

1 A I went outside.

2 Q Approximately what time was it that you went outside?

3 A Oh, wow. I would have to say somewhere maybe around 6:00,  
4 6:30, somewhere in there.

5 Q Okay. Do you remember, on the evening of September 30<sup>th</sup> talking  
6 to a member of the North Las Vegas Police Department?

7 A Yes.

8 Q And that night, did they give you an opportunity to fill out a  
9 voluntary statement?

10 A Yes.

11 Q When you filled it out that night, would you agree with me that the  
12 times would have been fresher in your mind at that point than they are today?

13 A Yes.

14 Q And would it help to refresh your recollection about what time you  
15 went outside to look at your statement?

16 A Yes; it would.

17 Q Okay. Can I approach with a copy of --

18 THE COURT: You may.

19 MR. TOMSHECK: -- her voluntary, Judge?

20 THE COURT: You may.

21 BY MR. TOMSHECK:

22 Q And if you could just take a moment and look at that, the time you  
23 indicated the Defendant or Lesean parked outside and you went outside.

24 A Okay. All right.

25 Q After looking at that statement, do you have a fresh and

1 independent recollection of the time?

2 A It said around 6:30 or 6:45 somewhere.

3 Q Okay. So what you said in your statement was 6:45; is that  
4 correct?

5 A That's correct.

6 Q And looking back on it, does that sound about right?

7 A Yes.

8 Q Okay. When you went outside, did you approach the car?

9 A I did.

10 Q And how many people were inside the car?

11 A One person.

12 Q And that person was seated where within the car?

13 A In the driver's seat.

14 Q The individual in the driver's seat, did you recognize that individual?

15 A Yes; I did.

16 Q How did you recognize that person?

17 A Because I had seen him next door. I had spoken to him before.

18 Q Okay. The person that you spoke to next door, do you see them in  
19 the courtroom today?

20 A Don't know where to look? Oh, yes; I do.

21 Q Would you point at that person and identify an item of clothing that  
22 he's wearing today.

23 A The gentlemen on the far end of this bench.

24 Q For the record, are you pointing at the Defense counsel table here?

25 A Yes.

1 Q May the record --

2 A The gentlemen in the white shirt.

3 MR. TOMSHECK: May the record reflect identification of the Defendant?

4 THE COURT: So reflected.

5 BY MR. TOMSHECK:

6 Q When you approached the car, did you have a conversation with  
7 the Defendant?

8 A I did.

9 Q What did you say to him?

10 A I asked him what he was doing there.

11 Q And what did he reply to you?

12 A He said he was waiting for his wife to get home from work.

13 Q Okay. Did you say anything in response to that?

14 A Yes; I did.

15 Q What did you say?

16 A I said: How is she supposed to come home when you've slashed  
17 her tires at work?

18 MS. JONES: Objection, Your Honor. That has not been admitted  
19 through this witness that he slashed her tires. This witness has no direct  
20 knowledge of that.

21 MR. TOMSHECK: I just asked her what she said, Judge.

22 THE COURT: Okay. What she said to him?

23 MR. TOMSHECK: Correct.

24 THE COURT: Okay. And she's here and she's subject to cross-  
25 examination, so you can proceed.

1 BY MR. TOMSHECK:

2 Q You said to him: How could she get here, you've slashed her tires?

3 A Correct.

4 Q Did he say anything in response to that?

5 A He said: It was none of your business.

6 Q None of your business?

7 A Right.

8 Q Did he say anything about his wife?

9 A Yes. He said he was waiting for his wife to come home.

10 Q Did he say what he was going to do when his wife came home?

11 A He wanted to kill his wife.

12 Q He said that to you?

13 A Yes.

14 Q Did he say anything about any weapons that he may have?

15 A He said that he had a gun --

16 MS. JONES: Objection, leading.

17 A -- and that he wanted to kill his wife.

18 THE COURT: Overruled. You can answer.

19 BY MR. TOMSHECK:

20 Q If you could -- I don't know if they caught it, could you repeat what  
21 you just said?

22 A He said he had a gun and he was going to kill his wife.

23 Q After he said that, did you continue to talk to him or did you go  
24 back inside?

25 A I just told him to get the hell outta there and I went back in the

1 house.

2 Q Okay. From the time the children first came over at 5:00 o'clock  
3 till you came outside at 6:45, was the car there the whole time?

4 A No.

5 Q At some point, did the children alert you that it was there?

6 A Yes.

7 Q Prior to that point and time, had you gone with one of the children  
8 over to their house at 1519 Laguna Palms?

9 A I did.

10 Q And was that to retrieve something from the house?

11 A Yes.

12 Q When you went over to the house, was it on fire?

13 A No.

14 Q At some point after you come back to your house, after speaking  
15 with the Defendant, do you call 9-1-1?

16 A Yes.

17 Q And do the police eventually arrive?

18 A Yes.

19 Q Eventually, do you come to realize that the house next door is on  
20 fire?

21 A Eventually, uh-huh.

22 Q And it --

23 A Yeah.

24 Q And did the fire department arrive as well?

25 A Yes.

1 Q I just want to be clear about this. Prior to this incident and  
2 between September 30<sup>th</sup> and today, have you and Shalana Eddins maintained a  
3 friendship?

4 A No.

5 Q Okay. Do you talk to her at all?

6 A I've spoken to her a couple times; that's about it.

7 Q Okay. When's the first time you ever met me face to face?

8 A Today.

9 Q When's the first time we ever spoke on the telephone?

10 A Last night.

11 Q Okay. And if you're being honest, do you want to be here today?

12 A Heck no.

13 Q Okay. Are you only here because you were subpoenaed to be  
14 here?

15 A Yes; yes.

16 Q When we met, previously today, face to face, did I play for you an  
17 audio recording?

18 A Yes.

19 Q And did you listen to that and then initial the disk indicating that  
20 you recognized your voice on it?

21 A Yes; I did.

22 MR. TOMSHECK: May I approach the witness, Judge?

23 THE COURT: You may.

24 MR. TOMSHECK: Showing opposing counsel what's been marked as  
25 State's Proposed 50.

1 BY MR. TOMSHECK:

2 Q I'm going to hand you what's been marked as State's Proposed 50.  
3 Do you recognize that as an envelope with a CD inside?

4 A Yes.

5 Q And the CD, if I take that out, do you recognize those initials on the  
6 right-hand side?

7 A Yes; I do.

8 Q Are those your initials?

9 A Those -- those are mine.

10 Q Okay. This is the CD that you listened to earlier?

11 A Yes; it is.

12 MR. TOMSHECK: I move for admission of State's Proposed 50 and  
13 ask to publish, Judge.

14 MS. JONES: No objection, Your Honor.

15 THE COURT: Other than what's been noted and you can publish.

16 MS. JONES: And, Your Honor, we don't have any objection to the CD  
17 itself, but we do have the objections that we logged at the bench.

18 THE WITNESS: I have some. Thank you.

19 THE COURT: I'm sorry?

20 THE WITNESS: I said I have some water. Thank you.

21 [9-1-1 call played -- not transcribed]

22 MR. TOMSHECK: Pass the witness.

23 THE COURT: Cross?

24 ...

25 ...

**CROSS EXAMINATION**

**BY MS. JONES:**

Q Good morning, Ms. Heer.

A Hello.

Q You are Shalana Eddins' neighbor; correct?

A I was.

Q And your address is 1515 Laguna Palms; correct?

A Correct.

Q And how long have you been living there?

A We had moved in there in December of -- gosh, I'm trying to think of what year it is. December -- how long we'd been living there at that time? Close to a year, I guess.

Q And how long had Shalana Eddins been your neighbor?

A I don't really know because I don't really know when she moved in. The house had been sitting empty when we were there.

Q But you had seen her coming and going at her residence; correct?

A Occasionally.

Q And you had also seen Mr. Collins at that residence; correct?

A Yes.

Q And you had seen him there several times; correct?

A I would say probably three times.

Q Okay. And Mr. Collins, when he was at the residence -- is it fair to say you don't really care for Mr. Collins?

A It's not fair to say that. I don't really know him.

Q Have you ever had any issues with him?



1 A No.

2 Q And on that day, you never had any issues with him; is that your  
3 testimony today?

4 THE COURT: Prior to the incident?

5 MS. JONES: Yes.

6 BY MS. JONES:

7 Q Prior to September 30<sup>th</sup>, had you ever had any incidents with Mr.  
8 Collins?

9 A No.

10 Q So you don't have an opinion about him one way or another?

11 A No.

12 Q And on September 30<sup>th</sup> you are the person who called the police?

13 A Yes.

14 Q And it was a shock to you when the children -- when the Collins  
15 children arrived at your home?

16 A Surprised, yes.

17 Q And that was at approximately 5:00 o'clock?

18 A Yes.

19 Q And did -- was it brought to you that their mother said they were to  
20 come there?

21 A Yes.

22 Q Were you notified?

23 A Yes.

24 Q Were you notified of that by the children?

25 A Yes.

1 Q Did you ever speak with their mother?

2 A Yes.

3 Q Did you speak with her after they were already there?

4 A No.

5 Q Did you speak with her after she had already arrived at the house?

6 A No.

7 Q When did you speak with Shalana Eddins?

8 A I did not speak to her that day at all.

9 Q Okay. So you did not speak with Shalana Eddins at all that day?

10 A No.

11 Q And when those children came over to your house, were they  
12 coming from school?

13 A I don't know where they were coming from. They probably had  
14 been in school; I don't know.

15 Q And you were inside of your home?

16 A Yes.

17 Q And the children arrive at 5:00 o'clock?

18 A Right.

19 Q And it's 6:45 when you notice someone outside of the 1519  
20 Laguna Palms residence; correct?

21 A The children notice someone outside.

22 Q And during that entire time, from 5:00 o'clock to 6:45, the children  
23 were inside of your home?

24 A Absolutely.

25 Q And they were sitting on your couch?

1           A     Yes.

2           Q     No one could have brought any harm to them?

3           A     No.

4           Q     Okay. And during that time, were you looking out your window the  
5 entire time?

6           A     I had looked out my window several times.

7           Q     But you weren't looking out of your window the entire time?

8           A     Not every moment; no.

9           Q     So you don't know the time that Lesean Collins arrived at that  
10 residence?

11          A     He could have been sitting out there awhile; no.

12          Q     And you saw him, outside, after the children told you he was  
13 outside?

14          A     Yes.

15          Q     And you went out there?

16          A     Yes.

17          Q     And you approached him?

18          A     Yes.

19          Q     The children were not with you when you went out there?

20          A     No.

21          Q     The children were inside of your home?

22          A     Yes.

23          Q     Shalana wasn't out there?

24          A     No.

25          Q     So you knew that Lesean Collins was out there?

1 A I knew from what the children told me; yes.

2 Q And he was in the car alone; correct?

3 A Yes.

4 Q And you went out there and approached him?

5 A Yes.

6 Q And you called 9-1-1 after you returned to your home; correct?

7 A Yes.

8 Q Not before?

9 A Oh, no; I called before, two. I called before as well.

10 Q But that's not the call that we just heard?

11 A I don't know what you just heard, but I called and told him that  
12 there was a car parked out front.

13 Q When did you make the call that we just heard?

14 A When?

15 Q Yes.

16 A Before or after?

17 Q Before or after you went outside?

18 A I don't exactly recall. I think I made it before. I made a couple --  
19 one -- I made three phone calls that day. I made at least one before.

20 Q But would you agree that on that call, you said you had spoken to  
21 Lesean Collins?

22 A Maybe the second or third call; yeah.

23 Q And so that was after --

24 A It would be --

25 Q -- you had gone outside?

1 A It would be, uh-huh.

2 Q And you knew that Shalana Eddins was not home?

3 A Yes.

4 Q You did not see Shalana Eddins' tires slashed; correct?

5 A Not that time.

6 Q On September 30<sup>th</sup>, you did not see those tires slashed?

7 A No.

8 Q And it's 6:45 when you see Lesean Collins outside?

9 A Yes.

10 Q And you saw Lesean Collins leave that neighborhood that day?

11 A Yes.

12 MS. JONES: Court's indulgence, Your Honor.

13 BY MS. JONES:

14 Q And on September 30<sup>th</sup>, you did not see Lesean Collins with a gun;  
15 correct?

16 A No.

17 MS. JONES: Nothing further, Your Honor,

18 THE COURT: Any redirect?

19 MR. TOMSHECK: Just real quick, Judge.

20 ***REDIRECT EXAMINATION***

21 ***BY MR. TOMSHECK:***

22 Q Between 5 o'clock when the children show up and 6:45, when you  
23 mentioned you went outside and talked to the Defendant, you physically walk  
24 outside with a child; correct?

25 A Well, between the time; yes; uh-huh.

1 Q And do you walk into the neighbor's house, into 1519?

2 A Right.

3 Q When you walk into 1519, do you see Lesean Collins in the car  
4 outside?

5 A No.

6 Q And when you go inside the house, do you see him inside the  
7 house?

8 A No.

9 Q And when you go inside the house, is the house on fire?

10 A No.

11 Q After you -- at some point you see Lesean Collins outside that  
12 night; right?

13 A Yes.

14 Q And immediately thereafter, you call 9-1-1?

15 A Yes.

16 Q And you see the Defendant drive away?

17 A Yes.

18 Q And shortly thereafter, the house was on fire; correct?

19 A Yes.

20 MR. TOMSHECK: Nothing else, Judge.

21 MS. JONES: Briefly, Your Honor.

22 THE COURT: Recross?

23 **RECROSS EXAMINATION**

24 **BY MS. JONES:**

25 Q Ms. Heer, when the police responded to the scene that day, you

1 wrote a statement for them; correct?

2 A Yes.

3 Q And when you wrote that statement for the police, they let you  
4 know that it was important that you include everything that was important,  
5 everything that you remember; correct?

6 A Yes.

7 Q And that's what you tried to do when you wrote that statement?

8 A I did.

9 Q Did you write anything in that statement about walking one of the  
10 children back to the house?

11 A No.

12 Q So that was not in your statement?

13 A It was not.

14 Q But that's your testimony today?

15 A Yes.

16 Q And your testimony today is that you saw Lesean Collins leave the  
17 Laguna Palms -- the neighborhood?

18 A Yes.

19 Q And when you saw Lesean Collins leave the neighborhood, the  
20 house was not on fire; correct?

21 A I don't believe it was.

22 MS. JONES: Nothing further, Your Honor.

23 THE COURT: Thank you very much for your testimony here today, Ms.  
24 Heer. You may step down; you are excused.

25 THE WITNESS: Thank you. Thank you.

1 THE COURT: Thank you for being here.

2 THE WITNESS: Thank you.

3 THE COURT: You can call your next witness.

4 MR. TOMSHECK: Judge, at this time, the State intends to play the  
5 prerecorded testimony of Vivian Furlow.

6 THE COURT: Okay. Marked --

7 MR. TOMSHECK: I believe it's Court's Exhibit 3.

8 THE COURT: It's been marked as Court's Exhibit Number 3 and you can  
9 publish it to the jury. Do you have it? Okay.

10 [Pause in proceedings]

11 [CD of videotaped deposition of Vivian Furlow played for the jury --  
12 not transcribed]

13 THE COURT: At this time we are going to break for lunch. During this  
14 recess, you're admonished not to talk or converse amongst yourselves or with  
15 anyone else on any subject connected with this trial or read, watch, or listen to  
16 any report or commentary on the trial or any person connected with this trial by  
17 any medium of information, including, without limitation, newspapers,  
18 television, the internet or radio, form or express any opinion on any subject  
19 connected with the account until the case is finally submitted to you. We'll  
20 start again at 1:30. Thank you.

21 [Jurors exit the courtroom]

22 [Proceedings resume at 1:46 p.m.]

23 [Outside the presence of the jury]

24 THE COURT: I was told that Mr. Collins didn't want to come in.

25 THE DEFENDANT: I was freezing.



1 THE COURT: Okay. What can we do? I can't change the temperature.

2 THE DEFENDANT: I tried to get a shirt, but --

3 THE COURT: You want a blanket?

4 THE DEFENDANT: -- they turned the cooler off.

5 THE COURT: Who turned the cooler off?

6 THE DEFENDANT: Turned it down. It was freezing when I --

7 THE COURT: Are you okay now?

8 THE DEFENDANT: Yeah.

9 THE COURT: Okay. Let's bring the jury in.

10 MS. PAROLISE: Judge --

11 THE COURT: Is Tomsheck out in the hallway at the copy machine?

12 MS. JEANNEY: And Ms. Jones too.

13 MS. PAROLISE: I'll go grab Ms. Jones.

14 MS. JEANNEY: We need both, Mr. Tomsheck and Ms. Jones.

15 THE COURT: Okay.

16 THE DEFENDANT: Judge, I have --

17 THE COURT: What?

18 THE DEFENDANT: -- sickle cell. I just wanted --

19 THE COURT: No; I don't want you to be freezing, but I just wanted to  
20 know what you wanted me to do to make you more comfortable; that's all.

21 THE DEFENDANT: I tried to get a shirt before I came up here -- it keep  
22 on bothering me.

23 THE COURT: That's what?

24 THE DEFENDANT: I tried to get an undershirt 'cause I don't have an  
25 undershirt.

1 THE COURT: Oh, okay.

2 THE DEFENDANT: Trying to get an undershirt, keep on bothering me.

3 MS. JONES: I apologize, Your Honor.

4 THE COURT: We can get you a jacket or a blanket, whatever you want if  
5 you get too cold, because I never have that problem so -- maybe I need to sit  
6 over there.

7 THE DEFENDANT: Yes, ma'am.

8 [Jurors enter the courtroom at 1:47 p.m.]

9 THE COURT: Do the parties stipulate to the -- let's see. We have one  
10 missing, so I don't want to ask you to -- okay. Will the parties now stipulate to  
11 the presence of the jury panel?

12 MS. JONES: Yes, Your Honor.

13 MS. JEANNEY: Yes, Your Honor.

14 [In the presence of the jury panel]

15 THE COURT: And the State can call their next witness.

16 MS. JEANNEY: Thank you, Judge. Robert Eddins.

17 ***ROBERT LEE EDDINS,***

18 being first duly sworn as a witness testified as follows:

19 COURT CLERK: Thank you. Please be seated. Please state your full  
20 name, spelling your first and last name for the record.

21 THE DEFENDANT: My first name is Robert, R-O-B-E-R-T, Lee, L-E-E,  
22 Eddins, E-D-D-I-N-S.

23 MS. JEANNEY: May I proceed, Your Honor?

24 THE COURT: You may.

25 ...

***DIRECT EXAMINATION***

**BY MS. JEANNEY:**

Q Good afternoon, Mr. Eddins.

A How you doing?

Q Do you know a woman by the name of Shalana Eddins?

A Yes, I do.

Q And how do you know her?

A She's my daughter.

Q And do you know an individual by the name of Lesean Collins?

A Yes; I do.

Q Do you see that individual here in the courtroom today?

A Yes; I do.

Q Can you please point to that person and describe an article of clothing he's wearing.

A He's wearing a white shirt with a collar.

Q Sitting at the Defense counsel table?

A Yes.

MS. JEANNEY: Your Honor, may the record reflect that the witness has identified the Defendant?

THE COURT: So reflected.

MS. JEANNEY: Thank you.

**BY MS. JEANNEY:**

Q Mr. Eddins, I'd like to turn your attention to September 29<sup>th</sup> of 2008. Do you remember receiving a phone call from your daughter, Shalana Eddins, late in that evening?

1 A Yes; I do.

2 Q What time was that phone call?

3 A It was sometime after 11:00.

4 Q And after you received that phone call from her, what did you do?

5 A I got in my car and drove over to her residence.

6 Q Okay. Why did you drive over to her residence?

7 A Because I think the police had been called and I think I might've  
8 even called 'em.

9 Q Okay. Were you going there to help her do something?

10 A Right. I was just going there to pick up the kids and check on  
11 them.

12 Q Okay. And when you got there to the residence -- and that's at  
13 1519 Laguna Palms?

14 A Yes.

15 Q When you got to that residence, what was -- how was her -- the  
16 condition of her car, the Expedition?

17 A One tire was flat and the other tire was leaking.

18 Q Now had the tires -- had the air just been let out of them or had  
19 they been slashed?

20 MS. JONES: Objection, Your Honor --

21 THE WITNESS: They'd been slashed.

22 MS. JONES: -- speculation.

23 THE COURT: Can you lay foundation as to the time? Did you say  
24 September 30<sup>th</sup>?

25 MS. JEANNEY: No; I said: September 29<sup>th</sup>.

1 THE COURT: I'm sorry, September 29<sup>th</sup>.

2 MS. JEANNEY: Yeah.

3 THE COURT: Okay. That's what I meant. I wanted to make it clear  
4 what date it was.

5 MS. JEANNEY: Yes, September 29<sup>th</sup>.

6 THE COURT: Okay. Go ahead.

7 BY MS. JEANNEY:

8 Q And what was your answer to that question?

9 A Yes. Well --

10 THE COURT: Now, remember she's talking about September 29<sup>th</sup>.

11 THE WITNESS: Yes.

12 THE COURT: Okay.

13 THE WITNESS: That's -- one tire was flat and the other tire had been  
14 cut.

15 BY MS. JEANNEY:

16 Q Okay. And what did you do to the vehicle when you arrived?

17 A Well, what I did -- I changed the spare. I put the spare tire on the  
18 vehicle.

19 Q Okay. And then after you somewhat repaired the vehicle, what did  
20 you and Shalana do?

21 A I took her down on -- I think it's Main and Charleston and had her  
22 spare replaced with a partial-- with a pretty new tire. And the one that was  
23 cut, I put a new tire -- a used tire on that one.

24 Q So by the time you left the tire repair shop, her vehicle was in fine  
25 condition; all four tires were working?

1 A Right, uh-huh.

2 Q What time do you think you ultimately left then?

3 A It was between 2:30 and 3:00 a.m.

4 Q And do you know where Shalana stayed the night that night?

5 A With a friend.

6 Q Her and the four boys?

7 A Right, uh-huh.

8 Q Now, specifically, I'd like to turn your attention to September 30<sup>th</sup>  
9 of 2008. Did you receive a phone call from your daughter, Shalana Eddins, on  
10 that day?

11 A Yes; I did.

12 Q And what was the reason for that phone call?

13 A She told me that her --

14 MS. JONES: Objection, hearsay.

15 MS. JEANNEY: And, Your Honor, I'm not offering this for the truth. I'm  
16 just offering for what he's going to do next after the phone call.

17 THE COURT: Okay. Well, as a result of the conversation with your  
18 daughter, what did you do?

19 THE WITNESS: After the conversation with my daughter?

20 THE COURT: Yeah, what did you do?

21 THE WITNESS: Well, I -- I work out of town, so I had to get  
22 transportation home.

23 THE COURT: Okay. You were out of town when you got the call?

24 THE WITNESS: No; I work out of town.

25 THE COURT: Oh, I'm sorry.

1 THE WITNESS: Yeah.

2 THE COURT: So were you at work out of town?

3 THE WITNESS: I was at work when I got the phone call, so I got  
4 transportation to come home; yeah.

5 THE COURT: Okay.

6 BY MS. JEANNEY:

7 Q And when you got transportation, where did that transportation  
8 take you?

9 A Over by McCarran Airport.

10 Q Is that where your daughter worked?

11 A No.

12 Q Eventually, did you get to where your daughter works?

13 A Right, uh-huh.

14 Q And what was the condition of her Expedition when you got to her  
15 place of employment?

16 A All four tires were flat.

17 Q What time would you say you got to Shalana's place of  
18 employment?

19 A The hours between 6:00 and 6:30.

20 Q Now, while you're there, did you ever receive any phone calls from  
21 the Defendant, Lesean Collins?

22 A Yes; I did.

23 Q How many phone calls did you get?

24 A Two.

25 Q Do you remember -- in the first phone call, do you remember what

1 time it was that you received that?

2 A It was -- it was between 6:00 and 6:30 -- before 6:30.

3 Q Before 6:30? And what did he say in that first phone call?

4 A He -- he started telling me that I can tell my daughter that they're  
5 even for -- for everything and the -- the damage to the car, the vehicle.

6 Q Okay. And after you get off the phone with the Defendant that  
7 time, do you call someone?

8 A No, I didn't -- yes. I didn't get off the phone then. I handed the  
9 phone to the police. They were there on the -- for the vehicle that had the flat  
10 tire. They were sitting there and I handed the phone to them.

11 Q Okay. What did the police do?

12 A They talked to Sean.

13 Q Okay. And then after that conversation was over between the  
14 police and the Defendant, did you make a phone call?

15 A Yes; I did.

16 Q And who did you call?

17 A Well, I called Darlene, which -- she -- where the kids were because  
18 Shalana told me about where the kids were.

19 Q Darlene Heer?

20 A Right. And I called Vivian.

21 Q When you say Vivian, are you speaking about Vivian Furlow?

22 A Right.

23 Q Okay. And what was the relationship between you and Vivian?

24 A We were dating at one time.

25 Q Okay. And how long did you date for?



1 A Oh, seven, eight years.

2 Q So is it safe to say that Vivian was very close with your family?

3 A She was very close.

4 Q Her and Shalana had a close relationship?

5 A Her and the kids, yes.

6 Q So -- now, you testified that the first phone call from the Defendant  
7 was between 6:00 and 6:30, but before 6:30?

8 A Right, uh-huh.

9 Q And after that first phone call, you called Vivian?

10 A Right.

11 Q And what did you ask Vivian to do?

12 A To go by Darlene's house which was next door to Shalana's house  
13 to pick the kids up.

14 Q Okay. And did she agree to do that?

15 A Yes; she did.

16 Q And that phone call was made before 6:30 as well?

17 A Right.

18 Q At some point, did you receive a second phone call from the  
19 Defendant?

20 A Yes; I did.

21 Q And what time was that phone call at?

22 A It could have been closer to 6:30 or a few minutes after.

23 Q And what did he say at that phone call?

24 A He said he heard my daughter's house was on fire.

25 Q What did you say?

1           A     And I told him -- I asked him -- I asked him how was the house on  
2 fire when he just left there?

3           Q     And what did he say?

4           A     He said it wasn't -- he didn't start the fire.

5           Q     But he was at the house?

6           MS. JONES: Objection, Your Honor, misstates testimony.

7           THE COURT: I'm sorry, is that a correct statement of your testimony?

8           THE WITNESS: Beg your pardon?

9           THE COURT: Maybe you should ask him the question again.

10          BY MS. JEANNEY:

11          Q     Did he say to you he'd been at the house?

12          A     Yes.

13          Q     Now after you get off with the Defendant with that phone call  
14 which was at 6:30, do you place another phone call to Vivian?

15          A     Yes; I did.

16          Q     And what time do you think that was at?

17          A     Probably within ten minutes, five minutes.

18          Q     So maybe 6 --

19          A     It might've been about maybe 6:35, 40.

20          Q     Okay. And what do you ask her to do?

21          A     I asked her to go next door and check on the house.

22          Q     Did Vivian know anything about a fire?

23          A     No.

24          Q     So the first thing she ever heard about a fire came from your  
25 mouth?

1 A Yeah.

2 MS. JONES: Objection, speculation.

3 THE COURT: Sustained --

4 MS. JEANNEY: Well --

5 THE COURT: -- as to the first time she heard about it. He can't testify  
6 as to the first time she heard about it.

7 BY MS. JEANNEY:

8 Q In your discussion with Vivian, before you told her about the fire,  
9 had she known about the fire?

10 MS. JONES: Objection, speculation.

11 THE COURT: Same; sustained.

12 BY MS. JEANNEY:

13 Q Are you the individual who told Vivian to check on the house?

14 A Yes.

15 Q Did she do so?

16 A Yes.

17 Q And what time -- were you on the phone with Vivian when the  
18 police had arrived?

19 A Yes; I was talking to her until she went outside and she told me the  
20 police were there and that's when I, you know, I was talking to her and then  
21 they went -- tried to touch the door and open the door.

22 Q When you were on the phone with her, were the police already  
23 there or had they just arrived?

24 A They had just gotten there.

25 Q Okay. So at 6:40?

1 A Yeah; uh-huh.

2 Q And I'm sorry, finish your statement. That they went to check on  
3 the house and what?

4 A And she was telling me when they got close to the door --

5 MS. JONES: Objection, it's hearsay and speculation. He was --

6 MS. JEANNEY: Well, Your Honor, it's not hearsay because it's  
7 statements. It's present sense impression. She's telling him as she's viewing  
8 them -- check the door.

9 THE COURT: Okay. Then maybe you need to lay some foundation.

10 MS. JEANNEY: Okay.

11 BY MS. JEANNEY:

12 Q Were you on the phone with Ms. Furlow while the police were  
13 checking the door?

14 A Yes; I was.

15 Q And did she -- did she express to you what was happening while it  
16 was going on?

17 A Yeah. At some point she told me that the door was kind of warm.

18 Q At some point, did you and Shalana leave Shalana's place of  
19 employment?

20 A Yes; we did.

21 Q And what point was that at?

22 A Before they towed her vehicle. We left some of the -- we  
23 confirmed there was a fire in her house.

24 Q And you went directly to the home at 1519?

25 A Right; uh-huh.

1 Q And what was the scene like when you two appeared?

2 A They had some of the street blocked off and the firemen were  
3 down there putting the fire out.

4 Q What was Shalana's demeanor when you arrived?

5 A She was in my car.

6 Q Okay. And what -- what were her emotions like?

7 A She was pretty concerned about her kids.

8 Q About her children?

9 A Yes.

10 Q When you spoke to the Defendant, in that second phone call, when  
11 he told you that he had heard your daughter's house was on fire; did the  
12 Defendant ever express any concern to you about where his children were?

13 A No; he didn't.

14 Q He never asked you about his children?

15 A No; he didn't.

16 Q After the fire was put out, were you ever allowed back inside the  
17 house?

18 A Well, it probably took a month -- month and a half.

19 Q But after a month and a half, were you allowed back?

20 A Yeah.

21 Q Did you go into the house with Shalana?

22 A Yes; I went in the first time she got a chance to go into the house.

23 Q And what did the inside of the house look like?

24 A Well, it was pretty destroyed. The bedrooms -- her bedroom closet  
25 was totally destroyed. All her new furniture in her bedroom was destroyed.

1 The kids room was -- all their furniture and clothing had been burned.

2 Q Did you ever go outside in the backyard?

3 A Yes; I did.

4 Q Okay. And what did you find back there?

5 A I found a barbeque pit with -- when -- we were going to move the  
6 barbeque pit. We were taking all the stuff that we could salvage out front.  
7 When I opened up the barbeque pit, her photograph of her family, her and her  
8 kids, had been inside the barbeque pit, partially burned.

9 Q On September 30<sup>th</sup> when the car was towed, was it towed to  
10 Discount Tire; is that correct?

11 A No; no. It was towed to one of her friend's house.

12 Q Okay. And then, what happened after it was towed to one of her  
13 friend's house?

14 A Well, I used to own an Expedition, so I thought my tires that I had  
15 took off of there might fit hers. So I took them over there to try to fit them,  
16 but they were the wrong size wheels.

17 Q Okay. At some point, did you take them to a shop, a tire shop?

18 A Oh, we had the car towed down there.

19 Q And where did you have that done?

20 A The Discount.

21 Q Discount Tire?

22 A Right.

23 Q And previously, in our meeting, did you bring me a copy of the  
24 receipt of the -- of what you had to pay or what Shalana had to pay for the tire  
25 repairs on her car?

1 A Yes; I did.

2 MS. JEANNEY: Your Honor, may I approach and have this marked?

3 THE COURT: You may. Uh-huh.

4 MS. JEANNEY: May I approach the witness, Judge?

5 THE COURT: You may.

6 COURT CLERK: Can I have that document back real quick?

7 MS. JEANNEY: Sure.

8 BY MS. JEANNEY:

9 Q Mr. Eddins, I'm approaching you -- about to show you what's been  
10 marked for purposes of identification as State's Proposed Exhibit Number 15 --  
11 51. Is this a true and accurate copy of the receipt you handed to me today?

12 A Yes; it is.

13 Q And is that the price that was paid for the repair of Shalana's  
14 Expedition?

15 A Yes; it is.

16 Q And what was that price?

17 A \$751.53. \$751.53.

18 MS. JEANNEY: Thank you. Your Honor, at this time I'd move for  
19 admission into evidence, State's Proposed Exhibit Number 51.

20 MS. JONES: No objection, Your Honor.

21 THE COURT: It's admitted.

22 ***[State's Exhibit Number 51 admitted]***

23 MS. JEANNEY: Kerry, is this working?

24 COURT RECORDER: Yes.

25 MS. JEANNEY: Your Honor, may I have permission to publish --

1 THE COURT: You may.

2 MS. JEANNEY: -- State's 51?

3 THE COURT: You may.

4 COURT MARSHAL: Power's on.

5 MS. JEANNEY: Oh, it's already on? Okay. Great. Thank you.

6 BY MS. JEANNEY:

7 Q And, Robert, there's a screen in front of you. Once it gets warmed  
8 up, just wait one second. Can you see it on your screen now?

9 A Yes; I can.

10 Q Okay. So just so the ladies and gentlemen of the jury can see, is  
11 this the receipt that you had provided to our office?

12 A Right; uh-huh.

13 Q And it's got Discount Tires?

14 A Yes; uh-huh.

15 Q And you brought the Expedition into that tire shop on October 4<sup>th</sup> of  
16 2008; correct?

17 A Yes.

18 Q So, obviously, you testified that this has happened on September  
19 30<sup>th</sup> and this receipt is showing October 4<sup>th</sup>. So have you had it at the -- or, I'm  
20 sorry -- the cousin's house for a couple of days when you were trying to find  
21 those tires?

22 A It wasn't a cousin. It was a friend where she was -- one of her  
23 friends.

24 Q So when it was parked there, was that where it was parked during  
25 that time period when you were trying to find tires?



1 A Right; uh-huh.

2 Q And right here, the make and model, was that a 2004 Expedition?

3 A Yes; it is.

4 Q And then right here under customer information, that would be  
5 Shalana, your daughter, Shalana Eddins?

6 A Yes.

7 Q And then a total amount would be \$751.53?

8 A Yes.

9 MS. JEANNEY: Pass the witness, Your Honor.

10 THE COURT: Cross?

11 MS. JONES: Court's indulgence, Your Honor.

12 **CROSS EXAMINATION**

13 **BY MS. JONES:**

14 Q Good afternoon, Mr. Eddins. Shalana Eddins is your daughter;  
15 correct?

16 A Yes.

17 Q And Shalana Eddins has been in a relationship with Lesean Collins  
18 for a long period of time; correct?

19 A Yes.

20 Q So, is it fair to say that you've been acquainted with him for a  
21 substantial period of time?

22 A Yes.

23 Q Approximately 11 years?

24 A I would say probably more like 12, maybe.

25 Q Okay. But it's a long --more than 10, we'll say?

1           A     Yeah.

2           Q     Okay. And on September 29<sup>th</sup>, you were called by Shalana late at  
3 night; correct?

4           A     Right.

5           Q     And how late would you say that was?

6           A     It was probably more like 11 o'clockish -- 11 o'clock or so.

7           Q     So 11 o'clock p.m.?

8           A     It was somewhere around that time.

9           Q     And you arrived to the house after that?

10          A     Yes.

11          Q     So you weren't present for any events that transpired prior to you  
12 being -- you arriving after 11 o'clock?

13          A     No.

14          Q     Okay. And Shalana and the children were there when you arrived?

15          A     Yes.

16          Q     And on September 30<sup>th</sup>, Shalana called you and you went out to her  
17 job?.

18          A     Right; uh-huh.

19          Q     And that's when you had the car towed to a friend's house?

20          A     No; I didn't have a car towed to a friend's house.

21          Q     She had the car towed to a friend's house?

22          A     Thank you; yes.

23          Q     Okay. And how many tires did you replace on that car?

24          A     When?

25          Q     When it went to Discount Tires.

1           A     I had four new tires put on the ground. I had a new -- a better  
2 spare put on.

3           Q     Okay. And you did that on October 4<sup>th</sup>; correct?

4           A     Yes.

5           Q     But on September 30<sup>th</sup> when you were at Shalana's job, Lesean  
6 called you?

7           A     Right.

8           Q     And he called you on your cell phone?

9           A     Yes.

10          Q     Was it normal for Lesean to call you?

11          A     We talked quite often.

12          Q     So you guys talked quite often. And Lesean called you between  
13 6:00 and 6:30?

14          A     Yes.

15          Q     Okay. Do you remember that you previously testified about this  
16 incident at the Grand Jury?

17          A     Yes.

18          Q     And that was back in April -- February -- February?

19          A     Uh-huh.

20          Q     And do you remember when you were there that you said that the  
21 first call that he made to you was between 5 and 6?

22          A     Yes.

23          Q     But is the first call he made to you between 5 and 6 or between 6  
24 and 6:30?

25          A     6 and 6:30 that I spoke with him, but his number showed up on my

1 phone between 5 and 6.

2 Q So you missed the calls before?

3 A Yes.

4 Q Okay. And so, the first call where you spoke to him was between  
5 6 and 6:30?

6 A Yes.

7 Q And then he made another call to you; correct?

8 A Both his calls are made between 6 and 6:30.

9 Q Both of them were. And you spoke with him twice, but in that  
10 time period?

11 A Yes; uh-huh.

12 Q Okay. And Lesean called you after you had already made contact  
13 with Vivian Furlow; correct?

14 A He called -- well, he called me once, but -- he called me once before  
15 I had made contact with him once after.

16 Q So one of the calls he made to you was after you had made contact  
17 with Vivian Furlow?

18 A Right.

19 Q And the police officers were already at the house when you had  
20 made contact with Vivian Furlow; correct?

21 A For which time? The first time or the second time?

22 Q The first time is when you sent her to the house.

23 A Asked her to go to the house; yes.

24 Q You asked her to go to the house. Okay. So the second time you  
25 talked to Vivian Furlow is when she's at Darlene Heer's residence; correct?

1 A Right.

2 Q And did Lesean contact you before that call?

3 A He had contacted me probably twice before I made the second  
4 phone call to Vivian.

5 Q But had he contacted you before you made the first phone call to  
6 Vivian?

7 A Had he contacted me before I made the first phone call?

8 Q Correct.

9 A He -- no, no, no. I made the first phone call to Vivian probably after  
10 I talked to Sean.

11 Q Okay. And when he's on the phone and he told you that he heard  
12 that Shalana's house was on fire; is that what he said?

13 A Yes.

14 Q And after that, was that the call where you gave the phone to the  
15 police?

16 A No; that was after the first phone call.

17 Q Okay. So after he tells you that he heard that Shalana's house was  
18 on fire, do you continue a conversation with him?

19 A No; it was a pretty short conversation.

20 Q So is it fair to say the conversation was discontinued shortly  
21 thereafter?

22 A Yes.

23 Q Okay. And you told him that he had just left the house; correct?

24 A Yes.

25 Q But you hadn't been to the house; correct?

1 A Yes.

2 Q And you knew this information from Vivian; correct?

3 A Yes.

4 Q And you don't know how he got into the house because you  
5 weren't there; right?

6 A No.

7 Q And you don't know whether or not the children were home?

8 A No.

9 Q And you -- at that point --

10 A At which time?

11 Q -- when you're saying that he was in the house.

12 A Oh. I didn't say he was in the house. I said he left the house.

13 Q You said he just left?

14 A Yeah.

15 Q And you don't know where the children were located when he left  
16 the house?

17 A When he left the house -- which time, the first time or second time?

18 Q When he left the house when you are talk -- when he calls you and  
19 you say: You just left there, that time --

20 A Uh-huh.

21 Q -- you don't know where the children were when he had just left  
22 there?

23 A Yes; I do.

24 Q Okay. And when you spoke with the kids, they were already at the  
25 neighbors; correct?

1           A     I never spoke with the kids.

2           Q     When you spoke with Vivian, she said that the kids were at the  
3 neighbor's?

4           A     Thank you.

5           Q     Okay. But you don't know what time the kids arrived at the  
6 neighbor's house?

7           A     No; I don't.

8           Q     And when Lesean called you the first time, he said: Tell Shalana  
9 that we're even now?

10          A     Yes.

11          Q     And there had been some damage done to her car the night before;  
12 correct?

13          A     Right.

14          Q     And there had been some damage done to her car that day?

15          A     Right.

16          Q     And that's what you were at her job for?

17          A     Right.

18          Q     And she had done some damage to a vehicle he was driving;  
19 correct?

20          A     I don't know who done the damage.

21          Q     Okay. That was never told to you?

22          A     No.

23          Q     Okay. And when Vivian -- to the best of your knowledge, Vivian  
24 went to Ms. Heer's residence, first?

25          A     Yes.

1 Q Because that's where the children were?

2 A Yes.

3 Q But you don't know the actual time of her arrival?

4 A Of her arrival? It was between -- it was probably somewhere -- no,  
5 I don't know the time.

6 Q Because you were down at Shalana's job?

7 A Uh-huh.

8 Q And you don't know how long she stayed at Ms. Heer's residence?

9 A No; I don't.

10 Q And you don't know exactly what time the fire was started at  
11 Shalana's residence?

12 A No; I don't.

13 Q Because you weren't there when the police arrived?

14 A No.

15 Q And the residence -- the fire was already burning when you arrived  
16 on the scene?

17 A Right.

18 Q And when you arrived on the scene, was there a crowd?

19 A Yes; there was.

20 Q And the police had blocked off a couple of the streets?

21 A Yes.

22 Q And did you stay during the time that it took the fire department to  
23 put the fire out?

24 A Yes; I did.

25 Q And you stayed until they were finished?



1 A Yes; I did.

2 Q And did you watch them secure that scene?

3 A Pretty much, from a distance.

4 Q Well, you saw that that's what they were doing?

5 A Right; uh-huh.

6 Q And are you aware that they locked the door? They put a lock on  
7 the front door?

8 A Yes, as far as my --

9 Q And basically, you knew that they were doing that for any  
10 investigation purposes or anything?

11 A Yes.

12 Q And they went and they completed that investigation?

13 A Yes.

14 Q Okay. And do you know when they completed that investigation?

15 A I have no idea. I know it was a long time before they let her back  
16 in the house because it had a lot to do with the property management and the  
17 owner of the property so, you know; I can't say.

18 Q And they weren't going to let her back in the house until the  
19 investigation was complete; correct?

20 A That's right.

21 Q Okay. And when you spoke with Lesean Collins, Lesean Collins  
22 told you he did not start that fire; correct?

23 A Yes.

24 MS. JONES: Court's indulgence, Your Honor.

25 [Defense Counsel confer]

1 BY MS. JONES:

2 Q Okay. Mr. Eddins, when Lesean called you and told you about --  
3 that he had heard about the fire at the residence, that was before Vivian had  
4 arrived at Shalana's house; correct?

5 A No. Before she had arrived -- had arrived -- she was next door.

6 Q But it was before she had made an attempt to go over to Shalana's  
7 house; correct?

8 A Yes, uh-huh.

9 Q Okay. And that was your testimony when you were at the Grand  
10 Jury?

11 A Yes.

12 Q And when Lesean called you, your testimony was that he called  
13 you before the police had arrived?

14 A Yes.

15 Q And what time did the police arrive?

16 A I can't tell you what time the police arrived.

17 Q Okay.

18 A I can tell you what time Vivian walked next door -- went outside  
19 and the police were already there.

20 Q Okay.

21 A I can't tell you how long they had been there.

22 Q Okay. So you don't know what time they arrived?

23 A No.

24 Q Okay.

25 [Defense Counsel confer]

1 MS. JONES: Nothing further, Your Honor.

2 THE COURT: Any redirect?

3 MS. JEANNEY: Court's indulgence, Judge.

4 **REDIRECT EXAMINATION**

5 **BY MS. JEANNEY:**

6 Q Robert, Ms. Jones just asked you if you knew when the police got  
7 there, but you -- correct?

8 A Yes; uh-huh.

9 Q But when you were on direct -- when I was asking you questions,  
10 you were actually on the phone with Vivian when the police arrived; is that  
11 correct?

12 A Well, she said that they were outside when she -- when she walked  
13 outside, so I couldn't tell you if they had been there for 10 or 15 minutes  
14 because I don't know.

15 Q Okay.

16 A She said that when she walked outside, the police were there.

17 Q Okay.

18 A That's what she said.

19 Q And prior to you telling Vivian about the fire, did she tell you about  
20 the fire?

21 A Well yes, 'cause -- yeah, she told me that the house -- that the door  
22 was too hot for them to handle or open the door because she had -- I think she  
23 had to obtain the key from Tysean. She was going to open -- unlock the door.

24 Q Okay.

25 A Yeah.

1 MS. JEANNEY: Nothing further, Judge.

2 THE COURT: Any recross?

3 MS. JONES: Just briefly, Your Honor.

4 **RECROSS EXAMINATION**

5 **BY MS. JONES:**

6 Q Mr. Eddins, just to make sure that we're clear. Vivian goes over to  
7 Shalana Eddins' residence; correct?

8 A Uh-huh.

9 Q Because you had sent her to Ms. Heer's to get the kids?

10 A Yes.

11 Q And you talked with her when she arrived at Ms. Heer's?

12 A Yeah.

13 Q And then she went over to Shalana's residence?

14 A Yes.

15 Q And when she went over there, she had obtained the key from  
16 Tysean?

17 A Yes.

18 Q And then she -- when she tried to unlock the door, the door was  
19 too hot to touch; correct?

20 A Well, she just said it was too hot to even get -- when she got close  
21 to the door, she could feel the heat coming out there. So I don't know whether  
22 she touched the door or not, but she said when she got close to the door, she  
23 could feel the heat. So that's when she stepped back and you could see the  
24 blinds in the front window, melting.

25 Q Okay. And you're receiving all of this information from Vivian

1 Furlow --

2 A That's what she's telling me.

3 Q -- because you're still at Shalana's job?

4 A Yeah.

5 Q Okay. And this was the first of you knowing about the fire?

6 A First of me knowing --

7 Q Yes.

8 A -- or hearing?

9 Q Knowing about the fire.

10 A Yes.

11 MS. JONES: Okay. Nothing further, Your Honor.

12 THE COURT: Thank you very much for your testimony here today. You  
13 may step down. You are excused. You can call your next witness.

14 MS. JEANNEY: Officer Vital.

15 COURT MARSHAL: I'm sorry?

16 MS. JEANNEY: State calls Officer Vital.

17 COURT MARSHAL: Go to the right of the podium right here, right of the  
18 podium.

19 OFFICER VITAL: Okay.

20 COURT MARSHAL: Right up to the box. Watch your step.

21 COURT CLERK: Remain standing and raise your right hand.

22 **MANUEL VITAL,**

23 being first duly sworn as a witness, testified as follows:

24 COURT CLERK: Thank you. Please be seated. Will you please state  
25 your full name, spelling your first and last name for the record.

1 THE WITNESS: First name is Manuel Vital.

2 COURT CLERK: Please spell both.

3 THE WITNESS: First name is M-A-N-U-E-L. Last name is V-I-T-A-L.

4 COURT CLERK: Thank you.

5 MS. JEANNEY: May I proceed, Judge?

6 ***DIRECT EXAMINATION***

7 ***BY MS. JEANNEY:***

8 Q Good afternoon, Officer Vital.

9 A Good afternoon.

10 Q How are you employed?

11 A Sorry?

12 Q How are you employed?

13 A I'm employed by the City of North Las Vegas Police Department.

14 Q How long have you been with the department?

15 A Just over three years.

16 Q And how long have you been a police officer?

17 A I've been a police officer for about 10, going on 11 years.

18 Q I'd like to turn your attention to September 30<sup>th</sup> of 2008. On that  
19 date, were you called to a Laguna Palms residence in North Las Vegas,  
20 Nevada?

21 A Yes, ma'am.

22 Q And what was the reason for the call?

23 A May I refer to my report real quick?

24 Q Would it help -- would looking at the report help refresh your  
25 recollection?

1 A Yes, ma'am.

2 Q Go ahead and read it, just to yourself, then let me know when  
3 you're done.

4 A Absolutely.

5 [Pause in proceedings]

6 A Okay.

7 Q After reading that, was your recollection refreshed?

8 A Yes, ma'am.

9 Q And what was the reason for the call?

10 A The original reason for the call was a subject with a handgun.

11 Q And where was that subject located?

12 A The subject was located at 1519 Laguna Palms.

13 MS. PAROLISE: And, Your Honor, I'm just going to have to object to him  
14 reading off of his report.

15 THE COURT: Okay.

16 MS. PAROLISE: I believe he checked it again, Your Honor.

17 THE COURT: Are you reading off your report? Because we want you to  
18 testify from your own personal knowledge. If you don't know, you need to tell  
19 the District Attorney.

20 THE WITNESS: Okay.

21 THE COURT: Okay?

22 THE WITNESS: All right.

23 BY MS. JEANNEY:

24 Q So, do you remember what you did after you received that phone  
25 call?

1 A Yes, we -- I immediately responded to 1519 Laguna Palms.

2 Q Okay. And when you got there, what did you see?

3 A When I got there, Officer White had arrived just prior to me, so we  
4 made contact with a white female that had made the original call.

5 Q Okay. Do you remember the name of that individual?

6 A Last name was Heers. I don't remember her first name.

7 Q Would that be Darlene Heer?

8 A Yes, ma'am.

9 Q Okay. And when you made contact with Ms. Heer, is she at 1519  
10 or is she at a different house?

11 A She was outside, I believe, right -- right outside her residence,  
12 which was right in the corner.

13 Q Okay. And when you made contact with Ms. Heer, what is her  
14 demeanor like?

15 A When I first made contact with Ms. Heers, she was very -- speaking  
16 very fast, very agitated; seemed very scared.

17 MS. PAROLISE: I'm going to object, Your Honor, to hearsay about what  
18 Ms. Heer said.

19 THE COURT: Okay. He hasn't said anything that she said right now.  
20 He's describing her demeanor, so the objection is overruled and you can  
21 continue.

22 BY MS. JEANNEY:

23 Q I'm sorry, can you start again? What was her demeanor like?

24 A She was talking very fast, very scared, very agitated. She kept  
25 pointing, so her mannerisms appear to be scared of some sort.



1 Q Pretty scared. And did you have a conversation with Ms. Heer?

2 A Her initial conversation was very brief. I asked her what had  
3 happened and she told me that --

4 MS. PAROLISE: I'm going to object to hearsay, Your Honor.

5 MS. JEANNEY: Your Honor, this --

6 THE COURT: Overruled, and you can proceed.

7 BY MS. JEANNEY:

8 Q Sorry. Go ahead.

9 A I asked her what had happened and she told me Lesean Collins  
10 came over, he was going to kill her, he was going to the house.

11 Q Okay. Let's slow down for just one second.

12 A Uh-huh.

13 Q Now, in the first conversation when you -- when she -- Ms. Heer  
14 was very upset.

15 A Yes, ma'am.

16 Q And she said that she made contact with Mr. Collins?

17 A Yes.

18 Q And what did Mr. Collins say to her?

19 A May I refer to my report so I can read the quotation?

20 Q Are you having problems with memory?

21 A I know she said something to the effect, but I don't want to  
22 stipulate to what she said without --

23 Q So would looking at your report help refresh your recollection?

24 A Yes, ma'am.

25 Q Okay. That's fine. Why don't you go ahead and read that real

1 quick and just let me know when you're done.

2 A Okay.

3 Q Do you remember now after --

4 A Yes, ma'am.

5 Q What did Ms. Heer say that the Defendant had said to her?

6 A Told me that he was there to kill his wife.

7 Q Okay. Did you talk to Ms. Heer anymore?

8 A Shortly after she made that statement, our main concern was to  
9 see if Mr. Lesean was at the residence, so Officer -- we later stayed there, and  
10 Officer White and myself went to check the residence.

11 Q At -- check the residence at 1519?

12 A Laguna Palms; yes, ma'am.

13 Q And when you do -- when you did ultimately check the residence,  
14 what did you find?

15 A As Officer White and I are approaching the house, we could smell a  
16 little smoke and -- coming from the residence. As we got a little bit closer, we  
17 could see the windows being bowed out.

18 As we approached the front door, I touched the door handle and it  
19 was hot, so basically, we could determine it was probably a fire going on  
20 inside. We backed out. Officer White contacted the fire department and we  
21 both began to evacuate adjacent homes.

22 Q When you initially got -- when the call came out, what time did you  
23 start responding to the home?

24 A 18:52, I think the call came in; I was dispatched.

25 Q So that would be 6:52?

1 A Yes, ma'am; 6:52 p.m.

2 Q And how long were you talking to Ms. Heer before you went over  
3 to the residence?

4 A My initial contact with Ms. Heers was about two to three minutes  
5 or so, just enough to gather enough information so we could go check on the  
6 residence.

7 Q Okay. And so, what time do you think you went over and checked  
8 on the residence?

9 A I'd say we arrived there about 18 -- 6:52. I would say by at least 7  
10 o'clock, we were already checking the residence.

11 Q So at 7 o'clock is when you discovered that the house was on fire?

12 A Yes, ma'am.

13 MS. JEANNEY: Court's indulgence, Judge. Pass the witness, Your  
14 Honor.

15 THE COURT: Cross?

16 MS. PAROLISE: Thank you, Your Honor.

17 **CROSS EXAMINATION**

18 **BY MS. PAROLISE:**

19 Q Now, Officer Vital, you said that you were dispatched at 6:52  
20 p.m.?

21 A Yes, ma'am.

22 Q And you're not sure how long it took you to arrive on location?

23 A No; I'm not.

24 Q But as soon as you were sure the house was on fire, you would  
25 have called that into dispatch; is that correct?

1 A Absolutely.

2 Q Is it possible that that was about 7:05 p.m.?

3 A It could be; yes.

4 Q Okay. Now, you said Officer White arrived first?

5 A Yes.

6 Q Now, Officer White never said anything about that house being on  
7 fire; is that correct?

8 A She told me to contact -- no; she did not.

9 Q Okay.

10 A She's the one that contacted Fire.

11 Q Okay. And you didn't immediately notice that that house was on  
12 fire?

13 A No; I did not immediately notice it.

14 Q It wasn't until you got closer that you began to smell some smoke?

15 A That's correct.

16 Q But you still felt the need to do further investigation and reached  
17 out and touched the doorknob?

18 A That's correct.

19 Q Okay. And that's when you felt the heat?

20 A That's correct.

21 Q And that's when you knew the house was on fire?

22 A Yes, ma'am.

23 Q Now, when you arrived sometime after 6:52 p.m., Lesean Collins  
24 was gone; is that correct?

25 A That's correct.

1 Q And you never saw a blue sedan?

2 A No; we did not.

3 Q Okay. And you didn't see one speeding away?

4 A No.

5 Q And at no time when you were there did you see Lesean Collins?

6 A No, ma'am.

7 MS. PAROLISE: Nothing further, Your Honor.

8 THE COURT: Any redirect?

9 MS. JEANNEY: No, Your Honor.

10 THE COURT: Thank you very much for your testimony here today. You  
11 may step down. You are excused.

12 THE WITNESS: Thank you.

13 THE COURT: Thank you for being here. Call your next witness.

14 MR. TOMSHECK: The State calls Jeff Lomprey.

15 ***JEFFREY LOMPNEY,***

16 having been first duly sworn as a witness, testified as follows:

17 COURT CLERK: Thank you. Please be seated. Will you please state  
18 your full name, spelling your first and last name for the record.

19 THE WITNESS: Jeffrey Lompney, L-O-M-P-R-E-Y.

20 MR. TOMSHECK: May I proceed, Judge?

21 THE COURT: You may.

22 ***DIRECT EXAMINATION***

23 ***BY MR. TOMSHECK:***

24 Q Sir, how are you presently employed?

25 A I am an investigator with the City of North Las Vegas Arson Unit.

1 Q And what's your title?

2 A Captain.

3 Q Essentially, what are your job duties as the captain of the Arson  
4 Investigations Unit with North Las Vegas?

5 A I conduct origin and cause investigations. I oversee four other  
6 origin and cause investigators and we follow-up on non-criminal and criminal  
7 fires.

8 Q Okay. And the jurisdiction within which you work is the  
9 municipality of North Las Vegas; correct?

10 A Yes, sir.

11 Q When you say you oversee four other arson investigators, are those  
12 people that are under your direct supervision?

13 A Yes.

14 Q And do they do the same type of work that you do?

15 A They only do origin and cause.

16 Q Okay.

17 A That's all they're certified for, sir.

18 Q Okay. And when you say origin and cause, is that a term of art  
19 that you use, regularly, in your line of work?

20 A Yes.

21 Q What does that mean?

22 A It's finding out how the fire started and why.

23 Q Okay. When you say origin, are you talking about where the fire  
24 originated, obviously?

25 A Yes, sir.

1 Q And when you're talking about cause, are you talking about the  
2 cause -- the reason that that fire started?

3 A Yes; what brought the heat source to a fuel source.

4 Q Obviously, someone like myself couldn't walk in and do that type of  
5 investigation. Do you have certain education, training and experience that  
6 allows you to do that kind of work?

7 A I do, sir.

8 Q And can you describe, for the ladies and gentlemen of the jury,  
9 what kind of training you have that allows you to do that type of investigation.

10 A Of course. I attended UNLV. I attended CSN. I went to the police  
11 academy. I'm a Category I Police Officer. I went -- I am a graduate of the  
12 United States Fire Academy the ATF puts on. I have my certification through  
13 the International Association of Arson Investigators as a CFI and also through  
14 the National Association of Fire Investigators (NAFI). I'm a certified explosion  
15 investigator also.

16 Q How long have you worked doing origin and cause type  
17 investigations as it relates to fires?

18 A Since 1983, sir.

19 Q Okay. And has it always been with the North Las Vegas Fire  
20 Department?

21 A No, sir.

22 Q How long have you been with North Las Vegas?

23 A I've been with North Las Vegas -- December will be three years, sir.

24 Q Prior to that, where did you work?

25 A The City of Boulder City.

1 Q And what did you do for the City of Boulder City?

2 A I was a police officer, fire investigator and then I was promoted to a  
3 detective; then later, I made senior detective.

4 Q As a senior detective with Boulder City, what types of crimes  
5 would you investigate?

6 A Homicides, sexual assaults, arsons, burglaries and robberies.

7 Q Okay. Is it fair to say that Boulder City is a smaller jurisdiction?

8 A Yes, sir.

9 Q In terms of the individuals in Boulder City that would have  
10 investigated arsons, were you kind of the guy?

11 A I was, sir.

12 Q Okay. In other words, they don't have five people that do that type  
13 of work?

14 A No, sir.

15 Q Like you do now at North Las Vegas?

16 A Correct.

17 Q I want to direct your attention to a specific incident which occurred  
18 back on September 30<sup>th</sup> of 2008, last year. Would you have been working for  
19 North Las Vegas at that time?

20 A I was, sir.

21 Q Are you familiar with a fire that occurred at an address known as  
22 1519 Laguna Palms in North Las Vegas?

23 A Yes, sir.

24 Q And just for the record, is that in Clark County?

25 A Yes, sir.



1 Q Were you present at the fire at the time it was burning?

2 A No, sir.

3 Q Were you present at all on September 30<sup>th</sup>?

4 A No, sir.

5 Q When a fire call comes into 9-1-1 and someone is sent to respond,  
6 who puts out the fire and does that portion of the work?

7 A The fire department within that jurisdiction, sir.

8 Q As an arson investigator, would you often be called out later to  
9 conduct a follow-up investigation?

10 A Yes, sir.

11 Q Is that when you do the work that you describe to determine the  
12 origin and cause of the fire?

13 A Yes, sir.

14 Q The specific address that I mentioned -- were you ultimately  
15 assigned the responsibility of following up an investigation related to that  
16 address at 1519 Laguna Palms?

17 A I was, sir.

18 Q And did you physically respond to that scene?

19 A I did, on a search warrant, with another law enforcement agency.

20 Q Okay. And when did you respond to that location?

21 A October 2<sup>nd</sup>, sir.

22 Q So a few days after the fire?

23 A Yes, sir.

24 Q When you went there, you mentioned you had a search warrant?

25 A Yes, sir.

1 Q Can you describe the residence when you arrived.

2 A It was sealed.

3 Q And for the ladies and gentlemen of the jury, I'm talking style of  
4 house. How big? Bedrooms, bathrooms?

5 A It was roughly -- I would say about an 1,800 square foot ranch-  
6 style home, three bedroom, two bath with an attached two-car garage.

7 Q And you mentioned it was sealed. What does that mean?

8 A It had boards on the windows so nobody could make entry.

9 Q Okay. Did you make entry while you were there?

10 A Yes, sir.

11 Q And did you conduct your investigation inside?

12 A I did.

13 Q Did you conduct what you would describe as a typical origin and  
14 cause investigation?

15 A Yes, sir.

16 Q And how is it that you go about doing that?

17 A We're taught -- the methodology -- the system that we're all taught  
18 is -- we go from the least amount of damage to the most amount of damage.

19 Q Why is it that you do that?

20 A Basically for observation purposes because when you have to -- you  
21 have to narrow your search for the investigation, that's why you go from --  
22 literally the outside to the inside.

23 Q Okay. When you say the most amount of damage, when you  
24 identify that location, does that tell you something about a fire?

25 A Yes, sir.

1 Q What does it tell you?

2 A That normally tells us we're in the area of origin; that's where the  
3 fire originated from.

4 Q And why does it tell you that?

5 A Because that's where it's most burned, charred, the most damage.

6 Q In other words, the longer a fire burns, the more damage it causes;  
7 correct?

8 A Yes, and that's called: intensity patterns.

9 Q So if you see a fire and it's burnt really bad in the middle and a little  
10 bit on the outside, would common sense indicate to you that it started at the  
11 more burned area?

12 A Yes, sir.

13 Q Is that essentially how you identify an area of origin?

14 A That is correct.

15 Q In this particular case, were you able to find one of those areas of  
16 origin?

17 A Yes, sir.

18 Q Did you find more than one?

19 A I did.

20 Q Can you describe to the ladies and gentlemen of the jury what you  
21 observed.

22 A I observed in the -- coming from the front door, into the residence, I  
23 looked through -- part way through a hallway there was a kitchen on the left  
24 and I noticed a living room straight ahead with a turned-over couch. I noticed  
25 an area of origin on that couch.

1 Q Okay. What did you see? Actually -- what did you physically see  
2 on the couch?

3 A One of the cushions was sliced and it had what we call trailers,  
4 which means, it was a paper product that was twisted up to give the effect  
5 that something would burn along that edge, and the edge of one of the  
6 couches that was cut open, was charred.

7 Q Okay. In addition to that location, what else did you discover  
8 within the residence that was pertinent to your investigation?

9 A I went in the master bedroom.

10 Q In terms of the rooms and the house overall, what room was most  
11 badly burned?

12 A The master bedroom.

13 Q Okay. What did you see within the master bedroom?

14 A The bed.

15 Q Can you describe that for the ladies and gentlemen of the jury.

16 A It had a large debris pile on it with women's clothing.

17 Q Okay. And what was the condition of that women's clothing?

18 A It was destroyed.

19 Q What was the condition of the bed?

20 A It was destroyed by fire also.

21 Q What was the condition of the ceiling above the bed?

22 A It had been exposed during overall operations, but you can clearly  
23 see where the heat plume had come up and it rolled off, and that's what it  
24 does. It's buoyant so it's going to go up.

25 Q In addition to the area in the master bedroom, focused on the bed,

1 did you find another area of origin in the house?

2 A Yes, sir. During my examination of the bedroom, I also noticed, off  
3 to the left, there was a closet that also had a different fire that happened in  
4 there.

5 Q Okay. You talk now about three separate distinct areas of origin; is  
6 that correct?

7 A Yes, sir.

8 Q Is it fair to say that a fire doesn't start in one area of origin and  
9 jump to another?

10 A That -- no, that does not happen.

11 Q Okay. Why not?

12 A Because of what it does, it has to consume the fuel around it and  
13 the more fuel it consumes, the bigger the fire gets.

14 Q In other words, if I start a fire in the middle of the floor, you  
15 wouldn't expect to find the same fire burning elsewhere without a path in  
16 between?

17 A That is correct.

18 Q For a fire to exist, it's got to have some type of fuel that it's  
19 consumed?

20 A Yes.

21 Q Is there a term that you use to differentiate between different  
22 locations?

23 A Yeah. The fire simply did not migrate to the other fire or did not  
24 communicate to the other fire. They were each independent fires.

25 Q When you conduct an origin and cause investigation like you did at

1 1519 Laguna Palms, do you document what you looked at through  
2 photographs?

3 A I did -- and I did.

4 Q Did you in this case?

5 A Yes, sir.

6 Q Had you previously had an opportunity to review the photographs  
7 that you provided as part of this case?

8 A I have.

9 MR. TOMSHECK: Can I approach the witness, Judge?

10 THE COURT: You may.

11 MR. TOMSHECK: For the record, I'm showing opposing counsel what's  
12 been marked as State's 1 through 49 in order. Judge, for purposes of  
13 expediency, the Defense has offered to stipulate to the admission of State's 1  
14 through 49. If I could publish the relevant photographs as I talk about them  
15 with the witness.

16 THE COURT: Okay. They're admitted into evidence.

17 ***[State's Exhibits 1 through 49 admitted]***

18 MR. TOMSHECK: Thank you, Judge.

19 BY MR. TOMSHECK:

20 Q I'm going to put on the overhead here -- State's Exhibit 2 -- can you  
21 describe what you're looking at in State's Exhibit 2?

22 A Yes, sir. As I walk into the front residence, you'll see the kitchen  
23 counter off to the left and directly ahead is the sofa that I spoke of.

24 Q Okay. I'm going to show you now State's Exhibit 1. Is that the  
25 same sofa from a different vantage point?

1           A     Yes; that's in the kitchen looking toward the family room or living  
2 room -- how -- however it is in the house.

3           Q     And in State's Exhibit 4, what are we looking at there?

4           A     That is the same couch that's turned upside down.

5           Q     Okay. When you talk about the area of origin related to the couch,  
6 what was the damage related with that particular area of origin as opposed to  
7 the others?

8           A     It was just lightly charred.

9           Q     You talked previously on direct examination about trailers. What do  
10 you mean by that?

11          A     It's actually used to assist the fire to communicate along. If you lay  
12 down, like the old movies would lay down -- this has no reference. With  
13 gasoline, you see someone like pour it out. That's a gasoline trailer. You can  
14 also do the same with paper. It's the same, basically it consumes that fuel.

15          Q     State's Exhibit 5, is that one of the examples of a trailer you're  
16 talking about?

17          A     That is.

18          Q     And in State's Exhibit 6, is that another example?

19          A     That is.

20          Q     In State's Exhibit 7, can you tell us what we're looking at there?

21          A     Yes, sir. You'll see a cut in the sofa, and you'll notice right -- you'll  
22 notice char -- don't know if they can see that or not.

23          Q     You can actually circle, with your finger right on that screen and  
24 it'll show up so we can all see it.

25          A     Right there.

1 Q What are you documenting there? For the record, it looks like  
2 you've circled a yellow circle around a linear cut in the sofa; is that correct?

3 A At the top of the circle you'll see a small black spot. That's what  
4 we call a char.

5 Q Okay. And looking at that as a layperson, it appears to me like a  
6 fire that just didn't take. Is that what --

7 A That's exactly right.

8 Q Okay. Now, I want to talk to you about -- first of all, in the master  
9 bedroom, the damage that you describe there. I'm going to show you State's  
10 Exhibit Number 9. What are we looking at?

11 A That is the master bedroom, with the bed, with the debris piled on  
12 top of it.

13 Q And in State's Exhibit 8, what are we looking at there?

14 A That is a reverse angle of the bed.

15 Q Okay. Above the bed on the ceiling, what do you see?

16 A That's where a heat plume came directly off of the -- that's what  
17 I'm talking about right here.

18 Q Okay. It looks like you just circled kind of a --

19 A It's a V pattern.

20 Q Okay. A V pattern in the middle of the screen and it appears in  
21 yellow on the exhibit; is that correct?

22 A Yes, sir.

23 Q And it looks like it's kind of outlining a dark gray color that's darker  
24 than the rest of the wall. Do you agree with that?

25 A That is correct.



1 Q What is that?

2 A That is a char -- a soot pattern.

3 Q Okay. And the damage above the headboard and the ceiling, now  
4 what is that caused by?

5 A That's caused from the firefighters looking for extension to make  
6 sure that it didn't get up into the attic; the fire.

7 Q The origin of the fire within the master bedroom, are you able to  
8 see that area in the photographs that's on the overhead as State's Exhibit 8?

9 A It was on the bed.

10 Q Okay. So any particular part of the bed or just on the bed itself?

11 A It was too consumed to actually pinpoint it, but it was definitely on  
12 the bed.

13 Q You mentioned an area of the closet that you found an area of  
14 origin as well. Do you document that through the use of photographs?

15 A I did.

16 Q And do you have accessible to you a flash so you can take a  
17 photograph with or without a flash?

18 A I took the photograph the first time without a flash thinking there  
19 was enough light and there wasn't, so I retok the photograph this time with a  
20 flash.

21 Q Okay. I'm going to show you State's Exhibit 11, is that the  
22 photograph without a flash?

23 A That is, sir.

24 Q Are you able to see the burned area in that photograph?

25 A You can somewhat see it, so I didn't like the way it looked so I

1 rephotographed it.

2 Q And is that what we see in State's Exhibit 10?

3 A Yes, sir.

4 Q Can you describe, for the ladies and gentlemen of the jury, what  
5 you see in State's Exhibit 10?

6 A In the corner of the closet where the two walls come together in  
7 this area right here, that's where the fire -- the seat is underneath that pile of  
8 debris right there.

9 Q While you're reviewing the area of origin within that closet, do you  
10 notice anything particularly that's burned in that fire?

11 A I do.

12 Q What do you notice?

13 A Undergarments -- ladies undergarments.

14 Q Did you notice any male undergarments?

15 A No, sir.

16 Q While you're walking throughout the house that day, do you take  
17 photographs of essentially all the rooms in the house?

18 A I do.

19 Q Do you document whether or not there are things present like food,  
20 clothing; things of that nature?

21 A To show that someone's living in the home.

22 Q Okay. And did you see those items back on October 2<sup>nd</sup> of 2008?

23 A I did.

24 Q For instance, State's Exhibit 13, what are we looking at there?

25 A That's food in the kitchen pantry.

1 Q In addition to the areas of origin that you mentioned, is it safe to  
2 say that either through smoke or the heat, is there damage throughout the rest  
3 of the residence?

4 A Yes, it is. It suffered water and heat damage throughout.

5 Q In State's Exhibit 23, what are we looking at there?

6 A That is a hallway bathroom.

7 Q On the walls of the hallway, it appears as if there's a dark object  
8 around the doorway. What are we looking at?

9 A That's a heat staining line of demarcation is going to be right there  
10 and right there. That's the fire -- the heat rolls in and it rolled back out.

11 Q So the heat causes that discoloration?

12 A Yes, sir.

13 Q Does that essentially cover your investigation as it relates to the  
14 origin of that fire?

15 A Yes, sir.

16 Q Okay. You mentioned that your investigation also consists of trying  
17 to identify the cause of fire; is that correct?

18 A Yes, sir.

19 Q How do you go about identifying the cause of a fire?

20 A Fire investigations is no more than a process of elimination of  
21 competent heat sources that come in contact with competent fuel sources.

22 Q What does that mean?

23 A It means we have to have a -- we rule out what could have caused  
24 this fire, mechanical, electrical, other appliances, systems in the house.

25 Q In other words, if you'd come into 1519 Laguna Palms and you'd

1 have found an area behind the microwave where the fire started, it looked like  
2 there was an electrical problem. Would that indicate to you a cause of a fire?

3 A We would have certainly researched that area or examined it.

4 Q Okay. In this particular case, did you go through a process of  
5 elimination to determine whether or not those items that you just mentioned  
6 had been the source of the fire?

7 A I did, sir.

8 Q Did you look into, for instance, the HVAC unit within the residence?

9 A I ruled that out; yes.

10 Q Okay. Was there one in the residence?

11 A There was.

12 Q Was there any indication that it caused a fire?

13 A No foul play.

14 Q Did you examine the range of the residence, the stovetop?

15 A I did, sir.

16 Q And was that a gas?

17 A It was.

18 Q Okay. When you did that, did you see any indication that the fire  
19 started on the gas range?

20 A There was nothing.

21 Q So did you rule --

22 A I ruled that out.

23 Q Okay. Was there a hot water heater within the residence?

24 A There was.

25 Q And did you make a determination whether that had been the cause

1 of the fire?

2 A I ruled that out.

3 Q Television, stereo, anything like that within the residence?

4 A They were ruled out also. There were no fire patterns to support.  
5 There were no fire patterns around them. There was just general soot.

6 Q Microwave oven?

7 A That was ruled out.

8 Q Did you make a determination, through searching the house,  
9 whether or not there had been any candle type products that could have  
10 started a fire?

11 A None was located; none was found.

12 Q Was that ruled out as well?

13 A Yes, sir.

14 Q What about tobacco products?

15 A That was also ruled out.

16 Q So basically, you went through that process of elimination in each  
17 of the areas that -- or each of the ways the fire could be started or ruled out  
18 leaving what?

19 A Incendiary fire, and that's caused by an open flame set with human  
20 hand with the intent to destroy property and/or people.

21 Q Is that what your investigation led you to in terms of the cause of  
22 this particular fire?

23 A It did, sir.

24 Q And is arson the term you use for that?

25 A Yes, sir.

1 Q Was there a circuit breaker box within the residence?

2 A There was; it was in the garage.

3 Q And did you locate that and identify it?

4 A I did.

5 Q And did you make a determination if there was a particular circuit

6 breaker that was utilized as it relates to the smoke detectors within the

7 residence?

8 A It was turned off.

9 Q In other words, is it the type of circuit breaker where you flip a

10 switch and that item won't work?

11 A That is correct.

12 Q And you mentioned that the circuit breaker related to the fire alarms

13 or the fire -- the smoke detectors, is that --

14 A Yes, sir.

15 Q Okay. Was that turned off?

16 A Yes, it was.

17 Q Was there --

18 A It wasn't tripped; it was turned off.

19 Q Was there any other breakers that were turned off?

20 A No.

21 Q That was the only one?

22 A That was the only one. The fire department did -- when they do

23 their size up on their initial tap, they will cut utilities. And they're trained to

24 only turn the main circuit breaker off and turn the gas off to the -- to the

25 homes.

1 Q Okay. Obviously, the fire department wouldn't be trained to turn  
2 off smoke detectors?

3 A No; no, sir.

4 Q As part of your investigation, later on the day of -- well, the search  
5 of the house where you did your origin and cause investigation, was that the  
6 morning of October 2<sup>nd</sup>?

7 A Yes, sir.

8 Q Later in the day on October 2<sup>nd</sup>, do you and other members of law  
9 enforcement come into contact with an individual by the name of Lesean  
10 Collins?

11 A Yes, sir.

12 Q And do you see Lesean Collins in the courtroom today?

13 A Yes, sir.

14 Q Could you point at him and identify an item of clothing that he's  
15 wearing today?

16 A He's at the end table -- he's on -- sitting on the right-hand side.  
17 He's wearing a white button-up shirt with a collar.

18 MR. TOMSHECK: Record reflect the identification of the Defendant?

19 THE COURT: So reflected.

20 MS. JONES: Your Honor, may we approach?

21 THE COURT: Sure.

22 [Bench conference begins -- transcribed]

23 MS. JONES: Can I see that?

24 MR. TOMSHECK: That --

25 THE COURT: Let the record reflect both D.A.'s and both Defense

1 attorneys are present at the bench.

2 MR. TOMSHECK: That's a photo taken of him on October 2<sup>nd</sup> in the  
3 clothes he's wearing on October 2<sup>nd</sup>.

4 MS. JONES: And, Your Honor, October 2<sup>nd</sup> has nothing to do with this  
5 case. He's already identified him. I don't really know what purpose this serves  
6 besides to show that he was arrested.

7 MR. TOMSHECK: Well, is that a legal basis for an objection because --

8 MS. JONES: And I object to this as duplicative. You already have an ID.  
9 He just identified him. What do you need this for?

10 MR. TOMSHECK: It's a photograph of how he looked on October 2<sup>nd</sup>. I  
11 don't know how that's duplicative. He can't identify on October 2<sup>nd</sup>.

12 MS. JONES: What's the relevance of that?

13 MR. TOMSHECK: Because that's what he was wearing and how he  
14 looked when he interviewed him.

15 THE COURT: When he interviewed him?

16 MR. TOMSHECK: Yeah.

17 MS. JONES: He can say that he interviewed him. Nobody's going to  
18 disagree that this is the guy that he interviewed, so --

19 THE COURT: Okay. I don't know what the objection is to the photo.  
20 The objection is it's duplicative because the officer's already identified him.

21 MS. JONES: It is, Your Honor, and I object to the relevance of them  
22 proving -- I'm sorry -- what he was wearing that day. That's not relevant.  
23 We're not objecting that this is the guy that he interviewed.

24 MR. TOMSHECK: I would understand if there was something prejudicial  
25 about it but he's wearing -- he's not --



1 THE COURT: Nothing prejudicial about it.

2 MR. TOMSHECK: -- tattooed or bleeding. He's wearing a polo shirt.

3 MS. JONES: And it's a mug shot, Your Honor.

4 THE COURT: This is not a mug shot. Was this a shot taken at the Clark  
5 County Detention Center?

6 MR. TOMSHECK: I think it was probably taken in Homicide. It may have  
7 been taken at the Detention Center, I don't --

8 MS. JONES: That's his mug shot. It's the one that they have on file.

9 THE COURT: Usually a mug shot has their ID number in the photo. They  
10 might be in prison clothes.

11 MS. JONES: Isn't that it?

12 MR. TOMSHECK: Just for the record, it's --

13 THE COURT: This is not prejudicial at all.

14 MR. TOMSHECK: -- cropped so it doesn't have an ID number or any type  
15 of identifying characteristics.

16 THE COURT: Oh, okay. Okay.

17 MS. JONES: But that's his mug shot.

18 THE COURT: Okay. All right.

19 MS. JONES: And just so we're -- while we're already up here talking  
20 about the interview. Are you going to start talking about the interview?

21 MR. TOMSHECK: Uh-huh.

22 MS. JONES: Are you going to get into the resisting part?

23 MR. TOMSHECK: No.

24 MS. JONES: Okay. Just making sure because I object to that, because  
25 that wasn't charged in the Grand Jury Indictment.

1 THE COURT: Okay. The objection's overruled. You can proceed. Thank  
2 you very much.

3 MS. JONES: Thank Your Honor.

4 [Bench conference concludes]

5 MR. TOMSHECK: Can I approach the witness, Judge?

6 THE COURT: You may.

7 BY MR. TOMSHECK:

8 Q I've already shown opposing counsel. It's been marked as State's  
9 Proposed 52. You recognize that as a photograph of Lesean Collins as he  
10 appeared on October 2<sup>nd</sup> of 2008?

11 A That's Mr. Collins.

12 Q As he appeared on that day?

13 A Yes, sir.

14 MR. TOMSHECK: I move for the admission of State's Proposed 52.

15 MS. JONES: Your Honor, we have the objection that we logged at the  
16 bench.

17 THE COURT: Okay. Overruled. It's admitted into evidence.

18 *[State's Exhibit 52 admitted]*

19 BY MR. TOMSHECK:

20 Q On the evening of October 2<sup>nd</sup>, do you conduct an interview with  
21 the Defendant?

22 A Yes, sir.

23 Q And does that interview take place at a police station at around the  
24 area of Decatur and Oakey here in Las Vegas?

25 A Yes, sir.

1 Q And when you speak to Mr. Collins, do you provide him what is  
2 commonly referred to as his Miranda rights or his Miranda warnings?

3 A I did.

4 Q When you do that, do you actually show him a card that has his  
5 rights contained on it?

6 A Yes, sir.

7 Q And just so the ladies and gentlemen of the jury are clear, are those  
8 the rights that we commonly hear like on TV? You have the right to remain  
9 silent; you have the right to an attorney?

10 A Yes.

11 Q After providing those rights to Mr. Collins, did he indicate to you  
12 that he understood them?

13 A He did.

14 Q And, in fact, did he sign a card indicating that he waived those  
15 rights?

16 A He did.

17 Q And did he agree to speak with you about your investigation?

18 A He did.

19 Q Did you talk to Mr. Collins -- well, initially, did you talk to Mr.  
20 Collins about whether or not he had had an argument with Sean -- Eddins that  
21 culminated with him doing something to her vehicle?

22 A He did.

23 Q And was that very early on in your interview with him?

24 A It was.

25 Q What did he tell you about what he had done to her vehicle?

1 A He said that he got her tires flat.

2 Q Did he indicate to you where he did that?

3 A At her work.

4 Q Did he indicate to you more than once -- did he admit to you more  
5 than once in that interview that he had, in fact, flattened her tires at her place  
6 of employment?

7 A He did that and he said he got revenge. He got her back.

8 Q Did you talk to him, ultimately, about the fire that had happened at  
9 1519 Laguna Palms?

10 A I did.

11 Q And when you talked to him, did you ever indicate to him where  
12 the major origins of that fire were?

13 A No, sir.

14 Q Is there a reason that you don't give up that type of information?

15 A Yes.

16 Q Why?

17 A We basically -- it's a seed that we're taught to plant to see if we're  
18 going to get a spontaneous response to where the -- the fire actually started.

19 Q Okay. In other words, you don't give him that information hoping  
20 that he'll give it to you?

21 A Yes.

22 Q And in this particular case, did he make reference about going into  
23 the room?

24 A Yes.

25 Q What did he say?

1           A     He said: I didn't go in no room.

2           Q     In the context of that conversation, did you believe he was talking  
3 about a particular room?

4           A     The master bedroom.

5           Q     Okay.

6           MS. PAROLISE: Objection. Speculation, Your Honor, or no foundation  
7 for that remark.

8           THE COURT: Toward this officer?

9           MS. PAROLISE: For why he believed that that was the one he was  
10 talking about.

11          THE COURT: Do you want to lay some foundation?

12          MR. TOMSHECK: I thought that I did. He interviewed him -- he was  
13 talking about -- in the course of -- in --

14          THE COURT: Well, he said --

15          MR. TOMSHECK: Let's play it.

16          MS. PAROLISE: We'll withdraw it, Your Honor.

17          THE COURT: Okay.

18 BY MR. TOMSHECK:

19          Q     In the course of the context of that conversation, did you have a  
20 belief he was talking about the master bedroom?

21          A     I did, sir.

22          Q     At certain points of the conversation, did you talk to him about how  
23 he had gained access to the residence?

24          A     I did, sir.

25          Q     And did he give you one consistent answer?

1           A     No, sir. He said he came up through the garage, one time, and was  
2 let in another by his son who's a child.

3           Q     Did that change throughout the interview?

4           A     Yes.

5           Q     At any point in the interview, did he ever indicate whether he did or  
6 did not have a key to the residence?

7           A     He did.

8           Q     What did he tell you?

9           A     He said that he got it from his son.

10          Q     Okay. At certain points of the interview, did he indicate that he did  
11 not have a key?

12          A     He did.

13          Q     So did he change that story as well?

14          A     He did.

15          Q     Did -- during the interview with the Defendant on October 2<sup>nd</sup>, did  
16 he ever talk to you about his whereabouts on the evening of Monday, the 29<sup>th</sup>  
17 of September; the night prior to the fire?

18          A     He did, sir.

19          Q     What did he tell you he was doing and where did he say he was?

20          A     He said he was with a friend in Pahrump. I believe it was Pahrump.

21          Q     Did he indicate he was helping someone move in Pahrump?

22          A     Yes, sir.

23          Q     And was that on the 29<sup>th</sup>?

24          A     Yes, sir.

25          Q     Not the 30<sup>th</sup>?

1 A Not the 30<sup>th</sup>.

2 Q When you do an interview like this, do you sometimes attempt to  
3 offer a little bit of information about things that you know in a hope that the  
4 person you're interviewing will give you more information?

5 A Yes, sir.

6 Q In this particular case, do you indicate to Mr. Collins, at some point,  
7 that someone had seen him at the residence at the time the fire was started?

8 A I did.

9 Q Do you ever indicate to that person who that person is by name?

10 A No.

11 Q What do you tell them?

12 A I said that there was -- this was a witnessed event.

13 Q Okay. And when you offer that information to Mr. Collins, does he  
14 start to talk to you about a particular witness?

15 A Yes.

16 Q What did he tell you?

17 A He says: The neighbors.

18 Q And did he talk to you about a female neighbor?

19 A Yes, sir.

20 Q And an individual that was living with that female neighbor?

21 A Yes.

22 Q Did you ever provide to Mr. Collins that particular information that  
23 those were the witnesses you were talking about?

24 A No, sir.

25 MR. TOMSHECK: I'll pass the witness, Judge.

1 THE COURT: Cross?

2 MS. PAROLISE: Thank you, Your Honor. I'm sorry, Your Honor, just one  
3 moment.

4 **CROSS EXAMINATION**

5 **BY MS. PAROLISE:**

6 Q Good afternoon, Captain.

7 A Good afternoon, Ma'am.

8 Q Now, you were called out to investigate this fire?

9 A Yes, ma'am.

10 Q And you were called to investigate both criminal and non-criminal  
11 fires; is that correct?

12 A That's correct.

13 Q All right. And one of your duties is to determine whether it was  
14 criminal or non-criminal?

15 A That is correct.

16 Q Now, you estimate the time of this fire at 7:06 p.m.; is that  
17 correct?

18 A Yes, ma'am.

19 Q All right. Now, when you arrived to do your investigation, the  
20 premises had been sealed?

21 A Yes, ma'am.

22 Q And you did a thorough investigation?

23 A I hope I did.

24 Q You definitely investigated the inside and outside?

25 A Yes, ma'am.



1 Q Okay. And you took pictures of everything that you thought was  
2 of significant evidentiary value?

3 A Yes.

4 Q Okay. And at no time did you take pictures of any burn pictures in  
5 a barbeque pit; is that correct?

6 A That is correct.

7 Q Okay. Now, even though you did a thorough investigation, you  
8 never -- you didn't look through every piece of clothing; is that correct?

9 A That is correct.

10 Q Okay. Now, let's see -- you said that this was -- this was a fire set  
11 by an open flame?

12 A Yes, ma'am.

13 Q And you don't -- you don't know the specific cause of that fire; is  
14 that correct? What caused the open flame?

15 A Well, through a process of elimination, I ruled out a lot of things.

16 Q Right. And you definitely ruled out a list of things, but you can't  
17 tell us specifically what caused it; right?

18 A Open flame set with a human hand.

19 Q Okay. But you don't know what vehicle that open flame took?

20 A It could have been a match or it could have been a lighter.

21 Q Right. But you don't know for sure?

22 A Not more than -- no.

23 Q Okay. Now, you testified that a circuit breaker was tripped?

24 A That is correct.

25 Q Okay. Now there's no way to know when that circuit breaker was

1 tripped?

2 A That is correct.

3 Q Okay. And you never called in a crime scene analyst to fingerprint  
4 the circuit breaker?

5 A That is correct.

6 Q Okay. And you never fingerprinted the box that contained those  
7 circuit breakers?

8 A That is correct.

9 Q All right. Now, in fact, circuit breakers are a safety feature; is that  
10 correct?

11 A Yes.

12 Q And when the circuit's overwhelmed, they'll trip themselves?

13 A Normally; yes.

14 Q Yes. Okay. Now, you didn't collect any forensic evidence that  
15 specifically tied Lesean to this fire; is that correct?

16 A That is correct.

17 Q And no one witnessed Lesean set this fire, to your knowledge?

18 A That is correct.

19 Q Okay. Now, before you investigated this -- this fire, though, you  
20 knew that Lesean was accused of this; is that correct?

21 A I was.

22 Q Okay. Now, every fire incident is different; is that correct?

23 A Yes.

24 Q Every fire's unique in its own way?

25 A That is absolutely correct.

1 Q And it's very important to avoid presumption; is that correct?

2 A Yes.

3 Q And expectation bias is a well-documented phenomenon in your line  
4 of work; is that correct?

5 A Of course.

6 Q Can you explain what expectation bias is?

7 A Basically, I have a preset notion that somebody did A or B.

8 Q Right. That's -- it's when an investigator can reach a premature  
9 conclusion too early --

10 A Tunnel vision.

11 Q -- before they've looked at all the factors?

12 A Sure.

13 Q Now, you never developed any other suspects in relation to this  
14 fire; is that correct?

15 A That is correct.

16 Q Okay. Now, you talked about interviewing Lesean, and this was  
17 days after; is that correct?

18 A Two days after.

19 Q Okay. Now, you, at the beginning of that interview, told him that  
20 anything he said could be used against him in a court of law?

21 A Yes.

22 Q Okay. Now, he freely admitted that he cut Shalana's tires?

23 A Yes.

24 Q But when you asked whether he cut -- whether he set this fire, he  
25 said: No?

1 A Correct.

2 Q Okay. Now, isn't it true that he said that he gave his son that key  
3 back, the key in question, when he went to Pahrump?

4 A I -- I don't -- ma'am, I don't know that.

5 Q Okay.

6 A I -- I can't recall that if he did.

7 Q Okay. But you don't have a recollection to the contrary?

8 A That is correct.

9 Q Okay. Now, when you asked him how he got into the house, do  
10 you recall him taking the keys out of his pocket and putting them onto the  
11 table?

12 A Yes, ma'am.

13 MS. PAROLISE: Okay. Nothing further, Your Honor.

14 THE COURT: Redirect?

15 **REDIRECT EXAMINATION**

16 **BY MR. TOMSHECK:**

17 Q In addition to your time as a fire investigator, you mentioned you're  
18 also a police officer; correct?

19 A Yes, sir.

20 Q You have all the training that goes along with that and just go to  
21 academy and learn about the statutes and relevant laws in the State of  
22 Nevada?

23 A Yes, sir.

24 Q Are you familiar with the different types of crimes and the levels of  
25 those offenses?

1 A It depends what it is, but I think I have a pretty good grasp of it.

2 Q You're familiar with, for instance, the penalty or the severity of  
3 slashing someone's tires versus setting a fire to a house?

4 A They're significantly different.

5 Q Is it fair to say that arson is a more severe crime?

6 A It's a felony.

7 Q Okay. I want to talk to you about the expectation bias that the  
8 Defense attorney asked you about. Is that something that you're cognizant of  
9 when you go into an investigation?

10 A You have to be.

11 Q Okay. And if you go into an investigation knowing that someone  
12 may potentially be a suspect, is it partially your job to do things to rule out  
13 whether or not they are a suspect?

14 A Yes.

15 Q In other words, if you have a suspect and you sit down and talk to  
16 him, do you do certain things to see if maybe they'll lie to you, change their  
17 story, tell you something that you know is not true?

18 A Inconsistencies.

19 Q Do you ask questions in order to see if they'll give you information  
20 that only the person that committed the crime could have known?

21 A Yes, sir.

22 Q And is that a common tactic you use in order to take away that  
23 expectation bias?

24 A Yes, sir; and I have used that also in the past.

25 Q Okay. Did you do that in this particular case?

1 A Yes, sir.

2 Q When you go into the interview with the Defendant back on  
3 October 2<sup>nd</sup> of 2008, do you have all the information from the North Las Vegas  
4 Police Department?

5 A I do.

6 Q Are you provided with a witness statement that Darlene Heer  
7 filled out?

8 A I was.

9 Q And were you provided with the witness statement that Vivian  
10 Furlow filled out?

11 A I was.

12 Q So do you have information about where the witnesses say the  
13 Defendant was at or near the time of the fire?

14 A Yes, sir.

15 Q And is that one of the things that helps you develop who a suspect  
16 is?

17 A Yes, sir.

18 Q When you review those witness statements as the opposing  
19 counsel asked you about, do you develop any kind of information that anyone  
20 else, other than Lesean Collins, was at the house at the time the fire started?

21 A I did not develop anybody else.

22 Q Do you develop the information from Darlene Heer that she is next  
23 door to the house at the time the fire started?

24 A That is correct.

25 Q And when you do that, do you have an understanding that she's

1 always there? In other words, she doesn't leave and go elsewhere?

2 A That is correct.

3 Q And the entire time that she's there -- from the information you  
4 reviewed, does she see anyone else going near that house --

5 A No, sir.

6 Q -- other than the Defendant?

7 A No, sir.

8 MR. TOMSHECK: Pass the witness, Judge.

9 THE COURT: Any recross?

10 MS. PAROLISE: Thank you, Your Honor.

11 ***RECROSS EXAMINATION***

12 ***BY MS. PAROLISE:***

13 Q Okay. Now, Captain, it's your job to follow -- it's not your job to  
14 follow-up on witness investigations; is that correct?

15 A On witness investigations? I don't understand the question. I'm  
16 sorry.

17 MS. PAROLISE: I'm sorry, Your Honor.

18 ***BY MS. PAROLISE:***

19 Q Now, we talked about your interview with Lesean and about -- we  
20 also just talked about how slashing tires and arson carry different penalties for  
21 different severity. Now, during that interview, you never talked to Lesean  
22 specifically about the difference in severity of those crimes; is that correct?

23 A No, ma'am.

24 Q Okay. Now, we also talked about expectation bias again.

25 A Yes, ma'am.

1 Q And you are cognizant of it?

2 A I am.

3 Q However, by its nature, if you're suffering from expectation bias,  
4 you wouldn't be aware of it; is that correct?

5 A That's fair.

6 MS. PAROLISE: I'm sorry. Court's indulgence.

7 BY MS. PAROLISE:

8 Q Okay. Now your job in this case was to determine the origin of the  
9 fire; correct?

10 A And to find out who did it.

11 Q Okay. But in this case it was not to follow-up with the witnesses;  
12 correct? I'm sorry.

13 A Are you waiting for a response?

14 Q Yes.

15 A That was not to follow-up with the witnesses?

16 Q Right. In this case, it was not your job to follow-up with the  
17 witnesses statements?

18 A I -- I did not follow-up with the witness statements. I took what they  
19 wrote.

20 BY MS. PAROLISE: Okay. Thank you. Nothing further.

21 THE COURT: Thank you very much for your testimony here today. You  
22 may step down. You are excused.

23 THE WITNESS: Thank you, ma'am.

24 THE COURT: Thank you. At this time, we're going to take a 15 minute  
25 recess. During this recess, you're admonished not to talk or converse amongst



1 yourselves with anyone else on any subject connected with this trial or read,  
2 watch, or listen to any report or commentary on the trial or any person  
3 connected with this trial by any medium of information, including, without  
4 limitation, newspapers, television, the internet or radio; form or express any  
5 opinion on any subject connected with this trial until the case is finally  
6 submitted to you. Thank you.

7 [Jury exits courtroom for short break]

8 [Proceedings resume at 3:25 p.m.]

9 [Outside the presence of the jury panel]

10 THE COURT: This hearing is taking place outside the presence of the jury  
11 panel. Does the State have any other witnesses they intend to call?

12 MR. TOMSHECK: We don't, Judge.

13 THE COURT: The State rests?

14 MR. TOMSHECK: We do.

15 THE COURT: You'll rest in front of the jury panel?

16 MR. TOMSHECK: Yes.

17 THE COURT: Does the Defense have any witnesses?

18 MS. JONES: We do, Your Honor. We have one.

19 THE COURT: And how long is that witness going to take?

20 MS. JONES: It'll be very brief, Your Honor.

21 THE COURT: Okay. Is that witness here right now?

22 MS. JONES: Yes.

23 THE COURT: Okay. I just want to tell you because we're going to have  
24 to stop at 4:00 o'clock today.

25 MS. JONES: Okay.

1 THE COURT: So will you be able to get your witness on --

2 MS. JONES: We should be --

3 THE COURT: -- and have time?

4 MS. JONES: -- finished, Your Honor.

5 THE COURT: Okay. You can bring them in and we'll -- you can rest in  
6 front of the jury and then you can call your witness. Before I bring the jury in,  
7 do you want me to canvass your client?

8 MS. JONES: It's up to the Court. Whatever the Court's pleasure is.

9 THE COURT: Okay.

10 MS. JONES: If the Court wants to wait, just put the witness on, then  
11 see if we have time at the end.

12 THE COURT: They'll all come in right when I'm in the middle of it.

13 COURT MARSHAL: Ready for the jury.

14 [Jury enters the courtroom after short break]

15 THE COURT: Do the parties stipulate to the presence of the jury panel?

16 MR. TOMSHECK: Yes, Judge.

17 MS. PAROLISE: Yes, Your Honor.

18 MS. JONES: Yes, Your Honor.

19 [In the presence of the jury panel]

20 THE COURT: Okay. And does the State have any further witnesses that  
21 they intend to call?

22 MR. TOMSHECK: Judge, we do not. At this time, the State rests.

23 THE COURT: Okay. You can call your first witness.

24 MS. JONES: Your Honor, the Defense calls Patricia Brewer.

25 COURT MARSHAL: You're going to go to the right of the podium.

1 COURT CLERK: Okay. Please remain standing and raise your right hand.

2 **TRISHA SUE BREWER,**

3 having been first duly sworn as a witness, testified as follows:

4 COURT CLERK: Please be seated. Will you please state your full name,  
5 spelling your first and last name for the record.

6 THE WITNESS: Trisha Sue Brewer, T-R-I-S-H-A, B-R-E-W-E-R.

7 COURT CLERK: Thank you.

8 MS. JONES: May I begin, Your Honor?

9 THE COURT: Uh-huh.

10 **DIRECT EXAMINATION**

11 **BY MS. JONES:**

12 Q Good morning, Ms. Brewer, how are you?

13 A Fine.

14 Q Ms. Brewer, do you know somebody by the name of Lesean  
15 Collins?

16 A Yes; I do.

17 Q And how do you know him?

18 A Through my sister.

19 Q And who is your sister?

20 A Tanya Green [phonetic].

21 Q And how long have you known Mr. Collins?

22 A Since July 14<sup>th</sup> of last year.

23 Q And during the time that you've known him, is it fair to say that  
24 you guys are friends?

25 A Yes.

1 Q And, Ms. Brewer, I want to take you back to December of 2008.  
2 Do you remember that time?

3 A Yes; I do.

4 Q But you do acknowledge that that was a year ago?

5 A Yeah.

6 Q Okay. September 29<sup>th</sup> of 2008, did you come in contact with Mr.  
7 Collins?

8 A Yes; I did.

9 Q And how did you come into contact with him?

10 A He called me wanting to know if I can come pick him up the next  
11 day -- the next morning.

12 Q Okay. And did you pick him up the next morning?

13 A Yes; I did.

14 Q And where did you pick him up at?

15 A Somewhere off of Camillo -- Carmillo. Some road off of Ann Road  
16 and Carmillo.

17 Q So is that in North Las Vegas, Clark County?

18 A Yes; it is.

19 Q And the next morning when you picked him up, that would be  
20 September 30<sup>th</sup>; correct?

21 A Yes.

22 Q And were you with Mr. Collins on September 30<sup>th</sup> for a majority of  
23 the day?

24 A Yes; I was.

25 Q And was Mr. Collins using a vehicle that belonged to your sister?

1 A Yes; he was.

2 Q And what kind of vehicle was that?

3 A It was a Toyota Forerunner.

4 Q And that belonged to your sister?

5 A Yes.

6 Q And had she let Mr. Collins use that for a couple of days?

7 A Yes; she had.

8 Q And during the time that Mr. Collins was using that vehicle, did

9 something happen to that vehicle?

10 A Yes; a rock was thrown in the back window.

11 Q And do you know who threw that rock at the back window?

12 A I was told Lashana [sic].

13 Q Shalana?

14 A Shalana. Thank you.

15 Q And so, when you saw Mr. Collins on September 30<sup>th</sup>, the rock had

16 already been thrown through the window?

17 A Yes.

18 Q Was he upset about that?

19 A Very.

20 Q And during the time that you were with him on September 30<sup>th</sup>, did

21 you guys go to Shalana's place of employment?

22 A Yes; we did.

23 Q And was it you and Mr. Collins that went to Shalana's place of

24 employment?

25 A Yes; it was.

1 Q And where does Shalana work?

2 A I don't exactly know. I just know the business building. It's at  
3 least two, three stories high.

4 Q Do you know where it's located?

5 A Off of Sahara is the best I can recall.

6 Q That's fine. And when you guys went to Shalana's place of  
7 employment, was Mr. Collins upset with Shalana?

8 A Yes; he was.

9 Q He was upset with Shalana about that window?

10 A Yes.

11 Q And when -- when you guys went to her place of employment, did  
12 he slash the tires on her truck?

13 A Yes; he did.

14 Q And after he slashed the tires on her truck, did you guys leave?

15 A Yes; we did.

16 Q And where did you guys go?

17 A We drove around for a moment before we hit Tidy's [phonetic]  
18 house.

19 Q And where does Tidy [phonetic] live?

20 A I know he lives off the 95 off of Martin Luther King.

21 Q And during the -- and you were with Mr. Collins when you guys got  
22 to Tidy's [phonetic] house; correct?

23 A Yes.

24 Q And later on that evening while you were with him, did Mr. Collins  
25 receive a phone call?

1 A Yes; he did.

2 Q And do you know who was on the other end of that phone?

3 A I don't.

4 Q And based upon the information that he received on that phone  
5 call, did he say something to you after that phone call?

6 A Yes; he said that the house was on fire and he had to go.

7 Q And when you say the house, did you take that to mean that that  
8 was Shalana Eddins' house?

9 A Yes.

10 Q And after Mr. Collins was notified that Shalana Eddins' house was  
11 on fire, what was his demeanor like?

12 A He was upset. More worried about his boys being in the house.

13 Q And do you know how many boys he had?

14 A He had four.

15 Q And when you say he was upset, what was he doing to show you  
16 that he was upset?

17 A Like he had to hurry up and get over there and like protect them.

18 Q So he was upset and concerned about his children --

19 A Yes.

20 Q -- and whether or not they was in the house?

21 A Exactly.

22 Q Because based upon what you knew, he didn't have that  
23 information?

24 A Correct.

25 Q And he was with you at Tidy's [phonetic] house when he received

1 the call about the fire?

2 A Yes.

3 MS. JONES: Court's indulgence, Your Honor. Nothing further,  
4 Your Honor. We'll pass the witness.

5 THE COURT: Cross?

6 **CROSS-EXAMINATION**

7 **BY MR. TOMSHECK:**

8 Q Who's Tanya Green [phonetic]?

9 A Tanya Green's [phonetic] my sister.

10 Q And what's Tanya Green's [phonetic] relationship with the  
11 Defendant?

12 A She dated her brother or Lesean's brother for like 15 some odd  
13 years. They were engaged to be married.

14 Q Okay. You're aware that the Defendant refers to Tanya Green  
15 [phonetic] as essentially his sister?

16 A Correct.

17 Q Very close relationship?

18 A Very.

19 Q And by virtue of that relationship, you also have a close relationship  
20 with the Defendant in the time you've known him?

21 A Yes.

22 Q And if you're being honest with the ladies and gentlemen of the  
23 jury, you're here today to help him out; right?

24 A Correct.

25 Q You don't want to see anything bad happen to him?



1 A No.

2 Q And you don't want to see him convicted for setting fire to 1519  
3 Laguna Palms?

4 A I don't want to see him convicted of something he didn't do.

5 Q Okay. It's your position that he didn't do that, so he shouldn't be  
6 convicted of it?

7 A Correct.

8 Q Okay. You mentioned that you met him on July 14<sup>th</sup> of 2008?

9 A Yes.

10 Q How do you remember that day, specifically?

11 A Because that's the day he got out.

12 Q Okay. When you -- you remember a specific day as being a day  
13 that you met him?

14 A Yes.

15 Q Okay. You talked about specifically remembering another date and  
16 time and that's September 30<sup>th</sup>?

17 A Yes.

18 Q And you remember that day because of why?

19 A All the drama that he was dealing with.

20 Q The drama that he was dealing with as it relates to what?

21 A Was his wife breaking out my sister's window, my sister getting  
22 upset about it and then finding out later that the house that his boys were in  
23 was on fire.

24 Q Okay. The car that your sister lent him was a Toyota SUV;  
25 correct?

1 A Yes.

2 Q And he was driving that vehicle?

3 A Correct.

4 Q And it's your testimony that you believe he was driving that vehicle  
5 in September of 2008?

6 A Yes.

7 Q Why is it then that you had to pick him up when he had that  
8 vehicle?

9 A Because we were hanging out together.

10 Q But if your sister had lent him the vehicle to drive, wouldn't he have  
11 that vehicle on September 30<sup>th</sup>?

12 A Why drive two vehicles when we can sit in one?

13 Q Well, let me ask you a question. You said he called you and asked  
14 you to pick him up?

15 A Uh-huh.

16 Q Is that yes?

17 THE COURT: Is that a yes?

18 THE WITNESS: Yes.

19 BY MR. TOMSHECK:

20 Q It's your testimony he had the vehicle on September 29<sup>th</sup> -- the  
21 vehicle being the Toyota?

22 A Yes.

23 Q So if he didn't want to get together with you on the day after that,  
24 he could have driven the Toyota to you; correct?

25 A He could have.

1 Q But instead, he asked you to pick him up?  
2 A Yeah, 'cause I live out in Pahrump and he lives in Vegas. I go to  
3 school in Vegas.  
4 Q He didn't ask you to pick him up at a residence?  
5 A No.  
6 Q He asked you to pick him up on the side of the road?  
7 A No. He just told me pick him up and he just told me where he was.  
8 Q Okay. And you picked him up on the side of the road?  
9 A Yeah.  
10 Q What were you driving?  
11 A I was driving a blue Ford.  
12 Q A blue Ford Taurus?  
13 A Uh-huh.  
14 Q Yes?  
15 A Yes.  
16 Q A four door?  
17 A Yes.  
18 Q And it's your testimony that the blue Ford Taurus was your car?  
19 A No; it's my mom's car.  
20 Q That you were driving?  
21 A Yes.  
22 Q And the entire time you were with him on September 30<sup>th</sup>, you  
23 were driving?  
24 A No; he was driving.  
25 Q Okay. And where were you?

1 A In the passenger seat.

2 Q And at no time on September 30<sup>th</sup> did he leave your side?

3 A There was a time.

4 Q And when was that?

5 A After he got the phone call that the house was on fire.

6 Q Okay. It's your -- I want to talk to you about that, specifically. It's

7 your testimony that when he receives information the house is on fire -- on fire,

8 he's with you; correct?

9 A Uh-huh.

10 Q Yes?

11 A Yes.

12 Q And he's with an individual by the name of Tidy [phonetic]?

13 A Yes.

14 Q Is that Tidy, T-I-D-Y?

15 A I couldn't tell you.

16 Q Phonetically, it's Tidy?

17 A Yeah.

18 Q Okay. And for the record, would you -- the sound you're making

19 when you say: Tidy [phonetic], you'd agree that that could be spelled T-I-D-Y?

20 A Yes.

21 Q Okay. Just so it's clear on the black and white record when

22 somebody types it down. It's your testimony that he was concerned about his

23 kids?

24 A Yes.

25 Q And he was concerned about his kids' safety?

1 A Yes.

2 Q And he expressed that to you?

3 A Oh, yes.

4 Q Vocally?

5 A Very vocally and physically.

6 Q He was very frustrated?

7 A He was. He was like pacing the ground.

8 Q Okay. And you took that to be that he was upset because his kids

9 could be in danger in that fire?

10 A Correct.

11 Q Would it surprise you to learn that he never went to the residence

12 where the kids were?

13 A Yes; it would.

14 Q Would it surprise you that there isn't a single witness at 1592

15 Laguna -- or 1519 Laguna Palms that received a phone call from the Defendant

16 questioning about his kids' safety?

17 A Yes; it would surprise me.

18 Q Would it surprise you to know that there are witnesses who

19 received phone calls from the Defendant who talked to him about the fire being

20 set, and he never mentioned his children?

21 A That would surprise me.

22 Q And just so we're clear, there's a point and time on September 30<sup>th</sup>

23 that he leaves your side?

24 A Yes.

25 Q Does he do it in your car?

1 A Yes; he does.

2 MR. TOMSHECK: Pass the witness, Judge.

3 THE COURT: Redirect?

4 ***REDIRECT EXAMINATION***

5 ***BY MS. JONES:***

6 Q And Ms. Brewer, when you came here today, you and Mr. Collins  
7 are friends; correct?

8 A Correct.

9 Q And you came here to tell the truth --

10 A Correct.

11 Q -- because you didn't want to see Mr. Collins convicted of  
12 something that he didn't do?

13 A Correct.

14 Q And your testimony is that there was a time that he was not by  
15 your side on September 30<sup>th</sup>?

16 A Correct.

17 Q And you did let him use the blue Taurus?

18 A Yes; I did.

19 MS. JONES: Nothing further, Your Honor.

20 THE COURT: Thank you very much for your testimony here today. You  
21 may step down. You are excused.

22 Okay. At this time, ladies and gentlemen, I am going to excuse  
23 you for the day. Okay. During this recess, you're admonished not to talk or  
24 converse amongst yourselves or with anyone else on any subject connected  
25 with this trial or read, watch, or listen to any report or commentary on the trial,

1 or any person connected with this trial by any medium of information,  
2 including, without limitation, newspapers, television, the internet or radio; form  
3 or express any opinion on any subject connected with this trial until the case is  
4 finally submitted to you.

5 I'm going to ask that you come back tomorrow morning at 11  
6 o'clock, come up to the 14<sup>th</sup> floor, and the Marshal will bring you in when we're  
7 ready. Thank you very much.

8 [The jury exits the courtroom for the evening]

9 THE COURT: Let the record reflect this hearing is taking place  
10 outside the presence of the jury panel.

11 [Outside the presence of the jury panel]

12 THE COURT: Have you called all the witnesses that you intend to call?

13 MS. JONES: We have, Your Honor.

14 THE COURT: Okay. Mr. Collins.

15 MS. PAROLISE: Well, before we do that, Your Honor, we have to move  
16 for a mistrial.

17 MS. JONES: Mistrial. Based upon the fact that Ms. Brewer said July 18<sup>th</sup>  
18 is the day that he got out. Your Honor, we were not aware that that date was  
19 going to be in question. I was not aware until just that moment that that was  
20 the date that she met him, but we believe that now the jury -- the jury panel  
21 has been tainted by figuring out that Mr. Collins did time.

22 And I think it's -- the jury can understand that when he got out  
23 means when he got out of prison. And I think that the jury panel has been  
24 poisoned at this point.

25 THE COURT: Okay. The problem is is, it was your witness and you were

1 very worried about the State's witnesses. And I told the State -- I went to  
2 great lengths to tell them to make sure that their witnesses didn't say anything  
3 about him being a prisoner -- any type of prior record; and the State's  
4 witnesses didn't do it. And Mr. Tomsheck's question did not in any way,  
5 shape or form, call for her to say he was in prison or that was the day he got  
6 out.

7 MR. TOMSHECK: And regardless of how you rule, I'd like to make a  
8 record on it just so it's --

9 THE COURT: They -- and I have it written down. She said: Day he got  
10 out.

11 MS. PAROLISE: Right. I believe --

12 THE COURT: The date she met him. You said there were a couple of  
13 days that she -- and I wrote down July 14<sup>th</sup> but I could have misheard.

14 MS. JONES: It may be the 14<sup>th</sup>, Your Honor.

15 THE COURT: But it was July in '08 and you said something to the effect  
16 of: Why does that date stand out in your mind? That was the day she met  
17 him -- day he got out.

18 MS. JONES: And, Your Honor, we did not elicit that testimony from the  
19 witness. The State asked for that question and that was her response. And  
20 based upon the fact that we didn't intend to elicit any testimony about Mr.  
21 Collins being in prison, no; we did not admonish her not to talk about that. But  
22 we are not the people that elicited that testimony.

23 The questions that we asked her, she never answered in that way.  
24 And now that that testimony has come out, I believe it has put the jury on  
25 notice that my client has been in prison, which I believe is severely prejudicial



1 to him. And I don't think any probative -- there's anything probative about it  
2 that would outweigh the prejudicial effect of the jury finding out that my  
3 client's been in prison.

4 MR. TOMSHECK: I don't know. I may have been sleeping for part of the  
5 testimony when she said he went to prison, but I don't think she said that.

6 THE COURT: She did -- she said: The day he got out.

7 MR. TOMSHECK: And we've had testimony already that Shalana Eddins  
8 went into custody the night that her house was on fire, so we know that  
9 people can go in and get out without going to prison. That's a quantum leap  
10 for the jury to assume that this individual went to prison.

11 And just so the record's clear about it, they specifically asked --  
12 when you met him, she specifically gave the date July 14<sup>th</sup> of 2008. Then they  
13 talked specifically about the date of September 30<sup>th</sup>.

14 THE COURT: Yeah.

15 MR. TOMSHECK: The record will bear out that my cross was designed  
16 to illustrate how she remembers these specific days. I asked the question:  
17 How do you remember, specifically, you met him on July 14<sup>th</sup>? She said:  
18 That's the date he got out and, essentially, I cut her off by moving onto  
19 another date -- didn't ask any follow-up questions about it.

20 She just said: Out. She didn't say: Out of custody, out of jail, out  
21 of prison, out of prison for doing an evading charge or anything of that nature;  
22 and I instantly moved down to the next date.

23 Well, how do you specifically remember September 30<sup>th</sup>? If I would  
24 have known that's what the date was, I can assure the Court, I wouldn't have  
25 asked the question, but they elicited that date, put it into evidence as a

1 particular date. It's certainly encumbent upon me to follow-up on the specifics  
2 of an alibi witness, so that's what I did. When it went down that road, I took  
3 another path but --

4 MS. JONES: And Your Honor, the fact that Shalana Eddins has been in  
5 custody, Shalana Eddins' fate is not going to be determined by a jury who  
6 found out she was going to be in custody. I would imagine that if Shalana  
7 Eddins was on trial, whoever's representing her, would have gone to great  
8 lengths to make sure the jury didn't know she was in custody.

9 And we're not playing the blame game where we're saying: Well,  
10 if the State said it then that means it's wrong. Had she have said it while I  
11 was directing her, our motion would have still been for a mistrial because now  
12 she has put the jury on notice that Mr. Collins had been to prison. I don't  
13 believe it matters who it is that was directing or crossing her when the  
14 testimony was given.

15 She said the words: When he got out. This is the jury that's going  
16 to determine whether or not the State has proven Mr. Collins convicted these  
17 crimes, and now, this same jury has been put on notice that he's been in  
18 prison.

19 I don't think what happened with Shalana Eddins is relevant here  
20 since she's not on trial. And I think it's very prejudicial, and we would move  
21 for a mistrial because the jury has been notified that Mr. Collins has done time  
22 in prison.

23 THE COURT: Well, I have to tell the State I am concerned because  
24 I think: Day he got out -- I'm not quite sure what else you could interpret it to.  
25 I wanted to reach over and smack her when she said it because I couldn't

1 believe we made it all the way to the last -- not really smack her, but just  
2 couldn't believe we made it to the last witness and she actually said that.

3 MR. TOMSHECK: And, Judge, it's --

4 THE COURT: And so it does infer a prior criminal history.

5 MR. TOMSHECK: Right. They can't cause their own mistrial. They  
6 can't do it by asking a question of their witness, getting a date into the record,  
7 and then by her giving a response as to a follow-up question that I asked based  
8 on what they introduced; they can't cause a mistrial.

9 And the case law is clear, if it's a passing reference to a period of  
10 incarceration and it's not elicited by the State and there's no follow-up  
11 questions asked to it, then it's not grounds for a mistrial.

12 And, in fact, I think there's -- there's actually a published opinion on  
13 a case that was tried in front of Your Honor, I think that had that effect. I think  
14 the Defendant's last name was Sampson. It's -- that's precisely the situation.  
15 She says: He got out. I cut her off; I moved on. She never said: Out of  
16 prison.

17 We, as lawyers, who deal with criminal cases might make the  
18 inference that in time means prison time and be able to differentiate between  
19 that. I can assure you the ladies and gentlemen of this jury can't.

20 They might make that assumption. They might -- they may not. I  
21 have no way of knowing that, but it's certainly -- I mean, we're making a big  
22 leap to think that --

23 THE COURT: I wouldn't even make the big leap, but I would make the  
24 leap the day he got out of custody somewhere.

25 MS. JONES: And Judge, I think that --

1 THE COURT: I would not make the leap to prison. I would not.

2 MS. JONES: And I think the negativity that's been put on my client  
3 based upon Shalana's testimony and all these bad acts -- Robert Eddins -- all  
4 the people that testified that they have this long history and that -- I mean,  
5 nobody directly testified about the specifics of the history, but I think there's  
6 been plenty of insinuations that they have this long history and that, you know,  
7 there's still speculation out there about the tire event on September 29<sup>th</sup> and  
8 whether or not he's involved in that.

9 I think all these negative references that have been made to him  
10 during the course of this trial -- put that together with the fact that she just  
11 said when he got out -- I don't think it's a far leap for the jury to determine he  
12 got out of custody.

13 THE COURT: I'm going to ask you a question because you called her as  
14 an alibi witness and I know, for a fact, she did not know him for very long -- to  
15 get up here on this stand and act like she's like best friends with him. She said  
16 she met him July 14<sup>th</sup>, 2008. He went into custody in October; right?

17 MS. JONES: Right.

18 THE COURT: Okay. That's not a whole lot of time to become like the  
19 best of friends that she just said that they were up here on the stand. So I  
20 want to know, did you know that July 14<sup>th</sup>, '08 was the day he got out of  
21 custody and that's how she met him? You had to have known that.

22 MS. JONES: No; I did not know that, Your Honor.

23 THE COURT: So when you were pretrialing her, you didn't ask her: How  
24 long have you known this guy? Because I'm calling you as the alibi witness.

25 MS. JONES: Your Honor, as the Court is aware, we had not -- if the

1 Court knows. We filed our alibi notice on Monday based upon the fact that we  
2 got information about these witnesses because we announced not ready. We  
3 got information about these witnesses over the weekend and because of the  
4 fact that Ms. Brewer lives in Pahrump and doesn't always have transportation  
5 to get here; we did not have a lot of time.

6 We pretrialed her today, and those were not some of the questions  
7 that we asked her. She did an interview with my investigator last week, and  
8 based upon the information she provided to my investigator, we noticed her as  
9 an alibi witness as soon as we were put on notice of that information, which  
10 was Friday. I e-mailed the D.A. the list on Saturday, filed it with the Court on  
11 Monday, because that was the soonest that we could get it --

12 THE COURT: Okay.

13 MS. JONES: -- in there. So we pretrialed her today.

14 THE COURT: But, again, I'm just -- you're going to tell -- you're telling  
15 me that you did not ask her how she met him, when she met him, what the  
16 circumstances were when she -- when, clearly, you knew she was going to say  
17 July 14<sup>th</sup>?

18 MS. JONES: I did not know that they --

19 THE COURT: Because you asked on direct -- direct examination: Well,  
20 how long have you known him? Known him since July of '08.

21 MS. JONES: I did not know the date that they met.

22 THE COURT: Well, I think it's always very dangerous to ask somebody a  
23 question if you don't know what their answer is. So I have to believe that  
24 you're not going to get up there and ask her questions unless you knew what  
25 the answer was going to be.

1 MS. JONES: Your Honor, I did not know the date that they met. So  
2 when I asked her that question, no; I did not know the answer to that question.

3 THE COURT: You didn't know she was going to say July '08 and the  
4 fact they met, apparently, the day he got out?

5 MS. JONES: I didn't.

6 THE COURT: I'm assuming it's the day he got out of prison.

7 MS. JONES: I did not know that that was the day that he was released.

8 THE COURT: Okay. Anything else from the State?

9 MR. TOMSHECK: Judge, I don't think so, just -- I mean, I can't imagine  
10 the Court's considering granting that motion, but if you are, I can certainly  
11 provide to the Court.

12 THE COURT: No, I acted -- I think it's worse when they refer to, you  
13 know, prior criminal history. If they say: I ran his SCOPE. When I ran his  
14 SCOPE, I saw he had prior felonies. That to me, see, is a no-brainer. This one  
15 she did say: Day he got out. The District Attorney did move on. I was very  
16 displeased that she said it. I don't think it rises to the level that would cause a  
17 mistrial and the motion for mistrial is denied.

18 Okay. So now, Mr. Collins, your attorneys have put on all their  
19 witnesses and you've heard all the witnesses, you understand that; right?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Okay. And so you understand, now, that you have the  
22 right to decide whether you want to testify or not; right?

23 THE DEFENDANT: Yes.

24 THE COURT: And you understand your right to remain silent and your  
25 right to take the stand and testify; right?

1 THE DEFENDANT: Yes.

2 THE COURT: So I just need to ask you a couple of questions on the  
3 record. You understand that under the Constitution of the United States and  
4 the Constitution of the State of Nevada, you cannot be compelled to testify in  
5 this case; do you understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: You understand that means no one can make you come up  
8 here and take the stand, not even me. No one can make you take the stand;  
9 do you understand that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Okay. You may, at your own request, give up this right  
12 and take the witness stand and testify. If you do, you'll be subject to cross  
13 examination by the Deputy District Attorney and anything that you may say, be  
14 it on direct or cross examination, will be the subject of fair comment when the  
15 Deputy District Attorney speaks to the jury in his or her final argument. Do you  
16 understand that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you understand it is your right and your right alone?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: You have the right to discuss the pros and cons with your  
21 lawyer and -- and your lawyers are going to give you advice on what they think  
22 you should do, but you understand it is completely up to you regardless of  
23 what your lawyers say.

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: It's your decision. You understand that; right?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: If you choose not to testify, the Court will not permit the  
3 Deputy District Attorney to make any comments to the jury because you have  
4 not testified. Do you understand that?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: If you choose not to testify and your attorney requests this  
7 particular jury instruction, this is the one I will give: He has the constitutional  
8 right of a Defendant in a criminal trial and he may not be compelled to testify.  
9 That's a decision as to whether he should testify is left to the Defendant on the  
10 advice and counsel of his attorney. You must not draw any inference of guilt  
11 from the fact that he does not testify, nor should this fact be discussed by you  
12 or enter into your deliberations in any way; do you understand that?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: You understand that I'll only give it if your attorneys ask  
15 me to give it?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Okay. Do you have any questions, so far, about the rights  
18 that we've discussed?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Okay. I want you to pay close attention to this next one.  
21 If you take the stand and testify, you're advised that if you have a prior felony  
22 conviction and more than ten years has not elapsed from the date you've been  
23 convicted or discharged from prison, parole or probation, whichever is later,  
24 and the Defense has not sought to preclude that from coming before the jury,  
25 you elect to take the stand and testify, the Deputy District Attorney, in the



1 presence of the jury, will be permitted to ask the following: Have you been  
2 convicted of a felony? What was it? When did it happen? However, no  
3 details may be gone into; you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: I know you have at least -- you have more than one that I  
6 know the D.A. will be able to ask you about.

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: At least the one -- are you on parole?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: Did you serve out your whole sentence?

11 THE DEFENDANT: Cleaned up the whole sentence.

12 THE COURT: You've cleaned up the whole thing?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: You never made parole?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Okay. All right. You understand they'd at least be able to  
17 bring that one in?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And I know there's other ones that would probably would  
20 fit within the 10 years. Do you understand that?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And you know what they are, so you need to discuss that  
23 with your lawyers. Do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you have any questions?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: I'm not going to make you tell me right now. You have the  
3 right to hear all the evidence that the State has against you and then you have  
4 the right to talk to your lawyers and make a decision about whether you want  
5 to do that or not.

6 So I'm going to give you the opportunity to talk to your lawyers  
7 tonight. They can come see you. You can talk to them in the morning. It's up  
8 to you. But tomorrow before we start, you have to let me know whether  
9 you're going to take the stand and testify. Do you understand that?

10 THE DEFENDANT: I'm going to take the stand.

11 THE COURT: You're going to take the stand?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Okay. Well, your lawyers are very displeased with that  
14 decision, and so, I'm not going to hold you to that decision.

15 THE DEFENDANT: Thank you.

16 THE COURT: I'm going to let you talk to your lawyers.

17 THE DEFENDANT: Huh?

18 THE COURT: I'll let you testify.

19 THE DEFENDANT: Okay.

20 THE COURT: Remember I told you?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: If you want to testify -- if you come in here tomorrow and  
23 you say: I want to testify. I'm going to say: Go take the stand.

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. But your attorneys seem to be a little bit displeased

1 with your decision, so what I'm going to let you do is, I'm going to let you talk  
2 to them. But remember what I said: No matter what they say, it's still your  
3 right and your right alone; it's for you to decide.

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: So you've told me you want to.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: That's fine. I'll let you testify tomorrow. What I want you  
8 to do is, I want you to think about it and I want you to talk to your lawyers.

9 THE DEFENDANT: I don't want to talk to them lawyers.

10 THE COURT: You don't have to do that either.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: I think you should, but you don't have to.

13 THE DEFENDANT: Thank you, Your Honor.

14 THE COURT: Okay. But I think you should.

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Because they can give you advice on whether -- what they  
17 think the state of the evidence is and whether they think you should testify or  
18 not.

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Okay. But I'll just plan on you testifying tomorrow unless  
21 tomorrow morning you come in and you tell me otherwise.

22 THE DEFENDANT: Thank you.

23 THE COURT: Is that fair?

24 THE DEFENDANT: Yeah.

25 THE COURT: Okay. And I have some hearings at 8:30 and I was hoping

1 you guys could meet me at 10 o'clock for jury instructions.

2 MS. PAROLISE: That would be fine, Your Honor.

3 MS. JONES: That's fine, Your Honor.

4 THE COURT: Okay. So can Mr. Collins be brought over around 10:30?  
5 Can Mr. Collins be brought over around 10:30?

6 CORRECTIONS OFFICER: Yes, ma'am.

7 THE COURT: Yes; yes? Okay.

8 MS. PAROLISE: And Your Honor, if we could make more record before  
9 we break.

10 THE COURT: Sure.

11 MS. PAROLISE: If you recall, we -- we asked that we not be made to go  
12 forward and it's our position that the denial of our request for a continuance  
13 violates our client's 5th, 6th and 14th Amendment Rights. So we prepared an  
14 affidavit for the things we would have done if we had more time to prepare and  
15 we'd like to file it under seal now, Your Honor.

16 COURT CLERK: I'll need the cover sheet with the case number.

17 THE COURT: Okay. You want to file it under seal tomorrow?

18 MS. PAROLISE: Do it tomorrow.

19 COURT CLERK: I need a cover sheet with the case number.

20 MS. PAROLISE: Okay. Great. I'll do that.

21 THE COURT: Please remind me so we don't forget to do that.

22 MS. PAROLISE: We'll do that when we do jury instructions, Your Honor.

23 THE COURT: Okay. Mr. Collins --

24 THE DEFENDANT: Good night.

25 THE COURT: Tomorrow. Maybe you should talk to your lawyers; okay?

1 THE DEFENDANT: No. Have a nice day.

2 THE COURT: Okay. You have a nice night.

3 CORRECTION OFFICER BOOKER: You were asking me something,  
4 Judge?

5 THE COURT: Yeah. I said: Can you bring him here tomorrow morning at  
6 10:30 and you were ignoring me.

7 CORRECTION OFFICER BOOKER: Never. You know, today's Friday for  
8 me, but I will make sure --

9 THE COURT: I didn't think you could hear me.

10 CORRECTIONS OFFICER BOOKER: -- that somebody will -- I will make  
11 sure somebody has him here at 10:30.

12 THE COURT: Your friend in the back had your back and he said: Yes,  
13 he'd bring him over.

14 CORRECTIONS OFFICER BOOKER: Yes, Your Honor.

15 THE COURT: If you'd like, I'll have Mr. Collins stay tonight and we can  
16 clear the courtroom. It's up to you.

17 MS. PAROLISE: Are you going to --

18 THE DEFENDANT: No, I'm not going to talk to [indiscernible].

19 THE COURT: Okay.

20 MS. PAROLISE: Okay. Great. No, thanks, Your Honor.

21 THE COURT: Okay. We'll see you tomorrow morning.

22 ...

23 ...

24 ...

25 ...

1 THE DEFENDANT: Thank you.

2 THE COURT: All right.

3  
4 [Proceeding concluded at 3:54 p.m.]  
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
22 audio/visual recording in the above-entitled case.

23   
24 \_\_\_\_\_  
25 Kerry Esparza, Court Recorder/Transcriber  
District Court, Department XII

LESEAN TARUS COLLINS, )  
 )  
 Appellant, )  
 )  
 vi. )  
 )  
 THE STATE OF NEVADA, )  
 )  
 Respondent. )

No. 55716

Employee, Clark County Public  
Defender's Office

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Respondent.

Electronically Filed  
Aug 02 2011 08:16 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

## Docket 55716 Document 2011-23205



**INDEX**  
**Collins, Lesean**  
**C253455**

**PAGE NO.**

Defendant's Motion to Compel Disclosure of Exculpatory Evidence (DOH 7/22/09) filed 7/8/09.....	141-149
Defendant's Notice of Alibi, Pursuant to NRS 174.087 filed 11/2/09.....	163-164
Defendant's Notice of Witnesses filed 11/2/09.....	160-162
Defense Offer of Proof Regarding Denial of Defense Motion to Continue (DOH 11/6/09) filed 11/6/09.....	195-198
Ex Parte Application and Order to Prepare Transcripts filed 2/2/10.....	204-207
Indictment filed 4/8/09.....	053-055
Instructions to the Jury filed 11/6/09.....	171-192
Judgment of Conviction (Jury Trial) filed 3/4/10.....	208-209
Minutes through 3/2/10.....	213-227
Motion to Continue Sentencing Date (DOH 1/12/10) filed 12/29/09.....	201-203
Notice of Appeal filed 3/25/10.....	210-212
Notice of Habitual Criminality filed 11/6/09.....	199-200
Notice of Motion and Motion to Conduct Videotaped Deposition Testimony of Material Witness Vivian Furlow (DOH 11/2/09) filed 11/2/09.....	165-170

1		
2	Notice of Witnesses filed 10/29/09.....	158-159
3	Order filed 5/15/09.....	123-124
4	Petition for Writ of Habeas Corpus	
5	(DOH 6/1/09) filed 5/12/09.....	062-122
6	Return to Writ of Habeas Corpus	
7	(DOH 6/1/09) filed 5/29/09.....	127-140
8	State's Opposition to Defendant's Motion to Preclude Testimony	
9	of Minor Child, Tysean Collins	
	(DOH 9/16/09) filed 9/15/09.....	150-157
10	Verdict filed 11/6/09.....	193-194
11	Writ of Habeas Corpus	
12	(DOH 6/1/09) filed 5/18/09.....	125-126
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

**TRANSCRIPTS:**

Transcript: Calendar Call (DOH 8/12/09) filed 4/30/10.....	248-251
Transcript: Calendar Call (DOH 10/28/09) filed 4/30/10.....	256-258
Transcript: Defendant's Motion to Compel Disclosure of Exculpatory Evidence (DOH 7/22/09) filed 4/27/10.....	245-247
Transcript: Defendant's Motion to Preclude Testimony of Minor Child, Tysean Collins (DOH 9/16/09) filed 4/30/10.....	252-255
Transcript: Defendant's Writ of Habeas Corpus (DOH 6/10/09) filed 4/27/10.....	238-244
Transcript: Grand Jury (DOH 2/24/09) filed 4/16/09.....	001-052
Transcript: Grand Jury Volume 2 (DOH 4/7/09) filed 4/14/09.....	056-061
Transcript: Grand Jury Indictment Return (DOH 4/8/09) filed 5/17/10.....	228-232
Transcript: Initial Arraignment (DOH 5/6/09) filed 4/27/10.....	233-237
<b>Transcript: Jury Trial - Day 1 Split Transcript</b> <b>(DOH 11/4/09) filed 7/21/10.....</b>	<b>328-603</b>
Part One, Page 328 to Page 490, Volume II	
Part Two, Page 491 to Page 603, Volume III	
<b>Transcript: Jury Trial - Day 2</b> <b>(DOH 11/5/09) filed 7/9/10.....</b>	<b>604-733</b>
<b>Transcript: Jury Trial - Day 3</b> <b>(DOH 11/6/09) filed 7/9/10.....</b>	<b>734-809</b>
Transcript: Overflow Calendar Call (DOH 10/29/09) filed 5/17/10.....	259-267

1	Transcript: Sentencing	
2	(DOH 2/18/10) filed 6/18/10.....	810-813
3	Transcript: Sentencing (Continued)	
4	(DOH 3/2/10) filed 6/18/10.....	814-831
5	Transcript: Videotaped Testimony of Vivian Furlow	
6	(DOH 11/2/09) filed 7/12/10.....	268-327

6  
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1 PROSPECTIVE JUROR NO. 0036: Yes.

2 THE COURT: Have you ever had to work with the District Attorney's  
3 Office?

4 PROSPECTIVE JUROR NO. 0036: No.

5 THE COURT: Have you ever --

6 PROSPECTIVE JUROR NO. 0036: Oh, I did -- I did go to Court as a  
7 witness against somebody that I did have cited for battery.

8 THE COURT: Okay. So you cited someone for battery at the Mandalay  
9 Bay?

10 PROSPECTIVE JUROR NO. 0036: Yes.

11 THE COURT: And then someone from the DA's Office subpoenaed you  
12 to come in and testify --

13 PROSPECTIVE JUROR NO. 0036: Yes.

14 THE COURT: -- in their case in chief?

15 PROSPECTIVE JUROR NO. 0036: Yes.

16 THE COURT: Yes? Was it these DA's over here?

17 PROSPECTIVE JUROR NO. 0036: No.

18 THE COURT: How long ago was that?

19 PROSPECTIVE JUROR NO. 0036: Couple years ago.

20 THE COURT: Okay. Anything about the fact that you've been called to  
21 testify by the DA's office that would impede your ability to be fair and  
22 impartial?

23 PROSPECTIVE JUROR NO. 0036: No.

24 THE COURT: Okay. Anything about the fact that you work with these  
25 different police entities that would cause you not to be able to be fair and

1 impartial?

2 PROSPECTIVE JUROR NO. 0036: No.

3 THE COURT: Okay. And I need to ask these questions and I'm not  
4 trying to be offensive or anything; I just need to ask it. You work with a lot of  
5 police officers. What happens if you decide that the State didn't meet their  
6 burden of proof and you enter a not guilty. Are you going to be concerned  
7 about how police officers you work with are going to react to that?

8 PROSPECTIVE JUROR NO. 0036: No.

9 THE COURT: Okay. You're not worried about any public opinion or  
10 criticism or anything like that?

11 PROSPECTIVE JUROR NO. 0036: No.

12 THE COURT: We can count on you to follow the law and listen to the  
13 evidence regardless of what may happen when you go back to work?

14 PROSPECTIVE JUROR NO. 0036: Yes.

15 THE COURT: Okay. Thank you, sir.

16 MS. JONES: Thank Your Honor. And following up on that, is there  
17 anyone in the panel of the first 23, that would have a problem if the State  
18 hadn't proved their burden, beyond a reasonable doubt, would have a problem  
19 returning a verdict of not guilty in this case?

20 PROSPECTIVE JUROR NO. 0036: I'm sorry, I didn't hear the question.

21 THE COURT: I --

22 MS. JONES: She actually, specifically asked it of you --

23 PROSPECTIVE JUROR NO. 0036: Yeah, I just got distracted.

24 MS. JONES: Okay. So everybody would be perfectly okay with that?

25 Okay. Your Honor, may I have the Court's indulgence, briefly.

1 THE COURT: Absolutely.

2 [Colloquy between Defense Counsel]

3 MS. JONES: Okay. And just a couple of follow-up things. Mr. Jonas,  
4 would you be -- would you be comfortable having you on the jury?

5 PROSPECTIVE JUROR NO. 0001: Yes.

6 MS. JONES: Why?

7 PROSPECTIVE JUROR NO. 0001: I feel like I'd be logical and follow the  
8 law.

9 MS. JONES: Okay. And what do you think makes a good juror?

10 PROSPECTIVE JUROR NO. 0001: Someone who pays attention and tries  
11 to match up what -- what they're told about the law and what the impression  
12 they may get.

13 MS. JONES: Thank you. And is there anyone in the panel who would  
14 think that they should be on the jury for a different reason? Who would want  
15 themselves on the jury for a different reason?

16 And Mr. Welch, if this was -- if you got this case on a Friday and  
17 it's Friday at 5 o'clock and one of the -- every -- the rest of the jurors are going  
18 in one direction and you have a different opinion; what would you do?

19 PROSPECTIVE JUROR NO. 0019: I'd try to discuss it with the other  
20 jurors, state my opinion, listen to their opinion and if they can convince me  
21 otherwise, I'd switch to their side, if not, try to get them to switch to mine.

22 MS. JONES: Okay. And Ms. Perkins who's actually sitting next to you.  
23 Ms. Perkins, I know you have the issue with working graveyard at your job.

24 PROSPECTIVE JUROR NO. 0021: Uh huh.

25 MS. JONES: And as the Court informed you earlier, if you are selected

1 on this jury, this Court would order that you not be able to work that graveyard  
2 shift.

3 PROSPECTIVE JUROR NO. 0021: Right.

4 MS. JONES: Would that create any issues with you being able to be fair  
5 and impartial in this case?

6 PROSPECTIVE JUROR NO. 0021: Oh, definitely.

7 MS. JONES: So you would be able to just be here everyday and be fair  
8 and impartial?

9 PROSPECTIVE JUROR NO. 0021: Sure.

10 MS. JONES: Okay. And Ms. Ellis, you understand that the Judge is  
11 going to instruct you on what the law is, of this case, and those are going to  
12 be the principles that you're going to apply to the facts that were given to you?

13 PROSPECTIVE JUROR NO. 0025: Yes.

14 MS. JONES: Okay. Can you speak up so she can --

15 PROSPECTIVE JUROR NO. 0025: Yes.

16 MS. JONES: And would you be able to do that?

17 PROSPECTIVE JUROR NO. 0025: Yes.

18 MS. JONES: And would you be able to not form any kind of opinion on  
19 this case until after all the evidence has been submitted to you?

20 PROSPECTIVE JUROR NO. 0025: Yes.

21 MS. JONES: And is there anyone else on the panel who have  
22 employment issues or financial issues that we talked about earlier that may  
23 prevent you from being fair and impartial in this case? Yes, sir.

24 PROSPECTIVE JUROR NO. 0032: Joseph Sands, number 0032.

25 THE COURT: Other than what you've already discussed with the Court?



1 PROSPECTIVE JUROR NO. 0032: Well, I was just going to add what she  
2 asked other people about 5 o'clock.

3 THE COURT: Okay. Go ahead.

4 PROSPECTIVE JUROR NO. 0032: And the question was: If it was 5  
5 o'clock -- arose on Friday, I would be looking at it like each day is more money  
6 out of my pocket, so I could not guarantee that I would not change my decision  
7 based on that. I would like to think that I would not, but I can't guarantee it.

8 THE COURT: Okay. Well that's really important because, obviously we  
9 want jurors that are going to decide the case based on the evidence and the  
10 law and not based on what time it was. So if you or someone you loved was  
11 sitting over at this table, would you want a juror that was going to be worried  
12 about reaching a decision, regardless of whether it was fair and impartial  
13 because it was 5 o'clock on any day?

14 PROSPECTIVE JUROR NO. 0032: I'd want somebody that wasn't on the  
15 clock and I feel I am on the clock, so I would not -- if I was in their situation, I  
16 would not want me on the jury, but that's just me.

17 THE COURT: Okay. And are you suggesting, to this Court, that if you're  
18 selected to be on this panel, if these deliberations don't go at your pace, you're  
19 going to force a verdict, regardless of the evidence and the law?

20 PROSPECTIVE JUROR NO. 0032: I would like to think that I will not do  
21 that. I'm just saying that, under the financial pressures I would have, based  
22 on, if it went into next week, especially if it went late into next week; I can't  
23 guarantee what I might do.

24 THE COURT: Okay. It's not going to go into next week and I always  
25 hesitate to say that, but these lawyers have assured me, this is not going to go

1 into next week.

2 PROSPECTIVE JUROR NO. 0032: Okay.

3 THE COURT: And I'm -- I'm a hard worker. I stay till 10, 11, 12 o'clock  
4 at night sometimes. That might scare everybody in here, but I have no problem  
5 staying late to get something done, because my feeling is, to get you back into  
6 your life as quickly as possible. Because I understand, I have a life too, and I'd  
7 want a judge to get me back as quickly as he or she could, as well.

8 Okay. So I can tell you it's going to be my intent. I'm not going to  
9 rush it, and another thing I'm not going to do is -- I'm not going to apologize  
10 either because it's important. What goes on in this courtroom is important.  
11 It's very, very important. But I have to make sure that you understand the  
12 importance of it.

13 PROSPECTIVE JUROR NO. 0032: Oh, I clearly understand. My -- my  
14 father was a defense attorney so I completely understand --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 0032: -- the importance of the matter.

17 THE COURT: Okay. All right. So then you grew up in a home -- well, I  
18 don't know, did you grow up in a home where the law was talked about a lot?

19 PROSPECTIVE JUROR NO. 0032: Yes.

20 THE COURT: Okay. So again, I need to ask you, do I have your word  
21 that if you're selected to serve on this panel, we don't have to worry about you  
22 rushing to judgment, one way or the other, because you're looking at the  
23 watch?

24 PROSPECTIVE JUROR NO. 0032: I'll say: Consciously -- on a conscious  
25 basis, I will do whatever I can to make sure that I can do that -- can fulfill that

1 obligation. I'm just worried about things that might be going on in the back of  
2 my head, but I have no control over that.

3 THE COURT: Okay. Well and generally what I tell people is, you know,  
4 we don't expect you to leave your life experiences at the door and I don't  
5 expect you to leave your job at the door. I understand you have an important  
6 job; you're a business owner. You got an important life, but I do expect you,  
7 when you go back to deliberations, to leave everything at the door except your  
8 common sense -- what you have seen and heard in the courtroom, the  
9 evidence, and the instructions on the law, without regard to what time it is.

10 Now, counsel used Friday at 5 o'clock; that's a good example, but  
11 I'm worried. What if it's tomorrow at 5 o'clock. You know, what if it's  
12 Tuesday at 5 o'clock. I don't care what day it is. Are we going to have a  
13 problem with you saying, you know, I'm outta here, and we better reach a  
14 decision because I'm outta here?

15 PROSPECTIVE JUROR NO. 0032: I've more less resigned myself to the  
16 fact that I have to assume that I might be here for a few days. This week isn't  
17 as crucial as next week. Next week is a big problem. I mean, because I can't  
18 actually fulfill my contractual obligations with the parties that have hired me.  
19 This week I can have a -- I can hire other people though that would come out  
20 of my -- out of my income, but I --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 0032: -- I'm willing to do that.

23 THE COURT: Let me ask you, when, next week, does it become a really  
24 big deal for you?

25 PROSPECTIVE JUROR NO. 0032: Wednesday through Friday.

1 THE COURT: Okay. What if I --

2 PROSPECTIVE JUROR NO. 0032: Wednesday through Saturday,  
3 actually.

4 THE COURT: What if I -- I mean, and I can -- based upon what these  
5 lawyers have told me, and they'll have to hear me say it too. What if I just  
6 give you my word; that's just not going to happen. I'm not going to keep you  
7 here past then, because you have to have some ability to plan your life.

8 PROSPECTIVE JUROR NO. 0032: Right. I mean, this -- I'm already  
9 backed up. I already have things that should have been done and now this is  
10 the day out that I've lost another day and tomorrow's another day.

11 THE COURT: Well, trust me, I understand being backed up; I get that.

12 PROSPECTIVE JUROR NO. 0032: Okay.

13 THE COURT: Okay? But what if I tell you I'm not going to keep you here  
14 past Wednesday of next week?

15 PROSPECTIVE JUROR NO. 0032: That helps.

16 THE COURT: Okay. Good. But again, I need to be absolutely assured. I  
17 need to have your -- your word. You're under oath, that you're not going to  
18 reach a decision, if you're selected to serve on this panel, based upon anything  
19 other than the evidence and the law. I mean, cause you -- you understand how  
20 -- how unfair and what a severe injustice that would be if somebody decided:  
21 Well, you know, I'm going to throw the evidence out the window because I  
22 want to go home 'cause I'm tired. You would agree that would be a severe  
23 injustice?

24 PROSPECTIVE JUROR NO. 0032: Oh sure. Definitely.

25 THE COURT: Okay. Regardless of how important your obligations are --

1 PROSPECTIVE JUROR NO. 0032: Right.

2 THE COURT: There would be an extreme injustice, would it not?

3 PROSPECTIVE JUROR NO. 0032: Sure. Completely.

4 THE COURT: Would you do that?

5 PROSPECTIVE JUROR NO. 0032: Would I what? I'm sorry.

6 THE COURT: Would you participate in such an extreme injustice?

7 PROSPECTIVE JUROR NO. 0032: Not knowingly; no. Knowingly I would  
8 not; definitely not.

9 THE COURT: I don't know what that means, not knowingly, and  
10 consciously --

11 PROSPECTIVE JUROR NO. 0032: Okay.

12 THE COURT: -- so I don't know, are you worried your subconscious  
13 might take over?

14 PROSPECTIVE JUROR NO. 0032: Going into -- I would not go -- I'd go in  
15 with the intent of being completely impartial.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 0032: And I would base my decision based  
18 on -- I would do my best -- the best that any person could do is base my  
19 decision based on what I've heard in the courtroom.

20 THE COURT: Right. And the law.

21 PROSPECTIVE JUROR NO. 0032: And the law that applies to it.

22 THE COURT: And your common sense?

23 PROSPECTIVE JUROR NO. 0032: Yes.

24 THE COURT: Right. Okay. So I kind of hear a but. Do I have to worry  
25 about that changing?

1 PROSPECTIVE JUROR NO. 0032: No.

2 THE COURT: Okay. So when counsel asked you the question: If it's  
3 Friday at 5 o'clock and the jury has not reached a verdict, are you going to  
4 force a decision because you want out of there?

5 PROSPECTIVE JUROR NO. 0032: That's not where I was going with it.  
6 Where I was going with it was, I thought the question was whether or not the  
7 Defendant would want to have someone like myself on the jury? And the  
8 answer to that would be: No, because there's -- I have a lot of irons in the fire  
9 and I'm strapped. That was my answer. That's the only reason I said that,  
10 Your Honor. I really mean no --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 0032: -- no disrespect. I'm just trying to be  
13 honest.

14 THE COURT: And none -- none taken. None taken.

15 PROSPECTIVE JUROR NO. 0032: Thank you.

16 THE COURT: All right, but with all the things that you have going on,  
17 when you come in here, you can't talk on the phone. It's really great.

18 PROSPECTIVE JUROR NO. 0032: Yeah; that's true.

19 THE COURT: I mean, I love it because no one can call me.

20 PROSPECTIVE JUROR NO. 0032: It's been nice having a phone.

21 THE COURT: You know, no one can call me -- no one can call me, and I  
22 have a great excuse. I don't have to return phone calls. So you can't talk on  
23 the phone; you can't be on your laptop; you can't be text messaging; you can't  
24 conduct business.

25 PROSPECTIVE JUROR NO. 0032: Right.

1 THE COURT: Okay. You just can't.

2 PROSPECTIVE JUROR NO. 0032: No; I understand. The phone's off  
3 from the minute I walk in here till the minute I leave so --

4 THE COURT: Right. And so, will you be able to pay attention to the  
5 evidence --

6 PROSPECTIVE JUROR NO. 0032: Sure.

7 THE COURT: -- with that in mind?

8 PROSPECTIVE JUROR NO. 0032: Yes.

9 THE COURT: Okay. And I can tell you it's not always really entertaining.

10 PROSPECTIVE JUROR NO. 0032: No; I understand.

11 THE COURT: Is that okay?

12 PROSPECTIVE JUROR NO. 0032: Yeah; sure.

13 THE COURT: I mean, I understand sometimes it might be boring, but  
14 regardless of what you have going on outside of this courtroom, will you pay  
15 attention to the evidence and give the parties the due respect that they  
16 deserve?

17 PROSPECTIVE JUROR NO. 0032: Sure; yes.

18 THE COURT: Okay. And would you give them the same respect as if  
19 you or someone you love was in here, on either side?

20 PROSPECTIVE JUROR NO. 0032: Yes.

21 THE COURT: Yes? Okay. I appreciate you being here and answering  
22 those questions.

23 MS. JONES: Thank Your Honor. And Mr. Sands, I just have another  
24 question for you. Earlier you talked about your brother had his vehicle  
25 vandalized and the tires were slashed?

1 PROSPECTIVE JUROR NO. 0032: Yes.

2 MS. JONES: And you commented on the fact that the State talked about  
3 there was -- and the State talked about, in their summary, that there --

4 PROSPECTIVE JUROR NO. 0032: Was an allegation; yes.

5 MS. JONES: -- was an allegation attached as in this case. Do you think  
6 anything about what happened to your brother would prevent you from being  
7 fair and impartial in this case?

8 PROSPECTIVE JUROR NO. 0032: No; no; it's a domestic issue with him.  
9 I just brought up the fact because the word: tire slash came up and I wanted  
10 to make that everybody knew that I had an incident with my near family that  
11 that had happened. But clearly, it had no bearing as to -- other than, it's just  
12 an allegation.

13 THE COURT: And we appreciate that. And when you say it's a domestic  
14 issue. Does that -- what do you mean by that?

15 PROSPECTIVE JUROR NO. 0032: Well, his -- he and his wife are  
16 presently in the process of a divorce and she's moved in with somebody else  
17 and that individual's the person, which we believe, did the damage to his  
18 vehicle.

19 MS. JONES: Okay. And did you take up any feelings about that in any  
20 way?

21 PROSPECTIVE JUROR NO. 0032: Well, I thought it was wrong that that  
22 individual did that but, you know, there's really know way to prove it -- nobody  
23 saw it happening. So I mean, I thought whoever did it should be punished for  
24 it, but that probably isn't going to happen.

25 MS. JONES: But when you said there's no way to prove it, you believe



1 they should be punished after it's been proven that they're the person who did  
2 it?

3 PROSPECTIVE JUROR NO. 0032: Oh yeah, it'd have to be proven in a  
4 court of law that they had done it.

5 MS. JONES: And you'll bring none of that with you into this case?

6 PROSPECTIVE JUROR NO. 0032: No; no; it has nothing to do in regard  
7 to that.

8 MS. JONES: And you understand that, right now, what the State  
9 presented to you are allegations?

10 PROSPECTIVE JUROR NO. 0032: Correct.

11 THE COURT: And when you talked about your father being a defense  
12 attorney, because your father was a defense attorney, does that create any  
13 bias for you towards either side?

14 PROSPECTIVE JUROR NO. 0032: My father's always said: Everyone,  
15 you know -- my father represented a person in the organized crime world, this  
16 is back in the 60's.

17 MS. JONES: Okay.

18 PROSPECTIVE JUROR NO. 0032: And I said: Dad, how can you  
19 represent someone like that? And he said: Joe, everybody is entitled to a fair  
20 trial. They go into that jury room -- they go into the courtroom with the  
21 presumption that they're not guilty and it's my job to try and give that man the  
22 fairest trial he can get; the best defense possible, so with that -- that's what  
23 stuck in my head.

24 And he never said: That guy's as guilty as sin. He always just  
25 said: He's my client and I will defend him the best I can defend him.

1 MS. JONES: And based upon what your dad told you, you believed that  
2 every person that's accused of something, is entitled to a fair trial?

3 PROSPECTIVE JUROR NO. 0032: That's correct.

4 MS. JONES: And so you -- that would not cause you any bias toward  
5 the State?

6 PROSPECTIVE JUROR NO. 0032: No.

7 MS. JONES: And that would cause you no bias toward Mr. Collins?

8 PROSPECTIVE JUROR NO. 0032: No.

9 MS. JONES: Okay. Court's indulgence, Your Honor. Your Honor,  
10 Defense will pass the panel --

11 THE COURT: Okay. You pass the panel --

12 MS. JONES: -- for cause.

13 THE COURT: -- for cause?

14 MS. JONES: We do, Your Honor.

15 THE COURT: Okay. At this time, the clerk has prepared for what's been  
16 marked as Court's Exhibit Number 1. State can exercise their 1st peremptory  
17 challenge.

18 [Peremptory challenges commenced and concluded]

19 THE COURT: Okay. At this time, Ladies and Gentlemen, we are going to  
20 take a very short recess. I ask that you stay close by because it really will only  
21 take us about two minutes. I have to confer with the lawyers and then the  
22 Court Marshal will ask you to come back in.

23 When you come back in, I ask that you all sit in the gallery,  
24 because at that time, the Clerk is going to call our jury panel. If your name is  
25 not called you'll be free to go, so just give us about a couple more minutes.

1 Again, thank you very much for your attention.

2 [Prospective jury panels exits the courtroom]

3 THE COURT: Okay. The record will reflect that this hearing is taking  
4 place outside the presence of the jury panel.

5 [Outside the presence of the prospective jurors]

6 [Court called the names of the jury panel out loud]

7 THE COURT: Any objection by the State?

8 MR. TOMSHECK: No, Judge.

9 THE COURT: Any objection by the Defense?

10 MS. JONES: No, Your Honor.

11 THE COURT: Okay. And do we have our juror notebooks ready?

12 COURT CLERK: Yeah.

13 THE COURT: We can hand out our juror notebooks. We also have our  
14 juror notebook that's been prepared by this department. If there's anything you  
15 want to put in the juror notebook, you can, but at this point, it just has my  
16 preliminary instructions, the instructions on how to ask juror questions, and the  
17 admonishment.

18 MR. TOMSHECK: Anything you want, we can put in there?

19 THE COURT: Why are you laughing?

20 MR. TOMSHECK: Because you said: Anything you want to put in there  
21 you can.

22 THE COURT: Anything that's permissible by the rules. Matt, why don't  
23 we get the juror notebooks and have them all ready. We'll get the juror  
24 notebooks and then we'll --

25 COURT CLERK: Josh.

1 THE COURT: -- roll right into it. Mr. Collins, are you okay? Because  
2 we're going to go into opening statements?

3 THE DEFENDANT: I ain't drinking no water.

4 THE COURT: Okay.

5 THE DEFENDANT: I use the bathroom?

6 MS. JONES: And Your Honor, we do have a couple of matters we'd like  
7 to address.

8 THE COURT: Wait a minute.

9 MS. JEANNEY: We're good. Thank you.

10 THE COURT: Okay. Do they have to be addressed right now because,  
11 remember, I told them we're out by at least 7. It has to be addressed before I  
12 release --

13 MS. PAROLISE: No, just before we started.

14 MS. JONES: No, no, no -- before openings.

15 THE COURT: Okay. Before openings?

16 MS. JONES: Yes, please.

17 THE COURT: How long will it take? Because I don't want to break  
18 again.

19 MS. PAROLISE: Just have a few motions in limine, Your Honor.

20 MS. JONES: Just a couple of things, Your Honor, which I think are going  
21 to be fairly easy.

22 THE COURT: Okay. Go ahead.

23 MS. JONES: Your Honor, the first thing is: When Ms. Eddins testified  
24 before the Grand Jury -- one of the first things she told them was that they got  
25 back together after Mr. Collins had been released from prison. We would ask

1 that the Court ask the State to instruct her not to talk about him being released  
2 from prison as that is -- as that is prejudicial and it prejudices the jury that Mr.--  
3 and it notifies them that Mr. Collins has been to prison before.

4 THE COURT: Well, of course, I agree. She's --

5 MR. TOMSHECK: Just so the record's clear now, we've told her that  
6 countless times. We did tell her that prior to testifying for the Grand Jury and  
7 we did admonish the members of the Grand Jury to disregard it when it was a  
8 passing statement, slipped out

9 THE COURT: Okay. Now here's what I'll offer. When she comes to  
10 testify, I will take her outside the presence and I will admonish her, but I'm  
11 going to tell you that, it seems like the more times you tell someone not to say  
12 something, they can't wait to say it. So it's up to you, but I will give you that  
13 offer.

14 If you'd like me to admonish her to make sure that she does not  
15 refer to any prior criminal history, any prior criminal record, the fact that he's  
16 been in prison. I will be happy to do that, because she can't just not refer to  
17 him being in prison. There's a lot of things she can't refer to.

18 MS. JONES: And I appreciate that, Your Honor, and Your Honor, we've  
19 decided that we believe Mr. Tomscheck has admonished her not to do that, and  
20 if she did, then we could address it then.

21 THE COURT: Okay. And I'll pay real close attention when she's  
22 testifying. If I think she's going to go down that road, I'll try to jump on her  
23 and cut her off, but I'd ask Mr. Tomscheck, what witness is she?

24 MR. TOMSHECK: She'll be our first witness. We've actually instructed  
25 her about that numerous times.

1 THE COURT: Okay.

2 MR. TOMSHECK: They have a long past involving violence and criminal  
3 histories on both sides and --

4 THE COURT: Well, 'cause let me just tell you, when Mr. Collins was  
5 sentenced by me, and I guess it was several years ago, because it was in the  
6 old courthouse, I remember what she was wearing. I remember what she  
7 looked like. She was -- and I was in the big department one on the first floor,  
8 so you remember how big that was and how far back? She was in the very  
9 back and she started shouting at him and, I mean, I never heard anything like it,  
10 so I know what her personality is. You remember, Mr. Collins; right?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Because I kind of got after you.

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Because she was just ranting and raving about him going  
15 to prison and how was she going to take care of all these kids with him going  
16 to prison. And she was not easy to calm down.

17 MR. TOMSHECK: I don't anticipate --

18 THE COURT: Okay.

19 MR. TOMSHECK: -- any such problems in this trial, Judge.

20 THE COURT: Okay. Because I'm just telling you, I'm real familiar with  
21 her personality. And I'm not suggesting she didn't have a right to be upset at  
22 Mr. Collins at that time.

23 MS. JONES: And Judge, our second matter is, as the Court is probably  
24 aware, when Mr. Collins was apprehended in this case, he was wanted by  
25 North Las Vegas detectives to be questioned in a murder. We would just ask

1 that that not be mentioned to the jury, as that is another prejudicial fact, that it  
2 is not pertinent to this case, and I believe that it'll prejudice the jury against Mr.  
3 Collins by hearing that he was wanted in a murder investigation and that's how  
4 he was apprehended in this case.

5 THE COURT: Okay.

6 MR. TOMSHECK: I don't know that factually that's exactly how it  
7 occurred. I'm not sure Ms. Jones is entirely familiar with the facts in the  
8 homicide, but I can tell the Court I've instructed Ms. Eddins that the only thing  
9 she's supposed to talk about is this couple day period. I've instructed every  
10 witness that's going to come subsequent to Ms. Eddins that they only need to  
11 talk about this particular incident.

12 There aren't going to be any witnesses called, in this case, that had  
13 anything to do with the investigation of the homicide and everyone knows  
14 they're not supposed to talk about it.

15 THE COURT: Okay. And there's no reason for them to talk about it.

16 MR. TOMSHECK: No; in fact --

17 THE COURT: Okay.

18 MR. TOMSHECK: -- I don't know that anything of the witnesses in case  
19 know anything about it, other than, they may know he's currently in custody  
20 for it.

21 THE COURT: Was he picked up --

22 MS. JONES: Officer --

23 THE COURT: -- by a homicide detective?

24 MR. TOMSHECK: He was picked up -- he was picked up for both  
25 incidents at the same time. Actually, he was questioned in October 2<sup>nd</sup>, first by

1 North Las Vegas Arson Investigator Jeff Lomprey, who will testify in this trial,  
2 who only interviewed him about the arson. He was placed on arrest for the  
3 arson and then immediately, thereafter, homicide detectives came in to talk to  
4 him about the homicide.

5 MS. JONES: And, Your Honor, in one of the reports, I know. In one of  
6 the reports, in this case, it was mentioned that he was wanted in a homicide  
7 investigation and that's the reason that I wanted to address that to make sure  
8 that if that officer testifies; he doesn't talk about it.

9 THE COURT: Okay. Both of your motions are granted; they're absolutely  
10 appropriate.

11 MS. JONES: Okay. And Your Honor, on September 29<sup>th</sup>, which is kind  
12 of how all of this stuff started, there was another tire slashing incident that Mr.  
13 Collins was not charged with. And I would also ask that Shalana not talk about  
14 that because that was never proven. He was never charged with that. He was  
15 outside. She believes he slashed her tires, but she doesn't know that he's the  
16 one who did that.

17 THE COURT: Okay. So she had her tires slashed?

18 MS. JONES: I don't know if they were slashed or if the air was let out of  
19 them, but something happened to them on the night of the 29<sup>th</sup>. That's not the  
20 tire slashing incident in this case; that's from September 30<sup>th</sup>.

21 THE COURT: Okay. I thought you just said September 29<sup>th</sup>.

22 MS. JONES: There's actually two. On September 29<sup>th</sup> during -- that she  
23 comes outside of her house. They're in an argument. She comes outside of  
24 her house. There's something wrong with the tires in her car where she had to  
25 have them fixed. She believes that Mr. Collins is responsible for that but he's



1 never been charged with that. The State charged him with going down to her  
2 office and cutting her tires on September 30<sup>th</sup>, which is a completely separate  
3 incident.

4 THE COURT: Okay. Any problem with that?

5 MR. TOMSHECK: Actually, yeah. Essentially, here's what's happened,  
6 Judge. They're involved -- the relationship's deteriorating. They're involved in  
7 a kind of back and forth tit for tat type situation. On the 29<sup>th</sup>, Ms. Eddins  
8 notices -- and there's a whole circumstance that she's going to talk about on  
9 the 29<sup>th</sup>, how the Defendant makes contact with her, how he's outside the  
10 house -- the reason she's not staying at the house at the time. That's all  
11 absolutely relevant.

12 She comes outside, there are -- there's air let out of two of the  
13 tires. She calls her father. They end up getting tires repaired that night and  
14 then she stays elsewhere that night. The next day, the 30<sup>th</sup>, the day that the  
15 fire starts, the Defendant admits, in his interview, that he goes to her place of  
16 employment to get back at her and slashes her tires in that incident; that's  
17 what he's charged with in Count 3.

18 THE COURT: Well, let me ask you this, is she going to testify that he did  
19 it or is she going to testify, as she came outside, and two of her tires had air let  
20 out of it the day before?

21 MR. TOMSHECK: I can tell you, she probably believes he did it. We're  
22 not going to present any evidence that he's the one who did it, other than, it's  
23 just the course of conduct, and under *Dutton*, that comes in even if it's  
24 uncharged. And I can tell the Court why it's not charged.

25 THE COURT: Okay.

1 MR. TOMSHECK: And it's because we indicted this case and the value --  
2 the property damage -- value to the tires on the 29<sup>th</sup> was less than \$250, which  
3 meant, the Grand Jury and the District Court wouldn't have jurisdiction over it;  
4 we would have had to charge it as a misdemeanor.

5 THE COURT: Okay. So you want her to testify that on the 29<sup>th</sup> she  
6 came outside and there was something wrong with the tires?

7 MR. TOMSHECK: It's kind of an ongoing situation.

8 THE COURT: Okay.

9 MR. TOMSHECK: She's on the phone with him. He's in her backyard.  
10 She says she's going to call the police. She comes outside and there's a  
11 problem with her tires, ultimately, she gets them fixed that night and stays  
12 elsewhere. It's part of this big incident leading up to what culminates on the  
13 30<sup>th</sup>.

14 MS. JONES: And Your Honor, and I'm perfectly fine with her saying that  
15 she came outside and something was wrong with her tires. It's just the  
16 inference that Mr. Collins is the person who did it when he hasn't been charged  
17 with that. That's not an issue -- at issue in this case, and I don't believe it's  
18 relevant that she believes that he did it.

19 If the State wants to present that for the complete story that her  
20 tires were slashed or that something happened to them, I'm perfectly fine with  
21 her saying something happened to them. It's just her reference that Mr. Collins  
22 did it; that's the problem, because he's never been charged with that -- that's  
23 never been proven.

24 THE COURT: Well, I think she can come out and say that she came out  
25 of the house and there were -- the tires didn't have air in them and her and her

1 father went and got them fixed because it's probative, to the next day, her  
2 tires are slashed. They're not -- the air isn't let out. But, I mean, Mr.  
3 Tomsheck, you're not going to say: And who did you think did it?

4 MR. TOMSHECK: No, Judge. It's just --

5 THE COURT: Okay.

6 MR. TOMSHECK: -- it's a circumstance in the whole chain of events.

7 THE COURT: Right.

8 MR. TOMSHECK: Even if there's an implication that he's involved in  
9 some kind of uncharged conduct, under *Dutton* it comes in. I mean, we're not  
10 --

11 THE COURT: Right. And I tend to agree cause I just want to make sure  
12 you understand that regardless of whether she says she thinks he did or not;  
13 I'm not going to let her say she thinks he did it. The inference is still going to  
14 be there.

15 MS. JONES: And I understand that.

16 THE COURT: It's probative and it's relevant to talking about the  
17 circumstances around September 30<sup>th</sup>.

18 MR. TOMSHECK: And I can tell the Court if -- if she says he slashed my  
19 tires the 29<sup>th</sup>, or he let the air out of my tires on the 29<sup>th</sup>, we will clarify that  
20 she didn't see him do it; he never made the admissions to it, just to clear up  
21 any concern --

22 THE COURT: Okay.

23 MR. TOMSHECK: -- the defense may have.

24 THE COURT: Well, you know what, when she comes to testify, I'm  
25 probably going to give you a lot of leeway in leading her. And I would probably

1 suggest there's probably not going to be an objection because we don't want  
2 her to blurt this stuff out.

3 MS. JONES: And that's -- that's the fear, Your Honor; I think that is the  
4 fear. I think Ms. Eddins does need to have tight ended questions because I  
5 think this Court is well aware that if she doesn't, there's going to be a lot of  
6 things. This is a very long, ongoing relationship that she's going to get into  
7 that I think could prejudice Mr. Collins.

8 THE COURT: Right. So what I'm worried about is that I don't want Mr.  
9 Tomscheck to say: Okay. And then what happened next? And what happened  
10 next. Which, you know, would generally be how you do direct examination.  
11 I'm going to ask him to be more specific so that we don't have her saying:  
12 Well, I came outside and he had let all the air out of my tires.

13 MR. TOMSHECK: It'll actually --

14 THE COURT: Okay?

15 MR. TOMSHECK: -- be Ms. Jeanney asking the questions but she --

16 THE COURT: I'm sorry.

17 MS. JEANNEY: That's okay, Judge.

18 THE COURT: Okay.

19 MR. TOMSHECK: She understands that, Judge.

20 MS. JEANNEY: But I understand what you're saying.

21 THE COURT: All right. And you've met her?

22 MS. JEANNEY: Oh, yeah.

23 THE COURT: And you've interacted with her?

24 MS. JEANNEY: Yeah.

25 THE COURT: So you know she's a witness that's probably going to need

1 a little more control than usual?

2 MS. JEANNEY: And we talked about that with her.

3 THE COURT: Okay. And you've talked to her about it?

4 MS. JEANNEY: Multiple times.

5 THE COURT: All right. I just want to make sure, if there's no objection,  
6 I'll give the State leeway to lead. If you object, I won't let them lead but there  
7 is -- we run the danger of having problems; so what's your pleasure?

8 MS. JONES: Court's indulgence, Your Honor.

9 THE COURT: And I'm not suggesting that they lead her through her  
10 entire testimony, just through those particular areas we just discussed.

11 MS. JONES: The areas about the tire slashing and --

12 THE COURT: Okay. About the tires and anything about prior criminal  
13 history or being in prison. Okay. But really, it's the tires. I'll give them leeway  
14 to lead through that area so she doesn't blurt out anything inappropriate.

15 MS. PAROLISE: Okay. Just through the tire section?

16 THE COURT: Okay. Right.

17 MS. JONES: Yes.

18 THE COURT: I'm not going to let him lead her through her whole  
19 testimony.

20 MS. JONES: Okay. Yeah.

21 THE COURT: Okay.

22 MS. JONES: Just through the tire section; we're fine with that, Your  
23 Honor.

24 THE COURT: Okay. All right. Can I bring the jury panel in?

25 MS. PAROLISE: Just -- actually, I'm sorry, a few more.

1 THE COURT: Okay. They're not going to believe me. I told them --

2 MS. PAROLISE: I know, Your Honor.

3 THE COURT: -- the one guy's never going to come back again, Mr.  
4 Sands.

5 MS. PAROLISE: And finally, Your Honor, the Defense did not receive  
6 expert witness notice of Detective Lomprey, so we'd ask that he not be  
7 allowed to testify as an expert witness, and that he only be allowed to testify  
8 as to what he observed and pictures he took.

9 MR. TOMSHECK: First of all, he's not Detective Lomprey.

10 MS. PAROLISE: Oh.

11 MR. TOMSHECK: He's an arson investigations captain --

12 THE COURT: Right. That's what I thought.

13 MR. TOMSHECK: -- over at the North Las Vegas Police Department.  
14 What he's going to do is testify about how there's a call for service, the fire  
15 department puts it out -- two days later he goes and responds to the scene.  
16 It's his job as an arson investigator to investigate and to make certain  
17 determinations. He'll talk about the origin of the fire. How that's determined.  
18 The methods he goes through in order to find the origin. He'll actually testify  
19 that he found three separate fires originating within 1519 Laguna Palms.

20 He will then talk about the process of elimination he goes through  
21 in order to determine cause. The areas that he looks for as sources of fire,  
22 can't find any, and ultimately what his conclusion is. He's not going to give  
23 any opinion testimony as an expert witness would, but by virtue of factually  
24 what his job is, I think is kind of what they're objecting to -- he --

25 THE COURT: Okay. So he's a captain with the North Las Vegas Fire

1 Department?

2 MR. TOMSHECK: He's the investigations captain. He's responsible for  
3 overseeing all the arson investigations.

4 THE COURT: Okay. So it's probably like the lieutenant or detective that  
5 goes out to investigate a homicide?

6 MS. PAROLISE: Well, and the problem is, is that some of the things that  
7 he listed off, Your Honor, is expert opinion. Stuff like: origin of the fire,  
8 whether the fires were self-contained; issues like that. I mean, if he wants to  
9 testify specifically to what he saw, obviously I don't have a problem with that,  
10 Your Honor, but any expert opinion about what -- what that meant, what he  
11 saw and what that means -- what the implications are; we would object to as  
12 expert testimony.

13 THE COURT: Okay. It's his job; correct?

14 MR. TOMSHECK: Right.

15 THE COURT: And when there's a fire, he has to go out and investigate  
16 it?

17 MR. TOMSHECK: Correct.

18 THE COURT: Just like if -- if a crime is committed, certain detectives  
19 have to go out and investigate it.

20 MR. TOMSHECK: Correct.

21 THE COURT: They have to prepare reports?

22 MR. TOMSHECK: Correct.

23 THE COURT: Okay. And those reports are what you get in discovery.  
24 He prepared a report.

25 MR. TOMSHECK: Yes; he did.

1 THE COURT: Right?

2 MR. TOMSHECK: Yes.

3 THE COURT: And you gave it to the other side?

4 MR. TOMSHECK: Absolutely.

5 THE COURT: Okay. So even if he is an expert, what is it that the State  
6 didn't do? I mean, you got his report 21 days before trial; correct?

7 MS. PAROLISE: I believe it was Wingate's report.

8 MS. JONES: No; it's Lomprey's.

9 MS. PAROLISE: It's Lomprey's report. We did get the report, Your  
10 Honor, however, we were not given the CV and we weren't given the proper  
11 notice that goes along with that.

12 THE COURT: And what -- I mean, the notice that you're required to get,  
13 if there's an expert witness is the State -- both sides, have to exchange expert  
14 witnesses within 21 days of trial. You have to identify the person and you  
15 have to give -- oh gosh, it's two prong. What they're going to testify to and  
16 the -- something in the substance of their testimony. The form and substance  
17 of their testimony. Basically, what are they going to testify to, and if they have  
18 prepared any reports at the direction of anybody; they have to be turned over.

19 MS. PAROLISE: That's correct, Your Honor.

20 THE COURT: So even if he is an expert, you've identified him; correct?

21 MR. TOMSHECK: Yes.

22 THE COURT: You -- he prepared a report.

23 MR. TOMSHECK: Yes.

24 THE COURT: It's been turned over?

25 MR. TOMSHECK: Months and months ago.



1 THE COURT: Okay. So the thing that would have been lacking is the  
2 CV? What is the statute because I just want to make sure the record is clear.

3 MR. TOMSHECK: 170 --

4 THE COURT: 170 something.

5 MR. TOMSHECK: 170 --

6 THE COURT: -- paying attention.

7 MR. TOMSHECK: 174.235 maybe -- 234. And just while you're looking  
8 that up, Judge. From the State's perspective, it's kind of analogous to calling a  
9 crime scene analyst. We could notice them as an expert, we certainly don't  
10 have to. Factually, they're not really experts because we don't ask them  
11 opinion questions. Just like I'm not going to ask investigator Lomprey any  
12 opinion type questions. That's what differentiates an expert between a  
13 witness who may have specialized training.

14 MS. PAROLISE: And maybe --

15 MR. TOMSHECK: He's certainly going to talk about things that a patrol  
16 officer couldn't talk about because his job duty is different. He's going to talk  
17 about finding an origin that caused for a fire and what he did in this case.

18 THE COURT: Well, and you know what it is -- it's similar to a detective.  
19 It's similar to a crime scene analyst. I mean, it's very similar. That's what  
20 their jobs are.

21 MS. PAROLISE: Well, that's his --

22 THE COURT: And a lay person couldn't testify to that. Like you and I  
23 wouldn't know how to investigate a crime scene.

24 MS. PAROLISE: That -- I suppose, Your Honor, I guess I'm not totally  
25 agreeing with the analogy. I mean, this is --

1 THE COURT: Okay.

2 MS. PAROLISE: -- opinion testimony. I mean, talking about the origin of  
3 a fire is something you need training to determine.

4 THE COURT: Absolutely.

5 MS. PAROLISE: It's not something like there's an arrow or, you know, X  
6 marks the spot -- this is where the fire started. And also, he goes through the  
7 process of elimination. He determines that it was a human -- this was set by a  
8 human hand. That is opinion testimony, Your Honor.

9 THE COURT: Okay. Is it 174.234?

10 MR. TOMSHECK: I'm trying to look it up, Judge. Yes, subsection 2.

11 THE COURT: Okay. They have to give a brief statement regarding the  
12 subject matter on which the expert witness is expected to testify and the  
13 substance of his testimony, so there's a report.

14 MR. TOMSHECK: Not only that Judge, but this case is a little bit --

15 THE COURT: I have a copy of all reports made by or at the direction of  
16 the expert witness. The report was not made at your direction; it was made at  
17 the direction of whoever his boss is.

18 MR. TOMSHECK: It was made prior to, obviously, the District Attorney  
19 having anything to do with the -- the case. But I can just represent to the  
20 Court that back on February 24<sup>th</sup> of 2009 when Detective or, I'm sorry,  
21 Investigator Lomprey testified in front of the Grand Jury. He actually went  
22 through all of the different areas of training that he's gone through and things  
23 of that nature so --

24 THE COURT: Okay.

25 MR. TOMSHECK: It's not like --

1 THE COURT: -- I mean, because it appears as though, of all the  
2 requirements that the State or the Defense is required to comply with, the only  
3 objection you have and that you didn't get a copy of a CV, because you've got-  
4 - you've got the 21 days notice; you got his name; you got where he works at,  
5 so you knew how to contact him. You got a copy of his report, which is better  
6 than a brief statement regarding the subject matter, so they obviously met that.  
7 But the statute does say a copy of the CV of the expert witness.

8 MR. TOMSHECK: Right.

9 THE COURT: So --

10 MR. TOMSHECK: And my point was, Judge, when he testified, if they're  
11 concerned about what kind of training he has, Judge; he recites it all in front of  
12 the Grand Jury and they've got it --

13 THE COURT: Well --

14 MR. TOMSHECK: -- in transcript form. They've had it for --

15 THE COURT: I was going to check that right now. And that was back in  
16 February, February 24<sup>th</sup>, in April; correct?

17 MR. TOMSHECK: Correct.

18 THE COURT: Okay. So was it volume I?

19 MR. TOMSHECK: It is, Judge.

20 THE COURT: Okay. Can you cite me to the pages?

21 MR. TOMSHECK: He starts testifying on page 30 and he begins to talk  
22 about his training and experience at the top of 31.

23 THE COURT: Okay. It appears as though, from about page 30 to 32, he  
24 talks about his 20 plus years of experience and his education and training.

25 MS. PAROLISE: That's correct, Your Honor, and I think --

1 THE COURT: So it's true they -- you didn't give her a copy of a CV; is  
2 that correct?

3 MR. TOMSHECK: That's correct. It's the State's position. Make no  
4 mistake about it, he's not testifying as an expert. I'm not going to ask him any  
5 opinion type questions.

6 THE COURT: Okay.

7 MR. TOMSHECK: I'm just going to ask him what he did in this case, but  
8 it's the State's position, also, that if that's their objection, they've been  
9 provided, under 174.234(2), everything that's required.

10 MS. PAROLISE: And it's our opinion, Your Honor, that this is opinion  
11 testimony and that that's -- it's most likely going to come out like -- that this  
12 fire was set by a human hand, points of origin, whether the fires were  
13 communicating with each other, which is a specialized term.

14 However, Your Honor, though he did exist and he did testify more  
15 than 21 days ago, we were never told he was testifying as an expert witness.  
16 There were -- there were two people that could at least testify to the contents  
17 of that report.

18 We -- we are not required to guess at who the State's going to call.  
19 He was only listed as a normal witness; a regular witness, as attached to the  
20 Indictment. And that's our objection, Your Honor.

21 THE COURT: Okay. Even if he is an expert witness, I believe the State  
22 has met their requirements in complying with the statute. I've read the Grand  
23 Jury transcript and you've been on notice of what his background and  
24 qualifications are since February 24<sup>th</sup> of this year. Anything else?

25 MR. JOLLEY: No, Your Honor.

1 THE COURT: Okay. Let's bring them in.

2 [Prospective jury panel enters the courtroom]

3 THE COURT: Okay. At this time, Ladies and Gentlemen, I'm going to  
4 have the Clerk start calling out our jury panel so we can get you out of here as  
5 soon as possible.

6 [Court Clerk calls the jury panel]

7 THE COURT: Okay. At this time, Ladies and Gentlemen, we do have our  
8 impaneled jury, so if your name was not called, you are excused with the  
9 thanks of the Court. Thank you very much. You need to go back there to the  
10 3<sup>rd</sup> floor and check out before you leave. Thank you and have a nice day.

11 Okay. At this, Ladies and Gentlemen of the Jury, if you'll please  
12 stand and raise your right hand so you can be sworn by the Clerk.

13 [Court Clerk given oath to jurors]

14 THE COURT: Before I do allow the attorneys to address you in their  
15 opening statements, I do have to give you a few admonishments.

16 Ladies and Gentlemen, you are admonished that no juror may  
17 declare to a fellow juror any fact relating to this case of his or her own  
18 knowledge. And if any juror discovers, during the trial or after the jury's  
19 retired, that he or she or any other juror has personal knowledge of any fact in  
20 controversy in this case, he or she shall disclose that situation to myself in the  
21 absence of the other jurors.

22 This means, that if you learn, during the course of this trial that  
23 you're acquainted with the facts of this case, or the witnesses, and not  
24 previously told me this relationship, you must then declare that fact to me.  
25 Again, I wanted to remind you that you communicate to the Court in the

1 courtroom in the presence of both sides.

2 Now that we have an impaneled jury, I'm just going to remind you  
3 again. It's very, very important that you understand that we cannot talk to  
4 you: myself, the staff in Department XII, with the exception of Officer  
5 Trammell. The attorneys and the parties are not permitted to have any  
6 communication with you, whatsoever, outside of the courtroom, so again, we  
7 know this will go on for a few days. We may see you in the elevators. We'll  
8 see you in the hallways. We may see you coming in and out of the courthouse.  
9 We will not talk to you.

10 We're doing that on purpose, but not to be rude or ignore you, but  
11 because we're all under court order not to have any communication with you  
12 except if it's inside the courtroom. So it's important you wear your blue  
13 badges. You've been given those blue badges. You can take off the white  
14 badges, put the blue badges on. The blue badge is important. You don't have  
15 to wear it until you get into the courthouse, but it identifies you as a juror in  
16 Department XII.

17 So witnesses that are being subpoenaed to come and testify in  
18 Department XII will know that they cannot talk to you. That they have to be  
19 careful when they're around you, not to say anything about the case. If they're  
20 out in the hallway, and if you wear that badge, that will help identify you.

21 If there is something you have to communicate to the Court and  
22 you can't do it in the courtroom, you do so through contacting the Court  
23 Marshal. Any communication that I receive from any member of the jury panel,  
24 I do share with both sides to this action.

25 What I will now say is intended to serve as an introduction to the

1 trial of this case, it is not a substitute for the detailed instructions on the law  
2 which I will give at the close of the case and before you retire to consider your  
3 verdict. This is a criminal case commenced by the State of Nevada which I  
4 may sometimes refer to as the State, against Mr. Lesean Collins. The case is  
5 based upon an Indictment. The Clerk is going to read the Indictment to you  
6 now and she's going to state the plea entered by Mr. Collins.

7 [Information read aloud by the Court Clerk]

8 THE COURT: Thank you. This case is based upon the Indictment which  
9 has just been read to you by the Clerk of the Court. You should distinctly  
10 understand that the Indictment is simply a charge and that it is not, in any  
11 sense, evidence of the allegations it contains. As Mr. Collins sits here today,  
12 he is innocent. The State, therefore, has a burden of proving each of the  
13 essential elements of the Indictment by proof beyond a reasonable doubt.

14 The purpose of this trial is to determine whether the State will meet  
15 their burden of proof. It is your primary responsibility, as jurors, to find and  
16 determine the facts. Under our system of criminal procedure, you are the sole  
17 judge of the facts. You are to determine the facts from the testimony you hear  
18 and the other evidence including exhibits introduced in Court.

19 It is up to you to determine the inferences which you feel may be  
20 properly drawn from the evidence. The parties may sometimes present  
21 objections to some of the testimony or other evidence. It is the duty of a  
22 lawyer to object to evidence which he or she believes may not properly be  
23 offered and you should not be prejudiced in any way against a lawyer who  
24 makes objections of the party he or she represents.

25 At times, I may sustain objections or direct that you disregard

1 certain testimony or exhibits. You must not consider any evidence to which an  
2 objection has been sustained or which I've instructed you to disregard.

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

5 Remember, statements or argument or opinions of counsel are not  
6 evidence in the case, however, if the attorneys stipulate as to the existence of  
7 a fact, you must accept the stipulation as evidence and regard that fact as  
8 proved. You must not speculate, to be true, any insinuation suggested by a  
9 witness. A question is not evidence and may be considered only as it supplies  
10 meaning to the answer.

11 You must not be influenced by any degree by any personal feeling  
12 for or sympathy for or prejudice against the State or the Defendant. Both sides  
13 are entitled to the same fair and impartial consideration. In considering the  
14 weight and value of the testimony of any witness, you may take into  
15 consideration, the appearance, attitude and behavior of the witness, the  
16 interest of the witness, and the outcome of the case, if any. The relation of  
17 the witness to the Defendant or the State, the inclination of the witness to  
18 speak truthfully or not, the probability or improbability of the witnesses  
19 statements, and all the facts and circumstances in evidence.

20 Thus, you may give the testimony of any witness just such weight  
21 and value as you believe the testimony the witness is entitled to receive. There  
22 are two kinds of evidence: Direct and circumstantial. Direct evidence is  
23 testimony by a witness about what that witness personally saw or heard or did.  
24 Circumstantial evidence is testimony or exhibits which are proof of a particular  
25 fact from which, if proven, you may infer the existence of a second fact.



1           You may consider both direct and circumstantial evidence in  
2 deciding the case. The law permits you to give equal weight to both, but it is  
3 for you to decide how much weight to give to any evidence. Opening  
4 statements and closing arguments of the attorneys are intended to help you in  
5 understanding the evidence and applying the law, but they are not evidence.

6           No statement, ruling, remark or comment which I make during the  
7 course of this trial is intended to indicate my opinion as to how you should  
8 decide the case or to influence you in any way in your determination of the  
9 facts. At times, I may even ask questions of witnesses. If I do so, it is for the  
10 purpose of bringing out matters which I feel should be brought out and not any  
11 way to indicate my opinion about the facts or indicate the weight I feel you  
12 should give to the testimony of the witness.

13           I may also find it necessary to admonish the lawyers, and if I do,  
14 you should not show prejudice against the lawyer, his or her client, because I  
15 found it necessary to admonish him or her. Until this case is submitted to you,  
16 you must not discuss it with anyone, even with your fellow jurors. After it is  
17 submitted to you, you must discuss it only in the jury room with your fellow  
18 jurors.

19           It is important that you keep an open mind and not decide any issue  
20 in the case until the entire case has been submitted to you under instructions  
21 from the Court. I may, during the trial, take notes of the witnesses testimony.  
22 You are not to make any inference from that action. I'm required to prepare for  
23 legal arguments of counsel during the trial and for that reason, I may take  
24 notes. The jury will not have a transcript to consult at the close of the case,  
25 however, you have been furnished with note pads. You've also been furnished

1 with a juror notebook.

2           The juror notebook is the white notebook that was given to you and  
3 was in your chair when you came in. You can write in this notebook; it's your  
4 notebook. The only thing that you can take out, before deliberation, is the  
5 sheet of paper that's in the left pocket, that's so that you know where you are,  
6 what our phone numbers are. And if there's any type of emergency, for  
7 instance, you know, heaven forbid, you get stuck in traffic or someone has a  
8 flat tire.

9           Instead of us sitting here and waiting for an hour and wondering  
10 where you are; I'd prefer if you call the Judicial Executive Assistant, Sue  
11 Deaton. Let her know that you're a juror and that you have a problem and then  
12 we know to wait for you, and I can tell you, we do have to wait till all the  
13 jurors are here before we can start trial. I know that's probably just common  
14 sense, so you can take this out with you and take it home tonight. Everything  
15 else has to remain in the courtroom, at all times, until you are discharged by  
16 myself to go deliberate upon your verdict.

17           The preliminary instructions that I'm giving you are in here. There  
18 is a section here for jury instructions. At the end of the case, I told you I would  
19 instruct you on the law. You will all be given a copy of your jury instructions  
20 that could go in this jury notebook. You'll be able to take your jury notebook,  
21 as well as your notes, when you go back to deliberate upon your verdict, so  
22 keep that in mind, that you will not have a transcript, but you will be able to  
23 take your notes back there with you and you'll be able to rely upon your notes  
24 during your deliberation.

25           Also, at the end of the day, the Court Marshal is under court order

1 to get your notebooks and your notepads, to pick them up. He puts them in a  
2 safe. He locks them. He's under court order not to read them, nor to allow  
3 anyone else to read them, including myself. That means, you have my word  
4 that your personal notes will be kept confidential. You'll be the only one that  
5 can see them. No one will have access to them. And again, you will be able to  
6 take them with you when you go to deliberate upon your verdict.

7 And in the morning, Officer Trammell will make sure that your  
8 notebooks are on your chair, so if you'll put your name inside your notebooks,  
9 he'll know which chair to put it in. The trial will proceed in the following  
10 manner: The Deputy District Attorney will make an opening statement which is  
11 an outline to help you understand what the State expects to prove.

12 Next, the Defense Attorney may, but does not have to make an  
13 opening statement. Opening statements serve as an introduction to the  
14 evidence which the party making the statement intends to prove. The State  
15 will then present its evidence and counsel for the Defense may cross examine  
16 the witnesses.

17 Following the State's case, the Defendant may present evidence  
18 and the Deputy District Attorney may cross examine the witnesses, however,  
19 as I've said: The Defendant is not obligated to present any evidence. After all  
20 of the evidence has been presented, I will instruct you on the law. After the  
21 instructions on the law have been read to you, each side has the opportunity to  
22 present oral argument.

23 What is said in closing argument is not evidence. The arguments  
24 are designed to summarize and interpret the evidence. Since the State has the  
25 burden of proving the Defendant guilty, beyond a reasonable doubt, the State

1 has the right to open and close the arguments. After the arguments have been  
2 completed, you will then retire to deliberate upon your verdict.

3 Again, let me remind you that until this case is submitted to you,  
4 do not talk to each other about it or about anyone who has anything to do with  
5 it until the end of the case when you go to the jury room to decide upon your  
6 verdict. Do not talk with anyone else about this case or about anyone who has  
7 anything to do with until the trial has ended and you've been discharged as  
8 jurors. Anyone else includes members of your family and your friends.

9 You may tell them you are a jury in a criminal case, but don't tell  
10 them anything else about it till after you've been discharged by myself. Do not  
11 let anyone talk to you about the case or about anyone who has anything to do  
12 with it. If someone should try to talk to you, please do not talk back to them  
13 and report it to me, immediately, by contacting the Court Marshal.

14 Do not read any news stories or articles or listen to any radio or  
15 television reports about the case or about anyone who has anything to do with  
16 it? Again, I also need to remind you that you are not permitted to text  
17 message, blog, e-mail, communicate with the outside world in any, way, shape,  
18 or form, electronically.

19 And again, I only have to tell you that because it actually has  
20 happened where a juror's been sitting over there and text messaging away  
21 during the trial, so that is not permitted.

22 So you can, obviously, you can bring your phones in here, but if  
23 you'll just make sure they're turned off and you're not utilizing them -- even  
24 when you're out in the hallway, you are not permitted to communicate with  
25 anyone about anything that goes on in this courtroom. Does anyone have any

1 questions about that because that is extremely important? Okay. It doesn't  
2 appear as though anyone has any questions.

3           You also, again, are not allowed to talk to each other about this  
4 case, so when you're out there during the recesses, since all of us are ignoring  
5 you, you'll kind of have to hang around with each other. You can talk to each  
6 other. You can talk about anything except what's going on in the courtroom.  
7 Don't even talk about the color of hair a witness has. So if you stay  
8 completely away from the case and talk about a book you're reading, your  
9 family, your job, the weather; you'll be fine, just don't talk about anything that  
10 has anything to do with the case.

11           You will also be given the opportunity to ask written questions of  
12 any of the witnesses called to testify in this case. You are not encouraged to  
13 ask large numbers of questions because that is a primary responsibility of the  
14 attorneys.

15           Questions may be asked and only in the following manner: After  
16 both lawyers have finished questioning the witness, and only at this time, if  
17 there are additional questions that you would like to ask the witness, you may  
18 then seek permission to ask that witness a written question.

19           Should you desire to ask a question, write your question down with  
20 your juror number on a full sheet of clean paper and raise your hand. All  
21 questions from jurors must be factual in nature and designed to clarify  
22 information already presented. In addition, jurors must not place undue weight  
23 on the responses to their questions. The Court Marshal will pick up your  
24 question and he will present it to the Court.

25           All questions must be directed to the witness and not to the

1 lawyers or the judge. After consulting with counsel, I will then determine if  
2 your question is legally proper. If I determine that your question may properly  
3 be asked, I will then ask it. No adverse inference should be drawn if the Court  
4 does not allow a particular question.

5 In your juror notebook, in fact, it's the very last piece of paper:  
6 The procedure for asking questions is there, so if you forget, you can refer to  
7 that. And I just want to tell you that I follow this procedure, strictly. I will not  
8 ask you if you have any questions. It'll be up to you to get the Court's  
9 attention.

10 If you do have a question, when each witness is called, the -- in the  
11 District Attorney's case, when they call a witness, they'll do what we call:  
12 Direct examination. Defense counsel will then have an opportunity for cross  
13 examination. DA will have an opportunity for redirect examination, then  
14 recross examination.

15 So when both sides are done questioning the witness, I will look at  
16 the witness, and so, this is your clue if you have a question. I will say to the  
17 witness: Thank you very much for your testimony. I will excuse them from  
18 their subpoena. Once I excuse a witness from their subpoena, I will not require  
19 them to come back to the Courthouse, if you decide the next day that you have  
20 a question.

21 So if you have a question of that witness, you need to get my  
22 attention before I excuse that witness from their subpoena and before they  
23 leave this courtroom. Does everyone understand that? It appears as though  
24 they do, and with that, the jury's been instructed and the State can address the  
25 jury panel in their opening statement.

1 MS. JEANNEY: Thank you, Judge.

2 ...

3 ***OPENING STATEMENT BY THE STATE***

4 ***BY MS. JEANNEY:***

5 Good afternoon, Ladies and Gentlemen of the Jury. I'm going to be doing  
6 a powerpoint presentation so you can either use this as a viewpoint reference,  
7 or for those of you who are seated a little bit further, right over your shoulder,  
8 is also a television.

9 This is the case of State of Nevada vs. Lesean Collins, the man you  
10 see, the Defendant, right there, at that table. The facts in this case mainly  
11 center around two people. Those two people are Lesean Collins, the  
12 Defendant, and his girlfriend, Shalana Eddins.

13 In the summer of 2008, Lesean Collins and his girlfriend, Shalana  
14 Eddins, had been in a dating relationship for over 12 years. At that time, they  
15 shared four young sons together and Shalana was then currently pregnant with  
16 their 5<sup>th</sup> son. The two were residing in Shalana's home which was located at  
17 1519 Laguna Palms in North, Las Vegas, Nevada.

18 In July of 2008, things started to change. The relationship became  
19 contentious and Shalana will tell you that she wanted out. Shalana will also tell  
20 you that the Defendant had become controlling. He'd become possessive and  
21 intimidating, so at that point, Shalana expressed to him that she no longer  
22 wanted to be with him, but the Defendant would not take no, for an answer.  
23 At that point, Shalana feared for her personal safety and she no longer felt safe  
24 in her home; the home in which she was allowing the Defendant to live there.

25 So what she did is, she began staying with a family member that

1 lived close by. She took her four sons. She started staying the night at that  
2 family member's home and she began packing up the house little by little  
3 because she was intending on moving.

4 On September 29<sup>th</sup> of 2008, things started to take a turn for the  
5 worst. Shalana and her four sons, that evening, went to the 1519 Laguna  
6 Palms residence so she could do laundry, her laundry and her son's laundry. In  
7 order to feel safe at that home, because remember, this is the home that she  
8 had basically moved out of.

9 In order to feel safe, what she did was, she unplugged the garage  
10 door. The Defendant's only access to the home, at that point, was through a  
11 garage remote control. So she felt that if she unplugged that garage door, he  
12 would not be able to gain access into that home, so she did so.

13 Now, at some point on that night, while she was doing the laundry,  
14 she was waiting for a load of laundry to get done; she was sitting on her bed  
15 and she was reading. She was also on the phone with the Defendant and she  
16 can hear that he's in a car, and all of a sudden, the car is turned off. She hears  
17 the door open and shut and the Defendant tells her: I have to go; I'm sorry; I  
18 need to go. They hang up on the phone.

19 Shalana's still in her bedroom, and all of a sudden, she hears  
20 someone jump the fence and they're in her backyard and this scares her. So  
21 she calls the Defendant back and she can hear someone, now, at her window.  
22 So what she does is, she calls the Defendant and she asks him: Is that you?  
23 I'm scared; I feel like there's someone in the backyard; is that you in the  
24 backyard? And he tells her: No; it's not me.

25 So she tells him -- she warns him: Okay, well I'm going to call the



1 police, but Shalana doesn't call the police because she actually thinks it's the  
2 Defendant. So she doesn't call the police -- and not a couple moments later,  
3 she then hears banging on the front door.

4 She goes to the front door and she sees that it's the Defendant and  
5 he wants into the house but she tells him: No, you can't get into the house.  
6 You cannot come into this house. But he won't take no for answer, so he tries  
7 to go in through the garage door. He figures out that she's unplugged the  
8 garage door. He no longer has access. This infuriates him even more. So he's  
9 out there for a period of time and he is angry. He's trying to get in the front  
10 door. He's trying to get in the garage door.

11 He goes back to the front door and he starts banging and banging  
12 and banging. She finally decides to let him in. She wants this noise to stop.  
13 She tells him: Come in, get whatever you need and get out. When he gets in  
14 there, he demands a key to the house and she will not give him that key, so  
15 what does he do? He begins rummaging through the house and the drawers  
16 and the belongings and he tries to find a key into that house.

17 Well, their oldest son had a backpack on the floor. He goes into  
18 that backpack and he rummages through it and he finds a key to the house,  
19 and as soon as he finds that key to the house, he exits the house. And  
20 Shalana follows him because she wants to see exactly what he's doing. And  
21 when she gets outside, she notices that the two tires on her truck or on her  
22 car, her SUV, have been flattened.

23 And they were just fine moments before, before she arrived at the  
24 house, before she did the laundry; they were fine. She notices that those tires  
25 are flattened and the Defendant leaves.

1           So Shalana Eddins calls the police and the police arrive, they  
2 conduct their investigation, write a report about the tires being flattened and  
3 Shalana also does one more thing. In the house, the Defendant had a gun. He  
4 had this gun on the top of a cabinet in their dining room. She went and  
5 grabbed that gun and she gave it to the police. She didn't want that gun in the  
6 house. She didn't feel like it was safe, so she handed over the gun to the  
7 police that night.

8           Her and her father -- she then called her father, a man by the name  
9 of Robert Eddins. She calls her father over to the house to help her take the  
10 truck to a repair service. It's late at night, but she finds a tire repair shop open  
11 on Main and Charleston and she gets the tires repaired. After she gets the  
12 truck tires repaired, she then goes -- she takes her four children and they go  
13 stay at the cousin's house that they had been staying at for -- the night before  
14 this.

15           So then, the next day, September 30<sup>th</sup>, 2008, in the morning hours,  
16 Shalana returns to the house, because the children need to get ready for  
17 school, so her and the four boys go back to the 1519 Laguna Palms residence.  
18 When she enters the house, she notices that some of Lesean's clothes are in a  
19 bag, in the house, and she realized that he didn't pick them up the night before,  
20 so they're still there. She doesn't think anything of it. She just leaves them  
21 right where they are.

22           After the children get ready for school, she then takes them to  
23 school -- drops them off. She also has to go to Wal-Mart because she needs to  
24 pick up a key so that the children have access to the home because the  
25 Defendant has their -- currently has their key.

1 Now, throughout the entire morning, she receives continuous  
2 harassing phone calls from the Defendant. He's angry; he's upset with her for  
3 calling the police. He asks her: Why did you call the police on me? Why are  
4 you going and doing stuff like that? She becomes so bothered that on that  
5 morning she goes and she gets a temporary restraining order against the  
6 Defendant, Lesean Collins. She finally arrives at work at around 11:30 in the  
7 morning.

8 Now, while she's at work, she receives a threatening phone call  
9 from the Defendant and it's on her voice mail. And he realizes that the gun is  
10 gone at this point. And she'll tell you, while she's at work, she receives this  
11 phone call and this is -- it said: Give me my mother fucking shit. I know  
12 you've got my shit. I want my shit. If you don't give me my mother fucking  
13 shit, I'm going to knock all this shit off. But she just keeps going on through  
14 the day. The message bothers her but she keeps going on; she keeps working.

15 And at 4:20 in the afternoon, Shalana gets up from her desk at  
16 work and she's gone for approximately 5 minutes -- 5 or so minutes, she goes  
17 to do something in another part of the building and when she gets back, she  
18 realizes, immediately, that her cell phone is gone. It was right on her desk.  
19 And that brings her -- doesn't make sense to her.

20 It brings her some sense of alarm, so she runs downstairs to her car  
21 to make sure her car's okay. As soon as she gets outside, she sees all four of  
22 her tires have now been slashed. She knows that inside of her office building  
23 there's a video surveillance system.

24 She goes inside and she reviews that video surveillance system,  
25 and while she's reviewing it, she sees that the Defendant, Lesean Collins, was

1 watching her while she was working. He was watching her from outside, and  
2 then she watches him enter the building, go into her desk and take her cell  
3 phone.

4 At this point, she's very, very alarmed. She's concerned. He had  
5 been at her house the night before. Her tires had been slashed the night  
6 before. He had taken a key to her home and now she has watched him take  
7 her cell phone and flatten -- and she believes, flattened all four tires at her  
8 work.

9 So what she does is, she first contacts her children who are home  
10 from school at the 1519 Laguna Palms residence and she tells them: You need  
11 to leave, put on your shoes, leave everything there and get out of that house;  
12 go to the neighbor's house. They had a neighbor next door who lived there,  
13 her name was Darlene Heers, so the children do that.

14 She also calls her father, Robert Eddins. She needs help. She  
15 needs to fix the car situation at her place of employment so she calls her father  
16 and asks that he please come and help her with the car situation. And she also  
17 calls the police to her place of employment so she can make another report  
18 about the four tires that had been slashed and the cell phone that was missing.

19 Robert Eddins had been in a relationship with a woman by the name  
20 of Vivian Furlow. Ms. Furlow and Mr. Eddins had been in a dating relationship  
21 for over eight years, so Ms. Furlow was actually like, somewhat of a mother to  
22 Shalana Eddins. They were very close. Mr. Eddins contacted Vivian Furlow  
23 and asked if she would go get the children from the neighbor's house, and so  
24 that's what she did.

25 She was at her house. It takes her about 15 minutes to get to that

1 house, and as she's approaching the neighbor's home, which is directly next  
2 door to the 1519 Laguna Palms residence, she sees the Defendant, Lesean  
3 Collins, raising out of that neighborhood at a very high rate of speed in a blue  
4 sedan. She then makes contact with a neighbor, Darlene Heers, and sees that  
5 the children are safe.

6 And Ms. Furlow is currently out of the country, so we previously  
7 videotaped her testimony and you'll be able to see that on the television when  
8 it's time. And what Ms. Furlow says, when she makes contact with Darlene  
9 Heers -- Darlene Heers is very upset. She's frantic. She's excited. She is  
10 attempting to call the police. She's looking out the window. She's going back  
11 and forth; she's very scared. She tells Vivian that she saw the Defendant  
12 outside of the residence and she saw the Defendant driving up and down the  
13 street.

14 After she makes contact with the children and she talks with Ms.  
15 Heers, she then -- the police arrive and she wants to get the children and get  
16 their belongings and get out of there, so what she does is, the police officers  
17 attempt to make entry into the 1519 Laguna Palms home and when they start  
18 approaching the house, they realize that the blinds are starting to bow out, and  
19 then they go and they try to turn the doorknob to make entry to the house and  
20 the doorknob is very, very hot, which alerts them that the home is on fire.

21 Now, at this same time, Robert Eddins has arrived at Shalana's  
22 place of employment and he has arrived to help her and wait for the tow truck  
23 so that her car can be fixed. While Mr. Eddins is helping Shalana with her car,  
24 she receives multiple phone calls from the Defendant between 5 and 6 p.m.

25 The first phone call he receives from the Defendant, the Defendant

1 tells Mr. Eddins: You can tell your daughter that we're even now. Because the  
2 Defendant himself can't tell Shalana because he's taken Shalana's cell phone.  
3 So the only way he can communicate with Shalana is through Shalana's father,  
4 so he tells him: You can tell your daughter that we're even now.

5 The second phone call happened at around -- between 6 or 6:30,  
6 before the fire had ever been reported. Nobody knows about the fire at this  
7 point. No police have been called. No fire department had been called.  
8 Nobody knows about this fire. The Defendant calls Mr. Eddins and he tells him:  
9 I heard your daughter's house is on fire. That was -- as soon as he said that, at  
10 that point, Shalana and Robert leave work, immediately, because now they're  
11 very fearful of what's going on -- what's happening at Shalana's house.

12 When they arrive, the house is on fire, and at that point, Shalana  
13 doesn't know where her children are. She doesn't know if the children are  
14 safe. She doesn't know if they're inside of the house and she's panicked. She  
15 breaks through the police barricade and she tries to get into that house to see  
16 what's going on. There were people standing outside of the house watching  
17 everything that's going on and one of those people was obviously Vivian  
18 Furlow. And what she does -- she wants to know what just happened, so she  
19 calls the Defendant's phone.

20 Now, a lot of the new cell phones have the new technology, when  
21 you call, instead of hearing the ring -- hear the ringing noise, you can hear a  
22 song. People download all sorts of songs. What the Defendant did is, he  
23 recorded his own rap, so when Vivian Furlow calls the Defendant's phone, she  
24 doesn't hear a ringing noise. What she hears is the Defendant rapping. And  
25 what he says in that rap is: If you can't stand the heat, get out of the kitchen

1 or you're going to get burned like my babies mama's house.

2 Now, by the time anyone reaches the house, any type of fire  
3 department, police department; it's already burning in three different areas. At  
4 that point, no one can enter. Eventually, the fire department does arrive. The  
5 fire is put out and a fire investigation is conducted.

6 When the investigators get into that house, this is what it looks  
7 like. These are pictures of the damage caused by the fire. Now someone in  
8 charge of that investigation is an individual by the name of Jeff Lomprey.

9 Mr. Lomprey is the Captain for the North Las Vegas Fire  
10 Department and he is responsible for fire investigations. He conducted what's  
11 called an origin and cause investigation. And when he did that, he learned that  
12 there were three separate and distinct fires set, so inside the home, there were  
13 three separate fires that were set.

14 The first fire was set in the master bedroom, on the actual bed; the  
15 bed where Shalana Eddins slept. The second fire was set in the master  
16 bedroom closet, and specifically, in that closet, Shalana Eddins' clothing had  
17 been set on fire. And lastly, the living room couch had been -- attempted to be  
18 set on fire.

19 The results of the investigation, after the North Las Vegas Fire  
20 Department got involved, and the North Las Vegas Metropolitan Police  
21 Department got involved, two things came out of those -- that investigation.  
22 Number one, the type of fire that was set is called an incendiary fire. What  
23 that means is it's arson. An intentional act, willful and malicious, set with an  
24 open flame, with a human hand, with the intent to destroy the house and its  
25 contents.

1           The second thing that was concluded was that, this man, the  
2 Defendant, in this case, Lesean Torrance Collins, was the man responsible for  
3 setting that fire; the fire at 1519 Laguna Palms, the home where his girlfriend  
4 of over 12 years stayed with his four sons, and one on the way. After you  
5 hear, at the end of this trial -- after you hear testimony from the witnesses that  
6 are presented and after you see the evidence, the State requests, and justice  
7 demands that you return a verdict of guilty against Lesean Collins for the three  
8 crimes that he's charged with. Thank you.

9           THE COURT: Thank you.

10          MS. JONES: Your Honor, may we approach, briefly?

11          THE COURT: Sure.

12                           [Bench Conference -- Transcribed]

13          THE COURT: Let the record reflect that all counsel are at the bench.

14          MS. PAROLISE: Thank, Your Honor, Abbie Parolise for the record. I  
15 think we're going to do it before. We're going to concede to malicious  
16 destruction -- malicious injury to vehicle, and I think that the record needs to be  
17 made before we do that, then --

18          THE COURT: You're going to what?

19          MS. PAROLISE: Going to concede.

20          MS. JONES: The malicious injury to vehicle.

21          MS. PAROLISE: We're going to agree.

22          THE COURT: Well, yeah, if you're going to concede, I have to do --

23          MS. JONES: The admonishment.

24          THE COURT: the admonishment. I have to talk to your client about it.

25          MS. JONES: Right.



1 THE COURT: I mean --

2 MS. PAROLISE: He's okay with it, but I just want to make sure we do  
3 that right so we get that admonishment on the record before we do it.

4 THE COURT: Okay. You're -- he's -- he's going to concede that he went  
5 to her work and slashed her tires?

6 MS. PAROLISE: Uh huh.

7 MS. JONES: Yeah.

8 MR. TOMSHECK: But if you can represent, as officers of the Court, that  
9 he's okay with that and you've discussed it with him, then I don't mind doing it  
10 later. I don't think there's any --

11 THE COURT: No; I got to do it. Remember, it's the Bucky Buchanan  
12 case.

13 MR. TOMSHECK: It's *Eddie v. Jones* is the case, but you don't have to  
14 do it before.

15 THE COURT: It's --

16 MR. TOMSHECK: It has to be --

17 THE COURT: -- what was the case?

18 MR. TOMSHECK: It's Edward Lee Jones.

19 THE COURT: Edward --

20 MR. TOMSHECK: Lee Jones is the Defendant's name.

21 MS. PAROLISE: It'd be more comfortable if you do it beforehand, that's  
22 the only way I've ever done it.

23 THE COURT: Patrick, how can I get on Lexis in here? I keep trying to  
24 get on Lexis.

25 MR. TOMSHECK: Well, they're going to do it beforehand anyways, so --

1 they want to do it beforehand anyways, so let's just do it.

2 THE COURT: Okay. 'Cause -- yeah.

3 MS. PAROLISE: We just want to make sure.

4 THE COURT: Plus, I just need to make sure that that's what he wants to  
5 do.

6 MR. TOMSHECK: Okay.

7 THE COURT: If you're going to concede in your opening statement.

8 MS. PAROLISE: Okay.

9 THE COURT: Okay. Thanks.

10 [Bench Conference concluded]

11 THE COURT: At this time, we do need to take a short recess.

12 During this recess, you're admonished not to talk or converse  
13 amongst yourselves, with anyone else on any subject connected with this trial  
14 or read, watch, or listen to any report or commentary on the trial, or any person  
15 connected with this trial by any medium of information including, without  
16 limitation, newspapers, television, the internet or radio, form or express any  
17 opinion on any subject connected with this trial until the case is finally  
18 submitted to you.

19 Probably about 10 minutes, the Court Marshal will bring you back  
20 in. When we're ready -- if it's going to be a little bit longer; he'll let you know.  
21 Thank you very much.

22 The record reflect that this hearing is taking place outside the  
23 presence of the jury panel.

24 [Outside the presence of the jury panel]

25 THE COURT: And when the parties approach the bench, Defense counsel

1 informed the Court that they were going to concede -- is it Count 3 in the  
2 Indictment?

3 MR. TOMSHECK: It is, Judge.

4 MS. JONES: It is, Your Honor.

5 THE COURT: That Count 3 in the Indictment -- that you were going to  
6 concede that Mr. Collins was guilty of Malicious Injury to Vehicle; is that  
7 correct?

8 MS. PAROLISE: That's correct, Your Honor. He's conceding that he did  
9 slash her tires.

10 THE COURT: Okay. Now, Mr. Collins, I have to ask you some questions.

11 MS. PAROLISE: I'm sorry, Your Honor, but for the record, he does not  
12 want to concede the value as more than \$250. We are conceding that he did  
13 slash the tires.

14 THE COURT: Okay. So you're going to admit to the jury that you did  
15 slash her tires -- all four?

16 THE DEFENDANT: There's only three.

17 THE COURT: Okay. So you slashed three tires?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Okay. And you've had an opportunity -- tell me the name  
20 of the case again?

21 MR. TOMSHECK: It's -- Edward Lee Jones is the Defendant's name. I  
22 can probably find the citation, Judge.

23 THE COURT: All right. Let me go back real quick. Edward Lee Jones I  
24 put in.

25 [Defense counsel in colloquy]

1 THE COURT: This is an unpublished decision. I know there's a published  
2 decision, but maybe this talks about the published decision.

3 MR. TOMSHECK: I'll find it, Judge. It's 113 NV 454; I believe.

4 THE COURT: How do I get like -- do like a citation? Okay. The citation  
5 is -- you just gave me one, Mr. Tomscheck.

6 MR. TOMSHECK: I know, but I'm making sure it's the right one.

7 THE COURT: Okay. Because the Edward Lee Jones, that was an  
8 unpublished decision. And the one I was thinking about, I know, was a  
9 published decision. It involved Mr. Buchanan at the trial level. Let me just go  
10 back to --

11 THE DEFENDANT: No; I don't want to do it now.

12 THE COURT: Okay. You changed your mind?

13 THE DEFENDANT: Yes, ma'am. Sorry for taking your time.

14 THE COURT: You don't want to concede Count 3?

15 THE DEFENDANT: No, ma'am.

16 MS. PAROLISE: Can we have just a --

17 MS. JONES: Brief moment, Your Honor.

18 THE COURT: Yeah, you can have a brief moment.

19 MS. PAROLISE: I just wanted to make sure -- this is changing.

20 [Colloquy between Defense Counsel and Client]

21 MS. PAROLISE: Is that okay if we go in the -- your --

22 THE COURT: We can leave. I'd rather you stay here --

23 MS. PAROLISE: Let's stay here --

24 THE COURT: -- and not go in the holding cell.

25 MS. PAROLISE: Okay. Thank you, Your Honor.

1 THE COURT: How am I going to find this on my computer?

2 MR. TOMSHECK: 110 Nev. 730; I believe.

3 THE COURT: I'm sorry; what?

4 MR. TOMSHECK: I believe it's 110 Nev. 730.

5 THE COURT: 110 Nev. 730. Okay. I can find that in the book.

6 [Break taken while Defense Counsel confers with Client at 5:27 p.m.]

7 [Resumed at 5:38 p.m.]

8 THE COURT: This hearing is continuing to take place outside the  
9 presence of the jury panel.

10 [Outside the presence of the jury panel]

11 THE COURT: Mr. Collins, have you had an opportunity to discuss Count  
12 3 with your lawyers?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And what do you want to do?

15 THE DEFENDANT: Concede.

16 MS. PAROLISE: We are going to concede --

17 THE COURT: Okay.

18 THE DEFENDANT: Concede.

19 MS. PAROLISE: -- that three tires were slashed, Your Honor.

20 THE COURT: Okay. Then I found a more recent case that talks about  
21 the Jones case, but it talks about the procedure and it says that I need to  
22 canvas the Defendant outside the presence of the State and the Jury. So if the  
23 State -- if you could just -- I'll give you the cite if you'd like. It's 194 P3rd  
24 1235. I'll give you the name of the case.

25 MS. PAROLISE: Just need to ask you a question.

1 THE COURT: It's the *Hernandez* case. *State of Nevada vs. Hernandez*.  
2 October 30<sup>th</sup>, 2008.

3 MR. TOMSHECK: I know that case.

4 THE COURT: Okay. All right. But it says it has to be done outside the  
5 presence of the State so you can go back there -- out -- you might want to go  
6 back there because I don't want the jury panel wanting to talk to you.

7 MR. TOMSHECK: Okay. We'll go in the back, Judge. The only request  
8 the State would make is, obviously, there's been -- at least from the State's  
9 opening, the thought put in front of the jury that there's going to be evidence  
10 about two tire slashings. I just -- when you canvas him, if you could just clarify  
11 the 30<sup>th</sup> allegation in the -- in Count 3.

12 THE COURT: Right. Count 3 is only about September 30<sup>th</sup>.

13 MR. TOMSHECK: Correct. Thank you, Judge.

14 [State Counsel exits the courtroom at 5:39 p.m.]

15 THE COURT: Okay. The record reflect, that this hearing is taking place  
16 outside the presence of the jury panel, as well as outside the presence of the  
17 Deputy District Attorneys as required in *State vs. Hernandez*.

18 [Outside the presence of the jury panel]

19 [Outside the presence of the Deputy District Attorneys]

20 [Portion of record sealed from 5:39:48 p.m. to 5:52:51 p.m.]

21 THE COURT: What I can do is order -- and I have to order that the  
22 Clerk's minutes of this proceeding be sealed as well.

23 MS. JONES: Thank you, Your Honor.

24 THE COURT: And that the record -- any transcript is sealed. And yes, I  
25 will order that it be sealed until -- Ms. Maningo, who's your judge in the other

1 case?

2 MS. MANINGO: Ms. Tog --

3 MS. JONES: Togliatti.

4 THE COURT: Okay. That's right, Judge Togliatti -- until Judge Togliatti  
5 or any other Judge that gets assigned to hear his murder case, has an  
6 opportunity to hear from the Defense or the State as to whether to unseal it.

7 MS. JONES: Thank you, Your Honor.

8 THE COURT: Okay? And with that -- let's bring the State back in so I  
9 can tell them what I did.

10 COURT CLERK: Just this portion.

11 THE COURT: Right. Just this portion of your minutes need to be sealed.

12 All right. The record reflect, this hearing is continuing to take place  
13 outside the presence of the jury panel.

14 [Outside the presence of the jury panel]

15 THE COURT: But the State is back in the courtroom.

16 [Deputy District Attorneys present in the courtroom at 5:53 p.m.]

17 THE COURT: We did have a hearing. I made a determination, pursuant  
18 to the *Hernandez* decision. He has decided to concede guilt as to Count 3 as  
19 to each and every element, except line 13 -- after -- into two tires of said  
20 vehicle, this is -- the party's not conceding. The value of said damage being  
21 over \$250 and less than \$5,000.

22 So he's conceding to slashing her tires on the 30<sup>th</sup> day of  
23 September, 2008. He's not conceding that the value of those three tires is  
24 over \$250 and less than \$5,000.

25 Mr. Tomsheck, also -- pursuant to the request of counsel, I ordered

1 that the proceedings that we just had, outside the presence of the State, be  
2 sealed. They also asked -- because he has a murder trial, and you're apparently  
3 prosecuting him in the murder trial, that this portion not be unsealed, unless by  
4 order of the Court, Judge Togliatti, or whoever is assigned to prosecute -- I'm  
5 sorry, to preside over the murder case. Okay.

6 MR. TOMSHECK: Okay.

7 THE COURT: And it could not be unsealed, at a minimum, until after this  
8 trial is over. Okay.

9 MR. TOMSHECK: Very well, Judge.

10 THE COURT: Bring the jury panel in. You're ready to do your openings?

11 MS. PAROLISE: Yes, Your Honor.

12 THE COURT: Okay.

13 MR. TOMSHECK: Judge. Judge.

14 THE COURT: Yes. I'm trying to give the minutes to April.

15 MR. TOMSHECK: Not to interrupt, but while they're coming in, how late  
16 do you intend to go tonight? And the reason I ask is, because we've had a  
17 witness waiting out there we anticipated getting to.

18 THE COURT: You anticipate getting to?

19 MR. TOMSHECK: We had anticipated getting to. I'd prefer to get her on  
20 and stay till late tonight, if we can. I don't know how everybody else feels  
21 about that. I don't know how the jury feels about it.

22 THE COURT: How long will she take?

23 MS. JONES: Your Honor, her cross is four pages long.

24 THE COURT: Okay. So not very long.

25 MS. JONES: No; I mean.



1 THE COURT: Oh, is that long?

2 MS. JONES: It's four pages, single spaced.

3 MS. PAROLISE: The questions she intends to ask, Your Honor.

4 MS. JONES: The questions I'm going to ask her.

5 THE COURT: Well, do you want to start her? I mean, because I can tell  
6 you I -- because of family obligations, I can't stay much past 6.

7 MR. TOMSHECK: Okay.

8 THE COURT: Normally, you know I'd stay here as long as you wanted  
9 me to.

10 MR. TOMSHECK: I'm aware.

11 THE COURT: Okay. So do you want to put her on?

12 MR. TOMSHECK: It'd be our preference.

13 THE COURT: Okay.

14 MR. TOMSHECK: Because she's been waiting out there for a couple of  
15 hours so --

16 THE COURT: Okay. We can start her and then -- what's tomorrow look  
17 like? Will we be able to start at 10:30? No?

18 COURT MARSHAL: All right. Ready for the jury.

19 THE COURT: Okay. Do the parties stipulate to the presence of the jury  
20 panel?

21 MS. PAROLISE: Yes, Your Honor.

22 MS. JONES: Yes, Your Honor.

23 MS. JEANNEY: Yes, Your Honor.

24 [In the presence of the jury panel]

25 THE COURT: I -- you can address the jury in your opening statement.

1 Thank you.

2 MS. PAROLISE: Thank you, Your Honor.

3 ***OPENING STATEMENT BY DEFENSE***

4 ***BY MS. PAROLISE:***

5 Lesean Collins did not set fire to Shalana's house on December 30<sup>th</sup>,  
6 2008. He didn't do it. Now you just heard the State give their opening and,  
7 you know, it's clear that Lesean isn't Ozzie; but what's going to become clear  
8 to you is that Shalana isn't Harriet.

9 No, this isn't a Brady Bunch sort of situation. This is a 12-year  
10 relationship that created 3 -- 5 children, and there's a tremendous amount of  
11 baggage that comes along with that. And I just want you to bear that in mind  
12 as people testify.

13 Now, it's true on September 29<sup>th</sup>, Lesean and Shalana did argue at  
14 their house, and when Lesean went over to that house, he was driving  
15 someone else's car. Her name was Tanya Green. Tanya Green is Trish  
16 Brewer's sister. Now as he was leaving, after that argument, Shalana took a  
17 brick and threw it through one of those windows. Threw it through one of the  
18 windows of Tanya Green's car. That was September 29<sup>th</sup>.

19 Now, on September 30<sup>th</sup>, Lesean -- Trish Brewer picked up Lesean  
20 around 11 a.m. They spent the rest of the day together -- the entire day. Now  
21 Trish Brewer's going to come in and testify and she's going to admit that she  
22 was with Lesean when Lesean slashed three of Shalana's tires. She's going to  
23 come in here because she wants to tell you the truth. She's going to come in  
24 here and she's going to tell you that.

25 Now, she's going to testify that she was angry 'cause her sister's

1 window got broken. She's going to tell you that Lesean was angry too  
2 because he was responsible for that car when it got broken. Now you're going  
3 to hear Robert Eddins come in and testify that around 5 o'clock he got a call  
4 from Lesean saying: Now we're even; now we're even. Now this is after the  
5 tires were slashed -- even for the broken window.

6 Now, like I said: Lesean is not Ozzie; Shalana's not Harriet, but  
7 that's not what you're here to decide. That's not what this trial is about. This  
8 trial is about whether Lesean set fire to Shalana's house, and that didn't  
9 happen.

10 Now, you'll also hear that this wasn't just Shalana's house; this  
11 was his childrens house; his four sons' house. You'll also hear that Lesean's  
12 property was in this house.

13 Now, Robert Eddins is going to come up here -- and you heard the  
14 State say that he got a phone call between 6 o'clock and 6:30 and Lesean was  
15 calling and he was saying: Shalana's house was on fire. And that was before  
16 the fire was ever reported. But what you're going to find is, that's not true.

17 He's going to testify that that phone call came after he sent Vivian  
18 Furlow over to the house, after Vivian Furlow arrived, and after the police  
19 arrived, which is going to put that phone call much later than the State just said  
20 it was going to be.

21 Now, you're also going to get to see Trish Brewer. Like I said:  
22 She's going to get up here and she's going to testify that he was with her all  
23 day long, and that, at no time did Lesean Collins set fire to Shalana's house.  
24 She's also going to testify that she was with him when he received the phone  
25 call from his friend telling him that Shalana's house was on fire.

1           She's also going to testify that she was there when Lesean called  
2 Robert Eddins and told him that Shalana's house was on fire, and you're going  
3 to get to see Trish Brewer. You're going to get to hear that testimony in a few  
4 days.

5           Now, the government has the burden of proof in this case.  
6 Because they have the burden of proving every element of every crime in this  
7 case, they get to go first, which means that, you get to hear everyone of the  
8 State's witnesses before Trish Brewer can come in here and tell you what she  
9 saw, what Trish Brewer could come in here and tell you what she knows. And  
10 for that reason, I'm going to ask that you not make up your mind about this  
11 case until you have all of the evidence, until you can see all the pieces of the  
12 puzzle.

13           Now, you all promised that you could be fair and unbiased. And  
14 you promised that you would hold -- that you would keep Lesean Collins in your  
15 mind, and you would be cognizant of the fact that he is innocent till the State  
16 has proved their case, beyond a reasonable doubt.

17           Now, there's going to be a lot of ugly testimony. Like I said, this is  
18 a 12-year relationship. And like I said: Lesean is not Ozzie, but bear in mind,  
19 Shalana is not Harriet. You're going to get to hear that she was tazed by the  
20 police the night of the incident and you're going to hear from Trish Brewer  
21 what she did to that truck.

22           Now -- but it's because the State gets to go first that it's so very,  
23 very important that you not make up your mind. That you be unbiased, just  
24 like you promised you would. And we know that when all of this is over --  
25 after you hear Trish Brewer, you're going to find Lesean not guilty of setting

1 fire to Shalana's house. Thank you.

2 THE COURT: Thank you very much, and the State can call their first  
3 witness.

4 MS. JEANNEY: Judge, may we approach?

5 [Bench Conference -- Transcribed]

6 MR. TOMSHECK: I think she may have changed her mind.

7 THE COURT: Who?

8 MR. TOMSHECK: It's her witness.

9 MS. JEANNEY: Yeah; I think, as far as Shalana goes, we should just  
10 bring her back in the morning because I don't want to put her on tonight. She  
11 has five little boys now. She only gets home about 5:30 at night. She's  
12 already had a rough --

13 THE COURT: You know what. We should really put her on because I  
14 have a busy morning tomorrow.

15 MS. JEANNEY: Okay.

16 THE COURT: I'd like to get her started.

17 MS. JEANNEY: That's fine.

18 THE COURT: I mean, if I can get an hour of her testimony on; that's a  
19 huge thing.

20 MS. JEANNEY: Okay.

21 THE COURT: I mean, I have a death sentence tomorrow morning.

22 MS. JEANNEY: That's fine. What time is it right now? Five o'clock?

23 THE COURT: It's 5:04.

24 MS. JEANNEY: Okay. All right.

25 THE COURT: Okay? Okay.

1 MS. JEANNEY: State calls Shalana Eddins.

2 COURT MARSHAL: Go to the right of the podium.

3 COURT CLERK: Ma'am, would you please remain standing and raise your  
4 right hand.

5 **SHALANA EDDINS**

6 having been called as a witness and being first duly sworn, testified as  
7 follows:

8 COURT CLERK: Thank you, please be seated. Will you state your full  
9 name spelling your first and last name for the record?

10 THE WITNESS: Shalana, S-H-A-L-A-N-A, Tanee T-A-N-E-E, Eddins, E-D-  
11 D-I-N-S.

12 COURT CLERK: Thank you.

13 MS. JEANNEY: May I proceed, Judge?

14 THE COURT: You may.

15 **DIRECT EXAMINATION**

16 **BY MS. JEANNEY:**

17 Q Good evening, Ms. Eddins. Thank you for your patience this  
18 afternoon. Do you know an individual by the name of Lesean Collins?

19 A Yes.

20 Q Do you see that person in the courtroom today?

21 A Yes.

22 Q Can you please point to him and describe an article of clothing that  
23 he is wearing?

24 A A collared button-up shirt.

25 Q Your Honor, may the record reflect that the witness has identified

1 the Defendant. Would you like more than that?

2 THE COURT: Can you just point to him?

3 THE WITNESS: Yes.

4 THE COURT: So reflected.

5 MS. JEANNEY: Now, how do you know Mr. Collins?

6 THE WITNESS: We have five children together.

7 Q So you were in a relationship with him?

8 A Yes.

9 Q And how long would you say that that relationship was?

10 A About 10 years.

11 Q 10 years?

12 A Yes.

13 Q And you said that you have -- currently have five children together?

14 A Yes.

15 Q I'd like to turn your attention to the summer of 2008, where were  
16 you living at that time?

17 A 1519 Laguna Palms.

18 Q Was that here in North Las Vegas?

19 A North Las Vegas, Nevada.

20 Q And in the summer of 2008, who was living in that home?

21 A Me and my four children.

22 Q And at some point and time, did the Defendant stay with you?

23 A Yes, to care for his children; yes.

24 Q And so, whose house was it though?

25 A Mine.

1 Q It was your house?

2 A Yes.

3 Q And Defendant had no -- no rights to the house?

4 A No.

5 Q Now, in July of 2008, how was the relationship between you and  
6 the Defendant?

7 A It was okay.

8 Q And at some point, did that relationship become contentious?

9 A Yes.

10 Q When was that?

11 A About the middle of -- excuse me, about the middle of August.

12 Q Why did it become contentious?

13 A Things had just changed. Mr. Collins had just changed, and at that  
14 point, I wanted us just to be parents to our children.

15 Q When you say he had changed. What about him had changed,  
16 specifically?

17 A His attitude. He became possessive, controlling. And I pretty  
18 much feared for my life.

19 Q You were in fear of your life at that point?

20 A Yes.

21 Q At any point in time, did you let him know that you no longer  
22 wanted to be in a relationship with him?

23 A Yes; I did.

24 Q How did you do that?

25 A I told him that I wanted us just to be parents and I felt that it would



1 be best if, you know, he resided somewhere else and he would continue to play  
2 his part as a father to our children.

3 Q So you did not want to be with him, but you didn't have any  
4 problem with him being in your children's life?

5 A No; no.

6 Q Did there ever come -- well, what his response when you said --  
7 when you told him that you no longer wanted to be with him; how did he  
8 respond to that?

9 A He wasn't happy. That's not what he wanted. He wanted us to be  
10 a family.

11 Q Well, he still stuck by --

12 A But I felt that it just -- we just needed to be parents at that time.

13 Q Was he angry with you for those decisions?

14 A Yes; he was.

15 Q Now you stated that you -- at that certain point you felt in fear of  
16 your life?

17 A Yes.

18 Q Did there ever come a point when you stopped staying at the 1519  
19 Laguna Palms because of that fear?

20 A Yes.

21 Q And when was that?

22 A About the middle of August.

23 Q And where did you start staying?

24 A At a close friend's house.

25 Q Was that close in proximity -- were the house's close in proximity?

1           A     It was maybe about a 10 minute drive, but me and her -- we've  
2 been friends for a lot of years.

3           Q     Would you occasionally go back to the 1519 Laguna Palms address  
4 to do certain things?

5           A     Yes; I would go there every day after work and pick up the boys  
6 cause the boys would go home and Lesean would still play his part and make  
7 sure that they were okay. And when I would get off of work, I would just go  
8 back to the home and pack up clothes and get the children and I would leave.

9           Q     Okay. So, basically, while you were at work when the children got  
10 out off school, the Defendant would take care of them; watch over them?

11          A     Yes.

12          Q     Most of the times when you got home?

13          A     Yes.

14          Q     That you were not -- you two were not in a relationship at that  
15 point?

16          A     No; we weren't.

17          Q     I'd like to specifically turn your attention to the evening of  
18 September 29<sup>th</sup> of 2008, in the evening hours, did you return to the Laguna  
19 Palms residence?

20          A     Yes.

21          Q     And why did you return to that residence?

22          A     To pick up the -- to pick up the children that I had decided that we  
23 were going to just stay at the house that night.

24          Q     Okay. And why did you decide you wanted to stay that night?

25          A     I wanted to clean up the house and get laundry done.

1 Q Now, obviously, the Defendant had some sort of access to the  
2 home because, like you said: He was taking care of the children. How would  
3 he come to and from the house?

4 A He had the garage opener.

5 Q When you got to the house that night on September 29<sup>th</sup>, of 2008,  
6 did you do something specifically to the garage so the Defendant couldn't enter  
7 the home?

8 A Yes; I unplugged the garage.

9 Q Why did you do that?

10 A Because I didn't want him to enter into the home.

11 Q And why didn't you want him to enter into the home?

12 A Because I didn't want Mr. Collins there.

13 Q Now while you're there doing the laundry and cleaning up the  
14 house, do you ever receive a phone call or interact in a telephone conversation  
15 with the Defendant?

16 A Yes; there were several conversations that we had that night --

17 Q Okay.

18 A -- on the phone.

19 Q Can you -- in one of those conversations, does it just abruptly end?

20 A Yes.

21 Q Okay. Can you explain for the Ladies and Gentlemen of the Jury  
22 how that happened?

23 A We were on the phone and Mr. Collins said that he would call me  
24 back, and so, we hung up and then I heard a noise outside.

25 Q And where did you hear that noise?

1           A     In the backyard, on my bedroom window, so I called Mr. Collins  
2 and I asked him if he was there at the house. He said: No. And I asked him a  
3 few more times: Are you here at the house? And he said: No. And I told him  
4 that I hear a noise outside so I'm going to call the police. Are you sure you're  
5 not outside? And he says: No; I'm not there at the house. He said: Go ahead  
6 and call the police. So I hung up, but I didn't call the police at that time.

7           Q     Why didn't you call the police?

8           A     I'm sorry.

9           Q     Why didn't you call the police?

10          A     Because I knew it was Mr. Collins that was outside.

11          Q     You knew it was him outside your window?

12          A     Yes.

13          Q     Now, after you hang up with him and you tell him you're going to  
14 call the police, what happens after that?

15          A     About 10 minutes later, he began to knock on the door.

16          Q     Okay. What did you do when he did that?

17          A     I let him knock.

18          Q     Okay. How did that -- did he have an emotional response when  
19 you would leave him in the house?

20          A     I'm sorry.

21          Q     Did he have an emotional response when you wouldn't let him in  
22 the house?

23          A     Yes.

24          Q     And what was that?

25          A     He was upset that I wouldn't let him in.

1 Q I'm sorry.

2 A He began calling me on the phone and telling me to open the door  
3 and asking me why I won't open the door and let him in, and I just kept  
4 explaining to him that I didn't want him there, and that I want him, just, to  
5 leave.

6 Q At any point, did he attempt to make access through the garage  
7 door?

8 A Yes.

9 Q Did he talk to you about that on the phone?

10 A Yes.

11 Q And what did he say about that?

12 A He asked me why I had unplugged the garage.

13 Q And what did you tell him?

14 A And that's when I explained to him 'cause I didn't want him to be  
15 there.

16 Q What were his responses when you weren't letting him in?

17 A Open the door. Let me in. I want to come in. And I kept telling  
18 him: No; I wasn't going to open the door.

19 Q Is he becoming increasingly angry at this point?

20 A Yes.

21 Q At some point, do you let him in?

22 A Yes; I do.

23 Q Okay. Why did you do that?

24 A Because he continued to bang on the door and kick on the door so,  
25 at that point, I just opened the door for him.

1 Q When you opened the door, what happened?

2 A He came in and walked around the house -- started searching  
3 around the house and he grabbed my son's backpack -- our oldest son's  
4 backpack and looked in the backpack and grabbed the house key, and he  
5 walked out the front door.

6 Q With the key?

7 A With the key in his hand; yes.

8 Q And what happened? Did you follow him or what did you do next?

9 A I waited a moment and then I went outside and he was walking  
10 across the street and I looked at my vehicle, because whenever we would have  
11 an argument or a disagreement, he would always threaten to tamper with my  
12 vehicle, so I looked at my vehicle and then I noticed that I had two flat tires.

13 Q How long had you been at the house, at that point, from when you  
14 got off work?

15 A Maybe about two hours.

16 Q When you got there, was your vehicle in fine condition?

17 A No.

18 Q Or when you got there from work, was your vehicle in fine  
19 condition?

20 A Yes; yes. It was -- it --

21 Q It wasn't until after you walked out after the Defendant, you  
22 noticed that the tires had been slashed?

23 A That's correct.

24 Q And what did you do after you realized that?

25 A I had called the police.

1 Q Did the police arrive?

2 A Yes; they did.

3 Q While the police were there, did you give the police any of the  
4 Defendant's belongings?

5 A Yes; I did.

6 Q What did you give them?

7 A A handgun.

8 Q And where was that handgun within the residence?

9 A It was on top of my china cabinet.

10 Q Why did you feel it necessary to give the police that gun?

11 A Because I wanted to get rid of it. I wanted it out of my home. I  
12 wanted it away from him.

13 Q All right. After the police leave, did anyone else come help you  
14 with your car or --

15 A Yes; my dad had came [sic] over.

16 Q And what's the name of your father?

17 A Robert Eddins.

18 Q And what do you two do with the vehicle?

19 A He tries to -- the next door neighbor had came and had put some air  
20 in the tire just to get me by so that I can go to a tire -- take me by a tire shop  
21 and get the tires repaired.

22 Q And what type of vehicle is this?

23 A It's a Ford Expedition.

24 Q So you ultimately do take it to a tire shop that night?

25 A Yes.

1 Q And you get the tires fixed?

2 A Yes.

3 Q So when you leave the tire shop that evening, the Expedition is  
4 again in fine condition?

5 A Yes.

6 Q And where do you sleep that night?

7 A Me and the children -- we go back to my friend's house and we  
8 sleep there.

9 Q The same home where you had been sleeping the nights at?

10 A Yes.

11 Q So now I'd like to turn your attention to the next morning which  
12 would be September 30<sup>th</sup> of 2008, what did you do when you first woke up  
13 that morning?

14 A I grabbed the kids and we left and we went back to my home at  
15 Laguna Palms.

16 Q The 1519 address?

17 A Yes.

18 Q What did you do while you were there?

19 A Me and the children got dressed. I got them ready for school and I  
20 got myself ready for work.

21 Q Okay. And after you got them ready for school, what did you do?

22 A I went to the store and had -- got a house key made for the boys  
23 and then I dropped them off at school.

24 Q Let me interrupt you for one second because I wanted to ask you --  
25 when you -- before you left the house, was there anything of the Defendant's



1 left in the house that you could see?

2 A Yes.

3 Q And what was it and where was it?

4 A It was a bag with his clothes and the bag was in front of the  
5 laundry room.

6 Q Okay. And you saw that before you left that morning?

7 A Yes.

8 Q And I apologize for interrupting you, you said that you took the kids  
9 to school and then you stopped to get a key?

10 A I went to go get the key and then I took the boys to school and  
11 from there I went to the family courts and got a temp -- a TPO.

12 Q Okay. A TPO being a temporary restraining order?

13 A Yes.

14 Q And what made you do that?

15 A Because of the Defendant's actions. Mr. Collins he -- he just  
16 changed, and I felt that it was necessary for me to get that -- to get the TPO  
17 on him.

18 Q At this point, is it fair to say you're still in fear of your life?

19 A Yes.

20 Q Were you receiving any type of phone calls from the Defendant that  
21 morning on the 30<sup>th</sup>?

22 A Yes.

23 Q And how many would you say you were receiving?

24 A That -- I received about two or three of them that morning.

25 Q And what was he saying on those phone calls?

1           A     He was just asking me: Why did I call the police on him. And just  
2 going back and forth, basically, about the night before.

3           Q     Was he angry?

4           A     He was regular at that point.

5           Q     He was regular?

6           A     Yes.

7           Q     All right. What time would you say you finally get to your place of  
8 employment?

9           A     About 11:30.

10          Q     Now, at any point, once you got to work, did you receive any type  
11 of threatening phone call from the Defendant?

12          A     Later on, during the day, I had received a phone call.

13          Q     Okay. What was -- was it a phone call or did he just leave a voice  
14 message?

15          A     He left a voice mail because I didn't answer the phone.

16          Q     And what was the message left on that voice mail?

17          A     You better give me my mother fucking shit and if you don't, bitch;  
18 I'll knock all this shit off.

19          Q     Okay. And when he -- what is he referring to in that?

20          A     To the handgun.

21          MS. JONES: Objection, Your Honor, that's speculation.

22          THE COURT: Sustained, unless you can lay some foundation.

23          MS. JEANNEY: Shalana, you previously testified that on September 29<sup>th</sup>,  
24 you had given the police the Defendant's handgun; correct?

25          THE WITNESS: Yes.

1 Q And when he called and left that message on September 30<sup>th</sup>,  
2 what, exactly, was he saying that made you feel like he was referencing the  
3 handgun?

4 MS. JONES: Objection, Your Honor. She's asking her to speculate at  
5 this point.

6 THE COURT: No; she's just asking her to testify about what he said;  
7 that's all. You can answer.

8 THE WITNESS: Because he said that he wanted his stuff and that was  
9 the only thing that was at the house, that he would be looking for, that was no  
10 longer there.

11 MS. JEANNEY: Was there anything else that you had taken or that you  
12 thought he would find, missing, that he would be angry about?

13 THE WITNESS: No; because all of his clothes were still there. I hadn't  
14 moved any of his belongings.

15 Q So -- and those were the reasons why you believe he's speaking  
16 about the handgun?

17 A Yes.

18 Q At some point in the day, do you leave your desk for a moment?

19 A Yes.

20 Q What time, about, was that?

21 A About 4:15.

22 Q In the afternoon?

23 A Yes.

24 Q And how long do you think you were gone for?

25 A Maybe about 10 minutes.

1 Q And when you left, to wherever you were going, were you going  
2 somewhere else in the office?

3 A Yes; I was going to the copy room.

4 Q Before you left for the copy room, where was your cell phone at  
5 that point and time?

6 A It was on the side of my keyboard.

7 Q And when you returned 10 minutes later, where was the cell  
8 phone?

9 A It was gone.

10 Q When you realized that your cell phone was gone; what did you do  
11 after that?

12 A I immediately went outside, to my vehicle, and I noticed I had four  
13 flat tires.

14 Q Why did you -- as soon as you noticed your cell phone was gone;  
15 what made you run downstairs and check your vehicle?

16 A Because I knew that Mr. Collins had been there, to my job.

17 Q And when you went outside, all four of your tires had been  
18 slashed?

19 A Yes.

20 Q What did you do, at that point?

21 A I went upstairs and I immediately -- I called the children.

22 Q What did you tell the children?

23 A I asked the children if daddy was there and the children said: No;  
24 daddy left. And I told them to leave the house, immediately.

25 Q Where did you tell them to go?

1 A To the next door neighbor's house.

2 Q And do you remember the name of the next door neighbor?

3 A Darlene.

4 Q Is that Darlene Heers?

5 A I'm sorry.

6 Q Darlene Heers?

7 A Yes.

8 Q Her last name?

9 A Yes.

10 Q Does your place of employment have video surveillance?

11 A Yes.

12 Q And did you view that video surveillance?

13 A Yes.

14 Q And when you viewed it, what did you see?

15 A I seen Mr. Collins standing outside my place of employment,  
16 watching me, while I was at my desk working. And when I stepped away from  
17 my desk, Mr. Collins entered into the building and he searched around my desk  
18 area looking for something. And he kind of paced around because he couldn't  
19 find what he was looking for.

20 MS. JONES: Objection, speculation.

21 MS. JEANNEY: She's watching him, Judge. She's testifying that she's  
22 watching him rummage through everything, looking for something.

23 THE COURT: Are you observing all this?

24 THE WITNESS: This is what I'm observing off the video.

25 THE COURT: Okay. Go ahead.

1 THE WITNESS: Mr. Collins paced around and then he looked up and  
2 that's when he noticed the cell phone and he grabbed the cell phone and he  
3 walked out of the building.

4 MS. JEANNEY: You testified that you called your children, told them to  
5 leave the house, immediately, and go to the neighbor's house.

6 THE WITNESS: Yes.

7 Q Who else did you call?

8 A I called -- I called the police and I called my dad as well.

9 Q Okay. And your dad, you previously testified, Robert Eddins?

10 A Yes.

11 Q All right. And did -- what happened after you called your dad?

12 A He came up there to my job.

13 Q Did he just come help you with the vehicle?

14 A I told him that Lesean had came to my job and had put my tires on  
15 flat, so my dad came up there to the job to try to help me and to see what  
16 we're going to do about getting the kids.

17 Q Okay. And did you also call -- you said you called the police?

18 A Yes.

19 Q Did they arrive at your place of employment?

20 A Yes.

21 Q And what happened once they arrived?

22 A They looked at the vehicle and they took a statement from me and  
23 a co-worker.

24 Q Now, while you're there and your dad's there; did anyone receive a  
25 phone call from the Defendant?

1 A Yes.

2 Q And who received a phone call?

3 A My dad.

4 Q And without telling me -- getting into -- because the conversation  
5 was not on speaker phone; is that correct?

6 A That's correct.

7 Q Could you hear what the Defendant was saying?

8 A No; I couldn't.

9 Q So without getting into what the Defendant said to your father,  
10 after that conversation that the two of you had -- the two of you being the  
11 Defendant and your father, Robert Eddins; what did you two do -- your father  
12 and you?

13 A We went to the house.

14 Q Okay.

15 A I waited for the tow company to come to tow the vehicle -- to tow  
16 my truck. And at that point, I couldn't wait any longer for them to get there,  
17 so we had to, immediately, leave and go to the house.

18 Q How long did it take you to get to that house?

19 A Probably about 30 minutes, 25 -- 30 minutes.

20 Q All right. And when you got to your neighborhood -- when you got  
21 to the house on Laguna Palms, what did you see?

22 A My house was on fire.

23 Q At that point, did you know where your children were; if they were  
24 safe?

25 A No.

1 Q What was running through your mind at that time?

2 A Where's my kids?

3 Q Would you say you panicked at that point?

4 A Yes.

5 Q So what did you do?

6 A I panicked and I was upset.

7 Q Did you attempt to get to the house to --

8 MS. JONES: Objection, leading.

9 THE COURT: Overruled; you can answer.

10 MS. JEANNEY: Did you attempt to go to the house to find your children?

11 THE WITNESS: Yes; I did.

12 Q And what happened? What happened when you attempted to enter  
13 the house?

14 A I got restrained by a North Las Vegas Police.

15 Q At some point after -- well, at what point do you find out your  
16 children are okay?

17 A After I was in the police car.

18 Q You were detained for trying to get into the house which is on fire?

19 A Yes.

20 Q And so you find out your children are okay? Once the fire is put  
21 out, at some point, are you allowed -- whether it be days later -- access back  
22 into the home?

23 A Yes.

24 Q When you get inside the home, what does it look like?

25 A Everything pretty much -- my closet was completely burned, all my



1 clothes and my shoes. My bed was burned. It's a three bedroom so the two  
2 older boys, they shared a room, and the two little boys shared a room. The  
3 two little ones -- their room was -- it was okay. There was just smoke damage.  
4 The older two boys, their room was completely damaged, their clothes, their  
5 shoes, computer, bed; everything was damaged --

6 Q Did you --

7 A -- was burned.

8 Q -- lose almost everything in that fire?

9 A Yes.

10 Q You testified that you left in the early morning hours about -- I think  
11 -- did you say: 7 or 7:30, when you left to take your children to school?

12 A It was about 8 o'clock that morning.

13 Q Oh, I'm sorry -- 8 o'clock. And when you left, you saw the  
14 Defendant's personal belongings right in the laundry room?

15 A In a black duffle bag in front of the laundry room; yes.

16 Q Now when you went back into the house, where was that duffle  
17 bag?

18 A It was gone.

19 Q The bag was no longer there in the hallway?

20 A It was no longer there.

21 Q Did the Defendant, Lesean Collins, have permission to enter your  
22 house on September 30<sup>th</sup> of 2008?

23 A No.

24 Q When the tow company ultimately came and towed your Expedition  
25 on -- on the 30<sup>th</sup> and the four tires were repaired, what was the total cost of

1 damage? How much --

2 A That --

3 Q Go.

4 A \$752.00

5 MS. JEANNEY: Court's indulgence, Your Honor.

6 THE COURT: Uh huh.

7 MS. JEANNEY: Thank you, Your Honor. Now you testified that you --  
8 you currently have 5 sons?

9 THE WITNESS: That's correct.

10 Q And when I spoke to you earlier in questioning, we talked about  
11 four children, so were you pregnant at the time that this was going on?

12 A Yes.

13 Q And when was that 5<sup>th</sup> son born?

14 A He was born March 17<sup>th</sup> of 2009. It was two months early.

15 Q And what are your -- I know you said you got to work at 11:30  
16 that day, but what are your normal work hours?

17 A Monday through Friday, 8:30 to 5:30.

18 Q Now you testified that the total cost was \$752 -- the damage to  
19 your vehicle?

20 A Yes.

21 Q Did you have to get four new tires?

22 A Yes.

23 Q So all the tires had to be replaced?

24 A The four tires had to be replaced as well as the doughnut; that had  
25 to be replaced as well.

1 Q Now, previous to you coming in to testify, were you asked to bring  
2 a type of documentation, such as a receipt, or something from your insurance  
3 company to show that you had paid that \$552?

4 A Yes.

5 Q Okay. And what was the reason that you did it?

6 A I couldn't find the receipt.

7 Q Do you remember where you placed it or --

8 A My dad has a copy of it.

9 Q Your dad has a copy of it?

10 A Yes.

11 Q When you arrived and your house was on fire, you tried to enter the  
12 home because you didn't know whether or not the children were in there. You  
13 said that the police tried to detain you or they did detain you; is that correct?

14 A Yes.

15 Q And how did they do that?

16 A They grabbed me and they threw me on the ground and they  
17 tasered me. They tasered me in my back and then they handcuffed me and  
18 they took me to jail.

19 Q Thank you. Pass the witness, Your Honor.

20 THE COURT: Cross?

21 MS. JONES: Thanks Your Honor.

22 **CROSS EXAMINATION**

23 **BY MS. JONES:**

24 Q Ms. Eddins, you and Lesean Collins were in a relationship --

25 A Yes.

1 Q Is that correct? For an extended period of time; is that fair to say?

2 A Yes.

3 Q And is it fair to say that during the 10 to 11 years -- the 10 to 11  
4 years a fair period of time?

5 A Yes.

6 Q Okay. Is it fair to say that during that 10 to 11 years that you guys  
7 were in a relationship, there were several issues in the relationship?

8 A Yes.

9 Q Every day wasn't a good day?

10 A I wouldn't say that every day wasn't a good day. We had some  
11 good days.

12 Q There were some good days, but there were some bad days thrown  
13 in there too; correct?

14 A Yes.

15 Q And the relationship continued?

16 A Yes.

17 Q And you continued to keep contact with him this entire 10 to 11  
18 year span; correct?

19 A Yes.

20 Q You guys have basically maintained constant contact; correct?

21 A Yes.

22 Q And this relationship has produced 5 children?

23 A Yes.

24 Q And is it your testimony, here today, that some time in the summer  
25 of 2008, this relationship ended?

1 A Yes.

2 Q Had this relationship ended before?

3 A Yes.

4 Q So you guys had broken up before and then the relationship picked  
5 back up later?

6 A Yes.

7 Q And that happened a few times?

8 A Yes.

9 Q But during that entire time, you guys have maintained contact?

10 A Yes.

11 Q And you guys have maintained contact as parents; correct?

12 A Yes.

13 Q But you guys have also maintained personal contact?

14 A Yes.

15 Q As a matter of fact, you guys have maintained contact since this  
16 fire?

17 A We have had contact; yes.

18 Q You have talked to Mr. Collins on the phone since September 30<sup>th</sup>  
19 of 2008?

20 A Yes.

21 Q And even during the times that you say you feared for your life,  
22 you kept contact with him; correct?

23 A Yes.

24 Q And you guys have a total of 5 children together?

25 A Yes.

1 Q And as a matter of fact, you have had a baby since September 30<sup>th</sup>  
2 of 2008?

3 A Yes.

4 Q You've had the baby -- did you say in March?

5 A 17<sup>th</sup> of '09.

6 Q And Mr. Collins is the father of that baby?

7 A Yes; he is.

8 Q And you sent Mr. Collins pictures of the new baby?

9 A Yes; I did.

10 Q And during the times in this relationship where things aren't so  
11 good, he's calling you; correct?

12 A Yes.

13 Q But you're also calling him?

14 A Yes.

15 Q And during the times that he's calling you, you have a phone that  
16 has caller ID; correct?

17 A Yes.

18 Q So you know that it's him before you pick up?

19 A Yes.

20 Q And you're answering his calls?

21 A Yes.

22 Q And sometimes you're calling him?

23 A Yes.

24 Q And, can you tell us the names of the 5 children that you guys have  
25 together?

1           A     Tysean Collins, Tyray Collins, Tysars Collins, Tyarian Collins, and  
2 Tydasian Collins.

3           Q     With Tysean being the oldest of the children; correct?

4           A     Yes.

5           Q     And Tydasian being the newest of the children?

6           A     Yes.

7           Q     Or the youngest?

8           A     Yes.

9           Q     And Tysean's actually the first child that you guys had together?

10          A     Yes.

11          Q     And is Tysean currently residing with you?

12          A     Yes.

13          Q     And you said that -- are all the children currently residing with you?

14          A     Yes.

15          Q     And you said that in September of 2008, you were packing; do you  
16 remember --

17          A     Yes.

18          Q     I apologize. I'll take back -- you remember that you testified in this  
19 case at the Grand Jury?

20          A     Yes.

21          Q     And do you remember when you testified at the Grand Jury saying  
22 that you were packing at that point?

23          A     Yes.

24          Q     You said you were packing up so you could move?

25          A     No; I was packing up so that we could go stay at a friend's house.

1 Q So you weren't packing up the house; you were just kind of  
2 packing a bag?

3 A Yes; packing a bag.

4 Q Okay. And you were staying with your friend?

5 A Yes.

6 Q Who lives 10 minutes away from the house?

7 A Yes.

8 Q So when you're -- are you spending only the night with the friend?

9 A I was -- I was spending days over there, but I would go to the  
10 house on a daily basis.

11 Q And you would go to the house in the morning; correct?

12 A Sometimes I did go to the house in the mornings.

13 Q And get the kids ready for school?

14 A No; the kids were with me at the friend's house. There was an  
15 incident where Mr. Collins told me that I couldn't take the kids with me.

16 Q Okay. We're not going to get into all that stuff, but the kids were  
17 with you at the friend's house?

18 A Yes.

19 Q Okay. And -- but there were some mornings that you would take  
20 the kids home and get them ready?

21 A Some -- yes.

22 Q And the Laguna Palms address is home --

23 A Yes.

24 Q -- for you and the children?

25 A Yes.



1 Q Okay. And when you would take them there, then you would drive  
2 them to school from there?

3 A Yes.

4 Q Would Mr. Collins sometimes drive the kids to school?

5 A Yes.

6 Q And when the kids get out of school, they would go home after  
7 school?

8 A Mr. Collins would pick them up.

9 Q He'd pick them up from school and he basically cared for them until  
10 you're finished working at 5:30?

11 A Yes.

12 Q Okay. And on September 29<sup>th</sup> of 2008, you said that you were  
13 home that night?

14 A Yes.

15 Q And then on September 30<sup>th</sup>, that specific date, the kids were --  
16 went home after school?

17 A Yes.

18 Q And were the kids -- and you went there after you left work?

19 A Yes.

20 Q Did you ever move away from this home before it was damaged?

21 A No.

22 Q You moved away after the home was damaged and you couldn't  
23 live there anymore; correct?

24 A That's correct.

25 Q And at some point and time, Lesean Collins resided with you at this

1 residence?

2 A Yes.

3 Q And he was basically -- you said: He was staying there to care for  
4 his children?

5 A That's correct.

6 Q And that was, you know, prevented you from paying for daycare or  
7 something like that?

8 A And right, and to be a parent; yes.

9 Q And Lesean Collins was accessing the house in September through  
10 the garage door opener?

11 A Yes.

12 Q And that's the little remote control garage door opener that people  
13 keep in their car?

14 A Yes.

15 Q Was there ever a point and time that you had given him a house  
16 key?

17 A No.

18 Q When he first moved in there, you never gave him a house key?

19 A No.

20 Q So he -- your testimony is: He's never had a house key?

21 A No.

22 Q So the entire time that he's been coming and going from this  
23 residence, he's entering through the garage?

24 A Yes.

25 Q And the garage door opener that he had -- he kept that garage door

1 opener with him?

2 A That's correct.

3 Q And depending on how he was coming over there, he would switch  
4 it between the vehicles; correct? Take it with him wherever he was -- in the  
5 vehicle he was --

6 A Yes.

7 Q Because there was times that he was driving your vehicle?

8 A Yes.

9 Q Which is the Ford Expedition?

10 A Yes.

11 Q And you said that him staying there was so he could play a part in  
12 his children's life?

13 A That's correct.

14 Q Because Lesean wanted you guys to be a family?

15 A Yes; he did.

16 Q And when Lesean Collins did stay there, he had some of his  
17 personal belongings there; correct?

18 A Yes.

19 Q He had actually purchased some of the items that were inside this  
20 home; correct?

21 A No.

22 Q He never purchased anything that was inside the home?

23 A No.

24 Q So everything inside of the home was purchased by you?

25 A That's correct.

1 Q Okay. Did Lesean Collins have items in the home that belonged to  
2 his mother?

3 A Yes.

4 Q And there were some pictures in there that belonged to his mother?

5 A Pictures of his mother.

6 Q Okay. And there was a comforter that belonged to his mother; is  
7 that correct?

8 A There were a few comforters.

9 Q And Lesean Collins' mother is deceased now?

10 A That's correct.

11 Q And he lived there sometimes, but basically, this was your house?

12 A Yes.

13 Q The residence for you and your children? Were you getting into any  
14 sort of assistance in this residence?

15 A Yes.

16 Q Were you living there getting any sort of assistance?

17 A Yes.

18 Q Was that assistance terminated upon the fire of this house?

19 A No.

20 Q It was not? So you're still receiving those benefits?

21 A Yes.

22 Q And September 29<sup>th</sup> is the night before the incident that we were  
23 here for today, and you said that you didn't want Lesean to be there; correct?

24 A That's correct.

25 Q And -- but you're talking to him on the phone?

1 A Yes.

2 Q You had several conversations with him on the phone?

3 A Yes.

4 Q And then he showed up at the house?

5 A Yes.

6 Q But prior to him showing up, you said -- you told him: When -- that  
7 you heard somebody in the backyard and you were going to call the police?

8 A That's correct.

9 Q But in actuality, you didn't call the police?

10 A No.

11 Q But you did. You let Lesean in the house?

12 A Yes.

13 Q And while Lesean is in the house, you never called the police while  
14 he was in there?

15 A No; I didn't.

16 Q And you do own a cell phone; correct?

17 A Yes.

18 Q And Lesean, when he came in the house, he's basically in the  
19 house. He's not standing at the door, but he's in the house?

20 A Yes.

21 Q And you never left and called the police while he was there?

22 A No; I didn't.

23 Q And Lesean eventually leaves the house; correct?

24 A Yes.

25 Q And when Lesean leaves the house, how was he leaving the

1 house? Was he in a vehicle?

2 A Yes.

3 Q What kind of a vehicle was he in?

4 A A Toyota Sequoia.

5 Q And a Toyota Sequoia, would that be a utility vehicle?

6 A Yes.

7 Q Do you know what that utility vehicle belongs to?

8 A Yes.

9 Q Who does it belong to?

10 A Tanya Green.

11 Q And when Lesean's leaving the house in that Toyota Sequoia, you  
12 and him had had an argument; correct?

13 A Yes.

14 Q And did you bust the window out of that Sequoia?

15 A No; I didn't.

16 Q You did not?

17 A No.

18 Q Did the window get busted out of that Toyota Sequoia?

19 A Yes; it did.

20 Q How did that happen?

21 A I threw a rock at Mr. Collins.

22 Q So you threw a rock at him and it busted the window out of the  
23 Sequoia?

24 A It broke the window; yes.

25 Q I apologize. So the window didn't bust out but the window was

1 broken by the rock that you threw?

2 A Yes.

3 Q And at that point, you didn't call the police; correct?

4 A The police had been called at that point.

5 Q Okay. But you were upset at him and that was the reason for  
6 throwing the rock; correct?

7 A Because he had --

8 Q Were you upset with him when you threw the rock?

9 A Yes.

10 Q And when you come outside later, your tires have been cut --

11 A My --

12 Q -- on September 29<sup>th</sup>? Were they cut or was the air let out of  
13 them?

14 A They -- they had a hole in them. The air -- yeah, they had a hole in  
15 them.

16 Q But you were not out there when that happened?

17 A No; I wasn't.

18 Q And you did not see Lesean Collins put the hole in your tire?

19 A No.

20 Q And it's at that point when you called the police?

21 A Yes.

22 Q And then your dad shows up; correct?

23 A Yes.

24 Q And your dad follows you to get the tires fixed?

25 A Yes.

1 Q And how many tires was that?

2 A Two.

3 Q So when your dad's following you, are you driving on two flats?

4 A No.

5 Q Was there air in the tire?

6 A Yes.

7 Q Okay. Okay. So let's move onto the next day. You come home in  
8 the morning; correct, on September 30<sup>th</sup>?

9 A Yes.

10 Q And you're going to get the kids dressed so you can take them to  
11 school?

12 A Yes.

13 Q But sometimes Lesean used to take them to school?

14 A Yes.

15 Q But on your way taking them to school, you stopped and made a  
16 house key?

17 A Yes.

18 Q And did you make that house key so the kids can go home after  
19 school is over?

20 A Yes.

21 Q And when you were going to send the kids home after school, were  
22 you anticipating Lesean to be there to watch them?

23 A Yes.

24 Q Because that was normally what happened?

25 A Yes.



1 Q And you said that during that day, Lesean kept calling you; correct?

2 A That's correct.

3 Q So is it fair to say he called you several times?

4 A Throughout the day; yes.

5 Q And you were answering those calls?

6 A Some yes; some no.

7 Q So is it fair to say you answered some of the calls?

8 A Yes; I did.

9 Q And before you answered those calls, you knew that Lesean Collins  
10 was calling you?

11 A Yes.

12 Q And you'd never called the police when he was calling you?

13 A No.

14 Q And he was calling you to see how you were going to pick up the  
15 kids; correct?

16 A That was one of the conversations.

17 Q Because, normally, he'd pick them up?

18 A Yes.

19 Q And he just wanted to see how he they were going to get home  
20 from school?

21 A Yes.

22 Q And this voice mail that you talked about that he left on the voice  
23 mail. He never mentions a handgun on this voice mail; correct?

24 A No.

25 Q The voice mail is exactly as you recited it for the jury; correct?

1 A Yes.

2 Q And when you gave -- you had given the handgun to the police on  
3 September 29<sup>th</sup>; correct?

4 A Yes.

5 Q But Lesean Collins was not at your residence when you gave that  
6 handgun to the police?

7 A No.

8 Q He was already gone?

9 A Yes.

10 Q And your testimony today is that you took out a restraining order  
11 on Lesean Collins?

12 A That's correct.

13 Q Was that restraining order ever served on Lesean Collins?

14 A Not at that time; no.

15 Q So it hadn't been served on him, meaning, he didn't know it  
16 existed; correct?

17 A That's correct.

18 Q And when your house was damaged with the fire, you were not  
19 there; correct?

20 A No.

21 Q You were at work?

22 A Yes.

23 Q And your kids had come home from school; correct?

24 A Yes.

25 Q What time do your kids get out of school?

1 A About 3:20 -- 3:15.

2 Q And do they walk home on this day? On September 30<sup>th</sup>, how'd  
3 they get home?

4 A They walked home.

5 Q They walked home, but normally their dad picked them up?

6 A Yes.

7 Q So on that day they were home alone?

8 A They went to the house.

9 Q Okay. But when they went to the house, it's just the boys?

10 A Lesean wasn't there; that's correct.

11 Q So it's -- but normally he's there?

12 A Yes.

13 Q And when you were going to send them home, it's because you --  
14 he was going to be there?

15 A Anticipation that he would come; yes.

16 Q And it's the three boys; correct? Tysean, Tysars.

17 A And Tyree.

18 Q Those are the three boys that are in school?

19 A Yes.

20 Q And when you called them and told them to leave the house, it's at  
21 4:30 or 4:35; correct?

22 A Yes.

23 Q But you don't know exactly what time it is that they arrive at  
24 Darlene Heers residence?

25 A They arrived at about -- about 5 minutes after I placed the call,

1 because Darlene had called me and wanted to know why I had sent the  
2 children over there.

3 Q So that's information you received from Darlene, but you weren't  
4 there when they arrived at Darlene's residence --

5 A That's correct.

6 Q -- cause you were still at work? And the plan was -- well, what  
7 happened -- they were picked up by Vivian Furlow that night?

8 A From Darlene; yes.

9 Q And you don't know what time Vivian Furlow arrived at Darlene's  
10 because you were still at work?

11 A That's correct.

12 Q And your dad had requested that Vivian pick up the kids?

13 A Yes.

14 Q So from the time that you tell the kids to go over to Darlene's then  
15 your dad calls Vivian; correct?

16 A Yes.

17 Q And then Vivian has to leave from her location and get to Darlene  
18 Heers' house?

19 A Yes.

20 Q And the tires that you had to replace on your Expedition from the  
21 30<sup>th</sup>, do you remember -- you called the police that day; correct?

22 A Yes.

23 Q Do you remember an officer coming out to talk to you?

24 A Yes.

25 Q Do you remember the officers name?

1           A     I spoke with the -- I'm not sure of the officer that came, but I spoke  
2 with a Detective Barringer.

3           Q     Do you remember telling them that three of your tires had been  
4 slashed?

5           A     No; it was four.

6           Q     It was four?

7           A     Yes.

8           Q     So if they wrote in their report that you said three, that would be  
9 incorrect?

10          A     Yes; it was four tires.

11          Q     So is it fair to say that once your tires are slashed, you can't drive  
12 your car?

13          A     That's correct.

14          Q     And you had to have it towed?

15          A     Yes.

16          Q     And this \$752 figure that you have -- does that include the towing?

17          A     No.

18          Q     It's for the 4 tires?

19          A     For the tires; yes.

20          Q     But you don't have the receipt today?

21          A     I don't have it.

22          Q     Because you couldn't find it?

23          A     That's correct.

24          Q     And you said that it's for the four tires and a doughnut tire;  
25 correct?

1 A That's correct.

2 Q Why was the doughnut tire replaced?

3 A Because that was one of the tires that was on the vehicle that day.  
4 When he had did the --

5 Q Objection. I mean --

6 A -- excuse me, when the two tires, the night before, was put on flat.  
7 The doughnut had been put on the vehicle.

8 Q Because you didn't see who it was that damaged your tires the  
9 night before?

10 A No.

11 Q And when you arrived on the scene -- at the scene of your house,  
12 they're putting out the fire; correct?

13 A Yes.

14 Q And when you arrived there, there's an officer there? There's  
15 officers there?

16 A That's correct.

17 Q Do you speak with any of the officers? Without telling us what  
18 they said.

19 A No.

20 Q You don't speak with any of them?

21 A Not when I first arrive; no.

22 Q Was there anyone there that explained to you that your kids were  
23 out of harms way?

24 A No.

25 Q But your kids were with Ms. Heers -- Darlene Heers?

1 A At that point, no; they were -- they were with family.

2 Q They were with Vivian Furlow?

3 A At that point, me and my dad had pulled up, so I got out of the  
4 vehicle and took off running down to the house. And after all of that action  
5 going on with the police, they were with friends or family. I'm not sure exactly  
6 who they were standing outside with.

7 Q You're not sure where they went because you were arrested that  
8 day; correct?

9 A That's correct.

10 Q And when you found out about the fire, you found out that your  
11 home had been burned in three separate locations; correct?

12 A Yes.

13 Q And you testified that there was damage to the master bedroom;  
14 correct?

15 A Yes.

16 Q And that was your bedroom?

17 A Yes.

18 Q And when Lesean Collins stayed there, that was also his bedroom?

19 A Yes.

20 Q And there was damage, you said: to the older boys' room?

21 A Yes.

22 Q And that would be -- who were the older boys?

23 A Tysean and Tyree.

24 Q And both of those are Lesean Collins' children?

25 A Yes.

1 Q And there was also damage to the living room; correct?

2 A Yes.

3 Q And so, you weren't there when the fire was started and you don't  
4 know who started that fire?

5 A Yes; I do.

6 Q But you were not there when the fire started?

7 A No.

8 Q Court's indulgence, Your Honor. Nothing further, Your Honor.

9 THE COURT: Redirect?

10 MS. JEANNEY: Thank you, Judge.

11 ***REDIRECT EXAMINATION***

12 ***BY MS. JEANNEY:***

13 Q Shalana, one of the things that Ms. Jones first asked you, of  
14 course, said to you is that: You have had contact with the Defendant even  
15 after the fire?

16 THE WITNESS: Yes.

17 Q Why?

18 A We have five children together and -- 'cause I had the baby early.  
19 He was in the hospital for the first two months.

20 Q Is it important to you that your children and their father, the  
21 Defendant, Lesean Collins, have a relationship?

22 A Yes.

23 Q And is that a reason why you continued to maintain contact with  
24 him?

25 A Yes.



1 Q Even to this day?

2 A Yes.

3 Q So when you had your fifth son, Tydasean and he was born two  
4 months premature, you felt it was important to have contact with the  
5 Defendant?

6 A Yes.

7 Q And does that contact between the Defendant and your five  
8 children, that you share, is that still important to you today as you sit here?

9 A Yes.

10 Q Ms. Jones asked you about Vivian Furlow, can you explain your  
11 relationship with Ms. Furlow?

12 A She's always been like a stepmother to me.

13 Q She dated your father, Robert Eddins?

14 A Yes.

15 Q For how long did they date?

16 A Nine years.

17 Q And it's your understanding that she couldn't be here this week?

18 A Yes.

19 Q And, in fact, she's out of town?

20 A Yes.

21 Q Who is Tanya Green?

22 A She is Lesean's deceased's brother's girlfriend.

23 Q And so it was her Toyota Sequoia that the Defendant was driving  
24 that day or that evening?

25 A Yes; on the 29<sup>th</sup>.

1 Q Okay. What other car -- was there another car that the Defendant  
2 commonly drove around?

3 A Yes.

4 Q And what kind of car is that?

5 A A blue Ford Taurus.

6 Q A sedan like vehicle?

7 A Yes.

8 Q Ms. Jones spoke to you about the fact that the Defendant had  
9 some items of his mother's in the home, specifically, she referred to you about  
10 one of his mother's blankets?

11 A Yes.

12 Q Isn't it true that that blanket had actually been gone -- removed out  
13 of the house a whole month before this fire started?

14 A No; there was -- there was three blankets, in total, and there was  
15 two that remained.

16 Q So one was gone?

17 A Yes.

18 Q Specifically, she talked to you about the Defendant having  
19 belongings in the home?

20 A Yes.

21 Q But you testified, earlier, that on the September 30<sup>th</sup> when you first  
22 got to the house in the morning, you saw the Defendant's clothing in the  
23 laundry room or right outside the laundry room door?

24 A Yes; in -- packed in a bag.

25 Q But when you went back into that house, after the fire had been

1 put out, the Defendant's clothes were gone?

2 A Yes.

3 Q On the 30<sup>th</sup>, when the Expedition's four tires were slashed, Ms.  
4 Jones stated to you: Well you personally didn't see it? And your response  
5 was: No, but that the Defendant had always threatened to do things to your  
6 vehicle; is that correct?

7 A Yes.

8 Q When you would get into a fight, that was a common threat to  
9 you?

10 A Yes.

11 Q And we had asked you to bring us some type of proof or receipt,  
12 but in all fairness to you, we really only asked you to do that yesterday or the  
13 day before; is that correct?

14 A Yes.

15 Q Was that enough time for you to be able to get those things and  
16 search through those things?

17 A No.

18 Q Thank you, Ms. Eddins.

19 THE COURT: Recross?

20 MS. JONES: Briefly, Your Honor.

21 **RECROSS EXAMINATION**

22 **BY MS. JONES:**

23 Q Ms. Eddins, you talked about Mr. Collins' contact with his children  
24 and that he is the father of your children; correct?

25 A Yes.

1 Q And what are the ages of those children?

2 A Seven months, 5, 7, 9, and 11.

3 Q And Mr. Collins, you allow him to have contact with his children;  
4 correct?

5 A Yes.

6 Q But there's also contact between you and him that doesn't involve  
7 his children; correct?

8 A No.

9 Q Is it fair to say there are times that you talk to him and the children  
10 don't?

11 A Yes.

12 Q And there are times that he talks to the children?

13 A Yes.

14 Q Okay. And he -- when he calls the children, he's calling you?

15 A Yes.

16 Q And you know that it's him?

17 A Yes.

18 Q And when you said that you saw some of his belongings packed,  
19 did you see his mother's blankets packed that day?

20 A No.

21 Q Did you see his pictures of his mother packed that day?

22 A No.

23 Q And as far as the tires on your car, you do not have a receipt here,  
24 today, for the amount of damage to your car?

25 A No; I don't have the receipt.

1 Q Thank you, Your Honor; nothing further.

2 A Anything else for this witness?

3 MS. JEANNEY: Nothing, Your Honor, thank you.

4 THE COURT: Okay. At this time, thank you very much for your  
5 testimony here today. You may step down and you are excused from your  
6 subpoena.

7 THE WITNESS: Thank you.


8 THE COURT: Thank you for the testimony that you gave this jury.

9 We are going to conclude for the evening. You can step down.  
10 During this recess, you're admonished not to talk or converse amongst  
11 yourselves, with anyone else on any subject connected with this trial, read,  
12 watch, or listen to any report or commentary in the trial, any person connected  
13 with this trial by any medium of information, including, without limitation,  
14 newspapers, television, internet or radio, form or express any opinion on any  
15 subject connected with this trial until the case is finally submitted to you.

16 We'll start tomorrow morning at 11 o'clock. Come right up here to  
17 the 14<sup>th</sup> floor. Officer Trammel will meet you and when the Court is ready, you  
18 will come in. Thank you very much. Remember to leave your notebooks and  
19 your notepads here, please.

20 [Proceeding concluded at 6:59 p.m.]

21  
22 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
23 audio/visual recording in the above-entitled case.

24   
25 \_\_\_\_\_  
Kerry Esparza, Court Recorder/Transcriber  
District Court, Department XII

TRAN



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CLERK COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

LESEAN T. COLLINS,

Defendant.

CASE NO. C-253455

DEPT. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

THURSDAY, NOVEMBER 5, 2009

**TRANSCRIPT OF PROCEEDINGS**  
**TRIAL BY JURY - DAY 2**

APPEARANCES:

For the State:

JOSHUA L. TOMSHECK, ESQ.  
JACQUELINE JEANNEY, ESQ.  
Deputy District Attorneys

For the Defendant:

TIERRA D. JONES, ESQ.  
ABIGAIL PAROLISE, ESQ.  
Deputy Public Defenders

RECORDED BY: KERRY ESPARZA, COURT RECORDER

**INDEX**

**PAGE**

**STATE'S WITNESSES:**

WITNESS: ***DARLENE K. HEER***

DIRECT EXAMINATION BY MR. TOMSHECK 9

CROSS EXAMINATION BY MS. JONES 20

REDIRECT EXAMINATION BY MR. TOMSHECK 25

RECROSS EXAMINATION BY MS. JONES 26

WITNESS: ***ROBERT LEE EDDINS***

DIRECT EXAMINATION BY MS. JEANNEY 31

CROSS EXAMINATION BY MS. JONES 45

REDIRECT EXAMINATION BY MS. JEANNEY 55

RECROSS EXAMINATION BY MS. JONES 56

WITNESS: ***MANUEL VITAL***

DIRECT EXAMINATION BY MS. JEANNEY 58

CROSS EXAMINATION BY MS. PAROLISE 63

WITNESS: ***JEFFREY LOMPNEY***

DIRECT EXAMINATION BY MR. TOMSHECK 65

CROSS EXAMINATION BY MS. PAROLISE 92

REDIRECT EXAMINATION BY MR. TOMSHECK 96

RECROSS EXAMINATION BY MS. PAROLISE 99

**DEFENDANT'S WITNESSES:**

WITNESS: ***TRISHA SUE BREWER***

DIRECT EXAMINATION BY MS. JONES 103

CROSS EXAMINATION BY MR. TOMSHECK 108

REDIRECT EXAMINATION BY MS. JONES 114

**EXHIBITS**

**PAGE**

**STATE'S EXHIBITS:**

Number 51	43
Numbers 1 - 49	74
Number 52	86



1 THURSDAY, NOVEMBER 5, 2009 -- 11:15 A.M.

2  
3 [In the presence of the jury]

4 COURT MARSHAL: Department XII is back in session.

5 THE COURT: Do the parties stipulate to the presence of the jury panel?

6 MR. TOMSHECK: Yes, Judge.

7 MS. JONES: Yes, Your Honor.

8 THE COURT: State can call their next witness.

9 THE COURT: State calls: Darlene Heer.

10 MS. JONES: And, Your Honor, may we approach, briefly?

11 THE COURT: Darlene Heer?

12 MR. TOMSHECK: Yes.

13 THE COURT: Uh-huh.

14 [Bench conference begins -- transcribed]

15 THE COURT: Let the record reflect that both D.A.'s and both Defense  
16 Counsel are present at the bench. Ms. Jones.

17 MS. JONES: Your Honor, I apologize. I didn't realize that Mr. Tomscheck  
18 informed me that he intends to play Ms. Heer's 9-1-1 call during her testimony.  
19 In that call, she makes comments referencing that my client has a gun in the  
20 beginning of the call. By the end of the call, she says that he told her he had  
21 it, but she never saw it.

22 THE COURT: Okay.

23 MS. JONES: It's our opinion -- it's our position that those are improper  
24 bad acts that they're bringing in because the gun has absolutely no relevance  
25 to this case. This is about an arson and a burglary. They're saying he went in

1 there. They're saying he burned the place down. That has nothing to do with  
2 a gun. I think it's extremely prejudicial for her to say that he's had a gun, that  
3 he told her he has had a gun. And she says: He's had one in the past. So  
4 she's basically --

5 THE COURT: Okay. So, basically, the 9-1-1 operator says, like they  
6 always do: Are there any weapons? Does the person that you're reporting  
7 about have any weapons in the house or access to weapons?

8 MS. JONES: No; she says he has the gun. She says he has a gun when  
9 she initially called, and then at the end of the call, the 9-1-1 --

10 THE COURT: Was she asked the question by the 9-1-1 operator?

11 MR. TOMSHECK: Yeah, she asked --

12 MS. JONES: She said: There's a subject outside with a gun.

13 MR. TOMSHECK: She asked repeatedly: Did you actually see a gun?  
14 Does he have a gun? And she says: No; but he told me he did. And what she  
15 will testify to is --

16 THE COURT: Okay.

17 MR. TOMSHECK: -- at 6:45 she sees him. He says: I'm going to kill my  
18 wife; I've got a gun.

19 THE COURT: Okay.

20 MS. JONES: And Judge, I believe that that's an improper bad act, Your  
21 Honor. Shalana's not dead as we all saw yesterday, and Ms. Heers is going to  
22 testify about that. She never saw a gun, and I think those are bad acts that are  
23 being brought in to prejudice my client.

24 THE COURT: And it's going to be real clear and then recall that she  
25 never saw a gun.

1 MR. TOMSHECK: She's going to testify to it and it's going to be in the  
2 calls log.

3 THE COURT: Okay.

4 MR. TOMSHECK: She didn't see it, but he said, yeah.

5 THE COURT: And she -- and you're going to make it real clear on direct,  
6 she never saw a gun?

7 MR. TOMSHECK: Right.

8 THE COURT: And you'll be able to take it up on cross as well. Okay?

9 MS. JONES: And --

10 THE COURT: And your objection's noted.

11 MS. JONES: Okay. And then can -- oh, you're recording this; I know.

12 THE COURT: Okay. So, basically, you're objecting to the entire 9-1-1  
13 call?

14 MS. JONES: I'm objecting to any reference she makes to my client  
15 having a gun, and that she's seen that gun in the past as a bad act.

16 THE COURT: Okay. So she's not going to make any reference to that in  
17 her testimony --

18 MR. TOMSHECK: To seeing a gun?

19 THE COURT: -- except it's in the -- it's in the 9-1-1 tape?

20 MR. TOMSHECK: To seeing a gun? She's going to say that she goes to  
21 see him in the car, says: What are you doing here? He says: I'm here to kill  
22 my wife; I've got a gun.

23 THE COURT: On that date?

24 MR. TOMSHECK: Right.

25 THE COURT: Okay.

1 MR. TOMSHECK: At the exact time the fire started.

2 THE COURT: But does he show her a gun?

3 MR. TOMSHECK: No.

4 MS. JONES: No.

5 THE COURT: Okay.

6 MR. TOMSHECK: But I think he actually does show it to the kids she  
7 talks to.

8 MS. JONES: But that's hearsay, but that's a different issue.

9 THE COURT: Okay. But that's hearsay unless you can find a way to get  
10 that in. I mean, you're not going to try to get her to testify about what the  
11 kids told her?

12 MR. TOMSHECK: To certain things the kids told her, not about the gun;  
13 no.

14 THE COURT: Okay.

15 MR. TOMSHECK: And just so we're clear, the 9-1-1 call is actually a  
16 compilation on one disk. It's -- I think two calls from this witness, one call to  
17 this witness from the 9-1-1 operator and a little bit of dispatch to dispatch  
18 communication.

19 THE COURT: Okay.

20 MR. TOMSHECK: I've -- they've heard all of it.

21 THE COURT: Okay.

22 MR. TOMSHECK: The only objection they had -- and we talked about it  
23 this morning -- is to the reference of the gun, not to the admissibility of the  
24 calls, both.

25 THE COURT: Okay. And --

1 MS. JONES: Right, because her seeing him outside -- we don't have an  
2 objection to that. We just have an objection to her referencing that he has a  
3 gun and that she never saw it.

4 THE COURT: Right. And it's made very clear she never saw it.

5 MS. JONES: Right, right, and --

6 THE COURT: She clarified that.

7 MS. JONES: But it's irrelevant --

8 THE COURT: Okay.

9 MS. JONES: -- to this case that he had a gun. This case doesn't involve  
10 a gun. And I believe it's just a bad act that's being brought in to make him  
11 look bad.

12 THE COURT: It does involve a gun. I mean, we had testimony all day  
13 yesterday about how there was a gun in the house, when the police came; she  
14 gave the gun because she didn't want the gun in her house so --

15 MS. JONES: And another thing, Judge. That was the first time I'd ever  
16 heard that testimony. Shalana never testified about that at the Grand Jury, so  
17 I'm putting that together with Shalana's testimony yesterday. I think it's being  
18 brought in to prejudice my client and make him look bad; and I just don't think  
19 it's relevant to this case.

20 THE COURT: Okay. The objection is noted and you can proceed. Is  
21 there --

22 MR. TOMSHECK: She's here.

23 THE COURT: The witness outside?

24 MR. TOMSHECK: Yeah.

25 [Bench conference concludes]

1 THE COURT: Okay. Darlene Heer.

2 ***DARLENE HEER,***

3 being first duly sworn as a witness, testified as follows:

4 THE CLERK: Thank you. Please be seated. Please state your full name,  
5 spelling your first and last name for the record.

6 THE WITNESS: Darlene K. Heer. Darlene, D-A-R-L-E-N-E, Heer, H-E-E-R.

7 MR. TOMSHECK: May I proceed, Judge?

8 THE COURT: You may.

9 ***DIRECT EXAMINATION***

10 ***BY MR. TOMSHECK:***

11 Q Ma'am, I would like to direct your attention back to September of  
12 last year. Where were you living?

13 A At 1515 Laguna Palms, North Las Vegas.

14 Q Is that here in North Las Vegas in Clark County?

15 A Yes, sir.

16 Q And while you were living there, did you come to know the people  
17 that lived next door to you at 1519 Laguna Palms?

18 A I knew them slightly.

19 Q Okay. Had you met the mother of some children that lived in that  
20 residence?

21 A I had met her.

22 Q And that was Shalana Eddins?

23 A Yes.

24 Q And the children that lived there, how many children did you see or  
25 meet at that residence?

1 A I met four of them.

2 Q And at the time you were living there last year, was one of them  
3 younger than the others?

4 A Yes.

5 Q Okay. Had you ever had communications with Shalana Eddins prior  
6 to -- the date of September 30<sup>th</sup> of 2008?

7 A Slight communications. My roommate went over to help her a  
8 couple of times with her tires.

9 Q Okay. I want to direct your attention specifically to the day of  
10 September 30<sup>th</sup>. Did someone come to your door that evening?

11 A Yes.

12 Q And when they did, were you expecting them?

13 A No.

14 Q Who was it that came to your door?

15 A The three little boys that lived next door.

16 Q When you say the three little boys, are you talking about the three  
17 oldest of the four?

18 A I believe so; yes.

19 Q Okay. The youngest one that you had just previously mentioned  
20 was the youngest one with the other three?

21 A No.

22 Q Okay. So of the four children that you knew, the three oldest came  
23 to your door?

24 A Yes.

25 Q And did they knock on your door?

1 A Yes.

2 Q Did you agree to let them inside?

3 A Yes.

4 Q Did they indicate to you that someone had asked them to come to  
5 your house?

6 A Yes.

7 MS. JONES: Objection, leading.

8 THE COURT: Overruled. You can answer.

9 BY MR. TOMSHECK:

10 Q Who did they indicate had told them to come to your house?

11 A Their mother.

12 Q And based on talking to them, did you agree to let them in your  
13 house?

14 A Yes.

15 Q And approximately what time of day was that on September 30<sup>th</sup>?

16 A Around 5:00 o'clock in the afternoon.

17 Q Okay. While they were at your house, what were you and the  
18 children doing?

19 A Well, the children were sitting on the couch. We were just trying to  
20 figure out what to do with them, really, where they should go next or how to  
21 handle the whole situation.

22 Q Okay. Did you come to learn, from someone, that their mother  
23 wasn't able to come to the house right then?

24 A Yes.

25 Q And did you come to learn it was because she was having some



1 difficulty with her car?

2 A Yes.

3 Q While you were there with the children, did you have access to a  
4 window that would look out in the direction of their house?

5 A Yes.

6 Q And while you were doing that, were you and the children looking  
7 outside?

8 A Yes.

9 Q At some point, did one or more of the children indicate to you that  
10 they saw someone they recognized?

11 A Yes.

12 Q And what did they say?

13 MS. JONES: Objection, hearsay.

14 MR. TOMSHECK: Judge, it's a statement of identification made after  
15 perceiving the person.

16 THE COURT: Okay. Overruled and you can proceed.

17 THE WITNESS: The oldest boy pointed out to me, as we were peeking  
18 out of the curtains, that that was his dad out in the car parked in the street.

19 BY MR. TOMSHECK:

20 Q And based on what the oldest child said to you, did you look out  
21 the window?

22 A Yes.

23 Q And did you see a car in the street?

24 A Yes.

25 Q Did you stay inside or did you go outside at that point?