am.

5 THE COURT: Any questions?

6 MR. ADAMS: Yes, ma'am.

7 MR. GENTILE: It might be here.

8 THE COURT: It might be in this stack. No.

9 THE CLERK: Was it admitted?

10 THE COURT: It was admitted just in this last go

11 round.

12 CROSS-EXAMINATION

13 BY MR. ADAMS:

14 Q Mr. Smink, let me ask you this -- pardon me,

15 Judge.

16 THE COURT: No, that's all right.

17 BY MR. ADAMS:

18 Q Where is the front entrance to Simone's Auto

19 Plaza?

20 A It would be in the lower left corner.

21 Q Do you mind coming down with me because I think

22 this is very hard to read from that far away.

23 Where's the front entrance?

24 A In the lower left corner.

25 Q And where is Room 6?

1           A     In the far back corner.

2           Q     All right. Come down here so everyone can see.

3     Please point out the front entrance.

4           A     Lower left.

5           Q     And where's Room 6?

6           A     Top left.

7           Q     All right. And what is here? What's in this

8     area in the lower left-hand area?

9           A     There's a reception area. There's a series of

10    sofas, tables. When you enter the front door, there's an

11    office to the right, a storage area in between, then another

12    office. Then there's a series of doors that were on a type of

13    spring that kept them closed, and then as you went through

14    those doors [inaudible], on the right side of the entryway, to

15    the left of this gaming area, there was a hallway that lead to

16    Room 6.

17          Q     All right. Let's go down and share this on the

18    other end. You come in here and what is this area that you

19    just described in the lower left-hand corner of diagram C?

20          A     To me, it would be what I would call a

21    reception area. There was a series of sofas, chairs, tables,

22    magazines and such. As you walk in, to the right there was

23    two offices with a storage area in between. When you walk

24    into the left, there was a series -- or there were two doors

25    that were closed by -- by design with springs, and if you were

1 to enter through those doors, they'll close behind you and  
2 there would be a pool table area. And then towards the end of  
3 the hallway was Room No. 6.

4 Q Okay. Thank you very much.

5 Let me put two or three of the photos up on this  
6 contraption. Let's see if it works.

7 Do you remember -- this is State's 233. Do you  
8 remember this photograph?

9 A Yes, I remember the photograph.

10 Q All right. Let me show you State's 232. Did  
11 you also take this photograph of --

12 A Yes, I did.

13 Q -- of this desk with the computer monitor?

14 A And a keyboard and a telephone, yes.

15 Q And do you remember what room that was?

16 A No. I would need to see the series of  
17 photographs prior to that to give you an accurate location.

18 Q Did you testify on your direct examination that  
19 that was in Room 5, the room directly next to Room 6?

20 A I do not believe I did.

21 Q All right. What was in Room 5?

22 A I need to refer to my report.

23 Q All right. Go ahead.

24 A Room No. 5 was designed with an office, a desk  
25 and a computer.

1 Q All right. And how about Room 4?  
2 A Room 4 was set up as a storage room.  
3 Q All right. And do you have photographs of Room  
4 4?  
5 A Not with me, but they were taken, yes.  
6 Q Was that door locked?  
7 A No.  
8 Q What room was this in?  
9 MR. GENTILE: Counsel, can we have an exhibit  
10 number?  
11 MR. ADAMS: 231.  
12 THE WITNESS: This desk and computer was located in  
13 the office area in the back of the store.  
14 BY MR. ADAMS:  
15 Q Okay. Where would that be?  
16 A Where it says office.  
17 Q Office across -- directly across the hall from  
18 Room No. 6?  
19 A Correct.  
20 Q So there's a wide hallway back there and then  
21 directly across is another office area?  
22 A Yes.  
23 Q Let me put up State's Exhibit 118. And this  
24 was off the desk of Room 6?  
25 A On top of, yes.

1           Q     And Mr. DiGiacomo asked you about the name on  
2     there being some version of the name Don Dible?  
3           A     He asked me to pronounce it, but --  
4           Q     Right.  
5           A     Yes.  
6           Q     And you know Mr. Dible?  
7           A     No, I do not.  
8           Q     Did you take and seize that writing with the  
9     name Dible on it?  
10          A     I don't recall.  
11          Q     Was that ever submitted to Ms. Janseng Kelly to  
12     do a handwriting analysis?  
13          A     I have no idea.  
14          Q     So you don't know whether that was Mr. Hidalgo,  
15     III's handwriting, Anabel Espindola or someone else?  
16          A     I have no idea, no.  
17          Q     All right. But you were in the room and had  
18     access to the room?  
19          A     To the bedroom, yes.  
20          Q     And you could have taken that into custody?  
21          A     I could have, yes.  
22          Q     And you did not, as far as you know?  
23          A     As far as I know right now, correct.  
24     MR. ADAMS: Thank you.  
25     THE COURT: All right. Any redirect?

1 MR. DIGIACOMO: No, Judge.  
2 THE COURT: All right. Any juror questions?  
3 All right. Thank you for your testimony.  
4 THE WITNESS: Thank you.  
5 THE COURT: Please don't discuss your testimony with  
6 anyone else and you are excused at this time.  
7 State, who's your next witness?  
8 MR. PESCI: James Krylo.  
9 May I approach your clerk?  
10 THE COURT: All right. Sure.  
11 James Krylo, Jeff.  
12 Mr. Krylo, come on down to the witness stand,  
13 please, sir. Step those couple of steps and remain standing,  
14 facing our court clerk who's going to be administering the  
15 oath to you in just one moment here.  
16 JAMES KRYLO, STATE'S WITNESS, SWORN  
17 THE CLERK: Please be seated and -- and please state  
18 and spell your name.  
19 THE WITNESS: James Krylo, K-r-y-l-o.  
20 THE CLERK: Thank you.  
21 MR. PESCI: May I proceed, Judge?  
22 THE COURT: Yeah.  
23 MR. PESCI: Thanks.  
24 DIRECT EXAMINATION  
25 BY MR. PESCI:

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

2 A I'm a forensic scientist working in the  
3 firearms unit of the Las Vegas Metropolitan Police Department  
4 forensic lab.

5 Q What do you do in the firearms unit?

6 A Basically we look at firearms and tool mark  
7 related evidence, so we examine firearms, test fire firearms.  
8 We look at fire components of ammunition, bullets and  
9 cartridge cases. We do tool mark comparisons in screwdrivers,  
10 pliers, back to marks that they leave. We do serial number  
11 restorations on guns. We also do distance determinations  
12 based on gunshot residue patterns.

13 Q How long have you been doing that?

14 A A total, about 19 years now.

15 Q When you say total, was some of it before you  
16 were with Metro?

17 A Correct. I've been doing it for the -- for Las  
18 Vegas Metropolitan Police Department for a little over ten and  
19 a half years now.

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

22 A Yes, I do.

23 Q And could you briefly tell the ladies and  
24 gentlemen of the jury about that.

25 A Well, to begin with, I have a bachelor of



1 science degree in criminalistics, which is a degree basically  
2 in half criminal justice, half, you know, science type course  
3 work. I received my initial training in firearms  
4 identification with the sheriff's department in Orange County,  
5 California.

6 Since that initial training, I've attended about  
7 another 600 hours of training on this matter from different  
8 law enforcement agencies, forensic associations and firearm  
9 manufacturers.

10 Q Have you testified in this field regarding this  
11 evidence here in Clark County?

12 A Yes, I have.

13 Q If you were to guesstimate, how many times have  
14 you given firearm testimony before?

15 A If you include my testimonies in the state of  
16 California and the State of Washington and then here in  
17 Nevada, it's over 250 times now.

18 Q Directing your attention to the specific case  
19 that you're here to testify on, did you receive some evidence  
20 and did you perform some examination on that evidence?

21 A Yes, I did.

22 Q Showing you State's -- which has been  
23 previously admitted as State's Exhibit 134 and its contents,  
24 I'd ask you if you recognize what that is.

25 A Open it?

1 Q Yes, please.

2 A Yes, I do.

3 Q Okay. Now, do you recognize 134 being the  
4 envelope?

5 A Yes.

6 Q All right. And at the bottom is there a blue  
7 seal?

8 A Yes. If you look at the bottom of the  
9 envelope, you see a blue and white seal. That's the tape, the  
10 evidence tape, that I seal the package with. If you look at  
11 that tape, you'll see my initials, personnel number and the  
12 date that I sealed it.

13 Then also on the chain of custody line on the front  
14 of the label, you'll see my signature, personnel number, the  
15 date and time that I sealed that package.

16 And then if you look at the individual vials inside,  
17 again, you'll see the event number and my initials and  
18 personnel number and the package -- package and item number  
19 there.

20 Q And I think we have these as 134 A, B, and C;  
21 is that correct, sir?

22 A Yes.

23 Q All right. What analysis -- well, what are we  
24 looking at, 134 A, B, and C?

25 A These are bullet fragments.

1 Q Okay. For the ladies and gentlemen of the  
2 jury, some of them might know firearms very well, but those  
3 that don't, can you give us the anatomy of a cartridge which  
4 is also commonly referred to as a bullet?

5 A A cartridge is one single unfired round of  
6 ammunition and the cartridge has four basic parts. It has the  
7 cartridge case, which is kind of the container, and at one end  
8 of the cartridge case you have the primer. Inside the  
9 cartridge case, you have gunpowder, and then seated in the  
10 mouth of the cartridge case, the open end, is the bullet. And  
11 the bullet is the projectile that comes out of the gun.

12 Q So when you say A, B and C are fragments,  
13 fragments of what?

14 A Fragments of fired bullets.

15 Q Okay. Did you perform any analysis or any  
16 testing on 134 A, B, and C?

17 A Yes, I did.

18 Q What did you do?

19 A Basically I looked at them and examined them to  
20 determine caliber and then I also looked at them and compared  
21 them to each other to see if they've been fired from the same  
22 gun.

23 Q All right. When you looked at these three --  
24 first you spoke of caliber. What did you do to determine  
25 caliber and what was your conclusions as far as caliber of

1 these fragments?

2 A It's a fairly simple exam. It's just a visual  
3 exam. What do they look like? What are they made of? What  
4 are kind of the design characteristics of them? And then I  
5 can measure their diameters and measure their weights.

6 Q And when you did that in this case, did you  
7 come to a conclusion as far as the caliber of these fragments?

8 A Yes, I did.

9 Q What was that?

10 A I called these nominal .38 caliber.

11 Q Okay. What does that mean?

12 A Well, within this size of bullet there are  
13 several different actual calibers. The common ones that  
14 you've probably heard of would be the .38 special, the .357  
15 magnum, the .9 millimeter Luger. Those -- the bullets in  
16 those cartridges or those calibers are all very similar. So  
17 with a damaged bullet like this, you can't actually  
18 distinguish one from the other. So this would be in that  
19 family, that .38 caliber family, of bullets.

20 Q Okay. And within that .38 caliber family, what  
21 calibers are present in that family?

22 A Again, any -- the common ones are the .38  
23 Special, the .357 magnum, the .9 millimeter Luger, and then  
24 there are others, but those are the most common ones we see.

25 Q Okay. Give us a general definition of a

1 firearm.

2           A     A firearm basically is some type of action in a  
3 barrel by which you propel a bullet through the combustion of  
4 gunpowder.

5           Q     Can you explain the difference between a  
6 semiautomatic and a revolver as far as firearms go?

7           A     The basic difference is with a revolver you  
8 have a multichambered cylinder and the ammunition is loaded  
9 into that cylinder. As the gun is fired, that cylinder  
10 rotates so that the cylinder lines up with the barrel and then  
11 the bullet is fired out the gun.

12                So during firing with the revolver, the cartridge  
13 cases -- that's the fired cartridge cases -- stay in the gun.  
14 With a semiautomatic pistol, the cartridges are loaded in the  
15 gun, and as the gun is fired, those cartridge cases are  
16 automatically extracted and ejected from the gun.

17           Q     In this particular case, did you have any  
18 casings -- I'm sorry, casings submitted to you?

19           A     No.

20           Q     In looking at these particular fragments, and  
21 let's start with 134 A, as far as the condition of that  
22 particular fragment, was it conducive to you making a lot of  
23 analysis?

24           A     Not on 134 A. 134 A is just a small fragment  
25 of a bullet jacket.

1           Bullets are -- a lot of times are -- have two basic  
2 parts. There's an outer part called the jacket, and then  
3 inside the jacket is called the core. And it's not uncommon  
4 for when a bullet impacts something for the core and the  
5 jacket to separate or to fragment. So 134 A is just a  
6 fragment, a small piece of a bullet jacket.

7           Q     How about 134 B and C, were they in a different  
8 condition such that you could analyze them better?

9           A     134 B and 134 C contain fragments of bullet  
10 cores, the inner part, and also the outer part, the bullet  
11 jacket. So there's enough material there for me to actually  
12 do an analysis on.

13          Q     And did you do an analysis in this case?

14          A     Yes, I did.

15          Q     And looking at those two fragments, 134 B and  
16 C, what conclusions did you come to after the analysis?

17          A     Well, again, after determining caliber, then I  
18 used a comparison microscope to actually look at these two  
19 objects, the two jackets, side by side. And what I looked for  
20 were the rifling impressions that are on those bullets, that  
21 are imparted on that bullet as it passed down the barrel of  
22 the firearm.

23                So I compared the rifling impressions on 134 B to  
24 the rifling impressions on 134 C, and by doing that, I was  
25 able to identify both of them as having been fired from the

1 same gun.

2 Q Can you do that without even having the  
3 specific firearm that fired those fragments that you had?

4 A Yes, I can.

5 Q And how is it that you can do that?

6 A Again, I'm looking for the marks that are left  
7 on that bullet jacket as it went down the barrel. So I look  
8 at one bullet jacket, compare it to the other, look for the  
9 agreement of the microscopic marks that were left on those two  
10 bullet jackets as they went down the barrel.

11 Q And these characteristics that you're speaking  
12 of, are they more indicative of a revolver or a semiautomatic?

13 A Well, the rifling characteristics are not  
14 really indicative of either. It's actually the design  
15 characteristics of these two bullet jackets that would tend to  
16 lead more towards a revolver than a semiautomatic.

17 Q All right. So the design characteristics of  
18 these fragments then lead you to that?

19 A Correct.

20 Q Okay. So is it your opinion, then, that these  
21 seem to be more aligned with something that would have been  
22 shot by a revolver?

23 A Correct.

24 Q And I think you testified earlier that when a  
25 revolver is shot, a cartridge case is not expended.

1 A Correct.

2 Q And you had no casings in this particular case?

3 A None were submitted to me, right.

4 Q Now, did you also do some analysis of some  
5 firearms that were submitted to you in this case?

6 A Yes, I did.

7 Q Did you prepare a report in anticipation of  
8 testifying in this case?

9 A Well, I prepared a report. Basically, we  
10 always prepare a report whether we testify or not.

11 Q Okay. Sorry. That was poorly stated.  
12 And in that report, did you summarize the testing  
13 that you did of a couple of firearms?

14 A Yes, I did.

15 Q And could you tell the ladies and gentlemen of  
16 the jury the firearms that you analyzed.

17 A I examined two Smith and Wesson revolvers. One  
18 was a -- the caliber's 38 S and W, the serial number was  
19 638751. The other Smith and Wesson revolver was a .38 Special  
20 with serial number J609592.

21 Q Okay. And is it safe to say that you don't  
22 respond to scenes?

23 A Very seldom.

24 Q Okay. However, when an document or an item  
25 comes to you, will it be labeled as far as where it came from



1 at a specific scene?

2 A Yes.

3 Q All right. And one of the firearms, did it  
4 come to you from 1677 E Street?

5 A Yes.

6 Q And another one, did it come from 6770 South  
7 Bermuda?

8 A Yes.

9 Q All right. And going back, the fragments that  
10 you received, had they come from the Clark County Coroner's  
11 office?

12 A Yes.

13 Q All right. Now, let's go to the first revolver  
14 that you just spoke of. Which one did that come from?

15 A The first one was from the 1677 E Street.

16 Q What did you find out about that revolver?

17 A It was functional, but I eliminated it as  
18 having fired these bullet fragments.

19 Q What do you mean by that?

20 A These bullet fragments were not fired from that  
21 revolver.

22 Q All right. And how did you do that?

23 A Pretty simple in this particular case. We look  
24 at the rifling that's in the barrel. It's made up of what we  
25 call lands and grooves. And actually it looks like a spiral.

1 It's got these spiraling grooves in the barrel and the groove  
2 is just that. It's a cut-out portion. The land is the raised  
3 area between two grooves.

4 Different manufacturers put different numbers of  
5 lands and grooves in a barrel. Sometimes they twist to the  
6 right, sometimes they twist to the left.

7 The bullet fragments 134 A, 134 -- I mean, 134 B and  
8 134 C were fired from a gun that had six lands and grooves  
9 right twist. The Smith and Wesson revolver was five lands and  
10 grooves right twist. So on that -- those characteristics, you  
11 would eliminate that revolver.

12 Q Okay. The Smith and Wesson .38 Special  
13 revolver you got from 6770 Bermuda, did you do the same  
14 analysis?

15 A Yes.

16 Q What was your conclusion?

17 A Again, that -- these fragments were not fired  
18 from that revolver for the same reason, the different rifling  
19 characteristics.

20 Q Okay. What can you tell us about NIBIN? What  
21 is NIBIN?

22 A NIBIN or NIBIN is an acronym for the National  
23 Integrated Ballistic Information Network.

24 Q And what is that?

25 A It's basically a computerized database of

1 firearm evidence and it's administered by the Bureau of  
2 Alcohol, Tobacco and Firearms.

3 Q And what gets put into this database?

4 A We currently enter cartridge cases into -- our  
5 NIBIN database.

6 Q When you say that, you're saying -- how do you  
7 put a cartridge into it? How does that work?

8 A It has a microscope and a camera built into the  
9 microscope and we take an image of the markings that are left  
10 on the cartridge case during the firing process, and  
11 specifically, we're looking at the breach face marks and the  
12 firing pin impression. We take a photo of those marks and  
13 enter those into the database.

14 Q In this particular case, did you have any  
15 cartridge to put into that database?

16 A No.

17 MR. PESCI: Court's indulgence.

18 BY MR. PESCI:

19 Q In the context of comparing bullets, or let's  
20 call it the fragments or cartridges, what is -- what are the  
21 difficulties that you run into as far as comparing bullets or  
22 fragments?

23 A The main issues that come up with comparing  
24 bullets is the damage. You know, the bullets are coming out  
25 of the gun probably in the neighborhood of, depending on the

1 caliber and cartridge, you know, handgun bullets like these,  
2 800 to 1200 feet per second, which is right around the speed  
3 of sound. So they're traveling really fast. And when they  
4 hit just about anything, that impact is going to cause damage  
5 and fragmentation to the bullet.

6 Q When you test fire a bullet, does it have  
7 damage and fragmentation that you're speaking of?

8 A The test firing that we do, we test fire into a  
9 large water tank. Water works really good to stop the bullets  
10 in basically an undamaged condition.

11 Q Okay. And in comparison to bullets, bullet  
12 fragments, how about comparing cartridge casings? Which one  
13 of the two is easier to make a comparison?

14 A Well, the comparison actually is -- one is not  
15 actually easier or harder than the other, because, again, I'm  
16 just using a microscope and comparing them side by side. What  
17 you find with a cartridge case is, first of all, you don't  
18 typically get as much damage to the cartridge case because  
19 even if it's ejected from the gun, it's not ejected anywhere  
20 near as fast as the bullet came out of the gun. And there are  
21 more parts of the gun that will leave marks on the cartridge  
22 case than on the bullet. So there's more to look at  
23 typically.

24 MR. PESCI: Pass the witness. Thanks.

25 THE COURT: All right. Cross.

1 MR. GENTILE: Just a moment.

2 CROSS-EXAMINATION

3 BY MR. GENTILE:

4 Q You referred to design characteristics but you  
5 didn't explain that term, so I'm going to ask you to do that.

6 A The characteristics that I'm looking at on a  
7 bullet that -- again, that would be more indicative of a  
8 revolver than a pistol bullet would be what's called a  
9 neurocan loop. It's a ring around the bullet that's got like  
10 a set of rings -- of striations on it.

11 If you look -- kind of like a -- when you have a  
12 cigarette lighter and the little wheel, it's got those little  
13 lines on it, the revolver bullets have a ring like that on  
14 them. Now, you typically don't see that on pistol bullets.

15 The other characteristic that I saw on these bullet  
16 jackets was that the top edge of the -- remember, the jacket  
17 is the outer part of the bullet -- the top edge of that is  
18 scalloped, and that's fairly characteristic of Remington's  
19 revolver bullets.

20 Q Mr. Krylo, is there a database, whether it be  
21 national or just kept by Metro or anything in between, by  
22 which you can compare bullets that you recover in one shooting  
23 with perhaps bullets that were recovered from another shooting  
24 to see if the same weapon fired them?

25 A The NIBIN database that we talked about earlier

1 has that capability.

2 Q All right. Well, right now you're only using  
3 it for cartridges, though?

4 A Correct, cartridge cases. Correct.

5 Q That's what you're entering?

6 A Yes.

7 Q Okay. But you can retrieve from that, if I  
8 understand you correctly, information about bullets as well?

9 A Yes.

10 Q All right. Only Metro is not, at this point in  
11 time, entering bullets information?

12 A Correct.

13 Q And when you enter the information with respect  
14 to bullets, and I don't mean you because you're not, is that  
15 also done photographically?

16 A Yes.

17 Q All right. Did you make any effort to retrieve  
18 from the NIBIN database any information with respect to  
19 whether the bullets that are represented as 134 A, B, and C  
20 matched up with bullets from another separate shooting to  
21 determine whether the gun that fired 134 A, B and C might have  
22 also fired bullets from another shooting?

23 A No, I did not. And you'd have to actually  
24 enter the images of these bullets to do that, and we didn't do  
25 that.

1           Q     All right. Is it that Metro doesn't have the  
2 capability of doing that?

3           A     It's -- we have the capability because we have  
4 the database. It's a time/staffing type deal -- factor, you  
5 know, really.

6           Q     Okay. Were you informed by anyone with respect  
7 to the work that you did in this case that there was  
8 information in possession of the Las Vegas Metropolitan Police  
9 Department that the bullets that you have before you, 134 A,  
10 B, and C, may have been fired from a gun that was also used in  
11 another separate shooting?

12          A     No. And if we had that gun, the easiest way to  
13 do that type of analysis would just be to compare it.

14          Q     I understand that. That's not what I asked  
15 you.

16          A     No, I don't have any knowledge of that.

17          Q     Okay. So, in other words, Detective Wildemann  
18 or Detective Vaccaro or Detective McGrath did not tell you  
19 that someone told them that the gun that was used to kill  
20 Mr. Hadland had also been used in a separate shooting?

21          A     No.

22          Q     Okay. Had you known that, what would you have  
23 done?

24          A     Well, the easy thing to do is even if you don't  
25 have the gun itself but if you have bullets from the other

1 shooting, you could just do a direct comparison.

2 Q Okay. And if they told you the information  
3 with respect to the specific case, that this other separate  
4 shooting allegedly used this same gun, would you -- and if  
5 that case took place here in Clark County, you would probably  
6 still have those bullets then, wouldn't you?

7 A I would expect so.

8 Q Okay. But you were never requested to do that?

9 A No. I don't have any notes to that effect, no.

10 Q Okay. Had you -- had you been made aware of  
11 that, that even without the gun, even if you still didn't have  
12 the gun, you didn't have it from the first shooting, you  
13 didn't have it from the second, you could have basically done  
14 a microscopic examination of all of them to make a  
15 determination as to whether it appeared that the lands and  
16 grooves on the gun matched on all of these bullets --

17 A Yes.

18 Q -- the markings?

19 A Yes.

20 MR. GENTILE: Nothing further.

21 THE COURT: Mr. Adams.

22 MR. ADAMS: I have no questions. Thank you.

23 THE COURT: Any redirect?

24 MR. DIGIACOMO: No, Judge.

25 THE COURT: Mr. Krylo, thank you for your testimony.



1 Please don't discuss your testimony with anyone else who may  
2 be a witness and you're excused, sir.

3 All right. Ladies and gentlemen, we're going to  
4 take our evening recess. We'll reconvene tomorrow morning at  
5 9:00 a.m. and we'll work until 7:00. I'm assuming that's not  
6 a problem for anyone. We're going to really try to get this  
7 done.

8 Once again, you're reminded that during the evening  
9 recess, you're not to discuss this case or any subject matter  
10 relating to the case with each other or anyone else. Do not  
11 read, watch, listen to reports or commentaries related to the  
12 trial. Do not do any independent research connected with the  
13 case. Please don't visit any of locations at issue. Also,  
14 please do not form or express an opinion on the trial until  
15 you begin deliberating with one another in the jury room.

16 Notepads in your chairs. Follow Jeff through the  
17 double doors. We'll see you all back here at 9:00 tomorrow  
18 morning.

19 (Court recessed at 6:52 p.m. until the following  
20 day, Tuesday, February 10, 2009, at 9:00 a.m.)

21

22

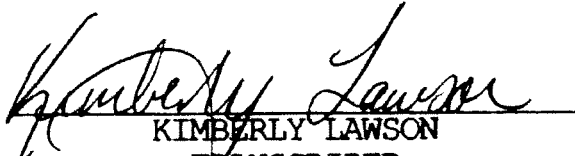
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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

  
KIMBERLY LAWSON  
TRANSCRIBER



**COPY**

DISTRICT COURT  
CLARK COUNTY, NEVADA

**FILED**

NOV 24 2009

*John L. Adams*  
CLERK OF COURT

STATE OF NEVADA,

Plaintiff,

vs.

LUIS ALONSO HIDALGO, aka  
LUIS ALONSO HIDALGO, III, and  
LUIS ALONSO HIDALGO, JR.,

Defendants.

CASE NO: C212667/C241394  
DEPT NO: XXI

**Transcript of  
Proceedings**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 11**

TUESDAY, FEBRUARY 10, 2009

**APPEARANCES:**

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PAOLA M. ARMENI, ESQ.

FOR LUIS ALONSO HIDALGO, III,:

JOHN L. ARRASCADA, ESQ.  
CHRISTOPHER ADAMS, ESQ.

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1 LAS VEGAS, CLARK COUNTY, NV., TUES., FEB. 10, 2009

2  
3 THE COURT: As a preliminary matter, can we stipulate on the  
4 fingerprint guy, Fred Boyd, or do they need to call him? It's up to you.

5 MR. GENTILE: No, I need to call him. I need to examine him a little bit,  
6 not a lot but --

7 THE COURT: Okay. No, that's fine. I just thought if there's no contest  
8 on the --

9 MR. GENTILE: Why? Is he not here?

10 THE COURT: No, he's here. I'm trying to speed this up.

11 THE COURT: What's the State's position on asking the jury if they've  
12 read anything?

13 MR. GENTILE: I don't think they can oppose it.

14 MR. DIGIACOMO: I don't know that I oppose it. I think that there's  
15 always a danger that they're going to want to run out and read to see what the  
16 heck they missed.

17 THE COURT: That's my fear.

18 MR. DIGIACOMO: So I'll submit it to the discretion of the Court.

19 MR. GENTILE: Judge, it's a bad habit that my client -- the newspaper  
20 says that my client's involved with, okay.

21 THE COURT: No, I can ask him. I mean, my -- candidly, I'm happy to  
22 ask them. My fear is the same as Mr. DiGiacomo's. For those people who  
23 didn't see it and don't know about it, now they're thinking, oh, my gosh,  
24 what's out there in the media that I don't know about.

25 MR. GENTILE: Then all you've got to do is tell them not to do it if

1 they've been listening to your admonishment.

2 But the thing about it, the problem is that if they were casually  
3 reading through the newspaper --

4 THE COURT: They saw the headline.

5 MR. GENTILE: -- they would have seen it because it was not on the  
6 front page so they would know not to look at it.

7 Are we on the record?

8 THE COURT: Yes.

9 MR. GENTILE: Your Honor, last time, I didn't bring it -- I will supplement  
10 the record. Last -- yesterday afternoon you kept out a piece of evidence that  
11 was proffered by the State, and as the -- as it should be in our system -- and as  
12 the Court knows I do a lot of First Amendment work -- it was reported today,  
13 and it was reported on the banner of the local section of the Las Vegas Review  
14 Journal, and the headline was to the effect of, Councilman Robinson from North  
15 Las Vegas accused of a bribe, words to that effect.

16 My concern is that the Court did rule that that was inadmissible. I  
17 am sure that of the 15 people on this jury, some of them subscribe to the  
18 Review Journal, and in casual reading of the newspaper this morning, it  
19 would -- there was no way it wouldn't have caught their eye. It was in the A  
20 section.

21 My further concern is that we ferret out at this point in time if  
22 anybody read it. If anybody indicates that they did read it, I think we need to  
23 take a voir dire examination of them because they have information now in the  
24 mix that will pollute the jury deliberations because the Court has ruled that it  
25 was inadmissible, and moreover, frankly, it was not really supported.

1 Councilman Robinson did say --

2 THE COURT: Denied it.

3 MR. PESCI: -- in the article that it was a lie, and the jury may wonder,  
4 well, who's telling the lie. Was it Ms. Espindola? Was it Mr. Hidalgo, and, you  
5 know, he's damned if he did and he's damned if he didn't. He's accused of  
6 bribing a councilman or saying that he bribed a councilman, either one.

7 THE COURT: Or the other option is Ms. Espindola is lying about the  
8 whole thing.

9 MR. GENTILE: That is also possible, which would be something that the  
10 State I'm sure would want to know what the juror might have read and how  
11 they took it.

12 MR. DIGIACOMO: Judge, my position has always been that when you  
13 ask the questions you let the (unintelligible) in the room. I'll submit it to the  
14 discretion of the Court, but I would ask the Court not to say, Did anybody read  
15 today's paper. I think you should ask, During the course of this trial, has  
16 anybody seen anything --

17 THE COURT: About this case in the --

18 MR. DIGIACOMO: -- in the paper related --

19 THE COURT: No, in the media. I'm not going to say in the paper.

20 MR. DIGIACOMO: You can say media, that's fine, but, I mean, I don't  
21 know that we want to direct it to today's paper.

22 THE COURT: Oh, gosh, no.

23 MR. GENTILE: How about this. How about this.

24 THE COURT: Okay. I just want to make sure that during the course  
25 of -- just kind of casual -- I just want to make sure that during the course of the

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A. HIDALGO, III

Appellant,

v.

STATE OF NEVADA,

Respondent.

---

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Feb 04 2011 08:41 a.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 VII**

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1 MR. GENTILE: Okay. Thank you.

2 THE COURT: -- what you guys want to do.

3 MR. PESCI: Judge, while they're thinking of that,  
4 we've talked to you about Sessions up at the bench. Sessions  
5 is 111  
6 Nev. --

7 THE COURT: I've got it right in front of me here,  
8 and I was trying to read it, but you guys all kept objecting  
9 so much I  
10 couldn't --

11 MR. PESCI: Okay. When you do read it, we'd ask you  
12 to look at the end of Headnote 4.

13 THE COURT: All right. Can we bring the jury in?

14 MR. DIGIACOMO: Well, they wanted to object to me  
15 getting into instances of bad character when they put a good  
16 character into evidence.

17 MR. GENTILE: Well, but, see --

18 THE COURT: That was why you approached the bench,  
19 which we've forgotten about in our --

20 MR. GENTILE: That's why I approached the bench. So  
21 don't bring them in yet, please. No, no. Please don't.  
22 Yes?

23 THE COURT: No. Don't, because we --

24 MR. GENTILE: Don't, yeah.

25 THE COURT: -- this is why you approached.

1 MR. GENTILE: Under 50.085(3) specific instances of  
2 the conduct of a witness for the purpose of attacking or  
3 supporting the witness's character for truthfulness you can go  
4 into it. Here what they're trying to do is they're trying to  
5 go into specific instances of misconduct of Luis Hidalgo, Jr.  
6 I don't know how you do that.

7 MR. DIGIACOMO: This is the question. "You've known  
8 Mr. H for many years and Mr. H did nothing to behave like Mr.  
9 Gillardi or Mr. Rizzolo." The statute says once the defense  
10 puts his good character in, we have an opportunity to rebut it  
11 with specific acts. He's talking about credibility. He's not  
12 talking about pure character evidence. And this is pure  
13 character evidence.

14 MR. GENTILE: We were talking about two specific  
15 people and his conduct was not like theirs.

16 MR. DIGIACOMO: Right.

17 MR. GENTILE: Now, if they've got something where he  
18 bribed a County commissioner --

19 THE COURT: Well, this isn't credibility evidence.

20 MR. DIGIACOMO: Wasn't quite a County commissioner.

21 THE COURT: This is character evidence, because he's  
22 -- without him testifying we're not interested in his  
23 credibility.

24 MR. DIGIACOMO: -- his credibility. This is  
25 character.



1 THE COURT: So it's not 50.085 evidence, which is --  
2 MR. GENTILE: No. He's not a witness.  
3 THE COURT: Right.  
4 MR. GENTILE: Right.  
5 THE COURT: It's not credibility. I thought that's  
6 what you said.  
7 MR. GENTILE: No. I -- I did say that. But he's not  
8 a witness, and his character is not in issue in this case.  
9 The only thing that I asked about was Gillardi or Rizzolo and  
10 that in her experience he's done nothing like either one of  
11 those two people. Now, if they've got something that says  
12 that he has, I suppose she could give testimony to that, okay.  
13 But unless it fits Gillardi and Rizzolo -- I didn't open up  
14 the door wide open. We only talked about two people. I  
15 didn't say, you've never heard of this man doing anything  
16 wrong in his life.  
17 MR. DIGIACOMO: You said he never did anything like  
18 Mr. Gillardi --  
19 MR. GENTILE: Or Mr. Rizzolo.  
20 MR. DIGIACOMO: -- or Mr. Rizzolo. And that's good  
21 character evidence.  
22 THE COURT: So bribing County -- I mean, there's a --  
23 see --  
24 MR. DIGIACOMO: Bribing County commissioners, having  
25 people beat up, all of that is fair game. All of it.

1 THE COURT: Okay. Well, what is it that you're going  
2 to ask her?

3 MR. DIGIACOMO: I'm going to say, are you aware of a  
4 situation similar to Mr. Gillardi. And I'm anticipating her  
5 answer is going to be yes, that Mr. Hidalgo gave inappropriate  
6 gifts to a City councilman to get his permits and that's what  
7 Tony Moore Leavitt's extortion basis was about.

8 MR. GENTILE: Well, then you've go to lay a --

9 MR. DIGIACOMO: I'm going to ask her, as well -- I'll  
10 -- I'll lay a foundation.

11 THE COURT: Well, that would be -- I mean, bribing  
12 City Council people and County commissioners is what Gillardi  
13 and Rizzolo did.

14 MR. DIGIACOMO: Well, that's not just it. Rizzolo  
15 also had somebody -- and it was said by Luis, had a customer  
16 beat up. And one of the things I was going to ask her is,  
17 were you aware of a situation involving Deangelo Carroll  
18 previously and Deangelo Carroll being requested by Mr. H to do  
19 anything and then who stopped it. Because she did. And it  
20 was not only Deangelo Carroll's statement, but it's as well is  
21 information that she has directly from Mr. H related to  
22 beating people. That's specifically what they went to as to  
23 Mr. Gillardi and Mr. Rizzolo. That's specifically what those  
24 questions --

25 THE COURT: Okay. Those two things might have opened

1 the door.

2 MR. GENTILE: Let me -- let me address those. First  
3 of all, there is a police report relating to this Moore --  
4 Tony Moore Leavitt situation.

5 THE COURT: Right.

6 MR. GENTILE: And I'd recommend to the Court that the  
7 Court at least read that report prior to making a decision.  
8 It's very short. We have it here, okay.

9 THE COURT: I'll read it if somebody gives it to me.

10 MR. GENTILE: I'll give it to you.

11 THE COURT: Well, maybe you can argue. Ms. Armeni  
12 can give it to me.

13 MR. GENTILE: And my concern here -- my concern here  
14 is that we are talking about multiple levels of hearsay.

15 THE COURT: Well, if it's hearsay, then -- how does  
16 she know about the Tony Moore Leavitt thing?

17 MR. DIGIACOMO: Mr. H.

18 THE COURT: If it's from Mr. H, then it's his  
19 admission. So she can -- it's not -- she can testify. Now,  
20 if it's based on some other scuttlebutt at the club or things  
21 like that, then clearly it's hearsay. But -- so you're going  
22 to have to lay a foundation at the outset, did Mr. H ever  
23 discuss with you something that was similar to -- or, you  
24 know, something --

25 MR. GENTILE: Well, I think the Court needs to make a

1 determination on the similarity before he should go into it at  
2 all.

3 THE COURT: Well, if it's gifts, were they illegal  
4 gifts to a City Council person, or was it like a -- you--

5 MR. DIGIACOMO: Inappropriate gifts.

6 THE COURT: Well, what does inappropriate mean? I  
7 mean, is that like --

8 MR. DIGIACOMO: She said that he'd come to the --  
9 comes to the business, he'd get like a \$500 loan with a wink,  
10 wink, you never have to pay it back. Tony Moore was  
11 threatening to expose Mr. H about that. They were advised by  
12 Mr. Gentile to go down and make a police report. But if you  
13 read that police report, what the basis of the extortion is,  
14 what information they were going to -- is nowhere in that  
15 report, because they never reported it, because they weren't  
16 supposed to tell them that part of the --

17 THE COURT: Who is the City Council person?

18 MR. DIGIACOMO: I believe the last name is Robinson.  
19 I don't know what the --

20 THE COURT: Oh. Willie Robinson?

21 MR. DIGIACOMO: Okay. I don't know.

22 MR. GENTILE: Then the --

23 THE COURT: I'm just aware that that's a North Las  
24 Vegas City Council person.

25 MR. GENTILE: Right.

1 THE COURT: I certainly wouldn't suspect or believe  
2 that he would be involved in that. I just -- I just know him  
3 to be a City Council person.

4 MR. GENTILE: All right. I'll just finish that  
5 first, and then we'll go to the second issue.

6 (Pause in the proceedings)

7 MR. GENTILE: And again I would suggest to the Court  
8 that 48.035 should be taken into consideration.

9 MR. DIGIACOMO: If he had never asked the question,  
10 it never comes in. But once he asks the question, how can  
11 48.035 say, oh, you can't follow up on that?

12 THE COURT: I mean, I think, you know -- I mean, you  
13 went into a lot of questioning about they were under federal  
14 indictment and their clubs are subject to forfeiture, or maybe  
15 Arrascada asked the forfeiture question --

16 MR. GENTILE: No. I did.

17 THE COURT: Somebody -- okay. Somebody --

18 MR. GENTILE: I asked that question.

19 THE COURT: -- talked about that. So, I mean, I  
20 think the things that form the basis for the criminal case  
21 against them certainly are the subject for redirect.

22 MR. GENTILE: Right. But the --

23 THE COURT: Now, anything beyond that I --

24 MR. GENTILE: But the prosecutor should be at least  
25 made to give a proffer to the Court as to what the testimony's

1 going to be.

2 THE COURT: I think he just did.

3 MR. GENTILE: I don't think that he did. I --

4 MR. DIGIACOMO: Didn't I just do that?

5 THE COURT: Well, I mean, he said that Mr. H told --

6 MR. GENTILE: Told Anabel that he made loans to  
7 Councilman Robinson not to be paid back? Is that what her  
8 testimony's going to be, that he told her that he made loans  
9 to Councilman Robinson not to be paid back?

10 MR. DIGIACOMO: I don't have the ability to --

11 MR. GENTILE: Because I'll tell you where we're  
12 going. Councilman Robinson will be in here as a witness.

13 MR. DIGIACOMO: That's fine. He can bring him in.

14 MR. GENTILE: This is exactly the issue that we ran  
15 into in San Diego in Gillardi --

16 THE COURT: Because -- and also --

17 MR. GENTILE: -- where there were a few local  
18 officials, some of whom were in this building, who were  
19 accused by Mr. Gillardi of having taken money from them, all  
20 right, and who were prepared to come in and rebut that, but  
21 the judge in his good sense decided that that was too far  
22 afield.

23 MR. DIGIACOMO: Well, then he probably shouldn't have  
24 asked the question.

25 MR. GENTILE: The question was asked there, as well.

1 But I can tell you that separate and apart from that you have  
2 this other issue, which is the beating up issue. All right.  
3 Now --

4 THE COURT: I mean, the beating up issue is more  
5 germane, because --

6 MR. GENTILE: It has nothing to do with a customer,  
7 though. It was the drug dealer that got his daughter hooked  
8 on meth. You want to go there?

9 MR. DIGIACOMO: Look, he requested from Deangelo  
10 Carroll what Deangelo Carroll --

11 MR. GENTILE: That might get a man a hero button.

12 MR. DIGIACOMO: -- Deangelo Carroll get the person  
13 who allegedly had his daughter strung out on drugs and beat  
14 him, and then Anabel Espindola called it off. Deangelo  
15 Carroll said it in his statement to the police. And not only  
16 that, but Anabel Espindola knows about it, and they kept  
17 asking the question about Rizzolo and the statement about  
18 Rizzolo even beating up a customer came in. How could that  
19 not be something we should deal with on redirect?

20 THE COURT: I mean, to me the beating up issue is  
21 more germane, because we're talking about whether or not she  
22 believed he was really going to beat up Timothy Hadland or do  
23 something, as opposed to maybe making gifts to the City  
24 Council, which is more just going to what Rizzolo and Gillardi  
25 were on trial for.

1 MR. ADAMS: Judge, we have a concern. I suspect the  
2 Court would give a limiting instruction --

3 THE COURT: Right.

4 MR. ADAMS: -- if they allowed either of that stuff  
5 in. We have a concern that the limiting instruction would not  
6 cure the prejudice that a son would have if such evidence is  
7 brought in against the father. So we don't know if a curative  
8 instruction would work if they start to bring in several  
9 witnesses who start talking about this type stuff. And that  
10 -- that is a concern that we have about that type of proffer  
11 that the government's making.

12 THE COURT: Well, I -- I don't see much risk of that,  
13 that somehow the jury is going to be prejudiced against the  
14 son if the father had somebody beat up and the son wasn't even  
15 aware of it or involved in it. I don't see a lot of prejudice  
16 with a limiting instruction going. I don't see much risk of  
17 that, quite candidly.

18 MR. GENTILE: All right. But let's -- let's remember  
19 that Rizzolo, according to the testimony in this record, did  
20 have someone beat up. The testimony here is going to be that  
21 it did not happen, that he got angry because somebody got his  
22 daughter hooked on drugs.

23 MR. DIGIACOMO: And he made the request, and Anabel  
24 called it off.

25 MR. PESCI: And it was to Deangelo.



1 MR. DIGIACOMO: And the request was made to Deangelo.

2 MR. ADAMS: And again, we're not in a position of  
3 being able to put Deangelo up. They have the access to  
4 Deangelo, and we're deprived of the opportunity to clarify the  
5 record and to show that this didn't happen.

6 THE COURT: All right. Well, and if it's not coming  
7 in as to your client, then I don't think that the concern  
8 about cross-examining Deangelo Carroll is really germane to  
9 your client, because it's not being offered as against your  
10 client.

11 And how does she -- how does Ms. Espindola know about  
12 this beating up incident?

13 MR. DIGIACOMO: I'm going to particularly ask her  
14 that, but she did tell me that she's the one who called  
15 Deangelo and told him not to do it. So -- I haven't asked her  
16 how she knew about the plan in the first place, but if I can't  
17 lay a foundation that Mr. H told him, then -- I can't lay a  
18 foundation with Mr. H, so --

19 THE COURT: All right. Well, here's my concern. I  
20 don't want you putting it out there in front of the jury in an  
21 attempt to lay a foundation and then being left with the  
22 impression, oh, there was something, he did have somebody beat  
23 up, if she can't testify about it.

24 MR. DIGIACOMO: That's fine. I'm going to lay the  
25 foundation without --

1 THE COURT: Okay. Well, don't -- what I'm saying is  
2 don't put it out there --

3 MR. DIGIACOMO: I won't blurt it out -- I won't blurt  
4 it out without foundation.

5 THE COURT: -- were you aware of a plan that Mr.  
6 Hidalgo, Jr., hatched to have somebody beat up; well, yes.  
7 Well, how did you know; well, you know, Joey told me. It's  
8 out there. So don't do it that way, all I'm telling you.

9 MR. DIGIACOMO: I won't.

10 MR. ARRASCADA: You're ordering him, correct, Your  
11 Honor, not to --

12 THE COURT: What?

13 MR. ARRASCADA: You're making that your order?

14 THE COURT: Yeah, it's an order. I mean, I don't  
15 want him to put it out there. All right.

16 MR. GENTILE: If this is something that Deangelo told  
17 her, you know --

18 THE COURT: That's what I'm saying. But I don't want  
19 him to put it out there that there was this plan afoot before  
20 he lays a foundation. Because then we can't unring that bell  
21 even if I give them an instruction. So be very careful about  
22 that.

23 MR. GENTILE: Can we do this outside the presence of  
24 the jury so that we at least don't run that risk?

25 THE COURT: All right. Bring her in. And then I

1 think I'll go along with not allowing the questioning on the  
2 Willie Robinson gifts.

3 MR. DIGIACOMO: So I can't ask her if he really did  
4 behave like Gillardi?

5 THE COURT: Not on the issue of gifts to Willie  
6 Robinson. It's not just how --

7 Don't write this, Mr. Garriman.

8 But isn't that just how --

9 (Off-record colloquy)

10 THE COURT: Ms. Espindola, come on back up here to  
11 the witness stand, please, ma'am. And Mr. DiGiacomo has some  
12 questions for you out of the presence of the jury. All right.  
13 And when you come back in to testify in front of the jury,  
14 don't reference this hearing that we've had out of their  
15 presence, okay?

16 THE WITNESS: Yes.

17 THE COURT: All right. Go ahead.

18 VOIR DIRE EXAMINATION

19 BY MR. DIGIACOMO:

20 Q Do you remember Mr. Gentile asking you  
21 questions about you knew Mr. H for many years and Mr. H did  
22 nothing to behave like Mr. Gillardi and Mr. Rizzolo; correct?

23 A Correct.

24 Q Remember answering those questions?

25 A Yes.

1 Q Now, let's start with --

2 MR. DIGIACOMO: Well, two things. Are we doing both  
3 outside the presence, Judge, or are you going to limit --

4 THE COURT: Just I'm going to -- you're limited to  
5 questioning according to what I just ruled on may be  
6 admissible in front of the jury. Anything that I ruled that  
7 wasn't admissible, there's no point in questioning her as to  
8 lay a foundation.

9 BY MR. DIGIACOMO:

10 Q Okay. Who's Rosa?

11 A Louie's daughter. Mr. H's daughter.

12 Q And did there come a point in time that you  
13 became aware that she had a problem?

14 A Yes.

15 Q What problem --

16 A She was addicted to drugs.

17 Q And was there somebody else associated with  
18 Rosa that [inaudible]?

19 MR. GENTILE: I didn't hear the last several --

20 THE COURT: Was there someone else associated with  
21 Rosa that the family didn't like.

22 MR. GENTILE: Well, that's a hearsay -- unless he can  
23 lay the foundation that --

24 MR. DIGIACOMO: Well, I'll --

25 BY MR. DIGIACOMO:

1 Q Did you ever talk to Mr. H about Rosa and  
2 Rosa's problem?  
3 A Yes.  
4 Q And did you ever talk to him about Rosa's  
5 boyfriend?  
6 A Yes.  
7 Q All right. And what was -- what did Mr. H tell  
8 you about Rosa's boyfriend?  
9 A That he wanted him dealt with because he was  
10 hurting his daughter.  
11 Q Okay. And did he tell you who he specifically  
12 had requested to deal with him?  
13 A He mentioned Deangelo.  
14 Q When you found out that Mr. H had requested  
15 Deangelo to deal with this boyfriend what did you do?  
16 THE COURT: Well, wait a minute. How did you find  
17 out that Mr. H had requested Deangelo deal with Rosa's  
18 boyfriend?  
19 THE WITNESS: Deangelo came to the shop and told me.  
20 BY MR. DIGIACOMO:  
21 Q Let me back up. You just told me that Mr. H  
22 mentioned Deangelo; correct?  
23 A Mr. H mentioned Deangelo, yes.  
24 Q When he was talking about dealing with it?  
25 A Yes.

1 Q And then in a subsequent --  
2 THE COURT: Well, wait a minute.  
3 MR. DIGIACOMO: That's what she said.  
4 THE COURT: No. Mr. DiGiacomo, I'm interrupting you  
5 because I want to -- this is for my edification, as well as  
6 the record.  
7 All right. What did Mr. H say to you?  
8 THE WITNESS: He said that Rosa is getting worse, she  
9 was addicted to meth, and that he wanted her -- he was going  
10 to talk to Deangelo because he wanted her boyfriend dealt  
11 with, he wanted him scared.  
12 THE COURT: He wanted him scared?  
13 THE WITNESS: Yes.  
14 THE COURT: Did he use the word "I want him scared"?  
15 Or are you just conjecturing, or what?  
16 THE WITNESS: I -- he said he wanted him dealt with.  
17 THE COURT: Okay. And then you talked to Deangelo?  
18 THE WITNESS: Deangelo came to the shop maybe a day  
19 or two later and told me that he had spoken to Mr. H.  
20 THE COURT: And then what did you do?  
21 THE WITNESS: And I told Deangelo not to do anything.  
22 THE COURT: And did you ever hear any more talk about  
23 this boy -- Rosa and this boyfriend from Mr. H?  
24 THE WITNESS: No. Rosa ended up spending more time  
25 at the club.

1 THE COURT: Okay. And did Deangelo ever indicate to  
2 you whether or not he had taken care of or dealt with this  
3 boyfriend?

4 THE WITNESS: No.

5 THE COURT: And when you told Deangelo not to do  
6 anything or whatever it is you said, what was Deangelo's  
7 response?

8 THE WITNESS: He said, fine. When I told him no, not  
9 to do anything, he said, fine. And that was the end of the  
10 conversation.

11 THE COURT: And you never talked to Mr. -- I mean,  
12 there was never anything between you and Mr. H about this  
13 happened, it didn't happen, with respect to the boyfriend?

14 THE WITNESS: I never got back into it with Louie,  
15 no. Or with Mr. H.

16 THE COURT: Any more questions?

17 MR. GENTILE: No.

18 THE COURT: Questions?

19 MR. DIGIACOMO: No.

20 THE COURT: All right. Ms. Espindola, thank you.  
21 I'm going to let you get escorted back out by the  
22 investigator.

23 MR. GENTILE: Submit it on the objection.

24 THE COURT: All right. You can ask just basically  
25 what Mr. H said and that she told Deangelo not to do it and

1 Deangelo's statements, Mr. H told me to do it, don't --  
2 MR. GENTILE: That's not admissible.  
3 THE COURT: No. I was just going to say --  
4 MR. GENTILE: Okay.  
5 THE COURT: -- it's not going to be admissible.  
6 MR. GENTILE: Sorry.  
7 THE COURT: All right. I guess we can bring her back  
8 in. I didn't know if there was going to be more argument.  
9 MR. DIGIACOMO: No, there's no more argument.  
10 THE COURT: Does anyone care on this, on the video  
11 deposition if the Court just says, the Court ruled that Ms.  
12 Espindola had to testify at trial and for that reason a video  
13 deposition was not arranged?  
14 MR. GENTILE: Right. That's what the Court ruled.  
15 THE COURT: Does the State have any problem? State?  
16 MR. DIGIACOMO: No. I mean, it's pretty well in  
17 front of the jury that we wanted it to happen.  
18 THE COURT: Well, I was just going to say the reason  
19 there wasn't -- to respond to a jury question, the Court ruled  
20 that Ms. Espindola had to testify in trial in front of the  
21 jury and for that reason did not order a videotaped deposition  
22 and that's why one was never held. Is everybody fine with  
23 that?  
24 MR. GENTILE: I'm fine with it.  
25 THE COURT: All right. For the record, Mr. Adams is



1 nodding, Mr. Arrascada's kind of nodding.

2 MR. ADAMS: For the record, the little back table was  
3 asked. We are nodding in agreement with the Court.

4 MR. ARRASCADA: That was a nod in agreement, Your  
5 Honor, not a nodding off.

6 THE COURT: And Mr. Gentile was agreeing. All right.  
7 All right, Jeff. Bring them in.

8 (Jury entering at 5:12 p.m.)

9 THE COURT: All right. Court is now back in session.  
10 Record will reflect presence of the State, the defendants,  
11 their counsel, the officers of the court, and the members of  
12 the jury.

13 And before Mr. DiGiacomo resumes his redirect  
14 examination, we had a question from a juror that I can  
15 clarify. A juror wanted to know why a video deposition was  
16 never provided. And the Court can answer that. The Court had  
17 ruled that Ms. Espindola was required to testify in person in  
18 front of the jury, and for that reason a video deposition was  
19 not ordered. All right.

20 MR. DIGIACOMO: Thank you, Judge.

21 REDIRECT EXAMINATION (Resumed)

22 BY MR. DIGIACOMO:

23 Q Let's move past Gillardi on to Mr. Rizzolo for  
24 a second, okay?

25 A Yes.

1 Q You testified that you didn't know Mr. H to  
2 ever do anything like Mr. Rizzolo; correct?

3 A Correct.

4 Q Who's Rosa?

5 A His daughter.

6 Q Whose daughter?

7 A Mr. H's daughter.

8 Q And at some point in time did you become aware  
9 of a problem that Rosa had?

10 A Yes.

11 Q And what was that?

12 A She was addicted to drugs.

13 Q Do you remember what kind of drugs?

14 A Methamphetamines.

15 Q And did you ever have a conversation with Mr. H  
16 regarding Rosa's addiction to methamphetamine?

17 A Yes.

18 Q And was there a particular person, other than  
19 Rosa, that was being discussed during this conversation?

20 A Deangelo Carroll came up.

21 Q In relationship to who?

22 A Mr. Hidalgo said he wanted to have Deangelo  
23 deal with Rosa's boyfriend.

24 Q So Rosa's boyfriend came up?

25 A Yes, Rosa's boyfriend came up.

1           Q     And what was the problem with Rosa's boyfriend  
2 as it relates to Rosa?

3           A     He was the one giving her drugs.

4           Q     And Mr. H had a conversation with you about --  
5 what did he -- what did he want Deangelo Carroll to do?

6           A     To deal with Rosa's boyfriend.

7           Q     Did he define for you what "dealt with" meant?

8           A     No.

9           Q     After this conversation did you have a  
10 conversation with Deangelo Carroll, without telling us what  
11 was said?

12          A     Yes.

13          Q     Okay. Without telling us what Deangelo told  
14 you, what did you tell Deangelo?

15          A     Not to do anything.

16          Q     After you told Deangelo not to do anything did  
17 you hear anything more about -- from Mr. H -- let me rephrase  
18 -- did you hear anything more from Mr. H about the Rosa and  
19 her boyfriend situation?

20          A     No.

21          MR. ADAMS: Your Honor, we would ask for a limiting  
22 instruction.

23          THE COURT: Oh. Ladies and gentlemen, the testimony  
24 that Mr. DiGiacomo just elicited regarding Rosa and the  
25 boyfriend situation is not being admitted as evidence against

1 Mr. Hidalgo, III.

2 BY MR. DIGIACOMO:

3 Q Now, there's been a lot of questions asked you  
4 about your motivations for being here today.

5 A Yes.

6 Q So I'm just going to come out and ask you why  
7 did you take the deal.

8 A As I had said earlier, I had spoken with my  
9 attorney for several days. It was prior to trial. We were  
10 preparing for trial, and he said that I would probably get hit  
11 with second degree. The moment that -- what he told me is the  
12 moment that I made the call that Louie requested of me I  
13 became an accessory. And so during our conversations he went  
14 ahead and said to me that I needed to testify in my regular  
15 trial.

16 Q Okay. And was the information that you  
17 provided to Mr. Oram over this 33 months similar to the  
18 information that's been given to the jury?

19 A Yes.

20 Q And that was what you were going to testify in  
21 your own trial?

22 A Yes.

23 Q So why take the deal with the State and  
24 potentially subject Mr. H to being arrested, charged, and then  
25 tried?

1           A     As Mr. Oram has stipulated, that if I was going  
2     --  
3           MR. GENTILE:  Objection.  Hearsay.  
4           THE COURT:  All right.  Sustained.  
5           MR. DIGIACOMO:  It goes to her state of mind.  Why is  
6     it that she's doing what she's doing is the question.  
7           THE COURT:  Well, what Mr. --  
8           MR. GENTILE:  It doesn't matter who -- I mean, her  
9     state of mind doesn't require the hearsay.  
10          THE COURT:  Right.  Ask the question in a different  
11     way.  
12     BY MR. DIGIACOMO:  
13           Q     Why not just go to trial and testify, as  
14     opposed to entering a plea --  
15          THE COURT:  All right.  That's fine.  
16     BY MR. DIGIACOMO:  
17           Q     -- and subject Mr. H to being arrested and  
18     prosecuted?  
19           A     At that point I could go ahead and take a  
20     lesser charge, which would be manslaughter with use, if was  
21     going to go ahead and be testifying the same thing.  
22           Q     So for you it was better for you to enter the  
23     plea and do the same thing you were going to get on the stand  
24     and do anyways?  
25           A     Yes.

1 MR. DIGIACOMO: Thank you very much.

2 Pass the witness, Judge.

3 THE COURT: All right. Before we go to Mr. Gentile,  
4 any objection to covering these jury questions?

5 MR. GENTILE: I'd really like to just ask --

6 THE COURT: Okay.

7 MR. GENTILE: I only have a couple questions, please.  
8 I apologize.

9 THE COURT: No, it's fine. It's fine.

10 RECROSS-EXAMINATION

11 RECROSS EXAMINATION

12 BY MR. GENTILE:

13 Q Let me get this straight. Your lawyer told you  
14 that by making a telephone call to Deangelo Carroll without  
15 having any idea that that telephone call was part of a plan to  
16 harm Hadland, without having any idea of that, that that phone  
17 call made you complicit in a crime?

18 A Yes.

19 Q He told you that?

20 A What --

21 Q Have you ever seen the jury instructions with  
22 respect to complicity, aiding and abetting?

23 A No.

24 Q Have you ever seen the jury instructions with  
25 respect to conspiracy?

1 A No.

2 Q So you just believed your lawyer --

3 A Yes.

4 Q -- and you took the deal?

5 A We spoke --

6 Q Excuse me.

7 A Yes.

8 MR. GENTILE: Nothing further.

9 THE COURT: All right. Well, I'm going to let Mr.

10 Arrascada go, then, too.

11 MR. ARRASCADA: Nothing, Your Honor. No questions.

12 THE COURT: All right. I have a few jury questions

13 up here. Before I ask you this question I must caution you

14 that you're not to speculate or guess or testify as to

15 anything somebody may have told you. But do you have personal

16 knowledge of any problem between Deangelo and T.J.?

17 THE WITNESS: No.

18 THE COURT: Okay. And again, don't speculate or

19 guess, only if Mr. Hidalgo, Jr., told you or you know. Do you

20 know, do you have personal knowledge of why Mr. H did not call

21 Deangelo himself to tell him to come back or to move to

22 Plan B?

23 THE WITNESS: No.

24 THE COURT: Okay. Who told T.J. he was fired?

25 THE WITNESS: Ariel.

1 THE COURT: Okay. Were you present at that time?  
2 THE WITNESS: No.  
3 THE COURT: All right. So you did not witness--  
4 THE WITNESS: No.  
5 THE COURT: -- occurring? Okay.  
6 Who was told to watch T.J. during the taxi scam? I  
7 mean, who was told to sort of monitor T.J. to see if he was  
8 doing anything inappropriate?  
9 THE WITNESS: That was based on the conversation that  
10 Mr. H and Little Luis had upstairs in the office.  
11 THE COURT: Okay. Did you direct anybody to do that?  
12 THE WITNESS: No.  
13 THE COURT: Okay. You testified -- or Mr. Gentile  
14 went over the statement that you had made during your plea,  
15 the five-word statement, "I assisted all the coconspirators."  
16 Do you remember that?  
17 THE WITNESS: Yes.  
18 THE COURT: Okay. And a juror wants to know how did  
19 you assist Deangelo Carroll.  
20 THE WITNESS: By getting the money that Louie asked  
21 me to get out of the safe --  
22 THE COURT: All right. And --  
23 THE WITNESS: -- and place it on the desk.  
24 THE COURT: How did you assist Rontae Zone?  
25 THE WITNESS: By issuing money to Deangelo Carroll,



1 the \$600 to go ahead and have him leave town.

2 THE COURT: Okay. How did you assist Kenneth Counts?

3 THE WITNESS: Again by bringing the money out of the  
4 safe and placing it on the desk.

5 THE COURT: How did you assist Jayson Taoipu?

6 THE WITNESS: When I gave Mr. Carroll the \$600 to go  
7 ahead and have him leave town.

8 THE COURT: Okay. Meaning Mr. Carroll or Jayson  
9 leave town?

10 THE WITNESS: Both. It was Mr. Taoipu and Mr. Zone,  
11 I think you had asked.

12 THE COURT: Okay. And then how did you assist Luis  
13 Hidalgo, III?

14 THE WITNESS: I was in the room with him when all the  
15 taping was going on or the wire was -- was on.

16 THE COURT: All right. Mr. Gentile, would you like  
17 to follow up on that last --

18 MR. GENTILE: I'd like that last question, please.

19 THE COURT: -- that last line of jury questions?

20 MR. GENTILE: No, just that -- yeah. Just that last  
21 question.

22 THE COURT: All right. No, no. The one I just  
23 asked.

24 FURTHER RECROSS EXAMINATION

25 BY MR. GENTILE:

1 Q Are you aware of why you have to join a  
2 conspiracy as compared to when its objective is completed?  
3 MR. DIGIACOMO: Objection. Calls for a legal  
4 conclusion.  
5 MR. GENTILE: I think it's fair game at this point.  
6 THE COURT: Well, if she's aware. Don't guess or  
7 speculate or testify as to anything you may have heard or --  
8 BY MR. GENTILE:  
9 Q Are you aware?  
10 A No.  
11 Q Is it your understanding that in order to  
12 become a conspirator in a murder you have to join the  
13 conspiracy before the murder?  
14 MR. DIGIACOMO: Objection. Calls for a legal  
15 conclusion.  
16 THE COURT: All right. It's sustained.  
17 BY MR. GENTILE:  
18 Q Let me see if I've got it right. You assisted  
19 Deangelo Carroll by paying him money after the murder  
20 occurred?  
21 A I put the money on the desk, yes.  
22 Q After the murder occurred?  
23 A Yes.  
24 Q And you didn't know that the murder was going  
25 to occur, according to your testimony?

1           A     Correct.

2           Q     Okay.  You didn't know that there was any harm  
3     that was going to be done to Mr. Hadland, according to your  
4     testimony?

5           A     Correct.

6           Q     And you -- after Mr. Hadland was dead, on the  
7     23rd of May you gave money to Deangelo Carroll to give to Mr.  
8     Zone; am I correct?

9           A     Yes.

10          Q     All right.  But it's your understanding that  
11     that somehow made you a conspirator in the murder?

12          A     Yes.

13          Q     And you based that on what your lawyer told  
14     you?

15          A     I -- my attorney told me that I would go ahead  
16     -- the moment I made the call that Louie asked me to make  
17     regarding Plan B that I became an accessory.

18          Q     All right.

19          A     That was what we discussed.

20          Q     But with respect to this payment of money to  
21     Mr. Carroll to give to Mr. Zone --

22          A     I never discussed that payment of money with my  
23     attorney.

24          Q     Okay.  So you just think that that's what  
25     made--

1           A     Yes.

2           Q     -- guilty?

3           A     Yes.

4           Q     Okay. You never discussed that with your  
5 lawyer, so he didn't tell you, well, no, it doesn't, did he?

6           A     No.

7           Q     Okay. And with respect to Mr. Counts, if I  
8 understand you correctly, you never even heard of Mr. Counts  
9 until substantially after Mr. Hadland was killed. Am I  
10 correct?

11          A     Correct.

12          Q     You certainly didn't know that anybody was  
13 going to do what Mr. Counts has -- was accused of doing prior  
14 to him doing it, did you?

15          A     Correct. I --

16          Q     And so it's your -- you're telling us that you  
17 think you're a conspirator because after Mr. Hadland was dead  
18 you paid money to Mr. Carroll thinking that he was going to  
19 give it to Mr. Counts?

20          A     Yes.

21          Q     And you knew nothing about any of that  
22 beforehand?

23          A     Correct.

24          Q     And Mr. Taoipu I suppose is in the same  
25 situation as Mr. Zone. You're telling us that somehow you're

1 -- you are guilty here of the death of Mr. Hadland because on  
2 the 23rd of May, four days after the man was dead, you gave  
3 money to Mr. Carroll to get Mr. Taoipu out of town?  
4 A Yes.  
5 Q Okay. And then with respect -- I'm not going  
6 to ask with respect to Luis -- well, I will.  
7 MR. GENTILE: May I have a moment?  
8 THE COURT: Sure.  
9 BY MR. GENTILE:  
10 Q And because you were in the room with Luis  
11 Hidalgo, III, four days after Mr. Hadland died, which death  
12 you knew nothing about until after it happened --  
13 A Correct.  
14 Q -- it's your belief that somehow by being in  
15 the room and doing nothing more, that made you a conspirator  
16 in the death of Mr. Hadland?  
17 A Yes.  
18 MR. GENTILE: Okay.  
19 THE COURT: All right. Thank you. Is that it, Mr.  
20 Gentile?  
21 MR. GENTILE: That's it.  
22 THE COURT: Mr. Arrascada, do you have any followup  
23 based on the juror questions?  
24 MR. ARRASCADA: No, Your Honor.  
25 THE COURT: All right. Mr. DiGiacomo?

1 MR. DIGIACOMO: I'm done.

2 THE COURT: No further questions for Ms. Espindola?

3 MR. DIGIACOMO: No.

4 THE COURT: Any other juror questions for Ms.

5 Espindola?

6 All right. Ms. Espindola, thank you for your  
7 testimony. Please don't discuss your testimony with anyone  
8 else who may be called as a witness in this case. You are  
9 excused at this time.

10 All right. State, call your next witness.

11 MR. PESCI: State calls Zane Simpson.

12 THE COURT: Law Officer Simpson, just come up here  
13 to the witness stand, please, sir, and remain standing facing  
14 our court clerk.

15 KENNETH ZANE SIMPSON, STATE'S WITNESS, SWORN

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

18 THE WITNESS: Kenneth Zane Simpson, first name,  
19 K-e-n-n-e-t-h; middle name, Z-a-n-e; last name, S-i-m-p-s-o-n.

20 THE COURT: All right. Thank you.

21 Mr. Pesci.

22 MR. PESCI: Thank you, Judge.

23 DIRECT EXAMINATION

24 BY MR. PESCI:

25 Q Sir, based on how you dress, what do you do for

1 a living?

2 A I'm a police officer for the City of Henderson  
3 Police Department.

4 Q How long have you been a police officer?

5 A 14 years.

6 Q Back in May of 2005, where were you assigned  
7 within the Henderson Police Department?

8 A I was on a fugitive task force out of the FBI  
9 office.

10 Q What does that mean?

11 A Specifically, I was on -- I worked out of the  
12 FBI office. I reported to a Metro sergeant who was kind of  
13 the supervisor in charge of our unit. Our office was  
14 physically at the FBI office. All the violent felony warrants  
15 that came out of county, came from other states, federal  
16 warrants came to our office. We distributed them and went  
17 looking for people with violent warrants.

18 Q Were there other people from other agencies  
19 from that group?

20 A Yes. FBI had three agents; Metro had three  
21 officers and a sergeant; and I was the Henderson guy.

22 Q Metro would be the Las Vegas Metropolitan  
23 Police Department?

24 A Yes.

25 Q And what was your duty in that position? What

1 would you do?

2 A We were assigned various violent felony  
3 warrants and they were distributed amongst us and then we --  
4 if we thought we found somebody where they were hiding, we all  
5 got together and went and took them into custody.

6 Q All right. That's what I was trying to get at.  
7 You're assigned warrants, but what do you do with those  
8 warrants. Okay.

9 I want to direct your attention to May the 23rd of  
10 2005. Were you asked to assist the homicide division of the  
11 Metropolitan Police Department?

12 A Yes.

13 Q And specifically what were you asked to assist  
14 with?

15 A They wanted some surveillance on possible  
16 homicide suspects prior to either a warrant being issued or  
17 them taking them into custody.

18 Q And how would that work? Would you be dressed  
19 the way you are now?

20 A No.

21 Q Would you be in plain clothes?

22 A Plain clothes, shorts, T-shirt, all undercover  
23 cars. My vehicle at the time was a Dodge king cab pickup  
24 truck.

25 Q Was there some sort of a briefing or discussion



1 specific to this case that you received before working on this  
2 case?

3 A Yes.

4 Q And what was that, generally speaking?

5 A How we put our packets together is whoever we  
6 were going to follow or look for, we would get either a  
7 booking photo or a driver's license photo, their information,  
8 where we thought they lived, the type of vehicles that  
9 possibly they could be driving and, you know, depending on how  
10 many people you would get a packet of, you know, X number of  
11 people, this is what we're doing, this is who we're looking  
12 for, this is what they could possibly be driving.

13 Q And in this particular case, were you  
14 specifically tasked with trying to look for an individual by  
15 the name of Anabel Espindola --

16 A Yes.

17 Q -- or Luis Hidalgo, II?

18 A Yes.

19 Q You've spoken of photos. Did you look at some  
20 photos of these two individuals in this packet that you're  
21 referring to?

22 A Yes.

23 Q Okay. Now, on May the 23rd, were you a part of  
24 some surveillance at Simone's Auto Plaza?

25 A Yes.

1           Q     And is Simone's located at 6770 South Bermuda  
2 here in Las Vegas?

3           A     I'll assume that that is the correct address.  
4 It's down off of Sunset and Bermuda and I couldn't tell you  
5 if -- right now if that's the exact address.

6           Q     Does it sound about right, in that area?

7           A     It sounds about the right hundred block.

8           Q     Were there other people working with you or  
9 were you all by yourself?

10          A     No, the -- our whole team, plus some of the FBI  
11 agents from the gang task force were also out there with us.

12          Q     Was there a division of labor as far as where  
13 certain people were supposed to set up in relation to the  
14 Simone's plaza?

15          A     You know, I -- it was kind of random. As you  
16 arrived in the area, you picked a spot where you could see the  
17 side door, the front door, the -- and if somebody was already  
18 on one side, it wasn't -- I don't think anyone was  
19 particularly -- You go here, you go there. We just kind of  
20 flooded the area and started watching.

21          Q     Okay. And when you started watching on May the  
22 23rd, 2005, did you see individuals that you recognized as  
23 possibly being the people you were supposed to look for?

24          A     Yes.

25          Q     Did you make note of that?

1           A     Over the air, because another agent or  
2 officer -- I don't know who was keeping the log -- so I just  
3 said it on the radio and then it was logged in the time that I  
4 saw them coming out of the business.

5           Q     When you say over the air, is that what you're  
6 talking about as far as the radio?

7           A     Exactly, because we had our own separate  
8 channel.

9           Q     When you talk about something else writing  
10 something down, you personally did not write down a log?

11          A     I did not.

12          Q     Have you reviewed that log?

13          A     Yes, I have.

14          Q     Did you do that prior to coming to testify?

15          A     Yes, I did.

16          Q     Okay. Can you recall about what time it was  
17 when you called over the radio having seen someone from the  
18 incident?

19          A     Right around 4:30. It was towards the end of  
20 our day and I was the last -- actually, I think, the last  
21 person left in that area.

22          Q     And do you recall who you indicated that you  
23 saw over the radio?

24          A     Luis Hidalgo and Anabel -- whatever the last  
25 name is. I apologize. It's slipping my mind right now.

1           Q     That's okay. Is Espindola a name that's  
2 familiar to you?

3           A     Espindola.

4           Q     Okay. When you relayed this information, did  
5 you maintain your position?

6           A     Until they started to leave, and then I  
7 followed them.

8           Q     When they left, where'd they go?

9           A     I followed them down to Warm Springs and 215  
10 area, which there's a U.S. Bank and a Starbucks Coffee right  
11 in that same little shopping area.

12          Q     What did you see happening in that shopping  
13 area?

14          A     She went into Starbucks. He went into the  
15 bank. And it was decided, because I was the last one there --  
16 you know, you can't follow somebody really with one car with  
17 any success. There was no sense in me following them.  
18 Everybody else had gone to do whatever else they needed to do.

19          Q     Was surveillance terminated at that point?

20          A     Yes, it was.

21          Q     And that's on the evening of May the 23rd,  
22 2005?

23          A     Correct.

24          Q     Were you a part of surveillance also on May the  
25 24th, 2005?

1           A     Yes.

2           Q     Could you tell the ladies and gentlemen of the  
3 jury about that.

4           A     I mean, it was the same thing. We showed up in  
5 that area, we set up surveillance, ultimately ended up  
6 following the same two people, Luis Hidalgo and Anabela --

7           Q     Espindola.

8           A     -- Espindola, I'm sorry.

9           Q     That's okay.

10          A     -- out of there until they were stopped down  
11 off of Carson and 6th Street.

12          Q     All right. We'll go through that in just a  
13 second. But when you're talking about Luis Hidalgo, did you  
14 have information of more than one Luis Hidalgo?

15          A     Yes, there was his dad, there was him and then  
16 his son.

17          Q     All right. And the individual that you said  
18 you just saw on the 23rd, which of the three were you speaking  
19 of?

20          A     I kind of talk to him as grandpa, dad, and son,  
21 so I would consider him dad. He would be the middle person.

22          Q     All right. So now going back to the 24th when  
23 you said there was a stop, where was the stop made?

24          A     Carson and 6th, I believe.

25          Q     All right. Were you a part of that stop?

1           A     I was in the area, but because we were in  
2 undercover cars, we -- I didn't physically go out there on the  
3 stop, but I had followed them down to that area, but I did not  
4 partake in the stop.

5           Q     All right. So you weren't a part of that stop?

6           A     I was not.

7           Q     Okay. However, on that date, leading up to the  
8 stop, did you see individuals that you thought were Anabel  
9 Espindola and Luis Hidalgo, Jr. being, as you described him,  
10 dad?

11          A     Yes.

12          Q     Could you tell us when that picked up and where  
13 it went?

14          A     They had come out of the auto place, Simone's,  
15 and got into that silver Hummer and went down and got on the  
16 freeway and we were, you know, following them from there.

17          Q     Okay. Was that -- you said a silver Hummer?

18          A     (No audible answer).

19          Q     I'm sorry?

20          A     Pewter is what the report says, but I didn't  
21 write that.

22          Q     Okay. What do you understand pewter to be?

23          A     Silver.

24          Q     Okay. I just wanted to get that clear.

25          Now, do you recall who's driving of these two

1 individuals?

2 A I do not. I do not recall.

3 Q Were you right behind this silver Hummer or  
4 back a ways? How did that work?

5 A No, I was several cars back.

6 Q Did you see either of these individuals do  
7 anything else as you followed along?

8 A I did not. I wasn't close enough.

9 Q Were you relaying the information that you had  
10 received? The information that you saw, did you relay it over  
11 the radio?

12 A Oh, yes, exactly.

13 Q Like you told us about yesterday, it's the --

14 A Or somebody else, I mean, because how we kind  
15 of were positioned is, you know, somebody might have been just  
16 ten car lengths from where I was at, so if he said, Hey, so  
17 and so came out, yeah, I'd verify that, yeah, I saw them come  
18 out, but it may not have been specifically me saying it, but  
19 as we go through the log, we all initial the things that we  
20 saw and went through it.

21 Q Okay. And at some point were those two  
22 individuals in the silver Hummer taken into custody?

23 A Yes.

24 MR. PESCI: Pass the witness.

25 THE COURT: All right. Thank you. Cross.

1 MR. GENTILE: Just one area.

2 CROSS-EXAMINATION

3 BY MR. GENTILE:

4 Q You say two individuals in the silver Hummer  
5 were taken into custody?

6 A They were stopped. There was two people in the  
7 car when it was stopped.

8 Q Okay. But how many were actually taken into  
9 custody?

10 A You know, I'm not 100 percent sure. My portion  
11 of that ended when the surveillance ended. I'm not sure who  
12 was taken where or where everybody was taken.

13 Q All right. So you don't know that two were  
14 taken into custody?

15 A No.

16 Q You only know that the vehicle was stopped?

17 A Two were in the car when it got stopped.

18 Q All right. And that's not taking somebody into  
19 custody?

20 A No.

21 Q It's stopping the vehicle, correct?

22 A I would agree. Correct.

23 Q Now, you said that there were FBI agents from  
24 the gang task force involved in this operation.

25 A Just for manpower purposes.



1 Q Right. No, I understand that. Was Bret  
2 Shields one of those people, or do you recall?

3 A I don't recall that he was -- that he was out  
4 there.

5 Q All right. You know who he is?

6 A I do know who he is.

7 Q And he was a member of the FBI gang task force?

8 A I don't know if he was in 2005, but -- when I  
9 first met him, he was working -- he was a special agent with  
10 robbery, so I'm not -- I know who he is, but I don't know --

11 Q You don't know if he was in the gang task  
12 force?

13 A He was for a while, but I don't know if he was  
14 in 2005.

15 Q All right. But he was gang task force. You're  
16 just not sure that he was in 2005?

17 A And again, I'm not sure if he was out there at  
18 that time.

19 MR. GENTILE: All right. Nothing further.

20 THE COURT: All right. Mr. Adams.

21 MR. ADAMS: Thank you.

22 CROSS-EXAMINATION

23 BY MR. ADAMS:

24 Q Hello, Officer Simpson. On May the 24th of  
25 2005, you were aware that there were three generations of

1 Mr. Hidalgos there?

2 A Yes.

3 Q My client in the very back is the son. You

4 knew that there was a father and then a grandfather?

5 A Right.

6 Q And you became aware of that on the 24th?

7 A No, when we got briefed when all this started

8 for us on the 23rd.

9 Q All right. And you had a packet with two

10 people?

11 A You know, I can't recall. I know the two

12 people that we specifically had and I can't remember if we had

13 the son's photo, but I remember they had talked -- there was

14 a -- that convertible Chevy pickup truck that could possibly

15 have been one of the vehicles, but I don't remember if we had

16 his photo.

17 Q But you do know that on the 24th there was a

18 team that followed Luis Hidalgo, III, Little Lou, when he left

19 Simone's that day to drive north? You don't recall that?

20 A I don't recall.

21 Q On the 23rd, do you recall there being two

22 packets, one for Anabel Espindola and one for Mr. Hidalgo,

23 Jr., the father?

24 A I mean, it was all -- part of all our same

25 paperwork.

1 Q That's right.

2 A I don't know --

3 Q You don't remember seeing any photo at that

4 point in time of Little Lou?

5 A I do not.

6 MR. ADAMS: Thank you.

7 THE COURT: Redirect.

8 MR. PESCI: No, Your Honor.

9 THE COURT: Any juror questions?

10 All right. Officer, thank you for your testimony.

11 Please don't discuss your testimony with anyone else who may

12 be a witness in this case. You are excused.

13 THE WITNESS: Thank you, Judge.

14 THE COURT: State, call your next witness.

15 MR. DIGIACOMO: Jeff Smink.

16 THE COURT: Sir, just please come on up here to the

17 stand and then just remain standing, facing our court clerk,

18 just up those couple of stairs.

19 JEFFREY SMINK, STATE'S WITNESS, SWORN

20 THE CLERK: Please be seated and please state and

21 spell your name.

22 THE WITNESS: Jeffrey Smink, J-e-f-f-r-e-y,

23 S-m-i-n-k.

24 THE COURT: All right. Thank you.

25 BY MR. DIGIACOMO:

1 Q Sir, how are you employed?

2 A As a crime scene analyst supervisor with the

3 Las Vegas Metropolitan Police Department.

4 Q How long have you been employed with the Las

5 Vegas Metropolitan Police Department?

6 A A little over nine years.

7 Q And how long have you been a supervisor?

8 A For about a year.

9 Q Directing your attention back to May 24th of

10 2005, were you the crime scene analyst assigned to the search

11 warrant that was conducted at Simone's Auto Plaza?

12 A Yes.

13 Q And during the course of that, could you tell

14 the ladies and gentlemen of the jury what your duties were.

15 A Basically to photograph the -- certain areas of

16 the auto repair place, search for items of evidence and

17 collect evidence.

18 Q While she's doing that, I'll show you first the

19 ones that are admitted, which is 97 through -- 97 through 111.

20 If you could, briefly flip through those.

21 A (Complying.)

22 Q Are those photographs that you took?

23 A Yes.

24 Q Okay. And then I'm going to show you Exhibits

25 112 through 133 and ask you to briefly flip through those.

1           A     (Complying.)

2           MR. GENTILE: Counsel, when he's finished, may I see

3 those, please?

4           MR. ARRASCADA: Your Honor, I'm sorry, which numbers

5 are --

6           MR. GENTILE: 112 through 133.

7           MR. DIGIACOMO: 112 to 133.

8 BY MR. DIGIACOMO:

9           Q     Are those all photographs you took during the

10 execution of the search warrant at Simone's Auto Plaza?

11          A     Yes.

12          Q     Now, every time a crime scene analyst goes

13 anywhere, is there a crime scene diagram that's created?

14          A     No.

15          Q     Okay. When is it that you create a crime scene

16 diagram?

17          A     At the scene of a homicide, an officer involved

18 shooting or at an attempted homicide where the suspect or

19 victim may die.

20          Q     Why the limitation on when you do crime scene

21 diagrams?

22          A     That's the policy of the section based on

23 manpower and our resources.

24          Q     So I'm going to guess, based on that answer,

25 you didn't do a diagram of Simone's Auto Plaza, correct?

1 A Correct.

2 Q Lucky for us the defense brought one. So  
3 Defense Exhibit C, does that appear to be a fairly true and  
4 accurate depiction of Simone's Auto Plaza?

5 A Yes.

6 Q Now, you created a report in this case,  
7 correct?

8 A Yes.

9 Q Now, when you create a report, what's the  
10 purpose of documenting it?

11 A What time I arrived, the VIN number, the  
12 victim, the location, who I made contact with, any vehicle  
13 information, the general layout of the location I went to,  
14 items of evidence that were collected, and any work that I  
15 performed such as photography or latent print processing.

16 Q Now, in preparation of your testimony, did you  
17 read your report and look at some of the photographs?

18 A Yes.

19 Q And did you notice anything about your report  
20 that caused you some concern?

21 A Yes.

22 Q What was that?

23 A I lost my directionality while doing my report.  
24 I was in the hallway reviewing my report, preparing to  
25 testify, and I realized that in some areas in my report I lost