

1 carried my drink and ran all over the place.

2 Q Okay. So you would constantly be drinking?

3 A Yes.

4 Q But like it would take time for you to finish a
5 drink, you'd go get another one?

6 A Yeah. It would take me --

7 Q You would drink that one and kind of just keep
8 continually drinking? Would that -- is that a better --

9 A Yes.

10 Q -- assessments of what was going on?

11 A Yes.

12 Q Okay. So it'd be fair to say that, you know, you
13 have consumed four or five vipers over --

14 A At some --

15 Q -- a period of time?

16 A At some point, yes.

17 MR. CANO: No further questions, Your Honor.

18 THE COURT: Any redirect?

19 MR. LALLI: Just very briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. LALLI:

22 Q Ms. Broderway, do you remember telling the police
23 that you that D-Roc was claiming to be Red's pimp? Remember
24 that?

25 A Kind of.

1 Q Would it refresh your recollection to look at your
2 statement?

3 A Yes.

4 Q On page 54. Do you remember being asked why Red had
5 been beaten up?

6 MR. CANO: Objection to the speculation, Your Honor.

7 THE COURT: The question was?

8 MR. LALLI: Remember being asked that by the police.

9 THE WITNESS: Yes.

10 THE COURT: And so at this point the question is do
11 you remember. So --

12 MR. LALLI: Do you remember being asked that.

13 THE COURT: -- I'm overruling the objection because
14 we didn't get to the next step yet.

15 BY MR. LALLI:

16 Q What did you -- what did you tell the police in
17 response to that?

18 MR. CANO: Objection as to speculation.

19 BY MR. LALLI:

20 Q Well, did D-Roc -- did you hear D-Roc say why he had
21 beaten her up?

22 A I did.

23 Q Okay. What did D-Roc say?

24 A That she was one of his girls and that he had given
25 her some work --

1 Q Okay.

2 A -- and -- and she didn't have what he wanted.

3 Q Okay. So you actually heard the defendant say that?

4 A Yes.

5 Q Now, you --

6 MR. CANO: I'm sorry. Counsel, was that page 54?

7 MR. LALLI: Page 54, starting at line 7.

8 BY MR. LALLI:

9 Q Now, did you --

10 MR. CANO: Was that D-Roc that you're referring to?

11 Maybe I have a different page 54 than you, Counsel.

12 We're on the wrong pages, Judge. We're trying to
13 clarify.

14 THE COURT: Okay. All right.

15 MR. CANO: My 54 doesn't say what his 54 says.

16 THE COURT: All right. Are they the same
17 statements?

18 MR. DiGIACOMO: They are, Judge. He's got a four-
19 pack versus an individual -- I can find that for Mr. Lalli
20 fairly quickly.

21 THE COURT: You have the condensed transcript, and
22 he has a regular transcript.

23 MR. CANO: Yes.

24 THE COURT: Okay. You want us to do that now, or do
25 you want me to move on to a different area?

1 MR. CANO: Yeah. I was just trying to see what
2 you're talking about so I can recross.

3 BY MR. LALLI:

4 Q Now, when you kind of began your testimony we talked
5 about the first time that you were trying to locate Victoria
6 and you had found Rome. Do you remember that?

7 A Yes.

8 Q And you were in the vehicle with Rome?

9 A Yes.

10 Q And you talked about the things that Rome had said
11 to you about Victoria being -- working for him. Do you
12 remember that?

13 A Yes.

14 Q And so when Mr. Cano would ask you questions about
15 whether Rome was in fact Victoria's pimp, you had said no. Do
16 you remember that?

17 A Yes.

18 Q How do you reconcile the two of those? Was it --
19 did Victoria not want him to be, or --

20 A It was more like Victoria never really claimed a
21 pimp. She didn't really want one. She was a renegade kind
22 of.

23 Q A what? I'm sorry.

24 A A renegade.

25 Q A renegade.

1 A Yes.

2 Q Okay. But Rome was at least telling you that he was
3 her pimp?

4 A Yes.

5 Q All right. And finally I wanted to just talk about
6 the conversation at the -- at the gas pumps. Mr. Cano had
7 asked whether Rome was just talking about you wanting to find
8 Victoria and hurt her. Do you remember that?

9 A Him wanting me to find her?

10 Q Yes. When he was going to pay you a hundred dollars
11 to beat up Victoria.

12 A Yes.

13 Q Was he just talking about Victoria, or was he
14 talking about other people?

15 A He was talking about other people?

16 A He was talking about all the girls.

17 Q Do you remember what you had -- how you had
18 described what he said for the police?

19 A (No audible response)

20 Q Would it refresh your recollection to look at your
21 statement?

22 A Please.

23 MR. LALLI: It's on my 21, Mr. Cano.

24 MR. CANO: That's what Romeo said; right?

25 MR. LALLI: Yes.

1 MR. CANO: Okay.

2 MR. LALLI: May I approach the witness?

3 THE COURT: Yes.

4 BY MR. LALLI:

5 Q Do you remember what you told the police?

6 MR. CANO: And is this as to what Romeo was saying,
7 or what she thought the reason why --

8 MR. LALLI: What Romeo was saying to her.

9 THE COURT: Do you understand the question, ma'am?

10 THE WITNESS: I do.

11 THE COURT: Okay.

12 BY MR. LALLI:

13 Q Is that what Romeo said to you when he was sitting
14 in the car?

15 A Yes.

16 Q Okay. What did he say?

17 A He said, if -- can I cuss in here?

18 Q Yes. Well, just what you remember.

19 A He told me if I see them bitches to stomp them into
20 the ground and he would pay me a hundred dollars.

21 Q And what -- to use your terminology, what bitches
22 was he talking about?

23 A Christina, Victoria, and Red.

24 Q That's what you told the police?

25 A Yes.

1 Q Rome had said that to you?

2 A Yes.

3 Q And D-Roc was in the back seat of that car?

4 A He was.

5 Q Was Trey in the parking lot at the time?

6 A No.

7 Q Was Trey in that car?

8 A No.

9 MR. LALLI: Nothing further.

10 THE COURT: Mr. Cano, did you find that page?

11 MR. CANO: I did find it.

12 THE COURT: Okay.

13 RECROSS-EXAMINATION

14 BY MR. CANO:

15 Q Do you remember Mr. Lalli was asking you as to some
16 reasons why Domonic said that he had got into a fight with
17 Red?

18 A I do.

19 Q That series of questions. Do you recall if Domonic
20 was referring to the fight in April or not?

21 A April?

22 Q Yes.

23 A I don't know.

24 Q Okay.

25 A I don't --

1 Q Did Red ever tell you that she'd got into a fight
2 with Domonic in April?

3 A No.

4 Q Now, if I remember what you testified to, you said
5 that Domonic had gotten into a fight over her because of some
6 work.

7 A Yes.

8 Q That's drugs?

9 A Yes.

10 Q Correct?

11 A Yes.

12 Q Okay. So that wasn't over prostitution?

13 A No.

14 Q Works is not prostitution; correct?

15 A Correct.

16 Q And you said that Victoria was a renegade and she
17 didn't claim any pimps?

18 A Yes.

19 Q Would it be fair to say that maybe a lot of people
20 would try to say that they were her pimps but that wasn't
21 necessarily true?

22 A Yes.

23 Q Okay. And to your knowledge Victoria was not giving
24 her profits to any particular person?

25 A No.

1 Q She would keep those for herself?

2 A No.

3 Q She would not keep those for herself?

4 A No.

5 Q Okay. Was she giving it specifically to any person
6 that you know of?

7 A Sometimes to Romeo, and then sometimes she gave it
8 to other people.

9 Q Okay. And were you present when that exchange
10 happened between Victoria and Romeo?

11 A No.

12 Q Okay. So that's based on things that were told to
13 you?

14 A Yes.

15 MR. CANO: Since it's based on hearsay, Your Honor,
16 I'm going to ask that that, you know, be stricken from the
17 record.

18 THE COURT: Mr. Lalli.

19 MR. LALLI: I'll submit it to the Court's
20 discretion.

21 THE COURT: Ladies and gentlemen, you are instructed
22 to disregard the statement as far what Victoria may or may not
23 have said about where the profits went.

24 BY MR. CANO:

25 Q And you did know that Victoria did work for Trey;

1 correct?

2 A Worked for Trey?

3 Q Yeah.

4 A Kind of. Like I didn't think she really worked for
5 him like --

6 Q She would sell drugs for Trey?

7 A She -- every now and then she would run something
8 for him, yes.

9 Q Run something for him? Do you mean sell drugs, or
10 something else?

11 A Yeah, like make a delivery for him, take it
12 somewhere for him.

13 Q Okay. So she would work with him in the drug trade?

14 A Yes.

15 Q Do you know if Victoria worked with Black --

16 MR. LALLI: Your Honor, I'm going to --

17 BY MR. CANO:

18 Q -- with the long goatee?

19 MR. LALLI: I'm sorry. I'm going to object. This
20 is way beyond the scope of my redirect.

21 THE COURT: Sustain the objection.

22 BY MR. CANO:

23 Q Do you remember talking about something --
24 conversations that you had with Domonic?

25 A Yes.

1 Q Okay. You said that that was while he was inside
2 the car?

3 A Yes.

4 Q Regarding the family --

5 A Oh. Yes.

6 Q -- comment? Yes. All right. Do you remember --

7 THE COURT: Just so we're clear, Mr. Cano, you're
8 referring to at the gas station area?

9 MR. CANO: Yes.

10 THE COURT: Okay.

11 BY MR. CANO:

12 Q Do you remember also telling the police at some
13 point in time he walked up to you and said, what are you
14 supposed to do when you see me?

15 A Yes.

16 Q That wasn't at the gas station --

17 MR. LALLI: I'm going to object, Your Honor. This
18 is beyond -- this is beyond the scope. That's a different --

19 MR. CANO: Well, Your Honor, I think it was in
20 conjunction with that gas station.

21 THE COURT: Counsel approach.

22 (Bench conference)

23 THE COURT: Okay. Your objection is?

24 MR. LALLI: My objection is it's beyond the scope.

25 Nicolin describes other occasions seeing him, the defendant,

1 and he would come up to her and say, what are you supposed to
2 do when I come up to you, you're supposed to give me a hug.

3 MR. CANO: That's all I was trying to --

4 MR. LALLI: It's --

5 MR. CANO: I thought it was in the scope of the
6 time --

7 THE COURT: Are you relating to this day when she
8 sees --

9 MR. CANO: Yes.

10 THE COURT: -- and D-Roc and the two boys in the car
11 at the gas station area?

12 MR. CANO: Right. I believe that's what it relates
13 to, Your Honor.

14 MR. LALLI: I mean, she's talking about a completely
15 different incident.

16 THE COURT: Why don't you ask her ask her, any other
17 conversations at the gas station with --

18 MR. CANO: When he was outside the -- it wasn't in
19 the car, it was outside of the car.

20 THE COURT: Is this a different day, a different --

21 MR. CANO: No. I think it's the same time frame. I
22 think he thinks it's a different day.

23 MR. LALLI: It's a different -- I mean, the
24 conversation was in the car. I mean, this is something that's
25 going on inside the bar. It's a different --

1 MR. CANO: [Inaudible] later point in time or prior
2 to that car conversation. That's what I'm trying to get at.
3 My understanding of it is that it was that same time frame.

4 THE COURT: Without saying -- well, ask her,
5 anything else stated at the gas pump area in the car before --

6 MR. CANO: Well, it wasn't in the car. It was
7 outside of the car, but it was during that time frame.

8 THE COURT: Is that your -- you're saying it's
9 entirely different, it's in the bar area, or --

10 MR. LALLI: Yeah. It's something that happens when
11 -- what she's describing in that statement is when she would
12 be at Sportman's just in general he would come up to her and
13 say, hey, what are you supposed to do when you see me, give me
14 a hug, or something like that. It has nothing to do with what
15 occurred in the car.

16 MR. CANO: I don't know if it did or not. That's
17 why I wanted to ask her if that happened that day.

18 THE COURT: Well, he didn't ask about that day. He
19 asked about gas pump, gas pump area and the car area. You can
20 ask -- you can lay a foundation of your questions, we're
21 telling you the conversation either in the car or in the gas
22 pump area, did he get out of the car and talk to you in that
23 area and have a conversation.

24 MR. CANO: That area and the bar area are right next
25 to each other.

1 MR. LALLI: Your Honor, I'll just -- I think it'll
2 be -- I'll just withdraw my objection.

3 THE COURT: Okay. All right.

4 (End of bench conference)

5 THE COURT: All right. The State's going to
6 withdraw their objection.

7 Go ahead, Mr. Cano.

8 BY MR. CANO:

9 Q Do you recall having a conversation with Domonic
10 outside of the car, like in the bar area?

11 A Yes.

12 THE COURT: Well, just so we're clear, Mr. Cano, is
13 this the -- is this regarding the same day where she had a
14 conversation with individuals in the car by the gas pump area?
15 Is this the same day you're talking about?

16 BY MR. CANO:

17 Q Is that -- is that the -- is that when you had a
18 conversation with him?

19 A Yes.

20 Q Okay. And he said, what are you supposed to do when
21 you see me? Do you remember that?

22 A Yes.

23 Q And was that in reference to giving him a hug?

24 A Yes.

25 Q And did you give him a hug?

1 A Yes.

2 MR. CANO: Okay. Nothing further.

3 THE COURT: All right. Anything further, State?

4 MR. LALLI: Just one point.

5 FURTHER REDIRECT EXAMINATION

6 BY MR. LALLI:

7 Q Mr. Cano described the defendant having talked about
8 beating up Red in terms of a fight. Was -- when the defendant
9 told you that he had laid hands on Red did you get the
10 impression that it was a mutual fight, or it was him beating
11 her up?

12 A Him beating her up.

13 Q Did it -- did you get the sense that it was, you
14 know, a back and forth situation, or him putting a beating on
15 her?

16 A Him just beating her up. I didn't --

17 Q And that was based upon what the defendant had told
18 you?

19 A Yes.

20 Q Consistent with the injuries that she'd suffered on
21 her body that you saw?

22 A Yes.

23 MR. LALLI: Thank you.

24 Nothing else, Judge.

25 THE COURT: Mr. Cano.

1 FURTHER RECROSS-EXAMINATION

2 BY MR. CANO:

3 Q You weren't present when that happened --

4 A No.

5 Q -- correct?

6 A Correct.

7 Q So you're only hearing one side of what had happened
8 out there?

9 A Yes.

10 Q So you don't know if Red had hit or got into a fight
11 with Domonic?

12 A No.

13 MR. CANO: Okay. Nothing further.

14 THE COURT: Thank you.

15 Any questions by any jurors?

16 No questions.

17 Thank you, ma'am, for your testimony. You are
18 excused.

19 THE COURT: Who do we have next?

20 MR. LALLI: Dr. Kubiczek.

21 THE COURT: Okay. Let's take our break now, ladies
22 and gentlemen, the mid-afternoon recess. During this recess
23 it is your duty not to converse among yourselves or with
24 anyone else on any subject connected with this case or to
25 read, watch, or listen to any report of or commentary on the

1 trial by any person connected to the trial or by any medium of
2 information, include, without limitation, newspaper,
3 television, radio, or the Internet. You're not to form or
4 express an opinion on any subject connected with this case
5 until this matter is submitted to you. We'll see you back in
6 a few minutes.

7 (Jury recessed at 3:30 p.m.)

8 THE COURT: All right. We're outside the presence
9 of the jury panel.

10 Mr. Lalli, the doctor's testimony, is that going to
11 be the rest of the day?

12 MR. LALLI: Yes.

13 THE COURT: And will we make it, or they going to
14 have to come back tomorrow, or --

15 MR. LALLI: I hope we can make it.

16 MR. PIKE: Well, Your Honor, honestly, we're in a
17 position where we can stipulate to the identity of the two
18 girls that he did the autopsy on, the date and time he did the
19 autopsy, nature and cause of death. I don't -- the
20 photographs that we have are pretty gruesome. Unless they're
21 going to spend a lot of time going into detail about the
22 injuries and the rest of that, they can probably get through
23 it. I don't know if they're willing to enter into any
24 stipulations, but --

25 THE COURT: Okay. Well, I'm not going to force

1 anyone into a stipulation.

2 MR. PIKE: No. And I'm not suggesting that we
3 should. I'm just letting you know that I know that -- I
4 believe that the doctor's in from Reno.

5 MR. LALLI: He is.

6 MR. PIKE: So --

7 THE COURT: So, I mean, if -- worst-case scenario
8 we're looking at 5:30?

9 MR. LALLI: I would think.

10 MR. DiGIACOMO: Sure.

11 THE COURT: So, Cliff, you check with the jurors,
12 okay, or tell them. Do it more telling them, okay.

13 MR. PIKE: And if Your Honor could look at the
14 photograph, we can take care of that rather quickly.

15 THE COURT: The one that's in dispute or a couple in
16 dispute?

17 MR. PIKE: Well, let me make my record here.

18 (Pause in the proceedings)

19 MR. LALLI: Yeah. I'm not going to -- I'm not going
20 to offer it.

21 THE COURT: Okay.

22 MR. LALLI: These are the two groups of photos.

23 THE COURT: Okay. Mr. Pike, which ones are you
24 objecting to? Mr. Pike, can you look at these and --

25 MR. PIKE: Okay. Your Honor, we --

1 MR. DiGIACOMO: Maybe off the record informally just
2 because the defendant is using the restroom and not present,
3 and then we could do it on the record when he gets back,
4 Judge.

5 THE COURT: Is there going to be lengthy off-the-
6 record discussion of things? Go ahead and we'll do it
7 obviously when your client's here.

8 (Pause in the proceedings)

9 (Court recessed at 3:37 p.m. until 3:47 p.m.)

10 (In the presence of the jury)

11 THE COURT: All right. State, please call your next
12 witness.

13 MR. LALLI: Your Honor, the State calls Piotr
14 Kubiczek.

15 PIOTR KUBICZEK, STATE'S WITNESS, SWORN

16 THE MARSHAL: If you would have a seat, sir. Please
17 slide up to the microphone. And if you would please state and
18 spell your name for the record.

19 THE WITNESS: My name is Dr. Piotr, P-I-O-T-R,
20 Kubiczek, K-U-B-I-C-Z-E-K.

21 DIRECT EXAMINATION

22 BY MR. LALLI:

23 Q How are you employed, Doctor?

24 A I'm employed as assistant chief medical examiner at
25 Washoe County office of medical examiner coroner.

1 Q Where is Washoe County?

2 A Washoe County is a part -- northern part of Nevada
3 around Reno.

4 Q So you're a forensic pathologist in Reno?

5 A Yes.

6 Q How long have you been there?

7 A About four years now.

8 Q Back in May of 2006 where you -- where were you
9 working?

10 A I worked at Clark County officer of coroner and
11 medical examiner.

12 Q Were you also a forensic pathologist there?

13 A Yes.

14 Q Can you briefly explain the qualifications that you
15 have that allow you to do your job?

16 A First I had to complete my medical education, so I'm
17 a medical doctor, a physician. Then I had to complete my post
18 graduate education at the residency program, and this was
19 accomplished at the Ball Memorial Hospital in Muncie, Indiana.
20 And after five years of the training I proceeded to complete
21 my training in forensic pathology for one year in Dayton,
22 Ohio, at Montgomery County Coroner's Office.

23 Q How many years total have you been a forensic
24 pathologist?

25 A I've been practicing autopsy pathology for about 12

1 years now. I've been a forensic pathology eight years now.

2 Q Have you ever qualified as an expert in the courts
3 of Nevada as an expert in the area of forensic pathology?

4 A Yes.

5 MR. LALLI: Your Honor, at this point I would ask
6 that Dr. Kubiczek be allowed to render his opinions in the
7 area of forensic pathology.

8 MR. PIKE: We have no objection to that, Your Honor.
9 We also stipulate as to the identity of the individuals on
10 whom he performed the autopsies on in this case.

11 MR. LALLI: We'll accept that stipulation.

12 THE COURT: All right. Thank you.

13 MR. LALLI: Thank you.

14 BY MR. LALLI:

15 Q Can you briefly explain to the jury what is the
16 objective of forensic pathology? What do you -- what do you
17 try to do?

18 A Okay. First, I would like to explain the meaning of
19 pathology. Forensic pathology is a part -- it's a
20 subspecialty of pathology. Pathology is the study of diseases
21 in general. Now, forensic pathology is a study of diseases
22 and injuries and application of this knowledge at the court of
23 law.

24 So forensic pathology -- a forensic pathologist,
25 through his or her studies, including postmortem examinations,

1 review of medical charts, reviewing of investigative reports,
2 review of toxicology results tries to establish cause and
3 manner of death.

4 Q Okay. So when you say your objective is to
5 determine the cause of death and the manner of death?

6 A Yes.

7 Q What do you mean by the cause of death?

8 A Cause of death is basically illness or injury or
9 some pathology change that causes death, demise. The manner
10 of death, this is how a person dies. And examples of manner
11 of death are as follows. There's natural death, for example
12 due to cardiovascular disease. There is accidental death, for
13 example during motor vehicle collisions. There is suicidal
14 death where the manner of death is suicide, for example
15 somebody shoots themselves through the head. Then you have
16 homicides.

17 THE MARSHAL: Excuse me. Okay. Sorry.

18 THE COURT: Go ahead, Doctor.

19 THE WITNESS: Then you have homicide. We use very
20 simple terminology. Definition of homicide in forensic
21 pathology, it is basically death caused by action of others or
22 actions of others. We are not preoccupied with intent in
23 those cases.

24 BY MR. LALLI:

25 Q So will you call a homicide death when somebody

1 brings about the death of another person?

2 A Yes.

3 Q Okay. You indicated that one of the things you use
4 to do this is a postmortem examination; is that correct?

5 A Yes.

6 Q Is that another term for autopsy?

7 A Well, there are a few types of postmortem
8 examination. Autopsy is one of those types, one of the
9 postmortem examinations.

10 Q Briefly explain for us what an autopsy is.

11 A Autopsy is the ultimate physical examination. It
12 consists of external examination where we look at the surface
13 of the body to establish if there are any illnesses present on
14 the surface of the body or in -- we are also looking for
15 evidence of injuries present on the surface of the body. Then
16 we perform -- we open the body cavities and we perform
17 postmortem examination. And, again, we are looking for
18 evidence of illnesses and we are looking for evidence of
19 injuries.

20 Then we send out some samples of tissues or fluids
21 for toxicological studies. And then after reviewing the
22 investigative reports, reviewing the findings during the
23 autopsy, and reviewing the toxicology testing, then we
24 establish what is the cause and manner of death.

25 Q As part of the autopsy procedure that you utilize,

1 do you prepare a report?

2 A Yes.

3 Q And the report memorializes the autopsy that you
4 performed?

5 A Yes.

6 Q And also as part of the autopsy protocol, is the
7 body of the decedent photographed?

8 A Yes.

9 Q Now, in anticipation of testifying in this case did
10 I send you a compact disk up in Reno containing photographs
11 related to the autopsies of Victoria Magee, which occurred on
12 May 21, 2006, as well as the autopsy of Charlotte Combado?

13 A Yes.

14 Q So the CD contained numerous photos of both
15 autopsies?

16 A Actually, there were two CDs containing --

17 Q Okay.

18 A -- photos in both those -- both separate cases.

19 Q All right. And did I ask you of all the photos that
20 were sent to you to select just the photos that you think were
21 necessary to adequately explain the injury suffered by both
22 decedents?

23 A Yes.

24 Q And did you and I review those photos in both cases
25 this morning?

1 A Yes.

2 Q So the photos that we reviewed are the photos that
3 you specifically selected?

4 A Yes.

5 Q Okay. I want to talk first about the autopsy of
6 Victoria Magee. Where was the autopsy conducted?

7 A The autopsy was conducted at Clark County Office
8 Coroner and Medical Examiner at Pinto Lane.

9 Q When an autopsy is conducted, are members of law
10 enforcement present?

11 A Yes, sometimes they are, especially if we are
12 dealing with homicides.

13 Q With respect to the autopsy of Victoria Magee, what
14 members of law enforcement were present?

15 A There were four people present. There were two
16 detectives from Henderson Police Department. It was Gary
17 Collins, Detective Gary Collins, and there was --

18 Q Was it Detective Mark Hosaka?

19 A That's correct. It was Detective Mark Hosaka
20 present as well. And then --

21 Q Were there crime -- I'm sorry. Were there crime
22 scene analysts Tammy Barber and Joy Smith also present?

23 A Yes.

24 Q All right. Can you describe with respect to the
25 autopsy of Victoria Magee the general condition of her body?

1 A The decedent was a well-developed, well-nourished
2 adult female, and a moderate state of decomposition. And she
3 did have multiple blunt force injuries, as well as sharp force
4 injuries.

5 Q And we'll talk about blunt force injuries and sharp
6 force injuries in a moment, but as part of the autopsy
7 protocol is the decedent weighed and measured?

8 A Yes.

9 Q What was Victoria Magee's weight?

10 A Her weight was 115 pounds.

11 Q And how tall was she?

12 A She was 65 inches, that's five feet and five inches.

13 Q 5'5".

14 A Right.

15 Q Okay.

16 MR. LALLI: May I approach the witness, Your Honor?

17 THE COURT: Yes.

18 MR. PIKE: While the doctor is looking at the
19 photographs, can I ask just two or three questions on voir
20 dire?

21 THE COURT: All right.

22 MR. PIKE: In reference to the photographs.

23 THE COURT: Okay.

24 MR. PIKE: Doctor, although you've gone through and
25 selected out specific photographs in relationship to specific

1 injuries to use as demonstrative in this case, those -- all of
2 those -- all of those injuries are contained within the report
3 that you prepared; isn't that correct?

4 THE WITNESS: Yes.

5 MR. PIKE: And you can describe those injuries in
6 detail based upon your report because those have been
7 preserved and dictated by you into that report?

8 THE WITNESS: Well, of course, I can describe them
9 in words. However, pictures speak a thousand words. And, you
10 know, I use lots of medical terminology which may not be
11 understood by jury members. And the problem is that if I go
12 into additional explanations what some of the terminology, you
13 know, means, we may not end until next week. Sorry, but --

14 MR. PIKE: We don't want to do that. But they --
15 they -- the photographs, you deal with dead bodies every day.
16 You're used to it. Part of -- part of being a forensic
17 pathologist is having a strong stomach. These photographs,
18 are they necessary for you to testify today or are they just
19 beneficial?

20 THE WITNESS: They are necessary to visualize the
21 injuries and extent of injuries. When I was picking them I
22 tried to really -- best way in one way to show those injuries
23 and, for example, just limit the internal photographs of the
24 internal examination to basically one photograph which is
25 showing the skull fractures.

1 MR. PIKE: Thank you very much, Your Honor.

2 THE WITNESS: Very specific ones.

3 THE COURT: All right. Thank you, Mr. Pike.

4 Go ahead, Mr. Lalli.

5 MR. LALLI: Thank you, Your Honor. May I approach
6 the witness again, Your Honor?

7 THE COURT: Yes.

8 MR. LALLI: Thank you.

9 BY MR. LALLI:

10 Q Dr. Kubiczek, for the record I'm showing you what we
11 have marked as State's proposed Exhibits 201, 202, 203, 204,
12 205, 207, 208, 209, 210, 211, and 212. Can you look at those?

13 A Yes.

14 Q Are those the specific photographs you selected in
15 order to discuss the autopsy of Victoria Magee?

16 A Yes.

17 Q Are those fair and accurate depictions of the
18 condition of her body when you observed it?

19 A Yes.

20 MR. LALLI: Your Honor, I'd move for the admission
21 of those exhibits.

22 MR. PIKE: Your Honor, we would -- the defense would
23 object based on prejudicial impact exceeds the probative
24 value.

25 THE COURT: They'll be admitted over the objection.

1 (State's Exhibits 201-205 and 207-212 admitted)

2 MR. LALLI: Thank you, Your Honor.

3 BY MR. LALLI:

4 Q Doctor, first I'd like to talk to you about tattoos.

5 Did you observe any tattoos on Victoria's body?

6 A Yes.

7 Q Can you describe them for us?

8 A There were three tattoos present on -- present on
9 the upper back.

10 Q Okay. I'm going to display State's Exhibit 208.

11 Are we seeing the tattoos in this photograph?

12 A Yes.

13 Q Now, before I get to the tattoos, does there appear
14 to be a placard in the photograph?

15 A Yes.

16 Q What is the placard?

17 A That's a label from the coroner's office. Basically
18 it states that this was the year 2006, that's what 06 means,
19 2006. Dash 4156, number 4156 indicates that's the case number
20 for this -- for that particular year.

21 Q So the placard identifies this photo with this
22 particular coroner case number?

23 A Yes.

24 Q All right. Describe the photograph or the tattoos
25 that you observed on Victoria Magee's back.

1 A The photograph represents the upper back. And we
2 can see three tattoos. This is decedent's left side. This is
3 decedent's right side. And this is the posterior aspect of
4 the neck. Posterior means back aspect of the neck. So on the
5 left side of the back, upper back, you have the Maltese cross
6 with flames, then you have a tattoo representing the name
7 Nicolin, and then you have on the right side of the upper back
8 you have a black, blue, and orange tattoo representing a
9 butterfly.

10 Q Okay. Now, I want to ask you if you observed any
11 evidence of injury on Victoria's head and neck.

12 A Yes.

13 Q You talked about blunt force injury and sharp force
14 injury. Let's talk about blunt force injury first. What is
15 that?

16 A Blunt force injuries are injuries caused by blunt
17 objects like a baseball bat, a pipe. Sharp force injuries are
18 the injuries caused by sharp objects like a knife. Now, blunt
19 force injuries mostly consist of abrasions, abrasions, those
20 are scrapes of the skin, contusions, bruising, and
21 lacerations. Lacerations are tearing of the surface of the
22 skin with underlying soft tissue.

23 Lacerations at first glance may look like cuts, but
24 when we look closer you will notice that lacerations have
25 irregular edges. In case of cuts, the wounds have very nice

1 straight edges. And also inside the laceration you may see
2 what is called tissue bridging, it's little strands of tissue
3 connecting both sides of the wound, and this is in case of
4 laceration.

5 Q Now, when you observed Victoria's body, I want to
6 just focus on her head for a moment, is this the condition of
7 her head, so in other words hair attached?

8 A Yes.

9 Q Did you remove her hair for any purpose?

10 A After we took photographs of the head, we removed
11 the hair.

12 Q And were you able to observe injury, blunt force
13 injury on her head?

14 A Yes.

15 Q Okay. I'm going to show you State's Exhibit 208.
16 Can you explain for us what we're seeing here?

17 A This photograph represents the right back aspect of
18 the head and neck. Now --

19 Q Can you describe the injury contained in the
20 photograph?

21 A So you can see the right side here including right
22 ear. Then we have multiple lacerations, again, tearing of the
23 tissue of -- tearing of the skin with underlying soft tissue.
24 So we have lacerations here, which is right parietal right
25 skull. Here is near the apex of the skull. This is irregular

1 laceration of the left parietal scalp.

2 This is laceration of the occipital scalp. This is,
3 again, laceration of the right aspect of the occipital scalp.
4 And this is laceration of the right aspect of the neck. Then
5 here you can see there are actually four abrasions which are
6 parallel. Then, again, here there's another laceration of the
7 left aspect of the occipital scalp.

8 That's many injuries of the head and neck. A lot of
9 them they overlap, so you may see in very -- very closed --
10 close vicinity presence laceration, abrasion, and contusion.
11 Therefore, in my report I divided all those injuries or groups
12 of injuries into nine different -- 19 different points, 19
13 different groups or injuries just so it's easier to represent
14 them in my report.

15 Q So when you say there's 19 different groups or areas
16 of injury, and you -- you've identified some of those for us,
17 does each one of those represent a separate infliction of
18 either blunt force or sharp force injury?

19 A Well, I cannot say that because, again, those
20 injuries overlap. And some of them they may be a single blow
21 to the back of the skull. However, there are areas, again,
22 where the injuries overlap, so there may be actually more than
23 one blow to that particular area.

24 Q Okay. Now, I want to show you the other side of her
25 head. Can you please describe the -- can you describe the

1 injuries we're seeing there?

2 A This photograph represents the left aspect of
3 decedent's head and neck. And you can see here, again,
4 lacerations of the left parietal scalp. Here is a laceration
5 of the left aspect of the occipital scalp. You can see that
6 this laceration penetrates into the skull.

7 Again, here is another laceration. Here are two
8 parallel abrasions present on the left posterior aspect of the
9 neck, and here -- sorry. I pushed the wrong -- sorry. Here
10 we have the sharp force injuries present on the left aspect of
11 the neck.

12 Q Okay. Can you explain for us what a pattern injury
13 is?

14 A A pattern injury is a type of injury that has
15 features that corresponds to the -- either the shape of the
16 object or the surface that cause -- that caused it.

17 Q Did you observe any evidence of pattern injury on
18 Victoria's head?

19 A My opinion those four abrasions that are present on
20 -- on the right lower aspect of the neck maybe called
21 patterned injury.

22 Q What about the injury to her head?

23 A Most of the time those are irregular or linear
24 lacerations. They don't have a particular pattern. There is
25 a group of those two abrasions that are parallel that involve

1 the left lateral aspect of the neck. This is very consistent
2 with injuries caused by long and round or long oblong object
3 like a pipe, a rod.

4 Q Okay. Let's -- we'll go to that injury. I'm going
5 to show you State's Exhibit Number 211. When you talk about
6 parallel pattern injury, what are you talking about?

7 A Again, this is an up close photo of the posterior
8 aspect of the neck.

9 Q So the back of her neck?

10 A That's correct. So here we can see the -- two
11 parallel abrasions present on her neck, on back of her neck.
12 And then here you can see that group of those four abrasions
13 on the right back aspect of the neck.

14 Q So you talk about how something linear such as a rod
15 could have caused that injury?

16 A Yes.

17 Q And how would -- how would a rod or some instrument
18 leave that sort of an injury there?

19 A You know, basically there's -- this is the site of
20 impact --

21 Q Okay.

22 A -- of the rod or pipe.

23 Q Okay.

24 MR. LALLI: May I approach the witness?

25 THE COURT: Yes.

1 BY MR. LALLI:

2 Q Doctor, I'm going to show you State's proposed
3 Exhibit Number 190.

4 MR. PIKE: It -- it hasn't been admitted yet, Your
5 Honor, but we have no objection to it being admitted so that
6 this witness can refer to it.

7 THE COURT: All right. 190 will be admitted.

8 (State's Exhibit 190 admitted)

9 MR. LALLI: Thank you, Mr. Pike.

10 BY MR. LALLI:

11 Q Let me just publish this. With respect to State's
12 Exhibit Number 190, could this object have caused the linear
13 injury on the back of Victoria's neck?

14 A Yes.

15 Q Now, with respect to -- going back to her actual
16 head. As part of the autopsy procedure, is the skin of the
17 head pulled back and removed?

18 A Yes. The scalp is cut and deflected so then we can
19 cut the skull and open it to view inside of cranium and,
20 again, check for the injuries inside there, check for
21 illnesses.

22 Q When you did that in this case were you able to
23 match up injury on the scalp with the external injuries that
24 were seen on Victoria's head?

25 A Yes.

1 Q Okay. I'm going to show you State's Exhibit Number
2 212. Can you explain for the jury what we're seeing there?

3 A Basically this is upper part of the skull.

4 Q Can you show us --

5 A After we removed the --

6 Q -- on your head --

7 A -- after we remove the scalp, after we deflect the
8 scalp, we cut the skull around using a Stryker saw. It's a
9 special saw to cut the bone. And then we remove the upper
10 part of the skull. And this photograph shows the upper part
11 of the skull. This is the front and this is the back of the
12 skull. So we removed the upper part of the skull and it's
13 basically sitting upside down right now. And we can see here
14 two depressed fractures of the skull.

15 Basically this fragment of the bone fell out from
16 this area in the moment when we were removing this part of the
17 skull, so it's our artifact, artifact of the autopsy. Then we
18 can see other fractures of the -- this part of the skull. We
19 can see very thin linear fractures running through the left
20 and right parietal bones, left and right bones that constitute
21 the skull, the parietal bones.

22 Q Now, you described the -- the shapes of the skull
23 fractures as oval, depressed fractures.

24 A Yes.

25 MR. LALLI: May I approach the witness, Your Honor?

1 THE COURT: Yes.

2 MR. PIKE: Same with this exhibit, Your Honor.

3 THE COURT: All right. So it'll be admitted then.

4 MR. PIKE: Yes.

5 (State's Exhibit 176 admitted)

6 BY MR. LALLI:

7 Q This, for the record, is State's Exhibit -- proposed
8 Exhibit 176. Have you -- I've shown you this before?

9 A Yes.

10 Q Okay. Doctor, I'm going to publish State's Exhibit
11 176. Does that appear to be the head of a golf club?

12 A Yes.

13 Q Could this object have caused the oval injuries to
14 Victoria's scalp?

15 A Yes.

16 Q Okay. And how -- how do you come to that
17 conclusion?

18 A Basically the -- the cross section of the object
19 that caused those punched out fractures or depressed fractures
20 has to be oval. And so for example when you look at the sum
21 of the parts of the head of this base -- this golf club, they
22 may have actually the oval shape. But, of course, other
23 objects have this type of cross section may be the cause of
24 those injuries, but --

25 Q Okay. You can't say for certain this golf club was

1 used, but it could have been used.

2 A Yes, could've been.

3 Q All right. Where is a person's hyoid bone?

4 A A hyoid bone is present in upper neck.

5 Q All right. I'm going to show you State's Exhibit
6 Number 201. Did you observe any evidence of injury to
7 Victoria's hyoid bone?

8 A Yes.

9 Q Can you describe that for us?

10 A The hyoid bone was fractured. To be more precise,
11 the left ramus or left part of the hyoid bone was fractured.
12 There was also a hemorrhage surrounding that area indicating
13 that this injury happened in perimortem time.

14 Q What is perimortem time?

15 A It's the time around death.

16 Q And what -- what causes the hyoid bone to be
17 fractured?

18 A It's basically seen very often in strangulation,
19 particularly manual strangulation. But also this fracture may
20 be caused by other reasons like blunt force injury of this
21 particular area of the neck.

22 Q Blunt force injury meaning something striking that
23 area of the neck?

24 A Yes.

25 Q Which causes the hyoid bone to fracture?

1 A Yes.

2 Q Okay. Did you -- you talked a little bit about
3 sharp force injuries. Did you see or observe sharp force
4 injuries on Victoria's body?

5 A Yes.

6 Q I'm going to zoom into State's Exhibit 209. Are we
7 seeing sharp force injuries here?

8 A No, this is actually right aspect of the decedent's
9 head.

10 Q Here we are. Let me zoom back out. For the record
11 we're looking at State's Exhibit 210.

12 A Those are actually, again, those abrasions we were
13 talking about, and this is a laceration, actually, in this
14 area. The injuries, the sharp force injuries, to be precise,
15 stab wounds were present on decedent's left side of the head
16 and neck. So it would be the opposite side from --

17 Q Okay.

18 A -- this photograph.

19 Q Let me bring these up to you so you can --

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

21 THE COURT: Yes.

22 BY MR. LALLI:

23 Q Okay. State's Exhibit Number 209.

24 A Here's left -- this photograph shows the left side
25 of the decedent's head and neck and the stab wounds present

1 are here, the three stab wounds. And this was -- one of them
2 was behind the left ear.

3 Q Okay. Did you observe evidence of injury on the
4 decedent's chest and abdomen?

5 A Yes.

6 Q Okay. I'm going to show you State's Exhibit Number
7 202. What are we seeing there?

8 A Basically there was a contusion of the left aspect
9 of the abdomen. Those changes we can see here, most of those
10 are post -- those are decomposition changes. This is, of
11 course, purple, green discoloration of the skin. There's a
12 skin blistering and slippage, and then you have -- you have
13 this web-like pattern on the decedent's body. This is called
14 marbling. It's basically this is created by decomposing blood
15 present in decedent's vessels.

16 Q Okay. What are we seeing in State's Exhibit Number
17 203?

18 A Those are basically the lower part of the body.
19 And, again, you can see the decomposition changes that I
20 mentioned. And then there are -- there are abrasions of
21 decedent's left knee, and abrasion of the anterior aspect of
22 right thigh.

23 Q And do you consider those abrasions to be blunt --
24 is that blunt force trauma?

25 A Yes.

1 Q Okay. Now, as part of the examination, do you
2 complete a toxicology analysis?

3 A Yes, we draw fluids, available fluids and tissues
4 for toxicology studies. In this case we obtained
5 decomposition fluid that was present in decedent's body
6 cavities, and then we obtained the liver tissue and we sent
7 those specimens for toxicology studies.

8 Q And what were the results of the toxicology studies?

9 A Decomposition fluid was positive for cocaine and
10 benzoylecgonine. Benzoylecgonine is a metabolite of cocaine.
11 And then it was also positive for a small amount of alcohol.

12 Q When a body decomposes, is it common to see some
13 levels of ethanol or alcohol in the blood or in the bodily
14 fluids?

15 A Yes.

16 Q Is the amount of ethanol or alcohol that you -- that
17 was detected in this case consistent with what we would find
18 as part of the decomposition process?

19 A I mean, in this case there was 0.1 gram percent of
20 alcohol. And -- and this was -- this alcohol was present in
21 the decomposition fluid, so this could be either from
22 consumption of alcohol or from the fermentation that took
23 place in -- as a postmortem change or both. At this point I
24 cannot -- I mean, I cannot say if this alcohol was only due to
25 decomposition or only due to consumption. It may be actually

1 both, but I don't know that exactly.

2 Q Cocaine is not part of the decomposition process.
3 That's something that somebody would ingest.

4 A Yes.

5 Q Okay. Based upon the degree of the decomposition
6 that you observed, do you have any opinion as to an
7 approximate time frame of when the injuries occurred?

8 A Unlike in TV and CSI shows, forensic pathology
9 really very often we don't know exact date or time of death.
10 We can only use general terms. In this case I can only say
11 that the death occurred -- occurred between the -- when the
12 scene was found and time when she was last seen alive. And to
13 be a little bit more precise, the death occurred within days
14 prior to her being found.

15 Q Okay. So -- so days is really the time frame that
16 you can give us?

17 A Yes.

18 Q With respect to the injuries that she suffered on
19 her body, is it your opinion that they -- all of those
20 injuries occurred at approximately the same time?

21 A Yes. They happened around -- it was a perimortem
22 time interval.

23 Q Okay. Did you come to an opinion as to the cause of
24 death of Victoria Magee?

25 A Yes.

1 Q What was that?

2 A It was blunt and sharp force injuries due to
3 assault.

4 Q And how does -- how does one actually die as a
5 result of receiving those blunt force and sharp force
6 injuries?

7 A At least three factors come together causing death.
8 One, destruction of the organs or tissues, like in this case
9 there was intracranial hemorrhage. There was injury to the
10 brain. Then, two, loss of blood. Obviously all those
11 injuries cause loss of blood. And, three, the -- it's a shock
12 that arises from those injuries. So three of those elements
13 come together and cause death.

14 Q And about how long -- can you estimate how long it
15 would take somebody to die from the time those injuries were
16 inflicted until life actually left them?

17 A I can only say minutes.

18 Q Do you have an opinion as to the manner of death?

19 A Yes.

20 Q What is that?

21 A Homicide.

22 Q So death brought about by the actions of another
23 person?

24 A Yes.

25 Q Okay. Let's switch gears and talk about the autopsy

1 of Charlotte Combado. Did you conduct an autopsy on her body
2 later that same day, that same May 21st?

3 A Yes.

4 Q Were there similarly members of law enforcement
5 present for that autopsy?

6 A Yes.

7 Q And was Charlotte's body in the same degree of
8 decomposition as Victoria's body was in?

9 A Yes.

10 Q Did you weigh Charlotte? Did you weigh her?

11 A Actually, no.

12 Q Was she weighed by a member of the autopsy team?

13 A Yes.

14 Q Okay. What was her weight?

15 A Her weight was 128 pounds.

16 Q And how tall was she?

17 A 64 inches, so it was five feet and four inches.

18 Q Did you observe any tattoos on her body?

19 A Yes.

20 Q What did you observe?

21 A There was one tattoo present on her medial aspect of
22 the right ankle.

23 MR. LALLI: Actually, I don't think I've admitted
24 these. Can I approach the witness, Your Honor?

25 THE COURT: Yes.

1 BY MR. LALLI:

2 Q All right. Doctor, I want to show you what we've
3 marked as State's proposed 213, 214, 215, 217, 218, 219, and
4 220. Do you recognize those photographs?

5 A Yes.

6 Q Are those fair and accurate depictions of
7 Charlotte's body when you observed it during autopsy?

8 A Yes.

9 MR. LALLI: Your Honor, I move for the admission of
10 those exhibits.

11 MR. PIKE: Your Honor, would the Court incorporate
12 the voir dire questions as well as the objection previously
13 made?

14 THE COURT: Yes.

15 MR. PIKE: Thank you.

16 THE COURT: Yes, I will. They will be admitted over
17 objection.

18 (State's Exhibits 213-215 and 217-220 admitted)

19 BY MR. LALLI:

20 Q Did you observe both blunt force and sharp force
21 injuries on Charlotte's body?

22 A Yes.

23 Q Okay. I'm going to show you what we've now marked
24 as State's Exhibit 213. Can you describe what we're seeing
25 there?

1 A This photograph represents the left aspect of the
2 decedent's face, head, and left aspect of the neck. Here we
3 see the label with the case number at the base. And, you
4 know, this photograph is a type of ID photo we take after
5 cleaning the face. So this photograph was taken after
6 cleaning the face.

7 And here we can see the massive injuries involving
8 the face. Those darker areas, those are contusions, bruising.
9 So we have multiple contusions involving left aspect of the
10 face, medial aspect of the face. There is bilateral
11 periocular ecchymosis, meaning that -- there's other common
12 term for that is raccoon eyes basically. And this finding is
13 very often associated with fractures of either the bones of
14 the face or the base of the skull.

15 Then we can see also multiple lacerations, tearing
16 of the skin and underlying tissues, lacerations and contusions
17 and abrasions. Again, there are many blunt force injuries
18 involving the head and neck. They, again, overlap, so in my
19 report I represented those injuries or groups of injuries as
20 seven separate points, but just for the ease of presentation
21 of the findings.

22 And here you can see a sharp force injury, which is
23 in this case incised wound. It means cut. So the cut runs
24 across the -- the neck, anterior aspect of -- front aspect of
25 the neck. The wound was six inches long and about one inch

1 deep.

2 Q And with respect to that wound, what sort of damage
3 to the neck would that sort of injury inflict?

4 A One inch deep wound would go through soft tissues of
5 the neck, including important vessels like carotid arteries,
6 jugular veins, and other smaller vessels. This would cause
7 significant loss of blood.

8 Q If untreated, would the sharp force injury to
9 Charlotte's throat, would that result in her death?

10 A Yes.

11 Q If untreated, the blunt force trauma to her face,
12 would that in and of itself be sufficient to result in death?

13 A Yes.

14 Q As part of the autopsy, did you also pull back the
15 skin of her head?

16 A Yes.

17 Q Did you observe injuries to the bones of her face?

18 A Yes.

19 Q Can you describe that briefly?

20 A There were multiple fractures of the left aspect of
21 the lower jaw called mandible, left aspect of the mandible was
22 fractured. There were multiple fractures of her teeth on the
23 left side. There were fractures of the maxilla. Maxilla,
24 it's a bone that constitutes the upper jaw.

25 There was -- there was fracture of the left

1 zygomatic bone, which constitutes the left temporal area.

2 There were fractures, multiple fractures of bones constituting
3 the left eye orbit, so actually the left eye orbit was -- had
4 multiple fractures. There were multiple fractures of
5 decedent's nose.

6 Q Did you observe any evidence of injury to her
7 vertebral column?

8 A Yes.

9 Q Can you describe that for us?

10 A There was a fracture of the cervical vertebral
11 column at the C3 level. That's the mid aspect of the neck.
12 This fracture was accompanied by the hemorrhage within soft
13 tissues. And there was also compression of spinal cord in
14 this area.

15 Q So you indicated kind of the front of your neck area
16 when you were talking about the C3 that was fractured.

17 A Yes. I mean, I show it this way the level of C3.
18 But actually the vertebral column is in the back of our neck.

19 Q Okay.

20 A And supporting head and other important tissues and
21 organs within the neck.

22 Q You indicated that there was hemorrhage around that
23 injury?

24 A Yes.

25 Q What is the significance of that?

1 A Again, presence of the hemorrhage around this
2 fracture indicates that this happened around time of death.

3 Q Okay. And how -- how would you expect that area of
4 the vertebral -- vertebral column to be fractured?

5 A This may happen because of hyperextension, meaning
6 overextension of the neck. You may see this when very
7 significant force acts on the front of the face and causes the
8 overextension. You may see this, for example, in motor
9 vehicle collisions.

10 Q So if -- if a person were just standing upright and
11 a tremendous amount of blunt force trauma hit that person in
12 the head and it caused their neck to go back, would you expect
13 to see a fracture of the C3 area of the vertebral column?

14 A Yes.

15 Q Okay. I'm going to show you State's Exhibit Number
16 214. I'm going to try to put the light on again without
17 shutting the whole thing down. What -- what are we seeing
18 here?

19 A That's the photograph of the decedent's face, neck,
20 and front aspect of the -- her body, including upper
21 extremities.

22 Q Okay. I'm going to turn the top lights off.

23 A You can -- again, you can see decomposition changes
24 which are very similar to ones that you saw in the previous
25 case. The purple, green discoloration of the skin. The skin,

1 there are areas of blistering and slippage of the skin. And
2 then further down you may see marbling again of the skin.
3 There are also -- there's also sharp force injury, to be
4 precise an incised wound of the right aspect of the chest over
5 here.

6 Q Okay. Let me zoom into that. Let's see if we can
7 get a better view of that. Okay. I'm going to go back to
8 State's Exhibit Number 213, the -- just to give you and the
9 jury a little perspective. This is the head and neck photo?

10 A Yes.

11 Q And what are we looking at there?

12 A This is a superficial incised wound or cut of the
13 right upper aspect of the chest.

14 Q Okay. Now, with Victoria you removed the hair. Was
15 that also done with Charlotte?

16 A Yes.

17 Q Okay. What are we seeing in State's Exhibit Number
18 220?

19 A This is a photograph of the left lateral aspect of
20 the head and neck. And you can see -- it's a little bit out
21 of focus. I don't know if -- oh, that's better.

22 MR. PIKE: I'm sorry, Counsel. What was that number
23 again?

24 MR. LALLI: This is State's Exhibit 220.

25 MR. PIKE: Thank you very much. I'm sorry.

1 THE WITNESS: Okay. So this is mostly left side of
2 the head and neck. Hair is already removed, most of the hair
3 is removed, and you can see some of the blunt force injuries
4 of the part of the head and neck. So we have lacerations
5 involving the left parietal scalp. You can see also another
6 element of decomposition changes we saw in those two cases.
7 This is insect activity or basically maggots. See those
8 little white commas or points. Those are maggots.

9 BY MR. LALLI:

10 Q Okay. I'm going to show you State's Exhibit Number
11 217. What are we seeing here?

12 A This is a photograph representing the back of
13 decedent's head and neck and back. Again, we see
14 decomposition changes that I mentioned. And then there are
15 multiple abrasions present on the decedent's back. Those are
16 little abrasions. And there is an area of contusion, which is
17 bruising of the lower aspect of the back.

18 Q I'm going to show you State's Exhibit Number 218.
19 What are we seeing here?

20 A Here is a photograph of decedent's buttock and back
21 aspects of both thighs and low legs. And you can see here the
22 extensive contusions of the right and left buttock,
23 predominantly on the right side. Then you can see also the
24 changes like contusions of the right thigh. Sorry.

25 Q Okay.

1 A You can see the contusions present on the right
2 thigh. And, again, there are the composition changes as well.

3 Q With respect to the injuries on the buttocks, is
4 that the result of blunt force trauma?

5 A Yes.

6 Q Now, did you do a toxicology analysis in this case?

7 A Yes.

8 Q What were your findings?

9 A We sent out decomposition fluid and liver tissue.
10 And decomposition fluid showed a small amount of alcohol, and
11 also showed presence of methamphetamine, and liver showed
12 presence of methamphetamine and amphetamine.

13 Q With respect to the timing of your injuries, with
14 respect to the autopsy of Charlotte Combado, would the timing
15 of her injuries be consistent with the timing of Victoria
16 Magee's?

17 A I mean, they happened also in perimortem time,
18 perimortem period of time.

19 Q Okay. Do you have an opinion as to the cause of
20 death --

21 A Yes.

22 Q -- of Charlotte Combado? What is that?

23 A It is, again, blunt and sharp force injuries due to
24 assault.

25 Q And do you have an opinion -- well, let me ask you

1 this, with respect to the time that it would take Charlotte to
2 die from her injuries, is it the same as you've already
3 described for Victoria?

4 A I would say it's minutes.

5 Q Okay. And with respect to the manner of death, do
6 you have an opinion as to the manner of death?

7 A Yes.

8 Q What is that?

9 A Homicide.

10 Q Thank you.

11 MR. LALLI: Your Honor, that concludes direct
12 examination.

13 THE COURT: All right. Thank you.

14 Cross-examination, Mr. Pike?

15 MR. PIKE: Thank you very much, Your Honor.

16 THE COURT: All right. Thank you.

17 Cross-examination, Mr. Pike?

18 MR. PIKE: Thank you very much, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. PIKE:

21 Q Good afternoon, Doctor. Good to see you again.

22 A Good afternoon.

23 Q Welcome back to Vegas.

24 In reference to performing these autopsies, these
25 were performed at the coroner's office which is located here

1 just off of Shadow Lane over near the hospital there, isn't
2 it?

3 A Yes, it's located at Pinto Lane, right across the
4 Valley Hospital behind the UMC Center.

5 Q And when you receive a body for an autopsy you --
6 generally you receive some of the reports or medical records
7 if there has been any medical intervention?

8 A Yes.

9 Q In this case you didn't receive any medical records
10 because there was no attempts at medical intervention and the
11 body of these two young ladies was just brought to the
12 coroner's office?

13 A Yes.

14 Q The autopsy was not performed the same day that they
15 were brought in, but it was performed the next day; isn't that
16 correct?

17 A Yes.

18 Q And you placed the bodies into a cooler in order to
19 maintain the body -- the bodies and so you could do the
20 autopsy at some later time?

21 A Yes.

22 Q And you did that autopsy about 24 hours later?

23 A Yes.

24 Q There's also a purpose that's served when you place
25 a body into a cooler, isn't there? When you take a body from

1 a -- an area that's -- that may be subjected to sun, or to
2 warmth or anything like that, that when you place a body into
3 that cooler for a 24 hour period the body cools?

4 A Yes. And also the injuries become more pronounced.

5 Q So the -- they're easier for you to see and easier
6 for you to -- it assists you in performing the autopsy, seeing
7 the wounds and making a determination as to the cause of
8 death?

9 A Yes.

10 Q And it also -- they become more visible, so those
11 pictures taken a day later were more visible than they
12 would've been when the bodies were brought in?

13 A Yes.

14 Q When you go to perform the autopsy you don't
15 actually see the body in an unwashed condition, do you?

16 A Yes, I do.

17 Q Okay. Do you wash the body and prepare it for the
18 autopsy or is that done by your assistants?

19 A It's done by my assistants.

20 Q In this case did you make any notes -- or do you
21 recall whether or not there were any rocks, or dirt, or sand
22 that was on the legs or knees or either of these two bodies?

23 A I note there was dirt present on the -- on the
24 bodies, because we had to clean the bodies before -- we always
25 take photograph -- I mean, the assistants take photographs

1 before the body is cleaned with all the dirt and little
2 particles on the body surface. And after the body is cleaned.

3 So we did take photographs before and after and I
4 saw them.

5 Q And you examine the body from the very tip of the
6 head all the way down to the bottom of the feet?

7 A Yes.

8 Q You didn't note that there were any abrasions or any
9 cuts or tears or any injuries on the bottom of the feet, did
10 you?

11 A No, because of the decomposition changes, some of
12 the findings may be obstructed by the decomposition changes.

13 Q Okay. But after you washed it and you did examine
14 that portion of the body --

15 A Um-hum.

16 Q -- and it's not noted in your report that there was
17 any abrasions or cuts there?

18 A No.

19 Q In making a determination as to the -- well let me
20 ask a question about this. When you say that the bodies were
21 moderately decomposed was that in part because of the sun?

22 A It's because of our hot and dry climate. They were
23 moderately decomposed.

24 Q Hot and dry climate. How does the sun affect a body
25 that's exposed to the sun?

1 A It's basically it's drying. It's drying parts of
2 the body, especially feet and hands, sometimes face. But also
3 the sun, in particular elevated ambient temperature, causes
4 accelerated decomposition, meaning, disintegration of tissues.

5 Q So in taking that into account were you provided
6 with a copy of the weather report for the week, or weeks prior
7 to the time that you received these bodies to perform the
8 autopsy?

9 A I don't recall that, no.

10 Q When you say that -- when you give an opinion that
11 you can only give within days as far as the time of death, is
12 that one or two days, or two or three, or three or four?
13 What's -- can you give me kind of a parameter on either side?

14 A I can only say days, meaning less than a week.

15 Q So from the time that the bodies were brought in, it
16 was less than a week from the time of their death?

17 A Yes.

18 Q And because of the nature of the decomposition, as
19 well as the limitations that we have forensically at this
20 point in time, you can't say which of the two individuals died
21 first?

22 A No, I cannot say that.

23 Q When you go through and perform an autopsy, I note
24 that you weigh organs as they are removed. Do you look at
25 them to determine if there's any diseases that are in -- that

1 are affecting either of the two people that you performed
2 these autopsies on, did you note whether there was any
3 illnesses or medical conditions on either one of the two
4 girls?

5 A No, I didn't notice that.

6 Q Okay. So --

7 A I noticed the external and internal injuries. Both
8 ladies were both pretty young and well developed.

9 Q Okay. They appeared to, in all other aspects, to --
10 well to not be suffering from any illness or disease that you
11 could determine?

12 A Yes.

13 Q As part of your training and background as a doctor
14 and a forensic medical examiner, I assume that you have
15 training in reference to drugs and alcohol?

16 A We did obtain some training, however I'm not
17 certified in that field. So I can only give general
18 information that such and such drug is present in liver, or in
19 the decomposition fluid, but I cannot discuss the postmortem
20 redistribution of drugs, or their behavior postmortem general.

21 This is -- this morgue belongs to forensic
22 toxicologists.

23 Q Can you offer an opinion as to whether it's -- it's
24 a type of a medicine that -- or a type of amount in the body
25 that is not a medical -- a prescribed amount?

1 A I mean, could you --

2 Q Maybe -- let me ask --

3 A -- could you rephrase --

4 Q -- a better question.

5 A -- rephrase the question?

6 Q Yeah, let me ask a better question. Can you tell
7 that the -- the amount of cocaine that was located in
8 Victoria's body was 494 nanograms and the metabolite was 718
9 nanograms. That's a high amount of cocaine, isn't it?

10 A I mean, in my opinion, it's moderate. But again,
11 cocaine is elicit drug. There's only maybe one speciality --
12 medical speciality uses cocaine in their procedures as an
13 anesthesia medication, and those are ear and throat surgeons
14 who perform surgeries on nose and passage -- nose passages.
15 And they use cocaine as some sort of numbing medication.

16 Outside of that field I never heard now modern
17 medicine and one uses cocaine, so it's elicit drug. And it's
18 found in somebody's system indicates elicit use.

19 Q And in the autopsy that was performed on Charlotte
20 there was methamphetamine that was located in her body. And I
21 believe that amount was -- methamphetamine 938 nanograms and
22 the metabolite of amphetamine at 238 is found in the liver.

23 How would you characterize that amount of
24 methamphetamine?

25 A I mean, my opinion it's moderate. But again, I'm

1 not forensic toxicologist. And, you know, interpretation of
2 the amounts -- those amounts really in postmortem environment
3 belongs to the forensic toxicologist.

4 Q In determining the date and time of a death you'll
5 often look to wounds or injuries to try and date those wounds
6 or injuries, don't you?

7 A Well, dating injuries, especially blunt force
8 injuries, including lacerations, abrasions, contusions, it's
9 very complicated. And actually, many experts in forensic
10 pathology do not agree on how to date those injuries.

11 So very often when it comes for some -- to
12 contusions, they are dated recent or remote. There are some
13 people attempting dating lacerations, for example. However,
14 again, the experts do not agree on how to do that really. And
15 lots of those dating procedures are very subjective.

16 So, I encountered in literature just using the
17 terminology, if it's a person perimortem, or a recent -- right
18 before death, or it's remote, meaning, there's some evidence
19 of healing like scabs, or some other changes.

20 So, again, unfortunately we cannot really date
21 especially blunt force injuries. We can -- we had -- we have
22 to use just general terms, again.

23 Q General terms. And specifically in this case, the
24 -- all of the injuries were what you would call perimortem, at
25 or near the time of death?

1 A Yes.

2 Q And let me ask you a little bit about blunt force
3 trauma. And there were a number of injuries that you
4 indicated that were blunt force trauma to the head, both of
5 these ladies; is that correct?

6 A Yes.

7 Q And blunt force trauma is similar to getting punched
8 by a boxer or getting hit with a bat. I think you used that
9 as an example?

10 A Yes.

11 Q When someone is struck or hit in -- against the head
12 the mechanism often causes the brain to either force itself
13 back against the inside of the skull or otherwise causes it to
14 lose consciousness?

15 A There may be a loss of consciousness but it's not
16 it's not the rule. It may or may not be.

17 Q Your forensic capabilities are limited. You cannot
18 tell whether or not there was a loss of consciousness upon a
19 first strike, or whether -- whether it was ultimately the
20 individuals just passed away without ever losing
21 consciousness?

22 A Yes, I don't know that.

23 Q There -- also limitations to forensic science often
24 prohibits you or does not enable you to say who, in the case
25 of a homicide, may have caused the death of another person?

1 A Yes.

2 Q And you can't tell how many people were involved in
3 a homicide, can you?

4 A No.

5 Q You -- in making a determination in relationship to
6 this you also can't determine whether or not the person that
7 was committing the homicide, death at the hands of another,
8 whether they were right-handed or left-handed?

9 A Yes. I cannot say that.

10 Q Cannot for that. And you can in examining a body, I
11 guess, determine whether or not there is any blood left in
12 that body or whether or not the blood has dissipated from the
13 body. Can you do that?

14 A Well, definitely there was some blood left because
15 -- in the body because they was decomposing and showing up as
16 a marbling on the skin surface. So there was some blood. But
17 there was not enough for us to collect it and test, for
18 example, for the drugs.

19 So instead of using blood we couldn't obtain in
20 reasonable amounts we tested decomposition fluid and liver
21 tissue.

22 Q In fact, when there is a body that oft times a body
23 may be found in a decomposing position there's a lividity or
24 blood that flows down to the lower parts of the body. For
25 instance, if I was to pass away from a heart attack and fall

1 to the floor here, after a couple of days the blood in my body
2 would start to seep down to the lower parts of my body,
3 wouldn't it?

4 A Yes.

5 Q And you didn't see that in these two bodies that you
6 performed the autopsies on?

7 A Well, I saw the other decomposition changes. But I
8 think -- may I check this?

9 Q Sure. Absolutely. Yeah, what you're referring to
10 is your autopsy report --

11 A Yes.

12 Q -- to refresh your recollection? And that's been
13 provided to the State, as well as a copy to the defense.

14 A Yes, actually I did find this dark discoloration of
15 the skin over the posterior surfaces of the body. So that may
16 indicate the presence of the lividity. But it's -- it may not
17 be as well visualized like in bodies that have been dead for
18 12 hours.

19 Lividity appears even in live person when the
20 cardiovascular system starts to fail, right before their
21 death, and it's called cemetery rose [phonetic]. If anyone
22 sees that, now we can know that it's indicating a
23 cardiovascular failure and it's near death.

24 Over time, after death, lividity gets fixed and then
25 becomes a part of the decomposition changes. So sometimes it

1 becomes much, much harder to see that.

2 Q And in -- also some restrictions you have, at least
3 in the aspects of these bodies that were presented to you, you
4 cannot tell, for instance, in Charlotte's -- the autopsy of
5 Charlotte whether or not the fracture was pre or postmortem.
6 You can just say that it was at or near the time of death?

7 A Yes. I can only say that they were perimortem.

8 Q Nor can you go through and outline the order in
9 which the injuries were caused and which one ultimately caused
10 the death?

11 A Yes, I can -- that's right.

12 Q Okay. And it's a little bit different when you deal
13 with bruising. Have you ever had -- have you ever been called
14 upon to date an injury based upon the bruising that is
15 present?

16 A No.

17 Q Would you feel comfortable looking at a bruise and
18 telling me approximately how old that bruise is?

19 A No. Again, the experts use terminology recent or
20 remote and nothing else.

21 Q Okay. So, this has been admitted as State's
22 proposed -- well, State's Exhibit 125. Showing you that
23 bruise, can you tell me whether or not that is just one
24 bruise, two bruises, or how old it is? Or would you not feel
25 comfortable in offering an opinion?

1 A May I ask what case is this, or is this case a live
2 person, or?

3 Q It's a live person.

4 A Well, when it comes to live -- changes in live
5 patients, you know, I -- it's really outside of my expertise.

6 Q And that may be affected by a lot of things such as
7 whether or not they're taking drugs, whether or not --

8 A Yeah.

9 Q -- they have blood thinners, whether or not they
10 suffer from other diseases or --

11 A Yes.

12 Q -- or even taking aspirin on a rather frequent
13 basis?

14 A Yes.

15 Q All right.

16 MR. PIKE: Court's indulgence.

17 (Pause in the proceedings)

18 MR. PIKE: I just have one or two more questions,
19 Your Honor.

20 THE COURT: Sure.

21 MR. PIKE: Thank you.

22 BY MR. PIKE:

23 Q Prior to the -- or observing the bodies prior to the
24 autopsy and prior to them being washed, did you have an
25 opportunity to see whether or not there had been any blood

1 droppings or blood -- blood evidence that you thought was
2 significant in this case?

3 A I mean, there was blood present on the body. It was
4 associated with -- with injuries. And there was, I
5 understand, photographed and documented before we cleaned the
6 body.

7 Q Were all -- was the blood from your review or the
8 observations of it prior to the body being washed significant
9 to show that -- let me rephrase the question. I'm going into
10 a compound question.

11 Was there any medical significance to the blood
12 insofar as your being able to say this injury was received at
13 this time, or this injury was received from this type of an
14 event?

15 A Could you rephrase the question, because --

16 Q Did all the -- did all the blood evidence that you
17 saw on the body appear to be just from the -- the bleeding
18 from the wounds, or was there any blood evidence that you feel
19 may have been associated with, for instance, blood spatter, or
20 blood splatter?

21 A I only saw the blood in association with the
22 injuries. Again, the studies of blood splatter are outside of
23 my expertise. So I could only see the blood present on -- on
24 the face, for example, one of the decedents, which was mixed
25 with the dirt and we cleaned her face to better visualize the

1 injuries underneath.

2 Q And you could not tell that the -- from your
3 forensic review you could not tell whether or not the bodies
4 had been placed into the desert prior -- after death or they
5 were there at or near the time of death?

6 A No, I don't know that.

7 MR. PIKE: No further questions. Thank you very
8 much, doctor.

9 THE COURT: Any redirect?

10 MR. LALLI: Just one.

11 REDIRECT EXAMINATION

12 BY MR. LALLI:

13 Q Dr. Kubiczek, did you ever go out to the scene where
14 the bodies were recovered?

15 A No. I only saw some photographs of the scene.

16 Q Okay. Thank you.

17 MR. LALLI: Nothing else, Your Honor.

18 THE COURT: Any recross, Mr. Pike, on that question?

19 MR. PIKE: I'm sorry?

20 THE COURT: Any recross?

21 MR. PIKE: No, with just the one question I'm
22 limited. I have none.

23 THE COURT: All right. Any questions by any of the
24 jurors? We do have a question by a juror. Counsel, approach.

25 (Bench conference)

1 THE COURT: Any objection by the State?

2 MR. LALLI: No.

3 THE COURT: Mr. -- okay.

4 (End of bench conference)

5 THE COURT: All right. Doctor, we have a question
6 by one our jurors.

7 In your opinion, could any of the blunt force trauma
8 be caused by a rock?

9 THE WITNESS: Yes, a rock is also a blunt object.

10 THE COURT: All right. Any follow-up by the State?

11 MR. LALLI: No, Your Honor.

12 THE COURT: By the defense?

13 MR. PIKE: Thank you.

14 RECROSS-EXAMINATION

15 BY MR. PIKE:

16 Q There was never any rock that was brought to you, or
17 demonstrated to you that would have any peculiar markings or
18 peculiar type of a shape such as the golf club that was shown
19 to you, that would give you a pattern upon which to match to
20 the injury, was there?

21 A No.

22 Q So while it may have been caused by a rock, you
23 can't say to a reasonable degree of medical certainty whether
24 it was caused by a rock, caused by a golf club, but you can
25 say that it was something that had a peculiar oval type shape?

1 A I mean, I can say those injuries were caused by
2 blunt force, blunt objects. One of them at least was round or
3 oval long object, a grout [sic] or a pipe, is what I can say.
4 But the other injuries I can only say they were caused by
5 blunt objects in general.

6 Q And that would include such things as a bat, a
7 shovel, or anything that may be -- may be used with force?

8 A Shovel is rather considered sharp force.

9 Q No, the flat side of it.

10 A Oh, flat side.

11 Q Okay.

12 A Oh, yes, that's --

13 Q All right.

14 A -- that's correct.

15 MR. PIKE: Okay. Nothing further.

16 THE COURT: Anything by the State?

17 MR. LALLI: Just very briefly.

18 FURTHER REDIRECT EXAMINATION

19 BY MR. LALLI:

20 Q Dr. Kubiczek, you described the oval injury as being
21 in Victoria's -- the top of her head, is that correct?

22 A You mean those two --

23 Q Yes.

24 A -- fractures, depressed fractures?

25 Q Yes, yes. So I want to talk about the injury to

1 Charlotte's face. Were those -- were there any type of
2 pattern injuries associated with those injuries of her face?

3 A No, I didn't see any pattern. Those were just
4 irregular lacerations, contusions, abrasions, massive
5 underlying skull -- I mean, bone fractures.

6 Q The fractures that you observed under the -- under
7 her skin, those were not pattern injuries in any way, were
8 they?

9 A No, they were just irregular.

10 Q Something irregular?

11 A Yes.

12 Q Okay. Thank you.

13 THE COURT: Anything further, Mr. Pike?

14 MR. PIKE: No, Your Honor.

15 THE COURT: Any further questions by any of the
16 jurors? No further questions.

17 Thank you, doctor, for your testimony. You are
18 excused.

19 Ladies and gentlemen, we're going to adjourn for the
20 evening. We're going to come back at 9:30 tomorrow morning.
21 Please have a safe drive home.

22 And during this evening recess it is your duty not
23 to converse among yourselves or with anyone else on any
24 subject connected with this case, or to read, watch, or listen
25 to any report of or commentary on the trial by any person

1 connected with the trial, or by any medium of information,
2 including without limitation newspaper, television the radio
3 or Internet. You are not to form or express an opinion on any
4 subject connected with this case until this matter is
5 submitted to you.

6 We'll see you back at 9:30 tomorrow.

7 (Jury recessed at 5:15 p.m.)

8 THE COURT: All right. We're outside the presence
9 of the jury panel.

10 As far as the schedule tomorrow how long does the
11 State -- I mean, how many witnesses do we have and where do
12 you think we're going to end up timewise?

13 MR. LALLI: Well, with the witnesses that we have
14 for tomorrow, I mean, we could conceivably go as late as the
15 Court wanted to go.

16 MR. DiGIACOMO: Or we can go as early -- I mean,
17 essentially we think we're going to get to Donny Herb
18 tomorrow. He's a two day witness either way.

19 So, you know, if it's 3:30 when we get to start
20 Donny, the Court might want to just break for the day. If
21 it's two o'clock then let's do some and then break for the
22 weekend.

23 THE COURT: We'll probably plan on breaking at 4:00
24 tomorrow, I think. We'll see how the day goes. But more than
25 likely in the four o'clock range.

1 I'll confirm this tomorrow for anybody. We're
2 looking at -- we're looking at Monday probably around 9:30.

3 MR. CANO: Tomorrow at 9:30?

4 THE COURT: Tomorrow, 9:30.

5 MR. CANO: And Monday?

6 THE COURT: Monday probably, but I'll know more
7 tomorrow for Monday.

8 MR. CANO: Okay.

9 THE COURT: But we're looking at 9:30.

10 MR. DiGIACOMO: Judge, we're still looking at
11 Tuesday at 10:00, right?

12 THE COURT: Yes.

13 MR. DiGIACOMO: I have a 9:00 o'clock I have to make
14 on Tuesday. But I think I'm good for Monday.

15 THE COURT: If anyone has anything for next week
16 give me the name, case number, Judge, etcetera and I'll do
17 what I can.

18 MR. PIKE: Thank you very much, Your Honor.

19 THE COURT: Thank you.

20 MR. LALLI: Thank you, Your Honor.

21 MR. DiGIACOMO: Thank you, Judge.

22 (Court recessed at 5:17 p.m., until the following day,
23 Friday, January 20, 2012, at 9:30 a.m.)
24
25

INDEXWITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>STATE'S WITNESSES:</u>				
Sarah Matthews	3	24	67/80	74
Nicolin Broderway (Jury is not present)	96* 98*	99*		
Nicolin Broderway (Jury is present)	122	145	187, 201	193, 202
Dr. Piotr Kubiczek	205	239	253, 255	254

****Outside the presence of the jury***

* * * * *

EXHIBITS

<u>DESCRIPTION:</u>	<u>ADMITTED</u>
Exhibits 47	9
Exhibit 69	131
Exhibits 140 and 141	62
Exhibits 142-144	13
Exhibits 145-151	63
Exhibit 176	223
Exhibit 190	221
Exhibits 201-205 and 207-212	215
Exhibits 213-215 and 217-220	231

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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KIMBERLY LAWSON

1 DiGiacomo, there is a potential issue with the next witness.
2 And by the way, what's her name?

3 MR. LALLI: Her name is Nicolin Broderway.

4 THE COURT: Okay.

5 MR. LALLI: She testified at the last trial.

6 THE COURT: All right. And what's -- either counsel
7 chime in as far as what the issue might be.

8 MR. CANO: Well --

9 MR. LALLI: Well, with respect to Nicolin -- and I
10 don't know if the Court recalls this from last time. But
11 Nicolin was present for some of the events in this case. She
12 knows the defendant.

13 And Nicolin is a convicted felon. And her -- one of
14 her felonies is a drug felony from 2006. And just very
15 briefly, what happens is that she is staying, I believe, in
16 the Sportsman's. And Metro does a -- they do a controlled
17 buy. Based upon that controlled buy, they serve a search
18 warrant on her apartment at the Sportsman's. And she is in
19 there with drugs.

20 Mr. Malone is also present in that unit. The police
21 take her out. They take Mr. Malone out. And the Metro
22 detectives asked Nicolin, you know, what the defendant was
23 doing in there, whether he was involved in the drugs.

24 In reality, they were the defendant's drugs. It was
25 the defendant's -- or certainly, would have been on the hook

1 for some of that stuff, legally.

2 They want Nicolín to agree to testify against the
3 defendant. And in exchange for that, they tell her, we'll
4 dismiss the charges, you'll be out of it. And it's the
5 standard, you know, police are always trying to get to the
6 supplier, to the supplier, to the supplier. She refused to do
7 that. She didn't want to do it.

8 And based upon that she gets arrested and suffers
9 her felony conviction. And she does have a felony conviction
10 from 2006, stemming from these events. The only reason -- and
11 I didn't know that before. Mr. DiGiacomo told me that Nicolín
12 had brought it up to him this morning.

13 So, I can tell the Court, that's not something that
14 I intend to get into in my direct examination. The only
15 relevance that I think it might have is we've heard Mr. Pike's
16 opening, and we've heard some of the other cross-examination.
17 And there is this theory that exists that maybe Trey is
18 somehow involved in these murders.

19 And my recollection from the previous trial is that
20 Nicolín was cross-examined on her allegiance to Trey. And the
21 suggestion is, she's going to lie, or she's not going to be
22 truthful in order to help protect Trey from any involvement in
23 this case.

24 If that's the thrust of the cross-examination here,
25 because it is Domonic Malone who's on trial, there is

1 relevance then to the fact that she has also tried to protect
2 this defendant before by not cooperating with the police, by
3 not telling the police of his involvement in that drug
4 incident, that drug event, so much so that she suffered her
5 first felony conviction as a result of it.

6 So, I don't -- again, I don't intend to go there.
7 There are ways I think that that fact could become relevant
8 based upon the defense cross-examination. So, out of an
9 abundance of caution, Mr. DiGiacomo and I felt we certainly
10 needed to tell the defense so they're aware that it's out
11 there and then they can proceed however they want. But I also
12 wanted the Court to be aware of it as well.

13 THE COURT: All right. Mr. Cano?

14 MR. CANO: Yes, Your Honor. I don't know if Mr.
15 Lalli had mentioned it. But I think that there -- it wasn't
16 just Mr. Malone that was inside that room. I think that Trey
17 was also inside of there, as well as some other person named I
18 think Jeff -- or I don't recall that name. But there were a
19 couple of other people that were inside of that room as well
20 regarding this incident. And we gathered that information
21 from speaking with Ms. Broderway just in the hallway right
22 now.

23 Now, as far as, you know, the relevance and the bias
24 that goes into this case, I mean, I'm not sure if it is. I
25 mean, my intent wasn't to go into any details of that

1 conviction, other than to obviously inquire -- the proper
2 [inaudible] that need to be inquired as to the fact that she
3 has a felony conviction, and what it's for, and when did it
4 happen, obviously.

5 And as far as what was testified to at the previous
6 trial and her statements, they contain some -- they contain
7 some knowledge of what -- they contain some statements
8 regarding from her activities, or from her involvement in this
9 that, you know, obviously she had been working for Trey, and
10 considers him some type of a boss or a bigwig. I think that's
11 a proper avenue. I don't think that necessarily opens the
12 door to any bias against Mr. Malone, per say.

13 As well as I think there's some areas in her
14 testimony where she had tried to contact Trey to see his
15 involvement in this case. Nothing about covering up for him,
16 or lying about him, to my recollection in here. But that
17 wasn't necessarily the intent. I mean, I think the things
18 that I mentioned are perfectly fine to go into, obviously, in
19 my cross-examination.

20 THE COURT: Well, are you going to get into issues
21 of her trying to protect Trey?

22 MR. CANO: That was -- that's not necessarily my
23 intent to go into that area. Obviously, I was going to go
24 into the areas of like what her connection is with Trey, and
25 what her involvement was with Trey in the time in question.

1 THE COURT: You mean, Trey sells drugs or doesn't
2 sell drugs, sells women or doesn't sell women; those types of
3 things?

4 MR. CANO: Right. And she also tried to contact
5 Trey regarding this case as well.

6 MR. LALLI: It's a little more extensive than that.
7 I mean, I think, if I'm not mistaken, she might refer to Trey
8 as the "shot-caller."

9 MR. CANO: Right.

10 MR. LALLI: Which means, he's the guy who's in
11 charge. And that was kind of the theme of -- I believe it was
12 Mr. Sgro's or Mr. Oram's cross-examination at the last trial.
13 And so, the whole idea is Trey's in charge. And so people who
14 are working for Trey -- the inference is that people who are
15 working for Trey are going to cover it up, or are going to
16 make it look like Trey is not involved.

17 And so, I think if they go there -- you know, I
18 haven't heard Mr. Cano's questions. I don't know exactly what
19 he's going to ask or how he's going to do it. But if there is
20 that suggestion, then the fact that she suffered a felony
21 conviction of herself, which is a big deal, so that Mr. Malone
22 doesn't get tied up in this case, I think that's relevant.

23 THE COURT: Mr. Cano, anything --

24 MR. CANO: Well, I don't see how that's relevant,
25 that if he's a shot-caller, he's a big boss, and that was gone

1 into in the previous trial, as well as she mentions that in
2 her statement to the police. I mean, she makes those
3 references obviously in her statement to the police. How that
4 impacts in any way bias against Mr. Malone.

5 THE COURT: Or bias in his favor.

6 MR. CANO: I mean --

7 THE COURT: I mean, is that what the issue here?
8 It's --

9 MR. LALLI: Yes. Yes. I mean, that is the issue.
10 That's the point. And so, to rebut it --

11 MR. CANO: And I'm not sure exactly that that's
12 actually proper rebuttal evidence, Your Honor, in the sense
13 that it's not just Mr. Malone that was in that room. Trey was
14 in that room as well, as well as someone else. And I don't
15 know the details, because I don't have the police report.

16 And we don't have the officer here to, you know,
17 tell us what exactly was said to her regarding, who are you
18 going to turn over? Is it any one of those people? Because
19 she could have been trying to protect Trey, as far as we know.
20 She discussed only with us Mr. Malone, that Mr. Malone's
21 involvement was in there, and they had tried to flip her
22 obviously against the people in the room, so.

23 THE COURT: State, do you have the police reports
24 for that arrest, or that search warrant?

25 MR. LALLI: I don't have them -- I don't have them

1 in my possession.

2 MR. CANO: And I don't have them either, Your Honor.
3 I only have like certified copies of her Judgment of
4 Conviction.

5 MR. LALLI: It's extrinsic. I mean, it's not --
6 it's extrinsic evidence anyway. There's nothing exculpatory
7 in it, it's not Giglio [phonetic] material. It's not -- I
8 mean, it's not something that we would normally look at or
9 even inquire of.

10 THE COURT: I'm just not clear. I mean, we don't
11 know. I'm not going to ask Mr. Cano to give me a summary of
12 his cross-examination. I'm just concerned about this.

13 MR. LALLI: And I'm not asking him to, Your Honor.

14 THE COURT: Right.

15 MR. LALLI: But I think -- I guess in all -- in
16 fairness to the defense, if I believe that maybe the cross is
17 going somewhere that I think might open the door to that
18 information, I'll make some objection, or I'll ask to
19 approach, or I'll do whatever at that time.

20 But clearly, at least at this point, I don't intend
21 to go into that in my direct examination.

22 MR. CANO: And obviously, I mean, if I'm hearing
23 what Mr. Lalli is saying -- and I don't mean to -- I'm not
24 going to speak for him. But if I'm hearing what he's saying,
25 if I go into the area about him being a boss or a shot-caller,

1 he thinks that that's going to open the door to getting into,
2 you know, the details of the event of the arrest, you know,
3 the felony that she got in 2006.

4 Is that correct, Mr. Lalli?

5 MR. LALLI: That is absolutely correct.

6 THE COURT: If you get into that Trey is the big
7 boss?

8 MR. CANO: Yeah. And she said that in her police
9 statement, as well as she testified to that at the previous
10 trial.

11 MR. LALLI: And what's the relevance of that? Well,
12 the relevance is that, well, Trey is the guy who's calling the
13 shots. And if, you know, she's going to -- her allegiances
14 are to Trey. And so to rebut that, I think we've got the
15 right to point out that, well, she's got allegiance to the
16 defendant as well.

17 THE COURT: Would it be fair --

18 MR. CANO: But according to what she said, it's not
19 -- I think that that would be relevant if it was just Mr.
20 Malone alone in that room with her, and she's offered a flip
21 deal, and it's just Mr. Malone that she's protecting, and you
22 know, supposedly. And so she gets arrested for this case and
23 picks up a felony.

24 But he's not alone in that room. There are several
25 other people -- there are a couple other people to what she

1 told us in that room as well.

2 MR. LALLI: I don't think that's what she said. And
3 if you want to bring her in here and ask her some questions
4 yourself, you can, Your Honor. The -- what she explained to
5 me is that it was only Mr. Malone in the apartment with her.
6 They were Mr. Malone's drugs.

7 And I might have asked her something to the effect
8 of, were you selling for Mr. Malone? And she said she was,
9 but she was also selling for Romeo as well. So, I don't think
10 McCarty was present during the arrest. There was only one
11 individual who was present and that was the defendant.

12 MR. CANO: And to my recollection of what she said
13 outside, Your Honor -- I'm not, you know, disputing with what
14 Mr. Lalli heard. But I heard that she said Mr. Malone was
15 there, as well as Trey was there, as well as some other person
16 was there.

17 THE COURT: Yeah, let's have her come in.

18 MR. LALLI: Okay.

19 (Pause in the proceedings)

20 THE COURT: Ma'am, why don't you come on up to the
21 witness stand.

22 THE MARSHAL: Ma'am, if you will remain standing,
23 please raise your right hand, and face the clerk.

24 NICOLIN BRODERWAY, STATE'S WITNESS, SWORN

25 THE MARSHAL: Just have a seat and slide up to the

1 microphone. If you would, please state and spell your name
2 for the record.

3 THE WITNESS: Nicolin Broderway. N-i-c-o-l-i-n,
4 B-r-o-d-e-r-w-a-y.

5 EXAMINATION

6 BY THE COURT:

7 THE COURT: Ms. Broderway, I've been advised that in
8 2006, you were arrested in your residence?

9 THE WITNESS: Yes.

10 THE COURT: Is that correct?

11 THE WITNESS: Yes.

12 THE COURT: All right. Who was in your residence
13 when the police came in?

14 THE WITNESS: A girl named Sarah and the defendant.

15 THE COURT: And Mr. Malone?

16 THE WITNESS: Um-hum.

17 THE COURT: Anyone else?

18 THE WITNESS: No.

19 THE COURT: And Sarah, do you know her last name?

20 THE WITNESS: I do not.

21 THE COURT: Do you know -- does she have a
22 nickname --

23 THE WITNESS: Just Sarah.

24 THE COURT: -- on the street?

25 THE WITNESS: Just Sarah.

1 THE COURT: And was there some discussion with the
2 police about implicating Sarah or Mr. Malone, as far as being
3 involved with the drugs that were located in your residence?

4 THE WITNESS: Not Sarah, just Mr. Malone and another
5 person.

6 THE COURT: Okay. What were you told by the police,
7 if anything, and what did you tell the police?

8 THE WITNESS: They told me that if I told on the
9 people who the drugs belonged to, the people that were in the
10 house with me that I would be let go. And if I didn't, I
11 would go to jail. And I told them that I wasn't going to tell
12 and I wanted a lawyer.

13 THE COURT: And then you ultimately went to trial on
14 that drug case; is that correct?

15 THE WITNESS: Well, no. I took a deal.

16 THE COURT: Took a deal? Okay. If you were asked
17 the question, would your answer be that the drugs belonged to
18 Mr. Malone?

19 THE WITNESS: I wouldn't say just him, no.

20 THE COURT: Okay. But he had some interest in those
21 drugs?

22 THE WITNESS: Yes.

23 THE COURT: Were you selling for him and someone
24 else?

25 THE WITNESS: Yes.

1 THE COURT: And were you selling for Trey?

2 THE WITNESS: Yes.

3 THE COURT: So, for both of those? Was it two sets
4 of drugs, or were they just working together to sell these
5 drugs?

6 THE WITNESS: Working together to sell those drugs.

7 THE COURT: Mr. Lalli, anything to clarify?

8 MR. LALLI: Just one thing.

9 DIRECT EXAMINATION

10 BY MR. LALLI:

11 Q Do you know where Trey was at the time that the
12 defendant was with you at the time of that arrest?

13 A I do not.

14 Q Okay. And then the Sarah that you mentioned.

15 A Um-hum.

16 Q You know -- you know Trey Black?

17 A Yeah.

18 Q Was it the Sarah who had a relationship with Trey?

19 A No.

20 Q So, it was not -- Sarah also testified this morning.
21 Are you aware of that?

22 A Yes.

23 Q It was not that Sarah?

24 A No.

25 Q Okay. Thank you.

1 MR. LALLI: Nothing else, Your Honor.

2 THE COURT: Mr. Cano?

3 MR. CANO: Yes.

4 CROSS-EXAMINATION

5 BY MR. CANO:

6 Q You said that it was Mr. Malone's and someone else's
7 drugs?

8 A Um-hum.

9 THE COURT: It was Trey Black?

10 BY MR. CANO:

11 Q Was that --

12 A Yes.

13 Q Was that Trey Black?

14 A Yes.

15 Q Okay. And we spoke briefly in the hallway; do you
16 remember that?

17 A Yes.

18 Q You had mentioned I believe Trey and some other
19 person other than Sarah. Was it a Jeff, or something to that
20 effect?

21 A Oh, Jeff. The room was in his name.

22 Q Okay. Was he present at all?

23 A He -- I guess that they had him downstairs. I
24 didn't see him until we went to jail. But --

25 Q Okay.

1 A -- he wasn't --

2 Q But he was there as well?

3 A Yeah, but he wasn't --

4 Q Or part of the room?

5 A He wasn't in the room at the time.

6 Q Okay. At the time of the arrest, it was you, Sarah,
7 and Domonic?

8 A Yes.

9 Q Okay. But to your knowledge, the drugs that were
10 there that the police were trying to offer you to do a deal,
11 were Trey's and Domonic's?

12 A Yes.

13 Q Okay. Did Jeff have anything to do with those
14 drugs?

15 A He just sold them for them.

16 Q For them? Okay.

17 THE COURT: Mr. Cano, real quick, I just want to
18 clarify something.

19 You said you saw Jeff down at the jail. Do you know
20 he was there at the apartment outside, or are you just
21 assuming that he was?

22 THE WITNESS: No, he was there at the apartment
23 outside. I do know that.

24 THE COURT: Okay. You did see him?

25 THE WITNESS: I saw him leave and go downstairs.

1 THE COURT: Okay. Go ahead, Mr. Cano.

2 BY MR. CANO:

3 Q And the police wanted you to, I guess, testify
4 against both Domonic and Trey?

5 A Yes.

6 Q And you didn't do that, right?

7 A No.

8 MR. CANO: Okay. I don't have anything.

9 THE COURT: Okay.

10 And ma'am, these issues about who owned the drugs,
11 who may have provided the drugs, anything about any interest
12 in the drugs, ownership of the drugs in your apartment when
13 the police came in, is not to be discussed unless someone
14 specifically asks you that question.

15 THE WITNESS: Okay.

16 THE COURT: Because too often, people, they don't
17 listen to the question, and they just want to keep answering
18 something. Okay? You know, I mean, I'll just give you an
19 example, because I see this all the time. Who was in the
20 apartment, for example. You know, Trey Black, and Malone, and
21 I was selling their drugs. That wasn't the question. The
22 question was, who was in the apartment.

23 THE WITNESS: Um-hum.

24 THE COURT: Do you understand what I'm saying? So,
25 listen very carefully. I'm going to listen to the questions

1 very carefully, I need you to do the same.

2 THE WITNESS: Okay.

3 THE COURT: Unless someone specifically asks you,
4 okay, like ownership, interest in it, bringing them there to
5 your apartment, you know, do not blurt that out.

6 THE WITNESS: Okay.

7 THE COURT: Again, unless someone specifically asks
8 you that question.

9 THE WITNESS: Okay.

10 THE COURT: Okay? So, and take your time answering
11 -- we want you to be truthful and take your time answering the
12 questions. All right?

13 THE WITNESS: Okay.

14 THE COURT: All right. Why don't you have a seat
15 outside. Thank you very much.

16 THE WITNESS: Thank you.

17 MR. LALLI: Your Honor, and I just wanted to thank
18 her for actually bringing this up. It's not something that I
19 knew, or that I thought would be important. She had the
20 foresight to do that.

21 And so, I think all of us probably owe her a thank
22 you for bringing that up.

23 THE COURT: Yes. Thank you, ma'am.

24 Why don't you have a seat -- we'll have you come in
25 in just a minute or two here.

1 THE WITNESS: Okay.

2 (Witness exits the courtroom)

3 THE COURT: So, Mr. Cano, I'm just sort of
4 paraphrasing here. Is it your intent on cross to elicit from
5 her that Trey Black was the head guy as far as the sale of
6 drugs was concerned, or the possession of drugs was concerned?

7 MR. CANO: Well, she gives that statement in her --
8 she says that in her statement, as well as she testified to
9 that. Yeah. So, I think that's perfectly, you know, fair for
10 me to go into those areas. Yes, Your Honor.

11 THE COURT: Well, just because she says it in a
12 statement doesn't mean that it should come in. So, I mean --
13 because isn't that sort of -- sort of misleading, because he
14 wasn't the only head guy with the drugs?

15 MR. CANO: Well, she didn't say that he was -- I
16 mean, she says he's the big boss here. I mean, it's her
17 perception of what she told the police, as well as to what she
18 testified to, Your Honor.

19 Obviously, you know, now she's saying there was
20 another incident when I got arrested where the drug interest
21 is these two people, that they were working together, I think
22 is what she said, if I recall correctly. So, I don't think
23 she made a distinction as to who was the big boss or who
24 wasn't the big boss, other than Domonic and Trey were working
25 together and they had an interest in the drugs.

1 And without having details of like a police report
2 or some kind of information, I don't know if it's proper, you
3 know, that -- I don't think I'm opening any doors by asking
4 those questions, first off.

5 And I think I might have -- I think both of us are
6 at a disadvantage about going into that area blindly, without
7 any kind of reports or anything to, you know, be able to
8 effectively cross-examine her, and effectively to give her --
9 you know, to elicit any kind of testimony regarding that.

10 THE COURT: Is it your intent to ask her about the
11 drugs involving her arrest, or drugs on some prior date?

12 MR. CANO: No. I wasn't even going to go into the
13 facts or the specifics behind her felonies. I know she has
14 three different felonies.

15 THE COURT: That's all you can ask, is what was it,
16 when, and --

17 MR. CANO: And what for.

18 THE COURT: Right.

19 MR. CANO: Exactly. And that's -- you know, I
20 anticipate that the State will probably get into that. If
21 they don't, I definitely will.

22 THE COURT: All right.

23 MR. CANO: And I wasn't going to go into the details
24 regarding that. Obviously, the State thinks that because
25 there was a dual interest in the drugs regarding the 2006

1 arrest, that -- you know, that if I ask regarding her prior
2 statements that -- you know, that Trey was a big boss, or the
3 shot-collar, or basically he was --

4 THE COURT: Big boss or shot-caller for what?
5 Prostitution, drugs and for when?

6 MR. CANO: During this time frame, and I believe
7 it's drugs.

8 MR. LALLI: Well, I guess my question then is what
9 is the relevance of that in this trial? And if the relevance
10 is because Trey was involved in this murder, and Nicolin is
11 just not going to tell us that because she must have some
12 allegiance to him, then I would have the right to bring out
13 the fact that she has a demonstrated allegiance to the
14 defendant as well.

15 So, I guess -- you know, that's -- we have to back
16 up there. And what's the relevance of Trey being the
17 shot-caller, the big leader of the pyramid? I mean, what's
18 the relevance of that?

19 THE COURT: Mr. Cano?

20 MR. CANO: Well, Your Honor, it's completely
21 relevant as to this case in general. I mean, if he's involved
22 in this case, which it appears from, you know, the discovery
23 that we have, and the statements given and prior testimony it
24 involves -- that there is some type of involvement, or some
25 type of knowledge attributed to Trey regarding these incidents

1 during the time in question.

2 THE COURT: Well, knowledge of incidents --

3 MR. CANO: So, it's completely relevant.

4 THE COURT: -- of the murder, or knowledge of just
5 general -- that all these gals sold drugs in the bar?

6 MR. CANO: Of everything, yes.

7 THE COURT: Well --

8 MR. CANO: Of both.

9 MR. LALLI: The drugs are a side issue in this case.
10 I mean, this is a murder case. There are no drug charges
11 here. I mean, the drug evidence is res gestae evidence.
12 Really, in it's truest sense, you can't tell the story without
13 going into those.

14 But -- and they're -- I'm not saying they can't
15 pursue whatever defense they want to pursue. But with this
16 particular witness, based upon this information, I mean, we
17 would have the ability to set the record straight with respect
18 to where her allegiance lies.

19 So, I guess my position is, I'm not telling the
20 Court to direct the defense not to go into that. I'm not
21 asking the Court to limit their cross-examination of this
22 witness in any way.

23 But what I am saying is, if they try to suggest that
24 someone else was involved and this witness had allegiance to
25 that person, and there's really more to this story than she's

1 willing to tell, then it opens the door to her allegiance to
2 the defendant as well.

3 MR. CANO: Now, I mean, allegiance is -- you know,
4 I think we're going to get into the, you know, the definition
5 of allegiance here. By me eliciting that, you know, Trey is
6 the boss, and her --

7 THE COURT: Also, what I'm concerned is, boss of
8 what?

9 MR. CANO: The drug -- she's involved with him
10 because of the drug transactions. In her -- and I'm not going
11 to misstate, you know, what she says in her statements. But
12 to my understanding of what she said in her statements, she's
13 referring to some type of -- the drug involvement, and that he
14 is the big boss, and that he's the shot-caller.

15 THE COURT: Okay. How does that relate to the two
16 victims here? Is there any evidence that he had a beef with
17 the two victims?

18 MR. CANO: Your Honor, it's totally -- it totally
19 relates to her, as to her knowledge of all the players in this
20 -- you know, in this transaction. And it also relates that if
21 he is a boss or a shot-caller and he has knowledge of this
22 murder, there is some involvement of him in this case. And I
23 think that's completely proper for us to go into our defense,
24 you know, that we can go into that area. It's completely
25 relevant.

1 THE COURT: I didn't hear the answer to my question.
2 Do you have any evidence linking him to the murders?

3 MR. CANO: Do I have any evidence linking him to the
4 murders? Court's indulgence, Your Honor.

5 THE COURT: Okay.

6 (Pause in the proceedings)

7 MR. CANO: There's evidence that he was -- he had --
8 you know, the apartment at the South Cove that was just a few
9 doors down --

10 THE COURT: Okay.

11 MR. CANO: -- from where these girls were taken.
12 Obviously, you know, there is evidence that he was involved in
13 the drug trade. And I think that there is some statements
14 regarding that some money was owed to him, involving the girls
15 as well. So, there are some links, yes.

16 MR. LALLI: The money was owed to the defendant, for
17 starters. With respect to the fact that Trey was involved in
18 this murder because he, you know, was staying a few doors down
19 from where the girls were abducted, Mr. Cano objected to some
20 of the things that Sarah Matthews testified to as hearsay.
21 And I don't begrudge him for that. But what she had said --
22 and the Court ultimately struck it.

23 But what she said was that Trey was telling Mr.
24 Malone, forget about the girls, forget about it. I can
25 represent as an officer of the Court, when Ramaan Hall, Trey,

1 testified at the last trial, totally consistent with his
2 account of what happened. He was actually having the
3 conversation with the defendant.

4 And this is all borne out in the transcript of Mr.
5 McCarty's trial. He's telling the defendant, why are you
6 bothering with these women? They're prostitutes, they're --
7 of course they're going to ingest your drugs. I mean, what
8 else would you expect? Forget about them, leave them alone.

9 So, I don't think you can argue that merely because
10 of proximity here -- imagine -- how would you like to -- when
11 you were in your defense attorney days, how would you like to
12 defend that guy in this murder case? I'd love it if I were a
13 defense attorney, because there is no evidence that links --

14 THE COURT: Then why aren't we bringing in evidence
15 that the guy who lived on the third floor is a drug dealer?
16 You know, because then he could have had a motive to kill
17 these ladies. I mean, because do we have any evidence that
18 these ladies stole Trey Black's drugs? Or had -- you know --

19 MR. CANO: Your Honor --

20 THE COURT: -- didn't return them?

21 MR. CANO: -- we don't know what's inside of Trey's
22 head, because he hasn't testified yet. If he comes up here
23 and testifies, we'll be prepared to cross-examine him, whether
24 his involvement, or lack of involvement, or whatever his role
25 is in all of this.

1 THE COURT: When is he --

2 MR. CANO: And it's not our obligation to -- you
3 know, we have a right to defend Mr. Malone in this case.

4 THE COURT: Absolutely, you do.

5 MR. CANO: And you know, obviously, you know, we're
6 defending him through the discovery that, you know, we were
7 provided in this case. And part of that discovery does link
8 knowledge to Trey regarding this incident, as well as whether
9 monies were owed to him or not owed to him.

10 And actually, this witness -- I actually asked that
11 question from Ms. Estores, whether she had told this witness
12 specifically -- and which I'm assuming we're probably going to
13 get into here in a minute whether she had -- whether Ms.
14 Estores had told her about Trey's involvement in this case,
15 and that monies were owed to him.

16 And she relayed that in her statement to the police.
17 And upon that she contacted Trey to find out what his
18 involvement was. And he made admissions regarding -- to her
19 regarding, you know, that involvement in the time in question.
20 So, there are links that ties him to this case, you know, in
21 addition to the proximity to everything.

22 And he does have a relationship -- not -- you know,
23 with her, as well as with, you know, several other people, you
24 know, regarding the drug ring that, you know, Ms. Estores had
25 testified to earlier, and what we've been able to elicit.

1 THE COURT: Well, whether or not it's relevant, and
2 I don't know that I'm seeing it right now. But my concern is
3 that -- and we haven't got there yet. I don't know what
4 questions you have and how it's going to come out.

5 That if he -- if you're trying to portray that he's
6 the only one that had drugs in the apartment complex area, or
7 was the only one involved in the drugs, and we know from what
8 she told us here, that, well, no, when the cops came, Mr.
9 Malone was there, and Trey Black. And basically, they were
10 joint ownership, if you want to call it that.

11 And you know, I mean, you can't tell half a story.
12 I mean, if it's relevant for Trey, isn't it relevant for your
13 client? Because if they had this joint possession of drugs,
14 this joint interest in drugs, of getting them sold and making
15 a profit, so you're saying, Judge, it's very relevant for Trey
16 because this could show a motive to kill. Well, if they're
17 also owned by Mr. Malone, isn't it the same? Doesn't he have
18 a motive to kill? And if they're working together --

19 MR. CANO: But we're talking about an incident that
20 happened -- I think it was either December or early January.

21 THE COURT: After this?

22 MR. CANO: Prior to this.

23 THE COURT: Okay. No, but if it's relevant for
24 Trey, why isn't it relevant for Malone during the apartment
25 search warrant?

1 MR. CANO: Why isn't it relevant to Mr. Malone?

2 THE COURT: Right.

3 MR. CANO: Maybe I'm not understanding the Court's
4 question.

5 THE COURT: No. You're saying that you want to
6 bring in that Trey was the big boss for drug ownership,
7 possession, and getting the girls to sell.

8 MR. CANO: In the time in question.

9 THE COURT: Right.

10 MR. CANO: April, May.

11 THE COURT: Okay.

12 MR. CANO: Yes.

13 THE COURT: And we know that Mr. Malone allegedly
14 was working with Trey on the drug transactions?

15 MR. CANO: Yes.

16 THE COURT: Okay. So, you're saying, Judge, it's
17 very relevant for Trevon Black of the drug trade, but it's not
18 relevant for Mr. Malone? Meaning, well, it wasn't Mr. Malone
19 there, and it was his drugs as well.

20 MR. CANO: Regarding the April incident?

21 THE COURT: Right.

22 MR. CANO: I mean --

23 THE COURT: The search warrant incident, the search
24 warrant incident.

25 MR. CANO: The search warrant incident.

1 THE COURT: I mean, I don't know how you can say,
2 well, there's two partners. It's only relevant to one
3 partner, it's not relevant to the second partner.

4 MR. CANO: Your Honor, I don't see where this goes
5 into any kind of bias. I mean, obviously, we'll abide by
6 whatever ruling, you know, the Court's going to make in this
7 case.

8 And if I ask those questions, if the Court feels
9 that that opens the door to go into the details regarding, you
10 know, the search warrant incident, you know, well, whatever
11 comes out of that is going to have to come out of that.
12 Obviously, she said on the stand earlier that there were dual
13 drug interests. It was Trey, as well as Mr. Malone.

14 THE COURT: Right.

15 MR. CANO: I don't think she described whether one
16 was the boss or not the boss. That was later. So, you know,
17 relevance as to, at that time in point, who was the boss, who
18 wasn't the boss? I don't really know, Your Honor, because we
19 haven't had an opportunity to look at, you know, what the
20 police reports say. We have no details of what happened in
21 that incident other than what she's saying.

22 So, we're only going by her version, her word of
23 what had happened there. And I don't think it's proper for us
24 to be able to get into that area, those details of that
25 incident, without having any kind of information. And it's

1 not just us, it's the State. They don't have any information
2 regarding that as well. So, you know, we'll abide by the
3 Court's ruling --

4 THE COURT: So, your inquiry is not going to be
5 related to the search warrant incident?

6 MR. CANO: I was not going to go into that, other
7 than -- the only thing related to that is she received a
8 conviction in 2006. So, obviously, I'm allowed to go into her
9 prior convictions.

10 THE COURT: Well, I mean, do you have one, when,
11 what was it for. That's --

12 MR. CANO: Exactly.

13 THE COURT: Right. And so you want to get into just
14 generally that Trey was the big supplier?

15 MR. CANO: I want to get into her statement where
16 she says he was. And that's in her statement, and that's what
17 she testified at the last trial. So, I want to get into that.
18 And that's a proper avenue to get into.

19 MR. LALLI: You know, going to back -- you know,
20 what's the relevance of that? And I did want to correct
21 something else that Mr. Cano said. He indicated that when
22 Nicolin calls Trey -- because she does. When she hears that
23 these girls have been killed, she calls Trey because she wants
24 to -- she's trying to find out what happened.

25 Trey doesn't say, yeah, I killed them, or yeah, I'm

1 involved, or anything like that. I want the record to be very
2 clear about that. What Trey tells her is, they're okay,
3 everything's okay. Kind of, Nicolin, don't worry about it. He
4 kind of poo-poo's her. He certainly doesn't make any
5 admissions. So, I don't --

6 (Pause in the proceedings)

7 MR. LALLI: I mean, there is some suggestion in the
8 discovery that Trey actually called the defendant and said,
9 hey, did you do anything to those girls, and he told Trey that
10 he didn't, or something like that as well. But Trey certainly
11 doesn't say anything that would suggest to Nicolin that he was
12 involved in this.

13 And there's, you know, when are we going to call
14 Trey? I wish I had the answer to that. The Court may recall
15 that we actually have a warrant for his arrest. He's
16 somewhere in California, and we've got the material witness
17 warrant for him. I know that the district attorney's office
18 there has been actively helping us try to find him. And we
19 just up until now don't have him. But that's kind of a
20 separate issue.

21 If they elicit questions about who's the
22 shot-caller, and who's in charge, I'm going to be interposing
23 relevance objections. Because Mr. Cano still -- I know the
24 Court's asked him a couple times. He still hasn't been able
25 to articulate the relevance of it.

1 MR. CANO: Well, the relevance is he's involved in
2 this case, Your Honor.

3 THE COURT: Involved -- what --

4 MR. CANO: In this case, in the transactions, some
5 things going on with the girls. And let's get some
6 clarification so we have a nice, clean record here, regarding
7 what Mr. Lalli was saying, the phone call. You know, and just
8 so that we have it here.

9 Ms. Broderway was told by Red that she said Trey
10 knew about it, Trey had -- it was Trey's money that was owed.
11 Okay? So, and this was in inquiry as to what was going on
12 with the girls, because Ms. Broderway was looking for
13 Victoria.

14 MR. LALLI: So, that's double-hearsay now. And I
15 don't remember them asking Red about that.

16 MR. CANO: I did ask that specifically, Your Honor.
17 I did ask her that.

18 THE COURT: You guys have the transcript. You
19 probably have reviewed it.

20 MR. CANO: Well, I specifically asked her that
21 because I knew this would come up with Ms. Broderway.

22 MR. LALLI: That she suspected that Trey was behind
23 the murder?

24 MR. CANO: I asked her, did you tell Nicolin that
25 Trey was -- knew about this, and that money was owed to Trey?

1 And to my recollection, she responded that, maybe, or that she
2 wasn't sure. Something to that effect.

3 THE COURT: Is it absolutely necessary that Ms.
4 Broderway testify today? Besides trying to find her, and --

5 MR. LALLI: Well, she's -- no, we brought her here
6 from out of town.

7 THE COURT: Oh, okay.

8 MR. LALLI: In the -- I mean, in the overall scheme
9 of things, she's logically the witness that we would call now.

10 THE COURT: Right. I understand that. But I'm
11 trying to get a good handle on all this. And --

12 MR. CANO: Can I finish what I --

13 MR. LALLI: And that's the only person we have
14 outside.

15 THE COURT: Okay.

16 MR. LALLI: Because we didn't --

17 THE COURT: I understand.

18 MR. CANO: And to continue, Your Honor, based upon
19 that information, Nicolin makes a phone call to Trey, okay,
20 inquiring about what had gone on with these girls.

21 And then, you know, according to her statement, she
22 calls him, kind of tells him, this is what I'm hearing. Do
23 you -- you know, that D-Roc And Romeo took these girls in the
24 desert, or something like that, and she wants to know what's
25 going on.

1 He tells her, call me back. I'm in the middle of
2 something. She calls back. And when she calls back, he says
3 -- and I know Mr. Lalli said specifically, you know, that --
4 you know, that some call was made to Mr. Malone. That's not
5 the specifics that was said in her statement. It was that,
6 Oh, Nickel, she's fine, she's okay. They didn't hurt her,
7 they let her go.

8 And that gives -- you know, that obviously --

9 THE COURT: Well that's hearsay, isn't it?

10 MR. DiGIACOMO: And it's "they." He's talking
11 about --

12 MR. CANO: Yes, it is, Your Honor.

13 MR. DiGIACOMO: -- those two.

14 THE COURT: Okay.

15 MR. CANO: But obviously, you know, from our
16 perspective, he's admitting knowledge of this crime. I mean,
17 you know, it's not hearsay. I'm not going to say that it is
18 hearsay. I think it goes -- because we're not going, you
19 know, for the truth of the matter, are these girls fine or
20 okay, or that they didn't hurt her. But it goes to his
21 knowledge of the incident and the crimes, and potentially, to
22 him covering that up, and misleading Ms. Broderway as to the
23 conditions, which does link him into this case.

24 MR. LALLI: It's multiple layers of hearsay.

25 THE COURT: Right.

1 MR. LALLI: And he's still saying "they let her go."
2 By, "They let her go," I mean, it's actually acknowledging
3 that, yeah, I saw him pull those girls out of the apartment.
4 "They." He's talking about D-Roc and Romeo, so.

5 THE COURT: Do you really want that coming in, "they
6 let her go?"

7 MR. CANO: Well, Your Honor, I mean --

8 THE COURT: That's what I'm asking you.

9 MR. CANO: -- the case is what the case is. The
10 case is what the case is, Your Honor.

11 THE COURT: I understand.

12 MR. CANO: And obviously, Trey is involved and he
13 has knowledge as to something that happened here. Or you
14 know, like I said, it's not -- it's -- you know. It's not
15 hearsay, because we're not asserting it for the truth of the
16 matter. What we're saying is that demonstrates his knowledge
17 and his involvement as to the incident itself.

18 Now, he was never charged by -- you know, by the
19 DA's in this case, or anything like that. And I think it's
20 completely proper that we've been bringing out testimony
21 eliciting his connections with these girls, and his
22 involvement with these girls.

23 And of course, from this witness, that -- you know,
24 we're going along the same lines, as to what his involvement
25 is, who he's involved with in the drug trade. And you know,

1 the fact that in her opinion, he's the boss and he's the
2 shot-caller. I mean, I think that's a completely proper
3 avenue to go to, and that's completely relevant, and it's
4 completely relevant to our defense.

5 THE COURT: I think you were saying, well, it goes
6 to his knowledge. His -- a different person's knowledge. I
7 don't know if that's fitting within the hearsay exception. Do
8 you have a specific exception that's going to fit into? That
9 Ms. Broderway is saying, this is what Trevon said.

10 MR. CANO: We're not asserting that that's what he
11 said goes to whether or not that is truthful or accurate.
12 It's not asserted for that truth, Your Honor. It's asserting
13 that he has knowledge of this incident, because she called
14 him, and he reassures Ms. Broderway that these girls are fine.
15 He has knowledge of them. Knowledge of the incident --

16 THE COURT: Okay, okay.

17 MR. CANO: -- and his involvement in the incident
18 somehow, and whether he's covering it up or not.

19 MR. LALLI: But what we're doing now is we're
20 relying on hearsay of a person who's not even a witness in the
21 case. I mean, they're trying to impeach Trey on what he may
22 or may not have been involved, or what he may have said,
23 because we've got Nicolin calling him. And I just don't see
24 the connection here.

25 THE COURT: Well, let's go forward. We'll just -- I

1 think I've got a good understanding where everyone's coming
2 from and where they wish to go. And I'll just rule -- I'm
3 going to see how it plays out. You know, either side, make
4 your objections. And I'll make my ruling, right or wrong, and
5 we'll go from there. And I'm trying to hear both sides.

6 So, let's have Ms. -- or the jury come in, and --

7 MR. LALLI: Well, can we just -- Your Honor, can I
8 get five minutes?

9 THE COURT: Okay. All right.

10 MR. DiGIACOMO: Oh, he just needs a personal break.

11 MR. LALLI: Personal break.

12 MR. DiGIACOMO: I don't think it's going to be five
13 minutes, Judge.

14 THE COURT: Oh, I thought you were talking about
15 something --

16 MR. LALLI: Probably less than five.

17 THE COURT: Okay.

18 (Pause in the proceedings)

19 THE COURT: Anyone need a personal break, please
20 take one now.

21 MR. LALLI: Thank you, Your Honor.

22 THE COURT: Mr. Malone, do you need a break right
23 now?

24 (Court recessed at 2:00 p.m. until 2:07 p.m.)

25 (In the presence of the jury)

1 THE COURT: All right. State, your next witness?

2 MR. LALLI: Your Honor, the State calls Nicolin
3 Broderway.

4 THE MARSHAL: Ma'am, if you'll remain standing.
5 Please remain standing and face the Clerk.

6 NICOLIN BRODERWAY, STATE'S WITNESS, SWORN

7 THE MARSHAL: If you would, please, state and spell
8 your name for the record.

9 THE WITNESS: Nicolin Broderway, N-I-C-O-L-I-N, B-R-
10 O-D-E-R-W-A-Y.

11 THE COURT: Go ahead, counsel.

12 MR. LALLI: Thank you.

13 DIRECT EXAMINATION

14 BY MR. LALLI:

15 Q Ms. Broderway, I want to direct your attention back
16 to May of 2006. Where were you living, just in general, city
17 and state?

18 A Las Vegas, Nevada.

19 Q And give us some sense of what was -- I mean, what
20 you were doing in your life at that time.

21 A I was doing a lot of drugs and partying and a lot of
22 things I shouldn't have been doing.

23 Q At some point did you leave the State of Nevada?

24 A Yes.

25 Q What state did you go to?

1 A Wisconsin.

2 Q And do you still live there?

3 A Yes.

4 Q You talked about doing a lot of things that you
5 shouldn't have done.

6 In 2006, were you convicted of the felony offense of
7 possession of controlled substance?

8 A Yes.

9 Q And in 2008, were you convicted of the felony
10 offense of forgery?

11 A Yes.

12 Q In 2009, were you convicted of possession of
13 controlled substance?

14 A Yes.

15 Q All felonies?

16 A Yes.

17 Q Are you -- are you currently under supervision of
18 some sort?

19 A I am.

20 Q Tell us about that.

21 A I'm on probation for my last felony in '09 of
22 possession of controlled substance.

23 Q And you talked about back in '06 engaging in a lot
24 of drugs and drug activity. Do you do that anymore?

25 A No.

1 Q Okay. Has it been some time since you've ingested
2 drugs?

3 A Almost three years.

4 Q I want to go back to that May time frame of 2006,
5 and ask you if you knew some individuals.

6 Did you know a young lady by the name of Victoria
7 McGee?

8 A Yes.

9 Q How did you know Victoria?

10 A She was like my best friend.

11 Q Tell us how you met Victoria.

12 A I met her when I was selling and using drugs. She
13 was at a bus stop and I met her there.

14 Q What was she doing there at the bus stop?

15 A She was trying to catch a trick. She was
16 prostituting.

17 Q And approximately when was this?

18 A About a year prior.

19 Q To her death?

20 A Yes.

21 Q Did she -- Victoria have any tattoos on her body?

22 A I know of one.

23 Q Describe that for the jury.

24 Q It said my -- it said my first name. It was
25 Nicolin. There was a little design around it, I think, and it

1 was on her neck.

2 Q Where did -- okay, it was on her neck. Did you
3 refer to her -- I mean, describe the closeness of your
4 relationship.

5 A We were like almost inseparable. She -- we called
6 each other "wifey," or "wife". And everywhere she went, I
7 knew where she was at at all times. Same with me. We were
8 just, I don't know.

9 Q When you would refer to her as your "wife," was
10 there a sexual relationship between the two of you?

11 A No.

12 Q Just a close personal friendship?

13 A Yes.

14 Q Did you know a young lady by the name of Christina
15 Combado?

16 A I did.

17 Q How did you know Christina?

18 A I had met her a couple times.

19 Q How? Was it through Victoria?

20 A No.

21 Q Can you -- well, let's back up. Victoria, can you
22 describe what she looked like?

23 A Yeah, she was tall, very pale skinned with kind of
24 hazel eyes and she had her hair colored red. And --

25 Q All right. What about Christina, what did she look

1 like?

2 A Dark eyes, dark hair, a little darker skin tone.

3 Q All right. Did you know a woman by the name of
4 "Red?"

5 A Yes.

6 Q How did you know Red?

7 A We hung out in the same area. We were in a lot of
8 the same groups.

9 Q Which was where? What area did you hang out in?

10 A In the Sportsman's.

11 Q Over on Boulder Highway?

12 A Yes.

13 Q Did you know an individual by the name of Trey
14 Black?

15 A Yes.

16 Q How did you know Trey?

17 A I used to run drugs for him.

18 Q So you actually worked for him?

19 A Yes.

20 Q Did you know an individual by the name of Domonic
21 Malone?

22 A Yes.

23 Q You're smiling right now. Why are you smiling?

24 A Because I don't know people's names, but I know
25 nicknames, so.

1 Q Okay. Do you know an individual by the name of D-
2 Roc?

3 A Yes.

4 Q Who was D-Roc?

5 A D-Roc was Trey's friend.

6 Q And was D-Roc also involved in the sale of drugs?

7 A Yes.

8 Q I'd like you to look around the courtroom and tell
9 us if you see D-Roc in the courtroom.

10 A Yes.

11 Q Can you please point to him and tell us what he's
12 wearing today?

13 A He's wearing a white button-down shirt and a baby
14 blue tie.

15 Q Okay.

16 MR. LALLI: Your Honor, may the record reflect that
17 the witness has identified the defendant?

18 THE COURT: Yes, it will.

19 BY MR. LALLI:

20 Q Now, I want to go specifically to May 8th of 2006.
21 Were you being released from custody on or about that day?

22 A Yes.

23 Q And how long had you been in custody?

24 A I think it was about four months.

25 Q And when you get out of custody do you want to

1 locate Victoria?

2 A Yes.

3 Q Why?

4 A Because she was my best friend.

5 Q You just wanted to see her?

6 A Yeah, I wanted to know how she was doing and where
7 she was, and --.

8 Q How -- how do you go about locating her?

9 A I asked around and tried and find out where she's
10 at.

11 Q Did you encounter an individual by the name of Jason
12 McCarty, or Romeo?

13 A Yes.

14 Q Where did you find Romeo?

15 A At the gas station in front of the Sportsman's.

16 Q Was this the same day you were released, or a day or
17 two later?

18 A I think it was the same day, or maybe the next day.

19 Q Is it difficult for you to tell us with any
20 precision the dates that things --

21 MR. CANO: Objection --

22 Q -- occurred?

23 MR. CANO: -- as to leading.

24 THE COURT: I'm sorry, the objection?

25 MR. CANO: Leading, Your Honor.

1 MR. LALLI: I'm just asking if it's --

2 THE COURT: Overrule the objection.

3 BY MR. LALLI:

4 Q Is it difficult for you to be very precise about
5 dates?

6 A It is.

7 Q Why?

8 A Because I was on drugs and -- but I was using. It
9 made my time kind of just overlap and go together and it was
10 real hard to tell like an hour from a day, and.

11 Q What about your ability to actually remember events,
12 understanding that you can't -- that times or dates might be
13 difficult for you, what about events themselves?

14 A No, I have pretty good memory when it comes to
15 things that happened.

16 Q Okay. So you believe that you encounter Romeo about
17 the same day that you are released from custody. Explain for
18 the jury how that -- how you -- where he's at. We already
19 said he was at the -- at the gas pumps. But what happens when
20 you see him?

21 A I went up to him and told him I was looking for
22 Victoria and asked him if he knew where she was.

23 Q Did he?

24 A Yes.

25 Q How did you know who Romeo was?

1 A People had told me.

2 Q What did they -- they said, "Hey, there he is," or
3 did they describe him?

4 A No, they described him.

5 Q What was the description you received?

6 A He was kind of a light skinned guy with a messed up
7 arm, with a short arm. And he had some little problems --

8 Q All right.

9 A -- around that.

10 Q The -- so when you saw him at the gas pumps did you
11 recognize him based upon that description?

12 A Yes.

13 Q So when you actually see his arm, describe the
14 condition of his arm.

15 A It was little and had like -- its hand wasn't
16 normal. It wasn't like our hands.

17 Q All right. Did you notice anything else about him
18 physically? I mean, you've described him. I'm not asking you
19 that. But I'm saying, just with respect to that handicap that
20 he had.

21 A Just that he was a little slower at moving and --.

22 Q All right. Did -- what kind of a vehicle did Romeo
23 have?

24 A A green two-door car.

25 MR. LALLI: May I approach the witness, Your Honor?

1 THE COURT: Yes.

2 BY MR. LALLI:

3 Q Ms. Broderway, I'm going to show you what we've
4 marked as State's Exhibit -- State's Proposed Exhibit 69. Do
5 you recognize that?

6 A Yes.

7 Q What is it?

8 A That's the car. That's Romeo's car.

9 Q Is that a fair and accurate depiction of the car?

10 A Yes.

11 MR. LALLI: Your Honor, I move for the admission of
12 State's proposed 69.

13 MR. CANO: No objection.

14 THE COURT: All right. 69 will be admitted.

15 (State's Exhibit 69 is admitted)

16 BY MR. LALLI:

17 Q Is that the vehicle?

18 A Yes, it is.

19 Q Okay. What do you tell Romeo when you see him?

20 A I told him that I was looking for Victoria. That I
21 had just gotten out jail, told him who I was and asked him if
22 he knew where she was.

23 Q Did he know where she was?

24 A Yes.

25 Q Do you eventually go someplace with Romeo?

1 A Yes.

2 Q Where do you go?

3 A I go with him to a guy name Ryan's house.

4 Q And who's there?

5 A Victoria.

6 Q Is that Ryan Noe? You don't know Ryan's last name?

7 A I don't know the last names.

8 Q Okay. And how do you get from the Sportsman's to
9 Ryan's house?

10 A In the car.

11 Q The green car that you've identified in State's
12 Exhibit 69?

13 A Yes.

14 Q While you are driving from the Sportsman's to Ryan's
15 house, does Romeo tell you things about Victoria?

16 A Yes.

17 Q What does he tell you?

18 A He tells me how she makes money for him selling her
19 body, and that she gives him such amount of money every day,
20 and that he's been taking care of her, watching out for her.

21 Q Was he -- based upon what he said, how he
22 interacted, do you believe that Rome was Victoria's pimp?

23 A Yes.

24 Q You knew D-Roc at the time?

25 A Yes.

1 Q Was D-Roc involved in the pimp prostitution business
2 to your knowledge?

3 A Well, he -- he was kind of trying to get into it.

4 Q Okay. I want to direct your attention to an evening
5 where you encounter the defendant and Rome at some gas pumps
6 in -- at the Sportsman's. Do you know the night I'm talking
7 about?

8 A I believe so.

9 Q Okay. Approximately -- I know your dates are
10 difficult. Approximately, when was that?

11 A Around the time that the girls went missing.

12 Q All right. So you had learned that the girls were
13 missing?

14 A Yes.

15 Q What girls?

16 A Victoria and Christina.

17 Q So it was at about that same time that you encounter
18 Rome and the defendant?

19 A Yes.

20 Q Okay. So tell us where it was that you encountered
21 them.

22 A Outside the bar, right by the gas station.

23 Q What were they doing?

24 A They were in the car.

25 Q What car?

1 A The green car.

2 Q The green car in State's Exhibit 69?

3 A Yes.

4 Q What were they doing?

5 A They -- they were driving? I don't --

6 Q They were just sitting in the car?

7 A Yeah.

8 Q Approximately, what time was it?

9 A I think it was around 11:00 or 12:00, but.

10 Q In the evening?

11 A Yes.

12 Q All right. Were -- was anybody else in the car with

13 them?

14 A Yes.

15 Q Who was in the car with them?

16 A Two females.

17 Q Had you ever seen the females before?

18 A No.

19 Q Was Victoria in the car?

20 A No.

21 Q Was Christina in the car?

22 A No.

23 Q Is there any doubt in your mind about that?

24 A No.

25 Q Where -- where was everybody sitting?

1 A Romeo was in the front seat and a girl was in the
2 passenger seat next to him. And D-Roc was in the back seat
3 and there was a girl in the car next to him.

4 Q Who was driving the car?

5 A Romeo.

6 Q So Romeo's in the front with a girl, D-Roc's in the
7 back with a girl?

8 A Yes.

9 Q Does Romeo call out to get your attention in some
10 way? Or do you -- do you eventually have a conversation with
11 Romeo?

12 A Yes.

13 Q Tell us about the conversation.

14 A I walked up to the car and he asked me if I had seen
15 Victoria or Christina. And I said, no. And he told me that
16 if I saw them, he would give me \$100 to smash them into the
17 cement.

18 Q He would give you \$100?

19 A Um-hum.

20 Q Is that yes?

21 A Yes.

22 Q What do you mean by smash them into the cement?

23 A To beat them up and make sure that they were there.

24 Q And so what do you say in response to this?

25 A I told him, no.

1 Q Did they tell you why they were looking for the
2 girls?

3 A Yes. They said -- well they just said that they
4 were out of pocket and they were messing up.

5 Q Who was talking?

6 A Romeo.

7 Q He was saying that the girls were out of pocket?

8 A Yes.

9 Q What does that mean?

10 A Out of pocket is where you're not doing as you're
11 told, messing with people you're not supposed to be around and
12 not -- like you're not in the place where you're supposed to
13 be when you're supposed to be there, and you're not checking
14 in with your pimp, or whoever's in charge of you.

15 Q All right. So the -- Rome was -- he was unhappy
16 with the girls to --

17 A Yes.

18 Q -- to kind of put it in another way?

19 A Yes.

20 Q Was there any discussion about six-deeping someone?

21 A Yeah. He --

22 Q Tell us what you remember about that.

23 A He said --

24 Q When you say "he" who are you talking about?

25 A Romeo. He said that his friends -- the girls would

1 be six feet deep already if he hadn't told his homies to let
2 them go.

3 Q And so what does that mean?

4 A That they would've been six feet deep in the ground.
5 They would've been dead, buried.

6 Q If he hadn't already told somebody to let them go?

7 A Yeah.

8 Q Okay. You mentioned that D-Roc was --

9 A Yes.

10 Q -- in the car, as well. Does D-Roc say anything to
11 you?

12 A Yeah, he told me to remember who my family was.

13 Q What does that mean?

14 A Like who --

15 MR. CANO: This is speculation, Your Honor. I'm
16 objecting.

17 MR. LALLI: Well, there's a -- there's a street
18 parlance out there that maybe me, or the jury, or the Court
19 doesn't quite understand and Nicolin would understand that.

20 THE COURT: Well, I'm going to sustain the
21 objection. If your question relates to what did D-Roc or --

22 MR. LALLI: The defendant?

23 THE COURT: -- or Rome said. But you can ask her
24 what's her understanding.

25 MR. LALLI: Okay.

1 THE COURT: What do those words mean to her.

2 MR. LALLI: Okay.

3 THE COURT: Okay.

4 MR. LALLI: Very well, Your Honor. Thank you.

5 BY MR. LALLI:

6 Q What did -- when D-Roc said to you, "Remember who
7 your family is," or words to that effect, how do you take
8 that?

9 A I take that as remember where my alliances lie and
10 who I run with.

11 Q Who your alliance is with, or who your allegiance is
12 to?

13 A Yes.

14 Q What happened after the defendant told you to
15 remember who your family is? What -- do they leave?

16 A They --

17 Q Or do you leave? Or --

18 A They left --

19 Q -- what happens?

20 A -- and I went back into the bar.

21 Q Okay. Now, at some point later on that same evening
22 do you see Red at the bar?

23 A I do.

24 Q Did you see anything unusual on Red's body?

25 A She showed me.

1 Q What did she show you?

2 A Bruises.

3 Q Where?

4 A All over her chest.

5 Q Anywhere else?

6 A Her back.

7 Q Anywhere else that you call?

8 A Not that I can remember.

9 Q Okay. And had -- around the same time, either that
10 day or before had you encountered the defendant saying
11 anything about Red?

12 A Yes.

13 Q What do you remember the defendant saying about Red?

14 A Um --

15 Q Relative to the bruising that you saw on her body?

16 A Yeah, he said something about --

17 MR. CANO: Your Honor, excuse me, can we get a
18 foundation as to when this was said?

19 THE COURT: I thought he said -- what was your
20 question, say prior to --

21 MR. LALLI: Yeah.

22 THE COURT: -- this?

23 MR. LALLI: Before seeing Red in either -- earlier
24 that day or the day before did you see the defendant there.

25 THE COURT: With that understanding, earlier that

1 day or the day before.

2 BY MR. LALLI:

3 Q Did the defendant -- did you hear the defendant say
4 anything about the injuries that you later had observed on
5 Red's body?

6 A Yes.

7 Q What was he saying?

8 MR. CANO: Your Honor, excuse me. Maybe I
9 misunderstood. Is she saying that she spoke to him earlier
10 that day, or the day before, or I mean, did we lay that
11 foundation as to when she met him and spoke to him regarding
12 this?

13 THE COURT: I think that's what the question was.
14 So either that day or the next day?

15 THE WITNESS: Yes.

16 MR. LALLI: Or the previous day.

17 THE COURT: Right.

18 MR. LALLI: When --

19 THE COURT: I mean, the previous day.

20 BY MR. LALLI:

21 Q Well, let me ask, rather than me kind of framing it,
22 tell us when do you recall having spoken to the defendant?

23 A I think it was the day before or maybe earlier that
24 day in the morning or that -- early afternoon.

25 Q And let me try to establish some sort of a time

1 frame.

2 You had seen the defendant with Rome in the car
3 before -- when he said, you know, remember who your family is?

4 A Yes.

5 Q Was it before that event?

6 A Yes.

7 Q Okay. So sometime before you see him at the gas
8 pumps, what does he tell you about the injuries on Red's body?

9 A He told me that he had to put hands on her. I don't
10 really remember exactly what it was that he said.

11 Q The exact words?

12 A Yeah, I don't remember.

13 Q What was the gist of what he said?

14 A Basically, that he had to put her in her place.

15 Q Why?

16 A Because she was not listening or doing what she was
17 supposed to be doing.

18 Q Did he say that she was out of pocket? Did he use
19 that parlance --

20 MR. CANO: Objection, Your Honor.

21 Q -- with you?

22 MR. CANO: That's leading.

23 THE WITNESS: I can't --

24 MR. LALLI: Well, I'm --

25 THE COURT: Sustained.

1 MR. LALLI: Well, she just said she can't remember.
2 I'm just trying to test her memory on it, Your Honor.

3 MR. CANO: It's leading, Your Honor.

4 THE COURT: Do you recall anything he may have said?

5 THE WITNESS: Not exactly.

6 BY MR. LALLI:

7 Q Okay. But the gist of what the defendant had told
8 you is that he had -- I guess your words are, put hands on
9 Red?

10 A Yes.

11 Q Okay. Now, let's go back to that evening where Red
12 actually shows you the injuries on her body.

13 Is she with anybody?

14 A Yes.

15 Q Who is she with?

16 A A guy named "Black."

17 Q Who's Black?

18 A He's a guy that she knew.

19 Q Can you describe what he looked like?

20 A He had a bald head and a long goatee with really
21 dark skin.

22 Q And was -- were they looking for someone?

23 A Yes, they were looking for --

24 MR. CANO: Objection as to hearsay, Your Honor.

25 THE COURT: I'm going to sustain that.

1 BY MR. LALLI:

2 Q Okay. Do they -- do they ever -- do they talk to
3 you?

4 A Yes.

5 Q Based upon your conversation do you find someone
6 else you know at the Sportsman's to send them to a specific
7 apartment?

8 A Yes.

9 Q Whose apartment did -- well, why did you do that?

10 A Because we were looking for Romeo.

11 Q And just Romeo, or someone else?

12 MR. CANO: Objection, Your Honor, leading.

13 MR. LALLI: Well, I just asked them if --

14 THE COURT: Overruled.

15 BY MR. LALLI:

16 Q Who else were you looking for, if anyone?

17 A We were looking for Romeo and D -- or D-Roc.

18 Q You were looking for both of them?

19 A Yes.

20 Q Based upon your conversation with Red and Black?

21 A Yes.

22 Q Okay. So where do you ask this friend to go? You
23 had mentioned that you had asked a friend to go check on a
24 particular unit at the Sportsman's. Where did they go?

25 A To the lesbians' house.

1 Q Who are the lesbians?

2 A Two girls that everybody called the lesbians.

3 Q So you -- that's how they were known in -- in the
4 Sportsman's, as the lesbians?

5 A Yes.

6 Q When you send a friend, do you remember who that
7 was?

8 A No.

9 Q When you send that person over to the lesbians'
10 house, does that person return?

11 A Yes.

12 Q Is Rome or the defendant with that person?

13 A No.

14 Q At some point does Rome -- or Romeo show up at the
15 Sportsman's?

16 A Yes.

17 Q Tell us what happens when he shows up.

18 A I see him coming out of the bar and I tell Black,
19 "There he is right there."

20 Q And then what happens?

21 A Black and his cousin chase him and they beat him up
22 and knock him unconscious.

23 Q Where?

24 A In the parking lot of the Sportsman's.

25 Q Is that something you're watching?

1 A Yes.

2 Q Was Red present?

3 A Yes.

4 Q Did -- did Red say anything to you about that, that
5 you recall?

6 A Not that I can remember.

7 Q Okay. But you remember Red being present?

8 A Yes.

9 Q What happened after the fight?

10 A The police pulled up and Red, Black and his cousin
11 jump into the truck and pull off. And I tried to go with
12 them, but they left me. So I ran, because the police were
13 there.

14 Q You've mentioned Black's cousin a couple of times.
15 Do you know his name?

16 A I have no idea.

17 Q All right.

18 MR. LALLI: Your Honor, that concludes direct
19 examination.

20 THE COURT: Okay. Cross?

21 MR. CANO: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. CANO:

24 Q Ms. Broderway, there are a lot of people that have
25 nicknames in this case; correct?

1 A Yes.

2 Q And you have one, too?

3 A Yes.

4 Q You go by Nickel?

5 A Yes.

6 Q Okay. Now, let's talk a little bit about the
7 lifestyle that you were living back then.

8 A Yes.

9 Q And we're talking about May -- the May time frame of
10 2006 regarding this incident, okay?

11 A Yes.

12 Q You were selling drugs back then?

13 A Yes.

14 Q Okay. And you were -- which -- were you selling
15 hard and soft? Do you know that terminology, hard and soft?

16 A Yes. I didn't sell soft, no.

17 Q Okay. So you sold hard?

18 A Yes.

19 Q And hard is cocaine -- or crack -- is crack?

20 A Yes.

21 Q Okay. And you said that you -- and you were working
22 with Trey?

23 A Yes.

24 Q Okay. Now, did you know Trey to sell drugs, as
25 well?

1 A Yes.

2 Q Okay. Now, you said you were involved in a lot of
3 stuff that you shouldn't have been; correct?

4 A Yes.

5 Q All right. You were using drugs, as well as selling
6 them?

7 A Yes.

8 Q Okay. And I believe you were using a lot of meth?

9 A Yes.

10 Q All right. That would be soft in the terminology;
11 right?

12 A No.

13 Q Soft doesn't mean meth?

14 A No.

15 Q Okay. So you were using meth though?

16 A Yes.

17 Q Okay. And basically you were using as much meth as
18 you could get your hand on?

19 A Basically, yes.

20 Q Okay. I believe you testified in direct that you
21 were partying. Is that what you mean by partying?

22 A Yes.

23 Q Okay. And you were also drinking?

24 A Yes.

25 Q And your drink of choice back then was a viper?

1 A Yes.

2 Q Okay. And you would drink in conjunction with using
3 meth?

4 A Yes.

5 Q Okay. And you were drinking pretty much as much as
6 you could gets your hands on or afford?

7 A Yes.

8 Q Okay. So I think you even said that you were
9 drinking enough not to remember or something to that effect.
10 Do you remember testifying to that earlier at a separate
11 trial?

12 A I think so.

13 Q Okay. Did you ever drink to the point where you
14 would black out?

15 A No.

16 Q Okay. But you would drink to the point where you
17 would become very intoxicated?

18 A Yes.

19 Q Okay. And when you were using meth, fair to assume
20 that you were also very intoxicated or high?

21 A Yes.

22 Q Okay. And you had that mixture of meth and alcohol
23 in your system?

24 A Yes.

25 Q Okay. Fair to say that at that point in time of

1 your life that that was maybe a low point of your life?

2 A Yes.

3 Q Okay. And you were drinking daily and using drugs
4 daily?

5 A Yes.

6 Q Okay. And when you're under the influence of drugs
7 and alcohol fair to say that that can alter your perceptions?

8 A Yes.

9 Q Okay. And sometimes your memory?

10 A Yes.

11 Q Okay. And when you actually -- you gave a statement
12 in this case. Do you remember that?

13 A Yes.

14 Q Okay. Did you review that statement prior to your
15 testimony?

16 A Yes.

17 Q Okay. And who gave you that statement?

18 A The lawyers.

19 Q The lawyers?

20 A Uh-huh.

21 Q Was it one of these two guys over here?

22 A Yes.

23 Q Which one?

24 A Mr. Lalli.

25 Q Mr. Lalli? Okay. And did he just give you one

1 statement, or did he give it to you prior to the other trial,
2 as well?

3 A Prior to the other trial, as well.

4 Q Okay. So you reviewed it before that trial, as well
5 as this one?

6 A Yes.

7 Q Did you have a chance to review your testimony from
8 the prior trial?

9 A I did.

10 Q Okay. And who gave that to you?

11 A Mr. Lalli.

12 Q Okay. And when did he give those to you?

13 A Yesterday morning.

14 Q Yesterday morning?

15 A Yes.

16 Q Okay. So you had all day yesterday to review that?

17 A Yes.

18 Q And then up until I guess your testifying today?

19 A Yes.

20 Q Okay. And do you -- I guess you still have those in
21 your possession then?

22 A I do.

23 Q All right. Now, do you recall when you gave that
24 statement -- that was May of 2006, May 30th?

25 A I'm not good with dates.

1 Q Okay. If I showed you a copy of that, would that
2 help to refresh your recollection?

3 A Yes.

4 MR. CANO: If I could approach, Your Honor.

5 THE COURT: Yes.

6 MR. CANO: And this is the first page, counsel.

7 BY MR. CANO:

8 Q Why don't you read that to yourself, please. Does
9 that help refresh your recollection?

10 A Yes.

11 Q When was that?

12 A May 30th.

13 Q May 30th, 2006; correct?

14 A Yes.

15 Q And do you recall that -- testifying at a previous
16 trial that you were under the influence of drugs and meth when
17 you gave that statement to the police?

18 A Yes.

19 Q Okay. And while you were using these drugs and
20 meth, would it be safe to say that you -- you would be up for
21 days at a time?

22 A Very, yes.

23 Q Okay. Would you use the meth to kind of keep you
24 going?

25 A Yes.

1 Q All right. And what was the longest chain of days
2 that you would be up?

3 A My longest chain of days was 14 days straight.

4 Q Fourteen days straight without sleep?

5 A Without sleep.

6 Q I can imagine that being up for 14 days straight
7 without sleep and using meth constantly would alter your
8 perception of things?

9 A Yes.

10 Q As well as your memory?

11 A Yes.

12 Q Okay. And when you would stay up, would it be fair
13 to say that you would go to the Sportsman's bar and kind of
14 just hang out there all day, all night?

15 A All night.

16 Q All night?

17 A Yes.

18 Q Okay. Now, You said that you were running drugs for
19 Trey; correct?

20 A Yes.

21 Q All right. Do you have knowledge of anybody else
22 that was running drugs for Trey?

23 A Yes.

24 Q All right. Did you know if Red was running drugs
25 for Trey?

1 A No.

2 Q How about Christina?

3 A No.

4 Q How about Victoria?

5 A Not really. Like every now and then, but not very
6 much.

7 Q So she would now and then?

8 A Yes.

9 Q Okay. Now --

10 MR. CANO: Court's indulgence, Your Honor.

11 BY MR. CANO:

12 Q Would it be a fair description -- well, did Domonic
13 run drugs for Trey, to your knowledge?

14 A They kind of worked together.

15 Q They worked together? Okay. Would it be a fair
16 description that you described Trey as a big homey?

17 A Yeah.

18 Q Okay. Kind of like the boss?

19 A Yes.

20 Q Okay. Now, do you recall the State talking to you
21 about Romeo and how he said that he was a pimp?

22 A Yes.

23 Q Okay. Do you remember in a statement that you gave
24 to the police back in May 30th of 2006, telling the police --

25 MR. CANO: And it's page 7, counsel

1 BY MR. CANO:

2 Q -- that Victoria never called him a pimp?

3 A Yes.

4 Q Okay.

5 MR. LALLI: Your Honor, I'm going to object. That's
6 hearsay.

7 THE COURT: Sustain the objection.

8 MR. LALLI: Move to strike.

9 THE COURT: Jury's instructed to disregard the last
10 statement from this witness.

11 BY MR. CANO:

12 Q Okay. Did you tell the police that Victoria wasn't
13 a pimp?

14 A That Victoria wasn't a pimp?

15 Q I'm sorry. Did you tell the police that Romeo
16 wasn't a pimp?

17 A Did -- I didn't tell them that -- not a --

18 Q You did not tell that to the police?

19 A No.

20 Q All right. Would it help --

21 THE COURT: If you'll -- excuse me, ma'am, can you
22 -- your voice sort of tapers off as you're answering --

23 THE WITNESS: I'm sorry.

24 THE COURT: That's okay. Just speak up. The
25 microphone there really doesn't really amplify. We have a

1 recording system, so we want to make sure that the attorneys
2 and the jury can hear you, okay?

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 BY MR. CANO:

6 Q Did you tell the police that Victoria didn't have a
7 pimp?

8 A Yes.

9 Q Okay. And you said that you did not tell the police
10 that Romeo wasn't her pimp -- or that Victoria never called
11 him -- called Romeo her pimp?

12 A No, she didn't.

13 Q All right. Would it help to refresh your
14 recollection if I showed you your statement to the police from
15 May 30th?

16 A Yes.

17 MR. CANO: If I could approach, Your Honor.

18 THE COURT: Yes.

19 MR. CANO: Page 7.

20 BY MR. CANO:

21 Q And if you could read this to yourself, the top of
22 the page. Did that help to refresh your recollection?

23 A Yes.

24 Q Now, did you tell the police that Victoria never
25 called Romeo her pimp?

1 MR. LALLI: Objection, hearsay.

2 THE COURT: Sustained.

3 MR. CANO: It's what she said to the police, Your
4 Honor. It's not --

5 THE COURT: It's still an out-of-court statement,
6 it's -- I'm sustaining the objection.

7 MR. CANO: That's her testimony as to what she said
8 to the police.

9 THE COURT: Is that hearsay? Isn't that hearsay,
10 State?

11 MR. CANO: She's on the stand, Your Honor.

12 MR. LALLI: It's -- objection, hearsay.

13 THE COURT: Well, it's not that she's on the stand,
14 it's an out-of-court statement. You're asking her --

15 MR. CANO: But I'm referring as to what she told the
16 police, Your Honor. As her statement to the police, that's
17 not hearsay, Your Honor.

18 MR. LALLI: Well, I can show you the statement and
19 it's clearly hearsay, Your Honor. She is relaying to the
20 police what Victoria said.

21 MR. CANO: And I'm asking her about what she had
22 said to the police, Your Honor.

23 THE COURT: Well, it's based upon what someone may
24 or may not have told her; right?

25 MR. LALLI: Yes.

1 THE COURT: So I'm sustaining the objection for
2 hearsay.

3 MR. CANO: All right.

4 BY MR. CANO:

5 Q To your knowledge Romeo wasn't Victoria's pimp?

6 A No.

7 Q Okay. And to your knowledge Domonic was never her
8 pimp, either?

9 A No.

10 Q Now, I'm going to talk to you a little bit about the
11 statements that Domonic talked to you regarding Red. Do you
12 remember the direct testimony on that?

13 A Yeah.

14 Q Okay. Now, to your knowledge that was sometime
15 after you got out of jail in early May?

16 A Yes.

17 Q Okay. You don't recall specifically as to what date
18 that was?

19 A No.

20 Q Okay. Now, was Red present when that conversation
21 was being had?

22 A No.

23 Q Who was present?

24 A Myself and D-Roc.

25 Q So it was just the two of you?

1 A Yes.

2 Q Okay. And how was it that the topic of Red came up?

3 A I don't remember.

4 Q You don't remember. You just remember out of the
5 blue that he made some statement regarding Red?

6 A Yes.

7 Q Now, you said that -- and now we're moving forward
8 in the time frame when I think some of -- when you were
9 looking for Victoria -- or I think you believed that the girls
10 may have been missing. We're going to that time frame, okay?

11 A Okay.

12 Q Do you remember specifically what date that was?

13 A No.

14 Q You don't? Okay. But around that time frame, do
15 you recall saying that you had seen Romeo in a vehicle by some
16 gas pumps?

17 A Yes.

18 Q Okay. Now, you said that there were other people
19 that were in the vehicle, as well?

20 A Yes.

21 Q Okay. Was Romeo inside the car, or outside the car
22 when you had this conversation?

23 A Inside the car.

24 Q Okay. And he was parked at the gas station itself?

25 A No.

1 Q He was parked at the pumps?

2 A No.

3 Q Where was he parked?

4 A He was pulled a little bit from there -- like there
5 was an entrance to the bar and then there was the gas station,
6 and he was kind of between the two.

7 MR. CANO: Court's indulgence, Your Honor. I'm
8 trying to find this topographical.

9 THE COURT: Sure.

10 MR. CANO: I apologize, Your Honor.

11 THE COURT: No. Take your time.

12 BY MR. CANO:

13 Q I want to show you what's --

14 MR. CANO: State's 108; right?

15 MR. LALLI: Uh-huh.

16 MR. CANO: Is that it?

17 MR. LALLI: Yes.

18 MR. CANO: Thank you.

19 MR. LALLI: Uh-huh.

20 BY MR. CANO:

21 Q I want to show you what's been admitted as State's
22 108. Does that look familiar to you at all? I'm going to
23 tell you that this street right here is Boulder Highway and
24 this is Tropicana.

25 A I have really bad eyes.

1 Q Would it help you if you got closer to the screen
2 there?

3 A Yeah.

4 Q Okay. Does that look familiar to you at all?

5 A Yes. Yeah.

6 Q If you know and if you don't know.

7 A I -- yeah, I know what it is.

8 Q What is that?

9 A That is Sportsman's from up top.

10 Q Okay. Like -- from a view from the sky looking down
11 on top of the Sportsman's?

12 A Yes.

13 Q Okay. And with the bar area that you were talking
14 about where I'm pointing my finger, would that be that, the
15 bar?

16 A Yes.

17 Q Okay. And you see this little white structure
18 that's on top of there?

19 A Yes.

20 Q Would that be the gas pump in front of the mini
21 mart?

22 A Yes.

23 Q Okay. Could you point -- and if you point on the
24 screen I'll make a mark. Could you point as to where the car
25 was when you spoke to Romeo.

1 A Oh, no, that's not right.

2 Q Okay. If --

3 THE COURT: I erased it, but -- go ahead, ma'am.

4 BY MR. CANO:

5 Q Okay. So to the best of your recollection that's
6 where the car was when you had this conversation with Romeo?

7 A Yes.

8 Q Is that a yes?

9 A Yes.

10 Q Now, the conversation that you had with Romeo, would
11 it be fair to say was pretty much just between you and Romeo?
12 Let me go back to the conversation at the gas station,
13 remember that you -- talking to Romeo?

14 A Yes.

15 Q He was the one that was talking to you regarding the
16 girls -- or regarding Victoria?

17 A Yes.

18 Q Right?

19 A Yes.

20 Q And he specifically mentioned Victoria in that
21 conversation?

22 A Yes.

23 Q And he was asking you to do something against
24 Victoria; correct?

25 A Yes.

1 Q All right. When this conversation was being had,
2 Domonic didn't ask you to do anything against Victoria;
3 correct?

4 A Not that I recall, no.

5 Q Okay. There were other -- two other girls in that
6 vehicle?

7 A Yes.

8 Q All right. And Domonic was sitting in the back
9 seat; correct?

10 A Yes.

11 Q All right. And you said one of the other girls was
12 in the front seat?

13 A Yes.

14 Q And one of the other girls was in the back seat?

15 A Yes.

16 Q Okay. Neither one -- did you know who -- did you
17 know who those two girls were?

18 A No.

19 Q Okay. Did either one of those two girls ask you to
20 do anything against Victoria?

21 A No.

22 Q Okay. So when you were talking about this thing
23 that you're supposed to do against Victoria, that was
24 exclusively Romeo talking to you; correct?

25 A Yes.

1 Q None of the other three people in the car were
2 saying regarding that?

3 A No.

4 Q Okay. Now, you said that someone had described
5 Romeo to you?

6 A Yes.

7 Q And that was because you didn't know Romeo at that
8 point in time?

9 A No. I did not know him.

10 Q Did you ever -- so to your knowledge you had not
11 seen him prior to that gas station at the Sportsman's?

12 A Correct.

13 Q Do you know a person known as White Boy?

14 A Yes.

15 Q Okay. Do you know his real name?

16 A I think if I heard it I'd know it, but I --

17 Q If I told you his name was Donny or Donald Herb,
18 does that sound familiar to you?

19 A Yes.

20 Q Is that White Boy?

21 A As far as I know, yes.

22 Q Okay. And he's -- is he a white gentleman?

23 A Yes.

24 Q Okay. Would you have seen him at the Sportsman's?

25 A I never saw -- I saw him I think one time.

1 Q You saw him one time at the Sportsman's?
2 A Yes.
3 Q Okay. And did you see him in that green car that
4 you had described earlier, at the Sportsman's?
5 A Not at the Sportsman's.
6 Q Okay. But you had seen him in that green car
7 before?
8 A Yes.
9 Q White Boy was driving the green car?
10 A No.
11 Q He was a passenger in the green car?
12 A Yes.
13 Q All right. Do you know who was driving the green
14 car?
15 A Romeo.
16 Q Romeo was driving it?
17 A Yes.
18 Q Okay. Domonic wasn't in that car?
19 A No.
20 Q Okay. So just White Boy and Romeo?
21 A And Victoria.
22 Q And Victoria had -- was in the car with them?
23 A Yes.
24 Q Okay. Do you remember Red --
25 MR. LALLI: Your Honor, may I inquire -- I'm sorry.

1 May I inquire foundation as to when this -- when she's seen
2 this.

3 MR. CANO: That was my next question, Your Honor.

4 THE COURT: All right. Great. Thank you.

5 MR. LALLI: Great minds think alike.

6 BY MR. CANO:

7 Q When was that day you seen them?

8 A Right around the time that I got out of jail, maybe
9 the 9th or the 10th.

10 Q Okay. So that was earlier in May?

11 A Yes.

12 Q Okay. Had you seen them in that vehicle from that
13 time -- had you seen them again or any other time after that?

14 A No.

15 Q Okay. Now, did you -- you said you were close to
16 Victoria; correct?

17 A Yes.

18 Q You called each other wives?

19 A Yes.

20 Q And so you would try to know where she was at?

21 A Yes.

22 Q Find out what was going on with her; correct?

23 A Yes.

24 Q And vice versa she would do the same for you?

25 A Yes.

1 Q During this time frame, to your knowledge did you
2 know if Victoria had a relationship with Romeo?

3 A Yes.

4 Q Okay. Was that a sexual relationship?

5 A I think so, yeah.

6 Q If you know, and if you do not know you could say.

7 A I don't know for sure, but --

8 Q You don't know for sure?

9 A No.

10 Q Okay. So to your knowledge Victoria never told you
11 about a sexual relationship?

12 A No.

13 Q And Romeo never did?

14 A No.

15 Q Okay. But you had seen them together?

16 A Yes.

17 Q Would it be fair to say that you saw them together
18 on more than one occasion?

19 A I don't know if it was all the same night or if it
20 was separate days, it kind of led together.

21 Q Okay. But you had seen Victoria with Romeo more
22 than once?

23 A Yes.

24 Q Okay. Now, you said -- during the gas pump -- we're
25 going back to that gas pump. You said that during that

1 conversation the only thing that D-Roc told you was to
2 remember that you were family?

3 A Yes.

4 Q Okay. Do you know -- when he said family, that --
5 you said that was referring to I guess the people that you
6 were hanging out with?

7 A Yes.

8 Q Okay. Who were those people?

9 A Trey, D-Roc and the people that worked for them,
10 Victoria.

11 Q Okay. What other people were working?

12 A A guy named Jeff.

13 Q Okay. Now, was that a way of just saying hello?

14 A What do you mean?

15 Q Like, you know, hey, how you doing, hey, we're
16 family.

17 A No.

18 MR. LALLI: I'm going to object. I think the
19 Court's ruling is it's just what Nicolin perceived it to be
20 and not what -- how the defendant meant it.

21 THE COURT: That's correct. That's how I ruled
22 before. So if you want to ask how she perceived it.

23 MR. CANO: Okay.

24 BY MR. CANO:

25 Q Did you perceive that as like a greeting or a hello?

1 A No.

2 Q Okay. Now, Red comes into -- and you -- I think you
3 said that you believed that that time frame when they were at
4 the gas station was somewhere between 11:00 and 12:00 I think?

5 A Yeah. That's what I thought it was.

6 Q Now, you were under the influence that day?

7 A Yes.

8 Q You were taking meth?

9 A Yes.

10 Q And alcohol?

11 A Yes.

12 Q Do you remember how much meth you had had that day?

13 A Oh, no.

14 Q Would it be fair to say that it was a lot of meth?

15 A No. Not a lot a lot, like --

16 Q What is not a lot a lot to you?

17 A Okay. Like a lot would have been like a 10 or an 8
18 ball.

19 Q Okay.

20 A But I probably smoked a couple bowls, snorted some
21 lines.

22 Q Okay. So how much is in a couple bowls?

23 A Probably a quarter or two.

24 Q Okay. So that would be per bowl?

25 A Yeah.

1 Q Okay. So a quarter or two, so that's two quarters
2 which would make a half; right?

3 A Right.

4 Q And you said you snorted some lines?

5 A That was all -- I'm considering that altogether in
6 that.

7 Q Okay. So -- and that's a half a gram or half an
8 ounce or --

9 A It would be half a gram.

10 Q Okay. And in conjunction with that you were
11 drinking your vipers?

12 A I'm -- yeah.

13 Q Do you remember how many vipers you had had?

14 A Probably only one.

15 Q Okay. Would it be fair to say that you were high at
16 that point in time?

17 A Yes.

18 Q Okay. Now, you said you were selling crack. Did
19 you ever take any crack?

20 A I did.

21 Q You did crack, as well?

22 A Yes.

23 Q So in conjunction with meth you would smoke crack?

24 A No, not together. I had tried it and did it -- used
25 a couple times, but --

1 Q Okay. And that was in this time frame of everything
2 that was going on?

3 A Yes.

4 Q All right. Now, do you recall -- I think you
5 testified earlier that you ran into Red in the bar --

6 A Yes.

7 Q -- that evening, as well; correct?

8 A Yes.

9 Q Do you recall talking to Red regarding Victoria?

10 A Yes.

11 Q Would it be fair to say that even though you had an
12 idea that these girls were missing your main concern was
13 Victoria?

14 A Yes.

15 Q Okay. So you had a conversation with Red regarding
16 Victoria. Now, did Red tell you that Trey knew about it,
17 regarding -- meaning that the girls were missing?

18 A Yes.

19 Q Okay. And that it was Trey's -- that money was owed
20 to him?

21 A I don't know if that was Red that told me that or
22 not.

23 Q Would it help to refresh your recollection if I
24 showed you your statement?

25 A Sure.

1 Q Okay.

2 MR. CANO: Page 34, Counsel.

3 If I could approach, Your Honor.

4 THE COURT: Yes.

5 BY MR. CANO:

6 Q And the line's 13. And you can read that, ma'am, as
7 far as you need to. Does that help refresh your recollection?

8 A Yes.

9 Q Okay. So did Red tell you that money was owed --
10 that some money was owed to him by the girls?

11 A Yes.

12 Q Okay. And that would have been Victoria and
13 Christina?

14 A Yes.

15 Q And do you recall that that amount of money was \$80?

16 A Yes.

17 Q And that was because they had owed them money for
18 drugs?

19 A I -- yes.

20 Q Okay. And that was speed and crack?

21 A I don't know.

22 Q Okay. Would it help to refresh your recollection if
23 I showed you your statement?

24 A Yes.

25 MR. CANO: If I could approach, Your Honor.

1 THE COURT: Yes.

2 MR. CANO: Page 61, Counsel.

3 BY MR. CANO:

4 Q Page 61 is right here. If you could read that to
5 yourself, please. Does that help to refresh your
6 recollection?

7 A Yes.

8 Q Okay. So the \$80 that was owed, was that for speed
9 and crack?

10 A Yes.

11 Q Now, based upon that conversation that you were
12 having with Red did you do something? Based upon that
13 conversation regarding the girls and them owing money to Trey
14 did you do something?

15 A Yes.

16 Q And you actually called Trey, didn't you?

17 A Yes.

18 Q And when you talked to Trey you wanted to find out
19 what was going on with these girls?

20 A Yes.

21 Q And Trey told you that these girls --

22 MR. LALLI: Objection. Hearsay.

23 THE COURT: Sustained.

24 MR. CANO: It's not asserted for the --

25 MR. LALLI: Can we approach?

1 THE COURT: Yes.

2 MR. CANO: Okay.

3 (Bench conference)

4 THE COURT: Scooch in closer. So your question is,
5 Trey told you, and then the objection; right?

6 MR. CANO: Right.

7 MR. LALLI: Yes. So she's on the telephone, talking
8 to Trey, and the question is, what did he say to you.

9 MR. CANO: Well, that wasn't my question. The
10 question was -- I was going to go into what he said to her.
11 But obviously he's objecting over hearsay. I'm saying that
12 it's not asserted for the truth of the matter, it's not
13 hearsay, and it shows Trey's involvement in carving up these
14 girls.

15 THE COURT: So you're trying to prove Trey's
16 involvement?

17 MR. CANO: Yes.

18 THE COURT: So --

19 MR. CANO: -- for the truth of the matter, not that
20 the girls are okay, no. And then he's saying that the girls
21 -- he's telling her the girls are okay. Whether the girls are
22 okay or not, I mean, that's the truth of the matter. What I'm
23 offering it for is to show that had knowledge of these girls
24 and that these girls are missing and that he said -- you know,
25 relayed to her that they were fine. So he had knowledge of

1 something that was going on, showing his involvement.

2 THE COURT: You're trying to prove his involvement?

3 MR. CANO: Sure. Right.

4 THE COURT: [Inaudible].

5 MR. LALLI: It's for the truth of the matter.

6 MR. CANO: It's not whether they were okay or not.
7 That's the truth of the matter. If I'm -- if I'm, you know,
8 getting up there to say, he told you the girls are okay and
9 the girls were okay. I'm not saying that. I'm saying that
10 this goes directly to show his knowledge, it's like an
11 admission on his part that he had knowledge of that -- you
12 know, these girls are missing and that he had knowledge as to
13 something that was going on with them. That's -- his
14 involvement.

15 THE COURT: To prove his knowledge?

16 MR. CANO: To prove his knowledge and his
17 involvement, yeah.

18 THE COURT: Okay. So are you trying to prove --

19 MR. CANO: He tells that they're okay. I'm not
20 saying that the girls -- whether or not it's true that the
21 girls are okay or not. That's if I'm putting it up there, you
22 know, for the truth --

23 MR. LALLI: That's precisely why he wants -- I mean,
24 and I disagree with that suggestion. But he wants that
25 statement for the fact of that Trey said those things and he

1 meant that and it shows somehow that he was involved. I mean,
2 he wants it for the truth of that statement.

3 MR. CANO: I don't know that --

4 MR. LALLI: Because --

5 MR. CANO: -- he didn't -- but it does show that he
6 was involved.

7 THE COURT: Well, I think it is hearsay, so I'm
8 going to sustain the objection.

9 MR. CANO: Okay.

10 (End of bench conference)

11 THE COURT: I'm sustaining the objection.

12 BY MR. CANO:

13 Q Now, you had a conversation with Trey; correct?

14 A Yes.

15 Q All right. Without telling me what he told you in
16 that conversation, did it put you at ease?

17 A A little bit, yes.

18 Q And would it -- and you asked him what -- what he
19 knew about the girls being missing?

20 A Yes.

21 Q Okay. Now, can we talk a little bit about the
22 incident that happened outside of the bar. Do you recall that
23 incident involving Romeo?

24 A Yes.

25 Q And Black?

1 A Yes.

2 Q Okay. Red came in with Black; correct?

3 A Yes.

4 Q To the bar, as well as Black's cousin?

5 A Yes.

6 Q But you don't know Black's cousin's name?

7 A No.

8 Q Okay. And do they speak to you inside of the bar,
9 or outside the bar?

10 A Both.

11 Q Both. Okay. And from that conversation -- without
12 telling me what they said, from that conversation would it be
13 fair to say that they were looking for somebody?

14 A Yes.

15 Q And then following that conversation you pointed
16 Romeo to them?

17 A Yes.

18 Q Okay. And after you pointed out Romeo to them,
19 Black went and attacked Romeo?

20 A And his cousin.

21 Q And his cousin attacked him, as well?

22 A Yes.

23 Q Okay. Can you describe for me what Black did to the
24 Romeo.

25 A They chased him around the parking lot, and they

1 beat him severely, like he was unconscious.

2 Q Okay. Was he initially standing up?

3 A Yes.

4 Q Okay. And do you recall whether -- do you recall
5 that both Black and his cousins were hitting Romeo?

6 A Yes.

7 Q Okay. Do you recall where on his person they were
8 hitting him?

9 A Everywhere.

10 Q So would it be fair to say they hit him in the head?

11 A Yes.

12 Q And the torso area?

13 A Yes.

14 Q Legs area?

15 A Yes.

16 Q Now, were they punching him with a closed fist?

17 A Closed fist and feet.

18 Q And feet. So they were kicking him, as well?

19 A Yes.

20 Q And at some point during this beating did Romeo fall
21 to the ground?

22 A Yes.

23 Q And did they keep beating him while he was on the
24 ground?

25 A Yes.

1 Q Both Black and his cousins?
2 A Yes.
3 Q And was it at that point that they started to kick
4 him?
5 A Yes.
6 Q And they were kicking him all over his body?
7 A Yes.
8 Q And you said that they beat him into
9 unconsciousness?
10 A Yes.
11 Q So after they left, Romeo just still laid there?
12 A Yes.
13 Q He didn't move?
14 A No.
15 Q Okay. How long did this beating take?
16 A Just a few minutes. I don't --
17 Q It didn't seem to take very long?
18 A No, not very long. To me it didn't. But --
19 Q Okay. In during this beating that these two people
20 were beating him down Red was there, as well?
21 A Yes.
22 Q And would it be fair to say that Red was very
23 excited?
24 A Yes.
25 Q And that she was yelling?

1 A Yes.

2 Q And she was yelling in the direction of the fight?

3 A Yes.

4 Q She was yelling at Romeo?

5 A I don't remember.

6 Q Okay. Was she yelling at Black?

7 A I don't remember.

8 Q But she was yelling?

9 A Yes.

10 Q Would it be fair to say that she was encouraging

11 Black and his cousins to beat Romeo?

12 A Yes.

13 Q Okay. Do you recall her saying that it was PT time?

14 A PT time?

15 Q PT time.

16 A Peeky, or PT?

17 Q PT. The letter P and the letter T.

18 A No.

19 Q Okay. Have you heard that term before?

20 A No.

21 Q No. Okay. Do you recall that Red called Romeo the

22 N word?

23 A No.

24 Q But she was yelling encouragement to Black and his

25 cousins to beat him down?

1 A [Unintelligible].

2 Q She was yelling at Black and his cousins to beat
3 Romeo up?

4 A I don't remember what she was saying.

5 Q Okay. But -- now, you had a conversation with Red;
6 correct?

7 A I did.

8 Q And part of the conversation with Red was that you
9 were asked to beat her up --

10 A Yes.

11 Q -- for money?

12 A Yes.

13 Q Correct?

14 A Yes.

15 Q And you brought that to Red's attention?

16 A I did.

17 Q Okay. Now, while this fight was going on or shortly
18 after this fight ended Red never grabbed you by the hair and
19 showed you into the direction of where Romeo was laying?

20 A No.

21 Q Okay. Red never told you that, see, that's that
22 person that tried to pay you to beat me up?

23 A No.

24 Q Okay. But you and Red were both there?

25 A Yes.

1 Q Okay. Now, we had talked earlier before about that
2 Domonic was not Victoria's pimp, remember? I had asked you
3 that question?

4 A Yes.

5 Q Okay. You'd never seen Domonic hit Victoria before?

6 A No.

7 Q Okay. To your knowledge, did you -- you said you
8 knew Christina; correct?

9 A I did.

10 Q Okay. And to your knowledge did you know that she
11 sold drugs?

12 A I did.

13 Q Okay. Did you -- to your knowledge did you know
14 that she consumed drugs, as well?

15 A Yes.

16 Q Okay. Do you remember what kind of drugs she would
17 take?

18 A Meth.

19 Q Meth? Okay. Was that the only drugs that you saw
20 her consume?

21 A Yes.

22 Q To your knowledge did you know if Christina was a
23 prostitute?

24 A No.

25 Q Okay. And so I guess it would follow that Domonic

1 was not Christina's pimp, either?

2 A Not that I knew of.

3 Q Not that you knew of. Okay. To your knowledge did
4 you ever see Domonic hit Victoria?

5 A No.

6 Q Okay. If something like that would happen, you
7 would expect Victoria to tell you that; right?

8 A Yes.

9 Q But she never did?

10 A No.

11 Q I'm going to talk to you a little bit about Ryan,
12 the person Ryan. Do you remember him?

13 A Yes.

14 Q Okay. You don't remember his last name?

15 A I do not.

16 Q But you had said that you had gone from the
17 Sportsman's to his house?

18 A Yes.

19 Q Okay. In the vehicle were yourself and Victoria?

20 A Yes.

21 Q Okay. Do you remember as to what date that was?

22 A I think it was the 9th or the 10th. I don't know
23 exactly the date.

24 Q Okay. Was that shortly after you got released from
25 custody?

1 A Yes.

2 Q Okay. Do you recall who else was in that vehicle?

3 A That night?

4 Q Yeah.

5 A Just myself.

6 Q Yourself, Victoria, and Ryan?

7 A Ryan was not in the vehicle.

8 Q Okay. Who was in the vehicle?

9 A Myself and Romeo.

10 Q Yourself and Romeo?

11 A Yes.

12 Q Okay. At some point in time you go to Ryan's house

13 that night?

14 A Yes.

15 Q And that was yourself and Romeo?

16 A Yes.

17 Q Okay. And was Victoria in that car, as well?

18 A Not at that point.

19 Q Not at that -- at what point did Victoria get into

20 the car?

21 A When we went to Ryan's house we picked her up.

22 Q Oh. So you picked up Victoria from Ryan's house?

23 A Yes.

24 Q Okay. To your knowledge did Victoria have a

25 relationship with Ryan?

1 A No. Not to my knowledge.

2 Q Would Victoria ever spend a night at Ryan's house?

3 A While I was in jail I don't know what she did.

4 Q Okay. But to your knowledge you never knew if she
5 ever spent the night with Ryan, then?

6 A I don't know.

7 Q Do you know if Victoria would ever spend the night
8 with Trey?

9 A Yes.

10 Q How many times had she spent the night with Trey?

11 A A lot. We stayed at the same places he would be at.

12 Q Okay. So you'd share rooms with Trey?

13 A Yes.

14 Q Yourself and Victoria?

15 A Yes.

16 Q And to your knowledge do you know if she had a
17 sexual relationship with Trey?

18 A Yes.

19 Q Okay. How long was that going on for?

20 A Off and on.

21 Q Off and on during this time frame?

22 A Yeah.

23 Q To your knowledge did you ever know if Victoria
24 would give any of her profits from prostitution to Trey?

25 A I don't know exactly. I don't know.

1 Q When you were talking to Romeo at the gas pump, I
2 want to go back to that a little bit, okay.

3 A Which --

4 Q Do you remember the conversation you were having
5 with Romeo? I'm going back. Do you remember you had a
6 conversation with Romeo?

7 A Yes.

8 Q At the gas pumps?

9 A Yes.

10 Q Or close to the gas pumps, I guess.

11 A Yes.

12 Q Okay. That conversation he told you that he had his
13 homies let I guess the girls go?

14 A Yes.

15 Q And that came exclusively from Romeo?

16 A Yes.

17 Q Domonic never said that?

18 A No.

19 Q Okay. And do you know -- if you know, do you know
20 what homies he was talking about?

21 A No.

22 Q Okay. And he never specified the homies?

23 A No.

24 Q Okay. That drink, that viper that you were
25 drinking --

1 A Yes.

2 Q -- do you remember what was in that?

3 A A mixture of rum and milk and a lot of stuff.

4 Q A lot of other alcohols?

5 A Yes.

6 Q Would it be kind of like similar to let's say like a

7 Long Island type of a drink?

8 A Maybe, with some milk.

9 Q With milk instead?

10 A Yes.

11 Q Okay. Would it be fair to say that's a pretty

12 strong drink?

13 A It was.

14 Q Would it be fair to say that it didn't take very

15 many of those to get you drunk?

16 A Maybe four or five.

17 Q And you had drank four or five vipers, I guess, in

18 one sitting?

19 A No.

20 Q You never drank that much?

21 A I -- well, one sitting. What do you mean by one

22 sitting?

23 Q I mean you would sit down and drink at one point in

24 time.

25 A I didn't really sit down and drink. I kind of just

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

DOMONIC MALONE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 61006

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APPELLANT'S APPENDIX

VOLUME 10

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Michael Villani, District Court Judge
District Court No. C224572

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I N D E X

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
1	AMENDED INFORMATION (8/30/06)	046-053
18	COURT EXHIBITS ADMITTED AT TRIAL (UNFILED)	3652-3695
19	CRIMINAL COURT MINUTES (UNFILED)	3780-3927
7	DOCUMENTS PER COURT ORDER (6/22/11)	1312-1347
7	EX PARTE COMMUNICATIONS (DEFENDANT MEMORANDUM TO COURT) (PRO PER) (6/29/11)	1348-1353
5	EX PARTE MOTION FOR EXPENSES FOR PRIVATE INVESTIGATORS (PRO PER) (2/1/10)	977-978
1	INFORMATION (8/2/06)	001-008
17	INSTRUCTIONS TO THE JURY (1/31/12)	3431-3492
1	JOINDER WITH CO-DEFENDANT JASON McCARTY'S MOTION TO SEVER (10/25/06)	116-117
6	JUDGMENT OF CONVICTION (JURY TRIAL) (McCARTY) (4/6/11)	1287-1291
18	JUDGMENT OF CONVICTION (JURY TRIAL) (MALONE) (5/8/12)	3772-3776
7	JURY LIST (1/13/12)	1487
14	MALONE'S OBJECTIONS TO THE STATE'S PROPOSED TRIAL PHASE JURY INSTRUCTIONS (1/26/12)	2971-2984

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
7	MOTION FOR COMPLETE ROUGH DRAFT TRANSCRIPT OF (CASE NO. C224572-1) (PRO PER) (6/29/11)	1365-1452
2	MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILES NECESSARY TO A FAIR TRIAL (5/24/07)	292-299
7	MOTION FOR DISCOVERY OF PROSECUTION RECORDS FILES AND INFORMATION NECESSARY TO A FAIR TRIAL (PRO PER) (6/29/11)	1354-1364
6	MOTION FOR (FULL TRANSCRIPTION) DISCOVERY OF PROSECUTION RECORDS, FILES AND INFORMATION NECESSARY TO A FAIR TRIAL (PRO PER) (1/8/11)	1276-1277
5	MOTION FOR JUDICIAL DETERMINATION OF STANDBY COUNSELS OBLIGATIONS PURSUANT TO HOLLOWAY V. STATE (5/2/10)	990-997
6	MOTION FOR PARALEGAL; FINANCIAL ASSISTANCE; MEDICAL; PRIVATE INVESTIGATORS(S) (PRO PER) (7/8/10)	1110-1113
6	MOTION FOR PARALEGAL - (REHEARING) (PRO PER) (8/9/10)	1149-1152
5	MOTION FOR TRIAL (SPEEDY) AND OR IN THE ALTERNATIVE MOTION TO WITHDRAW COUNSEL (PRO PER) (12/3/09)	876-878
2	MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT (5/24/07)	265-287
2	MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE" (5/24/07)	259-261

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
4	MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF HEARSAY STATEMENTS MADE BY CO-DEFENDANT MCCARTY AND OTHERS THAT REFERENCE DEFENDANT MALONE AT THE TIME OF TRIAL (8/20/09)	641-660
5	MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF HEARSAY STATEMENTS MADE BY CO-DEFENDANT MCCARTY AND OTHERS THAT REFERENCE DEFENDANT MALONE AT THE TIME OF TRIAL (3/25/10)	1021-1041
2	MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (5/24/07)	288-291
3	MOTION TO DISMISS COUNSEL (PRO PER) (1/7/09)	607-608
3	MOTION TO DISMISS FOR FAILURE TO PRESERVE EVIDENCE, OR, IN THE ALTERNATIVE, MOTION FOR CORRECTIVE INSTRUCTION (1/31/08)	572-577
5	MOTION TO DISMISS FOR PROSECUTORIAL MISCONDUCT GROUNDS BRADY VIOLATION OR IN THE ALTERNATIVE THE JURY TO BE INSTRUCTED ON MALONE'S EXACT WHEREABOUTS DURING THE TIME OF THE MURDER(S) (PRO PER) (11/1/10)	1240-1257
6	MOTION TO DISMISS STAND-BY COUNSEL (PRO PER) (1/8/11)	1278
2	MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE (5/24/07)	262-264

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
5	MOTION TO PRESERVE AND PRODUCE EVIDENCE INCLUDING POTENTIALLY EXCULPATORY EVIDENCE (PRO PER) (2/1/10)	957-976
18	MOTION TO RECUSE THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE (2/6/12)	3698-3702
3	MOTION TO RECUSE THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE OR IN THE ALTERNATIVE MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY CO-DEFENDANT HERB AT THE TIME OF TRIAL (1/12/09)	609-616
1	MOTION TO SEVER (McCARTY) (10/9/06)	054-071
1	MOTION TO SEVER (MALONE) (10/25/06)	092-115
5	MOTION TO SUPPRESS STATEMENTS OF CORRENA PHILLIPS OR IN THE ALTERNATIVE MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY STATE WITNESSES "PHILLIPS" AT THE TIME OF TRIAL (PRO PER) (8/2/10)	1140-1148
4	MOTION TO SUPPRESS STATEMENTS OF DEFENDANT, OR IN THE ALTERNATIVE, MOTION IN LIMINE (9/18/09)	696-703
2	MOTION TO SUPPRESS STATEMENTS OF DONALD HERB, OR IN THE ALTERNATIVE MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY CO-DEFENDANT HERB AT THE TIME OF TRIAL (5/25/07)	300-317
4	MOTION TO WAIVE TRIAL BY JURY ON ALL COUNTS ALLEGING THE NAMED VICTIM MELISSA ESTORES (10/1/09)	755-763
18	NOTICE OF APPEAL (6/5/12)	3777-3779

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
4	NOTICE OF DEFENDANT'S WITNESSES (10/6/09)	775-783
4	NOTICE OF EXPERT WITNESSES (9/21/09)	704-744
7	NOTICE OF EXPERT WITNESSES (11/16/11)	1469-1470
1	NOTICE OF INTENT TO SEEK DEATH PENALTY (8/30/06)	017-045
4	NOTICE OF WITNESSES (10/02/09)	765-771
5	OPPOSITION TO DEFENDANT MALONE'S MOTION FOR RECONSIDERATION OF WRIT OF HABEAS CORPUS (4/9/10)	1045-1093
3	OPPOSITION TO DEFENDANT MALONE'S MOTION TO DISMISS FOR FAILURE TO PRESERVE EVIDENCE, OR IN THE ALTERNATIVE, MOTION FOR CORRECTIVE INSTRUCTION (2/25/08)	578-592
2	OPPOSITION TO DEFENDANT MALONE'S MOTION TO SUPPRESS STATEMENTS OF DONALD HERB, OR IN THE ALTERNATIVE MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF THE STATEMENT MADE BY THE CO-DEFENDANT HERB AT THE TIME OF TRIAL (6/14/07)	337-351
2	OPPOSITION TO DEFENDANT'S MOTION TO FEDERALIZE ALL MOTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE (6/6/07)	320-323
3	OPPOSITION TO DEFENDANT'S MOTION TO RECUSE THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE, OR IN THE ALTERNATIVE, MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY CO-DEFENDANT HERB AT THE TIME OF TRIAL (1/28/09)	622-625

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
2	ORDER (DENYING PETITION FOR WRIT OF HABEAS CORPUS) (1/18/07)	257-258
2	ORDER (COURT RULINGS ON MOTIONS) (7/24/07)	410-414
3	ORDER DENYING DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO PRESERVE EVIDENCE, OR IN THE ALTERNATIVE, MOTION FOR CORRECTIVE INSTRUCTION (3/27/08)	599-600
4	ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS OF DEFENDANT (10/22/09)	874-875
5	ORDER GRANTING DEFENDANT'S MOTION (2/26/10)	988-989
5	ORDER GRANTING DEFENDANT'S MOTION FOR ACCESS TO LAW LIBRARY (PRO PER) (9/27/10)	1201-1202
18	ORDER GRANTING DEFENDANT'S MOTION TO PRECLUDE EVIDENCE OF OTHER BAD ACTS EVIDENCE ENTITLED MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT (2/3/12)	3696-3697
1	PETITION FOR WRIT OF HABEAS CORPUS (11/6/06)	118-152
16	POINTS AND AUTHORITIES IN OPPOSITION TO THE INTRODUCTION OF THE NON-TESTIFYING CO-DEFENDANT'S RECORDED TELEPHONE CALL (1/27/12)	3173-3200
16	POINTS AND AUTHORITIES IN REPLY TO DEFENDANT'S OPPOSITION TO THE INTRODUCTION OF THE NON-TESTIFYING CO-DEFENDANT'S RECORDED TELEPHONE CALL (1/27/12)	3201-3206
5	RENEWED MOTION TO SEVER (McCARTY) (3/18/10)	929-956
4	REPLY TO OPPOSITION TO MOTION (8/27/09)	683-689

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
3	REPLY TO STATE'S OPPOSITION (1/30/09)	626-630
1	REPORTER'S TRANSCRIPT OF HEARING AUGUST 16, 2006 (5/7/08)	009-016
2	REPORTER'S TRANSCRIPT OF HEARING NOVEMBER 21, 2006 (6/6/08)	218-237
2	REPORTER'S TRANSCRIPT OF HEARING NOVEMBER 30, 2006 (6/6/08)	238-241
2	REPORTER'S TRANSCRIPT OF HEARING DECEMBER 12, 2006 (6/6/08)	242-256
2	REPORTER'S TRANSCRIPT OF HEARING JUNE 22, 2007 (6/6/08)	352-409
3	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 11, 2007 (6/6/08)	415-419
3	REPORTER'S TRANSCRIPT OF HEARING NOVEMBER 29, 2007 (6/6/08)	420-571
3	REPORTER'S TRANSCRIPT OF HEARING MARCH 13, 2008 (6/6/08)	593-598
3	REPORTER'S TRANSCRIPT OF HEARING JUNE 24, 2008 (7/2/08)	601-606
3	REPORTER'S TRANSCRIPT OF HEARING JANUARY 20, 2009 (2/17/09)	617-621
3	REPORTER'S TRANSCRIPT OF HEARING FEBRUARY 5, 2009 (2/17/09)	631-640
4	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 1, 2009 (9/9/09)	690-695

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
4	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 29, 2009 (3/5/10)	744-754
4	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 6, 2009 (3/5/10)	784-797
4	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 8, 2009 (3/5/10)	847-862
4	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 12, 2009 (3/5/10)	865-873
5	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 27, 2009 (3/5/10)	879-886
5	REPORTER'S TRANSCRIPT OF HEARING DECEMBER 15, 2009 (3/5/10)	887-892
5	REPORTER'S TRANSCRIPT OF HEARING JANUARY 8, 2010 (3/5/10)	893-928
5	REPORTER'S TRANSCRIPT OF HEARING FEBRUARY 16, 2010 (3/5/10)	979-987
5	REPORTER'S TRANSCRIPT OF HEARING MARCH 18, 2010 (4/12/10)	998-1005
5	REPORTER'S TRANSCRIPT OF HEARING MARCH 25, 2010 (4/12/10)	1006-1020
5	REPORTER'S TRANSCRIPT OF HEARING APRIL 13, 2010 (4/14/10)	1094-1104
5	REPORTER'S TRANSCRIPT OF HEARING APRIL 29, 2010 (5/18/10)	1105-1109
5	REPORTER'S TRANSCRIPT OF HEARING JULY 20, 2010 (9/22/10)	1124-1128

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
5	REPORTER'S TRANSCRIPT OF HEARING JULY 27, 2010 (9/22/10)	1129-1139
5	REPORTER'S TRANSCRIPT OF HEARING AUGUST 12, 2010 (9/22/10)	1153-1164
5	REPORTER'S TRANSCRIPT OF HEARING AUGUST 26, 2010 (9/22/10)	1170-1172
5	REPORTER'S TRANSCRIPT OF HEARING AUGUST 31, 2010 (9/22/10)	1173-1183
5	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 14, 2010 (9/22/10)	1186-1194
5	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 21, 2010 (9/22/10)	1195-1200
5	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 30, 2010 (10/8/10)	1203-1213
5	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 5, 2010 (10/8/10)	1214-1237
5	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 26, 2010 (1/12/11)	1258-1268
5	REPORTER'S TRANSCRIPT OF HEARING NOVEMBER 9, 2010 (1/12/11)	1269-1275
6	REPORTER'S TRANSCRIPT OF HEARING JANUARY 25, 2011 (2/28/11)	1279-1286
6	REPORTER'S TRANSCRIPT OF HEARING JUNE 9, 2011 (7/25/11)	1292-1297
6	REPORTER'S TRANSCRIPT OF HEARING JUNE 21, 2011 (7/25/11)	1298-1311

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
7	REPORTER'S TRANSCRIPT OF HEARING JULY 19, 2011 (7/25/11)	1453-1459
7	REPORTER'S TRANSCRIPT OF HEARING AUGUST 9, 2011 (9/21/11)	1460-1468
7	REPORTER'S TRANSCRIPT OF HEARING DECEMBER 15, 2011 (12/30/11)	1473-1480
7	REPORTER'S TRANSCRIPT OF HEARING JANUARY 3, 2012 (1/9/12)	1481-1486
8	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 17, 2012 (1/18/12)	1488-1732
9	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 18, 2012 (1/19/12)	1734-2013
10	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 19, 2012 (1/20/12)	2014-2273
11	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 20, 2012 (1/23/12)	2274-2485
12	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 23, 2012 (1/24/12)	2486-2684
13	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 24, 2012 (1/25/12)	2685-2896
14	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 25, 2012 (1/26/12)	2897-2970
15	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 26, 2012 (1/27/12)	2985-3172
16	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 27, 2012 (1/30/12)	3207-3397

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
17	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 30, 2012 (1/31/12)	3406-3430
17	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 31, 2012 (2/1/12)	3493-3630
18	REPORTER'S TRANSCRIPT OF JURY TRIAL FEBRUARY 1, 2012 (2/2/12)	3631-3645
18	REPORTER'S TRANSCRIPT OF PENALTY PHASE FEBRUARY 10, 2012 (2/15/12)	3703-3717
18	REPORTER'S TRANSCRIPT OF HEARING APRIL 10, 2012 (5/24/12)	3743-3747
18	REPORTER'S TRANSCRIPT OF HEARING APRIL 12, 2012 (5/24/12)	3748-3750
18	REPORTER'S TRANSCRIPT OF HEARING APRIL 24, 2012 (5/24/12)	3751-3771
5	RESPONSE TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS (8/19/10)	1165-1169
1	RETURN TO WRIT OF HABEAS CORPUS (11/22/06)	178-217
4	RECEIPT OF COPY (RAMAAN HALL'S "LYRICS AND ADDITIONAL DISCOVERY) (10/8/09)	800-846
18	SPECIAL VERDICT (2/10/12)	3718-3742
4	STATE OPPOSITION TO DEFENDANT MALONE'S MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF HEARSAY STATEMENTS MADE BE CO-DEFENDANT MALONE AT THE TIME OF TRIAL (8/26/09)	661-682
1	STATE'S OPPOSITION TO DEFENDANT MALONE'S MOTION TO SEVER (11/13/06)	153-177

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
1	STATE'S OPPOSITION TO DEFENDANT MCCARTY'S MOTION TO SEVER (10/23/06)	072-091
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILES NECESSARY TO A FAIR TRIAL (6/6/07)	330-333
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY OF PROSECUTION RECORDS, FILES AND INFORMATION NECESSARY TO A FAIR TRIAL (6/6/07)	324-326
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT (6/6/07)	327-329
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE" (6/6/07)	318-319
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (6/6/07)	334-336
4	STATE'S RESPONSE TO DEFENDANT'S MOTION TO WAIVE TRIAL BY JURY ON ALL COUNTS ALLEGING THE NAMED VICTIM MELISSA ESTORES (10/5/09)	772-774
5	STATE'S OPPOSITION TO MCCARTY'S RENEWED MOTION TO SEVER (4/9/10)	1042-1044
4	SUPPLEMENTAL NOTICE OF WITNESSES (10/7/09)	798-799
4	SUPPLEMENTAL NOTICE OF WITNESSES (10/9/09)	863-864
5	SUPPLEMENTAL NOTICE OF WITNESSES (9/10/10)	1184-1185

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
5	SUPPLEMENTAL NOTICE OF WITNESSES (10/7/10)	1238-1239
7	SUPPLEMENTAL NOTICE OF WITNESSES (11/30/11)	1471-1472
17	THIRD AMENDED INFORMATION (1/30/12)	3398-3405
18	VERDICT (2/1/12)	3646-3651

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CAROL DONAHOO, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-224572-2
	.	
Plaintiff,	.	DEPT. NO. XVII
	.	
vs.	.	
	.	TRANSCRIPT OF
DOMONIC RONALDO MALONE,	.	PROCEEDINGS
	.	
Defendant.	.	
.....	.	

BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE

JURY TRIAL - DAY 7

THURSDAY, JANUARY 19, 2012

APPEARANCES:

FOR THE PLAINTIFF: MARC DiGIACOMO, ESQ.
 CHRISTOPHER LALLI, ESQ.
 Chief Deputy District Attorneys

FOR THE DEFENDANT: RANDALL H. PIKE, ESQ.
 CHARLES A. CANO, ESQ.
 Assistant Special Public
 Defenders

COURT RECORDER:

MICHELLE RAMSEY
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, THURSDAY, JANUARY 19, 2012, 10:29 A.M.

2 (Court was called to order)

3 (In the presence of the jury)

4 (Pause in the proceedings)

5 THE COURT: Good morning, ladies and gentlemen. I
6 just wanted to advise you today, due to scheduling issues
7 we're going to adjourn for lunch at 11:45, and we'll come back
8 at 1:15. And we are planning to adjourn at 5:00 o'clock this
9 evening. Sort of give you a heads-up. And before you leave
10 today I'll give you the schedule for tomorrow. All right?

11 State, your next witness?

12 MR. LALLI: Your Honor, the State calls Sarah
13 Matthews.

14 THE MARSHAL: Ma'am, if you will please remain
15 standing, raise your right hand and face the clerk.

16 SARAH MATTHEWS, STATE'S WITNESS, SWORN

17 THE MARSHAL: If you would have a seat, please.
18 Slide in to the microphone. Ask you to please state and spell
19 your name for the record.

20 THE WITNESS: Sarah Matthews. S-a-r-a-h,
21 Ma-t-t-h-e-w-s.

22 THE COURT: Go ahead, counsel.

23 MR. LALLI: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. LALLI:

1 Q Ms. Matthews, I'd like to direct your attention back
2 to April and May of 2006, and ask you some questions --

3 A Okay.

4 Q -- about that period of time. Well, first let me
5 ask you, do you know an individual by the name of Trey Black?

6 A Yes.

7 Q How do you know -- how do you know Trey Black?

8 A He's the father of my children.

9 Q What is his actual name, Trey's actual name?

10 A Ramaan Hall.

11 Q Ramaan Hall?

12 A Um-hum.

13 Q Is it Raman, R-a-m-a-n?

14 A R-a-m-a-a-n.

15 Q All right. And do you know his middle name?

16 A Trevon.

17 Q T-r-e-v-o-n?

18 A Um-hum.

19 Q Is that yes?

20 A Yes.

21 Q I'm sorry, you have to say yes or no.

22 A Oh, I'm sorry. Yes.

23 Q That's okay.

24 A Yes.

25 Q And his last name was Hall?

1 A Yes.

2 Q So, when people refer to him as Trey Hall, I mean,
3 it's kind of a take on his middle name, Trevon?

4 A I -- that's what I assume so, if that's how you --

5 Q Okay.

6 A -- got that.

7 Q But he was also -- would people also refer to him as
8 "Black?"

9 A Yes.

10 Q And you said that he's the father of two of your
11 children?

12 A Yes.

13 Q How long -- I take it you had a relationship with
14 him?

15 A Yes.

16 Q How long did that relationship last?

17 A Five years.

18 Q During what periods, roughly?

19 A From -- I want to say 2006 to 2011.

20 Q Does Trey still live here in Las Vegas?

21 A I don't believe so.

22 Q Are you in touch with him at all?

23 A No, I'm not.

24 Q Okay. Do you know an individual by the name of
25 Domonic Malone?

1 A Yes, I do.

2 Q Was he known by any other names or nicknames?

3 A D-Roc.

4 Q D-Roc?

5 A Um-hum. Yes.

6 Q Is that yes?

7 A Yes, sorry.

8 Q How did you know D-Roc?

9 A I met him through Trey.

10 Q And what was the relationship between Trey and
11 D-Roc?

12 A They seemed to be like sort of best friends.

13 Q Okay. Did they -- did they ever live together, to
14 your knowledge?

15 A They stayed in the same -- in one of the same
16 places, yes.

17 Q Do you see D-Roc in the courtroom?

18 A Yes.

19 Q Can you please point to him, and --

20 A Right there.

21 Q And can you tell us what he's wearing today?

22 A A white shirt and blue tie.

23 Q Okay.

24 MR. LALLI: Your Honor, may the record reflect the
25 witness has identified the defendant?

1 THE COURT: Yes, it will.

2 BY MR. LALLI:

3 Q What sort of business was Trey in?

4 A He sold dope.

5 Q Drugs?

6 A Drugs, yes.

7 Q Okay. And was D-Roc -- did he have any association
8 with Trey in that regard?

9 A I'm not sure if he sold dope, too. I'm not sure.

10 Q Okay. Did you know an individual by the name of
11 Romeo?

12 A I never met him. I just heard of him.

13 Q Had you ever seen him before?

14 A I've seen him once.

15 Q All right. When -- and we'll talk about that. But
16 with respect to Romeo, did you know his actual name?

17 A No, I do not.

18 Q So, you didn't know that his name was Jason McCarty?

19 A No, I didn't.

20 Q So, we'll refer to him as Romeo. Did he have any
21 physical disabilities?

22 A Yeah, something was wrong with his arm.

23 Q Can you describe that in a little more detail for
24 our jury?

25 A He just had to keep it to his side, like up a

1 little.

2 Q Can you show us how?

3 A Like this.

4 Q Okay. And for the record you just held your arm up
5 to about the middle of your chest?

6 A Right.

7 Q Is that how he carried his arm when he walked?

8 A Yes.

9 Q Did you notice any difficulty that he had walking?

10 A I don't -- I don't recall.

11 Q You don't recall noticing anything?

12 A I don't recall noticing that.

13 Q Okay. Did you know an individual by the name of
14 Donald Herb?

15 A No.

16 Q Now, during May of 2006, did you live with Trey?

17 A Yes.

18 Q Where did you all live?

19 A We lived at -- we lived in a lot of different
20 places. We lived at the South Cove for a little while.

21 Q And where is the South Cove, roughly?

22 A It's down on Fremont Street.

23 Q All right. And --

24 (Pause in the proceedings)

25 BY MR. LALLI:

1 Q What I'd like to do is show you what we've admitted
2 as State's Exhibit 45. You should be seeing it up on your
3 screen over there.

4 A Yes.

5 Q What is that?

6 A That is the apartment that we stayed in.

7 Q Now, were you familiar with a group of individuals
8 who also lived on your same floor?

9 A Yes.

10 Q Who was that?

11 A It was a couple of girls, Christina and Victoria,
12 and a guy named Black that lived down the -- down the
13 hallway --

14 Q All right.

15 A -- from us.

16 MR. LALLI: Your Honor, may I approach the witness?

17 THE COURT: Yes.

18 MR. LALLI: This is 47, Mr. Cano.

19 MR. CANO: Okay.

20 BY MR. LALLI:

21 Q Do you recognize this?

22 A Yes. That's the apartment all the way to the left
23 where they were staying at.

24 Q So, this shows the same thing we're seeing in the
25 exhibit that's up there, just a little further to the left?

1 A Yes.

2 Q Is it a fair and accurate depiction of that floor?

3 A Yes.

4 MR. LALLI: Your Honor, move for the admission of
5 State's proposed 47.

6 MR. CANO: No objection, Your Honor.

7 THE COURT: 47 will be admitted.

8 (State's Exhibit 47 is admitted)

9 BY MR. LALLI:

10 Q So, showing the jury 47, can you indicate -- you can
11 actually touch your screen and draw things on it.

12 A Okay.

13 Q If you could just kind of put a line toward the
14 direction -- all right.

15 A Right that way is where they stayed.

16 Q Down that corridor?

17 A At the end, yes.

18 Q Now, you described three individuals. One, somebody
19 named Black. Who was Black?

20 A I don't know his real name. I hung out with him a
21 few times, or -- but I don't know his real name. I just know
22 him as Black.

23 Q All right. What about Christine?

24 A I hung out with her a couple times, took her a
25 couple places. But I was never really -- I didn't hang out

1 with her a whole lot.

2 Q What did she look like?

3 A She had long, dark, curly hair. And she was a
4 little darker-skinned.

5 Q What about Victoria?

6 A I never hung out with her. But she was -- I'd seen
7 her a few times. She was white with red hair.

8 Q Okay. And describe Black for us?

9 A He was -- he was tall, real dark-skinned. He had
10 braids, I think.

11 Q All right. And those three would stay at the very
12 end of the hall?

13 A Um-hum, yes.

14 Q Where were you staying?

15 A We were staying in 217. Right here.

16 Q So, you were staying in the unit that was kind of
17 close to the stairs there?

18 A Yes, sir.

19 Q All right. Did you know a woman who was known as
20 Red?

21 A Yes, I did.

22 Q How did you know Red?

23 A I met her through Trey and D-Roc. And I only -- I
24 hung out with her a few times. But I don't -- I mean, I don't
25 really know her.

1 Q You said that Red -- I'm sorry. You said that trey
2 sold drugs?

3 A Yes.

4 Q Did Red and Trey have any sort of a relationship
5 with respect to drugs?

6 A Yes, I believe so.

7 Q What was it?

8 A I think that Red bought drugs.

9 Q From --

10 A From Trey.

11 Q -- Trey?

12 A Um-hum. Yes.

13 Q And so, let's talk about May of 2006, and living at
14 the South Cove.

15 When you stayed in 217, whose name was that in?

16 A It was in D-Roc's name.

17 Q Why would that unit be in his name?

18 A Because Trey didn't want to put anything in his
19 name.

20 Q In his own name?

21 A Yes.

22 Q Explain why.

23 A Because at places like that you -- they do warrant
24 checks a lot and they can just come in your room. And Trey
25 didn't want that. So, he didn't put anything in his own name.

1 Q All right. Did there come a time when you had
2 observed that Red had injuries on her?

3 A Yes.

4 Q When was that?

5 A I can't really remember the date. It was -- it had
6 to be in May sometime, because we only stayed at the South
7 Cove about three weeks before we moved.

8 Q So, sometime in May of 2006?

9 A Yes.

10 Q Where do you see Red?

11 A She came to our apartment.

12 Q And describe the injuries that you saw?

13 A She had bruises. And I want to say that she had a
14 black eye, but I really can't remember. I don't want to say
15 for sure.

16 Q Where were the bruises?

17 A On her arms.

18 Q Anywhere else that you remember?

19 A Not that I can recall. I'm trying to, but --

20 Q Been a long time?

21 A It's been a long time.

22 Q Okay. Do you remember the inside of your apartment
23 217?

24 A Yes.

25 MR. LALLI: May I approach the witness, Your Honor?

1 THE COURT: Yes.

2 BY MR. LALLI:

3 Q I'm going to show you a couple of photos. First --
4 oh, let's see. 142. State's proposed 142. Do you recognize
5 that?

6 A Yes.

7 Q What is it?

8 A That's our door.

9 Q Is that a fair and accurate depiction of what it
10 looked like?

11 A Yes.

12 Q And now let's look at 143 and 144. What are those?

13 A That is the inside of the apartment.

14 Q Fair and accurate depiction of the inside of the
15 apartment?

16 A Yes.

17 MR. LALLI: Your Honor, I'd move for the admission
18 of State's proposed 142, 143, and 144.

19 MR. CANO: No objection.

20 THE COURT: All right. Those three will be
21 admitted.

22 (State's Exhibits 142, 143, and 144 are admitted)

23 BY MR. LALLI:

24 Q So, Ms. Matthews, what are we seeing here?

25 A That's the door and the outside of our apartment

1 that we stayed in.

2 Q So, it was actually a slider?

3 A Yes.

4 Q And what's covering the door?

5 A We put a sheet over it.

6 Q What are we seeing in State's Exhibit 144?

7 A That is the inside fo the apartment, the living
8 room.

9 Q So, the slider that we're seeing there, on the other
10 side of the slider is -- is that?

11 A Yes.

12 Q And then what's 143?

13 A That's another picture that shows the bedroom and
14 the inside of the living area.

15 Q All right. Now, I want to direct your attention to
16 May 16th or May 17th of 2006, sometime in that area. This is
17 the room in which you and Trey are staying in, correct?

18 A Yes.

19 Q At some point does Trey receive a phone call from D-
20 Roc?

21 A I'm sure he probably did. D-Roc usually called Trey
22 on a regular basis.

23 Q Okay. Now --

24 MR. CANO: Your Honor, I'm going to object, that's
25 speculation. She says she believes they probably did.

1 MR. LALLI: Just based upon the fact that they would
2 communicate on a regular basis.

3 THE COURT: Restate your question. And listen to
4 the question very carefully, ma'am, okay?

5 THE WITNESS: Okay.

6 BY MR. LALLI:

7 Q Sometime in the area of May 16th or 17th, did Trey
8 receive a phone call from D-Roc?

9 A Yes.

10 Q You said you're sure he did? I mean --

11 A I -- I mean, yes.

12 Q -- you don't have a specific recollection of a
13 particular phone call?

14 A No, I don't. And I don't know what they were
15 talking about, but.

16 Q Correct. But was it their practice, their habit at
17 the time to communicate --

18 A Yes.

19 Q -- with each other -- I'm sorry, you have to wait
20 for my question.

21 A Okay.

22 Q Was it their habit and practice to communicate with
23 each other via cell phone?

24 A Yes.

25 Q Now, at about the same period of time do you see

1 D-Roc standing at your front door at 217?

2 A Yes.

3 Q Who was he with?

4 A He was with Romeo.

5 Q You said that you had seen Romeo once. Was that the
6 only time you had seen Romeo?

7 A Yes.

8 Q And tell us what was happening?

9 A They were mad, because they were supposed to be paid
10 by the -- some girls, that being Christina and Victoria. And
11 they were going to go down and see them.

12 MR. CANO: Objection, Your Honor. I'm going to
13 object as to hearsay, what was said to Christina and Victoria,
14 and ask that it be stricken.

15 MR. LALLI: Well --

16 THE COURT: On the hearsay objection, your response?

17 MR. LALLI: She's actually listening to D-Roc and
18 Mr. McCarty saying these things. I mean -- and I'll go back
19 and lay that foundation.

20 THE COURT: Okay. Well, she can relate what D-Roc
21 or Mr. McCarty are stating.

22 MR. LALLI: Correct, correct.

23 THE COURT: Okay. So, you can lay that foundation.

24 MR. LALLI: So --

25 THE COURT: Thank you.

1 BY MR. LALLI:

2 Q How did you learn this information?

3 A I was standing at the doorway with Trey.

4 Q And who else was at the doorway?

5 A It was D-Roc and Romeo on the other side.

6 Q And what were D-Roc and Romeo doing? Were they
7 talking to Trey?

8 A Yes.

9 Q So, you actually heard D-Roc and Romeo saying these
10 things?

11 A Yes.

12 Q All right. So now tell us again what was being
13 discussed?

14 A They were mad because they were owed some money.
15 And they hadn't gotten their money yet. And they were mad.
16 And Trey was trying to tell D-Roc to just calm down and leave
17 it alone and that was it. And then they left and went down to
18 the other apartment.

19 Q Did Trey -- I'm sorry. Did D-Roc or Romeo have
20 anything with them?

21 A They had a golf club.

22 Q Can you describe it?

23 A It was a metal one that --

24 Q All right.

25 A I've -- I'm sorry.

1 Q Do you remember who had it? Did D-Roc or Romeo have
2 it?

3 A I think D-Roc had it.

4 Q Okay. You said you think. Are you --

5 A I think.

6 Q -- totally certain?

7 A I know one of them had it. But it's been so long
8 that I can't --

9 Q But as you sit here now, is it your best
10 recollection that it was D-Roc?

11 A Yes. To my best recollection.

12 Q So, while they're having this conversation, Trey was
13 telling them to just let it go?

14 A To leave it alone, let it go.

15 MR. CANO: Objection as to what Trey was saying,
16 Your Honor. Ask that it be stricken.

17 THE COURT: I'm going to sustain the objection.

18 MR. LALLI: Well, it's not hearsay, Your Honor.
19 It's not content based. It's not factual -- it's not a
20 factually based statement. It's a statement of Trey's state
21 of mind.

22 MR. CANO: Your Honor, it is hearsay.

23 THE COURT: I'm going to sustain the objection. The
24 jury is instructed to disregard the statement regarding what
25 Trey stated.

1 BY MR. LALLI:

2 Q Now, had -- had you ever been present when D-Roc had
3 talked about pimping?

4 A Yes.

5 Q When was that?

6 A He would come over to the South Cove where me and
7 Trey were at and he would -- he would talk about he was -- he
8 was pimping out some girls. And Trey told him that he
9 shouldn't be doing that.

10 Q Well, don't tell us what Trey --

11 MR. CANO: Objection as to hearsay, Your Honor.

12 THE WITNESS: Okay.

13 THE COURT: Sustained.

14 BY MR. LALLI:

15 Q Don't tell us what Trey said. You can only tell us
16 what D-Roc said.

17 A Okay.

18 Q But so D-Roc is over at the South Cove?

19 A Yes.

20 Q And he's talking about pimping girls?

21 A Yes.

22 Q What girls was he talking about pimping?

23 A Christina and Victoria.

24 Q And Trey -- don't tell us what Trey said.

25 A Okay.

1 Q But Trey said something in response to that?

2 A Right.

3 Q Okay. So now let's go back to the day that you see
4 Romeo and D-Roc at your front door, and they were angry about
5 the girls. What did they do? What did they do -- how did
6 that conversation, that encounter that you had with them, how
7 did that end?

8 A They just walked down to the apartment that the
9 girls were in and that was it.

10 Q So, if we go back to State's Exhibit number 47, now
11 217 isn't depicted in this photograph, but which way did they
12 walk?

13 A They walked to here.

14 Q Down where Black lived?

15 A Yes.

16 Q And where Christine and Victoria were staying?

17 A Yes.

18 Q How long were they down there for?

19 A It was only like 10, 15 minutes.

20 Q Okay. Did you notice anything happening outside
21 your room after that 10 or 15 minutes?

22 A They were walking with the girls towards the car.

23 Q Who's they?

24 A Romeo and D-Roc.

25 Q What girls?

1 A Christina and Victoria.

2 Q Can you describe for us what you saw? Where were
3 they walking, how were they walking?

4 A They were walking this way, towards 217. They had
5 -- they were holding the girls's arms. D-Roc and Romeo were
6 holding Christina and Victoria's arms and they were walking
7 towards that way, down to the car.

8 Q When you say they're holding their arms like, you
9 know, if I'm going to hold --

10 A Like this.

11 Q -- somebody's hands?

12 A No. Like this.

13 Q Okay. So, for the record you just grabbed your
14 upper arm?

15 A Um-hum.

16 Q Is that yes?

17 A Yes. Sorry.

18 Q Did it appear to be kind of a forceful holding?

19 A Yes. The girls were crying.

20 Q Could you hear them crying or see them crying?

21 A No, I just saw them.

22 Q What did you notice about their faces?

23 A They looked like, you know, they were upset.

24 Q And you said that they were -- if we clear this --
25 so you've indicated they kind of walk across the second floor

1 there.

2 Let's go to State's 45. Where did they go from
3 here?

4 A They walked this way and down the stairs --

5 Q So, right --

6 A -- to the car.

7 Q To a car?

8 A Um-hum. Yes.

9 Q Yes?

10 A Yes.

11 Q So, they walked right in front of your room?

12 A Yes.

13 Q Where was the car?

14 A I want to say it was like right here. It was really
15 close to the stairs.

16 Q Can you describe the car?

17 A It was a green Saturn.

18 Q You had earlier talked about a golf club. Did you
19 see a golf club when they were walking out?

20 A Yes.

21 Q What was happening with the golf club?

22 A Nothing.

23 Q Who had it?

24 A D-Roc.

25 Q You described a green Saturn that you saw

1 downstairs?

2 A Yes.

3 MR. LALLI: Your Honor, may I approach the witness?

4 THE COURT: Yes.

5 MR. CANO: Actually, Your Honor, prior to him
6 approaching the witness with that picture, if he can lay a
7 little bit more foundation as to the description, because
8 what's depicted on the picture is not what she's describing so
9 far.

10 MR. LALLI: Well, I was just going to show her the
11 picture and ask her that.

12 THE COURT: Yeah. I'm going to allow him to show
13 the picture. And if she recognizes it, so be it. If she
14 doesn't, then she'll testify accordingly.

15 BY MR. LALLI:

16 Q Ms. Matthews, I'm going to show you what we've
17 marked as State's proposed 69 for identification purposes. Do
18 you recognize that vehicle?

19 A No. I thought they were in a green Saturn.

20 Q Okay. But with respect to the vehicle that you're
21 seeing in State's proposed 69, does that look similar to or is
22 it --

23 A Yes, it looks similar.

24 Q -- definitely different?

25 A No, it looks similar.

1 Q Okay. How much do you know about cars?

2 A Not a lot. I just -- you know, I drive one, and
3 that's it.

4 Q What do you drive?

5 A I drive a Mazda.

6 Q All right. So, you see them all go downstairs and
7 get into the car?

8 A Yes.

9 Q What happens at that point?

10 A They leave.

11 Q Do you know where they went?

12 A No.

13 MR. LALLI: Your Honor, that concludes direct
14 examination.

15 THE COURT: All right. Any cross?

16 MR. CANO: Yes, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. CANO:

19 Q Ms. Matthews, you said you had a relationship with
20 Trey, correct?

21 A Yes.

22 Q Okay. And in the time frame that we're talking
23 about here, in May of 2006, April or May -- well, when did you
24 meet him prior?

25 A I met him in April.

1 Q April?

2 A Yes.

3 Q So, by the time we're talking about the time frame
4 in May here you'd known him about a month?

5 A Right.

6 Q And you had a sexual relationship with him?

7 A Yes.

8 Q Okay. And you said you had two children by him?

9 A Yes.

10 Q Okay. And when was it that you had those two
11 children?

12 A Two thousand -- 2007 and 2008.

13 Q Okay. And do you recall -- I want to talk a little
14 bit about statements that you gave to the police. Do you
15 recall giving a statement to the police?

16 A Yes.

17 Q That was in June of 2006?

18 A Yes.

19 Q Okay. Did you have the chance to review that
20 statement before you testified today?

21 A Yes.

22 Q You did? When was it that you reviewed that?

23 A I reviewed it like a couple weeks ago.

24 Q A couple weeks ago?

25 A Yeah.

1 Q And how much time did you spend reviewing that?

2 A I just looked over it. I work a lot. I don't have
3 a lot of -- you know, I'm the only person with my kids. So, I
4 didn't have a whole lot of chance to go over it. But I --

5 Q But you've had it in your possession, a copy of
6 that --

7 A Yes.

8 Q -- statement, since about a week ago?

9 A Yeah.

10 Q And who gave that copy to you?

11 A The DA.

12 Q The district --

13 A And I had one from a long time ago. From when the
14 first trial began, I had one.

15 Q Okay. So, you've had a chance to review -- you've
16 been given two copies of your statements?

17 A Yes.

18 Q And you had a chance to review that?

19 A Yes.

20 Q All right. You didn't testify --

21 MR. LALLI: Your Honor, I'm sorry. I'm sorry, Mr.
22 Cano. I apologize. Can we approach just for a moment?

23 THE COURT: All right.

24 (Bench conference)

25 MR. LALLI: I'm sorry, Charlie. I just wanted to

1 let Mr. Cano know and the Court know. We have told -- I mean,
2 we've been consciously trying to remember to tell all of our
3 witnesses it's okay to say that there was a trial for Mr.
4 McCarty, but do not -- do not say what the result of that --

5 THE COURT: Actually I was just thinking that.
6 Right.

7 MR. LALLI: -- trial was or what the punishment was.
8 I don't remember if I told Ms. Matthews that. So, I just
9 wanted to let Mr. --

10 MR. CANO: I'm not going to go there.

11 MR. LALLI: -- Cano -- you know, just be careful. I
12 don't think she would. But you know, I don't --

13 MR. CANO: I'm not going to elicit that.

14 MR. LALLI: She certainly wouldn't do it
15 intentionally. But I just --

16 THE COURT: Yeah, why don't we do this. Because --

17 MR. LALLI: -- didn't make that admonishment.

18 THE COURT: Why don't we do this. Let's just take a
19 quick -- you want to -- you want to talk to her now? I can
20 excuse the jury. Because I just don't want her to blurt that
21 out.

22 MR. LALLI: Well, if he's not going to go there, I
23 think we're fine.

24 THE COURT: She could just blurt it out and I don't
25 want to take the chance. Because there will be a motion for

1 mistrial if she does, I'm assuming, right? Okay.

2 MR. LALLI: For the record, he's nodding his head in
3 the affirmative.

4 MR. CANO: That's a yes.

5 THE COURT: Okay.

6 MR. CANO: That's a yes, for the record.

7 MR. LALLI: Okay.

8 MR. CANO: It's probably best. I don't know, you
9 know, [inaudible]. But it's like a hassle to take them out
10 and in.

11 THE COURT: All right.

12 MR. CANO: But it's probably safer that way as
13 opposed to just [Inaudible].

14 MR. LALLI: Right.

15 MR. CANO: I don't want [inaudible].

16 THE COURT: That would look something sinister.

17 MR. CANO: Exactly.

18 MR. LALLI: Right.

19 (Bench conference ended)

20 THE COURT: Ladies and gentlemen, we're just going
21 to take a very short recess. Probably by the time you get out
22 we're going to have you come in. We just have to resolve a
23 legal issue.

24 So, please just stay around the door here.

25 During this recess, it is your duty not to converse

1 among yourselves or with anyone else on any subject connected
2 with this case. Or to read, watch or listen to any report of
3 or commentary on the trial by any person connected with the
4 trial, or by any medium of information, including without
5 limitation, newspaper, television, radio, or the Internet.
6 You are not to form or express an opinion on any subject
7 connected with this case until this matter is submitted to
8 you.

9 And again, we will be taking our lunch break at
10 11:45. All right. So, see you in just a few minutes.

11 MR. DiGIACOMO: [Inaudible] which Mr. Lalli handles
12 this?

13 (Jury recessed at 11:01 a.m.)

14 (Pause in the proceedings)

15 MR. LALLI: What I forgot to tell you --

16 THE COURT: Stay on the record.

17 MR. LALLI: -- is you can reference that McCarty has
18 been tried, because there was a trial on McCarty.

19 THE WITNESS: Um-hum.

20 MR. LALLI: You just can't say that -- you just
21 can't say that he was convicted, or you certainly can't say
22 that he was sentenced on -- to death row. Do you understand
23 what I'm telling you?

24 THE WITNESS: Okay. Okay, yes.

25 MR. LALLI: So, but you knew that there was a prior

1 trial, because you and I met before --

2 THE WITNESS: Yes.

3 MR. LALLI: -- that one, right?

4 THE WITNESS: Yes.

5 MR. LALLI: It's okay to say that there was a prior
6 trial.

7 THE WITNESS: Okay.

8 MR. LALLI: But you can't say that McCarty was
9 convicted.

10 THE WITNESS: Okay.

11 MR. LALLI: You just can't say that he was
12 convicted.

13 THE WITNESS: Okay.

14 MR. LALLI: Okay?

15 THE WITNESS: Okay.

16 MR. LALLI: Or you can't reference anything about
17 what his punishment was.

18 THE WITNESS: Okay.

19 MR. LALLI: Okay?

20 THE WITNESS: Okay.

21 MR. LALLI: And I just didn't have the chance to
22 tell you that beforehand.

23 THE WITNESS: Okay.

24 MR. LALLI: And so I just didn't want -- I don't
25 think there would be any reason for you to say that. But I

1 just wanted to just tell you --

2 THE WITNESS: To clarify, okay.

3 MR. LALLI: -- you can't say that. Okay?

4 THE WITNESS: Okay.

5 MR. LALLI: I'm sorry.

6 THE WITNESS: That's okay.

7 THE COURT: Mr. Lalli, we had a bench conference
8 with yourself and Mr. Cano. Why don't we put on the record
9 the bench -- I mean, it's supposed to record, but just it's --
10 you know, let's make sure it's getting picked up. Why don't
11 you go ahead and put on the record what was discussed at the
12 bench conference.

13 Mr. Cano, please chime in if you think there's any
14 incorrect representations.

15 MR. CANO: Okay.

16 MR. LALLI: Your Honor, because there has been the
17 trial of Mr. McCarty, there are transcripts from that trial
18 that are being utilized in this trial. And all of our -- many
19 of our witnesses testified, or at least were talked to by
20 myself or Mr. DiGiacomo in anticipation of that trial.

21 And so Mr. DiGiacomo and I have been admonishing our
22 witnesses not -- it's okay to discuss that there was in fact a
23 previous -- or a trial of Mr. McCarty. But you cannot -- do
24 not talk about the fact that Mr. McCarty was convicted. Or
25 certainly do not talk about the fact that he was sentenced to

1 death, or talk at all about what his sentence was.

2 I did not recall if I had had that discussion with
3 Ms. Matthews. And so I wanted to make sure that I did have
4 that discussion with her before cross-examination commenced.
5 But I did want to make the record that we have been
6 admonishing our witnesses to stay away from that, to the
7 extent that they can. I don't anticipate that defense counsel
8 would directly ask that question. But I did just want to make
9 that record.

10 And I have had the discussion now with Ms. Matthews.
11 And so I think if it's acceptable to the Court, we're ready to
12 proceed.

13 THE COURT: All right. Ms. Matthews, you understand
14 what the --

15 THE WITNESS: Yes.

16 THE COURT: Okay. And you're not to discuss what
17 may or may not have happened in the other trial or --

18 THE WITNESS: Yes.

19 THE COURT: -- any sentence that may or may not have
20 been imposed. Do you understand that?

21 THE WITNESS: Yes.

22 THE COURT: Okay. Mr. Cano, anything to add?

23 MR. CANO: No, Your Honor. That was the discussion
24 that was had at the bench.

25 THE COURT: All right, great.

1 MR. CANO: And I wasn't going to inquire as to what
2 the results of that was.

3 THE COURT: Well, I didn't think you were. I just
4 sort of had a gut feeling, I think the same as Mr. Lalli that
5 -- I don't know why. I just had a gut feeling that something
6 might pop out.

7 Cliff, if you could bring the jury back in.

8 THE MARSHAL: Officers and members of the Court,
9 Department 17 jurors.

10 (Jury reconvened at 11:05 a.m.)

11 (In the presence of the jury)

12 THE MARSHAL: All right. You may be seated, ladies
13 and gentlemen. Let's make sure all cell phones are turned
14 off, please.

15 THE COURT: All right. Ms. Matthews, do you
16 understand you're still under oath?

17 THE WITNESS: Yes.

18 THE COURT: All right. Go ahead, Mr. Cano.

19 MR. CANO: Thank you, Your Honor.

20 BY MR. CANO:

21 Q We were talking about you had been given two
22 statements --

23 A Yes.

24 Q -- previously?

25 A Yes.

1 Q Okay. You have to wait until I finish the question.

2 A Okay.

3 Q Because it's being recorded. And if you kind of
4 talk in between us, it's going to kind of be hard for the
5 stenographer to, you know, make sure that that's recorded
6 properly. Okay?

7 A Okay.

8 Q All right. And you were given these two statements
9 of yours prior to this trial, or prior to another trial,
10 correct?

11 A Yes.

12 Q All right. And in regards to that other trial, you
13 never testified at the other trial?

14 A No.

15 Q Okay. So, this is the first time you're testifying?

16 A Yes.

17 Q All right. Now, and you said you don't know how
18 long you -- how many hours you spent reviewing this?

19 A No.

20 Q But you did have some opportunity to review that
21 statement?

22 A Yes, I just went over it.

23 Q Okay. Now, that statement was given in June of
24 2006?

25 A Yes.

1 Q June 5th, I believe?

2 A Yes.

3 Q Okay. Would you agree with me that the memory of
4 your events -- of the events that happened in May of 2006
5 would have been better in June of 2006, as opposed to today,
6 you know, January of 2011?

7 A Yes.

8 THE COURT: 12.

9 MR. CANO: 12. Thank you, Your Honor.

10 BY MR. CANO:

11 Q 2012?

12 A Yes.

13 Q Okay. So, that would mean we're like, you know,
14 almost six years later, five and a half years later?

15 A Yes.

16 Q All right. Now, do you recall how long that
17 interview with the police took place?

18 A It probably took place for about an hour.

19 Q Okay. And that took place at the Henderson Police
20 Department?

21 A No.

22 Q Or -- or did they come -- actually, they came to
23 you?

24 A They came to me and we did the interview in a car.

25 Q Okay, in the car. And were you still living at the

1 South Cove at that point in time?

2 A No.

3 Q Where had you moved to?

4 A We moved to the Sunflower.

5 Q The Sunflower. And now is that close to the South
6 Cove?

7 A It's across the street.

8 Q Across the street from it, okay. But that June 5th
9 of 2006, that wasn't the only contact you had with the police?

10 A No.

11 Q Actually, you had spoken to some patrol officers
12 prior to that interview, correct?

13 A Yes.

14 Q And that was I think around the 21st of May?

15 A Yes.

16 Q Is that correct?

17 A I want to say so, yeah. It was -- it was -- we had
18 already moved and it was -- yeah, it should -- right about
19 then.

20 Q 21st, 22nd?

21 A Yeah.

22 Q Does that sound familiar to you?

23 A Yes.

24 Q Okay. And the interview that took place with the
25 officers on June, you knew that that was being recorded,

1 correct?

2 A Yes.

3 Q All right. To your knowledge that contact or
4 interview, or discussion that you had with the police on -- in
5 May of 2006, did you know if that was recorded?

6 A I'm not sure.

7 Q Okay.

8 A I don't know.

9 Q And those are patrol officers you were speaking to?

10 A Yes.

11 Q Correct? They weren't -- were they Metro patrol
12 officers, or Henderson patrol officers?

13 A They were Henderson.

14 Q Henderson patrol officers? Okay. And the people
15 you spoke to in June were Henderson detectives, correct?

16 A Yes.

17 Q Okay. Now, do you recall -- I'm going to talk about
18 the June interview first, okay?

19 A Okay.

20 Q All right. Do you recall the police asking you
21 questions regarding whether or not you were a prostitute,
22 working for Trey?

23 A Yes.

24 Q And you denied that?

25 A Yes.

1 Q You said that you weren't?

2 A Right.

3 Q Correct? And they said that then you must be around
4 Trey because you were doing dope. Do you recall that?

5 A That's what they said, yes.

6 Q Right. And you denied that as well?

7 A Right.

8 Q Okay. And you -- and you actually denied that Trey
9 -- that to your knowledge at that point in time, Trey was
10 involved in the dope business?

11 A Yes, that's what I said.

12 Q Okay. And that's different than what you said
13 today, correct?

14 A Yes.

15 Q All right. Now, you have a felony conviction for
16 trafficking and cocaine, don't you?

17 A Yes, I do.

18 Q And you picked that up in 2006?

19 A Yes.

20 Q Okay. Now, let's talk about -- and I'll get back to
21 the June 5th interview. But let's talk a little bit about the
22 contact that you had in May.

23 A Okay.

24 Q The contact that you had in May with those officers
25 were -- because you were coming back to 217 -- the apartment

1 217 at the South Cove?

2 A Yes.

3 Q Correct?

4 A Yes.

5 Q And these officers I guess were outside the door
6 there?

7 A Yes.

8 Q And you wanted to go inside 217?

9 A Yes.

10 Q Because you wanted to get some of you items that
11 remained in there?

12 A Yes.

13 Q Correct?

14 A Yes.

15 Q And the officers, you know, obviously inquired who
16 you were?

17 A Yes.

18 Q And you told them that you were Domonic Malone's
19 girlfriend?

20 A I did, because --

21 Q The question was --

22 A Okay.

23 Q -- you told them --

24 A Yes.

25 Q -- you were Domonic Malone's girlfriend, right?

1 A Yes.

2 Q Okay. And you knew that the apartment was in
3 Domonic's name, correct?

4 A Yes.

5 Q But you weren't Domonic Malone's girlfriend?

6 A No.

7 Q So, you looked at them and you lied to the police?

8 A Yes.

9 Q Okay. And you also told them that you had a -- and
10 they asked you about Domonic when you told them that you were
11 his girlfriend, correct?

12 A Yes.

13 Q And you said that you just started dating him,
14 right?

15 A Right.

16 Q And but that wasn't true?

17 A Right.

18 Q Okay. And you said that he would always call your
19 cell phone?

20 A I don't remember saying that.

21 Q Would it help to refresh your recollection if I
22 showed you a copy of that report?

23 A Sure.

24 MR. CANO: If I could approach, Your Honor?

25 THE COURT: Yes.

1 MR. CANO: And it's [inaudible]. If I could
2 approach, Your Honor?

3 THE COURT: Yes.

4 MR. CANO: Thank you.

5 MR. LALLI: Your Honor, I'd just like the record to
6 reflect Mr. Cano's refreshing her, not with her own statement,
7 but with a separate police report.

8 MR. CANO: Yes, Your Honor.

9 THE COURT: All right.

10 BY MR. CANO:

11 Q Why don't you go ahead and read that to yourself,
12 okay?

13 A That's what it says.

14 Q Does that help to refresh your recollection?

15 A Yeah.

16 Q Okay. So, you told the police that he would call
17 you on your cell phone a lot?

18 A Yeah.

19 Q But that wasn't true?

20 A Right.

21 Q And you also told them that Domonic hadn't called
22 you in the last couple days?

23 A Right.

24 Q And that wasn't true either?

25 A Right.

1 Q Pretty much, you were kind of trying to give the
2 story to these officers that you had a relationship with
3 Domonic so that you could gain access into this room?

4 A I didn't want to get in trouble by going in somebody
5 else's room.

6 Q So, you lied to the police so you could get into the
7 room?

8 A Right.

9 Q Okay. Now, let's talk a little bit about your
10 statement that you gave -- let's talk about the statement of
11 June of 2006, okay?

12 A Okay.

13 Q All right. Now, when the officers came to you in
14 June of 2006 over at the Sunflower, when they spoke to you,
15 they were actually referring to some of the context that you
16 spoke to the officers back in May, correct?

17 A Yes.

18 Q They made references back to that, like when you
19 were --

20 A Yeah, yes.

21 Q -- talking to those officers, things of that nature,
22 correct?

23 A Yes.

24 Q All right. And before we get into this, in this
25 statement that you gave, you know -- or the contact that you

1 had with the officers back in May of 2006, you never told them
2 in that statement that you had seen Domonic with Romeo at all,
3 correct?

4 A Correct.

5 Q And you never told them that you had seen Domonic
6 with a golf club?

7 A Correct.

8 Q You never told them anything about -- that you
9 testified today essentially, correct?

10 A Yes.

11 Q All right. We just want to get that clear.

12 All right. Now, in -- but you gave a little bit
13 more detailed statement in June of 2006, correct?

14 A Yes.

15 Q Okay. And you said that took about an hour long,
16 that interrogation that they did with you?

17 A Yes.

18 Q All right. And in that interview that you gave with
19 the police in 2006, you told them that you had met Christina?

20 A Yes.

21 Q Correct?

22 A Yes.

23 Q All right. But before we get into that, what kind
24 of car were you driving?

25 A A white Honda Civic.

1 Q What year?

2 A '91.

3 Q Okay. And what kind of car was Trey driving?

4 A A Buick, a gold Buick.

5 Q Okay. And did he also have a red Prelude?

6 A Yes.

7 Q Okay. Do you know what year that was?

8 A No.

9 Q Okay. Now, you told them that you had seen
10 Christina, correct?

11 A Yes.

12 Q And you had told them you had seen Victoria?

13 A Yes.

14 Q And you had seen Red as well?

15 A Yes.

16 Q All right. But you didn't really talk to Victoria?

17 A No, I didn't.

18 Q That you talked to Christina and Red?

19 A Yes.

20 Q And you actually told the police that you remember
21 this -- and when they spoke to you in June, they were kind of
22 referring back to that date of May, like the 22nd, 21st,
23 around that time frame, correct?

24 A Correct.

25 Q They were giving you that as a reference right?

1 A Yes.

2 Q They were saying that I think that 22nd was a
3 Monday, to kind of give you a point of reference?

4 A Okay.

5 Q Do you remember that?

6 A Yes.

7 Q Okay. And you told them that you had taken Red and
8 Christina to court?

9 A Yes.

10 Q And that was just a couple days before that --

11 A Yes.

12 Q -- May 22nd contact with the police?

13 A Yes.

14 Q So, that would have been Friday? Well, they were
15 trying to clear that up with you; do you remember that --

16 A Yes.

17 Q -- part of the conversation?

18 A Yes.

19 Q Because you said a couple days before and said,
20 well, if the 22nd was Monday, a couple days before would have
21 been Saturday.

22 A Okay.

23 Q And there was no court on Saturday, right?

24 A Right.

25 Q So then you said it must have been the Friday -- the

1 Friday, then, not that Saturday, correct?

2 A Correct.

3 Q All right. And so, you told the police that you
4 were with Red and Christina. You took them to court around
5 10:30 in the morning?

6 A Yes.

7 Q Because I think it was Christina wanted to go see
8 something going on, a friend of hers?

9 A Yes.

10 Q Right?

11 A Yes.

12 Q And so -- and so that's what you told the police,
13 that you had taken the girls to court?

14 A Yes.

15 Q All right. Now, and you said you had never -- and
16 you told the police also that you didn't know Romeo?

17 A I don't -- I don't know him.

18 Q And that you had never met him?

19 A I never met him.

20 Q Okay. And you told that to them a couple times,
21 right? Because they kept asking you about Romeo?

22 A Yes.

23 Q And you said you never met him and you didn't know
24 him?

25 A Yes.

1 Q Okay. Now, the cops also talked to you about
2 Domonic being a pimp, correct?

3 A Yes.

4 Q And you -- and actually, the cops told you that he
5 was a pimp? Do you recall that?

6 A Yes.

7 Q Okay. So, the fact that you got information that
8 Domonic had to do with anything with prostitution, that
9 information was received from the Henderson Police Department?

10 A No. Yes, yes.

11 Q It was?

12 A It was.

13 Q Okay. And at that point in time when you were
14 talking to the police in June, you had told them that Trey had
15 disappeared? Do you recall that?

16 A I said that Trey disappeared?

17 Q Well, I think you said you hadn't seen him in a
18 couple days, that he -- two or three days, that he had
19 disappeared. Do you recall that conversation?

20 A No.

21 Q Okay. Would it help to refresh your recollection if
22 I showed you your statement?

23 A Okay.

24 MR. CANO: Counsel, pages 16 and 17. If I could
25 approach, Your Honor?

1 THE COURT: Yes.

2 BY MR. CANO:

3 Q Go ahead and read to yourself, kind of starting with
4 line 18 here, and [inaudible] turn to the next page.

5 A Okay.

6 Q Does that help to refresh your recollection?

7 A Yes.

8 Q Okay. So, you hadn't seen Trey in about two or
9 three days?

10 A Correct.

11 Q So, they kind of had -- and he changed his phone
12 number?

13 A Yes.

14 Q So, he kind of disappeared and you were kind of out
15 of contact with him?

16 A Yes.

17 Q But you were actually living with him at the
18 Sunflower, right?

19 A Well, he -- he came back and forth. He lived
20 somewhere else.

21 Q Okay. So, you were in contact with him then?

22 A He hadn't been to the room in a couple of days.

23 Q Okay. He hadn't been to the room in a couple of
24 days? But --

25 A Right.

1 Q So, you were trying to give the impression to the
2 police officers that you were like not in as much contact with
3 him; is that a fair statement?

4 A I just hadn't seen him in a couple days, so that's
5 what I told the police.

6 Q Okay. And you also said that he had changed his
7 phone number like a week and a half prior to that?

8 A Yes.

9 Q Okay. Now, the cops, when they were talking to you
10 about the May 22nd date in reference to when these -- when you
11 had seen Christina, or Victoria, or Domonic, or Romeo, and
12 anything like that. They were trying to get you to go back
13 like, you know, further a week, trying to get you a time
14 frame. Would that be a fair statement?

15 A Yeah.

16 Q Okay. But to the best of your recollection, you
17 were giving them the information that you had at that time
18 frame as to how you believe the time frame was, correct?

19 A Yes.

20 Q All right. Now, you told the police officers that
21 at some point in time you saw Domonic, correct?

22 A Yes.

23 Q And you saw him with somebody else?

24 A Yes.

25 Q But you weren't really sure who that person was,

1 because you had not seen him before?

2 A What date are we talking about?

3 Q Well, when -- I'm talking about the June interview,
4 when you gave it to the police.

5 A Okay.

6 Q They were asking you whether or not you had seen
7 Domonic or not; do you recall that?

8 A Yes. And like I --

9 Q And -- yes? Do you recall that?

10 A Yes, I do.

11 Q Okay. And you had told the police that you had seen
12 him. And I believe you said that you had seen him -- you
13 thought that it was probably Tuesday. Do you recall that?

14 A Okay, yes.

15 Q Okay. And that you had seen him with someone else,
16 correct?

17 A He was with Romeo.

18 Q I'm asking you that --

19 A Yes.

20 Q -- that you told the police you had seen him with
21 someone else?

22 A Yes.

23 Q Okay.

24 MR. LALLI: Well, I'd ask some foundation at what
25 point we're talking about during the interview.

1 THE COURT: You mean, what day of the interview? Or
2 what point in the interview?

3 MR. LALLI: At what point in the interview.

4 MR. CANO: Well, when they're discussing --

5 THE COURT: Is there different statements regarding
6 this issue?

7 MR. CANO: In her statement of June 5th, Your Honor.

8 MR. LALLI: No, I understand that, Your Honor. She
9 talks about various incidents, various things in the
10 statement. And so I would like some foundation or some
11 clarification as to when counsel's asking she saw D-Roc, not
12 with Romeo. Because what she's testified to is the time that
13 she saw the two of them together.

14 MR. CANO: Your Honor, he has the statement as long
15 as I do. He can follow along with it. I guess --

16 MR. LALLI: Well, he can't --

17 MR. CANO: Does he not know where that's in the
18 statement?

19 THE COURT: Well, hang on, hang on. Counsel,
20 approach.

21 MR. LALLI: He can't confuse the witness.

22 THE COURT: Counsel, approach.

23 (Bench conference)

24 THE COURT: Okay. Now, so in the statement, is
25 there different locations where she gives a different answer,

1 or?

2 MR. LALLI: No, no, no, no, no, no.

3 MR. CANO: No, no, it's just one statement.

4 MR. LALLI: There's different events that she talks
5 about. So she doesn't just see D-Roc on this occasion. She
6 references seeing him other times.

7 And Mr. Cano is asking, you know -- I think he's
8 asking about a time that she saw D-Roc without Romeo. And so
9 I would just like to clarify, you know, what -- when are we
10 talking about so the witness doesn't get confused. And so I'd
11 just like some foundation on that.

12 And while we're up here, I think it's inappropriate
13 for Mr. Cano to say in the presence of the jury, asking if I'm
14 familiar with the statement or not.

15 THE COURT: Yeah.

16 MR. LALLI: I just think that's inappropriate. And
17 I would object to it up here. So, that's my -- that's the
18 nature --

19 THE COURT: Okay.

20 MR. LALLI: -- of my objection.

21 MR. CANO: I wasn't sure if he needed a --

22 THE COURT: Okay.

23 MR. CANO: -- page reference, Your Honor.

24 THE COURT: I'm going to have -- I'm going to
25 sustain the objection. I'm going to have you just clarify the

1 incident that you're talking about.

2 MR. CANO: All right.

3 THE COURT: Okay?

4 (Bench conference ended)

5 THE COURT: I'm going to sustain the motion. Mr.
6 Cano, if you can just clarify the specific incident or time
7 frame that you're discussing at this time.

8 MR. CANO: Okay. Thank you, Your Honor.

9 BY MR. CANO:

10 Q And for clarification, the police were talking to
11 you -- they were trying to have you think back to the week
12 prior to that contact with them on the 22nd, to think back to
13 the week prior to that. Do you recall that?

14 A Yes.

15 Q And they were trying to kind of pinpoint where you
16 were at, who you were with and who you had seen. Do you
17 recall that?

18 A Yes.

19 Q Okay. So, I had asked you earlier that you believed
20 it was a Tuesday that you had seen D-Roc. Let me lay a little
21 bit more foundation there.

22 Going back -- thinking back -- and I'm putting it in
23 the context of what the police were talking to you about. So
24 they're trying to get you think back to the week prior to May
25 22nd, okay?

1 A Okay.

2 Q Do you recall them asking you questions who you were
3 with that week?

4 A Yes.

5 Q All right. And do you recall telling them that you
6 were with Trey?

7 A Yes.

8 Q And they asked you specifically on which days that
9 you were with Trey?

10 A Yes.

11 Q Okay. And I think you believed -- you said that you
12 were with him Tuesday and Wednesday?

13 A Yes.

14 Q So, that would have been Tuesday and Wednesday of
15 the week prior to May 22nd?

16 A Yes.

17 Q Okay.

18 MR. CANO: And counsel, that's page 18, for
19 reference.

20 MR. LALLI: Thank you.

21 BY MR. CANO:

22 Q And they also asked you regarding who you had seen.
23 I believe you had said that you had seen Domonic as well?

24 A Yes.

25 Q Okay. And so, that's in reference to the time frame

1 that you were with Trey?

2 A Yes.

3 Q And that would have been Tuesday or Wednesday?

4 A Yes.

5 Q Okay.

6 MR. CANO: Court's indulgence, Your Honor.

7 THE COURT: Sure.

8 BY MR. CANO:

9 Q Now, in reference to seeing D-Roc on either that
10 Tuesday or Wednesday --

11 A Yes.

12 Q -- you said that you were with Trey, correct?

13 A Yes.

14 Q And at that point in time you said that he -- that
15 Domonic was with someone else?

16 A Yes.

17 Q But that was the first time you had seen that
18 person?

19 A Yes.

20 Q You had never seen that person before?

21 A No.

22 Q Okay. So at that point in time, you didn't know who
23 he was?

24 A Well, I heard his name.

25 Q Oh, you heard his name --

1 A Yes.

2 Q -- on that occasion? Okay. And that was the
3 occasion when they were having this conversation about the
4 girls?

5 A Yes.

6 Q Correct? Now, in direct, you said that they said
7 that they were owed money. I want to get a little
8 clarification.

9 A Domonic and Romeo.

10 Q Okay. That's two people. So, I want to get a
11 little clarification as to who was exactly saying what. Okay?

12 A Okay.

13 Q All right. Now, you said that they were owed some
14 money, correct?

15 A Yes.

16 Q Do you recall which person said that they were owed
17 money?

18 A D-Roc.

19 Q Okay. So, Domonic said he was owed money?

20 A Yes.

21 Q Do you recall who he said he was owed money from?

22 A No.

23 Q Okay. Do you recall what Romeo said at that point
24 in time?

25 A No.

1 Q Okay. So, to the best of your recollection, Romeo
2 wasn't owed any money?

3 A Correct.

4 Q Okay. Only Domonic?

5 A Correct.

6 Q Okay. Now, you told the police that they had left
7 the apartment, correct?

8 A Yes.

9 Q On June 6th, you told them after that contact and
10 that conversation that was had about money being owed, that
11 they had left the apartment, correct?

12 A Yes.

13 Q And you did not tell the police that they went down
14 to room 222, did you?

15 A No, I don't believe so.

16 Q Okay. And you did not tell the police that you had
17 seen them grab Christina and Victoria?

18 A No, I did not.

19 Q And you did not tell the police that they had walked
20 from room 222, across room 217?

21 A No.

22 Q And you did not tell the police that they walked
23 down that steps?

24 A No.

25 Q And you did not tell the police that they took these

1 girls, and they got into a green Saturn?

2 A No.

3 Q And you did not tell the police that there was a
4 golf club involved at all?

5 A No.

6 Q Okay. You also didn't tell the police that these
7 girls were being grabbed by these gentlemen, correct?

8 A No, no.

9 Q And you also didn't tell the police that these girls
10 were crying?

11 A No.

12 Q Okay. And when -- okay. Now, the police also
13 wanted to talk to Trey, didn't they?

14 A Yes.

15 Q Okay. And they kind of made it abundantly clear
16 that they were aware that Trey was in the dope game?

17 A Yes.

18 Q And you were adamant in denying that you weren't
19 part of the dope game?

20 A Yes.

21 Q And they were trying to -- and they made it
22 abundantly clear that that wasn't their interest?

23 A Yes.

24 Q They were trying to make it -- they were trying to
25 convince you to convince him to come to the police?

1 A Yes.

2 Q Is that a fair statement?

3 A Yes.

4 Q Okay. They didn't ask you whether Trey was
5 supplying drugs to Red or Christina, or anything like that?

6 A No.

7 Q Okay. And you didn't volunteer any of that
8 information either?

9 A No.

10 Q Okay. But to your knowledge, Trey was supplying
11 dope --

12 A Yes.

13 Q -- to Red?

14 A Yes.

15 Q To Christina?

16 A Yes.

17 Q Okay. To Domonic?

18 A I -- no. I don't --

19 Q You didn't know about that?

20 A No, I don't.

21 Q Okay. What about Victoria? Did you know if he
22 supplied --

23 A Yes.

24 Q -- dope to her as well?

25 A Yes.

1 Q Okay. And even though you didn't know Victoria very
2 well, you had heard about her reputation?

3 A Yes.

4 Q All right. And to your knowledge, her reputation
5 was that she was a prostitute as well?

6 A Yes.

7 Q Okay. But to your knowledge, you didn't know who
8 her handler was, or --

9 A No.

10 Q -- her pimp?

11 A No.

12 Q Right? Okay. You never heard that Domonic was her
13 pimp?

14 A No.

15 Q Okay. And the only information that you got about
16 Domonic being a pimp you got from Henderson?

17 A No, there were conversations before.

18 Q Okay. But you didn't volunteer any of that
19 information to the police --

20 A No.

21 Q -- during that interview, correct?

22 A No.

23 Q You actually told the police that the Henderson
24 Police told you he was a pimp; do you remember that?

25 A Yes.

1 Q Okay. I want to talk to you a little bit about some
2 of the items that were found inside the apartment 217.

3 (Pause in the proceedings)

4 BY MR. CANO:

5 Q I'm going to show you some pictures.

6 MR. CANO: If I could approach, Your Honor?

7 THE COURT: Yes.

8 MR. CANO: Okay.

9 BY MR. CANO:

10 Q I want to see if you recognize these pictures.

11 A That's the apartment.

12 Q Okay. Well, don't say what they are yet until I ask
13 you a question. Do you recognize those pictures?

14 A Yes.

15 Q Okay. And I want to show you some interior
16 pictures. I want to see if you --

17 MR. LALLI: Can counsel just identify for the record
18 what photographs -- what Exhibit numbers --

19 THE COURT: Yes.

20 MR. LALLI: -- he's showing the witness?

21 MR. CANO: Yes, sorry. Sorry, counsel.

22 MR. LALLI: No, it's okay.

23 MR. CANO: Sorry. Sorry, Your Honor.

24 THE COURT: All right.

25 MR. CANO: I just showed the witness State's

1 proposed 141 and 140.

2 THE COURT: All right.

3 MR. CANO: Okay.

4 BY MR. CANO:

5 Q And you said that you recognize those?

6 A Yes.

7 Q Are those a fair and accurate depiction of what the
8 apartment looks like at that time?

9 A Yes.

10 Q And what do you recognize this to be?

11 A That's the South Cove Apartment.

12 Q South Cove Apartments?

13 MR. CANO: I'd ask for -- I'd move for the admission
14 of these photographs, Your Honor.

15 THE COURT: All right.

16 MR. LALLI: No objection, Your Honor.

17 THE COURT: 140 and 141 will be admitted.

18 (State's Exhibits 140 and 141 are admitted)

19 BY MR. CANO:

20 Q Now, do -- I want you to take a look at some other
21 pictures that are inside of here, see if you recognize these
22 as well.

23 MR. CANO: And for the record, Your Honor, I'm
24 giving Ms. Matthews State's proposed 145, 146, 147, 148, 149,
25 150, and 151.

1 BY MR. CANO:

2 Q Why don't you take a look at those and see if you
3 recognize those as well.

4 A Yes.

5 Q Okay. And are those the interior of apartment 217?

6 A Yes.

7 Q And that's where you were residing?

8 A Yes.

9 Q And are those fair and accurate depictions of the
10 interior --

11 A Yes.

12 Q -- of 217, back in I guess May, or that time frame
13 of 2006?

14 A Yes.

15 MR. CANO: I'd move for their admissions, Your
16 Honor.

17 MR. LALLI: No objection, Your Honor.

18 THE COURT: 145 through 151 will be admitted.

19 (State's Exhibits 145-151 are admitted)

20 MR. CANO: Thank you, Your Honor.

21 THE COURT: You can publish if you'd like.

22 MR. CANO: Thank you, Your Honor.

23 BY MR. CANO:

24 Q Let me talk to you a little bit about the interior
25 there. That's the outside of the apartment that you were

1 talking about, right?

2 A Yes.

3 Q That's where you had the conversation --

4 THE COURT: Counsel, what number is that one?

5 MR. CANO: I'm sorry. For the record -- thank you,
6 Your Honor.

7 THE COURT: Okay.

8 MR. CANO: Thank you. For the record, that's
9 State's Exhibit 141.

10 THE COURT: All right.

11 BY MR. CANO:

12 Q Where you had the conversation with Domonic and
13 Romeo and Trey, correct?

14 A Yes.

15 Q And that was on that Tuesday or Wednesday?

16 A Yes.

17 Q All right. Do you recall telling the police that
18 that conversation, I think was held sometime in the afternoon
19 or daytime?

20 A I want to say it was in the day time.

21 Q You want to say it's in the day time?

22 A Yeah.

23 Q Okay. I'm going to show you what's been admitted as
24 State's 145. That's the interior of 217?

25 A Yes.

1 Q And that's where you were living with Trey?

2 A Yes.

3 Q Okay. There's some items here location on top of
4 the refrigerator; is that correct?

5 A Yes.

6 Q All right. There are some close-up photographs of
7 some of those items. Is that a depiction of what those items
8 were?

9 A Yes.

10 Q And there's a telephone that's --

11 A Yes.

12 Q -- depicted in the picture, correct?

13 A Yes.

14 Q There's another close-up --

15 MR. CANO: And for the record, Your Honor, that
16 close-up was State's 149.

17 THE COURT: All right. Thank you.

18 MR. CANO: And now I'm going to show her State's
19 150.

20 BY MR. CANO:

21 Q And that's a close-up of that telephone, correct?

22 A Yes.

23 Q What does it say on that telephone?

24 A "Island Girl, Christina."

25 Q Okay. You're not Island Girl, correct?

1 A No.

2 Q All right. That would be Christina's cell phone?

3 A Yes.

4 Q And that was inside your apartment that you were
5 staying at with Trey?

6 A Yes.

7 Q The police -- do you recall I was asking you some
8 questions about the police asking you whether or not Trey was
9 selling dope and things like that?

10 A Yes.

11 Q And you didn't tell them that he did, correct?

12 A No.

13 MR. LALLI: Objection, asked and answered.

14 THE COURT: Sustained.

15 MR. CANO: Okay.

16 BY MR. CANO:

17 Q But you knew that he was selling dope?

18 A Yes.

19 Q All right. And you didn't want to tell the police
20 that he was selling dope because you didn't want Trey to get
21 in trouble, did you?

22 A Right.

23 Q Okay. You were trying to kind of protect him?

24 A Yes.

25 Q Cover up for him as much as you could?

1 A Yes.

2 MR. CANO: I'll pass the witness, Your Honor.

3 THE COURT: All right. Any redirect?

4 MR. LALLI: Just very briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. LALLI:

7 Q Ms. Matthews, Mr. Cano talked to you about the two
8 contacts with law enforcement that you had back in May and
9 June of 2006; do you remember that?

10 A Yes.

11 Q He talked to you about the first contact that you
12 had outside of -- or near apartment 217 at the South Cove?

13 A Yes.

14 Q Do you remember that?

15 A Yes.

16 Q And he asked you a number of questions related to
17 you indicating that you were D-Roc's girlfriend.

18 A Yes.

19 Q Do you remember those questions?

20 A Yes.

21 Q Why did you tell the police that you were D-Roc's
22 girlfriend?

23 A Because I had a key to the apartment, and I didn't
24 want to get in trouble by going into the apartment. I didn't
25 know if would get in trouble or not, so I just said that.

1 Q Whose name was on the lease?

2 A D-Roc's.

3 Q So, I mean, what was your thinking in -- why did you
4 want to go to the apartment?

5 A We had left some stuff there.

6 Q We, being you and Trey?

7 A Me and Trey.

8 Q And so when you talked about you were D-Roc's
9 girlfriend, you hadn't seen D-Roc for a couple of days, or you
10 would call D-Roc, or those series of questions, were you
11 inserting D-Roc for Trey, basically?

12 A I'm sorry --

13 Q Do you understand my question?

14 MR. CANO: Objection, leading, Your Honor.

15 THE WITNESS: No. I'm sorry.

16 MR. LALLI: Okay.

17 THE COURT: I'm going to sustain the objection.

18 BY MR. LALLI:

19 Q When you were -- when you were portraying -- or
20 telling the police that you had dated D-Roc, it was -- it was
21 so that you wouldn't be in trouble for accessing the
22 apartment?

23 A Correct.

24 Q Okay. Did you -- the police officers that you found
25 on that -- or that you encountered on that same day, you said

1 that they were Henderson patrol officers?

2 A Yes.

3 Q Were they dressed like police officers dress?

4 A Yes.

5 Q Wearing badges and guns, and that sort of thing?

6 A Yes.

7 Q They weren't detectives --

8 A No.

9 Q -- to your knowledge?

10 A No, not to --

11 Q Okay.

12 A -- my knowledge.

13 Q But later on, you do talk to the detectives?

14 A Yes.

15 Q Mr. Cano asked you information -- or he asked you
16 whether you had had any information that D-Roc was a pimp; do
17 you remember that question?

18 A Yes.

19 Q And he said the only -- he asked you if the only
20 information that you had received that he was a pimp was from
21 those patrol officers; do you --

22 A Yes.

23 Q -- remember that? That's not the only place,
24 correct?

25 A Correct.

1 Q That you had information about him being a pimp,
2 true?

3 A Correct.

4 Q He told you that he -- or he had told Trey that he
5 was a pimp?

6 A He told Trey.

7 Q And so I presume Trey also knew that he was a pimp?

8 A Yes.

9 Q What did Trey say about that to D-Roc?

10 A To not do that, just leave it alone.

11 Q Okay. Now, the -- Mr. Cano asked you about a number
12 of things that you had -- did not say to the police, a number
13 of things that you did not tell them when you were interviewed
14 in June of 2006.

15 A Yes.

16 Q Did you want to talk to the police on that day? I
17 mean, did you want to talk to them?

18 A I mean, I didn't really want to be involved in it.
19 But --

20 Q How happy are you --

21 A -- I was --

22 Q How happy were you when you received my subpoena to
23 testify in this case that you're testifying in now?

24 A Not happy.

25 MR. CANO: Your Honor, I'm going to object as to

1 relevance.

2 MR. LALLI: Well, the relevance would suggest why
3 she didn't just go gushing out with information when she was
4 being talked to by the police.

5 THE COURT: I'm going to overrule the objection.
6 BY MR. LALLI:

7 Q And had you made it very clear to me and to others
8 that you don't want to be here, you don't want to have to
9 testify in these proceedings?

10 A Yes.

11 Q Would it have been easier in retrospect to have just
12 said you didn't see anything at all?

13 A Yes.

14 Q Let me ask you this. You told this jury that you
15 saw the defendant with another individual, talking to you and
16 Trey at your apartment?

17 A Yes.

18 Q Do you remember that? Did you in fact see that?

19 A Yes.

20 Q How did you figure out that the person that he was
21 with, the defendant, was Romeo?

22 A That's what Trey said.

23 Q Trey told you that it was Romeo?

24 A Trey said that was Romeo.

25 Q Did you also -- after --

1 MR. CANO: Your Honor, I'm going to object then as
2 to hearsay, and ask that it be stricken. She's basing her
3 knowledge on hearsay information.

4 THE COURT: Mr. Lalli, your response?

5 MR. LALLI: Well, Mr. Cano asked -- or suggested
6 that she didn't know that Romeo was in fact Romeo. And so I
7 think it kind of opens the door to how she knew that. She did
8 in fact receive information that it was Romeo. And there's --
9 I'm going to go into yet another way that she knew, and that
10 she's already told the police -- that she had told the police
11 how she knew.

12 THE COURT: Well, let's go into the other way. I'm
13 going to sustain the objection.

14 MR. LALLI: Okay.

15 BY MR. LALLI:

16 Q After the -- well, has this case been reported in
17 the media?

18 A I believe so.

19 Q Do you recall for certain?

20 A I'm not sure.

21 Q Okay.

22 MR. LALLI: May I have the Court's indulgence, Your
23 Honor?

24 THE COURT: All right.

25 BY MR. LALLI:

1 Q Did you ever -- do you recall ever seeing the
2 defendant, his photo in the news?

3 A Yes, I -- I did. I believe it was a few days after
4 the incident had happened.

5 Q Okay. Do you remember seeing Romeo's photograph in
6 the news?

7 A Yes.

8 Q Was the person's photograph, Romeo, that you saw on
9 the news, the same person that you saw outside of 217?

10 A Yes.

11 Q Is there any question about that in your mind?

12 A No.

13 Q With respect to the person that you see with the
14 defendant in front of 217, is there any question in your mind
15 that he had some issue -- some physical problem with his arm?

16 A No.

17 Q You never told the police that you saw a golf club?

18 A Right.

19 Q Did you in fact see a golf club?

20 A Yes, I did.

21 Q You never told the police that you saw the girls
22 exit 222, being forced out by the defendant and Romeo. Did
23 you in fact see that?

24 A Yes, I did.

25 Q You never told the police that you saw the girls

1 crying. Did you in fact see the girls crying?

2 A Yes, I did.

3 Q Was it pretty clear to you that, based upon what you
4 saw, that the girls didn't want to go where the defendant was
5 taking them?

6 A Yes.

7 Q Thank you.

8 MR. LALLI: Nothing else, Your Honor.

9 THE COURT: Recross? Mr. Cano, I don't want -- wish
10 to rush you.

11 MR. CANO: I know you have --

12 THE COURT: We're going to adjourn in about 3, 4
13 minutes.

14 MR. CANO: I will try to keep it within that.

15 THE COURT: Well, no. I mean, take your time.

16 MR. CANO: I know there's no rush, Your Honor, but I
17 don't think I have very many questions.

18 THE COURT: Okay, great.

19 RECROSS-EXAMINATION

20 BY MR. CANO:

21 Q The time frame when you saw all these things that
22 you just testified to, that was Tuesday afternoon?

23 A Tuesday or Wednesday, yes.

24 Q Afternoon?

25 A Afternoon.

1 Q Okay. During the daytime?

2 A During the daytime.

3 Q Okay. Now, you lied about D-Roc being your
4 boyfriend to the police?

5 A Yes, I did.

6 Q And you said that, because you didn't want to get
7 into trouble for trying to get into 217?

8 A Yes.

9 Q So, you lied to the police so you could avoid to get
10 into any kind of trouble?

11 A Yes.

12 MR. CANO: Nothing further, Your Honor.

13 THE COURT: All right. Anything else?

14 MR. LALLI: No, Your Honor.

15 THE COURT: Any questions by any of the jurors? We
16 do have a question or two. The marshal will pick up the
17 questions. Counsel, approach, please.

18 (Bench conference)

19 THE COURT: It looks like we have two. Maybe three.

20 MR. DiGIACOMO: Yes, Judge. Sorry.

21 THE COURT: Okay. Or Mr. Lalli, if you --

22 MR. CANO: What was the questions.

23 THE COURT: Mr. DiGiacomo, back off. Mr. Cano
24 [inaudible].

25 MR. DiGIACOMO: [Inaudible] up here for jury

1 questions. I thought we were up here for something
2 [inaudible]. We need to address something before we tell the
3 jury what time to come back.

4 THE COURT: Okay. I think we have four questions.

5 MR. DiGIACOMO: Is the Court -- is the Court going
6 to be back at --

7 THE COURT: 1:15.

8 MR. DiGIACOMO: -- 1:15?

9 THE COURT: 1:15.

10 MR. DiGIACOMO: Okay. So, if we need to do
11 something before the jury, you might want to give them a few
12 minutes longer than 1:15.

13 THE COURT: I should -- [inaudible] chairman on the
14 civil bench [inaudible] committee, okay. So --

15 MR. DiGIACOMO: Lucky you.

16 THE COURT: So, I'm running the meeting, okay. We
17 should be done at 1:00. So, I probably will be here in the
18 courtroom, so if you guys need to address some issue, just
19 come back at 1:00.

20 MR. DiGIACOMO: Okay.

21 THE COURT: But I'm going to tell them 1:15.

22 MR. DiGIACOMO: Okay.

23 MR. CANO: [Inaudible].

24 MR. DiGIACOMO: No. I just wanted to make sure that
25 they're not waiting.

1 MR. LALLI: No objection.

2 THE COURT: Any objection, Mr. Cano?

3 MR. CANO: Can I see the question again?

4 [Inaudible].

5 MR. LALLI: Okay. No objection.

6 MR. CANO: Well, to the second part of that
7 question.

8 THE COURT: I'm sorry?

9 MR. CANO: The second part of the question, "Do you
10 remember what they were wearing?"

11 THE COURT: All right.

12 MR. CANO: [Inaudible] full description of that.

13 THE COURT: I'm sorry?

14 MR. CANO: To the second part of that question, just
15 a little bit more specific. But we have no objection to the
16 first part.

17 THE COURT: Okay. Well, each side will be free to
18 follow up what kind of shoes [inaudible] were wearing.

19 MR. LALLI: Well, what's the objection to the second
20 part?

21 MR. CANO: [Inaudible] you know --

22 MR. DiGIACOMO: You don't like it. That's not an
23 objection.

24 THE COURT: All right. I'm going to give it. And
25 we'll put on the record your objection. This is somewhat

1 similar [inaudible].

2 MR. LALLI: No objection.

3 MR. CANO: Well, I mean, it's similar to --

4 THE COURT: All right, I'm just going to ask it
5 once.

6 MR. CANO: Okay.

7 THE COURT: I'll ask this one.

8 MR. CANO: Okay.

9 THE COURT: This is the same question.

10 UNKNOWN MALE SPEAKER: [Inaudible].

11 MR. DiGIACOMO: [Inaudible] asking that question.

12 THE COURT: I'm just going to ask the question once.
13 Let me see which one's which.

14 MR. CANO: On the first question -- can we look at
15 that first question again?

16 THE COURT: How about I just ask this one? I'm not
17 going to ask it three times. But here are the --

18 MR. DiGIACOMO: [Inaudible].

19 THE COURT: Oh. This one's --

20 MR. PIKE: Just did she --

21 THE COURT: -- how her phone got in the apartment.

22 MR. PIKE: -- did she see. Not does she know, but
23 did she see. Because we don't want to bring in any hearsay
24 [inaudible].

25 THE COURT: Any objection to me saying, "Do you have

1 any personal knowledge?"

2 MR. DiGIACOMO: No. No objection.

3 THE COURT: Mr. Cano?

4 MR. CANO: [Inaudible].

5 THE COURT: Then we will ask this question. All
6 right.

7 MR. CANO: Thank you.

8 THE COURT: Okay.

9 MR. DiGIACOMO: Thank you.

10 (Bench conference ended)

11 THE COURT: All right. Ms. Matthews, we have a
12 couple questions by the jurors.

13 THE WITNESS: Okay.

14 THE COURT: And some of the questions, ladies and
15 gentlemen, are very similar. So, I'm going to ask a composite
16 of the question.

17 First question, Ms. Matthews, is, "Do you have any
18 personal knowledge on how Christina's phone came to be in your
19 apartment?"

20 THE WITNESS: No, I don't remember how it was there.

21 THE COURT: Okay. "Do you remember what the two
22 ladies were wearing when they were taken to the car by the
23 defendant?"

24 THE WITNESS: No, I don't know what they were
25 wearing.

1 THE COURT: "Did Victoria or Christina have any
2 shoes on?"

3 THE WITNESS: I don't remember if they had shoes on
4 or not. I wasn't looking at their feet.

5 THE COURT: Does the State have any follow up to
6 these questions?

7 MR. LALLI: Yes, Your Honor.

8 FURTHER REDIRECT EXAMINATION

9 BY MR. LALLI:

10 Q With respect to the clothing that the girls may or
11 may not have been wearing, were they wearing clothing?

12 A Yes, they were wearing clothing.

13 Q So, they weren't being led out stark naked?

14 A No.

15 Q You would have remembered that?

16 A Yes.

17 Q Okay. Thank you.

18 MR. LALLI: Nothing else.

19 THE COURT: Mr. Cano?

20 MR. CANO: No follow up, Your Honor.

21 THE COURT: All right. Ladies and gentlemen, we're
22 going to take our lunch recess right now, and we're going to
23 come back at 1:15.

24 During this lunch recess, it is your duty not to
25 converse among yourselves, or with anyone else on any subject

1 connected with this case. Or to read, watch or listen to any
2 report of or commentary on the trial by any person connected
3 with the trial, or by any medium of information, including
4 without limitation, newspaper, television, radio, or the
5 Internet. You are not to form or express an opinion on any
6 subject connected with this case until this matter is
7 submitted to you.

8 We'll see you back at 1:15.

9 THE WITNESS: Am I good to take off?

10 MR. LALLI: You're excused.

11 THE WITNESS: Okay.

12 THE COURT: Why don't you just hang on, ma'am, just
13 until the jury leaves.

14 THE WITNESS: Okay.

15 THE COURT: Then you are excused.

16 (Jury recessed at 11:55 a.m.)

17 (Outside the presence of the jury)

18 THE COURT: All right. Is the witness excused by
19 the State and defense?

20 MR. CANO: Yes, Your Honor.

21 MR. LALLI: Yes.

22 THE COURT: Okay. Ma'am, if you don't mind, if you
23 could just wait, go down a separate elevator from the jurors.

24 THE WITNESS: Okay.

25 THE COURT: All right. Maybe just hang out outside

1 for a few minutes.

2 MR. DiGIACOMO: Yeah, her children are out there
3 with the victim advocate, so.

4 THE COURT: Okay. All right, great.

5 MR. CANO: And Sarah, I know we had subpoenaed you
6 for the 24th. You don't have to worry about that.

7 THE WITNESS: Okay.

8 MR. CANO: We've covered everything here. Okay?

9 THE WITNESS: Thank you.

10 THE COURT: Counsel, we'll go over the jurors'
11 questions after the break, because I've got to --

12 MR. CANO: That's fine. 1:15?

13 MR. DiGIACOMO: We have the issue that we need to
14 address. The witness is coming back at 1:00, and Mr. Lalli
15 wants to talk to her before we address it. So, 1:05, Judge?

16 THE COURT: That's fine.

17 MR. DiGIACOMO: We need to address that issue.

18 THE COURT: All right. I'll be back.

19 (Court recessed at 11:56 a.m. until 1:12 p.m.)

20 (Outside the presence of the jury)

21 (Pause in the proceedings)

22 THE COURT: All right. Counsel, we're going to put
23 on the record the jurors' questions.

24 Carol, it was one question that we didn't ask?

25 THE CLERK: Well, we asked --

1 THE COURT: Did I ask everyone?

2 THE CLERK: We asked this one, but we combined those
3 two.

4 THE COURT: Okay. We had three -- counsel, we had
5 three questions from some of the jurors. Okay. As --
6 inquiring is from Jurors 14, 7, and 3, inquiring whether or
7 not this witness knew what the girls were wearing, if
8 anything, and what their foot attire was. There's three
9 questions. And we just asked one set of those questions; is
10 that correct, Mr. Pike?

11 MR. PIKE: That is correct, Your Honor.

12 THE COURT: And you did not object to that?

13 MR. PIKE: No.

14 THE COURT: Correct, Mr. DiGiacomo?

15 MR. DiGIACOMO: Yes, Judge.

16 THE COURT: All right. And there was also the other
17 question, that was, do you know how Christina's phone came to
18 be in your apartment. And I had asked if she had any personal
19 knowledge as to how it got into her apartment.

20 MR. PIKE: That's correct.

21 THE COURT: And there was not an objection to that
22 question?

23 MR. PIKE: No. There was an objection that we had
24 as to how it was written. And then as to the correction that
25 the Court made, that -- we had no objection to that.

1 THE COURT: Okay.

2 MR. PIKE: And --

3 THE COURT: Great. Now, was there some issue on
4 photos or something?

5 MR. DiGIACOMO: There -- well, before Dr. Kubiczek
6 got up there, I believe that the defense wanted to address the
7 photographs so the jury didn't have to wait.

8 The other issue that Mr. Cano and Mr. Lalli are
9 discussing is that our next witness knows Mr. Malone quite
10 well. And she raised with me when I released her for lunch an
11 issue as it relates to one of her felony convictions. And
12 they're discussing the facts as it relates to that, as it
13 relates also to Mr. Malone.

14 I felt like the defense should be aware of what her
15 answer might be to certain questions, as well as it may be
16 admissible as it relates to bias, should they bring her bias
17 up. And so, they're having a discussion. And as soon as
18 they --

19 THE COURT: Okay.

20 MR. DiGIACOMO: -- know the facts, they'll be in
21 front of the Court to -- just so that they're aware.

22 We're not asking to admit a bad act or anything.
23 We're just -- we want to make sure they're aware so that they
24 can form their questions, or phrase their questions in such a
25 way that they are fully aware of what the answer is going to

1 be.

2 MR. PIKE: That's correct. And the -- because the
3 Court has seen the majority of the photographs before, and as
4 has the defense, there are just a couple of new photographs
5 that were not used in the previous trial that the doctor has
6 chosen to demonstrate specific wounds. So, that's the reason
7 we need to see those before we go in before the jury, so that
8 we can raise the appropriate objection.

9 THE COURT: Do we have the photos here, or does the
10 doctor have these new photos?

11 THE CLERK: They're here and marked.

12 MR. DiGIACOMO: I think --

13 THE CLERK: Is that the ones you're talking about?

14 MR. DiGIACOMO: There were ones that were marked.

15 And then apparently there were a couple more from this
16 morning's pretrial. Did Mr. Lalli give you anymore photos
17 this morning? I could go ask Mr. Lalli if I --

18 THE COURT: When is the doctor going to testify?

19 MR. DiGIACOMO: After this witness.

20 THE COURT: Okay.

21 MR. PIKE: After this witness, yeah.

22 THE COURT: How long is this witness going to be?

23 MR. DiGIACOMO: On direct, about the same as Sarah
24 Matthews. Cross has been kind of up in the air. We thought
25 we would have both on this morning, so.

1 MR. PIKE: She'll probably take us to a break. And
2 then, in the interim, Mr. DiGiacomo and I are handling the
3 telephone witnesses. And because we've ended up subpoenaing
4 some of the same custodian of records, we're meeting and are
5 trying to outline a stipulation -- stipulated submission as to
6 all of the --

7 THE COURT: Okay.

8 MR. PIKE: -- all of the reports, because we're
9 getting the same reports and the same witnesses.

10 THE COURT: Okay.

11 MR. PIKE: And --

12 THE COURT: At least they're not different reports.

13 MR. PIKE: Yeah, that's happened on occasion.

14 (Pause in the proceedings)

15 MR. LALLI: Do you want to just approach and tell
16 His Honor --

17 MR. CANO: Sure.

18 MR. LALLI: -- what the issue is here?

19 MR. CANO: It's an issue regarding the next witness,
20 Your Honor.

21 THE COURT: All right. Well, let's put it on the
22 record. Okay?

23 MR. LALLI: Okay.

24 THE COURT: Yeah. Mr. Cano, Mr. Lalli? There is --
25 my understanding is from speaking with Mr. Pike and Mr.