

1 DUTY TO PRESENT THIS EVIDENCE DURING TRIAL SO THE JURY  
2 COULD HEAR THIS CONFLICTING TESTIMONY, AND IT IS ALSO  
3 OUR POSITION, JUDGE --

4 THE COURT: WHAT'S THE AUTHORITY FOR THAT?

5 MR. BROOKS: OUR POSITION IS THAT -- OUR  
6 POSITION IS, THIS TYPE OF TESTIMONY SHOULD BE COMING  
7 INTO EVIDENCE DURING TRIAL BECAUSE IT'S RELEVANT REALLY  
8 TO GUILT.

9 WHAT THE STATE HAS ESSENTIALLY DONE IS  
10 TAKEN THE PENALTY HEARING AND INTRODUCED ESSENTIALLY  
11 REBUTTAL TESTIMONY WHICH COULD HAVE BEEN RELEVANT TO THE  
12 GUILT DETERMINATION BY THE JURY, AND BY BRINGING IT IN  
13 DURING THE REBUTTAL PHASE -- I MEAN, THE PENALTY PHASE,  
14 WHICH IN FACT THEY'VE DONE.

15 THE COURT: ARE YOU SAYING THIS IS SOME SORT  
16 OF AN EXTENSION OF BRADY?

17 MR. BROOKS: IT'S A DISTANT COUSIN OF BRADY,  
18 YOUR HONOR.

19 WE'RE SAYING THE STATE HAD A DUTY TO  
20 PRESENT CONFLICTING TESTIMONY DURING THE GUILTY PHASE  
21 AND NOT RESERVE IT FOR THE PENALTY PHASE. BECAUSE WHAT  
22 THIS HAS REALLY DONE IS ALLOW THE DEFENSE COUNSEL TO BE  
23 IN A POSITION WHERE WE HAVE TAKEN A CONCRETE POSITION ON  
24 THE EVIDENCE WITH REGARDS TO JAMES' STATEMENTS ON THE  
25 TIMING OF THIS CASE, AND NOW WE HEAR EVIDENCE IN THE

1 PENALTY PHASE THAT CONTRADICTS WHAT WE IN FACT WERE  
2 SAYING, AND THIS TESTIMONY SHOULD HAVE BEEN BEFORE THE  
3 JURY DURING THE GUILT PHASE.

4 THEREFORE, WE MOVE FOR A MISTRIAL AND  
5 STRIKING OF ALL THAT TESTIMONY.

6 THE COURT: STATE?

7 MR. HARMON: YOUR HONOR, I THINK WE'RE AT  
8 LIBERTY TO ENGAGE IN APPROPRIATE TRIAL TACTICS, AND WE  
9 THINK THAT'S WHAT'S HAPPENED HERE.

10 MICHAEL POLLARD WASN'T A MYSTERY TO  
11 ANYONE DURING THE PRELIMINARY HEARING WHICH WAS IN  
12 OCTOBER, 1995. LISA DURAN TESTIFIED.

13 MR. POLLARD DIDN'T, BUT DURAN REFERRED  
14 TO POLLARD AS A CO-WORKER, A MUTUAL FRIEND OF HERS AND  
15 THE VICTIM, AND ALSO MENTIONED IT WAS THROUGH HIM THAT  
16 SHE LEARNED A NUMBER OF FACTORS WHICH WERE IMPORTANT TO  
17 THE CASE.

18 THEREFORE, MICHAEL POLLARD WAS LISTED  
19 AS A POTENTIAL WITNESS ON THE INFORMATION.

20 THE DEFENSE HAD THE SAME LIBERTY OF  
21 INTERVIEWING HIM THAT THEY HAD WITH EVERY OTHER WITNESS.

22 IN FACT, WHAT HAPPENED IN THE CASE OF  
23 MICHAEL POLLARD IS EVEN THOUGH WE HAD TRIED -- AND MISS  
24 SILVER AND I DON'T GO OUT AND SERVE THE SUBPOENAS, SO I  
25 CAN'T TELL YOU WITH WHAT DILIGENCE, BUT HE WAS

1       ORIGINALLY ON OUR LIST OF WITNESSES TO BE SERVED.

2                       FOR SOME REASON, CONTACT WASN'T MADE  
3 WITH HIM PRIOR TO THE COMPLETION OF THE GUILT PHASE.  
4 OUR SECRETARY WAS ADVISED AFTER THE JURY RETURNED WITH  
5 ITS VERDICT THAT WE STILL MOST DEFINITELY HAD AN  
6 INTEREST IN SPEAKING WITH MICHAEL POLLARD BECAUSE WE  
7 KNEW FROM LISA DURAN THAT POLLARD HAD HAD CONTACT WITH  
8 THE VICTIM, AND IT WOULD HAVE BEEN AFTER SHE LEFT WORK.

9                       SO IT WAS AFTER THE JURY RETURNED IN  
10 THE GUILT PHASE THAT WE FORMALLY INTERVIEWED MICHAEL  
11 POLLARD AND HE GAVE US THE INFORMATION ABOUT ABOUT WHICH  
12 HE TESTIFIED.

13                      YOUR HONOR, BECAUSE A WITNESS PROVIDES  
14 THE INFORMATION WHICH IS INCONSISTENT WITH THAT OF  
15 ANOTHER WITNESS, THAT DOESN'T MAKE IT VULNERABLE TO A  
16 MOTION TO STRIKE IN ANY EVENT.

17                      I DON'T HONESTLY KNOW IF MR. POLLARD  
18 IS DESCRIBING, WHEN HE TALKS ABOUT A SLAPPING INCIDENT  
19 IN MARCH, THE SAME INCIDENT THAT LISA DURAN REFERRED TO  
20 WHICH SHE THOUGHT WAS SEVERAL WEEKS BEFORE CHRISTMAS, IN  
21 DECEMBER.

22                      IT SEEMS TO US THE JURY HAS TO DECIDE  
23 IF HE'S TALKING ABOUT THE SAME INCIDENT OR SOMETHING  
24 ELSE. AND REGARDING THE TIME FRAME, NONE OF THESE  
25 WITNESSES HAVE SUGGESTED THAT THEY STUDIED THEIR CLOCKS.

1 NONE OF THEM KNEW WHAT WAS ACTUALLY GOING TO HAPPEN TO  
2 DEBORAH PANOS.

3 SO WHEN MISS DURAN SAYS SHE BELIEVES  
4 IT WAS 9:00 OR 10:00 O'CLOCK IN THE MORNING THAT THE  
5 VICTIM LEFT AND WHEN MR. POLLARD SAYS IT WAS AROUND  
6 NOON, I WILL GRANT YOU THAT THE TIME FRAME, IF IT WAS  
7 AROUND NOON, BECOMES A LOT CLOSER IN TERMS OF WHETHER IT  
8 WAS FEASIBLE FOR HER TO HAVE ALREADY BEEN AT THE TRAILER  
9 WHEN THE DEFENDANT ARRIVES.

10 BUT NONE OF THESE WITNESSES SAID  
11 PRECISELY WHAT TIME IT WAS, AND WHAT I'M TELLING THE  
12 COURT IS THAT WE HAD NO WAY OF KNOWING PRECISELY WHAT  
13 THE TIME FRAME WOULD BE UNTIL WE TALKED WITH MR. POLLARD  
14 AND EVEN IF WE HAD KNOWN, THAT THE DEFENSE SAYS THIS IS  
15 A DISTANT COUSIN OF BRADY, IT ISN'T AS THOUGH WE  
16 SURPRISED THEM WITH THE WITNESS.

17 HE WAS LISTED ON THE INFORMATION. HE  
18 WAS REFERRED TO BY A PRINCIPAL WITNESS AT THE  
19 PRELIMINARY HEARING. AND ALL WE DID WAS FOLLOW UP ON  
20 INFORMATION ONCE WE VERIFIED THAT HE HAD SEEN HER.

21 IN FACT, MISS SILVER AND I TALKED OF  
22 THIS AT LENGTH, AND WE DECIDED THE JURY, BEFORE THEY  
23 FIXED A PUNISHMENT, WAS ENTITLED TO HEAR FROM THIS  
24 WITNESS WHO HAD THE LAST CONTACT EXCEPT FOR HER  
25 ASSAILANT WITH HER AND WHO COULD DESCRIBE HER STATE OF

1 MIND AND PRECISELY HOW FRIGHTENED SHE WAS WHEN SHE  
2 DEPARTED HIS RESIDENCE.

3 THE COURT: IS THERE ANYTHING IN THE FILE OF  
4 THE DISTRICT ATTORNEY'S OFFICE THAT WOULD SUGGEST THAT --  
5 BY WAY OF REVIEWING THAT DOCUMENTATION, THAT THE  
6 KNOWLEDGE OF MR. POLLARD'S TESTIMONY WAS SOMEHOW  
7 WITHHELD FROM THE DEFENSE?

8 MR. HARMON: NO, WE HAVEN'T WITHHELD  
9 ANYTHING, YOUR HONOR.

10 THE COURT: I'M JUST ASKING YOU IF THERE'S  
11 ANYTHING IN THE FILE THAT MIGHT SUGGEST THAT.

12 MR. HARMON: NO. THERE WASN'T ANY TYPE OF  
13 FORMAL STATEMENT OF MR. POLLARD.

14 YOU KNOW, THIS INVESTIGATION, I  
15 SUPPOSE, COULD BE CRITICIZED LIKE MANY OTHERS. IT  
16 WASN'T PERFECT. THE DEFENSE HAS ALREADY EXPLOITED THE  
17 FACT THAT CERTAIN WITNESS WHO PROBABLY SHOULD HAVE BEEN  
18 INTERVIEWED WERE NOT INTERVIEWED BY THE POLICE  
19 DEPARTMENT.

20 BUT ALL WE KNEW UNTIL WE ACTUALLY  
21 SPOKE WITH MIKE POLLARD IS WHAT LISA DURAN SAID DURING  
22 THE PRELIMINARY HEARING.

23 THE COURT: THE COURT BELIEVES THAT BRADY  
24 DOES NOT COMPEL THE STATE TO PUT ON CONSISTENT  
25 TESTIMONY, AND IN FACT IN THIS PARTICULAR INSTANCE, THE

1 TIME FRAMES ARE INEXACT. THAT IS, THE TIME FRAMES  
2 DESCRIBED BY THE WITNESSES ARE INEXACT, AND THEREFORE  
3 THE JURY WAS PERMITTED TO DECIDE THE FACTS OF THIS CASE  
4 BASED UPON THE EVIDENCE BEFORE IT.

5 I DON'T SEE -- THE WITNESS WAS MADE  
6 KNOWN AT THE TIME OF THE PRELIMINARY HEARING AND THE  
7 WITNESS' -- A WITNESS' NAME WAS ENDORSED ON THE  
8 INFORMATION. THE DEFENSE COULD HAVE INTERVIEWED THIS  
9 WITNESS AND FOUND THIS MATERIAL OUT.

10 THE COURT FINDS ALSO THAT BASED UPON  
11 THE TOTALITY OF THIS EVIDENCE THAT THIS DOES NOT BRING  
12 INTO PLAY AN INEFFECTIVE ASSISTANCE OF COUNSEL ISSUE  
13 BECAUSE THIS WITNESS VERY WELL COULD HAVE BEEN A VERY  
14 DEVASTATING WITNESS UNDERMINING THE DEFENSE'S CRIMINAL  
15 LIABILITY THEORY DURING THE GUILT PHASE.

16 SO THERE IS EVERY REASON WHY, EVEN IF  
17 THIS WITNESS WAS INTERVIEWED AND THE TESTIMONY TODAY WAS  
18 KNOWN TO THE DEFENSE, THAT THEY WOULD MOST ARGUABLY HAVE  
19 REFRAINED FROM BRINGING THAT TO THE NOTICE OF THE JURY  
20 DURING THE GUILT PHASE.

21 ANYTHING FURTHER FROM THE PARTIES AT  
22 THIS TIME?

23 MR. HARMON: NOT BY THE STATE, YOUR HONOR.

24 THE COURT: THEREFORE, THE MOTION IS DENIED.

25 MR. BROOKS: THANK YOU.

THE COURT: SEE YOU TOMORROW.

(WHEREUPON, THE JURY TRIAL  
WAS ADJOURNED FOR THE DAY  
AT THE HOUR OF 5:30 P.M.)

\* \* \* \* \*

## REPORTER'S CERTIFICATE

STATE OF NEVADA)  
: SS  
COUNTY OF CLARK)

I, CONNIE MC CARTHY, CERTIFIED COURT REPORTER,  
HEREBY CERTIFY THAT I TOOK DOWN IN STENOGRAPHY ALL OF THE  
PROCEEDINGS HAD IN THE BEFORE-ENTITLED MATTER AT THE TIME  
AND PLACE INDICATED, AND THAT THEREAFTER SAID STENOGRAPHY  
NOTES WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY  
SUPERVISION.

THAT THE FOREGOING TRANSCRIPT CONSTITUTES A FULL,  
TRUE AND ACCURATE RECORD OF THE PROCEEDINGS HAD.

IN WITNESS WHEREOF, I HEREBY SUBSCRIBE MY NAME  
AT LAS VEGAS, NEVADA.

  
CONNIE MC CARTHY, C.C.R. NO. 299



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ORIGINAL

DISTRICT COURT  
CLARK COUNTY, NEVADA

\* \* \* \* \*

FILED IN OPEN COURT

OCT 23 1996

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LORETTA BOWMAN, CLERK

BY *[Signature]* Deputy

THE STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
Vs )  
 )  
JAMES MONTELL CHAPPELL, )  
 )  
Defendant. )

CASE NO. C131341

DEPT. NO. VII

DOCKET P

BEFORE THE HONORABLE:

A. WILLIAM MAUPIN DISTRICT JUDGE

TUESDAY, OCTOBER 22, 1996, 10:45 A.M.

PENALTY PHASE - VOLUME II

APPEARANCES:

FOR THE STATE: MELVYN T. HARMON &  
ABBI SILVER  
Deputies District Attorney

FOR THE DEFENDANT: HOWARD S. BROOKS &  
WILLARD N. EWING  
Deputies Public Defender

REPORTED BY: PATSY K. SMITH, C.C.R. #190

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1 TUESDAY, OCTOBER 22, 1996, 10:45 A.M.

2 THE COURT: We're on the record outside the  
3 presence of the jury.

4 MR. BROOKS: Judge, Mr. Chappell has asked  
5 me if I could possibly obtain State's Exhibit 66 over the  
6 lunch hour and walk down to the Alpha Graphics here at the  
7 corner and make a color copy of it. If the Court would  
8 allow it, I could bring it back when we resume.

9 THE COURT: Any objection to that?

10 MR. HARMON: No, your Honor.

11 THE COURT: All right, that will be the  
12 order.

13 (Off the record discussion not reported.)

14 THE COURT: Are we ready?

15 MR. HARMON: Yes.

16 THE COURT: All right, let's bring in the  
17 jury.

18

19 (At this time the jury entered the  
20 courtroom.)

21 THE COURT: Counsel stipulate to the  
22 presence of the jury?

23 MR. HARMON: Yes, your Honor.

24 MR. BROOKS: Yes, your Honor.

25 THE COURT: Good morning, ladies and

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1 gentlemen.

2 THE JURY: (In Unison) Good morning.

3 THE COURT: Proceedings this morning and  
4 other logistical problems in the courthouse have delayed us  
5 starting by 45 minutes. I apologize for that. When the  
6 case is over, I will explain that to you.

7 State may continue with its case in chief.

8 MS. SILVER: The State would call Carol  
9 Monson.

10  
11 CAROL MONSON,  
12 having been first duly sworn to tell the truth, the whole  
13 truth and nothing but the truth, testified and said as  
14 follows:

15  
16 DIRECT EXAMINATION

17 BY MS. SILVER:

18 Q Could you please state your name and  
19 spell it for the record.

20 A Carol Monson. C-A-R-O-L M-O-N-S-O-N.

21 Q And did you know a person by the name  
22 of Deborah Panos?

23 A Yes, I did.

24 Q And how did you know her?

25 A She was my niece.

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1 Q Prior to coming to court, did you  
2 provide me with two letters from two of the family members  
3 of Deborah Panos?

4 A Yes, I did.

5 Q One being the aunt -- another aunt and  
6 a cousin of Deborah's?

7 A Yes, ma'am.

8 (Off the record discussion not reported.)

9 Q (BY MS. SILVER) I'd like to show you  
10 what's been marked for identification purposes as the  
11 State's Proposed Exhibit 91 and ask you if this is a one  
12 page letter from Christina Rees, Deborah's cousin?

13 A Yes, it is.

14 Q And I'd like to show you what has been  
15 marked for identification purposes as State's Proposed  
16 Exhibit No. '92, a one page letter from a Mrs. Doris  
17 Wichtoski?

18 A Wichtoski.

19 Q Which was Deborah's aunt?

20 A Right.

21 Q Is that what this is?

22 A Yes, it is.

23 Q And these are the two letters you  
24 provided us for court today?

25 A Yes.

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1 MS. SILVER: Your Honor, at this time, I  
2 would move to admit State's Proposed Exhibit No. 91 and No.  
3 92 for identification purposes.

4 MR. EWING: No objection.

5 THE COURT: You would like to admit them?

6 MS. SILVER: We would like to admit them.

7 THE COURT: It's not for identification,  
8 it's for substantive evidence?

9 MS. SILVER: Yes, your Honor.

10 Q (BY MS. SILVER) Mrs. Monson --

11 THE COURT: I'm sorry, Ms. Silver. I wanted  
12 to review them first.

13 MS. SILVER: That's fine.

14 THE COURT: All right, these documents will  
15 be admitted as part of the State's case.

16 MS. SILVER: Thank you.

17 Q Mrs. Monson, did you also prepare a  
18 statement that you wanted to read to this jury regarding  
19 Debbie and the impact to the family?

20 A Yes, I did.

21 Q Would you take that statement out at  
22 this time and read that to the jury.

23 A My name is Carol Ann Monson. I reside  
24 in Tucson, Arizona. Deborah A. Panos was my niece. This  
25 is my statement in remembrance of Debbie.

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1                   Debbie was an only child born May 4th,  
2   1969. She had a large family that watched her grow through  
3   the years from birth. She had a very happy childhood with  
4   a great deal of love and security. She lived in a  
5   beautiful home with her mother, stepfather, and grandmother  
6   who all loved her very much.

7                   Our family was very close knit, aunts and  
8   uncles, nieces and nephews, and cousins. There was always  
9   an occasion for a family gathering. Debbie loved family  
10  gatherings. Even for no special occasion, she loved having  
11  the family around.

12                  Debbie was a very smart person and did  
13  excellent in her school years. Education seemed to be very  
14  easy for her.

15                  As years past, Debbie grew into a fine  
16  lady. She had a special place in her heart for the  
17  elderly, children, and animals. Debbie loved to collect  
18  clowns of all sorts. I have what she had left when she  
19  died to pass onto her children. And when I see a clown of  
20  any kind, I think of Debbie.

21                  Debbie would see an elderly couple arm in  
22  arm and walking and she would say, "Look, Aunt Carol,  
23  aren't they cute?" I can still see Debbie today  
24  approaching her grandmother and give her a little pinch on  
25  the cheek. She would say, "Oh, grandma, you are so cute."

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1 She loved her grandmother.

2 Debbie always felt sorry for people in  
3 trouble or people who were less fortunate than she. Less,  
4 unfortunately, was one characteristics that did not help  
5 her in life.

6 Debbie had three beautiful children, JP age  
7 eight, Anthony age six, and Chantell age four. Debbie's  
8 mother now raises these children. She loved her children  
9 very much. There were times she worked as many as three  
10 jobs to try and support them. She wasn't afraid of hard  
11 work and never asked for a handout unless there was no  
12 other way. She loved her job as a 911 operator in helping  
13 others.

14 Debbie's misfortune began when she became so  
15 fearful for her life and her children's lives because of  
16 James' abusive manner. The family tried to provide  
17 guidance to her, but she kept believing she could change  
18 him. When she did decide to help herself, it was too late  
19 and the system failed her also.

20 Debbie's children miss her so much and speak  
21 of her often. It's such a shame she cannot see them grow  
22 and enjoy them any longer. It's been especially hard for  
23 her little girl Chantell. One day she remarked, "I want to  
24 die so I can go see mommy." We just give the children all  
25 the love and care we possibly can.

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1                   Debbie is missed so much. Such a young life  
2 to be taken away so soon. We only pray now that justice  
3 will do what it needs to do and not fail her children  
4 again. By that, I mean to give James what he gave Debbie,  
5 death.

6                   MS. SILVER: Thank you, your Honor. That  
7 would conclude my direct.

8                   MR. EWING: No cross, your Honor.

9                   THE COURT: All right. Thank you very much,  
10 ma'am. You may step down.

11                  THE WITNESS: Thank you.

12                  THE COURT: Call your next witness.

13                  MS. SILVER: The State would call Norma  
14 Penfield.

15  
16                   NORMA JEAN PENFIELD,  
17 having been first duly sworn to tell the truth, the whole  
18 truth and nothing but the truth, testified and said as  
19 follows:

20     . . .  
21     . . .  
22     . . .  
23     . . .  
24     . . .  
25     . . .

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1 DIRECT EXAMINATION

2 BY MS. SILVER:

3 Q Can you please state your name and  
4 spell it for the record.

5 A Norma Jean Penfield. N-O-R-M-A J-E-A-N  
6 P-E-N-F, as in Frank, I-E-L-D.

7 Q And what city do you reside in?

8 A Tucson, Arizona.

9 Q How long have you lived there?

10 A For about -- well, since '88.

11 Q And prior to August 31st of 1995, who  
12 did you live with?

13 A It was by myself, a widow.

14 Q And how long had you been a widow prior  
15 to that?

16 A Three years.

17 Q You had been living alone?

18 A Yes.

19 Q Did you have any children?

20 A Just, just one. Deborah.

21 Q Deborah Ann Panos?

22 A Yes.

23 Q Did you prepare a statement for court  
24 today --

25 A Yes.

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1                   Q     -- that you wanted to read to the jury  
2 prior to me asking you some questions?

3                   A     Yes.

4                   Q     Would you read that statement right now  
5 to the jury.

6                   A     My daughter and only child, Deborah Ann  
7 Panos, was born May 4th, 1969 in Lansing, Michigan. She  
8 was a very healthy child and a very good baby. She lived  
9 in the same house until she was 18 years of age and when my  
10 husband, her stepfather, retired from General Motors, we  
11 sold the house and we moved to Arizona, which Debbie was  
12 devastated because she loved the house and that we were  
13 moving away.

14                   Debbie was an intelligent girl and had no  
15 problems in school. There were no problems in raising  
16 her. She loved sports and especially the boys' games. She  
17 seldom took to playing with dolls and this isn't in my  
18 letter, but mainly it was because I only lived a couple  
19 blocks away from my sister who had four boys and a girl,  
20 which Debbie was raised as if they were her brothers and  
21 sisters and she loved a challenge.

22                   Debbie was very close to her aunts and  
23 uncles and her grandmother, who lived with me and I took  
24 care of her, my mother, who loved Debbie very much and had  
25 a tendency to spoil her. She grew up with cousins that

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1     were like brothers and sisters to her.

2                     Debbie was such a good student that she was  
3     allowed to work CO-OP during her junior and senior years  
4     for General Motors and she also worked in the school  
5     office.

6                     After high school, she went to business  
7     college and she started working for -- on a computer for a  
8     gas company. She was a very good worker and got along with  
9     all the other people. Debbie made friends easily. She  
10    loved elderly people and talking to them.

11                    Debbie had such a beautiful smile. She  
12    loved family traditions and always looked forward to the  
13    family get togethers and holidays and special occasions.

14                    When Debbie moved to Arizona with her son  
15    James, it was hard for her. She worked for the Census  
16    Bureau and the City Hall in Tucson. Her last job, before  
17    moving to Las Vegas, was for the police department in the  
18    911 position. She enjoyed her job greatly and was very  
19    good at it. She had hopes of moving onto a different  
20    department of police work.

21                    With all her hardships, she took care of her  
22    children and loved them so much. They were her pride and  
23    joy. So proud of them. All the family misses Debbie so  
24    much and she has left many friends.

25                    Debbie had big goals for her future. When

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1 she was told to move away from Tucson by the police for her  
2 own safety, I was devastated that she wouldn't be near me.  
3 She wanted to further her education even after moving to  
4 Vegas.

5 Debbie would go out of her way to help other  
6 people. I'm proud of my daughter for what she stood for.  
7 I wish she wouldn't have tried to stay and help a person  
8 who abused her. I wish she would have listened to what  
9 people were telling her, but fear kept her from doing  
10 that.

11 I know Debbie is not here any more, but I  
12 see her everyday through her children whom I now raise. My  
13 only wish now is that justice will punish to the fullest  
14 the person who took her life.

15 Q You stated that you were devastated  
16 when Debbie moved here to Las Vegas. Was that the last  
17 time you saw Debbie alive?

18 A Yes.

19 Q And how did you help her out when she  
20 had to move here for her safety?

21 A I paid for her moving expenses. I put  
22 the down payment on the house for her here.

23 Q Are you talking about the trailer?

24 A Yes, and later on, her car broke down  
25 or whatever, she needed another car. I sent the money so

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1     that she could get another car.

2                     Q     How did you help her out when it came  
3     to the children, whether it be in Las Vegas or in Tucson?  
4     How were you there for her as a grandma?

5                     A     Any time she needed anything, whether  
6     it was behind in her payment or she needed something for  
7     the children, I always helped her out no matter what it  
8     was.

9                     Q     I want you to tell us about August 31st  
10    of 1995. What happened on that date?

11                    A     I was home by myself. I got a phone  
12    call. They asked me if I was sitting down. This was a  
13    stranger to me. I didn't know him. He said, "Debbie is  
14    dead." I just went to pieces. After I composed myself, I  
15    kept screaming, "Where were the children?" I said, "Get  
16    the children to safety," and when I hung up, I called my  
17    sister, who was at work. She and her husband came over  
18    right away.

19                    Q     Was that Carol, your sister that  
20    testified right before you?

21                    A     Yes.

22                    Q     What did you do with Carol and her  
23    husband at that point?

24                    A     After we got over grieving a little,  
25    calming each other down, then we had to start making

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1 arrangements to come out to Las Vegas to make  
2 arrangements.

3 Q How long was it before you got to Las  
4 Vegas?

5 A It took us only a day or so, I believe,  
6 because we just came right out.

7 Q And when you got to Las Vegas, where  
8 were the children?

9 A They were in a protective -- police  
10 protective custody at Child Haven.

11 Q And did you pick up the children from  
12 Child Haven?

13 A Well, we had to go through the  
14 procedures, you know, the paperwork and the procedures, but  
15 we went to see them just as soon as we could.

16 Q They wouldn't release them immediately  
17 to you?

18 A Yes. I had to -- well, I had to go to  
19 court to get temporary custody of the children to take them  
20 back to Arizona with me.

21 Q How long did that take you to go  
22 through that court procedure to get the children?

23 A It was -- well, all in all, probably a  
24 day, but, you know, the couple days because it took, you  
25 know -- we did an awful lot of running around.

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1                   Q     I'd like to show you what has been  
2 marked for identification purposes as State's Proposed  
3 Exhibit No. 93 and ask you if this is a photograph of the  
4 three children of how they looked when -- approximately  
5 their ages when you picked them up from Child Haven?

6                   A     Yes.

7                   Q     And what are their names again?

8                   A     James is the oldest. We call him JP.  
9 Anthony is the next and Chantell is the little girl.

10                  MS. SILVER: Your Honor, at this time, I  
11 would move to admit State's Proposed Exhibit No. 93.

12                  MR. EWING: No objection.

13                  THE COURT: It will be received in  
14 evidence.

15                  Q     (BY MS. SILVER) And when you picked up  
16 the children, what did you need to do then?

17                  A     When we got custody -- when I got  
18 custody -- temporary custody of the children, then I had to  
19 go and buy clothes and shoes for them.

20                  Q     Had your sister gone to the trailer to  
21 try and recover some of their items?

22                  A     Yes.

23                  Q     You didn't go in that trailer?

24                  A     No, I couldn't. I couldn't do a lot of  
25 the police stuff here.

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1 Q Did she actually recover clothing for  
2 the children?

3 A Very little. There was hardly anything  
4 left. There wasn't any toys. She got a bag of stuff we  
5 hardly could even use. I had to start from scratch and buy  
6 everything for them after I got back.

7 Q Had they had more clothes when they  
8 lived in Tucson?

9 A Oh, yes, because I know what I bought  
10 for them.

11 Q Had they had toys or videotapes?

12 A Oh, yes.

13 Q That you had bought?

14 A Oh, definitely, because I would ask. I  
15 would say what happened --

16 Q To who?

17 A What happened to this, you know.

18 Q Would you ask the children what  
19 happened to their toys?

20 A (Witness shook head affirmatively.)

21 Q What would they tell you now?

22 A They said their daddy sold them.

23 Q And after you recovered some items for  
24 the children, what did you have to do?

25 A You mean after my sister took them

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1 from --

2 Q Yes.

3 A She went through everything. To this  
4 day, I have not seen everything that she had taken because  
5 she didn't think that I could handle it yet. So she went  
6 through everything and what she thought that the kids'  
7 clothing, there was very little that they could use.

8 Q What else did you have to do, as far as  
9 arrangements before leaving Las Vegas?

10 A I had arranged to have Debbie's body  
11 shipped back to Michigan for burial because that was where  
12 the family plot was. So I had to make arrangements for  
13 that and then after we got back to Arizona, then it was  
14 making flight arrangements for the children and the family  
15 to fly back.

16 Q How did you pay for this?

17 A I paid out of my own pocket for  
18 everybody's flight.

19 Q How did you do that, though?

20 A For the burial expense, I took money  
21 out of my savings and borrowed on my life insurance to pay  
22 for Debbie's funeral and I charged the plane tickets. I  
23 charged those, which to this day I'm still paying for.

24 Q Did you have time to grieve during this  
25 period?

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1                   A     There wasn't any time. Since this all  
2     happened, I haven't had a good night's sleep and my main  
3     concern was for the children and it's been just constantly  
4     working with them, getting them in school, getting doctors  
5     for them, and getting the shots updated. So it's been just  
6     a constant --

7                   Q     Do they know what their father did to  
8     their mother?

9                   A     No. They have never been told.

10                  Q     What do they say about their father?

11                  A     For the time that I've had them,  
12     they've mentioned very little about their father and when  
13     they do, they say he's mean and he's in jail, which is  
14     no -- which was just an automatic thing because they were  
15     so use to the police coming to the house because of, you  
16     know, whatever went on and then he would be taken away. So  
17     that's all they would just say. He's mean and he's in  
18     jail.

19                  Q     I'd like to show you what's been marked  
20     for identification purposes as State's Proposed Exhibit No.  
21     94. Is this a picture of the three children as they appear  
22     today?

23                  A     Yes, it is.

24                  Q     In fact, you took this picture?

25                  A     Yes.

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1 MS. SILVER: Your Honor, at this time, I  
2 would move to admit State's Proposed Exhibit No. 94.

3 MR. EWING: No objection.

4 THE COURT: Same will be received in  
5 evidence.

6 Q (BY MS. SILVER) How has each of the  
7 children handled the death of their mother? How has this  
8 affected them?

9 Let me ask you this, let's start with JP,  
10 how old is he now?

11 A Eight.

12 Q How has he handled this?

13 A It took JP over a year to finally come  
14 around to say mommy this or mommy that. He's been asking  
15 if he could have some sleeping medication because it's hard  
16 for him to go to sleep.

17 Q He's actually asked you for sleeping  
18 medication?

19 A Yes, if I could get him some. I try to  
20 tell him that grandma is right here, that I'm not going to  
21 go anywhere, and for him to go and think of happy times  
22 like going to school tomorrow and I tell him, "I come and  
23 check on you all night long," which I do because I don't  
24 sleep. So I check on them to make sure that they are  
25 okay.

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1 Q Has he told you or described to you the  
2 violence that he had seen in the home?

3 A Something come up and I can't remember  
4 what it was and he just turned to me and he said, "Grandma,  
5 you don't know the violence I have seen," and JP I kept I  
6 think a lot in because he felt like he was the big guy over  
7 the brother -- his brother and sister.

8 Q Protector of his brother and sister?

9 A Yes.

10 Q And his mother?

11 A Yes.

12 Q How is Anthony handling his mother's  
13 death and how old is he now?

14 A Anthony is six. He will say things  
15 about mommy, but it's like he's -- you don't know if he's  
16 registered it all yet, but he -- and Anthony is more of a  
17 happy child. He's got his mother's beautiful, beautiful  
18 smile.

19 Q How about Chantell?

20 A She's been the hardest. Oh, she's been  
21 the hardest.

22 Q How old is she now?

23 A She's four.

24 Q What does she do?

25 A You have to excuse me.

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1                   One day she said, "I want to die and go to  
2   heaven to see my mommy." So her brothers were telling her  
3   why she doesn't want to die.

4                   When I rock her at night, she wants me to  
5   sing to her about her mommy. So I have to sing to her like  
6   a story, tell her things about her mommy.

7                   Q    How does that effect you when you have  
8   to sing songs about Deborah to this child?

9                   A    I can't begin to describe it. It's  
10   hard to hold back the tears, but then they just come.

11                  Q    When does she ask you? Everyday?

12                  A    She'll say, " Do you miss my mommy?  
13   Don't you wish you could love and kiss my mom and give her  
14   a big hug," and it just about everyday she will ask me  
15   this.

16                  Q    And what do you tell her?

17                  A    I tell her yes.

18                  Q    And so everyday you are reminded as  
19   well by this child.

20                  How has the loss of Debbie effected you as  
21   her mother personally?

22                  A    So many ways. I miss her so much. Her  
23   telephone calls, holidays aren't the same.

24                  Q    How is that?

25                  A    She's not there with the rest of the

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1 family, but she enjoyed -- she looked forward to all the  
2 cousins and aunts, everybody getting together.

3 Q Is there a card of Debbie's that you  
4 keep out?

5 A Her last Mother's Day card she sent me  
6 is such a beautiful card and in it she says, " Mom, I know I  
7 don't tell you often enough how I appreciate what you do  
8 for me, but I do love you so much."

9 Q Ms. Penfield, what is your greatest  
10 fear?

11 A When I die, I want to know that my  
12 grandchildren will not live in fear any more and will not  
13 be tormented by him any more. I feel the system has let  
14 her down once. I hope to heaven they don't do it again.

15 MS. SILVER: That concludes my direct, your  
16 Honor.

17 MR. EWING: No questions.

18 THE COURT: Thank you very much, ma'am. You  
19 may step down.

20 Call your next witness.

21 MR. HARMON: Your Honor, the State rests.

22 THE COURT: That being the case, ladies and  
23 gentlemen, there are a couple of matters that have to be  
24 taken up outside your presence. We will attend to that  
25 now. It will take approximately five minutes. We will be

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1 in recess. If you would please remain on the upper deck of  
2 the courthouse.

3 Ladies and gentlemen, it is your duty not to  
4 converse among yourselves or with anyone else on any  
5 subject connected with this trial or to read, watch, or  
6 listen to any report of or commentary on this trial or any  
7 person connected with this trial by any medium of  
8 information, including, without limitation, newspapers,  
9 television, or radio, and you are not to form or express an  
10 opinion on any subject connected with this case until it is  
11 finally submitted to you.

12 We will be at ease while you depart the  
13 confines of the courtroom. Again, please remain in the  
14 general area of the courtroom and, of course, you can avail  
15 yourself of the facilities, if you would like.

16  
17 (At this time the jury left the courtroom.)

18  
19 THE COURT: The record will reflect that we  
20 are proceeding in the absence of the jury.

21 The State has rested. The defense now has  
22 the option of putting on its case. Will the defense be  
23 putting on a case in chief?

24 MR. EWING: Yes, your Honor.

25 THE COURT: Mr. Chappell, please stand.

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1 Nevada Revised Statute 175.171 provides, in  
2 its heading and in its text, as follows -- Mr. Chappell, do  
3 I have your attention?

4 THE DEFENDANT: Yes, sir, you do.

5 THE COURT: "No special instructions to be  
6 given relating exclusively to defendant's testimony.

7 In the trial of all indictments, complaints,  
8 and other proceedings against persons charged with a  
9 commission of crimes or offenses, the person so charged  
10 shall, at his own request, but not otherwise, be deemed a  
11 competent witness. The credit to be given his testimony  
12 being left solely to the jury under the Instructions of the  
13 Court, but no special instruction shall be relating  
14 exclusively to the testimony of the defendant."

15 N.R.S. -- Nevada Revised Statute 175.181  
16 provides in its text and in its heading as follows:  
17 Instruction not to be given relative to failure of  
18 defendant to testify.

19 Subsection 1. No instruction shall be given  
20 relative to the failure of the person charged with the  
21 commission of a crime or offense to testify except upon the  
22 request of the person so charged, the Court shall instruct  
23 the jury that, in accordance with a right guaranteed by the  
24 constitution, no person can be compelled in a criminal  
25 action to be a witness against himself.

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1                    Subsection 2. Nothing herein contained  
2 shall be construed as compelling any such person to  
3 testify."

4                    Mr. Chappell, you have the right under the  
5 Constitution of the United States of America and under the  
6 Constitution of the State of Nevada not to be compelled to  
7 testify in this case. Do you understand that?

8                    THE DEFENDANT: Yes, sir.

9                    THE COURT: You may, if you wish, give up  
10 this right and take the witness stand and testify. If you  
11 do, you will be subject to cross examination by the  
12 district attorney and anything that you may say, be it on  
13 direct or cross examination, will be the subject of fair  
14 comment when the district attorney speaks to the jury in  
15 his or her final argument. Do you understand that?

16                   THE DEFENDANT: Yes, sir.

17                   THE COURT: If you choose not to testify,  
18 the Court will not permit the district attorney to make any  
19 comments to the jury concerning the fact that you have not  
20 testified. Do you understand that?

21                   THE DEFENDANT: Yes, sir.

22                   THE COURT: If you elect not to testify, the  
23 Court will instruct the jury, only if your attorney  
24 specifically requests, as follows:

25                   "The law does not compel a defendant in a

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1 criminal case to take the stand and testify and no  
2 presumption may be raised and no inference of any kind may  
3 be drawn from the failure of a defendant to testify."

4 Do you have any questions you would like to  
5 ask me at this time about any of these rights?

6 THE DEFENDANT: No, sir.

7 THE COURT: All right, Mr. Chappell, in  
8 addition to sworn testimony, a person who is charged with  
9 capital offenses in the State of Nevada enjoy what is  
10 called the common law right of allocution. This is viewed  
11 as the right of a defendant to stand before the sentencing  
12 authority, in this case the jury, and present an unsworn  
13 statement in mitigation of sentence including statements of  
14 remorse, apology, chagrin or plans and hopes for the  
15 future.

16 However, that right is not without  
17 constraints and I will now read to you a portion of a case  
18 called Homick versus State, which discusses the  
19 implications of that and also reiterates what I have just  
20 said.

21 "If a defendant succeeds in abusing the  
22 right and extends his remarks beyond acceptable expressions  
23 of remorse, pleas for leniency, and plans or hopes for the  
24 future, into the realm of facts or circumstances relating  
25 to guilt or exculpation, these facts are subject to

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1 rebuttal and form the basis for disputed issues which the  
2 trier of fact must resolve and, therefore, justify  
3 impeachment."

4 Quoting from Homick versus State  
5 discussion -- strike that.

6 Quotation of the New Jersey Supreme Court  
7 decision in a case called Zola, I quote, "We shall permit  
8 the narrowly defined right of a capital defendant to make a  
9 brief unsworn statement in mitigation to the jury at the  
10 close of the presentation of evidence in the penalty  
11 phase. Before a defendant speaks, he shall be instructed  
12 by the Court, outside of the presence of the jury, of the  
13 limited scope of the right; that his statement is subject  
14 to the Court's supervision and that should the statement go  
15 beyond the boundaries permitted, he will be subject to  
16 corrective action by the Court, including comments by the  
17 Court or prosecutor or, in some cases, possible reopening  
18 of the case for actual cross examination."

19 Again, your right of allocution, that is to  
20 make an unsworn statement to the jury, is not subject to  
21 cross examination and must be limited to acceptable  
22 expressions of remorse, pleas for leniency, and plans or  
23 hopes for the future.

24 Do you have any question you would like to  
25 ask me at this time about your right of allocution?

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1 THE DEFENDANT: No, sir.

2 THE COURT: Anything further from the  
3 parties before we bring the jury back in?

4 MR. EWING: Yes, your Honor. I would like  
5 to make one oral motion at this time at the conclusion of  
6 the State's penalty phase case. I would like to entitle  
7 the motion for mistrial based upon the State's misuse of  
8 the penalty phase process.

9 The penalty phase evidence that the State  
10 presented other than the victim witness -- victim impact  
11 information today was simply a continuation of the opening  
12 phase evidence. It was character evidence concerning Mr.  
13 Chappell. They did not do anything to attempt to show the  
14 jury about weighing aggravating circumstances, they didn't  
15 discuss aggravating circumstances.

16 We think they used the penalty phase, with  
17 its relaxed evidentiary standards, to bring in hearsay and  
18 speculation to inflame the jury, to paint Mr. Chappell out  
19 to be an awful person simply so that they would be  
20 sufficiency enraged at him to impose a death penalty in  
21 spite of their lack of evidence about aggravating  
22 circumstances. We think that's improper.

23 THE COURT: All right. The Court's view is  
24 that the State managed to put on its case and convince the  
25 jury, with regard to first degree murder, without evidence

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1 that enjoys the protection or does not enjoy the protection  
2 of the hearsay rule. That evidence was put on, it was  
3 properly admitted during the guilt phase of the trial, and  
4 at this point the Court is of the view that the evidence  
5 that has been elicited at this point is consistent with the  
6 State's obligation to provide the defendant with a fair  
7 trial in the penalty and as well as the guilt phase.

8 Does the State wish to add anything further  
9 by way of making a record on this motion?

10 MR. HARMON: No, your Honor.

11 THE COURT: All right, let's bring the jury  
12 back in.

13  
14 (At this time the jury entered the  
15 courtroom.)

16 THE COURT: Counsel stipulate to the  
17 presence of the jury?

18 MR. HARMON: The State stipulates.

19 MR. EWING: Yes, your Honor.

20 THE COURT: The defense may -- does the  
21 defense wish to make further opening statement or just  
22 simply proceed with the presentation of evidence?

23 MR. EWING: Your Honor, the State would call  
24 William Moore.

25 Excuse me, the defense would call William

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1 Moore.

2

3

WILLIAM ROGER MOORE,

4 having been first duly sworn to tell the truth, the whole  
5 truth and nothing but the truth, testified and said as  
6 follows:

7

8

DIRECT EXAMINATION

9 BY MR. EWING:

10 Q Would you please state your name and  
11 spell your last name for the record.

12 A William Roger Moore, M-O-O-R-E.

13 Q Mr. Moore, where do you reside?

14 A I reside in Ingham County, Michigan in  
15 Lansing, Michigan.

16 Q How long have you lived there?

17 A Approximately 30 years.

18 Q In Lansing, Michigan, what do you do  
19 for a living?

20 A I'm a probation officer with the Ingham  
21 County Juvenile Court.

22 Q What do you do as a probation officer?

23 A My duties include investigating new  
24 referrals to the court, doing histories and making  
25 recommendations to the judge, and then once they -- a

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1 juvenile is on probation, supervising their probation.

2 Q How long have you been doing this?

3 A I have been with Ingham County 17  
4 years.

5 Q Prior to being a probation officer,  
6 what did you do?

7 A Immediately prior to that, I worked as  
8 the assistant director to the Arizona Boys Ranch as a  
9 residential facility for delinquent males, approximately  
10 400 youngsters and then immediately prior to that, I worked  
11 at a place called High Fields, which is near Lansing and  
12 High Fields is a residential placement also for delinquent  
13 males and I was the group live-in coordinator, essentially  
14 in charge of the day-to-day operations for the program for  
15 about three years.

16 Q You testified that you, as a probation  
17 officer, have the opportunity to supervise juveniles while  
18 on probation, correct?

19 A That's right.

20 Q How many juveniles have you supervised  
21 at one time?

22 A Between 30 and 40.

23 Q While you were conducting your  
24 activities as a probation officer, did you have the  
25 opportunity to supervise a juvenile named James Chappell?

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1 A I did.

2 Q Do you see Mr. Chappell in the  
3 courtroom today?

4 A I do see him. I did not recognize him  
5 at first glance.

6 Yes.

7 Q Do you recognize him now?

8 A He's at the table sitting next to you,  
9 yes.

10 Q Describe something he is wearing.

11 A Yellow shirt. Just took his glasses  
12 off.

13 MR. EWING: Would the record reflect the  
14 identification of the defendant, your Honor?

15 THE COURT: Yes.

16 Q (BY MR. EWING) When did you first  
17 start supervising Mr. Chappell?

18 A In July or August of 1985, he was  
19 referred to the Court and I started official supervision of  
20 him on August 1st of 1985 on a probation order.

21 Q Why was he referred to you for  
22 supervision?

23 A He was referred to the court for a  
24 larceny in a building, which was a shoplifting charge that  
25 involved the theft of some tennis shoes from the K-Mart

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1 store.

2 Q Did he have some other incidents where  
3 he had some brushes with the law as a juvenile?

4 A Yes. Subsequent to that, in September  
5 of 1983, he pled to a B & E of an occupied dwelling. In  
6 November of 1984, he pled to a larceny under a hundred  
7 dollars, again another shoplifting, and then December of  
8 1984, he pled to a breaking and entering and to a malicious  
9 destruction of property under a hundred dollars.

10 Q What does B & E of an occupied dwelling  
11 mean?

12 A Breaking and entering of a home,  
13 breaking and entering.

14 Q Do you recall the circumstances of that  
15 arrest?

16 A The -- there were two B & Es, but in  
17 reviewing the records for today's testimony, it -- it  
18 refreshed my memory that they were at the same residence,  
19 1521 Herbert, and it was some neighborhood people James and  
20 several members of his neighborhood were having a problem  
21 with these people at another house and they broke into this  
22 house on two different occasions.

23 Q And you supervised him because of these  
24 various brushes with the criminal justice system?

25 A That is correct.

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1 Q Do you recall approximately how old  
2 James was when you began supervising him?

3 A He was approximately 13 years of age.

4 Q And how long did you supervise him?

5 A I supervised him from -- officially,  
6 from August 1st, 1985 until he was dismissed on January  
7 23rd, 1986.

8 Q Approximately how long would that be?

9 A Approximately three years.  
10 Approximately two years, I guess, excuse me.

11 Q Can you describe the neighborhood where  
12 James was living while you were supervising him?

13 A Well, at the time he was referred to  
14 the court, he was living on Miller Court, which was one of  
15 the worst sections, one of the worst streets in the City of  
16 Lansing at that time. It was a street that was  
17 approximately two blocks long. It was a dead end and,  
18 perhaps, 20 houses in it; about 10 of them were boarded up  
19 and were being used by addicts and people used it to store  
20 stolen goods in these abandoned houses and this kind of  
21 thing. There was a lot of drug activity, lots of criminal,  
22 both adult and juvenile.

23 It -- Miller Court came right up to Baker  
24 Street, which was at that time and remains today a hot bed  
25 of prostitution and drug sales. Miller Court no longer

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1     exist. The city finally just raised all of the streets on  
2     that. So it doesn't even exist today.

3                     Q     Based upon your observations as James'  
4     probation officer, what was his home like -- home life  
5     like?

6                     A     Well, from my observations and from my  
7     investigation, my original investigation, it was a very  
8     troubled home life.

9                     Q     What did you observe?

10                    A     Well, again, more from my investigation  
11     than what I observed, most of the major problems had  
12     occurred at a younger age and they primarily involved  
13     around the fact that his mother was a heroin addict and a  
14     alcoholic and had three -- each of the three children that  
15     I was involved with, Rick and Myra and James, each had  
16     three different fathers, none of their fathers took an  
17     interest in any of the kids and, in fact, Myra's father,  
18     James Wells, lived in the home for a couple years. He was  
19     a heroin user and alcoholic and so it was chaos and bedlam  
20     and, you know, many problems.

21                    Q     After James' mother died, who assumed  
22     responsibility of raising him?

23                    A     Well, actually a year before her death,  
24     the court -- there was a neglect referral to the court  
25     because of her ongoing heroin problems and Mrs. Axam, the

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1 grandmother of the juvenile, took custody of the three  
2 children a year prior to Mrs. Chappell's death in 1987,  
3 excuse me.

4 Q And did James continue to live with his  
5 grandmother even through the time you were supervising  
6 him?

7 A Yes, he did.

8 Q What was James' personality like at the  
9 time you were supervising him?

10 A James was very quiet. At times, almost  
11 nonverbal. He his grandmother said, at the time of his  
12 mother's death, that for a couple years he almost refused  
13 to talk. It wasn't that bad at the time that I dealt with  
14 him, but he was very quiet and didn't say a lot. Kind of a  
15 quiet, depressed individual.

16 Q Were you able to make -- develop any  
17 opinions about his intellectual abilities?

18 A Well, he -- the last year that he was  
19 in the court, he didn't commit any further delinquent  
20 acts. I primarily kept him in the court for that time  
21 because of school. School was always very difficult for  
22 him. He was a Special Ed student, had a lot of  
23 difficulties in school and so the last year that I was  
24 involved with him, I was primarily just trying to get him  
25 to go to school, which proved to be a difficult task.

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1 Q During his supervision, did you have  
2 him involved in certain activities?

3 A As part of his probation, we had James  
4 in a number of things. We had what we call the volunteer  
5 probation officer. It was my feeling that James needed and  
6 indeed craved positive adult attention. So we hooked him  
7 up with a volunteer probation officer that did activities  
8 with him.

9 We also had a tutor for him trying to  
10 improve school and there was some improvement at the time.  
11 His grandmother arranged for him to be in the Magic Johnson  
12 Basketball Camp. Magic Johnson is a native of Lansing,  
13 Michigan we are proud to say and then we used some punitive  
14 measures, home detention, more or less a house arrest-type  
15 thing. He was also detained in the youth center on several  
16 occasions, which is our detention facility, as a result of  
17 these things.

18 In addition to that, I attempted as much as  
19 humanly possible to have some kind of relationship with  
20 him, did activities with him, and also he worked for me the  
21 last summer; did some work a couple hours at my house and a  
22 court formed group home we had; we had some garden stuff in  
23 an attempt to make some spending money. So we attempted a  
24 lot of different types of things.

25 Q How did he respond to your supervision?

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1                   A     Well, he responded very well on that  
2     one-on-one kind of thing. He really wanted the adult male  
3     attention and so he responded quite well.

4                   Q     How did he treat you?

5                   A     Well, he treated me very well. I'm not  
6     the type of worker that will be treated any other way than  
7     well. So that was never an issue with kids I had, but he  
8     was very appropriate.

9                   Q     Do you feel like you took a special  
10    interest in James?

11                  A     Yes, I believe James and his family.

12                  Q     Did you also have the opportunity to  
13    supervise his brother and sister?

14                  A     Yes, I did.

15                  Q     And what were their names?

16                  A     Willy Rich Chappell. I knew him as  
17    Ricky basically and then Myra Chappell, his sister.

18                  Q     And how old were they in relation to  
19    James?

20                  A     Ricky was approximately a year older  
21    than James and Myra was approximately two years younger  
22    than James.

23                  Q     What was the time frame for your  
24    supervision of Ricky and Myra?

25                  A     They had rather lengthy involvements

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1 with the court. With Willy or Ricky, he was in from  
2 October 3rd, 1983 until -- well, we dismissed him from our  
3 court in 1984, but that was because I referred him to the  
4 Department of Social Services for out of home placement.  
5 So our files don't contain the records on when he was  
6 finally dismissed, but he went into some type of  
7 residential placement as a result of that. So he was  
8 involved for, I would say, three to four years.

9 Myra came in formally on December 17th, 1984  
10 and she was dismissed on February 9th, 1989. So she was in  
11 almost five years. We had her in foster care. I also  
12 referred her to the state for a placement in a residential  
13 program that she stayed for a couple of years and we also  
14 had VPOs and therapy and that type of thing.

15 So a pretty extensive record for both of  
16 those youngsters.

17 Q Do you have an independent knowledge  
18 concerning where Ricky is now?

19 A Ricky is in prison at this point.

20 Q Do you have any independent knowledge  
21 about where Myra is now?

22 A I really don't. I saw her about two  
23 years ago working at a store, talked to her briefly, and  
24 that's the last time that I have had any contact with her.

25 Q Is it safe to say that the problems

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1     that the family had were consistent with the children?

2                     A     Oh, there's no doubt that the problems  
3     that they have manifested as youngsters and as adults  
4     mirror the problems that they saw in their home.

5                     Q     How was James different from his  
6     brother Ricky and his sister Myra?

7                     A     Well, James was very quiet, home body.  
8     He wasn't out running the streets. Rick, you know, finding  
9     him was a problem. If I caught up with him, a lot of times  
10    I felt fortunate.

11                    Myra, even as a eleven and 12 year old, was  
12    all over the place. I had to go down to Grand Rapids,  
13    which is 70 miles away from Lansing, to pick her up one  
14    time. She was a runaway and there was some concern that  
15    she was involved in prostitution down there and I had to  
16    take a pick up order, prevention order and they found her  
17    and I had to go down.

18                    So they were all over the place. They were  
19    in your face in terms of trying -- anything we tried to do,  
20    they fought it. James was just -- hung around home. When  
21    they moved from the Miller Court out to the other address,  
22    it was a much nicer neighborhood and once they were there,  
23    James spent most of his time at home.

24                    Q     How old was he when they moved?

25                    A     It would be a rough guess, but I'm

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1     guessing he would have been 14 or 15. It was not too long  
2     after I became involved -- he became involved with the  
3     court.

4                     Q     Officer Moore, what type of a youth  
5     would it take to be able to raise themselves up out of the  
6     situation James was raised in and make themselves a  
7     productive law abiding member of society?

8                     A     Well, I believe it would take an  
9     exceptional person, a person of intelligence and a person  
10    of insight. Unfortunately, James was neither of those. He  
11    had problems in learning and he didn't have a lot of  
12    insight into his problems, he didn't have a lot of insight  
13    into what happened, and say, oh, gee, this is what  
14    happened. I'm not going to let that happen to me. He was  
15    just not a very introspective kid and made it very  
16    difficult to do the changes.

17                    Q     Would you classify him as a follower?

18                    A     Well, he definitely was in the early  
19    going in that neighborhood. He was running with his  
20    brother and that B & E of the house, his sister was also  
21    involved with that; both Rick, Myra, and James and several  
22    neighborhood kids, all of whom were kids that we had had  
23    extensive records with the courts. So of that group, he  
24    definitely was the follower.

25                    Q     You never had the opportunity of

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1 knowing James when he had a relationship with a woman named  
2 Deborah Panos, did you?

3 A I did not.

4 MR. EWING: That would conclude direct.

5 THE COURT: Cross.

6 MR. HARMON: Thank you, your Honor.

7

8 CROSS EXAMINATION

9 BY MR. HARMON:

10 Q Mr. Moore, how long did the grandmother  
11 of our defendant, Mr. Chappell, serve as his primary  
12 keeper, care taker?

13 A From -- legally from 1972, she got  
14 legal guardianship in 1972 and at some time, we had  
15 dismissed him in 1986. He was in the home after that. I'm  
16 not aware of what time -- at what point exactly he left the  
17 home.

18 Q We've had evidence in this case that he  
19 lived with his grandmother from the age of two.

20 A Well --

21 Q Would that be correct?

22 A That primarily is right, that's true  
23 because of the situation with the mother and with the  
24 various fathers.

25 Q What is the grandmother's name?

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1 A Mrs. Axam, Clara Axam.

2 Q Clara Axam?

3 A Uh-huh.

4 Q Did she have a responsible position  
5 with law enforcement in Lansing, Michigan?

6 A Well, she wasn't with law enforcement.  
7 She worked at the State Police Training Academy, I believe,  
8 as a cook and then she also received some ADC monies to  
9 supplement -- she made about \$600, according to what my  
10 records show, a month at the training academy and then she  
11 supplemented that with ADC monies to raise them.

12 Q How long did she work with the State  
13 Police Training Academy?

14 A For a considerable period of time. I  
15 don't have that information at the top of my head.

16 Q Now, you have profiled the juvenile  
17 record of James Chappell?

18 A That's right.

19 Q As I remember, you mentioned two  
20 larcenies and two breaking and entering offenses?

21 A Yes, and a malicious destruction under  
22 \$100. That was a part of the same second incident with a B  
23 & E.

24 Q This occurred during what time frame?

25 A This occurred --

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1 Q I'm talking about all four.

2 A From approximately September of 1983 to  
3 December of 1984.

4 Q What age was the defendant at that  
5 time?

6 A He would have been 14, probably 15 at  
7 the long end.

8 Q The first offense, as I remember, you  
9 described as a larceny where he went into a store?

10 A Yes.

11 Q What did he steal?

12 A A pair of tennis shoes.

13 Q Then you referred to a breaking and  
14 entry and you pointed out that the two offenses for  
15 breaking and entering involved the same residence?

16 A Yes.

17 Q That was 1521 Herbert?

18 A That is correct.

19 Q And that was in the neighborhood where  
20 the defendant lived?

21 A Yes, within three or four blocks, I  
22 believe.

23 Q Let's start with the first one  
24 chronologically. Did you learn what time of the day or  
25 night it occurred?

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1                   A     Well, I probably did at the time. I  
2     don't have -- our records don't have a police report, so I  
3     don't have that, but my -- I really don't know what time it  
4     was is the answer.

5                   Q     Was 1521 Herbert an occupied dwelling  
6     place?

7                   A     Yes, it was.

8                   Q     People lived in it?

9                   A     That is correct.

10                  Q     When you describe these offenses and,  
11     let's focus on the first one initially, as breaking and  
12     entering, what does that mean? How do these people who  
13     went in to this house occupied by other persons get into  
14     the house?

15                  A     Just as the charge says or implies,  
16     they broke and entered. They somehow entered by breaking  
17     in.

18                  Q     Do you have any specific recollection  
19     of how they broke and entered?

20                  A     I don't. I don't. I'm assuming that  
21     it was a door or window. I really don't.

22                  Q     Well, I'm not wishing for you to  
23     assume. It could have been windows as well?

24                  A     Yes.

25                  Q     You don't know?

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1 A No, I don't.

2 Q I would conclude from the answers  
3 you've just given, you don't know how much damage was  
4 caused to the residence, if any, when entry was made?

5 A I'm sorry.

6 In reviewing the file, there was indication  
7 that a TV had been taken in that particular house.

8 Q Is that the first time?

9 A Yes, it is.

10 Q Anything else stolen?

11 A Not to my knowledge.

12 Q You've also mentioned a second  
13 larceny. Elaborate somewhat regarding that offense. Where  
14 did it happen and what was stolen?

15 A I'm sorry for interrupting. Sears  
16 Roebuck & Company. It was a chain, a three dollars and  
17 ninety nine cent chain. Necklace essentially.

18 Q Then you said in December 1984, there  
19 was the breaking and entry which also involved malicious  
20 destruction of property?

21 A That is correct. I went back in  
22 reviewing the file, we take a plea sheet and as a part of  
23 the plea, the juvenile indicated that they broke into the  
24 house again and they got into the refrigerator and took  
25 eggs and food and threw it around the house. So the

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1 malicious destruction property part of the offense, they  
2 took items out of the refrigerator and threw it in the  
3 house.

4 Q Now, you are using the pronoun they. I  
5 think you've already mentioned that the siblings of the  
6 defendant, both Myra and Willy, were involved?

7 A Yes, as well as a couple of other  
8 youngsters.

9 Q Other neighborhood youngsters?

10 A Right.

11 Q Did you learn why it was that they  
12 would enter and act maliciously once they got inside?

13 A Well, there was something going on  
14 between these two -- this family and this group of people.

15 Q Some type of feud?

16 A Yes, some kind of argument or some kind  
17 of problem that was going on in the neighborhood. I have  
18 tried to remember, but I don't remember any more than  
19 that.

20 Q Do you know how the perpetrators  
21 obtained entry in December 1984?

22 A Well, again, I don't have a police  
23 report and I don't recall specifically how they did get  
24 in.

25 Q You mentioned that Willy Rich, the

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1 defendant's brother, was in prison now?

2 A That is correct.

3 Q In what prison?

4 A I don't if it's in Southern Michigan.

5 I suspect it's in Jackson in Southern Michigan Prison, but  
6 he did a series of armed robberies and received, just a  
7 year or two ago, received a substantial sentence.

8 Q When you say armed robberies, in  
9 Michigan, does armed mean that a weapon was used in the  
10 commission of the crime?

11 A That's correct.

12 Q You've mentioned that you took  
13 considerable interest, special interest in this defendant  
14 and his family?

15 A Yes, I believe I did.

16 Q I would presume that the goal of every  
17 good, dedicated juvenile probation officer like yourself is  
18 to attempt to rehabilitate, to straighten out the  
19 youngsters you're dealing with so that they can live a  
20 productive adult life?

21 A Well, that's certainly is the goal,  
22 yes, sir.

23 Q When was it that you had your last  
24 contact with Mr. Chappell?

25 A As I indicated, we dismissed him in

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1 January 23rd of 1986. I had a couple of casual encounters  
2 with him that year, possibly into 1987, but I have not had  
3 any contact with him since that time of any kind.

4 Q Therefore, you know nothing about his  
5 relationship with Deborah Panos, the homicide victim in  
6 this case?

7 A No, I know nothing at all.

8 Q You can only tell us of your contact  
9 with him up to the last casual contact in 1987 --

10 A That is correct.

11 Q -- is that correct?

12 And that you presumably, because of your  
13 special interest in him and his family, gave your very best  
14 effort in this case within the limitations that you had to  
15 correct the situation in their lives?

16 A Well, I gave my very best effort, yes,  
17 sir.

18 MR. HARMON: Thank you. That's all, your  
19 Honor.

20 MR. EWING: Know redirect.

21 THE COURT: May this witness be discharged?

22 MR. EWING: Yes.

23 THE COURT: Thank you, sir. You may step  
24 down.

25 THE WITNESS: Thank you.

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1                   THE COURT: We will take our noon recess at  
2 this time. Ladies and gentlemen, it is your duty not to  
3 converse among yourselves or with anyone else on any  
4 subject connected with this trial or to read, watch, or  
5 listen to any report of or commentary on this trial or any  
6 person connected with this trial by any medium of  
7 information, including, without limitation, newspapers,  
8 television, or radio, and you are not to form or express an  
9 opinion on any subject connected with this case until it is  
10 finally submitted to you.

11                   We will be at ease while you depart the  
12 confines of the courtroom. Reconvene at 1:30.

13                   We are in recess. If I could see the  
14 attorneys in chambers just quickly.

15  
16                   (Off the record at 11:55 a.m. and back on  
17 the record at 2:00 p.m.)

18  
19                   THE COURT: Will counsel approach the  
20 bench.

21                   (Off the record discussion not reported.)

22                   THE COURT: Counsel stipulate to the  
23 presence of the jury?

24                   MR. HARMON: The State does, your Honor.

25                   THE COURT: All right, ladies and gentlemen,

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1 I apologize for the late start. However, the accident I  
2 just witnessed and was behind will not be the subject of  
3 any litigation before me since you can't be the judge in a  
4 case where you are a witness. At least, I've saved myself  
5 that problem, but, in any event, I apologize for that.  
6 There was nothing I could do about it.

7 You may call your next witness.

8 MR. EWING: Thank you, your Honor.

9 The defense would call Clara Axam.

10

11 CLARA AXAM,  
12 having been first duly sworn to tell the truth, the whole  
13 truth and nothing but the truth, testified and said as  
14 follows:

15

16 DIRECT EXAMINATION

17 BY MR. EWING:

18 Q Clara, would you please state your name  
19 and spell your last name for the record.

20 A Clara Axam, A-X-A-M.

21 Q Clara, where do you live?

22 A In Lansing, Michigan.

23 Q And how long have you lived there?

24 A Life.

25 Q Your entire life?

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1                   A     Yes.

2                   Q     Do you know James Chappell?

3                   A     Yes, I do.

4                   Q     How do you know James?

5                   A     He's my grandson.

6                   Q     Do you recognize him in court today?

7                   A     Yes, I do.

8                   Q     Can you point to him and describe an

9     article of clothing he's wearing?

10                  A     Right there. I can't describe it

11     because I can't see, you know, colors that far away, but

12     that's James right there with glasses on.

13                  MR. EWING: Will the record reflect the

14     identification, your Honor?

15                  THE COURT: Yes.

16                  Q     (BY MR. EWING) Do you recall who James

17     lived with when he was born?

18                  A     Yes, he lived with his mother and

19     father.

20                  Q     What was his mother's name?

21                  A     Shirley Chappell.

22                  Q     This is your daughter?

23                  A     Yes.

24                  Q     How long did he reside with her?

25                  A     Two years.

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1 Q Was she killed?

2 A Yes.

3 Q How was she killed?

4 A She got killed in a car accident, hit  
5 by a car.

6 Q And after her death, did you assume the  
7 responsibility of raising James?

8 A Yes, I did.

9 Q How did James react to the death of his  
10 mother?

11 A Well, he was young, but very hard, very  
12 hard like he wouldn't communicate with anybody.

13 Q How long --

14 A Like he wouldn't talk.

15 Q How long a period of time past before  
16 he would talk?

17 A Probably a year or more.

18 Q How was James as a child? How did he  
19 treat you?

20 A Oh, he treated me fine. He had  
21 problems. You know, he was slow, but he treated me all  
22 right. Had no problems. He wasn't the violent child. He  
23 was a easy going child.

24 Q What do you mean by he was slow?

25 A Like in he didn't learn things as fast

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1 as a normal child. He didn't understand things.

2 Q Did that continue until he was in  
3 school?

4 A Yes.

5 Q And what kind of student was he?

6 A Up until -- he went to normal school up  
7 until the fifth grade, then they put him in special --  
8 special education classes.

9 Q In fifth grade?

10 A Yes.

11 Q How did he respond to those special  
12 education classes?

13 A Well, he went to school and  
14 everything. He went to special education classes all the  
15 way up to high school.

16 Q Did he graduate from high school?

17 A No.

18 Q Now, you worked during the time that  
19 you were raising James, correct?

20 A Yes.

21 Q Where did you work?

22 A For the State Police Academy in the  
23 State of Michigan.

24 Q Who would care for James while you were  
25 at work?

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1                   A     My daughter Sherry.

2                   Q     Did you know Deborah Panos?

3                   A     Yes, I did.

4                   Q     How did you feel about Deborah Panos?

5                   A     A nice lady, very nice.

6                   Q     Do you feel like James should be

7     punished for what happened on August the 31st?

8                   A     Yes, I do.

9                   Q     Do you want James to continue to be a

10    part of your life?

11                  A     Yes.

12                  Q     Would you like to be able to correspond

13    with him?

14                  A     Yes.

15                  Q     So, basically, you want James to be

16    punished, but you do not want him to receive the death

17    penalty, correct?

18                  A     Right.

19                  MR. EWING: I don't have any other

20    questions.

21                  MR. HARMON: No questions, your Honor.

22                  THE COURT: May this witness be discharged?

23                  MR. EWING: Yes.

24                  THE COURT: Thank you, ma'am. You may step

25    down.

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1 THE WITNESS: Thank you.

2 THE COURT: Call your next witness.

3 MR. EWING: Sharon Axam.

4

5 SHARON AXAM,

6 having been first duly sworn to tell the truth, the whole

7 truth and nothing but the truth, testified and said as

8 follows:

9

10 DIRECT EXAMINATION

11 BY MR. EWING:

12 Q Please state your name and spell your

13 last name for the record.

14 A Sharon Axam, A-X-A-M.

15 Q Sharon, where do you live?

16 A Lansing, Michigan.

17 Q And how long have you lived there?

18 A All my life.

19 Q Are you related to James Chappell?

20 A Yes.

21 Q How are you related to him?

22 A He's my nephew.

23 Q Have you been around James -- were you

24 around James his whole childhood?

25 A Yes.

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1 Q Do you recall approximately when James  
2 was two years old and his mother was killed?

3 A Yes.

4 Q Was that a difficult time for James?

5 A Yes.

6 Q Do you recall how he responded to that  
7 tragedy?

8 A He took -- all of us took it pretty  
9 hard. He took it pretty hard.

10 MR. EWING: Your Honor, may I approach?

11 THE COURT: Yes.

12 Q (BY MR. EWING) Sharon, I'm showing you  
13 what's been marked for identification as Defense Proposed  
14 Exhibit D. Do you recognize that photograph?

15 A Yeah. That's James.

16 Q Approximately how old was James when  
17 that photograph was taken?

18 A Oh, I don't remember. I don't know.

19 Q Can you give an estimate?

20 A Three, four.

21 Q Three, four years old?

22 A Yeah.

23 MR. EWING: Your Honor, I move for the  
24 admission of Defense Proposed Exhibit D.

25 MR. HARMON: No objection.

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1 THE COURT: Same will be received in  
2 evidence.

3 Q (BY MR. EWING) You had an opportunity  
4 to assist in the raising of James; is that true?

5 A Yes.

6 Q How was James as a child?

7 A Normal kid. Quiet. I don't know.

8 Q Did you have any problems with him?

9 A No.

10 Q Did you ever notice him to be violent?

11 A No.

12 Q Towards yourself?

13 A No.

14 Q Do you recall if he had any particular  
15 difficulties with school?

16 A Not right offhand. My mother has told  
17 me that. I never got into that. My mom did most of that.

18 Q How old was James when you stopped  
19 tending him during the day?

20 A Maybe about 10.

21 Q What kind of neighborhood did he grow  
22 up in?

23 A Pretty rough. It wasn't a very nice  
24 neighborhood.

25 Q What kind of things was he exposed to

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1 in that neighborhood that were bad?

2 A Alcohol, violence, stealing, breaking  
3 and entering.

4 Q Do you think he was exposed to a lot of  
5 drug use?

6 A Yes.

7 Q Sharon, is it important to you that  
8 James continue to be a part of your life?

9 A Yes.

10 MR. EWING: Thank you. I don't have any  
11 other questions.

12 MR. HARMON: No cross, your Honor.

13 THE COURT: May this witness be discharged?

14 MR. HARMON: Yes.

15 THE COURT: Thank you, ma'am. You may step  
16 down.

17 Call your next witness.

18 MR. EWING: Your Honor, at this time, Mr.  
19 Chappell would like to make his allocution statement.

20 THE COURT: All right.

21 MR. EWING: Do you want him to stay here or  
22 would you like him to take the stand?

23 THE COURT: Whichever you prefer.

24 THE DEFENDANT: Ladies and gentlemen of the  
25 jury, I, James Chappell, would like to say I'm very sorry

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1 for putting us all through this horrible experience. I  
2 will never ever let go of the love and pain I feel for  
3 Deborah Ann Panos. She meant the entire world to me and  
4 always will.

5 We had three lovely children together and I  
6 want to be a part of their lives. Even if only in  
7 writing. I know how it feels to not have parents and I do  
8 not want the same for them. I would like to be able to  
9 teach them how bad drugs are and the affects of them and I  
10 would also like to teach them how to avoid any and all  
11 types of violence and other children if I could.

12 It's going to be hard to adjust to the life  
13 ahead of me, but to be able to help my children in any way  
14 possible would make this life of mine complete. It meant  
15 so much to me to raise my children -- to raise our children  
16 together as a family. All I want is to be able to play any  
17 kind of positive role in my children's lives.

18 That's all I ask, that's all I want, and  
19 that's all I need.

20 Thank you all.

21 MR. EWING: The defense would rest with  
22 that, your Honor.

23 THE COURT: Does the State wish to put on a  
24 rebuttal case at this time?

25 MR. HARMON: No, Judge.

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1                   THE COURT: Ladies and gentlemen of the  
2 jury, we have to take up the issue of Jury Instructions  
3 outside your presence. At this time, it shouldn't take us  
4 more than about five to 10 minutes, but the finalization of  
5 these Instructions is essential to the conclusion of this  
6 matter. We have already resolved most of those issues  
7 before coming to court this afternoon. So we just have a  
8 few things of a formal nature, which we are going to work  
9 out and then we will be ready for the Instructions and  
10 final arguments. So if you'd remain on the upper deck of  
11 the courthouse here, I would appreciate it.

12                   During this recess, it is your duty not to  
13 converse among yourselves or with anyone else on any  
14 subject connected with this trial or to read, watch, or  
15 listen to any report of or commentary on this trial or any  
16 person connected with this trial by any medium of  
17 information, including, without limitation, newspapers,  
18 television, or radio, and you are not to form or express an  
19 opinion on any subject connected with this case until it is  
20 finally submitted to you.

21                   We will be at ease while you depart the  
22 confines of the courtroom. It shouldn't take long.

23

24                   (At this time the jury left the courtroom.)

25

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1                   THE COURT: All right, we will be in recess  
2 a few moments while we finalize the Jury Instructions, then  
3 we will come back in here and make a record on them.

4  
5                   (Off the record at 2:17 p.m. and back on the  
6 record at 2:29 p.m.)

7                   THE COURT: All right, will counsel approach  
8 the bench.

9                   (Off the record discussion not reported.)

10                  THE COURT: We will go back on the record to  
11 settle the Jury Instructions. We are outside the presence  
12 of the jury. The defendant is present with all counsel.

13                  Are the parties to this action familiar with  
14 the Court's Proposed Jury Instructions for the penalty  
15 phase 1 through 31?

16                  MR. HARMON: The State is, your Honor.

17                  MR. EWING: Defense is, your Honor.

18                  THE COURT: Does the State object to the  
19 giving of any of these Instructions?

20                  MR. HARMON: No, your Honor.

21                  THE COURT: Does the State have any  
22 additional Instructions to offer?

23                  MR. HARMON: No, Judge.

24                  THE COURT: Does the defense object to the  
25 giving of any of these Jury Instructions?

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1 MR. EWING: No, your Honor.

2 THE COURT: Does the defense have any  
3 additional Instructions to offer?

4 MR. EWING: No.

5 THE COURT: Do either party request that the  
6 Court instruct the jury before final argument?

7 MR. HARMON: The State requests that, your  
8 Honor.

9 THE COURT: That will be the order.  
10 All right, bring the jury back in.

11  
12 (At this time the jury entered the  
13 courtroom.)  
14

15 THE COURT: Counsel stipulate to the  
16 presence of the jury?

17 MR. HARMON: Yes, your Honor.

18 MR. EWING: Yes, your Honor.

19 THE COURT: Ladies and gentlemen of the  
20 jury, I am about to instruct you on the law as it applies  
21 in this case. I would like to instruct you orally without  
22 reading to you. However, to ensure that the Instructions  
23 comply with Nevada law, it's necessary for me to read to  
24 you these carefully prepared written Instructions.

25 The Instructions are long and some are quite

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1 complex. If they are not especially clear when I read them  
2 to you, please bear in mind, when you go to the jury room,  
3 you will be able to take these written Instructions with  
4 you so that you may there read and consider them  
5 carefully.

6

7 (At this time the Court read the  
8 Instructions to the jury.)

9

10 THE COURT: Counsel approach the bench.

11 (Off the record discussion not reported.)

12 THE COURT: All right, the record will  
13 reflect that I have been reading from Instruction No. 32.  
14 It is a form that given the circumstances of this case and  
15 the statutory measure that have been taken, that it should  
16 be reread as amended. So I will now reread Instruction 32,  
17 ladies and gentlemen.

18

19 (At this time, the Court continued reading  
20 the Instructions to the jury.)

21

22 THE COURT: At this time, ladies and  
23 gentlemen of the jury, the State of Nevada may make its  
24 opening portion of the closing arguments.

25 MS. SILVER: Thank you, your Honor.

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1                   May it please the Court and counsel and  
2 members of the jury, someone has said that our capacity for  
3 good and compassion makes the death penalty a tragedy, but  
4 our human capacity for evil and depravity makes it a  
5 necessity and, as a representative for the State of Nevada,  
6 I concur with that evaluation. I want to preface my  
7 remarks to you by acknowledging that the State fully  
8 appreciates that it's not a pleasant or easy task for any  
9 of you to pass judgment on a fellow human being. You  
10 should not misinterpret any of the State's argument, some  
11 suggestion by me or co-counsel that this is an easy task.

12                   It's a very serious matter which brings us  
13 to court today, but the basic truth is this, ladies and  
14 gentlemen. A murderer sits here in this courtroom. It may  
15 be difficult to conceive how one person can be so selfish,  
16 so self-centered, such a small package that he could take  
17 away a human life in the most violent and brutal way  
18 imaginable, but the fact remains that it was Deborah Panos  
19 that had her life abruptly shortened. Do not forget  
20 Deborah Panos in your verdict.

21                   And this is a penalty hearing. It's a  
22 penalty hearing because a violent murder occurred on August  
23 31st of 1995. So it's not appropriate for you to be  
24 considering rehabilitation. This isn't a rehabilitation  
25 hearing. This isn't a forgery case where the defendant can

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1     come into court and, perhaps, write a check and make  
2     everything better with restitution. This isn't a case,  
3     unfortunately, where his grandmother or his aunt can come  
4     in here and give back these three children the mommy that  
5     he took away from them. It's not a rehabilitation hearing,  
6     it's a penalty hearing, it's a punishment hearing. And  
7     society has an interest in having the proper punishment  
8     imposed for murder in the first degree and punishment,  
9     particularly when it applies in a murder case like this.  
10    It's society's expression, it's our sense of moral outrage,  
11    and it's proper to be outraged by the way this defendant  
12    committed this murder upon Deborah Panos at the young age  
13    of 26.

14                   Another purpose of the penalty hearing is  
15    deterrence and deterrence in a murder case such as this is  
16    achieved by severe punishment. The death penalty deters.  
17    We know that all we need to do is look in the newspapers or  
18    turn on the television set and we all recognize that a very  
19    large percentage of the murders that are committed out  
20    there today are murders by individuals who have abused  
21    their victims in the past just like in this case.

22                   You've heard about it before, this  
23    escalation of domestic violence. It's serious because it  
24    leads to murder and certainly we saw it in this case. We  
25    saw that escalation of violence. We saw it from the time

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1 the defendant was arrested in Tucson by Officer Earnst,  
2 when he threw Deborah down after she was upset because he  
3 sold the children's furniture. He threw her down, he  
4 kicked her, he beat her.

5 We could see the escalation when she was  
6 calling her friend Dina Freeman crying for help, as the  
7 defendant started threatening to kill her, to do an OJ on  
8 her. We can see the escalation go even farther when the  
9 defendant becomes so brazen in his violence to her that he  
10 begins to actually beat her in public in front of other  
11 people. He beat her in front of Lisa Duran and Mike  
12 Pollard, co-workers. And we know from Claire, he's pushed  
13 her around at least 10 to 15 times and we see the  
14 escalation go further and by January 9th, 1995, this  
15 defendant breaks her nose. Of course, this isn't her first  
16 trip to the hospital, but this is one which you are told  
17 that she is taken to the trauma center by an ambulance and  
18 we see the escalation rise, this violence rise by June the  
19 1st when the defendant is now using a weapon and putting it  
20 to the throat of his victim and, of course, we know exactly  
21 what happened, the ultimate act of violence occurred on  
22 August 31st of 1995.

23 At the beginning of my opening statement, I  
24 told all of you that this case would answer the question of  
25 why, why would a victim of domestic violence stay with a

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1 person who abused them, violently abused them, but we all  
2 ought to look at this picture, ladies and gentlemen, and we  
3 all ought to say, ah-ha, this is why they stay because when  
4 they try to leave, when they try to make the perpetrator  
5 accountable and say, "I'm not going to take this any more,  
6 I'm out, I'm getting out, I'm done with your violence,"  
7 that loss of power and control is what causes this, ladies  
8 and gentlemen. This is the answer to the question of why.

9                   We know the death penalty deters. It sends  
10 out a message and what message has the defendant sent out  
11 in this case besides domestic violence ends in murder?  
12 Well, we also learned that by the time this victim finally  
13 makes her perpetrator accountable, she's subpoenaed, she  
14 actually goes to court, she actually confronts this person  
15 and forces him to plead guilty to battery the day before.  
16 What kind of message does this send out to witnesses, to  
17 victims of domestic violence? What message would the death  
18 penalty send out? It would send out a message that  
19 regardless of your status, regardless of whether it's a  
20 girlfriend or a wife or significant other, that a defendant  
21 doesn't get a free pass to murder because of that status  
22 and this defendant isn't a stranger. She wasn't murdered  
23 by a stranger, but a marriage license or lack thereof isn't  
24 a license to kill and Deborah Panos isn't any less dead  
25 because she had a past relationship with this defendant and

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1 Deborah Panos isn't any less dead because this defendant  
2 stand up before you and sobs to you. She isn't any less  
3 dead.

4                   The defendant stated many times, during the  
5 trial in the guilt phase, that he feels lower than dirt,  
6 yet, ironically, ladies and gentlemen, the only thing lower  
7 than dirt is Deborah Panos' decomposed and lifeless body.  
8 This defendant has stood up here and, as the law has  
9 entitled him, he has said he is sorry to the family and he  
10 has apologized to you and, of course, that is all very  
11 predictable and he may be completely serious and he may be  
12 conscientious in his statements to you, but I submit to you  
13 that he is sorry because he is convicted of murder in the  
14 first degree and he is sorry because he does not want the  
15 death penalty.

16                   I need to go over briefly the Instructions  
17 on the aggravating circumstances and how you will weigh  
18 them back in the jury room and that would be contained in  
19 Instruction No. 7, ladies and gentlemen, if you wanted to  
20 write that down in your notes and, basically, it may have  
21 sounded confusing as you listened to the Judge, but it's  
22 not.

23                   In order for you all to consider all four  
24 forms of punishment, which are contained and which you have  
25 heard much about, in order to consider the death penalty,

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1 as well as the other three forms of punishment, you must  
2 unanimously find that at least one aggravating circumstance  
3 exist in this case. Now we have alleged four. We have  
4 alleged -- but I want to go over the first two. The first  
5 one is that this murder was committed by a person who  
6 committed this murder in perpetration of a robbery or an  
7 attempted robbery and the second one is that this murder  
8 was committed by a person in the perpetration of a burglary  
9 or a home invasion.

10 Ladies and gentlemen, by your verdicts in  
11 this case, by your verdicts of burglary, by robbery with  
12 use of a deadly weapon, and by murder of the first degree  
13 by use of a deadly weapon and even the defense in their  
14 opening statements conceded to you that you, ladies and  
15 gentlemen, at the beginning of the penalty phase, have  
16 already found unanimously that two aggravating  
17 circumstances exist in this case. So when you go back to  
18 deliberate, you will see the special verdict forms and you  
19 should automatically mark off those two aggravating  
20 circumstances, the first two. That has already been  
21 decided in your verdicts.

22 So what does that mean? That means that you  
23 may consider the death penalty as well as the other forms  
24 of punishment at this point.

25 There are two other aggravating

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1 circumstances that I would also like to discuss with you at  
2 this time. The two are that this murder was committed by a  
3 person who was engaged in the commission of an attempt or  
4 did, in fact, commit a sexual assault and also that this  
5 murder involved torture or depravity of mind. I submit to  
6 you that this murder was obviously committed by a person  
7 who committed a sexual assault on the victim. How do we  
8 know that? Well, you recall the evidence at the guilt  
9 phase. This victim was found, the vaginal swabs concluded  
10 that were taken from her vagina at the coroner's office  
11 that there was semen on those vaginal swabs and, in fact,  
12 DNA was done and we know that the frequency in which you  
13 can find the same DNA found in the semen of the victim is  
14 one in 14 billion. The DNA expert told you that  
15 conclusively we can say that this is the defendant's  
16 semen. The defendant's semen was found in the victim and  
17 we know that there's obviously been sexual intercourse.

18 I submit to you that the only other element  
19 left of sexual assault is whether or not it was against her  
20 will and without her consent and certainly by your  
21 verdicts, ladies and gentlemen, of murder in the first  
22 degree, of robbery with use of a deadly weapon, of the  
23 burglary, you all acknowledged that he broke into this  
24 residence. You heard the testimony of the Department of  
25 Parole & Probation officer. She was so petrified of this

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1 defendant that she actually went down there to voice her  
2 concerns. We know that from her friends she would call up  
3 Parole & Probation on almost a daily basis. She was scared  
4 to death he was going to be released. We know, ladies and  
5 gentlemen, from the evidence that unlike the defendant's  
6 story that she was so excited to see him, she started  
7 ripping off his clothes, that this wasn't the case; that  
8 this was a sexual assault. That has been proven to you,  
9 ladies and gentlemen, beyond a reasonable doubt.

10 So I submit to you that the third  
11 aggravating circumstance has, in fact, been proven and that  
12 you should mark that off as well in your special verdicts.

13 The fourth aggravating circumstance is  
14 torture and depravity of mind. So how do we know then in  
15 this defendant's murdering, in his butchering, in his  
16 slaughtering of this victim, how do we know that he also  
17 tortured her as well prior to the murder? Well, it may not  
18 be that he had a hot prodding iron and kept prodding her  
19 with it, but I submit to you that with each blow to her  
20 face and to her body, and I'm going to go over that, that  
21 Deborah Panos was tortured and that it showed a depraved  
22 mind on behalf of this defendant.

23 Remember, and I should just briefly state  
24 that the torture and depravity of mind, they are contained  
25 in 20 and 21. It says here, "That torture is the act or

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1 acts which caused the death must involve a high degree of  
2 probability of death and that the defendant must commit  
3 such an act or acts with the intent to cause cruel pain and  
4 suffering for the purpose of revenge, for the purpose of  
5 persuasion or for any other sadistic purpose and the  
6 condition of the depravity of mind is characterized by an  
7 inherent deficiency of moral sense and rectitude. It's an  
8 evil, corrupt, and a perverted intent, which is devoid of  
9 regard for human dignity and which is indifferent to human  
10 life."

11 Well, let's talk about indifference to human  
12 life. This defendant warned her, "what in God's name will  
13 you do when I show up at your door?" He acknowledged in  
14 his letters she was terrified of him. We know from Mike  
15 Pollard that she sat there shivering and shaking. She was  
16 terrified of this defendant and we knew that he had  
17 threatened to do the OJ on her.

18 So what did he do that day? He did show  
19 up. He broke into her home. He went through different  
20 items of her property looking for something he could sell  
21 as the Regulator that he was at the projects and he did go  
22 through his own letters probably. He probably did, at some  
23 point, when she came home throw them at her face and say,  
24 "Don't these mean anything to you?" We can tell that this  
25 house was ransacked and probably at some point, he did find

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1 the letter from this individual to Debbie, another letter  
2 from another man, and obviously, from the photographs, they  
3 were torn up and he was mad. Well, why shouldn't he be.  
4 His meal ticket, the carpet that he walked on on a daily  
5 basis was seeing another man. He was losing that control  
6 he had over her and he was angry and he was out for revenge  
7 because she had been to court against him the day before  
8 and so what did he do?

9 I want to show you first State's Exhibit 41  
10 and 42 and I will tell you that quote from Dr. Green,  
11 "These pictures depict a lot of bruising around the right  
12 ear, bruises around the angle of the jaw, and some bruises  
13 on the right cheek bone consistent with a blunt trauma."  
14 So think about it, ladies and gentlemen, that's a blow to  
15 the ear with a fist, a blow to the jaw with a fist, and a  
16 blow to her cheek bone with a fist. That's at least three  
17 blows she took in the face by this man over here who claims  
18 that she meant everything in the world to him.

19 And in picture 37, the doctor testified that  
20 this was a scraping abrasion-type of injury to the forehead  
21 and another large injury on yet the other cheek. Let's  
22 just look at that picture of her forehead. That was made  
23 by a fist, ladies and gentlemen, maybe on more than one  
24 blow, but let's give him the favor of saying it's at least  
25 one serious blow to the forehead and then on the other

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1     cheek as well, you can see yet another bruise. That's to  
2     the other cheek a blow and the forehead so badly that his  
3     knuckles penetrated her skin and ripped her skin off her  
4     forehead.

5                     Is that evil? Is that corrupt? Does that  
6     show a perverted intent? Does that show a lack of caring  
7     about human dignity? You bet it does.

8                     In this, 39, you see a large scraping  
9     injury, some scrapes with a large bruise, and Dr. Green  
10    also mentioned that same forehead injury, but look at the  
11    bruise on her chin. That's yet another blow. I think we  
12    are up to at least six blows to the face, ladies and  
13    gentlemen.

14                    He testified that this picture, the right  
15    upper arm, the large bruise here, he said, "The large one  
16    here, the bruise, is a pretty good size. I don't think we  
17    have one with a ruler in it, but figuring she is an average  
18    size lady, about five foot five or so, you can get a pretty  
19    good idea of how big that thing was," and, yet, another  
20    bruise is also depicted up there. That's two more blows  
21    with his fists to her body. So we're up to at least eight  
22    punches.

23                    We show here another abrasion below the  
24    elbow and he concluded it was a defensive wound of some  
25    type. Perhaps it was a fist, we don't know, but it is

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1 consistent with blunt trauma. So let's just say nine.

2 State's Exhibit No. 45, he talked about, and  
3 this is the right hand and wrist, "It's a pretty good size  
4 bruise on the back of the hand, one to the wrist, and a  
5 smaller one to the other side of the wrist." That's three  
6 more punches onto her body as she is trying to prevent  
7 probably him striking her face. So we're about to about 12  
8 blows to the body.

9 And we see a small bruise to her kneecap  
10 here and perhaps this is from when he was dragging her  
11 around, as she begged him to stop beating her. We're not  
12 sure.

13 I have counted to you at least, at a very  
14 minimum, 12 punches to the head and body to Deborah Panos  
15 and I submit to you that there were probably much more than  
16 that as she was thrown around and, you know, this is a  
17 defendant that sits there at approximately six feet tall,  
18 approximately 180 pounds and he did this to a woman, a  
19 woman of about five-five, 130 pounds you heard from the  
20 coroner, and with all the force imaginable, with all that  
21 revenge, with all that ill will and perverted intent, he  
22 took his fist and he punched her body and her face as hard  
23 as he could and, you know, he may not have punched it one  
24 after the other, ladies and gentlemen. He may have punched  
25 her one time good in the ear and, as she couldn't hear

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1 anything, maybe he called out a couple names like you slut,  
2 you bitch, you whore like he did so many times before and  
3 maybe, as she sat there and cried, he waited a moment or  
4 two and then he gave her another punch and called her some  
5 more familiar names or, perhaps, he told her that he hopes  
6 she would die of aids.

7 That, ladies and gentlemen, is torture. He  
8 didn't do it with a prod or a piece of iron, he did it with  
9 his fist, he did it with his body.

10 MR. EWING: Your Honor, I'm going to have to  
11 object to the prosecutor's misinterpretation of the law as  
12 it applies to torture.

13 THE COURT: Overruled.

14 MS. SILVER: And, you know, when this wasn't  
15 good enough, ladies and gentlemen, he continued his torture  
16 to this victim and how did he do that? Well, he recognized  
17 that she was seeing another man. She was no longer "his  
18 lady, his woman." So what did he do. Well, as her  
19 bloodied and bruised and battered body lied there and as  
20 she was undoubtedly crying, this defendant, at some point,  
21 I submit to you pulled down her pants and her panties and  
22 he raped her. He committed the ultimate act of violence  
23 upon a woman besides murder and he raped her. It's called  
24 sexual assault and, you know, the defense may claim, no, he  
25 didn't rape her. You see, he had had sex with her

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1 hundreds, if not thousands of times, but, ladies and  
2 gentlemen, in the State of Nevada and other civilized  
3 societies, no means no. No means no and a woman does not  
4 lose her right to say no simply because she has had sex  
5 with this person in the past. She doesn't lose that right  
6 ever in the State of Nevada, ever, and she certainly had  
7 the right, Deborah Panos, to say no and she certainly  
8 didn't deserve to be sexually assaulted and tortured one  
9 more time by this defendant, who sits here and cries to you  
10 and tells you that she meant the world to him.

11                   And probably at some point, maybe he let her  
12 get up and maybe she knew what in God's name am I going to  
13 do because she saw that look in his eye. Maybe she saw  
14 that book on the ground, A Time to Kill, and she knew what  
15 was going to happen to her and maybe she did make that  
16 phone call out of desperation and she cried out at least  
17 two times to Sherry at the day care center, help. She  
18 needed help and she was crying and, unfortunately, those  
19 cries for help were never answered. I submit to you he  
20 continued his torture and he grabbed a knife. He went into  
21 the kitchen where she kept the knives and he grabbed a  
22 knife and perhaps she ran to the phone at that point to  
23 call 911 for help and that's why the phone is off the hook  
24 and on the floor and maybe he grabbed her and pushed her  
25 into the wall the way he usually did and, at some point,

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1 maybe, as a last attempt, she ran to the door, toward the  
2 door because we know where her body was found in her last  
3 attempt to escape from this defendant and this defendant  
4 threw her down and he continued his torture and he threw  
5 her down on the ground like he had after he sold the  
6 children's furniture, after he threw her down on the bed on  
7 June 1st and just like on June 1st, I submit to you he  
8 straddled her body and her arms because, as I recall, there  
9 were no defensive wounds and he stood over her or actually  
10 knelt over her and I submit to you that as she lied there,  
11 as she lied there helpless and bruised and bloodied and  
12 beaten and raped, that this defendant continued his  
13 torture, ladies and gentlemen, and he put that knife above  
14 her throat and as quick as the defense wants to make this  
15 because they stated, oh, this was quick, this all happened  
16 very quickly. This was not quick. Nothing about what  
17 happened to Deborah Panos on August 31st was quick and he  
18 took this knife and she saw that knife, ladies and  
19 gentlemen, and she saw the face of the person that was  
20 about to plunge it in her neck and it wasn't a picture of  
21 that little baby of three and four, ladies and gentlemen.  
22 It was this person. This is how he looked. Wasn't that  
23 baby that they sent a picture in evidence and she saw that  
24 knife above her throat and she saw his face and, as she saw  
25 that knife coming, I submit to you she felt the knife in

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1 her chest and in her throat and she felt it break her flesh  
2 and she felt it dig into her body and she felt it crack  
3 open her chest because we know it cracked her chest open  
4 because it went down into her lungs and it hit two of her  
5 ribs and she felt that, she felt it and I submit to you  
6 that as she looked up, perhaps she even felt and saw that  
7 blood spurting out of her neck that you see on that chair,  
8 she felt this and you know, ladies and gentlemen, there was  
9 probably a moment where she was relieved because that man  
10 could no longer torture her any more.

11 He stabbed her approximately 13 times; 10  
12 times in the chest and in the neck area, four of the stab  
13 wounds actually cut into her spinal column. Her internal  
14 jugular vein was cut, both of her carotid arteries were  
15 cut, and the defendant makes mention that three of the stab  
16 wounds were lethal and they were lethal. Doesn't mean she  
17 died like that, ladies and gentlemen. It means she was  
18 going to die without medical attention because those are  
19 not the type of wounds that you survive from and he made  
20 sure of that.

21 And then I submit to you, ladies and  
22 gentlemen, he probably got up from her and he turned around  
23 and he stabbed her in the abdomen through the perineal  
24 cavity, boom. Does that show a perverted intent? Does  
25 that show that malignant heart? And then he took the knife

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1 and he stabbed her again right above her pelvic area.  
 2 Gratuitous I submit to you. Depraved mind I submit to  
 3 you.

4 So from the pictures, from the cuts all over  
 5 the defendant's fingers because when he stabbed her, he did  
 6 it so forcibly, he actually hit bone and it caused him to  
 7 cut his fingers and from this bent knife, look at this  
 8 knife, look what he did to this knife on Debbie's body,  
 9 from this bent knife, this defendant committed torture and  
 10 not only murder.

11 I want to comment on this fourth aggravating  
 12 circumstance and what I have described to you because it  
 13 shows you just how appropriate the death penalty is in this  
 14 case. Imagine the special quality of a human being who  
 15 could take a knife knowing of its propensity and what it  
 16 can do by actually holding it up to flesh and piercing that  
 17 flesh and organs and making a massive blood spill. As a  
 18 person was perhaps begging for their life, that's a special  
 19 characteristic or quality in a person to be able to commit  
 20 murder like that.

21 Undoubtedly, ladies and gentlemen, as she  
 22 was getting stabbed over and over and over, I submit to you  
 23 that she cried out and she begged for her life and she  
 24 begged to live on behalf of those three little children.  
 25 Imagine the quality of a person like this, but that's who

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1 this defendant is and that is why the death penalty is so  
2 appropriate, but perhaps what sets this defendant apart  
3 from the rest of human race and why it's appropriate is  
4 because, at some point, it's conceivable that Deborah,  
5 after a couple of the stabs perhaps to her carotid artery,  
6 that, at some point, perhaps she became unconscious, she  
7 was probably gurgling on her blood, blood coming out of her  
8 mouth, but she became unconscious and, yet, this defendant  
9 could continue to stab into such a lifeless body. That's a  
10 special trait, characteristic that this defendant  
11 possesses, and the two gratuitous stabs to her pelvic area  
12 and her pubic area and look at these pictures, ladies and  
13 gentlemen, and ask yourself how could another human being  
14 make another human being look like this? It's hard to  
15 imagine.

16 As prosecutors, we imagine in our society  
17 that people are going to kill perhaps other people and  
18 there are going to be murders. We expect that obviously,  
19 but what we don't expect, ladies and gentlemen, is that  
20 people are going to be beaten like a pulp prior to their  
21 murder and what we don't expect, ladies and gentlemen, is  
22 for a woman like this to be raped prior to her murder and  
23 what we don't expect, ladies and gentlemen, is a  
24 perpetrator like this to continue stabbing into the body.  
25 That's why the death penalty is so appropriate for this

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1 defendant.

2 I want to explain to you just briefly some  
3 of the mitigating circumstances I anticipate the defense  
4 will claim to you and I know that they have made some  
5 insinuation in their opening statement to you and I want to  
6 explain to you how it works. Now, the defense never has to  
7 even present any mitigating circumstances to you. There's  
8 never a requirement that you automatically impose death.  
9 However, they may, in fact, argue or suggest to you that  
10 there are mitigating circumstances. So let me go over  
11 them.

12 I'm going to take them a little out of  
13 order, but one of them that they've described in their  
14 opening statement is that this defendant is a youth or is  
15 young. Well, he's certainly not an elderly person, this  
16 defendant, but I submit to you that what we're talking  
17 about with that mitigating circumstance is if a defendant  
18 is somewhere around 18 or 19 or even maybe 20 years old,  
19 okay, some kid that just graduates from high school and  
20 "does something stupid," perhaps then. Perhaps, not  
21 always, but perhaps then that would be a mitigating  
22 circumstance in light of the death penalty. I submit to  
23 you that this defendant was born on 12/27/69. That is a  
24 couple -- two months shy or, excuse me, a couple months --  
25 about four months shy of his 28th birthday. Twenty eight.

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1 He was almost 28 when this murder occurred. That's two  
2 years from 30. He was 10 years in an adult relationship  
3 with Deborah Panos and he had three children. Certainly  
4 this defendant cannot be considered a youth in terms of  
5 mitigators.

6 Second, that the defendant acted under  
7 duress or under dominion of another person. This is  
8 obviously not the case. No one told the defendant to do  
9 this. So that's not a mitigator.

10 Another one, the defendant was an accomplice  
11 in a murder committed by another person and his  
12 participation in the murder was relatively minor. Well,  
13 what does that mean? Well, you all came in here and you  
14 said we can consider all the ranges of punishment and let  
15 me give you an example of what I would give you an example  
16 as far as that mitigator. There may be a situation, let's  
17 say hypothetically, that the defendant and a man named John  
18 decide to commit a robbery together at the 7-11. So the  
19 defendant says, "Okay, I will go and be the driver, get  
20 away driver; you go in and rob the cashier with the gun."  
21 Okay, so John goes in there, gets the money, gets the gun  
22 out, and basically, at some point, kills the cashier. Now  
23 the defendant is out in the car. He didn't want the  
24 cashier dead. Well, ladies and gentlemen, in the State of  
25 Nevada, the act of one is the act of all, which means that

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1 they are both liable for murder in the first degree under  
2 the Felony Murder Rule. Why? We know that robbery, like  
3 you've already decided, it's such a dangerous kind of  
4 crime, that if a death occurs as a result, it's  
5 automatically murder in the first degree.

6 So, ladies and gentlemen, I submit to you  
7 that in that type of case, that is what that mitigator is  
8 talking about. The defendant was an accomplice in a murder  
9 committed by another person and his participation in the  
10 murder is relatively minor. Well, that mitigates death.  
11 That's why you come in here and say, yeah, there are  
12 circumstances perhaps that I could consider life with.  
13 That is a situation where life with the possibility of  
14 parole is appropriate for that get away driver, who happens  
15 to be there when his co-conspirator murders the other  
16 person and he is convicted of murder of the first degree.  
17 That certainly isn't the case here.

18 Next, the victim was a participant in the  
19 defendant's criminal conduct or consented to the act.  
20 Well, let me change those same facts around and let's just  
21 say the cashier, in the last instance, kills his friend  
22 John. Well, under the Felony Murder Rule, that get away  
23 driver is even liable for murder in the first degree for  
24 his co-conspirator, his accomplice getting murdered or  
25 getting killed. So that's what that's talking about. He

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1 could be ultimately convicted of murder in the first  
2 degree. However, here's the mitigation; that the victim  
3 was a participant in the defendant's criminal conduct or  
4 consented to the act. So obviously in a case like that,  
5 there could be some mitigation of death. Again, not the  
6 case here. And I don't believe that the defense has  
7 suggested either one of those to you. I merely want to  
8 explain to you what they mean when you go back there.

9               Next, the murder was committed while the  
10 defendant was under the influence of extreme mental or  
11 emotional disturbance. The defense has insinuated that  
12 they are going to claim this as a mitigator. I submit to  
13 you, ladies and gentlemen, that across the country millions  
14 of people unfortunately can get very upset at the end of a  
15 relationship. Probably everyone in this room has  
16 experienced a break in a relationship at some point, but,  
17 you know, our laws don't say, gee, you know, if you murder  
18 someone because you had a past relationship with them, you  
19 know what, the death penalty doesn't apply. It's not what  
20 it says. It doesn't give someone a free out because of  
21 this.

22               I submit to you that this defendant may have  
23 been disturbed to an extent. He may have been jealous, he  
24 may have been angry, and revengeful and he may have been  
25 mad at the victim, but that's about violence and that's

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1 about control. I submit to you he did not commit this  
2 murder under the "influence of extreme emotional or mental  
3 disturbance" and how do we know that? Well, recall, ladies  
4 and gentlemen, that right after he murdered her, he washes  
5 his hands off in the sink, he took some property from her,  
6 he locked the door, he took her keys, he took her car, he  
7 made sure to put his bike in the car and we know he went  
8 right to the projects and what did he do when he gets to  
9 the projects? We know from the two witnesses, Deborah  
10 Turner and LaDonna Jackson, this defendant wasn't crying,  
11 he wasn't mentally or emotionally disturbed, he wasn't  
12 upset. What was he doing? He was Hip Hop. He was acting  
13 just like he usually did. You would have never known  
14 anything was wrong with him and so he took the boom box and  
15 he started dancing or break dancing and we know that he  
16 didn't seem very even effected by her death, ladies and  
17 gentlemen, by this brutal murder.

18 We know that the defendant soon after went  
19 into Lucky's apparently and at least we can infer that and  
20 I will restate what I said in the guilt phase. As he was  
21 perusing that frozen food section looking for just the  
22 right package of shrimp to rip-off for that rock of  
23 cocaine, he wasn't emotionally or mentally disturbed over  
24 what he did. And when he took the pie and when he went  
25 back to the projects and, as he went door to door to sell

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1     that pie and to sell that shrimp, he wasn't emotionally or  
2     mentally disturbed in any way. In fact, he made sure to  
3     tell Deborah Turner, "Make sure to put the keys under the  
4     mat and, by the way, park it around the back." That's how  
5     disturbed he was and distraught he was over her death.

6                     And we know, by the next day, he is back to  
7     his normal self again with the box cutters ripping tags off  
8     at Lucky's, stealing liquor and candy bars. Whatever he  
9     wanted, he basically did.

10                    Ladies and gentlemen, they give you an  
11     excuse. They say, oh, we are not giving you an excuse, we  
12     are giving you an explanation for why he did these things.  
13     It's an excuse, ladies and gentlemen. It's an excuse so  
14     that you will be fooled by what he really is and that is a  
15     cold, calculated, mean, violent, brutal murderer with no  
16     conscious either.

17                    The defendant has no history -- excuse me --  
18     the defendant has no significant criminal -- I'm not saying  
19     this right, excuse me. The defendant has no significant  
20     history of prior criminal activity. Now, the defense again  
21     alluded that this was the case here. Well, this would be  
22     the case if the defendant, at the time he committed this  
23     murder, could say to you, the jury, well, gee, I have never  
24     really been in trouble with the law before or maybe in his  
25     past, in the 28 years of his life, perhaps he only picked

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1 up maybe a misdemeanor DUI or maybe a couple shoplifts and  
2 we can all agree, that, yeah, it's a pretty insignificant  
3 criminal history, but that's not our case here, ladies and  
4 gentlemen. Now the defense may say to you, well, he has no  
5 "prior felony convictions." So what. We know he's been  
6 charged with felonies before and we know that he has been  
7 given break after break and they have been negotiated and  
8 reduced or we don't know what happened with them. We know  
9 he wasn't made accountable.

10 I submit to you that he has even been  
11 violent upon a stranger. We heard that he -- and I want to  
12 go back just briefly. He actually started his criminal  
13 crime spree, if you will, at the young age of 13. Now he  
14 has "no significant criminal history," yet, he enters the  
15 system and he's got a probation officer by the time he's 13  
16 and we know it continues right up until he's an adult. We  
17 know that at about 18 years old, he's throwing a brick at  
18 another person, a stranger. He's violent.

19 Ladies and gentlemen, I submit to you that  
20 he has a very significant criminal history and the worst  
21 part, ladies and gentlemen, is the crimes against his  
22 children and the crimes against Deborah Panos. Stealing  
23 your children's clothes for rock cocaine is a crime. It's  
24 called theft. Stealing your little kids' shoes and sandals  
25 is a theft. That's a larceny. Stealing their diapers and

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1     selling them is a larceny. Stealing the food out of the  
2     freezer of your own children is a theft. It's a larceny.  
3     Stealing their toys and selling their toys, that's a  
4     theft. It's a larceny and the crimes against Deborah,  
5     let's think about those crimes for a moment. All of the  
6     domestic violence that you've heard, throwing her down,  
7     kicking her, beating her, sending her to the hospital,  
8     breaking her nose, those are crimes, ladies and gentlemen.

9                 Sure, obviously, our system didn't do a  
10    whole lot about them, but those are crimes. They may not  
11    be felonies, but Deborah Panos came out of that broken nose  
12    with a deformed nose and a scar and putting a knife to her  
13    throat after beating her up, that's a crime, ladies and  
14    gentlemen. Regardless of what the defense may claim,  
15    that's a crime and beating his girlfriend up, the mother of  
16    his three children in front of them, as they sit there and  
17    cry and watch mommy get beaten, ladies and gentlemen, that  
18    is called child abuse and you know when he left his kids  
19    and he abandoned them and when they had to be put into  
20    police protective custody, that is called child  
21    endangerment. That is a crime. That is child abuse. He  
22    has a very significant criminal history. Most of it  
23    tragically against those little children and Deborah  
24    Panos.

25                We know that most of the witnesses didn't

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1 even know him because he was in jail all the time. So he  
2 does have a significant criminal history. Do not be fooled  
3 by what the defense tries to claim in this case.

4 And, of course, we heard from this defendant  
5 and the defense will assert to you that another mitigating  
6 factor is "the love of his children." Well, I have just  
7 mentioned to you how much he loved his children and he  
8 stood up here and told you, "I would like to be the  
9 positive role model for my children. I'd like to be able  
10 to raise my family." I submit to you that based on the  
11 evidence, ladies and gentlemen, that no parent is better  
12 than that parent.

13 So I submit to you, ladies and gentlemen, we  
14 have proven all four aggravating circumstances and I submit  
15 to you that there are absolutely no mitigating  
16 circumstances in this case, but let's, for argument's sake,  
17 say just for argument's sake, that the defense is able to  
18 prove and, again, this is just for argument's sake, let's  
19 say five mitigating circumstances. They have five, we have  
20 four. Now do they win because they have five and we have  
21 four? No. This is not a numerical process, ladies and  
22 gentlemen. It's a weighing process and what you have to  
23 decide, ladies and gentlemen, even in this case if you were  
24 convinced that there was maybe one mitigating circumstance  
25 in this case, maybe you think that maybe he is young enough

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1 for you to consider a mitigating circumstance, you have to  
2 decide does that mitigating circumstance, does it outweigh  
3 those four aggravating circumstances where you are not  
4 going to impose the death penalty? It's a weighing process  
5 and I submit to you, ladies and gentlemen, first of all,  
6 that there are no mitigating circumstances and that even if  
7 you are able to come up with even one mitigating  
8 circumstance, that it cannot outweigh this. That nothing,  
9 ladies and gentlemen, that the defense has to say to you  
10 can outweigh this. There is nothing.

11 We know that this defendant has been given  
12 chance after chance. He has been given a chance at an  
13 early age. His grandmother has tried to help him. His  
14 aunt has tried to help him. He was given special education  
15 opportunities to better himself, to make him a better  
16 person for the adult world. The school district apparently  
17 tried to help him and you can hear that through the  
18 probation officers and the psychologists that testified  
19 before when they actually got him to go to school. You  
20 have to actually want to become a better person to be a  
21 better person, but we know that he's been given every  
22 opportunity, every chance to better himself.

23 We know that Debbie gave him chance after  
24 chance after chance. We saw from his letters begging her  
25 give me but one more chance. We know that our criminal

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1 justice system has given this defendant chance after chance  
2 after chance. What lessons, ladies and gentlemen, has this  
3 defendant learned from the chance that this system has  
4 given to him? We know that he was given a chance at  
5 probation at the age of 13. We know that I believe it was  
6 stated by his probation officer that there were volunteers  
7 that wanted to help him, that there were tutors, he got to  
8 go to Magic Johnson's camp, grandma was helping, everyone,  
9 even this probation officer went out of his way; he did the  
10 very best to help this defendant to give him a chance and  
11 what did he learn from the lessons they taught him? What  
12 did he learn from the chance that they gave to him? Well,  
13 we know that by the time he's -- we know that by the time  
14 he's around 18 in about 1988, he commits felonious  
15 assault.

16 So he learned nothing from the chance and  
17 thereafter, in Arizona, in 1993, we know that this  
18 defendant again was arrested for domestic violence on  
19 Deborah and what did he learn from that arrest, ladies and  
20 gentlemen? What did he learn from the chance that the  
21 system gave him? Well, he only went back out again and he  
22 beat her again. He wasn't rehabilitated. We know that by  
23 January, he was again arrested for domestic violence when  
24 he broke her nose. What did he learn from that chance the  
25 system gave him?

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1                   We know that in February of 1995, not even a  
2 month after he broke her nose, he was caught entering the  
3 K-Mart and he had about four or five burglary tools on him  
4 and he was stealing again and he was caught for burglary,  
5 possession of burglary tools, and under the influence. He  
6 wasn't so under the influence that he didn't know how to  
7 take those security devices off and I believe it was Claire  
8 that said about 95 percent of the time he was under the  
9 influence. So he functioned pretty much on an everyday  
10 level under the influence of drugs and apparently built up  
11 a tolerance to function. We know he can go in there and  
12 knows exactly what he is doing, as he is taking those  
13 security devices off, but what did he learn from all of  
14 these chances? Well, he goes right back out again, he gets  
15 probation. The District Attorney's Office gave him a  
16 break. They dismissed an under the influence, they  
17 dismissed a burglary charge, two felonies for giving him  
18 the opportunity to plead guilty to a gross misdemeanor,  
19 possession of burglary tools, and in April, a judge, a  
20 District Court judge gave him the opportunity of probation  
21 to go out in society and to do the right thing.

22                   And what did he do? He got out and didn't  
23 even show up at his probation officer's office. He didn't  
24 even show up. That's how much respect he's got for the law  
25 and, in fact, that probation officer had to go try and find

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1 out where he was and that's how they located Deborah. So  
2 he gets probation, doesn't show up to the Department of  
3 Parole & Probation, and then by June 1st, he's -- he breaks  
4 in again, he's got a knife, and he puts it to her throat  
5 and he's arrested again and what did the system do? Well,  
6 let's see. Now he's got in his past three arrests for his  
7 domestic violence, he's broken her nose, and now he used a  
8 weapon, let's give him seven days. That's what the system  
9 did. So he gets seven days and he is popped again.

10 So what did he learn? What is he learning  
11 from the chances of society that the system gives him?  
12 He's learning it's pretty easy to get away with crime,  
13 ladies and gentlemen, and to play the system. That's what  
14 he's learned. And we know that by not even what, a couple  
15 weeks, by June 28th or 26th, he's again arrested for petty  
16 larceny and, for whatever reason, between all of the  
17 different jails he's going back and forth to because "he  
18 has no significant criminal history," but between all the  
19 jails, he ends up pleading guilty to the battery on Deborah  
20 on August 30th of 1995 and recall what he said to the  
21 judge, when he was granted probation back in August. He  
22 said, "I'll never commit another crime again," and I've  
23 just described to you in that short time, he must have  
24 committed about five offenses and been in and out of jail  
25 at least three times, but, "I'll never commit another

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1 offense again."

2 And so, of course, we know after he pleads  
3 guilty, what did he learn? What kind of accountability?  
4 He gets out the next day, he's able to buffalo his  
5 probation officer. Maybe he tried to act as sincere as he  
6 did for you today because he did buffalo that probation  
7 officer and he's given yet another chance to go to an  
8 in-patient drug rehab and instead of going there, he goes  
9 pretty much over to Deborah's to murder her. What did he  
10 learn from that? Thought he could get away with murder and  
11 we know that by the next day, he's caught again shoplifting  
12 and he has the absolute gull to say to Officer Osuch, as  
13 he's going to take "Irvi Marvalen" (sic) for petty larceny,  
14 he says, "Oh, come on, cut me a break," and Officer Osuch  
15 says, "No, no more breaks." And what I'm asking you,  
16 ladies and gentlemen, is to say no more breaks to this  
17 defendant. No more breaks to that man sitting right  
18 there.

19 A lot of people have paid for the chances  
20 that this system has given to this defendant and we can  
21 thank our system who gave these chances to this defendant  
22 for the last memories to little Chantell and little JP and  
23 Anthony of their mom and dad, that perhaps of daddy being  
24 taken away from jail crying, as they cry, and mommy getting  
25 taken away in an ambulance. Or perhaps we can thank this

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1     defendant for his last memories of the day of being with  
2     their mother, of being placed into Child Haven into  
3     protective custody yet another time. And we can thank the  
4     defendant for the fact that this four year old child sits  
5     there and wants to die. A four year old wants to die so  
6     she can be in heaven with her mommy. How pathetic and a  
7     little eight year old child, who's afraid to talk about the  
8     violence that he's witnessed, and wants sleeping pills at  
9     the age of eight years old. Eight year olds shouldn't want  
10    sleeping pills, ladies and gentlemen. That is a depressed  
11    little eight year old. That is a guilty little child  
12    because he could not protect his mommy from this man. He  
13    could not protect his brothers and sisters from that man  
14    right there.

15                   The Monsons and Norma Penfield too have paid  
16    for society's giving this defendant break after break and  
17    chances after chances. It was Norma Penfield, whose only  
18    daughter, as she was a widow, was brutally beaten and raped  
19    and stabbed to death, she lost her only daughter. That was  
20    her baby, that was her child that she gave birth to, that  
21    she watch raised, she watched grow up to become a nice  
22    young lady and a mother herself. A lot of people have paid  
23    for this defendant's chance back into society, but no one  
24    paid the price like Deborah Panos. No one did because you  
25    see, ladies and gentlemen, Deborah Panos paid with her life

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1 and the State submits to you and you are instructed that  
2 the law recognizes that your verdicts should never be based  
3 on sympathy for either the accused, for the victim's family  
4 or even the accused's family because, to some extent, they  
5 are victims of this defendant as well and you know you were  
6 conscientious, you were an extremely patient jury, and the  
7 State has every confidence that you will not base your  
8 decision on sympathy.

9                   The defense in their opening statement to  
10 you said that this penalty hearing was not about Deborah  
11 Panos. The defense would like you to forget about Deborah  
12 Panos, but on behalf of the State, I'm asking you not to  
13 forget Deborah Panos. It may be that it's been a year  
14 since her death and that, perhaps, weeds have grown around  
15 her tombstone and the only piece of Deborah Panos' body  
16 left is this -- her blood and her vaginal swabs and her  
17 pieces of her skin that we causally pass around this  
18 courtroom as State's Exhibit No. 67, that the State of  
19 Nevada has not forgotten Deborah Panos and we are asking  
20 you to not to forget Deborah Panos.

21                   The family has had their funeral, they have  
22 received their sympathy, and they have grieved and they  
23 just want justice and that's exactly what the State of  
24 Nevada wants because, undoubtedly, ladies and gentlemen,  
25 Deborah Panos cried out, cried out to this man, who claims

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1 to have loved her more than anything in the world, not to  
2 be beaten and raped and tortured and stabbed to death and I  
3 submit to you that you cannot help Deborah Panos right now,  
4 but you can make sure that her killer pays the full price.  
5 It is said that mercy cannot rob justice and I submit to  
6 you that justice occurs when the punishment fits the  
7 crime. What punishment fits the crime in this case? The  
8 death penalty.

9 I want to conclude with these remarks and  
10 that is that I expect the defense will come up here and  
11 they will ask you to spare this defendant his life, but I  
12 want you all to remember, if you remember anything else,  
13 that on August 31st of 1995, as Deborah Panos laid there  
14 with her arms outstretched, with this defendant over her,  
15 and with this knife looking down at her, that Deborah Panos  
16 did not have a jury and that Deborah Panos did not have  
17 eloquent attorneys to plead and beg for her life.

18 Ladies and gentlemen, on August 31st of  
19 1995, this defendant was Deborah Panos' jury, he was her  
20 judge, and he was her executioner and, as she lied there  
21 and begged for her life, I ask you what did he do as she  
22 begged for mercy? He put her to death and I am asking you  
23 to give him the same mercy that he showed her and I'm  
24 asking you to sentence him to death.

25 Thank you.

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1                   THE COURT: All right, we will take our  
2 recess at this time.

3                   Ladies and gentlemen, during the recess, it  
4 is your duty not to converse among yourselves or with  
5 anyone else on any subject connected with this trial or to  
6 read, watch, or listen to any report of or commentary on  
7 this trial or any person connected with this trial by any  
8 medium of information, including, without limitation,  
9 newspapers, television, or radio, and you are not to form  
10 or express an opinion on any subject connected with this  
11 case until it is finally submitted to you.

12                   We will take a ten minute recess. We will  
13 come back at 10 minutes after 4:00. We will be at ease  
14 while you depart the confines of the courtroom.

15  
16                   (At this time the jury left the courtroom.)

17  
18                   THE COURT: If I can see counsel in chambers  
19 just briefly -- actually, if I could see counsel at the  
20 bench and we will be in recess at this time.

21  
22                   (Off the record at 4:00 p.m. and back on the  
23 record at 4:20 p.m.)

24  
25                   THE COURT: Counsel stipulate to the

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1 presence of the jury?

2 MR. HARMON: Yes, your Honor.

3 MR. EWING: Yes, your Honor.

4 THE COURT: At this time, the defense may  
5 make its closing argument. It's my understanding that the  
6 presentations will be split between you and Mr. Ewing?

7 MR. BROOKS: Yes, that's correct, your  
8 Honor.

9 THE COURT: And we will have your closing  
10 statement now and then we will recess and conclude final  
11 argument tomorrow morning at 11:00.

12 MR. BROOKS: Thank you, Judge.

13 May it please the Court, counsel, and ladies  
14 and gentlemen of the jury, what we're going to do is I'm  
15 going to address you very briefly today and respond to  
16 certain things that the State has said and tomorrow  
17 morning, my associate, Wil Ewing, will address the rest of  
18 the evidence, which is most of the evidence.

19 We have spent almost three weeks together  
20 here and during these three weeks, I think everyone in this  
21 room can probably agree this process is slow, this process  
22 is careful, and this process is reasoned and there's a  
23 reason why the process goes the way it must go. That's  
24 because we hope the law and your application of the law  
25 will be careful, reasoned, studious, and aware.

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1                   It is our contention throughout this case,  
2 from the very beginning and most specifically what we have  
3 just seen from the State, is that their approach rejects  
4 what the law is all about. Their approach, ladies and  
5 gentlemen, is Exhibit X in our case. It's the rabid dog  
6 style of the prosecution. It takes every single fact and  
7 twist it against the defense and it urges you to not be  
8 careful and slow and reasoned in your approach to these  
9 facts and this evidence.

10                   I submit to you, ladies and gentlemen, that  
11 when you look at what they are really asking you to do,  
12 they have, in the most emphatic way possible, said to you  
13 to show my client the same mercy my client showed to  
14 Deborah Panos and I ask you what does that really mean?  
15 Does it mean that you should be like James Chappell? I  
16 mean, let's face it. We've heard some pretty remarkable  
17 evidence in this case about James Chappell and he is in  
18 many ways, a worthless SOB, he's a drug addict, he's a  
19 thief, he's a wife beater. He's the kind of person who  
20 would never be careful, who would never be reasoned, who  
21 would never be deliberate in what he does. His actions are  
22 the very opposite of the kind of process that we're here  
23 today doing and, yet, the State of Nevada asks you to act  
24 in the way that he acted and, ladies and gentlemen, I  
25 submit to you you are not cocaine addicts, you are not

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1 thieves, you are not on the same level that James Chappell  
2 is.

3 We are here for a reason and the reason we  
4 are here is because what James Chappell did and we have  
5 always said this, what he did was wrong and, yet, the State  
6 of Nevada invites you to descend to that level in your  
7 deliberations. We ask you to do exactly the opposite. We  
8 ask you to be careful, to take your time, and consider what  
9 exactly the State has shown in the sense of aggravating and  
10 mitigating evidence and to apply the law in as careful  
11 manner as possible.

12 I will allow Mr. Ewing to conclude our  
13 arguments tomorrow.

14 Thank you.

15 THE COURT: It's my understanding that a  
16 member of the jury has an appointment and obligation at  
17 5:00 and for that reason, we will go ahead and accommodate  
18 the members of the jury, as you have been so kind to  
19 accommodate us during this trial because of various  
20 scheduling difficulties.

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

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1 any medium of information, including, without limitation,  
2 newspapers, television, or radio, and you are not to form  
3 or express an opinion on any subject connected with this  
4 case until it is finally submitted to you.

5 We will be starting at 11:00 in the  
6 morning. Please try to be in the courthouses by 15 minutes  
7 until 11 so that we will, hopefully, be ready to go on time  
8 and the Court will advise you, of course, at this time that  
9 I'm handling my calendar and another judge's calendar. So  
10 that's the reason for the late start.

11 We will be at ease while the ladies and  
12 gentlemen depart the confines of the courtroom. Have a  
13 good evening.

14  
15 (At this time the jury left the courtroom.)

16  
17 THE COURT: All right Mr. Ewing, you have a  
18 matter to bring up outside the presence of the jury.

19 MR. EWING: That's correct, your Honor. The  
20 defense would be moving for a mistrial on the following  
21 grounds.

22 In the prosecutor's closing argument, at the  
23 very end, the very last thing she said was relating to the  
24 defendant being the judge and jury and executioner for  
25 Deborah Panos and asking the jury to show him the same

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1 mercy that he showed to Deborah Panos. This type of  
2 argument is inappropriate, prosecutorial misconduct, it's  
3 argument for reversible error, and because of those  
4 arguments and the fact they are inappropriate, the State --  
5 excuse me -- the Court should grant our motion for a  
6 mistrial.

7                   Additionally, I did bring it to the Court's  
8 attention in the hallway that we were going to be making  
9 this motion right after we took the break and the Court  
10 gave me permission to make it at the conclusion of Mr.  
11 Brooks' closing statement.

12                   THE COURT: Yes, that is true. I will  
13 affirm that at this time.

14                   State of Nevada.

15                   MR. HARMON: Your Honor, we're entitled to  
16 vigorously advocate our position. We made it clear, when  
17 we filed the notice of intent to seek the death penalty,  
18 that we consider this to be a capital case. The parties,  
19 once the issues are clearly delineated, are given, by  
20 statute and by the State Supreme Court, broad latitude in  
21 the arguments addressed to the jury and this was simply a  
22 rhetorical technique. It was not used for the first time  
23 by Ms. Silver in this case. It's been used routinely by  
24 prosecutors in this jurisdiction and others in arguing to a  
25 jury the appropriateness of capital punishment and there is

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1 absolutely no basis for the defense's motion.

2 THE COURT: Any reply argument?

3 MR. EWING: The only reply I can make,  
4 Judge, is because it always happens in the past, we  
5 shouldn't argue it now and I could submit Points &  
6 Authorities if the Court wants.

7 THE COURT: I will allow you to do that.  
8 However, I will make my ruling at this time.

9 The doctrine that precludes parties, through  
10 their counsel, from improperly appealing to the passions of  
11 the jury is sometimes difficult to follow and the line  
12 between proper advocacy and improper advocacy sometimes is  
13 difficult to discern.

14 It is my judgment, however, in this case,  
15 because of the nature of the penalty sought, that this is  
16 appropriate rhetoric. Therefore, the motion is denied.

17 MR. HARMON: Thank you.

18 THE COURT: Anything further from the  
19 parties at this time?

20 MR. HARMON: Not from the State, your  
21 Honor.

22 MR. EWING: Nothing further.

23 THE COURT: All right. We're in recess.  
24 Good evening.

25

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25

(Off the record at 4:30 p.m.)

\* \* \* \* \*

ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

  
PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

DISTRICT COURT  
CLARK COUNTY, NEVADA

FILED IN OPEN COURT  
OCT 23 1996

19  
LORETTA BOWMAN, CLERK  
BY [Signature] Deputy

THE STATE OF NEVADA,  
PLAINTIFF,  
VS.  
JAMES MONTELL CHAPPELL,  
DEFENDANT.

CASE NO. C131341  
DEPT. NO. VII  
DOCKET "p"

AMENDED JURY LIST

1. DENISE WRIGHT PARR	8. BRUCE TODD LARSEN
2. KENNETH EDWARD GRITIS	10. MARK GREGORY MASSAR
3. JERRY WAYNE EWELL	11. DANNA TERRY YATES
4. CHERYL LYNN WELLS	12. GLENN EUGENE FITTRO
6. JIM BLAKE TRIPP	14. KENNETH ROY FITZGERALD
7. KELLYANNE BENTLEY TAYLOR	15. WENDY LYNN HILL

ALTERNATES: 5. DAVID JOHN MESNARD

9. MICHAEL JOSEPH SWARTZ

13. LOIS J. OCHOA

6531

CASE NO. C131341

DEPT. NO. VII

DOCKET NO. P

FILED IN OPEN COURT  
OCT 22 1996 19  
LORETTA BOWMAN, CLERK  
BY *Lina Hurd*  
Deputy

DISTRICT COURT

CLARK COUNTY, NEVADA

\* \* \* \* \*

THE STATE OF NEVADA,

PLAINTIFF,

-VS-

JAMES MONTELL CHAPPELL,

DEFENDANT.

REPORTER'S TRANSCRIPT

OF HEARING

IN RE: PENALTY HEARING  
(VOLUME I -- AFTERNOON SESSION)

BEFORE THE HONORABLE A. WILLIAM MAUPIN, DISTRICT JUDGE

MONDAY, OCTOBER 21, 1996

REPORTED BY: CONNIE MC CARTHY, C.C.R. NO. 299  
FREE LANCE COURT REPORTERS  
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3 -AND-

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7 -AND-

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11 \* \* \* \* \*



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\* \* \* \* \*

1 LAS VEGAS, NEVADA; MONDAY, OCTOBER 21, 1996; 2:30 SESSION

2 \* \* \* \* \*

3  
4 WHEREUPON,

5 CLARE MC GUIRE

6 HAVING BEEN PREVIOUSLY DULY SWORN TO TELL THE TRUTH,  
7 THE WHOLE TRUTH AND NOTHING BUT THE TRUTH,  
8 WAS EXAMINED AND TESTIFIED AS FOLLOWS:

9  
10 CROSS-EXAMINATION

11 BY MR. EWING:

12 Q MISS MC GUIRE, YOU TESTIFIED THAT YOU MOVED  
13 TO TUCSON --

14 A I'M SORRY?

15 Q DID YOU MOVE TO TUCSON IN FEBRUARY OR MARCH  
16 OF 1990?

17 A NO, I WAS BORN IN TUCSON.

18 Q IS THAT WHEN YOU MET DEBBIE IN TUCSON WAS  
19 FEBRUARY OR MARCH OF 1990?

20 A YES.

21 Q THAT WAS THROUGH WORK?

22 A YES.

23 Q HOW MUCH TIME ELAPSED BEFORE YOU TWO BECAME  
24 FRIENDS?

25 A IT WAS ONLY A COUPLE OF WEEKS.

1 Q AROUND THE SAME TIME FRAME, FEBRUARY OR  
2 MARCH OF 1990, YOU BECAME FRIENDS?

3 A YES.

4 Q AND YOU MET JAMES APPROXIMATELY ONE WEEK  
5 LATER?

6 A YES.

7 Q YOU TESTIFIED THERE WERE TIMES WHEN JAMES  
8 WOULD SOCIALIZE WITH YOU AND DEBBIE AND THE KIDS?

9 A YES.

10 Q YOU TESTIFIED THAT THEY LEFT TUCSON IN  
11 OCTOBER OF 1994?

12 A YES.

13 Q AND THAT YOU DIDN'T KNOW THAT JAMES WENT  
14 WITH HER?

15 A NO.

16 Q AND SHE DIDN'T TELL YOU?

17 A NO.

18 Q AND YOU DON'T REALLY KNOW WHY SHE DIDN'T  
19 TELL YOU?

20 A NO.

21 Q YOU JUST KNOW SHE DIDN'T TELL YOU?

22 A YES.

23 Q DO YOU RECALL GOING TO THEIR TRAILER A  
24 COUPLE OF DAYS BEFORE SHE LEFT AND TALKING TO JAMES?

25 A WELL, I HAD GONE TO SEE DEBBIE, AND JAMES

1 WAS THERE.

2 Q DID YOU BRING SOME CLOTHES TO GIVE TO THE  
3 KIDS AT THAT TIME?

4 A YES.

5 Q AND DID JAMES TELL YOU AT THAT TIME THAT  
6 THEY WERE MOVING TO LAS VEGAS?

7 A NO. HE DIDN'T SAY ANYTHING ABOUT THEM  
8 MOVING TO VEGAS.

9 I HAD ONLY ASKED WHERE DEBBIE WAS, AND  
10 HE SAID THAT SHE WASN'T THERE. I THINK SHE HAD GONE  
11 SOMEWHERE WITH HER MOM.

12 Q YOU TESTIFIED YOU WERE ONLY AWARE OF JAMES  
13 HAVING ONE JOB WHILE HE WAS IN TUCSON?

14 A YES.

15 Q AT BIG BOYS?

16 A YES.

17 Q AND YOU TESTIFIED THAT YOU DIDN'T KNOW HOW  
18 LONG HE HAD THAT JOB, BUT YOU ESTIMATED IT WAS A COUPLE  
19 OF WEEKS?

20 A I THINK IT WAS ONLY ABOUT A WEEK. I DON'T  
21 REMEMBER IT BEING A COUPLE OF WEEKS BECAUSE WE HAD GONE  
22 THERE ABOUT TWICE.

23 WE HAD GONE TO THE BACK DOOR AND SHE  
24 HAD SAID "HI" TO HIM, OR WHATEVER SHE HAD TO DO WITH  
25 HIM, AND THEN WE LEFT.

1 IT WAS DURING THE SAME WEEK.

2 Q AND THAT'S BASICALLY YOUR BEST ESTIMATE?

3 A YES.

4 Q WOULD IT SURPRISE YOU IF YOU FOUND HE WORKED  
5 THERE LONGER THAN ONE WEEK?

6 A YES, IT WOULD.

7 Q WOULD IT SURPRISE YOU IF HE WORKED THERE SIX  
8 MONTHS?

9 A DEFINITELY.

10 Q YOU TESTIFIED DEBBIE HAD TO GO TO THE  
11 HOSPITAL SOMETIME IN 1992?

12 A YES.

13 Q DID DEBBIE TELL YOU ABOUT THAT?

14 A NO.

15 Q HOW DID YOU KNOW ABOUT THAT?

16 A BECAUSE I KEYED IN THE FIRE DEPARTMENT  
17 RECORDS WHILE I WAS THERE. I WORKED AT THE TUCSON FIRE  
18 DEPARTMENT FROM '92 TO '94.

19 Q DID YOU KEY INTO THAT CONTEMPORANEOUS TO  
20 WHEN SHE WAS BEING TRANSFERRED IN AUSTIN?

21 A I DON'T UNDERSTAND THE QUESTION.

22 Q WHEN WAS IT YOU FOUND OUT SHE'D GONE TO THE  
23 HOSPITAL, WAS IT WHILE IT WAS HAPPENING OR WAS IT LATER?

24 A IT WAS LATER. AFTER THE INCIDENT, THEY HAVE  
25 TO GO BACK AND WRITE A REPORT ON EVERYTHING THEY'VE

1 DONE.

2 Q BUT YOU NEVER TALKED TO DEBBIE ABOUT THAT  
3 INCIDENT?

4 A NO.

5 Q YOU TESTIFIED ABOUT INCIDENTS WHERE JAMES  
6 WOULD REMOVE THINGS FROM THE HOME.

7 DID YOU EVER ACTUALLY SEE HIM TAKE  
8 ANYTHING FROM THE HOME, OR WERE THESE THINGS YOU JUST  
9 HEARD DEBBIE TELL YOU ABOUT?

10 A WHICH TIME? BEFORE I MOVED HERE?

11 Q SOME SHOES AND SOME COATS, WAS THIS THINGS  
12 DEBBIE HAD TOLD YOU ABOUT?

13 A SOME OF THEM SHE TOLD ME OVER THE PHONE.  
14 SOME OF THEM WERE AFTER I LIVED THERE AND WE HAD BOUGHT  
15 THEM.

16 WE'D GO TO SLEEP AND THEN IN THE  
17 MORNING WHEN WE'D WAKE UP THEY WOULD BE GONE.

18 Q WAS JAMES LIVING THERE AT THE TIME?

19 A NO, HE WAS IN AND OUT.

20 Q NOW, YOU MOVED IN WITH DEBBIE IN MAY OF  
21 1995, CORRECT?

22 A I MOVED MY PERSONAL BELONGINGS HERE IN MAY  
23 AND I WAS VISITING QUITE OFTEN.

24 Q SO YOU'RE STILL ACTUALLY LIVING AT TUCSON AT  
25 THAT TIME BECAUSE YOUR DAUGHTER WAS STILL IN SCHOOL?

1 A RIGHT.

2 Q AND THEN YOUR DAUGHTER GOT OUT OF SCHOOL?

3 -- AROUND JUNE 8TH, DID YOU SAY?

4 A 6TH.

5 Q 6TH?

6 A UH-HUH.

7 Q AND THEN YOU MOVED TO LAS VEGAS?

8 A YES. I WAS HERE EVERY WEEK OR EVERY OTHER  
9 WEEK FROM MAY TO JUNE.

10 I'M SORRY, FROM THE END OF MARCH TO  
11 JUNE.

12 Q SO THAT'S WHY YOU'RE HERE JUNE 1ST BECAUSE  
13 YOU WERE HERE FOR A VISIT ON JUNE 1ST?

14 A NO, SIR, I HAD LIVED HERE BY THEN.

15 I'M SORRY, JUNE 6TH -- NO, I WAS  
16 VISITING.

17 Q AND THAT'S WHEN YOU HAD THAT INCIDENT WHERE  
18 YOU HAD TO CALL THE POLICE?

19 A YES.

20 Q AND JAMES WAS ARRESTED?

21 A YES.

22 Q AND HE GOT OUT ON JUNE THE 7TH, CORRECT, DO  
23 YOU RECALL THAT?

24 A I'M SORRY?

25 Q DO YOU RECALL HIM GETTING RELEASED ON JUNE

1 THE 7TH?

2 A NO.

3 Q DO YOU RECALL GOING TO THE JAIL AND PICKING  
4 HIM UP?

5 A NO. I'VE NEVER BEEN TO THE JAIL FOR HIM.

6 Q YOU DIDN'T TAKE HIS KIDS AND GO TO THE JAIL  
7 AND PICK HIM UP AND GO BACK HOME ON JUNE THE 7TH?

8 A I PICKED HIM UP ONE TIME WHEN HE WAS  
9 RELEASED FROM JAIL. I DON'T THINK IT WAS THAT TIME. I  
10 THINK IT WAS BEFORE THAT. AND HIS KIDS WERE WITH ME,  
11 YES.

12 Q COULD IT HAVE POSSIBLY BEEN THAT TIME?

13 A NO.

14 Q YOU GOT TO LAS VEGAS SOMETIME IN MAY?

15 A RIGHT.

16 Q 1995?

17 A YES.

18 Q BUT YOU THINK IT WAS BEFORE JUNE THE 7TH  
19 WHEN YOU WENT TO THE JAIL AND PICKED HIM UP?

20 A YES -- NO, I DID NOT GO TO THE JAIL. I WENT  
21 TO THE 7-ELEVEN AT BONANZA AND LAS VEGAS BOULEVARD.

22 Q WAS IT IN MAY THAT YOUR PROPERTY STARTED  
23 VANISHING FROM THE TRAILER, OR WAS IT IN JUNE?

24 A JUNE.

25 Q WAS ANY OF YOUR PROPERTY MISSING IN MAY?



1           A       WHEN I CAME UP HERE WITH MY DAUGHTER, SOME  
2       OF MY BELONGINGS WERE MISSING. ALL OF MY BOXES AND  
3       STUFF HAD BEEN GONE THROUGH THAT WERE IN MY BEDROOM.

4           Q       THIS WAS AFTER JUNE THE 6TH WHEN YOU  
5       RETURNED WITH YOUR DAUGHTER?

6           A       WHEN I RETURNED WITH MY DAUGHTER?

7           Q       YES.

8           A       YES.

9           Q       YES, THAT YOU NOTICED THESE THINGS HAD BEEN  
10      GONE THROUGH?

11          A       YES.

12          Q       YOU TESTIFIED THAT HE STAYED SOMETIMES AT  
13      THE TRAILER AND SOMETIMES ACROSS THE STREET IN THE  
14      PROJECTS?

15          A       IT WAS JUST A LITTLE BIT DOWN THE ROAD.

16          Q       AT THE VIRGINIA ARMS APARTMENTS?

17          A       I DON'T KNOW THE NAME OF THEM. THEY'RE  
18      BEHIND THE CAR WASH AND ACROSS THE STREET FROM LUCKY'S.

19          Q       YOU ALSO TESTIFIED THAT SOMETIMES WHEN JAMES  
20      WOULD COME OVER, HE'D GO THROUGH THE MASTER BEDROOM  
21      WINDOW.

22          A       YES.

23          Q       WAS THIS PRIOR TO -- WAS IN THIS IN JUNE OR  
24      IN MAY THAT YOU NOTICED THIS HAPPENING?

25          A       I DON'T REMEMBER. I DON'T REMEMBER IF IT

1 WAS MAY OR JUNE. I CAN'T REMEMBER IF -- I THINK IT WAS  
2 MAY WHEN I STARTED SEEING IT.

3 Q WHEN THE POLICE WERE INVESTIGATING THIS  
4 PARTICULAR CASE, DID YOU SPEAK WITH THEM?

5 A WHICH CASE?

6 Q AFTER DEBORAH WAS KILLED, DID THE POLICE  
7 TALK TO YOU ABOUT THE CASE?

8 A NO.

9 Q DID ANYBODY TALK TO YOU ABOUT WHAT YOU KNEW  
10 ABOUT THE CASE?

11 A I HAD SEEN A FRIEND OF DEBBIE'S THE NEXT  
12 DAY. I THINK IT WAS THE NEXT DAY. IT WAS A FRIDAY  
13 MORNING. AND I HAD SEEN HER AT WORK AND I JUST COULDN'T  
14 BELIEVE IT. I SAW IT ON THE NEWS. THAT'S HOW I LEARNED  
15 ABOUT IT.

16 Q IN BETWEEN THE TIME THAT DEBBIE WAS KILLED  
17 AND TODAY, YOU'VE NEVER SPOKE TO A POLICE OFFICER ABOUT  
18 THIS CASE?

19 A NO.

20 Q HAVE YOU EVER SPOKE TO A REPRESENTATIVE OF  
21 THE DISTRICT ATTORNEY'S OFFICE ABOUT THIS CASE?

22 A YES.

23 Q WHEN WAS THE 1ST TIME THAT HAPPENED? DO YOU  
24 REMEMBER?

25 A ABOUT A WEEK AND A HALF AGO, I BELIEVE.

1 Q ABOUT 10 DAYS AGO?

2 A IT COULD HAVE BEEN.

3 Q DID YOU TELL THEM AT THAT TIME THAT THERE  
4 WAS A HISTORY OF JAMES GOING THROUGH THAT MASTER BEDROOM  
5 WINDOW?

6 A YES.

7 Q THERE WAS AN INCIDENT WHERE YOU WERE HOME  
8 AND YOU TALKED TO DEBBIE ON THE PHONE AND SHE RELAYED TO  
9 YOU A THREAT THAT JAMES HAD MADE.

10 A YES.

11 Q WAS THAT IN JUNE OR WAS THAT IN MAY?

12 A IN JUNE.

13 Q AND JAMES CAME TO THE TRAILER AND HE OPENED  
14 YOUR DOOR. DID HE EVER THREATEN YOU?

15 A NO.

16 Q DID YOU EVER ACTUALLY SEE JAMES WITH THE  
17 KNIFE?

18 A NO.

19 Q YOU JUST FOUND IT ON THE FLOOR AFTER THE  
20 FACT?

21 A YES.

22 Q DID YOU GIVE THE KNIFE TO THE POLICE?

23 A NO, I DIDN'T TOUCH IT.

24 Q DID YOU TELL --

25 A A POLICE OFFICER WAS THERE WITH ME.

1 Q DID HE TAKE POSSESSION OF THE KNIFE, THE  
2 POLICE OFFICER?

3 A HE DIDN'T TOUCH IT WHILE I WAS STANDING  
4 THERE, SO I DON'T KNOW IF THEY DID BECAUSE I EXITED THE  
5 BEDROOM AFTER THAT.

6 SO I DON'T KNOW.

7 Q SO YOU DON'T KNOW WHAT HAPPENED?

8 A NO.

9 Q YOU TESTIFIED THAT JAMES WOULD BECOME ANGRY  
10 SOMETIMES WHEN HE WOULD FIND EVIDENCE OF DEBORAH  
11 CONVERSING WITH OTHER MEN, CORRECT?

12 A I DON'T KNOW IF HE EVER SAW HER TALKING TO  
13 ANOTHER MAN.

14 Q MY QUESTION WAS, WHENEVER HE FOUND EVIDENCE  
15 OF OTHER MEN, WHETHER IT BE BUSINESS CARDS OR NOTES OR  
16 WHATEVER. ISN'T THAT WHAT YOU SAID?

17 A YES.

18 Q SO IT WAS SAFE TO SAY HE WAS JEALOUS OF  
19 OTHER MEN?

20 A YES.

21 MR. EWING: I DON'T HAVE ANY OTHER  
22 QUESTIONS.

23 THE COURT: REDIRECT?

24

25

REDIRECT EXAMINATION

1 BY MS. SILVER:

2 Q WERE YOU AWARE OF WHETHER OR NOT THE  
3 DEFENDANT HAD A GIRLFRIEND OVER IN THE PROJECTS?

4 A AFTER DEBBIE WAS MURDERED, I HAD HEARD THAT  
5 HE DID.

6 Q AND WHO DID YOU HEAR THAT FROM?

7 A FROM A FRIEND OF MINE.

8 Q DID THEY LIVE OVER THERE IN THE PROJECTS?

9 A SHE DIDN'T LIVE THERE. SHE JUST KNEW HER.

10 Q AND KNEW THE DEFENDANT?

11 A YES.

12 Q AND KNEW THE GIRLFRIEND?

13 A YES.

14 Q IT WAS NOT DEBORAH PANOS?

15 A THE GIRLFRIEND?

16 Q YES.

17 A NO.

18 Q DO YOU RECALL THAT WOMAN'S NAME?

19 A NO, I DON'T.

20 Q YOU DON'T RECALL WHETHER OR NOT IT'S A  
21 PERSON BY THE NAME OF BRIDGET OR SUE?

22 A (WITNESS SHAKES HEAD.)

23 Q IS THAT A "YES" OR A "NO"?

24 A MAYBE SUE. THAT SOUNDS FAMILIAR. BUT I'M  
25 NOT EXACTLY SURE.

1 Q AS YOU SIT HERE TESTIFYING, ARE YOU GIVING  
2 APPROXIMATE DATES AS TO WHEN THINGS HAPPENED?

3 A YES.

4 Q YOU WEREN'T WRITING THINGS AND LOGGING  
5 THINGS DOWN AS THEY WERE HAPPENING?

6 A NO.

7 MS. SILVER: I DON'T HAVE ANYTHING FURTHER  
8 FROM THIS WITNESS.

9  
10 RECROSS-EXAMINATION

11 BY MR. EWING:

12 Q IN REGARDS TO THIS ALLEGED GIRLFRIEND OVER  
13 IN THE PROJECTS, YOU HEARD THAT THROUGH A FRIEND?

14 A YES.

15 Q AND YOU NEVER SAW JAMES WITH ANOTHER GIRL,  
16 DID YOU?

17 A NO.

18 MR. EWING: NO MORE QUESTIONS.

19 THE COURT: MAY THIS WITNESS BE DISCHARGED?

20 MS. SILVER: YES.

21 (WHEREUPON, CLARE MC GUIRE  
22 WITHDREW FROM THE COURTROOM.)

23 THE COURT: CALL YOUR NEXT WITNESS.

24 MR. HARMON: MICHELLE MANCHA.

25 (WHEREUPON, MICHELLE MANCHA

1 ENTERED THE COURTROOM AND  
2 TOOK THE WITNESS STAND.)

3 WHEREUPON,

4 MICHELLE MANCHA,  
5 HAVING BEEN FIRST DULY SWORN TO TELL THE TRUTH,  
6 THE WHOLE TRUTH AND NOTHING BUT THE TRUTH,  
7 WAS EXAMINED AND TESTIFIED AS FOLLOWS:

8  
9 DIRECT EXAMINATION

10 BY MR. HARMON:

11 Q WILL YOU STATE YOUR NAME, PLEASE.

12 A MICHELLE MANCHA.

13 Q SLIDE FORWARD JUST A LITTLE BIT. AND,  
14 MICHELLE, SPEAK DIRECTLY INTO THE MICROPHONE.

15 A MICHELLE MANCHA.

16 Q WILL YOU SPELL YOUR NAME FOR THE RECORD.

17 A M-I-C-H-E-L-L-E, M-A-N-C-H-A.

18 Q MS. MANCHA, DO YOU LIVE IN THE LAS VEGAS  
19 AREA?

20 A YES, I DO.

21 Q HOW LONG HAVE YOU LIVED IN THIS COMMUNITY?

22 A ALMOST NINE YEARS.

23 Q DID YOU KNOW DEBORAH ANN PANOS?

24 A YES, I DID.

25 Q HOW IS IT THAT YOU KNEW HER?

1 A WE WORKED AT THE SAME PLACE.

2 Q THAT IS G.E. CREDIT?

3 A G.E. CAPITAL.

4 Q I'M SORRY. HOW LONG HAD YOU WORKED TOGETHER  
5 AT G.E. CAPITAL?

6 A ABOUT A YEAR-AND-A-HALF.

7 Q IN ADDITION TO BEING A CO-WORKER, DID YOU  
8 BECOME A FRIEND OF HERS?

9 A YES, I DID.

10 Q DID YOU CONFIDE IN EACH OTHER AS FRIENDS?

11 A YES.

12 Q DURING THE YEAR-AND-A-HALF THAT YOU WORKED  
13 TOGETHER, WHAT TYPE OF WORKER WAS DEBORAH?

14 A AT WORK, SHE WAS VERY GOOD. SHE WAS ONE OF  
15 THE TOP COLLECTORS ON OUR TEAM.

16 Q G.E. CAPITAL IS A COLLECTIONS BUSINESS?

17 A YES.

18 Q DID SHE APPEAR AT WORK REGULARLY?

19 A YES.

20 Q WHAT TYPE OF PERSON WAS SHE?

21 A VERY LOVING, VERY GIVING. IF SHE HAD IT,  
22 SHE WOULD GIVE IT TO YOU.

23 Q DID YOU AT SOME POINT LEARN THAT SHE HAD A  
24 BOYFRIEND NAMED JAMES CHAPPELL?

25 A YES.



1 Q DID YOU EVER MEET MR. CHAPPELL?

2 A NO.

3 Q DID YOU SEE JAMES CHAPPELL?

4 A OH, YES.

5 Q DO YOU SEE MR. CHAPPELL IN THE COURTROOM  
6 THIS AFTERNOON?

7 A YES, I DO.

8 Q WILL YOU POINT TO HIM AND DESCRIBE SOME  
9 ARTICLE OF CLOTHING HE'S WEARING IN COURT?

10 A HE'S RIGHT OVER THERE AND HE HAS ON A GRAY  
11 JACKET, PINSTRIPE WHITE SHIRT.

12 MR. HARMON: MAY THE RECORD SHOW THAT THE  
13 WITNESS HAS IDENTIFIED THE DEFENDANT, MR. CHAPPELL.

14 THE COURT: YES.

15 BY MR. HARMON:

16 Q MS. MANCHA, ARE YOU AWARE THAT FROM TIME TO  
17 TIME THE DEFENDANT CAME TO THE WORKSITE OF G.E. CAPITAL?

18 A YES, I AM.

19 Q HOW DO YOU KNOW OF THAT?

20 A A COUPLE OF TIMES I'VE SEEN HIM THERE AND  
21 OTHER TIMES THE INCIDENT WOULD OCCUR AND DEBORAH WOULD  
22 COME RIGHT BACK TO ME AND TELL ME WHAT HAD JUST  
23 TRANSPIRED.

24 Q WERE THERE INCIDENTS OF WHICH OCCURRED  
25 BETWEEN THE DEFENDANT AND DEBORAH PANOS IN THE AREA OF

1 HER WORKPLACE?

2 A YES.

3 Q WHAT THE TYPES OF INCIDENTS?

4 A ARGUMENTS IN THE PARKING LOT.

5 Q DO YOU KNOW WHEN THERE WAS ANY TYPE OF  
6 PHYSICAL ABUSE IN THE PARKING LOT NEAR THE BUSINESS?

7 A ONCE.

8 Q ON ONE OCCASION YOU'RE AWARE OF?

9 A YES.

10 Q WHAT HAPPENED?

11 A THEY WERE ARGUING AND HE HIT HER IN HER  
12 FACE.

13 Q DID YOU SEE THAT HAPPEN?

14 A YES.

15 Q YOU'VE MENTIONED THAT AFTER DISAGREEMENTS  
16 WOULD OCCUR BETWEEN MR. CHAPPELL AND MISS PANOS, SHE  
17 WOULD COME INTO THE BUSINESS AND TELL YOU ABOUT IT?

18 A YES.

19 Q IN ADDITION TO WORKING WITH MISS PANOS AND  
20 BEING HER FRIEND, DID YOU EVER LIVE AT THE BALLERINA  
21 MOBILE HOME PARK?

22 A YES, I DID.

23 Q ARE YOU ABLE TO TELL US APPROXIMATELY WHEN  
24 THAT WAS?

25 A I WAS LIVING THERE AT THE TIME SHE MET HER

1        UNTIMELY DEATH, AND I LIVED THERE ABOUT TWO MONTHS PRIOR  
2        TO THAT, TOO.

3            Q        YOU WERE STILL LIVING THERE ON AUGUST THE  
4        31ST OF 1995?

5            A        YES, I WAS STILL LIVING THERE, YES.

6            Q        YOU SAY YOU'D BEEN THERE FOR ABOUT TWO  
7        MONTHS?

8            A        YES.

9            Q        HAD YOU BEEN LIVING CONTINUOUSLY THERE?

10          A        YES.

11          Q        ON AUGUST THE 30TH AND 31ST, WERE YOU  
12        PHYSICALLY AT THE TRAILER?

13          A        NO, NOT AT DEBORAH'S HOUSE. I WENT TO WORK  
14        AND THEN I WENT ON THE OTHER SIDE OF TOWN.

15          Q        DO YOU KNOW FROM YOUR CONVERSATIONS WITH  
16        DEBORAH PANOS WHETHER THE DEFENDANT, MR. CHAPPELL, HAD A  
17        DRUG PROBLEM?

18          A        FROM WHAT DEBORAH TOLD ME, YES.

19          Q        WHAT DID SHE TELL YOU ABOUT THIS DRUG  
20        PROBLEM?

21          A        THAT 95 PERCENT OF THE TIME, WHEN HE WENT TO  
22        THE TRAILER, IT WAS FOR MONEY AND HE WOULD BE HIGH, AND  
23        SOMETIMES WHEN HE CAME TO OUR JOB, THAT HE WOULD BE  
24        HIGH.

25          Q        DID SHE TELL YOU WHAT TYPE OF DRUG HE WOULD

1 BE HIGH ON?

2 A SHE TOLD ME CRACK.

3 Q CRACK COCAINE?

4 A YES.

5 Q DURING THE APPROXIMATELY TWO MONTHS PRIOR TO  
6 AUGUST THE 31ST, 1995 WHEN YOU LIVED AT 839 NORTH LAMB,  
7 SPACE 125, TO YOUR KNOWLEDGE, DID THE DEFENDANT EVER  
8 HAVE A KEY TO THE TRAILER?

9 A NO.

10 Q WAS HE ACTUALLY LIVING THERE AT ANY TIME  
11 WHEN YOU LIVED THERE?

12 A NO.

13 Q FROM THE TIME THAT YOU BECAME AWARE OF THE  
14 RELATIONSHIP THE DEFENDANT HAD WITH MISS PANOS AND BASED  
15 UPON CONVERSATIONS WITH HER, DO YOU KNOW IF MR. CHAPPELL  
16 EVER HAD A KEY TO 839 NORTH LAMB, SPACE 125?

17 A NO.

18 Q YOU DON'T KNOW OR KNOW HE DIDN'T?

19 A NO, HE DIDN'T. TO MY KNOWLEDGE, HE NEVER  
20 OWNED A KEY.

21 Q DID SHE TELL YOU THAT NEVERTHELESS, HE WOULD  
22 COME IN ON OCCASION?

23 A YES.

24 Q HOW WOULD HE GET IN?

25 A THROUGH THE WINDOW.

1 Q DID YOU BECOME AWARE THROUGH HER THAT HE  
2 WOULD STEAL THINGS FROM HER AND THE CHILDREN?

3 A YES.

4 Q WHAT TYPES OF THINGS?

5 A WHEN I FIRST MET HER, SHE TOLD ME THAT THE  
6 T.V.'S WERE GONE, THE V.C.R.'S WERE GONE, THE MICROWAVE  
7 THAT SAT IN THE LITTLE COVE IN THE KITCHEN WAS GONE.

8 Q YOU ARE TELLING US THAT SHE TOLD YOU THAT  
9 THESE THINGS WERE GONE. DID SHE TELL YOU WHO TOOK THEM?

10 A YES, SHE HAD MENTIONED THAT JAMES HAD TAKEN  
11 THEM.

12 Q JAMES CHAPPELL, THE DEFENDANT?

13 A YES.

14 Q DID SHE TELL YOU WHY HE WOULD BE STEALING  
15 THINGS FROM HER?

16 A TO GET DRUGS.

17 Q DID SHE TELL YOU WHETHER HE PESTERED HER FOR  
18 MONEY?

19 A YES.

20 Q WHAT DID SHE TELL YOU?

21 A THAT SOMETIMES WHEN HE CAME OVER, HE WOULD  
22 BE HIGH, THEY WOULD ARGUE BECAUSE HE WOULD WANT MONEY,  
23 SHE WAS ON WELFARE. SHE WOULD LEAVE HER FOOD STAMPS AT  
24 OTHER PEOPLE'S HOUSES WHEN SHE COLLECTED THEM SO HE  
25 WOULDN'T GET THEM.

1 Q A WITNESS WHO PRECEDED YOU IDENTIFIED  
2 HERSELF AS CLAIRE MC GUIRE. DO YOU KNOW CLAIRE  
3 MC GUIRE?

4 A YES, I DO.

5 Q ARE YOU AWARE THAT THERE CAME A TIME IN THE  
6 SPRING OR EARLY SUMMER OF 1995 WHEN CLAIRE MC GUIRE  
7 MOVED IN TO 839 NORTH LAMB, SPACE 125?

8 A YES.

9 Q DID SHE BRING FROM ARIZONA QUITE A BIT OF  
10 PROPERTY?

11 A YES, SHE DID.

12 Q WHERE DID SHE STORE THE PROPERTY?

13 A IT WAS ALL IN DEBORAH'S TRAILER.

14 Q DO YOU KNOW WHAT HAPPENED TO A SUBSTANTIAL  
15 PART OF THE PROPERTY SHE STORED THERE?

16 A FROM CLAIRE AND FROM DEBORAH, YES, IT WAS  
17 TAKEN BY JAMES.

18 Q DID THEY TELL YOU WHAT TYPE OF PROPERTY WAS  
19 TAKEN BY JAMES?

20 A ANOTHER T.V., A V.C.R., THE STEREO.

21 Q IN ADDITION TO THE INCIDENT WHERE YOU SAW  
22 THE DEFENDANT SLAP DEBORAH OUTSIDE OF THE WORKPLACE, ARE  
23 YOU AWARE, BASED UPON CONVERSATIONS WITH DEBORAH PANOS,  
24 OF OTHER ACTS OF PHYSICAL VIOLENCE?

25 A YES.

1 Q DO YOU HAVE KNOWLEDGE OF THE TIME WHEN MR.  
2 CHAPPELL CHOKED HER?

3 A YES.

4 Q ARE YOU ABLE TO ESTIMATE ABOUT WHEN THAT  
5 OCCURRED?

6 A I WOULD SAY AROUND THE END OF MAY, FIRST  
7 WEEK OF JUNE.

8 Q IS IT SOMETHING YOU PERSONALLY OBSERVED?

9 A NO.

10 Q HOW DID YOU LEARN IT HAD HAPPENED?

11 A SHE CALLED ME ON THE PHONE THAT NIGHT  
12 CRYING.

13 Q TO DIGRESS FOR JUST A MOMENT, YOU SAID  
14 PERHAPS THE END OF MAY OR FIRST WEEK OF JUNE. ARE YOU  
15 TALKING ABOUT THE YEAR 1995?

16 A YES.

17 Q NOW, YOU SAY SHE CALLED YOU ON THE  
18 TELEPHONE?

19 A YES.

20 Q IS IT A DAYTIME OR A NIGHTTIME CALL?

21 A IT'S A NIGHTTIME CALL.

22 Q DO YOU REMEMBER ABOUT WHAT TIME IT WAS SHE  
23 CALLED?

24 A IT WAS LATE. IT WAS AFTER 9:00 OR 10:00.

25 Q DO YOU RECALL HOW DEBORAH PANOS WAS ACTING

1 WHEN SHE CALLED?

2 A SHE WAS CRYING.

3 Q DID SHE TELL YOU WHY SHE WAS CRYING?

4 A YES.

5 Q WHAT DID SHE TELL YOU?

6 A SHE TOLD ME THAT HER AND JAMES HAD HAD A  
7 FIGHT AND THAT HE HAD CHOKED HER AND THERE WERE MARKS ON  
8 HER NECK AND SHE WAS VERY UPSET.

9 Q DID SHE TELL YOU THAT AT THAT TIME SHE  
10 BECAME VERY AFRAID OF JAMES CHAPPELL?

11 A YES, SHE DID.

12 Q WHAT DO YOU REMEMBER HER SAYING ABOUT THAT?

13 A THAT HE WAS STANDING IN FRONT OF HER AND SHE  
14 WAS LOOKING INTO HIS EYES AND IT WAS AT THAT MOMENT THAT  
15 SHE BECAME AFRAID, TRULY AFRAID, OF JAMES.

16 Q THE FOLLOWING MORNING, DID YOU SEE DEBORAH?

17 A YES, I DID.

18 Q WHERE WAS IT THAT YOU SAW HER?

19 A AT WORK.

20 Q AT G.E. CAPITAL?

21 A YES.

22 Q AT THAT TIME, DID SHE SHOW YOU ANY EVIDENCE  
23 THAT WAS ON HER BODY OF THE DEFENDANT CHOKING HER?

24 A YES, SHE DID.

25 Q WHAT DID YOU SEE?



1           A       FOUR FINGERPRINTS HERE, A THUMBPRINT HERE,  
2           AND TWO SCRATCHES RIGHT HERE (INDICATING).

3           Q       WHEN YOU SAID FOUR FINGERPRINTS HERE, WERE  
4           YOU REFERRING TO THE LEFT SIDE OF YOUR NECK?

5           A       YES.

6           Q       AND YOU INDICATED THE THUMBPRINT AND WAS  
7           THAT TO THE RIGHT SIDE OF YOUR NECK?

8           A       LIKE THIS (INDICATING) AND TWO SCRATCHES  
9           DOWN THE SIDE RIGHT HERE.

10          Q       AND YOU SAID TWO SCRATCHES?

11          A       UH-HUH.

12          Q       ON THE RIGHT SIDE ALSO OF HER NECK?

13          A       (WITNESS NODDING HEAD.) YES.

14          Q       YOU HAVE TO ANSWER OUT LOUD.

15          A       OH, YES. I'M SORRY.

16          Q       BASED UPON WHAT YOU COULD SEE ABOUT A  
17          THUMBPRINT AND FINGERPRINTS ON HER NECK, WAS IT APPARENT  
18          THAT SOMEONE HAD GRABBED HER AROUND THE NECK?

19          A       YES.

20          Q       WE'VE HAD EVIDENCE IN THIS COURTROOM THAT A  
21          KNIFE WAS USED TO THREATEN DEBORAH ON JUNE THE 1ST OF  
22          1995.

23                       DID YOU HEAR ABOUT THAT INCIDENT ALSO?

24          A       YES, I DID.

25          Q       FROM WHOM DID YOU HEAR ABOUT IT?

1 A FROM DEBORAH.

2 Q WHAT DID SHE TELL YOU HAPPENED?

3 A THAT THEY WERE FIGHTING AND THAT --

4 Q THAT WHO WAS FIGHTING?

5 A HER AND JAMES WERE FIGHTING, AND THAT HE HAD  
6 THROWN HER ON THE BED AND HIS KNEES WERE UP HERE AND  
7 THERE WAS A KNIFE TO HER THROAT (INDICATING).

8 Q DID SHE TELL YOU WHAT TYPE OF KNIFE IT WAS?

9 A NO.

10 Q DID SHE TELL YOU WHETHER SHE WAS AFRAID AS A  
11 RESULT OF THE DEFENDANT HAVING THE KNIFE UP TO HER  
12 THROAT?

13 A YES.

14 Q WHAT DID SHE SAY?

15 A THAT AFTER THAT HAD HAPPENED AND EVERYTHING  
16 CALMED DOWN, SHE WAS VERY AFRAID.

17 Q DURING THE TIME FRAME WHEN YOU ACTUALLY  
18 LIVED WITH HER, DID YOU HAVE MANY CONVERSATIONS WITH HER  
19 WHEREIN SHE EXPRESSED OR HER ATTITUDE TOWARD THE  
20 DEFENDANT, MR. CHAPPELL?

21 A YES.

22 Q IN YOUR OPINION, DID SHE CONTINUE TO BE  
23 AFRAID OF HIM?

24 A YES.

25 Q DID SHE HAVE ANY INTEREST IN CONTINUING A

1 RELATIONSHIP WITH JAMES CHAPPELL?

2 A NO.

3 Q TO YOUR KNOWLEDGE, WAS HE WELCOME AT SPACE  
4 125 AT 839 NORTH LAMB?

5 A NO.

6 Q DURING THE TIME THAT YOU LIVED THERE, DO YOU  
7 KNOW WHETHER THE DEFENDANT WAS IN CUSTODY?

8 A AT ONE POINT HE WAS, YES.

9 Q DID DEBORAH HAVE AN INTEREST IN KNOWING  
10 WHETHER HE CONTINUED TO BE IN JAIL?

11 A YES, SHE DID.

12 Q WHY DO YOU KNOW THIS?

13 A BECAUSE WE WERE THERE SEVERAL TIMES, SHE  
14 WOULD CALL EVERY DAY TO MAKE SURE HE WAS STILL THERE.  
15 EVERY DAY.

16 Q SHE WOULD CALL EVERY DAY WHERE, TO MAKE SURE  
17 HE WAS STILL IN?

18 A TO THE CLARK COUNTY JAIL, TO MAKE SURE HE  
19 HAD NOT BEEN RELEASED.

20 Q DO YOU KNOW IF DEBORAH PANOS WANTED MR.  
21 CHAPPELL TO LEAVE LAS VEGAS AND GO BACK TO MICHIGAN?

22 A YES, SHE DID.

23 Q HOW DO YOU KNOW THAT?

24 A BECAUSE WE WERE ALL GIVING HER -- HELPING  
25 HER WITH THE MONEY TO EITHER TO GIVE HIM A CHOICE OF A

1 BUS TICKET OR A PLANE TICKET BACK TO MICHIGAN.

2 Q WAS HE WILLING TO GO?

3 A ON ONE CIRCUMSTANCE.

4 Q WHAT DO YOU MEAN ON ONE CIRCUMSTANCE?

5 A HE HAD TOLD DEBORAH THAT -- WELL, DEBORAH  
6 TOLD ME THAT HE HAD TOLD HER THAT HE WOULD LEAVE  
7 LAS VEGAS ON ONE CONDITION, AND THAT ONE CONDITION WAS  
8 THAT HE WOULD TAKE CHANTELE WITH HIM.

9 Q CHANTELE IS DEBORAH'S YOUNGEST CHILD?

10 A YOUNGEST CHILD.

11 Q WAS SHE AGREEABLE TO THAT CONDITION?

12 A ABSOLUTELY NOT.

13 Q DID YOU SEE YOUR CO-WORKER AND FRIEND,  
14 DEBORAH PANOS, AUGUST THE 30TH, 1995?

15 A YES, I DID.

16 Q WHERE WERE YOU WHEN YOU SAW HER ON THAT DAY?

17 A AT WORK.

18 Q DO YOU KNOW WHETHER SHE INTENDED TO LEAVE  
19 WORK EARLY THAT DAY?

20 A YES.

21 Q DID YOU KNOW WHERE SHE WAS GOING?

22 A YES, I DID.

23 Q WHERE WAS SHE GOING?

24 A TO THE COURTHOUSE.

25 Q DO YOU KNOW WHETHER SHE WAS REQUIRED TO GO

1 TO THE COURTHOUSE ON THAT DAY?

2 A YES, I SAW THE SUBPOENA. SHE HAD A SUBPOENA  
3 TO APPEAR IN COURT.

4 Q WAS IT A SUBPOENA DIRECTED TO HER?

5 A YES.

6 Q WAS SHE TO BE A WITNESS ON A CASE?

7 A YES.

8 Q DID YOU KNOW WHAT CASE SHE WAS TO BE A  
9 WITNESS ON?

10 A SHE WAS TO TESTIFY AGAINST JAMES THAT DAY.

11 Q THAT DAY BEING AUGUST THE 30TH, 1995?

12 A YES.

13 Q WHAT CASE WAS IT THAT SHE WAS TO TESTIFY  
14 AGAINST JAMES CHAPPELL ON?

15 A ON THE ONE WHERE HE PUT THE KNIFE TO HER  
16 THROAT.

17 Q THE ONE OCCURRING ON OR ABOUT JUNE THE 1ST,  
18 1995?

19 A YES.

20 Q I'M NOT SURE IF YOU ANSWERED OUT LOUD.

21 A OH, YES. I'M SORRY.

22 Q IN FACT, DID DEBORAH PANOS LEAVE WORK EARLY?

23 A YES, SHE DID.

24 Q TO YOUR KNOWLEDGE, DID SHE GO TO COURT?

25 A THAT'S WHAT SHE TOLD ME, YES.

1 Q DID YOU TALK WITH HER AFTER SHE WENT TO THE  
2 COURT?

3 A YES, ON THE PHONE.

4 Q DO YOU REMEMBER ABOUT WHAT TIME YOU HAD A  
5 TELEPHONE CONVERSATION?

6 A EARLY AFTERNOON, ABOUT 2:00, 2:30. I WAS  
7 STILL AT WORK.

8 Q YOU'RE JUST ESTIMATING ON THE TIME?

9 A YES.

10 Q YOU SAID ABOUT 2:00 OR 2:30?

11 A I GOT OFF WORK AT 4:30 AND IT WAS BEFORE  
12 THEN.

13 Q IT WAS DEFINITELY BEFORE YOU LEFT AT G.E.  
14 CAPITAL?

15 A YES.

16 Q ABOUT HOW LONG DID YOU TALK WITH DEBORAH AT  
17 THAT TIME?

18 A 15, 20 MINUTES.

19 Q DID YOU LEARN FROM HER DURING THE TELEPHONE  
20 CONVERSATION THAT SHE HAD GONE TO THE MUNICIPAL COURT?

21 A THAT'S WHAT SHE TOLD ME, YES.

22 Q DID SHE TELL YOU WHETHER SHE HAD HAD TO  
23 TESTIFY?

24 A NO, SHE DIDN'T TELL ME THAT SHE TESTIFIED,  
25 BUT SHE TOLD ME THAT SHE DID APPEAR IN COURT.

1 Q DID SHE TELL YOU WHETHER SHE LEARNED  
2 ANYTHING FROM THE COURT ABOUT THE STATUS OF THE  
3 DEFENDANT?

4 A OH, YES.

5 Q WHAT DID SHE TELL YOU?

6 A THAT HE WAS TO BE TAKEN TO AN INPATIENT DRUG  
7 REHABILITATION CENTER FOR 90 DAYS.

8 Q ACCORDING TO HER, WAS SHE ASSURED BY THE  
9 COURT THAT HE WOULDN'T BE RELEASED ANY QUICKER THAN THE  
10 90 DAYS, AFTER HE HAD COMPLETED THE DRUG REHABILITATION  
11 PROGRAM?

12 A YES.

13 Q DID SHE EXPRESS ANY SENSE OF RELIEF THAT HE  
14 HE WOULD BE IN THE PROGRAM FOR THAT PERIOD OF TIME?

15 A YES.

16 Q WAS IT A RELIEF TO YOU?

17 A YES.

18 Q AND TO OTHERS WHO WERE CLOSELY ACQUAINTED  
19 WITH HER?

20 A YES. ONCE WE HEARD THAT FROM DEBORAH, WE  
21 ALL FELT WE WERE LIKE IN A SAFE ZONE.

22 Q WHEN YOU HAD THE TELEPHONE CONVERSATION WITH  
23 DEBBIE PANOS, MID AFTERNOON AUGUST THE 30TH, 1995, DID  
24 YOU HAVE ANY IDEA THAT IN LESS THAN 24 HOURS, THE  
25 DEFENDANT WOULD, IN FACT, BE RELEASED?

1 A ABSOLUTELY NONE.

2 Q WAS THERE ANYTHING THAT DEBBIE SAID TO YOU  
3 THAT SUGGESTED THAT SHE HAD ANY IDEA THAT WHAT SHE HAD  
4 LEARNED FROM THE COURT, THE MUNICIPAL COURT, WAS WRONG?

5 A NO.

6 Q NOW, YOU SAID THAT SHE DIDN'T SAY WHETHER  
7 SHE TESTIFIED?

8 A NO, I DIDN'T ASK HER DID SHE ACTUALLY GET UP  
9 ON THE STAND. BUT SHE DID TELL ME SHE WAS IN THE  
10 COURTROOM.

11 Q INSIDE THE COURTROOM?

12 A YES.

13 Q DID SHE TELL YOU WHETHER SHE HAD ANY CONTACT  
14 WITH THE DEFENDANT, MR. CHAPPELL?

15 A YES.

16 Q DID SHE TELL YOU HOW IT WAS THAT SHE HAD  
17 CONTACT WITH HIM?

18 A NO.

19 Q DID SHE TELL YOU WHETHER SHE HAD A  
20 CONVERSATION WITH HIM?

21 A YES.

22 Q DO YOU KNOW WHETHER IT WAS ACTUALLY IN THE  
23 COURTROOM OR IN THE JAIL AFTER THE COURT HAD RECESSED?

24 A NO.

25 Q YOU DON'T KNOW WHICH IT WAS?



1 A NO. I --

2 Q YOU STARTED TO SAY SOMETHING ELSE?

3 A BY MY UNDERSTANDING, IT WAS IN HERE, IN THE  
4 COURTROOM.

5 BUT, I MEAN, SHE DIDN'T ACTUALLY TELL  
6 ME EXACTLY WHERE.

7 Q BUT BY "IN HERE," THAT SUGGESTS THIS VERY  
8 COURTROOM.

9 A I MEAN IN THE COURTROOM.

10 Q YOU WOULDN'T HAVE ANY IDEA WHAT COURTROOM IT  
11 WAS; IS THAT CORRECT?

12 A NO, THAT'S CORRECT.

13 Q BUT YOU CONCLUDED FROM WHAT SHE SAID TO YOU  
14 THAT HER CONVERSATION WITH THE DEFENDANT OCCURRED IN  
15 COURT?

16 A YES.

17 Q CAN YOU, HOWEVER, RULE OUT THE POSSIBILITY  
18 THAT IT MAY HAVE OCCURRED AFTER COURT AT THE JAIL?

19 A NO.

20 Q DID SHE TELL YOU WHETHER SHE HAD SAID  
21 ANYTHING TO MR. CHAPPELL DURING THE CONVERSATION ABOUT  
22 WHETHER SHE AND HE HAD ANY TYPE OF FUTURE?

23 A YES.

24 Q WHAT DID SHE TELL YOU?

25 A THAT SHE TOLD JAMES THAT SHE WAS TIRED OF

1 RUNNING. IT WAS DONE. IT WAS FINISHED. IT WAS OVER.

2 Q DID SHE TELL YOU WHETHER HE HAD ANY TYPE OF  
3 RESPONSE?

4 A THAT -- YES.

5 Q WHAT DID SHE TELL YOU?

6 A SHE TOLD ME THAT JAMES TOLD HER HE WAS GOING  
7 TO KILL HER.

8 Q HE SAID HE WAS GOING TO KILL HER?

9 A YES.

10 Q DID SHE EXPRESS CONCERN OVER BEING TOLD THAT  
11 BY MR. CHAPPELL?

12 A YES. SHE WAS SCARED. BUT WE WERE ALL UNDER  
13 THE -- THAT HE WASN'T GOING TO GET OUT FOR 90 DAYS.

14 Q BUT YOU ASSUMED YOU HAD A 90-DAY SAFETY  
15 ZONE?

16 A YES.

17 Q WAS IT THE INTENTION OF DEBORAH PANOS TO  
18 MOVE FROM 839 NORTH LAMB, SPACE 125?

19 A YES.

20 Q HAD SHE BEGUN TO PACK CLOTHES?

21 A YES.

22 Q IN FACT, WAS SHE STORING CLOTHES IN  
23 SOMEPLACE OTHER THAN INSIDE THE TRAILER?

24 A YES.

25 Q WHERE?

1 A IN HER CAR, IN HER TRUNK.

2 Q DID YOU KNOW WHERE SHE WAS GOING TO MOVE?

3 A YES.

4 Q WHERE WAS SHE GOING TO MOVE?

5 A UP IN SUMMERLIN IN J.R.'S HOUSE.

6 Q TO YOUR KNOWLEDGE, DID DEBORAH PANOS HAVE  
7 ANY INTENTION OF STILL BEING IN THE BALLERINA MOBILE  
8 HOME PARK WHEN THE DEFENDANT, MR. CHAPPELL, WAS RELEASED  
9 FROM CUSTODY OR FROM THE DRUG REHABILITATION PROGRAM?

10 A NO, SHE WAS NOT GOING TO BE THERE.

11 Q DID YOU SEE DEBORAH THE FOLLOWING DAY,  
12 AUGUST THE 31ST?

13 A YEAH, FOR A MINUTE AT WORK.

14 Q YOU SAW HER AT WORK?

15 A YES.

16 Q YOU HADN'T SEEN HER THE PREVIOUS NIGHT AT  
17 THE BALLERINA MOBILE HOME MARK?

18 A NO.

19 Q BUT YOU SAID YOU WERE STILL LIVING THERE?

20 A YES.

21 Q AND I'M A LITTLE BIT CONFUSED.

22 A I WAS LIVING THERE, BUT ON THE DAY SHE WENT  
23 TO COURT, I WENT ACROSS TOWN TO SPEND SOME TIME WITH MY  
24 DAUGHTER, SO I DIDN'T GO BACK TO THE MOBILE HOME PARK  
25 THAT NIGHT. I JUST WENT TO WORK FROM MY MOTHER'S HOUSE.

1 Q SO YOU SAW HER AT WORK ON THE 30TH?

2 A UH-HUH.

3 Q AND WHILE YOU WERE STILL AT WORK, YOU TALKED  
4 WITH HER ON THE TELEPHONE.

5 A UH-HUH.

6 Q YOU HAVE TO ANSWER YES OR NO.

7 A OH, YES.

8 Q YOU'RE SAYING THAT THE FOLLOWING MORNING,  
9 AUGUST THE 31ST, YOU SAW HER AGAIN AT WORK.

10 A YES.

11 Q DID YOU SPEAK BRIEFLY WITH HER?

12 A YES.

13 Q DID SHE APPEAR TO BE HEALTHY?

14 A YES.

15 Q DID YOU NOTICE ANY MARKS ON HER FACE OR  
16 FOREHEAD OR ANYWHERE ON HER PERSON AT THAT TIME?

17 A NO.

18 Q DO YOU KNOW HOW LONG SHE REMAINED AT WORK?

19 A NOT EXACTLY. HER AND MICHAEL AND LISA, THEY  
20 ALL LEFT BEFORE I DID THAT DAY.

21 Q MICHAEL IS MICHAEL WHOM?

22 A MICHAEL POLLARD.

23 Q P-O-L-L-A-R-D?

24 A A-R-D, RIGHT.

25 Q YOU HAVE REFERRED TO A LISA. IS THAT LISA

1 DURAN?

2 A YES.

3 Q D-U-R-A-N?

4 A YES.

5 Q DID YOU HAVE ANY TYPE OF UNDERSTANDING THAT  
6 YOU WOULD MEET WITH DEBORAH PANOS LATER THAT DAY?

7 A YES.

8 Q WHAT WAS SUPPOSED TO HAPPEN?

9 A WE WERE ALL GOING TO GET TOGETHER AND GO TO  
10 LORENZI PARK FOR A BARBECUE.

11 Q WHEN YOU SAY YOU WERE ALL GOING TO GET  
12 TOGETHER, WHAT OTHER PERSONS BESIDES YOU AND DEBORAH?

13 A ME, DEBORAH, LISA, MICHAEL, HER KIDS, LISA'S  
14 DAUGHTER, MY DAUGHTER.

15 Q WAS THE UPCOMING WEEKEND A SPECIAL OCCASION?

16 A YES.

17 Q WHAT WAS THE OCCASION?

18 A IT WAS THE HOLIDAY AND DEBORAH WAS VERY  
19 EXCITED BECAUSE SHE HAD ALMOST SEVEN DAYS OFF.

20 Q THE UPCOMING HOLIDAY WAS LABOR DAY WEEKEND?

21 A LABOR DAY, YES.

22 Q DID YOU EVER SEE DEBORAH AGAIN AFTER SHE  
23 LEFT WORK THAT MORNING AUGUST THE 31ST?

24 A NO.

25 Q YOU DIDN'T HAVE ANY BARBECUE AT LORENZI

1 PARK?

2 A NO.

3 MR. HARMON: COURT'S INDULGENCE.

4 THE COURT: SURE.

5 (BRIEF PAUSE IN PROCEEDINGS.)

6 MR. HARMON: THAT CONCLUDES THE DIRECT.

7

8 CROSS-EXAMINATION

9 BY MR. EWING:

10 Q YOU TESTIFIED YOU LIVED IN LAS VEGAS FOR  
11 ABOUT NINE YEARS?

12 A YES.

13 Q AND THAT YOU MET DEBORAH AT G.E. CAPITAL?

14 A YES.

15 Q DID YOU KNOW HER APPROXIMATELY A  
16 YEAR-AND-A-HALF BEFORE SHE DIED?

17 A YES.

18 Q DURING THE YEAR-AND-A-HALF THAT YOU KNEW HER  
19 AT G.E. CAPITAL, WHEN DID YOU START SEEING JAMES COME BY  
20 THE WORKPLACE?

21 A IN '95.

22 Q DO YOU RECALL APPROXIMATELY WHAT MONTH IN  
23 '95?

24 A THE FIRST TIME I SEEN HIM, I DON'T REMEMBER  
25 WHAT MONTH THAT WAS. THE SECOND TIME I SEEN HIM, HE

1 CAME BY AND HE WAS IN RED SHIRT, BLUEJEANS.

2 Q DO YOU RECALL APPROXIMATELY WHEN, WHAT MONTH  
3 THAT WAS?

4 A I BELIEVE IT WAS IN MAY.

5 Q MAY OF '95?

6 A YES.

7 Q AND THAT WAS THE SECOND TIME YOU SAW HIM  
8 COME BY THE WORKPLACE?

9 A YES.

10 Q DO YOU REMEMBER APPROXIMATELY WHAT MONTH THE  
11 FIRST TIME WAS?

12 A IT WAS RIGHT AFTER -- NOT VERY LONG AFTER  
13 SHE HAD STARTED. SHE STARTED G.E. NOVEMBER 14TH OF '94.

14 Q THE FIRST TIME WAS SOMETIME AROUND NOVEMBER  
15 OF '94, NOVEMBER, DECEMBER OF '94?

16 A IT WAS AFTER THAT.

17 Q THE INCIDENT WHERE YOU SAW DEBORAH BEING  
18 SLAPPED, WAS THAT IN MAY OF '95?

19 A NO, THAT WAS PRIOR TO THAT, IN THE PARKING  
20 LOT.

21 Q SO THAT WAS -- THE FIRST TIME YOU SAW JAMES  
22 WAS IN DECEMBER OF '94, APPROXIMATELY?

23 A YEAH.

24 Q THE SECOND TIME WAS IN MAY OF '95?

25 A YES.

1 Q SO THE SLAPPING OCCURRED IN DECEMBER OF '94?

2 A I BELIEVE SO, YES.

3 Q SHORTLY AFTER SHE CAME TO WORK THERE?

4 A YES.

5 Q DID YOU SEE HIM COME BY ANY OTHER TIMES  
6 OTHER THAN THOSE TWO TIMES?

7 A NOT -- I DIDN'T SEE HIM THERE, NO. THOSE  
8 ARE THE ONLY TIMES I ACTUALLY PHYSICALLY SAW HIM.

9 Q WERE THEY -- WHEN YOU SAW THIS SLAP IN THE  
10 PARKING LOT, WERE THEY IN THE VEHICLE?

11 A YES.

12 Q DO YOU RECALL WHO WAS IN THE DRIVER'S SEAT?

13 A NO.

14 Q YOU MOVED INTO THE BALLERINA MOBILE HOME  
15 PARK IN JULY OF '95?

16 A YEAH.

17 Q AND YOU LIVED THERE FOR APPROXIMATELY TWO  
18 MONTHS?

19 A YEAH.

20 Q DURING THAT TIME, YOU NEVER SAW JAMES IN OR  
21 AROUND THE TRAILER?

22 A NO.

23 Q BECAUSE IT WAS YOUR UNDERSTANDING HE WAS IN  
24 JAIL?

25 A YES.



1 Q WAS IT DEBORAH THAT TOLD YOU THAT JAMES  
2 WOULD CRAWL THROUGH THE BEDROOM MASTER WINDOW AT TIMES?

3 A YES.

4 Q WHEN DID SHE TELL YOU THAT?

5 A WHEN WE WOULD BE AT WORK AND AN INCIDENT  
6 THAT HAD OCCURRED OR WHATEVER, AND WE WOULD ASK HER HOW  
7 HE GOT IN.

8 Q WAS THIS ALSO AROUND MAY OF 1995?

9 A IT WAS ON SEVERAL OCCASIONS, BUT YEAH, THAT  
10 WAS ONE OF THEM.

11 Q DID YOU EVER HAVE OCCASION TO TALK TO THE  
12 POLICE ABOUT THIS PARTICULAR OCCASION?

13 A DID I TALK TO THE POLICE?

14 Q YES.

15 A NO.

16 Q DID YOU HAVE AN OPPORTUNITY TO TALK TO A  
17 REPRESENTATIVE OF THE DISTRICT ATTORNEY'S OFFICE ABOUT  
18 THE CASE?

19 A NOT UNTIL I GOT MY SUBPOENA.

20 Q WHEN DID YOU GET YOUR SUBPOENA?

21 A THE LAST WEEK OF SEPTEMBER, I BELIEVE, OF  
22 '96.

23 Q DO YOU RECALL APPROXIMATELY HOW LONG AGO YOU  
24 FIRST SPOKE WITH SOMEONE FROM THE DISTRICT ATTORNEY'S  
25 OFFICE?

1           A       THE LAST WEEK OF SEPTEMBER OR THE FIRST WEEK  
2       OF OCTOBER.

3           Q       AND DID YOU TELL THAT PERSON WHAT YOU KNEW  
4       ABOUT THIS CASE?

5           A       YES.

6           Q       DID YOU TELL THAT PERSON THAT DEBORAH TOLD  
7       YOU THAT JAMES USED TO GO THROUGH THE WINDOW OF THE  
8       TRAILER?

9           A       YES.

10          Q       AND THAT WAS THE LAST WEEK OF SEPTEMBER OF  
11       1996?

12          A       OR THE FIRST WEEK OF OCTOBER.

13          Q       FIRST WEEK OF OCTOBER.

14          A       THE SUBPOENA SAID OCTOBER 7TH. IT WAS -- TO  
15       APPEAR OCTOBER 7TH.

16          Q       YOU MENTIONED AN INCIDENT WHERE DEBORAH TOLD  
17       YOU SHE WAS CHOKED.

18          A       YES.

19          Q       WAS THIS ALSO IN MAY OF 1995 OR JUNE OF  
20       1995, IF YOU REMEMBER?

21          A       I REMEMBER -- YEAH, MAY OR JUNE, THE  
22       LAST WEEK OF MAY, FIRST WEEK OF JUNE.

23          Q       AND THERE WAS THE FIRST TIME SHE TRULY  
24       BECAME SCARED OF JAMES?

25          A       WHEN HE STOOD IN FRONT OF HER, YES.

1 Q MAY OR JUNE OF 1995?

2 A (WITNESS NODS HEAD.)

3 Q IS THAT CORRECT?

4 A YES.

5 Q YOU WEREN'T AROUND JAMES OR DEBORAH WHEN  
6 THEY LIVED IN LANSING, MICHIGAN, WERE YOU?

7 A NO.

8 Q AND YOU WEREN'T AROUND JAMES OR DEBORAH WHEN  
9 THEY LIVED IN TUCSON?

10 A NO.

11 Q JUST THE LAST YEAR AND A HALF OF DEBORAH'S  
12 LIFE IS WHEN YOU KNEW HER, CORRECT?

13 A YES.

14 Q AND WOULD IT BE SAFE TO SAY THAT A MAJORITY  
15 OF INCIDENTS YOU'VE BEEN TESTIFYING ABOUT OCCURRED IN  
16 MAY OR JUNE OF 1995?

17 A NO. ONE OF THEM OCCURRED BEFORE THAT, LIKE  
18 THREE WEEKS AFTER SHE STARTED AT G.E. CAPITAL.

19 Q THE ONE THAT YOU TESTIFIED HAPPENED IN  
20 DECEMBER, APPROXIMATELY, OF 1994?

21 A NOT WHEN HE SLAPPED HER, NO. ANOTHER  
22 INCIDENT.

23 Q IS THIS SOMETHING YOU SAW OR SOMETHING YOU  
24 HEARD ABOUT?

25 A I DIDN'T ACTUALLY SEE THE ABUSE, NO, BUT I

1 SAW THE AFTERMATH.

2 Q YOU TESTIFIED THE TWO MONTHS THAT YOU WERE  
3 LIVING IN THE APARTMENT THAT DEBORAH WOULD CALL THE JAIL  
4 TO SEE IF JAMES WAS STILL IN CUSTODY?

5 A YES.

6 Q DID YOU ALSO SEE OCCASIONS WHEN SHE'D SPEAK  
7 TO JAMES ON THE TELEPHONE?

8 A ONCE.

9 Q DID HE CALL?

10 A YES.

11 Q AND SHE ACCEPTED THE CALL?

12 A NO.

13 Q DID YOU ACCEPT THE CALL?

14 A I ACCEPTED A COUPLE OF THEM, YES.

15 Q BUT ONLY ONE TIME THAT YOU ACCEPTED THE CALL  
16 THAT DEBBIE TALKED TO JAMES, IS THAT WHAT YOU'RE SAYING?

17 A IN FRONT OF ME, YES.

18 Q WERE THERE OTHER TIMES SHE TALKED TO JAMES  
19 OUTSIDE OF YOUR PRESENCE THAT YOU'RE AWARE OF?

20 A NO. WE WORKED DIFFERENT SHIFTS AT G.E.

21 Q SO THERE COULD HAVE BEEN. YOU'RE JUST NOT  
22 AWARE OF THEM?

23 A I'M NOT AWARE OF THEM.

24 MR. EWING: COURT'S INDULGENCE.

25 (BRIEF PAUSE IN PROCEEDINGS.)

1 MR. EWING: I DON'T HAVE ANY OTHER  
2 QUESTIONS.

3 MR. HARMON: NO REDIRECT, YOUR HONOR.

4 THE COURT: MAY THIS WITNESS BE DISCHARGED?

5 MR. HARMON: YES, JUDGE.

6 THE COURT: THANK YOU, MA'AM. YOU MAY STEP  
7 DOWN.

8 (WHEREUPON, MICHELLE MANCHA  
9 WITHDREW FROM THE COURTROOM.)

10 THE COURT: LADIES AND GENTLEMEN, WE WILL  
11 TAKE OUR AFTERNOON RECESS AT THIS TIME.

12 DURING THIS RECESS, IT IS YOUR DUTY  
13 NOT TO CONVERSE AMONG YOURSELVES OR WITH ANYONE ELSE ON  
14 ANY SUBJECT CONNECTED WITH THE TRIAL; OR TO READ, WATCH  
15 OR LISTEN TO ANY REPORT OF OR COMMENTARY ON THE TRIAL BY  
16 ANY PERSON CONNECTED WITH THE TRIAL; OR BY ANY MEDIUM OF  
17 INFORMATION, INCLUDING, WITHOUT LIMITATION, NEWSPAPER,  
18 TELEVISION AND RADIO; AND YOU ARE NOT TO FORM OR EXPRESS  
19 AN OPINION ON ANY SUBJECT CONNECTED WITH THE CASE UNTIL  
20 IT IS FINALLY SUBMITTED TO YOU.

21 WE'LL RECONVENE AT APPROXIMATELY 3:35.  
22 WE'LL BE AT EASE WHILE YOU DEPART THE CONFINES OF THE  
23 COURTROOM.

24 (WHEREUPON, THE JURY PANEL  
25 WITHDREW FROM THE COURTROOM.)

1 THE COURT: WE'RE IN RECESS.

2 (A SHORT RECESS WAS TAKEN.)

3 THE COURT: COUNSEL STIPULATE TO THE  
4 PRESENCE OF THE JURY?

5 MR. EWING: YES, YOUR HONOR.

6 MR. HARMON: THE STATE DOES, YOUR HONOR.

7 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

8 MS. SILVER: THE STATE WOULD CALL MIKE  
9 POLLARD.

10 (WHEREUPON, MIKE POLLARD  
11 ENTERED THE COURTROOM AND  
12 TOOK THE WITNESS STAND.)

13 WHEREUPON,

14 MIKE POLLARD,  
15 HAVING BEEN FIRST DULY SWORN TO TELL THE TRUTH,  
16 THE WHOLE TRUTH AND NOTHING BUT THE TRUTH,  
17 WAS EXAMINED AND TESTIFIED AS FOLLOWS:

18  
19 DIRECT EXAMINATION

20 BY MS. SILVER:

21 Q CAN YOU PLEASE STATE YOUR NAME AND SPELL IT  
22 FOR THE RECORD.

23 A MY NAME IS MIKE POLLARD, P-O-L-L-A-R-D.

24 Q AND, SIR, WHERE ARE YOU EMPLOYED?

25 A GENERAL ELECTRIC.

1 Q G.E. CAPITAL?

2 A G.E. CAPITAL, YES.

3 Q HOW LONG HAVE YOU BEEN EMPLOYED THERE?

4 A TWO YEARS NOVEMBER 14TH.

5 Q ARE YOU A RESIDENT OF THE LAS VEGAS  
6 COMMUNITY?

7 A YES, MA'AM, I AM.

8 Q HOW LONG HAVE YOU LIVED HERE?

9 A JUST ABOUT TWO AND A HALF YEARS.

10 Q WHERE ARE YOU ORIGINALLY FROM?

11 A I'M ORIGINALLY FROM LOUISIANA.

12 Q AND DID YOU KNOW A PERSON BY THE NAME OF  
13 DEBORAH PANOS?

14 A YES, MA'AM, I DID.

15 Q AND HOW WAS IT THAT YOU KNEW HER?

16 A I FIRST MET DEBORAH PANOS IN A TRAINING  
17 CLASS FOR G.E. CAPITAL, APPROXIMATELY A YEAR AND SEVEN,  
18 EIGHT MONTHS AGO.

19 Q WAS THAT ALSO AROUND NOVEMBER OF 1994?

20 A YES, MA'AM, IT WAS.

21 Q DID YOU BOTH START TOGETHER?

22 A YES, WE DID.

23 Q AND HOW WAS IT THAT YOU BECAME FRIENDS?

24 A WELL, WE HAD -- WELL, WE WERE BOTH COMING  
25 FROM ARIZONA, FOR ONE THING. WE STARTED TALKING ABOUT

1 DIFFERENT PLACES WE HAD BEEN.

2 AND WHEN WE CAME UP WITH ARIZONA, SHE  
3 HAD JUST COME FROM THERE AND SO HAD I. SO THAT STARTED  
4 SORT OF THE CONVERSATION OFF, AND AS TIME WENT ON, WE  
5 JUST STARTED TO, YOU KNOW, WE BECAME FRIENDS, CLOSE  
6 FRIENDS, I MYSELF.

7 Q DID YOU KNOW HER IN ARIZONA?

8 A NO, I DIDN'T.

9 Q AS YOU BECAME CO-WORKERS TOGETHER, DID YOU  
10 SHARE RIDES TO WORK?

11 A YES, WE DID.

12 Q HOW DID THAT HAPPEN?

13 A WHEN WE FIRST STARTED OFF, NEITHER ONE OF US  
14 HAD CARS, SO WE STARTED TO CAR POOL -- MYSELF. SHE GOT  
15 A CAR FIRST, AND SHE WOULD PICK ME UP AND WE'D GO TO  
16 WORK, DROP THE KIDS OFF, AND PICK THEM UP ON THE WAY  
17 BACK AND SHE WOULD DROP ME OFF AT HOME.

18 Q AND WHERE WAS IT THAT SHE WOULD TAKE THE  
19 KIDS TO AND FROM DURING WORK?

20 A THE KIDS WOULD GO TO DAY CARE, WHICH WAS  
21 ABOUT TWO OR THREE BLOCKS FROM THE HOUSE.

22 Q HOW WOULD YOU DESCRIBE YOUR RELATIONSHIP  
23 WITH DEBBIE THROUGHOUT THE MONTHS?

24 A WE WERE LIKE INSEPARABLE. WHEN YOU SAW HER,  
25 YOU SAW ME. IF YOU DIDN'T SEE ME, YOU DIDN'T SEE HER.



1 AS A MATTER OF FACT, PEOPLE THOUGHT THERE WAS A  
2 RELATIONSHIP THERE, BECAUSE OF THE FACT THAT WE WERE SO  
3 CLOSE.

4 Q YOU MEAN MORE THAN JUST FRIENDS?

5 A YES.

6 Q WERE YOU EVER MORE THAN JUST FRIENDS?

7 A NO.

8 Q AND DURING YOUR FRIENDSHIP WITH DEBORAH, DID  
9 YOU COME TO LEARN ABOUT A PERSON BY THE NAME OF JAMES  
10 CHAPPELL?

11 A YES, I DID.

12 Q DID YOU EVER FORMALLY MEET HIM?

13 A NO, I DIDN'T.

14 Q AND DID YOU, HOWEVER, SEE HIM?

15 A YES, I SAW HIM ON A COUPLE OF OCCASIONS.

16 Q DO YOU RECALL HOW IT WAS THAT YOU SAW HIM?

17 A YES.

18 Q TELL US ABOUT THE FIRST TIME YOU SAW HIM.

19 A THE FIRST TIME I SAW HIM, DEBORAH HAD DROVE  
20 UP -- SHE DROVE UP TO WORK AND WE WERE LIKE STANDING  
21 OUTSIDE.

22 Q WHO'S "WE"?

23 A ME AND A COUPLE OF OUR OTHER FRIENDS.

24 BECAUSE YOU COULDN'T SMOKE IN THE BUILDING SO WE HAD TO  
25 SMOKE OUTSIDE SO USUALLY WE SMOKED IN THE FRONT BEFORE

1 GOING IN. AND THE FIRST OCCASION I SAW HIM WAS -- THAT  
2 WAS THE TIME HE SLAPPED HER AND TOOK OFF IN THE CAR WITH  
3 HER PURSE.

4 Q YOU STATED THAT YOU ACTUALLY SAW HER DRIVE  
5 UP TO WORK?

6 A WELL, HE WAS DRIVING. SHE WAS ON THE  
7 PASSENGER SIDE. AND THE NEXT THING YOU KNOW, HE SLAPPED  
8 HER AND SHE JUMPS OUT OF THE CAR AND HE TAKES OFF.

9 Q WHEN YOU SAY "HE SLAPPED HER," DID YOU SEE  
10 THIS?

11 A YES, MA'AM.

12 Q AND DID HE SLAP HER WITH AN OPEN HAND OR A  
13 CLOSED FIST?

14 A THAT I COULDN'T TELL. YOU KNOW, YOU COULD  
15 JUST SEE THE -- AND THEN THE HEAD JERK AND THEN SHE  
16 JUMPS OUT OF THE CAR AND THEN THE CAR JUST SPEEDS OFF  
17 REAL FAST (INDICATING).

18 Q AND TELL US WHAT WAS HER DEMEANOR LIKE WHEN  
19 SHE CAME UP TO ALL OF YOU?

20 A SHE WAS ON THE BRINK OF TEARS. SHE WAS  
21 ABOUT TO CRY. SHE WAS TRYING TO HOLD IT AS BEST SHE  
22 COULD.

23 Q WHAT DID SHE TELL YOU THE DEFENDANT DID TO  
24 HER?

25 A SHE SAID, "HE TOOK MY PURSE. MY PURSE IS IN

1 THE CAR AND HE TOOK MY PURSE."

2 Q DID SHE TELL YOU PROBLEMS THAT SHE HAD HAD  
3 WITH THE DEFENDANT -- LET ME ASK YOU THIS: WHEN WAS  
4 THIS THAT HE SLAPPED HER OR THAT YOU OBSERVED HIM SLAP  
5 HER?

6 A OKAY. THIS WAS ABOUT PERHAPS TWO AND A HALF  
7 MONTHS AFTER HE HAD BROKEN HER NOSE.

8 Q SO IT WAS SOMETIME AFTER HE HAD BROKEN HER  
9 NOSE?

10 A YES.

11 Q AND IF I WERE TO TELL YOU THAT THERE WERE --  
12 THERE WAS TESTIMONY THAT HE BROKE HER NOSE SOMEWHERE  
13 AROUND JANUARY 9TH OF 1995, IS IT YOUR TESTIMONY THAT IT  
14 WAS SOMETIME AFTER THIS?

15 A YES, IT WAS.

16 Q HAD YOU EVER GONE OVER TO WHERE SHE LIVED?

17 A YES.

18 Q WHEN WAS IT THAT YOU FIRST WENT OVER TO  
19 WHERE SHE LIVED?

20 A I WOULD SAY ABOUT THREE -- ABOUT TWO OR  
21 THREE MONTHS, YOU KNOW, AFTER WE -- AFTER WE STARTED  
22 TRAINING.

23 Q AND WHO -- WHERE WAS IT THAT YOU WENT?

24 A SHE LIVED IN A TRAILER PARK.

25 Q IS THAT BALLERINA MOBILE HOME?

1 A YES, IT IS.

2 Q WHO LIVED THERE WITH HER?

3 A AT THAT TIME, IT WAS DEBORAH, SHE HAD HER  
4 THREE KIDS, AND I THINK LISA HAD MOVED IN WITH HER.

5 Q NOW, DID YOU EVER -- HOW OFTEN WOULD YOU  
6 VISIT DEBORAH AT THE TRAILER?

7 A WELL, I'D SAY MAYBE SOMETIMES TWICE A MONTH,  
8 MAYBE, YOU KNOW. SOMETIMES WE WOULD -- SINCE WE WERE  
9 CLOSER TO WORK TO HER HOUSE, A LOT OF TIMES WE WOULD  
10 STOP IN THERE AND, YOU KNOW, PICK UP SOMETHING FOR THE  
11 KIDS OR SOMETHING LIKE THAT BEFORE SHE WOULD TAKE ME  
12 HOME.

13 Q AND DID YOU EVER SEE THE DEFENDANT AROUND  
14 WHEN YOU WOULD GO OVER?

15 A NEVER.

16 Q DID SHE -- DO YOU RECALL A TIME AT WORK WHEN  
17 DEBORAH BECAME UPSET REGARDING THE DEFENDANT?

18 A YES.

19 Q DO YOU RECALL CERTAIN INSTANCES?

20 A WELL, I REMEMBER ONE INSTANCE WHEN HE WAS  
21 LIKE WAITING IN THE LOBBY, BECAUSE THERE'S A LOBBY WHERE  
22 YOU HAVE TO GO PAST SECURITY IN ORDER TO, YOU KNOW, TO  
23 GET INTO THE ACTUAL WORK SPACE AND SHE WAS SHOWING US  
24 HIM STANDING OUT THERE IN THE LOBBY TALKING ABOUT HE WAS  
25 GOING TO GET HER FIRED IF SHE DIDN'T GIVE HIM THE MONEY

1 OR SOMETHING LIKE THAT.

2 SO SHE WAS IN THERE TRYING TO BORROW  
3 MONEY FROM PEOPLE TO GET HIM AWAY FROM THE PROPERTY.

4 Q SO HE WAS GOING TO GET HER FIRED IF HE  
5 DIDN'T GET MONEY?

6 A THAT'S WHAT SHE SAID. SHE SAID, "HE'S  
7 STANDING OUT THERE, HE SAYS HE'S GOING TO GET ME FIRED  
8 IF I DON'T GIVE HIM MONEY."

9 Q AND HOW WAS SHE ACTING WHEN SHE WAS ASKING  
10 PEOPLE FOR MONEY?

11 A SHE WAS ALL LIKE, YOU KNOW, JITTERY,  
12 NERVOUS. WHENEVER IT CAME TO SOMETHING LIKE THAT, SHE  
13 WAS ALWAYS ON THE BRINK OF CRYING, OKAY? SHE WAS LIKE  
14 ALWAYS UPSET, YOU KNOW, AT THE DEMAND FOR MONEY.

15 Q DID YOU ACTUALLY SEE HIM THERE IN THE LOBBY  
16 AS WELL?

17 A YES, I DID.

18 Q WHEN, ABOUT, WAS THIS?

19 A I'D SAY THIS WAS ABOUT SIX TO SEVEN MONTHS  
20 AFTER WE STARTED TRAINING.

21 Q YOU'RE NOT SURE OF EXACT TIME PERIODS WHEN  
22 I'M ASKING YOU THESE QUESTIONS?

23 A YES, I'M NOT.

24 Q YOU DIDN'T SIT AND WRITE THESE THINGS DOWN  
25 AS THEY WERE HAPPENING?

1 A NO, MA'AM, I DIDN'T.

2 Q DO YOU RECALL ANOTHER TIME WHEN DEBORAH GOT  
3 A PHONE CALL AT WORK REGARDING HER CHILDREN?

4 A YES.

5 Q AND WHAT WAS HER DEMEANOR LIKE AFTER  
6 RECEIVING THIS PHONE CALL?

7 A I THINK SHE JUST LOST IT. SHE WAS SO UPSET,  
8 SHE -- SHE DIDN'T EVEN KNOW WHEN SHE WAS -- SHE WAS JUST  
9 REALLY REALLY UPSET. SHE WAS TRYING TO FIGURE OUT WHAT  
10 TO DO.

11 Q WAS SHE CRYING?

12 A YES, SHE WAS. PART OF THE TIME SHE WAS  
13 CRYING, PART THE TIME SHE WAS TRYING TO COMPOSE HERSELF  
14 TO ACTUALLY TALK TO WHOEVER IT WAS ON THE PHONE THAT SHE  
15 NEEDED TO TALK TO.

16 Q WHAT DID SHE TELL YOU WAS HAPPENING BASED ON  
17 THE PHONE CALL?

18 A IT WAS SOMETHING ABOUT HER KIDS THAT GOT  
19 PICKED UP, OR HER KIDS WERE IN SOMEPLACE WHERE THEY WERE --

20 Q IS THAT CHILD HAVEN?

21 A YEAH, THERE YOU GO. IT WAS A PLACE -- WELL,  
22 IT WASN'T A DAY CARE AND IT WASN'T AT HOME. IT WAS  
23 SOMEPLACE WHERE THE THE PROTECTIVE SERVICES OR SOMETHING  
24 HAD CALLED.

25 Q CHILD PROTECTIVE SERVICES HAD REMOVED THE

1 CHILDREN?

2 A THEY WERE LETTING HER KNOW THAT THEY HAD THE  
3 CHILDREN.

4 Q AND WHY IS IT THAT CHILD HAVEN HAD HER  
5 CHILDREN?

6 A FROM WHAT I UNDERSTOOD, THEIR FATHER HAD  
7 ABANDONED THE KIDS OR LEFT THE KIDS OR WHATEVER,  
8 UNATTENDED.

9 Q YOU'RE TALKING ABOUT THE DEFENDANT?

10 A YES.

11 Q HE HAD LEFT THE CHILDREN UNATTENDED?

12 A YES.

13 Q DO YOU KNOW WHERE HE HAD TAKEN THE KIDS FROM  
14 BEFORE HE LEFT THEM UNATTENDED?

15 A NO, I DON'T.

16 Q BASED ON THIS, DO YOU RECALL WHETHER OR NOT  
17 DEBORAH HAD HAD TO PICK UP THE CHILDREN FROM CHILD  
18 HAVEN?

19 A YES, SHE DID.

20 Q AND BASED ON HER HAVING TO PICK UP THE  
21 CHILDREN FROM CHILD HAVEN, DID SHE DO SOMETHING AT THE  
22 DAY CARE CENTER?

23 A WHAT I REMEMBER IS SHE HAD TO LEAVE WORK IN  
24 ORDER TO DO THAT, AND NATURALLY I WASN'T ABLE TO LEAVE  
25 AT THAT TIME, SO SHE WENT WITHOUT ME.

1                   AND I THINK I SPOKE TO HER LATER THAT  
2 NIGHT AND SHE TOLD ME THAT SHE HAD PICKED THE KIDS UP  
3 AND, YOU KNOW, EVERYTHING WAS OKAY AND IT WOULDN'T  
4 HAPPEN AGAIN.

5                   THAT WAS BASICALLY THAT CONVERSATION.

6           Q       DO YOU REMEMBER HER GOING TO DAY CARE  
7 REGARDING THE DEFENDANT?

8           A       YES.

9           Q       WHAT HAPPENED?

10          A       I REMEMBER HER GOING THERE AND HAVING HIS  
11 NAME REMOVED FROM THE PICKUP LIST SO FAR AS BEING ABLE  
12 TO, YOU KNOW, RECEIVING THE KIDS FROM THE DAY CARE.

13          Q       AND WHY WAS THAT?

14          A       FOR SOME REASON, SHE WAS AFRAID OF, YOU  
15 KNOW, WHAT MIGHT HAPPEN AFTER ALL -- HE HAD ALREADY  
16 ABANDONED THEM ONE TIME, SO SHE WAS AFRAID OF THAT.

17                   AND SHE DIDN'T KNOW, YOU KNOW, WHAT  
18 SORT OF FRAME OF MIND THIS GUY WAS IN OR WHATEVER. SHE  
19 JUST WANTED HER KIDS PROTECTED.

20          Q       WHEN YOU SAY HE ABANDONED THE CHILDREN, DID  
21 THE POLICE ACTUALLY TAKE CUSTODY OF THE CHILDREN TO BOOK  
22 THEM INTO CHILD HAVEN?

23          A       MY UNDERSTANDING, YES.

24          Q       DID DEBBIE WANT TO STAY WITH THIS DEFENDANT?

25          A       NO, SHE DIDN'T.



1 Q HOW DO YOU KNOW THIS?

2 A BECAUSE SHE KEPT -- SHE TRIED TO STAY AWARE  
3 OF WHERE HE WAS AND HOW LONG HE WOULD BE THERE, BECAUSE  
4 WE HAD PLANNED TO MOVE DEBORAH, YOU KNOW, BEFORE THIS  
5 GUY GOT OUT.

6 THAT'S WHY SHE KEPT ABREAST ON, YOU  
7 KNOW, HOW LONG HE WAS GOING TO BE IN AND WHEN HE WOULD  
8 BE RELEASED SO SHE COULD BE GONE FROM THEN. BECAUSE WE  
9 HAD ALREADY MADE OTHER ATTEMPTS TO, YOU KNOW, REMEDY THE  
10 SITUATION BUT THEY DIDN'T WORK.

11 Q DURING THE TIME PERIOD THAT YOU STARTED  
12 THERE AT G.E. CAPITAL, WOULD SHE CRY TO YOU OFTEN  
13 REGARDING THINGS THAT THE DEFENDANT DID TO HER AND THE  
14 CHILDREN?

15 A YES.

16 Q WHAT TYPES OF THINGS WOULD SHE CRY ABOUT?

17 A WELL, I REMEMBER ONCE SHE HAD WENT TO  
18 PAYLESS SHOE STORE AND SHE BOUGHT THE KIDS -- SHE BOUGHT  
19 ALL THE KIDS PAIRS OF SHOES AND SOMEHOW THAT NIGHT THE  
20 GUY CAME AND HE TOOK THE SHOES BACK TO THE PAYLESS TO  
21 GET THE MONEY.

22 Q YOU'RE TALKING ABOUT THE DEFENDANT?

23 A YES.

24 Q YOU'RE TALKING ABOUT JAMES CHAPPELL?

25 A YES.

1 Q AND DO YOU SEE HIM HERE IN COURT TODAY?

2 A YES.

3 Q CAN YOU POINT TO HIM AND DESCRIBE AN ARTICLE  
4 OF CLOTHING?

5 A THE GRAY JACKET, STRIPED SHIRT (INDICATING).

6 MS. SILVER: MAY THE RECORD REFLECT THE  
7 WITNESS HAS IDENTIFIED THE DEFENDANT, YOUR HONOR?

8 THE COURT: YES.

9 BY MS. SILVER:

10 Q WHAT WOULD HAPPEN WHEN SHE WOULD GET HER  
11 FOOD STAMPS FROM THE GOVERNMENT TO FEED HER CHILDREN?

12 A SHE WOULD GO -- USUALLY, SHE WOULD GO -- I  
13 WOULD TAKE HER TO THE STORE AND SHE WOULD BUY GROCERIES  
14 FOR ABOUT A MONTH. SHE WOULD FILL HER REFRIGERATOR UP  
15 AND EVERYTHING, WHICH SHOULD HAVE LASTED HER QUITE  
16 AWHILE, BUT THEN A DAY OR TWO, HE'D SHOW UP AND ALL THE  
17 MEATS WOULD BE GONE. THE WHOLE FREEZER WOULD BE EMPTY.

18 Q DID SHE TELL YOU WHAT HE WOULD DO WITH THE  
19 MEATS?

20 A SHE SAID, "HE'S PROBABLY GOING TO GO SELL  
21 THEM AND BUY DRUGS."

22 Q DO YOU RECALL THIS OCCURRING AT A CERTAIN  
23 BARBECUE?

24 A YES.

25 Q WHAT HAPPENED?

1           A       WELL, WE CAME HOME FROM WORK AND WE WERE ALL  
2 SET TO, YOU KNOW, BARBECUE. I'M OUT ON THE FRONT. I  
3 GOT THE GRILL GOING AND EVERYTHING, AND THEY GO TO LOOK  
4 IN THE ICE BOX AND THERE'S NOTHING IN THERE.

5           Q       WHO'S "THEY"?

6           A       DEBORAH AND I THINK IT WAS LISA AT THE TIME.

7           Q       SO PEOPLE FROM WORK?

8           A       PEOPLE FROM WORK, YES.

9           Q       YOU WERE HAVING LIKE A GET TOGETHER AND A  
10 BARBECUE?

11          A       YES, UH-HUH.

12          Q       THAT WAS OVER AT DEBBIE'S?

13          A       THAT WAS GOING TO BE AT DEBBIE'S.

14          Q       AND SHE HAD BOUGHT MEAT FOR THIS BARBECUE?

15          A       YES.

16          Q       THERE WAS NOTHING IN THAT FREEZER?

17          A       THERE WAS NOTHING.

18          Q       HOW DID DEBBIE REACT?

19          A       SHE WAS REALLY ANGRY AT FIRST, YOU KNOW, AND  
20 THEN SHE STARTED TELLING US, YOU KNOW, PROBABLY THIS OR  
21 PROBABLY THAT HAD HAPPENED, AND -- WHICH WE COULDN'T  
22 FIGURE OUT ANYTHING ELSE BECAUSE NO ONE ELSE COULD, YOU  
23 KNOW, GET INTO HER PLACE, SO WE FIGURED THAT HE HAD BEEN  
24 THERE.

25                   AND THEN THIS HAD HAPPENED BEFORE, SO,

1 WE PRACTICALLY KNEW WHAT HAD HAPPENED.

2 Q DID YOU EVER SEE DEBORAH CALLING THE JAIL TO  
3 SEE OR TO MAKE SURE HE WAS NOT GOING TO BE RELEASED?

4 A YES.

5 Q AND ABOUT WHEN WAS THIS PRIOR TO HER DEATH?

6 A I'D SAY FROM THE TIME -- ABOUT 30 DAYS ON,  
7 FROM 30 DAYS ON. BECAUSE HE WAS SUPPOSED TO BE THERE  
8 FOR AT LEAST 90 OR SOMETHING LIKE THAT, SO FROM 30 DAYS  
9 ON, TOWARD THE END OF THE 90, THE LAST 30 DAYS, SHE  
10 STARTED CALLING JUST ABOUT EVERY DAY TO MAKE SURE HE  
11 WASN'T OUT OR HE WASN'T ABOUT TO GET OUT.

12 Q PRIOR TO HIS GOING TO JAIL, HAD DEBORAH  
13 TRIED TO ACTUALLY GET THE DEFENDANT TO LEAVE THE STATE?

14 A YES, MA'AM.

15 Q AND HOW DID SHE DO THAT?

16 A WELL, AT ONE TIME SHE BOUGHT A TICKET. SHE  
17 BOUGHT A TICKET I THINK AT ONE TIME AND -- YOU KNOW, FOR  
18 HIM TO GO BACK, AND I THINK HE CASHED THAT ONE IN.

19 SO THAT'S HOW WE FIGURED OUT THAT THAT  
20 WASN'T GOING TO WORK, YOU KNOW, IN ORDER TO GET HIM TO  
21 GO HOME, BECAUSE HE WASN'T GOING TO GO.

22 Q WHERE WAS THAT TICKET TO, DO YOU RECALL?

23 A I THINK IT WAS TO MICHIGAN.

24 Q HOW WAS IT THAT YOU CONVINCED DEBBIE TO  
25 LEAVE THE RESIDENCE AS THE DEFENDANT WAS STILL IN JAIL?

1           A       WELL, WE -- ME AND DEBORAH WOULD TALK ABOUT  
2 IT A LOT, YOU KNOW, SO FAR AS HOW, YOU KNOW, TO MAKE  
3 THIS BREAK, AND SHE REALIZED THAT BUYING HIM A TICKET OR  
4 GIVING HIM MONEY FOR A TICKET WAS NOT GOING TO WORK.

5                       SO I SORT OF, YOU KNOW, CONVINCED HER  
6 TO MOVE. I SAID, WELL, THAT WOULD PROBABLY BE BEST  
7 BECAUSE AT THE SAME TIME OUR JOB WAS ABOUT TO MOVE, TOO,  
8 SO WE WOULDN'T HAVE BEEN IN THE SAME BUILDING AND HE  
9 WOULDN'T HAVE KNOWN WHERE TO FIND HER.

10                      AND THAT'S THE REASON WHY SHE WAS  
11 CHECKING ON HIM SO MUCH.

12           Q       WAS SHE RELUCTANT TO ACTUALLY LEAVE THAT  
13 TRAILER?

14           A       SHE WAS AT ONE TIME.

15           Q       WHY WAS THAT?

16           A       BECAUSE SHE HAD SO MUCH MONEY INVESTED IN  
17 THIS TRAILER. SHE WAS BUYING IT. AND TO JUST LEAVE IT,  
18 YOU KNOW, SHE WOULD BE LEAVING AN INVESTMENT. SO SHE  
19 WANTED TO REALLY HANG ON TO IT IF POSSIBLE, BUT SHE WAS  
20 CONVINCED THAT SHE WOULDN'T BE ABLE TO DO BOTH.

21           Q       I WANT TO DIRECT YOUR ATTENTION TO THE DATE  
22 OF AUGUST 31ST OF 1995. DO YOU RECALL THAT DATE?

23           A       YES, I DO.

24           Q       DO YOU RECALL SEEING DEBBIE ON THAT DATE?

25           A       YES.

1 Q WHEN DID YOU FIRST SEE DEBBIE?

2 A SHE PICKED ME UP FROM WORK THAT MORNING.

3 Q AND WHERE --- ABOUT WHAT PART OF TOWN DO YOU  
4 LIVE? WHAT ARE YOUR CROSS STREETS?

5 A DECATUR AND VEGAS DRIVE.

6 Q SO IN THE NORTHWEST AREA OF TOWN?

7 A YES.

8 Q HOW LONG WOULD IT TAKE YOU GENERALLY TO  
9 DRIVE EITHER FROM YOUR HOUSE TO DEBBIE'S?

10 A APPROXIMATELY 15 TO 20 MINUTES.

11 Q IT WAS NOT SOMETHING THAT YOU WOULD MAKE A  
12 TRIP WALKING?

13 A NO.

14 Q NECESSARILY?

15 A NO.

16 Q AND ABOUT -- I'M SORRY, WHAT TIME DID SHE  
17 PICK YOU UP?

18 A SHE PICKED ME UP ABOUT 6:30.

19 Q AND DID SHE HAVE SOMEONE WITH HER?

20 A NO, IT WAS JUST HER.

21 Q HAD SHE DROPPED THE CHILDREN OFF AT DAY  
22 CARE?

23 A YES.

24 Q WHERE DID YOU TWO GO?

25 A FROM THERE, WE WENT TO WORK.

1 Q AT G.E. CAPITAL?

2 A AT G.E. CAPITAL, YES.

3 Q AND WHAT HAPPENED ONCE YOU WERE AT WORK?

4 A ONCE AT WORK WE WENT THROUGH THE SHIFT,  
5 WHICH THE SHIFT ON THAT DAY HAPPENED TO BE A HALF-DAY  
6 SHIFT. SO WE WERE OFF ABOUT 12 NOON.

7 SO SINCE WE GOT OFF EARLY, WE HAD  
8 DECIDED TO, YOU KNOW, TRY ANOTHER ONE OF THESE  
9 BARBECUES. SO WE GOT OFF AROUND 12:00 AND WE LEFT  
10 AROUND 12:10, 12:15.

11 SHE BROUGHT ME HOME AND SHE SAID SHE  
12 WAS GOING TO GO HOME, DO A FEW THINGS AND WE WERE ALL  
13 GOING TO MEET UP AND GO TO THE PARK.

14 Q IS THAT LORENZI PARK?

15 A YES, I THINK SO. THAT'S THE CLOSEST TO MY  
16 HOUSE.

17 Q AND WHAT HAPPENED?

18 A WELL, SHE LEFT AND ALL OF A SUDDEN ABOUT 20,  
19 25 MINUTES LATER, SHE WAS BACK.

20 Q TO YOUR HOME?

21 A YES.

22 Q AND WHAT HAPPENED?

23 A SHE WAS ALL SCARY, SHE WAS ALL REAL, REAL  
24 NERVOUS. AT THAT TIME, I WAS JUST LIKE COMING OUT OF  
25 THE SHOWER AND I WAS WONDERING WHY SHE WAS BACK SO FAST.

1 Q CAN YOU DESCRIBE WHAT SHE WAS DOING WHEN SHE  
2 WAS ALL SCARED AND NERVOUS?

3 A SHE WAS SITTING ON MY COUCH IN A BALL, LIKE  
4 HOLDING HER KNEES.

5 Q IN A BALL?

6 A YES.

7 Q AND WHAT WAS SHE DOING?

8 A SHE WAS JUST SHIVERING, JUST LIKE SHAKING.

9 Q WHAT DID SHE TELL YOU?

10 A SHE SAID, "HE'S OUT."

11 AND I SAID, "WHO'S OUT?"

12 SHE SAID, "JAMES IS OUT."

13 AND I SAID, "HOW DO YOU KNOW?"

14 SHE SAID, "BECAUSE HE LEFT A MESSAGE  
15 ON MY VOICE MAIL."

16 SO WE STARTED THINKING ABOUT, WELL,  
17 THE PLAN TO MOVE WAS OUT, SO WHAT ARE WE GOING TO DO  
18 NEXT?

19 SO I TOLD HER TO JUST WAIT A FEW  
20 MINUTES, LET ME GET OUT OF THE SHOWER AND I'LL GO HOME  
21 WITH HER. BECAUSE SHE GOT CONCERNED ABOUT THE KIDS.

22 SHE WANTED TO GO HOME, PICK UP SOME  
23 CLOTHES FOR THE KIDS, PICK THEM UP AT DAY CARE AND THEN  
24 THEY WERE GOING TO COME BACK TO MY HOUSE AND STAY LIKE  
25 THEY USUALLY DID, TWO OR THREE DAYS SOMETIME, WHEN HE



1 WAS OUT.

2 Q WHEN HE WAS OUT OF JAIL, SOMETIMES THEY  
3 WOULD STAY WITH YOU?

4 A YES, MA'AM.

5 Q AND WHY WOULD SHE AND HER CHILDREN STAY WITH  
6 YOU WHEN HE WAS OUT?

7 A BECAUSE SHE WAS AFRAID.

8 Q HAD SHE TOLD YOU THAT HE HAD BEEN VIOLENT  
9 WITH HER IN THE PAST?

10 A YES.

11 Q SO HER PLAN WAS TO GET THE CHILDREN'S  
12 CLOTHES AND THE CHILDREN AND RETURN TO YOUR HOUSE?

13 A YES.

14 Q DID YOU TELL HER TO WAIT?

15 A YES.

16 Q AND WHAT DID YOU DO?

17 A I WENT BACK IN THE SHOWER TO FINISH OFF AND  
18 WHEN I CAME BACK OUT, SHE WAS GONE.

19 Q DID YOU KNOW WHERE SHE HAD WENT?

20 A NO, I DIDN'T.

21 Q DID YOU HAVE ANY TRANSPORTATION TO FOLLOW  
22 HER?

23 A NO, I DIDN'T.

24 Q WHAT DID YOU DO?

25 A I GOT ON THE PHONE. I TRIED CALLING

1 DIFFERENT PLACES TO SEE IF SHE HAD PERHAPS WENT LIKE TO  
2 LISA'S OR -- I CALLED HER HOUSE THREE OR FOUR TIMES AND  
3 DIDN'T GET A RESPONSE.

4 Q WHEN SHE WAS ROLLED UP IN A BALL AND  
5 SHIVERING, WAS SHE CRYING?

6 A YES.

7 Q WAS SHE SCARED?

8 A YES.

9 Q WAS THAT THE LAST TIME YOU HAD SEEN DEBBIE?

10 A THAT'S THE LAST TIME I SAW DEBORAH.

11 Q CAN YOU DESCRIBE WHAT TYPE OF PERSON DEBBIE  
12 WAS?

13 A DEBORAH WAS A VERY FRIENDLY PERSON. SHE WAS  
14 VERY FRIENDLY, VERY KINDHEARTED. IF SHE COULD DO  
15 SOMETHING FOR YOU, WITHIN HER POWER, SHE WOULD. SHE WAS  
16 SORT OF HAPPY GO LUCKY. YOU KNOW, NEVER GOT INTO NO  
17 TROUBLE. NEVER, YOU KNOW, MESSED WITH ANYBODY. SHE WAS  
18 JUST A NICE GIRL. JUST A VERY NICE GIRL.

19 Q WHAT TYPE OF WORKER WAS SHE?

20 A SHE WAS AN EXCELLENT WORKER. AS A MATTER OF  
21 FACT, WE -- AT WORK SHE JUST WOULD GO ALONG, DO THE JOB,  
22 YOU KNOW, JUST LIKE EVERYBODY ELSE. COULDN'T WAIT FOR  
23 IT TO BE OVER, YOU KNOW, BUT --

24 Q WHAT KIND OF MOTHER WAS SHE TO HER THREE  
25 CHILDREN?

1           A       SHE LOVED HER CHILDREN. SHE LOVED HER  
2 CHILDREN VERY MUCH.

3           Q       WHAT TYPE OF FRIEND WAS SHE TO YOU?

4           A       WELL, AS WE WENT ALONG, WE WERE REAL CLOSE,  
5 YOU KNOW. THERE WERE A LOT OF THINGS IN HER LIFE THAT --  
6 WE COULD TALK, YOU KNOW, WE JUST TALKED ABOUT DIFFERENT  
7 THINGS ALL THE TIME. ESPECIALLY THINGS THAT DISTRESSED  
8 HER, YOU KNOW.

9           Q       AND WHAT DISTRESSED HER THE MOST?

10          A       WELL, SHE REGRETTED BRINGING THIS GUY OUT  
11 HERE ANYWAYS. BECAUSE, YOU KNOW, HE CAME AFTER SHE WAS  
12 ALREADY HERE. SHE REGRETTED THAT, BUT IT WAS TOO LATE.  
13 COULDN'T DO NOTHING ABOUT THAT.

14                   SO, YOU KNOW, WE WERE ALWAYS TRYING TO  
15 CONVINCE HER TO JUST KEEP ON GOING, KEEP GOING WITH HER  
16 LIFE.

17                   AND, YOU KNOW, THERE WERE A LOT OF  
18 PROBLEMS IN BETWEEN TIMES, YOU KNOW, LIKE WHENEVER THIS  
19 GUY WAS OUT.

20                   THAT'S ONE OF THE REASONS I NEVER MET  
21 HIM, BECAUSE EVERY TIME THE CHANCE WOULD COME FOR ME TO  
22 MEET HIM, SHE WOULD SET UP A MEETING FOR ME TO MEET THIS  
23 GUY, HE WAS ALWAYS BACK IN JAIL OR GONE FOR TWO WEEKS  
24 AND TOOK WHATEVER HE COULD AND YOU WOULD SEE HIM NO  
25 MORE, YOU KNOW.

1 Q WHEN YOU SAY HE WOULD TAKE WHATEVER HE  
2 COULD, WHAT ARE YOU TALKING ABOUT?

3 A WELL, I REMEMBER WHEN I FIRST MET DEBORAH,  
4 SHE HAD FURNITURE AND ALL KIND OF NICE STUFF IN HER  
5 HOUSE. AND TOWARD THE END, ALL HER T.V.'S, V.C.R.'S,  
6 YOU KNOW, JUST ABOUT ALL OF HER FURNITURE WAS GONE.

7 AS A MATTER OF FACT, I GAVE HER A  
8 SMALL BLACK-AND-WHITE T.V. FOR THE KIDS TO WATCH T.V.  
9 BECAUSE HER COLOR T.V. HAD BEEN TAKEN.

10 Q TAKEN BY WHO?

11 A BY JAMES.

12 MS. SILVER: THANK YOU.

13 I WILL PASS THIS WITNESS.

14 THE COURT: CROSS?

15

16 CROSS-EXAMINATION

17 BY MR. EWING:

18 Q YOU TESTIFIED YOU KNEW DEBBIE FOR ABOUT TWO  
19 YEARS?

20 A ABOUT A YEAR AND EIGHT MONTHS.

21 Q THAT'S CORRECT. YOU SAID TWO YEARS FROM  
22 NOVEMBER OF THIS YEAR IS WHEN YOU MET HER?

23 A I'M SORRY?

24 Q YOU MET HER TWO YEARS AGO NOVEMBER OF THIS  
25 YEAR?

1 A RIGHT, UH-HUH.

2 Q AND DURING THAT TIME, YOU WOULD GO TO THE  
3 TRAILER A COUPLE OF TIMES A MONTH?

4 A YES.

5 Q BUT YOU NEVER SAW JAMES?

6 A NEVER SAW HIM.

7 Q THIS INCIDENCE WHERE YOU SAY YOU SAW DEBORAH  
8 GET SLAPPED IN THE PARKING LOT AT WORK --

9 A RIGHT.

10 Q -- WOULD IT BE SAFE TO SAY THAT WAS AROUND  
11 MARCH OF '95?

12 A YEAH, THAT WOULD BE SAFE TO SAY.

13 Q IS THERE ANY CHANCE THAT THAT SLAPPING  
14 INCIDENT COULD HAVE OCCURRED BEFORE JANUARY OF '95?

15 A IF I COULD TAKE THE INCIDENTS IN ORDER, SIR,  
16 I WOULD PROBABLY SAY, LET'S SEE, THE NOSE BREAKING, THE  
17 SLAP WAS AFTER THAT. I'D SAY SOMEWHERE AROUND MARCH, I  
18 WOULD THINK.

19 Q DO YOU RECALL WHAT MONTH IT WAS WHEN THE  
20 CHILDREN WERE TAKEN INTO PROTECTIVE CUSTODY BY WHOMEVER  
21 DID IT?

22 A NO, I DON'T.

23 Q WAS THIS BEFORE OR AFTER THIS SLAPPING  
24 INCIDENT IN THE PARKING LOT?

25 A I THINK THAT WAS AFTER.

1 Q DID YOU EVER HEAR DEBORAH HAVE A  
2 CONVERSATION WITH JAMES ON THE TELEPHONE?

3 A I USUALLY WALKED AWAY ON THOSE OCCASIONS.

4 Q SO YOU NEVER HEARD HER HAVE A CONVERSATION  
5 WITH HIM ON THE TELEPHONE?

6 A NO.

7 MR. EWING: I DON'T HAVE ANY OTHER  
8 QUESTIONS.

9 MS. SILVER: NOTHING MORE.

10 THE COURT: MAY THIS WITNESS BE DISCHARGED?

11 MS. SILVER: YES.

12 THE COURT: THANK YOU, SIR. YOU MAY STEP  
13 DOWN.

14 (WHEREUPON, MIKE POLLARD  
15 WITHDREW FROM THE COURTROOM.)

16 THE COURT: NEXT WITNESS.

17 MR. HARMON: CHARMAINE SMITH.

18 (WHEREUPON, CHARMAINE MARIE  
19 SMITH ENTERED THE COURTROOM  
20 AND TOOK THE WITNESS STAND.)

21 WHEREUPON,

22 CHARMAINE MARIE SMITH,  
23 HAVING BEEN FIRST DULY SWORN TO TELL THE TRUTH,  
24 THE WHOLE TRUTH AND NOTHING BUT THE TRUTH,  
25 WAS EXAMINED AND TESTIFIED AS FOLLOWS:

## DIRECT EXAMINATION

BY MR. HARMON:

Q WILL YOU STATE YOUR NAME, PLEASE.

A CHARMAINE MARIE SMITH.

Q PLEASE SPELL YOUR FIRST NAME.

A C-H-A-R-M-A-I-N-E.

Q IS IT MISS OR MRS. SMITH?

A MISS.

Q MISS SMITH, ARE YOU EMPLOYED?

A YES.

Q WHERE DO YOU WORK?

A THE STATE OF NEVADA, THE DIVISION OF PAROLE  
AND PROBATION.

Q HOW LONG HAVE YOU WORKED WITH THE STATE OF  
NEVADA, THE DIVISION OF PAROLE AND PROBATION?

A IT WAS SEVEN YEARS THIS JULY.

Q WHAT ARE THE NATURE OF YOUR DUTIES?

A I SUPERVISE PROBATIONERS AND PAROLEES THAT  
HAD RECENTLY BEEN SENTENCED OR PAROLED FROM PRISON.

Q HAVE YOU BROUGHT WITH YOU CERTAIN RECORDS OF  
YOUR DEPARTMENT?

A YES, I HAVE.

Q DO THEY RELATE TO A PARTICULAR INDIVIDUAL?

A YES.

1 Q WHAT PERSON?

2 A JAMES CHAPPELL.

3 Q DID YOU, FOR A PERIOD OF TIME IN 1995,  
4 SUPERVISE JAMES CHAPPELL?

5 A YES.

6 Q DURING WHAT TIME FRAME?

7 A I WAS ASSIGNED HIS CASE AFTER HE WAS  
8 SENTENCED 4-27-95.

9 Q HE WAS SENTENCED FOR AN OFFENSE IN THIS  
10 STATE ON APRIL THE 27TH, 1995?

11 A YES, HE WAS.

12 Q WHAT OFFENSE WAS HE SENTENCED ON?

13 A POSSESSION OF BURGLARY TOOLS.

14 Q ARE YOU ABLE TO TELL US FROM THE RECORDS  
15 BEFORE YOU ON WHAT DATE THAT CRIME OCCURRED?

16 A YES. IT'S FEBRUARY 18TH, 1995.

17 Q WHERE DID IT HAPPEN?

18 A CLARK COUNTY.

19 Q WHERE SPECIFICALLY IN CLARK COUNTY?

20 A AT A K-MART LOCATED AT 5050 CHARLESTON.

21 Q HERE IN LAS VEGAS?

22 A YES.

23 Q ARE YOU REFERRING NOW TO A PRE-SENTENCE  
24 REPORT PREPARED BY YOUR DEPARTMENT IN CONNECTION WITH  
25 THE SENTENCING FOR THE POSSESSION OF BURGLARY TOOLS?



1 A YES, I AM.

2 Q IS THAT A GROSS MISDEMEANOR?

3 A YES, IT IS.

4 Q DOES THE REPORT THAT YOU'RE REFERRING TO  
5 CONTAIN A DESCRIPTION OF THE OFFENSE OR OFFENSES FOR  
6 WHICH THE DEFENDANT WAS ARRESTED ON FEBRUARY 18TH, 1995?

7 A YES.

8 Q WHAT OFFENSE WAS HE INITIALLY ARRESTED FOR?

9 A BURGLARY, UNDER THE INFLUENCE OF A  
10 CONTROLLED SUBSTANCE AND POSSESSION OF BURGLARY TOOLS.

11 Q BY REFERRING TO THE OFFENSE REPORT, CAN YOU  
12 TELL US VERY BRIEFLY WHAT THE NATURE OF THE OFFENSES  
13 WERE?

14 A DID YOU WANT ME TO READ IT OR JUST --

15 Q JUST SUMMARIZE, PLEASE.

16 A HE WENT IN TO K-MART AND ATTEMPTED TO REMOVE  
17 SOME CASSETTES AND CLOTHING.

18 I BELIEVE HE USED SOME PLIERS TO TAKE  
19 THE CASSETTES OUT OF THE SECURITY HOLDERS AND PLACED THE  
20 TAPES AND THE CLOTHING UNDER HIS CLOTHING AND TRIED TO  
21 WALK OUT WITHOUT PAYING.

22 Q WAS HE THEN CONFRONTED BY SECURITY AT THE  
23 K-MART STORE?

24 A YES.

25 Q DID THAT LEAD TO HIS ARREST FOR BURGLARY,

1 POSSESSION OF BURGLARY TOOLS AND BEING UNDER THE  
2 INFLUENCE?

3 A YES.

4 Q WHAT WERE THE BURGLARY TOOLS WHICH WERE  
5 FOUND ON HIS PERSON?

6 A TWO PAIRS OF PLIERS.

7 Q WERE THERE ALSO SOME OTHER ITEMS?

8 A THREE SCREWDRIVERS AND ALSO A BROKEN GLASS  
9 PIPE COMMONLY USED FOR SMOKING COCAINE.

10 Q NOW, YOU'VE MENTIONED THAT SENTENCING  
11 OCCURRED FOR THE GROSS MISDEMEANOR ON APRIL THE 27TH?

12 A I'M SORRY, WHAT?

13 Q YOU'VE TOLD US THAT THE SENTENCING OCCURRED  
14 FOR POSSESSION OF BURGLARY TOOLS, THE GROSS MISDEMEANOR,  
15 ON APRIL THE 27TH, 1995?

16 A YES.

17 Q HOW DID IT HAPPEN THAT JAMES CHAPPELL WAS  
18 CONVICTED OF A GROSS MISDEMEANOR?

19 A BY GUILTY PLEA, I BELIEVE.

20 Q ON WHAT DATE DID HE ENTER HIS GUILTY PLEA?

21 A MARCH 28TH, 1995.

22 Q WAS IT A PLEA BARGAIN?

23 A YES, IT WAS.

24 Q WAS THERE AN UNDERSTANDING THAT THE OTHER  
25 CHARGES, THE BURGLARY AND THE BEING UNDER THE INFLUENCE

1 OF A CONTROLLED SUBSTANCE, WOULD BE DISMISSED AFTER  
2 RENDITION OF SENTENCE?

3 A THAT'S CORRECT.

4 Q WHAT WAS THE SENTENCE IMPOSED FOR THE GROSS  
5 MISDEMEANOR APRIL THE 27TH?

6 A ONE YEAR IN CLARK COUNTY DETENTION CENTER,  
7 SUSPENDED. I BELIEVE THAT'S CORRECT.

8 Q WAS HE PLACED ON PROBATION?

9 A YES.

10 Q SO HE WAS GIVEN A TERM IN THE CLARK COUNTY  
11 JAIL, BUT THAT WAS SUSPENDED?

12 A AND TWO YEARS PROBATION.

13 Q TWO YEARS PROBATION. WERE THERE ANY  
14 CONDITIONS?

15 A YES.

16 Q THAT SERVED IN CONNECTION WITH THE  
17 PROBATION?

18 A YES.

19 Q DID THE ONE OF THOSE INVOLVE DRUG  
20 REHABILITATION?

21 A YES.

22 Q WHAT CAN YOU TELL US ABOUT THAT?

23 A HE DIDN'T MAKE HIMSELF AVAILABLE FOR  
24 REFERRAL TO -- FOR DRUG COUNSELING. THAT WAS SPECIAL  
25 CONDITION NUMBER 2.

1 Q SO YOU'VE ALREADY TOLD US THAT IT WAS ON THE  
2 DATE OF SENTENCING THAT YOU ASSUMED THE ROLE AS HIS  
3 SUPERVISOR ON PROBATION?

4 A YES.

5 Q BEFORE WE LEAVE THE SENTENCING DATE,  
6 REGARDING THE PRE-SENTENCE REPORT, ON JAMES CHAPPELL,  
7 DID THAT INCLUDE A STATEMENT MADE BY HIM?

8 A YES, A WRITTEN STATEMENT.

9 MR. HARMON: MAY WE HAVE THE COURT'S  
10 INDULGENCE, MAY WE HAVE THIS DOCUMENT MARKED AS THE  
11 STATE'S NEXT IN ORDER.

12 THE COURT: YES.

13 (BRIEF PAUSE IN PROCEEDINGS.)

14 MR. HARMON: MAY I APPROACH THE WITNESS,  
15 YOUR HONOR?

16 THE COURT: YES.

17 BY MR. HARMON:

18 Q MISS SMITH, I'M SHOWING YOU WHAT THE CLERK  
19 HAS MARKED AS PROPOSED EXHIBIT 90. ARE YOU ABLE TO  
20 IDENTIFY WHAT THIS IS?

21 A YES.

22 Q IT'S IDENTICAL TO A COPY YOU HAVE IN YOUR  
23 PACKAGE OF DEPARTMENT OF PAROLE AND PROBATION RECORDS  
24 REGARDING JAMES CHAPPELL?

25 A YES.

1 Q DOES IT APPEAR TO BE, EXHIBIT 90, A TRUE AND  
2 CORRECT COPY?

3 A YES.

4 Q YOU SAY THIS IS WRITTEN OUT PRESUMABLY IN  
5 THE HANDWRITING OF THE PERSON YOU SUPERVISED, JAMES  
6 CHAPPELL?

7 A YES, IT GOES WITH THE PRE-SENTENCE  
8 INVESTIGATION. IT'S CLIPPED WITH THE PRE-SENTENCE  
9 INVESTIGATION, SO THE JUDGE AND THE COURT CAN HAVE A  
10 COPY OF IT BEFORE SENTENCING.

11 Q IS IT SIGNED JAMES CHAPPELL?

12 A YES.

13 Q DOES IT HAVE A DATE?

14 A MARCH 30TH, 1995.

15 MR. HARMON: YOUR HONOR, THE STATE OFFERS  
16 PROPOSED EXHIBIT 30 -- I'M SORRY, 90.

17 MR. EWING: NO OBJECTION.

18 THE COURT: THE SAME WILL BE RECEIVED IN  
19 EVIDENCE.

20 BY MR. HARMON:

21 Q YOU HAVE A COPY OF EXHIBIT 90 IN FRONT OF  
22 YOU AS PART OF YOUR RECORDS?

23 A YES.

24 Q HAVE YOU READ OVER THE DEFENDANT'S STATEMENT  
25 GIVEN MARCH THE 30TH, 1995?

1 A YES, I HAVE.

2 Q DID HE AT VARIOUS TIMES IN THE STATEMENT  
3 DECLARE THAT HE WOULD NEVER BE GUILTY OF COMMITTING ANY  
4 OTHER CRIMES?

5 A YES, HE DID.

6 Q DO YOU SEE A SENTENCE THAT BEGINS WITH THE  
7 WORDS "I HAD NEVER" ABOUT A THIRD OF THE WAY DOWN THE  
8 PAGE?

9 A YES.

10 Q IN THAT SENTENCE, DID JAMES CHAPPELL SAY, "I  
11 HAVE NEVER BEEN CONVICTED OF A FELONY AND NEVER WILL  
12 BE"?

13 A YES, HE DID.

14 Q DID HE FURTHER SAY, " I'M NOT A BAD PERSON  
15 AND NEVER WAS"?

16 A YES.

17 Q IF YOU WILL DROP DOWN, IT'S ABOUT FOUR  
18 LINES, AND LOOK OVER AT THE END OF THE LINE WHERE THE  
19 WORDS "THE LONGEST I'VE BEEN" APPEARS.

20 A YEAH, I SEE IT.

21 Q YOU SEE THE PART OF THE SENTENCE I'M  
22 REFERRING TO?

23 A "THE LONGEST I'VE BEEN IN JAIL," YEAH.

24 Q WILL YOU READ THAT TO THE END OF THE  
25 SENTENCE, PLEASE.

1           A       "THE LONGEST I'VE BEEN IN JAIL IS  
2       SIX MONTHES, AND I WON'T EVER COMMIT ANOTHER CRIME IN MY  
3       LIFE. I CAN'T DEAL WITH THIS TYPE OF LIFE."

4           Q       THANK YOU. NOW, I WANT YOU TO DROP DOWN  
5       CLOSE TO THE BOTTOM OF THE STATEMENT BY THE DEFENDANT.  
6       IT'S ABOUT EIGHT LINES FROM THE BOTTOM AND THE SENTENCE  
7       BEGINS "I KNOW NOW."

8                       DO YOU SEE THAT?

9           A       YES.

10          Q       DID JAMES CHAPPELL SAY, IN CONCLUDING HIS  
11       STATEMENT, "I KNOW NOW THAT LAS VEGAS IS NOT PUTTING UP  
12       WITH ANY BROKEN LAWS"?

13          A       YES.

14          Q       AND I CAN -- AND ACTUALLY WE DON'T READ IT  
15       ALL, BUT IT LOOKS LIKE IT MUST BE HONESTLY.

16                    "I CAN HONESTLY ASSURE YOU I WON'T DO  
17       NOTHING WRONG." DO YOU SEE THAT?

18          A       YES.

19          Q       DID HE SAY THAT?

20          A       YES.

21          Q       NOTHING WRONG AGAIN. DID HE FURTHER SAY, "I  
22       HAVE ONLY BEEN HERE FOUR MONTHES. I'M GOING TO GET A JOB  
23       AND STAY OUT OF ANY TROUBLES, I PROMISE."

24                    AND DOES HE PUT THREE EXCLAMATION  
25       POINTS?

1 A YES, HE DOES.

2 Q NOW, WAS THERE A TIME AFTER YOU HAD BEGUN  
3 YOUR SUPERVISION OF JAMES CHAPPELL ON OR ABOUT APRIL THE  
4 27TH, WHEN YOU HAD CONTACT WITH DEBORAH ANN PANOS?

5 A YES.

6 Q DID SHE CONTACT YOU ORIGINALLY IN PERSON OR  
7 BY TELEPHONE?

8 A SHE RETURNED A CALL. SHE CALLED ME.

9 Q WHY DID YOU CONTACT HER?

10 A I WAS TRYING TO LOCATE MR. CHAPPELL AND  
11 RELAY REPORTING INSTRUCTIONS FOR HIM.

12 Q IN CONNECTION WITH YOUR DUTIES AS HIS  
13 SUPERVISING PROBATION OFFICER, DID YOU NEED TO CONTACT  
14 HIM REGULARLY?

15 A YES, ESPECIALLY THE INITIAL -- FOR THE  
16 INITIAL VISIT BECAUSE HE HAD FAILED TO REPORT.

17 Q DID YOU HAVE AN ADDRESS WHICH HAD BEEN GIVEN  
18 BY HIM AS HIS PLACE OF RESIDENCE?

19 A ACTUALLY, THE ADDRESS THAT I USED TO GO DO  
20 THE INITIAL HOME VISIT ATTEMPT WAS ON THE PRE-SENTENCE  
21 INVESTIGATION, BECAUSE HE -- BECAUSE HE HAD NOT ATTENDED  
22 ORIENTATION.

23 BECAUSE THE OFFENDERS ARE INSTRUCTED  
24 TO GO TO THE DEPARTMENT IMMEDIATELY AFTER THEIR SENTENCE  
25 AND ATTEND ORIENTATION, AND HE DIDN'T DO THAT. SO THE



1 ONLY ADDRESS I HAD WAS WHAT WAS ON THE PRE-SENTENCE  
2 REPORT.

3 Q WHAT ADDRESS WAS ON THE PRE-SENTENCE REPORT?

4 A 839 NORTH LAMB, NUMBER 125, IN LAS VEGAS.

5 Q DID YOU EVER ATTEMPT TO CONTACT MR. CHAPPELL  
6 AT THAT ADDRESS?

7 A YES.

8 Q EXPLAIN WHAT YOU DID AND WITH WHAT RESULT?

9 A ON 5-8-95, I DID A HOME VISIT ATTEMPT, AND I  
10 HAD CONTACT, I BELIEVE IT WAS A BABYSITTER, AND LEFT A  
11 MESSAGE AND A BUSINESS CARD WITH INSTRUCTIONS FOR HIM TO  
12 ATTEND ORIENTATION AND REPORT TO ME AS SOON AS POSSIBLE.

13 Q DID HE EVER REPORT TO YOU?

14 A NO.

15 Q DID HE EVER ATTEND THE ORIENTATION?

16 A NO.

17 Q WAS IT IN THIS CONTEXT THAT YOU WANTED TO  
18 GET IN TOUCH WITH DEBORAH PANOS?

19 A YEAH, THAT'S THE ONLY REASON I CONTACTED HER  
20 WAS TO -- SHE HAD A -- I BELIEVE AN ANSWERING MACHINE  
21 AND I LEFT A MESSAGE AND SHE RETURNED THE CALL.

22 Q WHEN WAS IT, APPROXIMATELY, THAT SHE  
23 ANSWERED YOUR CALL?

24 A APPROXIMATELY 6-12 OF '95.

25 Q JUNE THE 12TH, 1995?

1 A YES.

2 Q UP TO THAT POINT, HAD YOU EVER MET DEBORAH  
3 PANOS?

4 A NO.

5 Q HAD YOU EVER SPOKEN WITH HER?

6 A I THINK I DID SPEAK WITH HER ON 5-8-95. I  
7 THINK WHILE I WAS IN THE HOME, THE BABYSITTER CALLED, I  
8 THINK, AND I THINK I TALKED TO HER THEN AND JUST TOLD  
9 HER WHO I WAS.

10 Q SO YOU TOLD US THAT MISS PANOS RETURNED YOUR  
11 CALL ON ABOUT JUNE THE 12TH, 1995?

12 A YES.

13 Q DID YOU SPEAK WITH HER OVER THE TELEPHONE ON  
14 THAT DAY?

15 A YES, I DID.

16 Q DID YOU HAVE SUBSEQUENT TELEPHONE  
17 CONVERSATIONS WITH HER?

18 A YES, I DID.

19 Q HOW MANY TELEPHONE CONVERSATIONS IN ALL DID  
20 YOU HAVE WITH HER?

21 A APPROXIMATELY THREE OR FOUR.

22 Q NOW, DID YOU ASK HER WHEN YOU TALKED WITH  
23 HER ON JUNE THE 12TH, 1995, INFORMATION CONCERNING THE  
24 WHEREABOUTS OF JAMES CHAPPELL?

25 A YES.

1 Q WHAT DID YOU LEARN FROM HER?

2 A SHE SAID THAT MR. CHAPPELL DIDN'T ACTUALLY  
3 RESIDE THERE, THAT HE INTENDED TO ORIGINALLY, BUT HE WAS  
4 LIVING SOMEWHERE ELSE AND HE FREQUENTED THE RESIDENCE  
5 ONLY.

6 Q WAS IT OF CONCERN TO YOU WHEN YOU LEARNED  
7 THAT, THAT YOU DIDN'T HAVE AN ACTUAL ADDRESS FOR THE  
8 INDIVIDUAL YOU WERE SUPPOSEDLY SUPERVISING ON PROBATION?

9 A YES.

10 Q DID YOU LEARN FROM DEBORAH PANOS WHETHER THE  
11 DEFENDANT, MR. CHAPPELL, INTENDED TO REPORT TO THE  
12 DEPARTMENT OF PAROLE AND PROBATION?

13 A WHEN SHE CAME INTO OUR OFFICE TO TALK TO US  
14 ON 6-15 OF '95, SHE ADVISED ME AND MY SUPERVISOR THAT HE --  
15 THAT SHE DID RELAY THE MESSAGE TO HIM BUT HE HAD STATED  
16 HE DIDN'T INTEND TO REPORT. AND I HAD ACTUALLY SPOKE  
17 WITH HIM ON THE TELEPHONE ONCE.

18 Q SO TO MAKE SURE I'M UNDERSTANDING WHAT  
19 YOU'RE TELLING US, YOU SPOKE WITH HER ON JUNE THE 12TH.

20 A YES.

21 Q APPARENTLY YOU ASKED HER TO RELAY A MESSAGE  
22 TO JAMES CHAPPELL TO GET IN TOUCH WITH YOU?

23 A YES.

24 Q YOU'RE SAYING THAT YOU THEN SAW HER IN  
25 PERSON ON JUNE THE 15TH?

1 A YES.

2 Q WAS THAT BY PREARRANGEMENT OR DID SHE JUST  
3 HAPPEN BY THE DEPARTMENT OF PAROLE AND PROBATION?

4 A SHE CALLED ME AND, AFTER SPEAKING WITH ME ON  
5 THE PHONE A FEW TIMES, WANTED TO COME IN AND SPEAK TO ME  
6 AT THE OFFICE.

7 Q DID YOU INVITE HER TO COME IN?

8 A YES.

9 Q AND YOU IN FACT DID SPEAK WITH HER ON JUNE  
10 THE 15TH, 1995?

11 A YES.

12 Q IN YOUR OFFICE OR SOMEONE ELSE'S?

13 A I BROUGHT HER TO MY OFFICE INITIALLY AND  
14 THEN I TOOK HER INTO MY SUPERVISOR'S OFFICE SO THE THREE  
15 OF US COULD TALK.

16 Q WHAT IS THE NAME OF YOUR SUPERVISOR?

17 A PAUL ELLIS.

18 Q E-L-L-I-S?

19 A YES.

20 Q DID YOU THEN HAVE A CONVERSATION WITH  
21 DEBORAH PANOS?

22 A YES.

23 Q DID SHE TALK ABOUT HER RELATIONSHIP WITH  
24 JAMES CHAPPELL?

25 A YES, SHE DID.

1 Q DID SHE EXPRESS CONCERNS ABOUT HIM?

2 A YES.

3 Q HOW LONG DID YOU TALK WITH HER?

4 A 30 TO 40 MINUTES.

5 Q DESCRIBE HOW SHE WAS ACTING DURING THE  
6 INTERVIEW.

7 A SHE WAS VERY UPSET. SHE WAS CRYING THE  
8 WHOLE TIME. SHE WAS REALLY SHAKEN AND UPSET.

9 Q WHAT WAS SHE TELLING YOU, TO THE EXTENT THAT  
10 YOU REMEMBER THE CONVERSATION?

11 A SHE WANTED TO DISCUSS THE PROBLEM SHE WAS  
12 HAVING WITH MR. CHAPPELL.

13 Q WHAT PROBLEM?

14 A SHE HAD ADVISED ME ON THE TELEPHONE THAT HE  
15 HAD GONE THROUGH HER WINDOW, THAT HE ACTUALLY DIDN'T  
16 LIVE THERE. BUT THAT HE WOULD GO THROUGH HER WINDOW AND  
17 TAKE VARIOUS THINGS, AND APPLIANCES. I THINK ONE TIME  
18 HE TOOK A T.V., SHE BELIEVED TO KEEP USING DRUGS.

19 Q DID SHE TELL YOU THAT HE WOULD COME THROUGH  
20 THE WINDOW AND WAS STEALING FROM HER AND FROM THE  
21 CHILDREN?

22 A YES.

23 Q DID YOU MAKE ANY TYPE OF SUGGESTION?

24 A YES, I DID.

25 Q WHAT WAS YOUR SUGGESTION?

1           A       MY SUPERVISOR AND I SUGGESTED THAT SHE LEAVE  
2       THAT RESIDENCE, THAT POSSIBLY SHE RELOCATE TO ARIZONA.  
3       I BELIEVE SHE HAD A MOTHER THERE. AND SHE SAID THAT  
4       THAT WOULDN'T WORK.

5                   I TOLD HER TO CHANGE THE LOCKS ON THE  
6       DOOR, TO ALWAYS CALL METRO AND FILE COMPLAINTS ON ANY  
7       OTHER, YOU KNOW, FURTHER INCIDENTS OR NEGATIVE CONTACTS  
8       WITH HIM, AND TO DOCUMENT, YOU KNOW, HAVE ALL THAT  
9       DOCUMENTED.

10          Q       DURING YOUR CONVERSATION WITH DEBORAH PANOS  
11       JUNE THE 15TH, DID SHE REFER TO ANY ACTS OF VIOLENCE?

12          A       YES, SHE DID.

13          Q       WHAT DID SHE TELL YOU?

14          A       WELL, SHE TOLD ME THAT SHE HAD BEEN BEATEN  
15       UP NUMEROUS TIMES AND THAT --

16          Q       BY WHOM?

17          A       MR. CHAPPELL. JAMES CHAPPELL. AND ON ONE  
18       OCCASION HE HAD TAKEN HER INTO, I BELIEVE IT WAS A  
19       BEDROOM, AND HAD STRADDLED HER AND THAT THERE WAS A  
20       KNIFE IN THE BEDROOM AND THAT SHE BELIEVED THAT HE WAS  
21       GOING TO USE THAT KNIFE ON HER, BUT HE DIDN'T.

22          Q       DID SHE EXPRESS TO YOU THAT SHE WAS AFRAID  
23       AT THE TIME THAT THAT INCIDENT OCCURRED?

24          A       YES, SHE WAS.

25          Q       DID SHE TELL YOU WHAT SHE WAS AFRAID WAS

1 GOING TO HAPPEN?

2 A YES.

3 Q WHAT DID SHE SAY?

4 A THAT HE WAS GOING TO HURT HER OR WORSE. BUT  
5 I DON'T REMEMBER THE EXACT WORDS THAT SHE USED.

6 Q BECAUSE OF WHAT SHE WAS TELLING YOU, AND  
7 BECAUSE OF HER MANNER AT THE TIME OF THE INTERVIEW, DID  
8 YOU BECOME CONCERNED ABOUT HER SAFETY?

9 A YES, I DID. THAT WAS WHEN MY SUPERVISOR AND  
10 I DISCUSSED DIFFERENT OPTIONS LIKE MOVING AND GOING BACK  
11 TO ARIZONA.

12 Q DID THERE COME A TIME WHEN YOU SUBMITTED A  
13 VIOLATION REPORT RECOMMENDING THAT THE PROBATIONARY  
14 STATUS OF JAMES CHAPPELL BE REVOKED?

15 A YES, I DID.

16 Q AND THAT HE BE PLACED IN CUSTODY?

17 A YES.

18 Q WHEN DID YOU SUBMIT THE VIOLATION REPORT?

19 A THE VIOLATION REPORT I SUBMITTED IS DATED  
20 JUNE 30TH, 1995.

21 Q WHAT WAS THE BASIS OF YOUR REQUEST THAT HIS  
22 PROBATION BE VIOLATED?

23 A WE CHARGED HIM WITH RULE 8, LAWS AND  
24 CONDUCT. BUT I ALSO MENTIONED IN THERE THAT HE HAD  
25 FAILED TO CONTACT THE DIVISION.

1 Q SO FAILURE TO REPORT --

2 A YES.

3 Q -- WAS ONE OF THE --

4 A WE ACTUALLY DIDN'T CHARGE HIM WITH  
5 REPORTING. JUST LAWS AND CONDUCT.

6 Q BUT IN FACT, HE HAD FAILED TO REPORT?

7 A YES.

8 Q WHAT WAS THE BASIS OF THE LAWS AND CONDUCT  
9 VIOLATION?

10 A HE'D INCURRED SEVERAL CITATIONS FOR PETIT  
11 LARCENY AND UNDER THE INFLUENCE, DRUG-RELATED OFFENSE.

12 Q HE BEEN ARRESTED FOR DOMESTIC VIOLENCE  
13 INVOLVING THE KNIFE INCIDENT THAT SHE TOLD YOU ABOUT?

14 A YES.

15 Q YOU MENTIONED EARLIER THAT ONE OF THE  
16 CONDITIONS OF HIS PROBATION WAS A DRUG REHABILITATION  
17 PROGRAM?

18 A YES.

19 Q AND HAD HE ENTERED SUCH A PROGRAM AND  
20 COMPLETED THAT PROGRAM AS OF JUNE THE 30TH, 1995?

21 A NO.

22 Q SO WHAT HAPPENED AS A RESULT OF YOUR  
23 SUBMITTING THE VIOLATION REPORT?

24 A A HOLD WAS PLACED ON HIM JUNE 26, 1995. WE  
25 WENT BACK TO COURT.



1 Q ON WHAT DATE?

2 A 8-1-95.

3 Q AUGUST THE 1ST, 1995?

4 A YES.

5 Q DID YOU GO BACK BEFORE THE SAME JUDGE WHO  
6 HAD IMPOSED THE SENTENCE ON APRIL THE 27TH, 1995?

7 A YES.

8 Q WHAT WAS THE RESULT OF THE HEARING WHICH  
9 OCCURRED ON AUGUST THE 1ST?

10 A HE WAS REINSTATED TO PROBATION WITH THE  
11 CONDITION THAT HE DO AN INPATIENT, AND FAILING TO  
12 COMPLETE THE INPATIENT, HE WOULD STIPULATE TO  
13 REVOCATION, MEANING HE WOULD GO BACK TO COURT AND THE  
14 ORIGINAL SENTENCE WOULD BE IMPOSED.

15 Q WHAT DOES INPATIENT TREATMENT MEAN?

16 A INPATIENT SUBSTANCE ABUSE COUNSELING, THAT'S --  
17 WE HAVE -- THERE'S 90-DAY PROGRAMS, SIX-MONTH PROGRAMS.  
18 WHATEVER PROGRAM WOULD ACCEPT HIM FIRST, WE WOULD  
19 TRANSFER HIM TO THAT PROGRAM. AND HE WOULD DO THE  
20 PROGRAM INPATIENT, MEANING STAYING THERE.

21 Q AND "WE" MEANING OFFICERS OF THE STATE OF  
22 NEVADA DEPARTMENT OF PAROLE AND PROBATION?

23 A YES.

24 Q AT THE TIME THE COURT REINSTATED MR.  
25 CHAPPELL ON HIS PROBATION, WAS THERE A SPECIFIC ORDER

1 THAT HE WAS TO BE RELEASED FROM JAIL ONLY INTO THE  
2 CUSTODY OF THE DEPARTMENT OF PAROLE AND PROBATION?

3 A YES.

4 Q AND THAT HE WOULD THEN BE TRANSPORTED BY  
5 THEM TO AN INPATIENT DRUG REHABILITATION PROGRAM?

6 A YES.

7 Q WAS THAT THE COURT ORDER?

8 A YES, IT WAS.

9 Q WERE A NUMBER OF PROGRAMS CONSIDERED ON  
10 BEHALF OF MR. CHAPPELL?

11 A HE WAS INTERVIEWED BY A REPRESENTATIVE WITH  
12 E.O.B., AND AFTER THAT POINT, I TRANSFERRED THE CASE  
13 BECAUSE I HAD MOVED TO A SUB OFFICE, AND IT WAS GIVEN TO  
14 OFFICER ARAVE.

15 Q WILL YOU SPELL ARAVE, PLEASE.

16 A A-R-A-V-E, I BELIEVE; FIRST NAME LARRY.

17 Q SO AT SOME POINT LARRY ARAVE ASSUMED THE  
18 ROLE OF SUPERVISOR OF JAMES CHAPPELL?

19 A YES.

20 Q APPROXIMATELY WHAT DATE WAS THAT?

21 A THE DATE I WENT TO COURT AND AFTER I  
22 CONTACTED THE REP FROM E.O.B., I TRANSFERRED THE CASE  
23 AND HE TOOK THE REPRESENTATIVE UP TO E.O.B. TO INTERVIEW  
24 MR. CHAPPELL AT THE JAIL ON 8-4-95.

25 Q SO WHEN YOU SAY IT WAS AFTER I WENT TO

1 COURT, YOU WERE TALKING ABOUT AUGUST THE 1ST, 1995?

2 A YES.

3 Q THE DAY THE COURT REINSTATED WITH THE  
4 SPECIAL CONDITION, THE PROBATION?

5 A YES.

6 Q WHO IS THE REPRESENTATIVE OF E.O.B. THAT  
7 CONSIDERED THE SUITABILITY OF JAMES CHAPPELL FOR  
8 ADMISSION INTO THEIR DRUG PROGRAM?

9 A I BELIEVE HER NAME IS THERESA KING.

10 Q K-I-N-G?

11 A YES.

12 Q DID YOU EVER TALK WITH THERESA KING?

13 A YES.

14 Q DID YOU LEARN THAT IN FACT SHE HAD  
15 INTERVIEWED MR. CHAPPELL?

16 A YES.

17 Q ON WHAT DATE WAS THAT?

18 A 8-4-95.

19 Q AND THAT'S WHEN YOU SAID LARRY ARAVE  
20 TRANSPORTED THE DEFENDANT TO THE INTERVIEW?

21 A NO, HE TOOK MISS KING UP TO THE CLARK COUNTY  
22 DETENTION CENTER WHERE THE INTERVIEW WAS CONDUCTED.

23 Q OH, I SEE. BASED UPON CONVERSATIONS YOU HAD  
24 WITH THERESA KING, WAS JAMES CHAPPELL ACCEPTABLE AT THAT  
25 TIME INTO THEIR PROGRAM?

1           A       I BELIEVE SHE SAID THAT HE WASN'T READY TO  
2 DO A PROGRAM. THAT'S JUST KIND OF A GUESS.

3           Q       I DON'T WANT YOU GUESSING. DO YOU KNOW AS --

4           A       I BELIEVE THAT THAT WAS THE REASON THAT HE  
5 WASN'T ACCEPTED.

6           Q       AND APPROXIMATELY WHEN IN CONNECTION WITH  
7 AUGUST THE 4TH WAS IT THAT YOU SPOKE WITH HER?

8           A       PROBABLY SEPTEMBER OF '95.

9           Q       SO YOU'RE TALKING ABOUT SPEAKING WITH HER  
10 AFTER THE MURDER OF DEBORAH PANOS?

11          A       YES.

12          Q       AFTER AUGUST THE 1ST, 1995, DID YOU HAVE --  
13 THIS IS EXCEPT FOR THE TELEPHONE CONVERSATION WITH  
14 THERESA KING OF E.O.B. -- DID YOU HAVE ANY ACTIVE  
15 INVOLVEMENT IN THE JAMES CHAPPELL MATTER?

16          A       NO.

17          Q       DID YOU HAVE ANY SUBSEQUENT CONTACT -- I'M  
18 USING AUGUST THE 1ST AS THE FRAME OF REFERENCE WITH  
19 DEBORAH PANOS?

20          A       NO.

21          Q       DID YOU HAVE A CHANCE AT ANY TIME TO CONVEY  
22 TO MISS PANOS THAT A SPECIAL CONDITION WAS THAT JAMES  
23 CHAPPELL WOULD HAVE TO SERVE A CERTAIN AMOUNT OF TIME AS  
24 AN INPATIENT IN A DRUG REHAB PROGRAM?

25          A       YES. I BELIEVE IT WAS THE DAY THAT SHE WENT

1 TO COURT FOR THE DOMESTIC CASE HE HAD IN JUSTICE COURT,  
2 I TOLD HER THAT THAT'S WHAT THE DIVISION RECOMMENDED AND  
3 THAT'S WHAT WAS PROBABLY GOING TO HAPPEN.

4 Q WE'VE HAD EVIDENCE THAT THERE WAS A TIME SHE  
5 WENT TO COURT IN LATE AUGUST, IN FACT AUGUST THE 30TH,  
6 1995. IS THAT THE DATE YOU'RE REFERRING TO OR SOME  
7 OTHER DATE?

8 A I DON'T HAVE THE DATE CHRONO'ED, BUT IT WAS  
9 SOMETIME IN AUGUST. AFTER THE REVOCATION HEARING.

10 Q MISS SMITH, YOU MENTION YOU'VE BEEN EMPLOYED  
11 BY THE DEPARTMENT OF PAROLE AND PROBATION FOR SEVEN  
12 YEARS?

13 A YES.

14 Q I WOULD TAKE IT YOU HAVE SUPERVISED QUITE A  
15 LARGE NUMBER OF PERSONS DURING THAT TIME FRAME?

16 A YES.

17 Q HAVE YOU ALSO EXPERIENCED IN YOUR LINE OF  
18 WORK SITUATIONS WHERE THERE WAS A HISTORY OF DOMESTIC  
19 VIOLENCE?

20 A YES.

21 Q EVEN AFTER THIS CASE WAS TRANSFERRED TO  
22 ANOTHER OFFICER -- YOU SAID IT WAS LARRY ARAVE?

23 A YES.

24 Q -- DID YOU CONTINUE TO HAVE SERIOUS CONCERNS  
25 ABOUT THE SAFETY OF DEBORAH PANOS?

1           A       YES. THIS CASE -- ACTUALLY, MY WHOLE  
2 CASELOAD WAS TRANSFERRED TO ARAVE. HE TOOK THE CASELOAD  
3 OVER. AND THIS CASE, ESPECIALLY THIS CASE, I TOLD HIM  
4 EXACTLY WHAT WAS GOING ON WITH IT BECAUSE I WAS  
5 CONCERNED AND WANTED TO MAKE SURE HE COULD FOLLOW  
6 THROUGH WITH WHAT NEEDED TO BE DONE.

7           MR. HARMON: THAT'S ALL ON DIRECT, YOUR  
8 HONOR.

9           THE COURT: CROSS?

10          MR. EWING: THANK YOU, YOUR HONOR.

11  
12                           CROSS-EXAMINATION

13 BY MR. EWING:

14          Q       WHEN MR. CHAPPELL WAS FIRST SENTENCED IN  
15 APRIL OF '95, HE WAS SENTENCED FOR POSSESSION OF  
16 BURGLARY TOOLS?

17          A       YES.

18          Q       AND THAT WAS A GROSS MISDEMEANOR?

19          A       YES.

20          Q       THAT'S BECAUSE HE WENT IN K-MART AND  
21 ATTEMPTED TO STEAL SOME CASSETTE TAPES AND SOME  
22 CLOTHING?

23          A       YES.

24          Q       YOU HAD CONTACT WITH DEBORAH PANOS IN JUNE  
25 OF 1995, CORRECT?

1 A YES.

2 Q STARTING ON JUNE THE 12TH?

3 A YES.

4 Q AND PRIOR TO THAT DATE, YOU DIDN'T KNOW WHO  
5 SHE WAS OR ANYTHING ABOUT HER, CORRECT?

6 A NO.

7 Q AND YOU TALKED TO HER THREE OR FOUR TIMES  
8 AFTER JUNE 12TH?

9 A APPROXIMATELY, YES.

10 Q ONE TIME IN YOUR OFFICE?

11 A YES.

12 Q WHEN YOU SUBMITTED YOUR REVOCATION REQUEST  
13 JUNE 30TH OF 1995, YOU SAID THAT YOU VIOLATED HIM FOR  
14 LAWS AND CONDUCT?

15 A YES.

16 Q AND THAT INCLUDED MORE MISDEMEANOR OFFENSES,  
17 CORRECT?

18 A YES.

19 Q PETIT LARCENY?

20 A YES.

21 Q AND BEING ARRESTED FOR A WARRANT FOR  
22 DOMESTIC VIOLENCE?

23 A YES.

24 Q AND THAT WAS THE INCIDENT WHERE DEBBIE  
25 CLAIMED JAMES HELD A KNIFE UP TO HER IN THE BEDROOM?

1 A I BELIEVE THAT WAS THE SAME INCIDENT.

2 Q AND WITH THAT HISTORY, THE DEPARTMENT OF  
3 PAROLE AND PROBATION FELT THAT JAMES WAS A GOOD  
4 CANDIDATE FOR INPATIENT DRUG TREATMENT, THAT WAS THEIR  
5 RECOMMENDATION?

6 A I'M SORRY, CAN YOU REPEAT THAT QUESTION?

7 Q BASED UPON JAMES' HISTORY, THEY FELT THAT  
8 INPATIENT DRUG TREATMENT WOULD BE A GOOD RESOLUTION FOR  
9 HIS PROBATION VIOLATION CASE?

10 A BASED ON THE INFORMATION IN THE PRE-SENTENCE  
11 REPORT AND ARRESTS THAT HE INCURRED AFTER SENTENCING FOR  
12 DRUG OFFENSES.

13 MR. EWING: I DON'T HAVE ANY FURTHER  
14 QUESTIONS.

15 MR. HARMON: NO FURTHER QUESTIONS, JUDGE.

16 THE COURT: MAY THIS WITNESS BE DISCHARGED?

17 MR. HARMON: YES, YOUR HONOR.

18 THE COURT: YOU MAY STEP DOWN.

19 (WHEREUPON, CHARMAINE MARIE  
20 SMITH WITHDREW FROM THE  
21 COURTROOM.)

22 THE COURT: CALL YOUR NEXT WITNESS.

23 MR. HARMON: WILLIAM DUFFEY.

24 (WHEREUPON, WILLIAM DUFFEY  
25 ENTERED THE COURTROOM AND



TOOK THE WITNESS STAND.)

WHEREUPON,

WILLIAM DUFFEY,

HAVING BEEN FIRST DULY SWORN TO TELL THE TRUTH,

THE WHOLE TRUTH AND NOTHING BUT THE TRUTH,

WAS EXAMINED AND TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. HARMON:

Q WILL YOU STATE YOUR NAME, PLEASE.

A WILLIAM DUFFEY.

Q PLEASE SPELL YOUR LAST NAME.

A D-U-F-F-E-Y.

Q WHAT IS YOUR BUSINESS OR OCCUPATION, MR.

DUFFEY?

A I'M A PAROLE OFFICER WITH THE STATE OF

NEVADA.

Q HOW LONG HAVE YOU WORKED WITH THE STATE OF

NEVADA?

A APPROXIMATELY 17 YEARS.

Q WHAT ARE YOUR DUTIES WITH THE STATE OF

NEVADA DEPARTMENT OF PAROLE AND PROBATION?

A I'M A UNIT MANAGER. I OVERSEE A NUMBER OF  
OFFICERS THAT SUPERVISE PROBATIONERS AND PAROLEES.

Q I WANT TO DIRECT YOUR ATTENTION TO AUGUST

1 THE 31ST, 1995. ON THAT DATE, DID YOU HAVE CONTACT WITH  
2 SOMEONE WHO IS HERE IN THE COURTROOM?

3 A YES, I DID.

4 Q WHO DID YOU HAVE CONTACT WITH ON AUGUST THE  
5 31ST, 1995?

6 A JAMES CHAPPELL.

7 Q WILL YOU POINT TO MR. CHAPPELL IF YOU SEE  
8 HIM IN COURT THIS AFTERNOON, DESCRIBING SOMETHING HE'S  
9 WEARING?

10 A HE'S SITTING IN THE CENTER AT THE DEFENSE  
11 TABLE IN A GRAY SUIT.

12 MR. HARMON: MAY THE RECORD SHOW THE WITNESS  
13 HAS IDENTIFIED THE DEFENDANT, MR. CHAPPELL, YOUR HONOR?

14 THE COURT: YES.

15 MR. HARMON: THANK YOU.

16 BY MR. HARMON:

17 Q DID YOU KNOW WHEN YOU HAD CONTACT WITH MR.  
18 CHAPPELL THAT HE WAS BEING SUPERVISED ON A GROSS  
19 MISDEMEANOR CHARGE OF POSSESSION OF BURGLARY TOOLS BY  
20 THE DEPARTMENT?

21 A YES, I DID.

22 Q HOW DID IT HAPPEN THAT YOU HAD CONTACT WITH  
23 HIM ON AUGUST THE 31ST?

24 A I HAD RECEIVED A MESSAGE FROM THE CITY JAIL  
25 THAT HE WAS BEING RELEASED AND HAD TO BE PICKED UP.

1 Q WHY, WHEN YOU RECEIVED THIS MESSAGE, WAS IT  
2 IMPORTANT THAT YOUR DEPARTMENT PICK HIM UP SINCE THE  
3 CITY WAS RELEASING HIM?

4 A WELL, THE MESSAGE WAS THAT HE WAS A  
5 PROBATIONER; IF HE WASN'T PICKED UP, HE WAS GOING TO BE  
6 RELEASED TO THE STREET.

7 Q AS A RESULT OF THE MESSAGE, WHAT DID YOU DO?

8 A I HAD TWO OFFICERS GO TO THE CITY JAIL AND  
9 PICK HIM UP AND BRING HIM TO THE OFFICE.

10 Q DO YOU KNOW TO WHICH JAIL THEY RESPONDED?

11 A THE CITY JAIL.

12 Q WHERE IS THAT LOCATED?

13 A I BELIEVE IT'S THE STEWART AND MOJAVE.

14 Q WHAT OFFICERS RESPONDED TO THE CITY JAIL TO  
15 PICK UP JAMES CHAPPELL?

16 A IT WAS OFFICERS WINCHELL AND ADAMS.

17 Q HOW IS WINCHELL SPELLED?

18 A W-I-N-C-H-E-L-L.

19 Q AND YOU SAID THE OTHER OFFICER YOU BELIEVE  
20 WAS ADAMS?

21 A NORM ADAMS, A-D-A-M-S.

22 Q ABOUT WHAT TIME, TO YOUR KNOWLEDGE, WAS  
23 JAMES CHAPPELL RELEASED FROM THE CITY JAIL TO OFFICERS  
24 WINCHELL AND ADAMS?

25 A HE WAS BROUGHT TO MY OFFICE AT 10:00 A.M.

1 Q SO CERTAINLY SOMETIME PRIOR TO THAT?

2 A THAT'S CORRECT.

3 Q WHAT WAS THE REASON FOR JAMES CHAPPELL BEING  
4 BROUGHT TO YOUR OFFICE?

5 A A DECISION HAD TO BE MADE AS TO WHAT TO DO  
6 WITH HIM.

7 Q WHY DID A DECISION HAVE TO BE MADE?

8 A WELL, HE WAS UNDER SUPERVISION AND SINCE HE  
9 WAS BEING RELEASED FROM JAIL, SOME DECISION HAD TO BE  
10 MADE AS TO WHETHER HE NEEDED TO REPORT OR WHAT THE  
11 CIRCUMSTANCE OF HIS CASE WOULD BE.

12 Q WAS THERE SOME TYPE OF SPECIAL CONDITION OF  
13 HIS PROBATION THAT HE HAD TO FULFILL?

14 A YES. I DISCOVERED THAT HE HAD A CONDITION  
15 THAT HE WAS SUPPOSED TO GO INTO AN INPATIENT DRUG  
16 PROGRAM.

17 Q HOW DID YOU MAKE THAT DISCOVERY?

18 A I FOUND SOME OF HIS FILE MATERIAL THAT HAD  
19 THAT RECORDED.

20 Q PRIOR TO RECEIVING THE NOTIFICATION FROM THE  
21 CITY JAIL THAT JAMES CHAPPELL WAS ABOUT TO BE RELEASED  
22 BUT THAT HE WAS UNDER SUPERVISION OF YOUR DEPARTMENT,  
23 HAD YOU HAD ANY DIRECT CONTACT WITH JAMES CHAPPELL?

24 A NO, I HAD NOT.

25 Q DID YOU REALLY KNOW ANYTHING ABOUT THE

1 HISTORY OF HIS CASE?

2 A NO, I DIDN'T.

3 Q WHO WAS HIS ACTUAL SUPERVISING OFFICER ON  
4 THAT DATE, AUGUST THE 31ST, 1995?

5 A MR. ARAVE.

6 Q HAD THE PREVIOUS SUPERVISOR BEEN CHARMAINE  
7 SMITH?

8 A THAT'S CORRECT.

9 Q BUT LARRY ARAVE WAS THE SUPERVISOR ON THE  
10 DATE IN QUESTION?

11 A THAT'S CORRECT.

12 Q YOU HAVE MENTIONED THAT MR. CHAPPELL WAS  
13 BROUGHT TO YOUR OFFICE AT ABOUT 10:00 A.M.?

14 A THAT'S CORRECT.

15 Q DID YOU HAVE A CONVERSATION WITH HIM?

16 A YES, FOR ABOUT AN HOUR.

17 Q WHAT, IN SUMMARY, WAS DISCUSSED BY THE TWO  
18 OF YOU DURING THAT TIME FRAME?

19 A WE DISCUSSED THE CONDITION OF HIM ENTERING  
20 INTO A PROGRAM.

21 Q YOU DISCUSSED HIS ENTERING INTO WHAT TYPE OF  
22 PROGRAM?

23 A THE E.O.B. DRUG PROGRAM IN PARTICULAR, AND  
24 ALSO POSSIBLY THE SALVATION ARMY.

25 Q WAS THAT IN AN EFFORT TO FULFILL THE

1       CONDITION OF PROBATION IMPOSED BY THE COURT?

2           A       YES, THAT'S TRUE.

3           Q       DID YOU KNOW WHETHER THE COURT'S CONDITION  
4       WAS TO BE AN INPATIENT OR OUTPATIENT --

5           A       IT WAS TO BE AN INPATIENT PROGRAM.

6           Q       WHAT DOES INPATIENT MEAN?

7           A       IT MEANS THAT HE WOULD RESIDE AT THE  
8       PROGRAM.

9           Q       ON THE DATE THAT YOU SPOKE WITH DEFENDANT,  
10       DID YOU HAVE ANY CONVERSATION ABOUT A PREVIOUS EFFORT TO  
11       ENROLL HIM IN THE E.O.B. PROGRAM?

12          A       YES, I WAS MADE AWARE OF THE FACT THAT HE  
13       HAD BEEN INTERVIEWED FOR THE E.O.B. PROGRAM, BUT  
14       SUPPOSEDLY THEY HAD NOT MADE A DECISION AT THAT TIME AS  
15       TO WHETHER HE WOULD WE ACCEPTED OR NOT.

16                   AND I TELEPHONED THE PROGRAM AND THEY  
17       SAID THAT BASED ON THE INTERVIEW THAT THEY HAD WITH HIM,  
18       THAT THEY DIDN'T FEEL HE WAS APPROPRIATE AT THE TIME  
19       THAT HE WAS INTERVIEWED WHILE HE WAS IN JAIL.

20                   I DISCUSSED THE MATTER WITH HIM AND HE  
21       FELT THAT SINCE HE HAD BEEN INCARCERATED FOR A LENGTH OF  
22       TIME SINCE THE INTERVIEW, THAT HIS ATTITUDE HAD IMPROVED  
23       AND THAT NOW HE WOULD BE A GOOD CANDIDATE TO GO INTO THE  
24       SUBSTANCE ABUSE PROGRAM, AND BASICALLY REQUESTED AN  
25       OPPORTUNITY TO DO SO.

1 Q SO YOU'RE SAYING, AS I UNDERSTAND IT, MR.  
2 DUFFEY, THAT AS YOU INTERVIEWED MR. CHAPPELL ON AUGUST  
3 THE 31ST IN YOUR OFFICE, YOU PLACED THE TELEPHONE CALL  
4 TO THE E.O.B. PEOPLE?

5 A THAT'S CORRECT.

6 Q AND YOU DISCUSSED WITH THEM THE SITUATION.  
7 APPARENTLY THERE'D BEEN SOME TYPE OF PERCEIVED ATTITUDE  
8 PROBLEM OF THE DEFENDANT?

9 A YES. THEY SAID THAT AT THE TIME THAT THEY  
10 HAD INTERVIEWED HIM IN THE JAIL THAT THEY DIDN'T THINK  
11 HE WAS APPROPRIATE.

12 Q WHAT DOES THAT MEAN, THEY DIDN'T THINK HE  
13 WAS APPROPRIATE?

14 A I CAN ONLY SPECULATE AS TO WHAT THEY MEANT  
15 BY INAPPROPRIATE ON HIS ATTITUDE.

16 Q YOU WERE NOT TOLD WHAT THEY HAD CONCLUDED?

17 A THAT'S CORRECT.

18 Q SO YOU THEN CONTINUED YOUR CONVERSATION WITH  
19 THE DEFENDANT AND RELAYED TO HIM THE INFORMATION YOU HAD  
20 RECEIVED FROM E.O.B.?

21 A THAT'S CORRECT.

22 Q AND DID HE EXPRESS A DESIRE TO CONTACT THEM?

23 A YES, HE SAID THAT HE WANTED ANOTHER  
24 OPPORTUNITY. THAT HE FELT THAT IF HE WAS GIVEN ANOTHER  
25 INTERVIEW, THAT THEY WOULD FIND HIM ACCEPTABLE AT THIS

1 TIME.

2 Q DID YOU HAVE TO MAKE SOME TYPE OF DECISION  
3 ABOUT HOW HE WOULD GET FROM YOUR OFFICE TO E.O.B. OR TO  
4 THE SALVATION ARMY PROGRAM?

5 A THAT'S CORRECT. HIS OFFICER WAS WORKING THE  
6 1:00 P.M. TO 10:00 P.M. SHIFT AND WAS NOT THERE.

7 Q YOU'RE REFERRING TO LARRY ARAVE?

8 A THAT'S CORRECT. AND I DIDN'T HAVE ANYONE  
9 AVAILABLE TO TAKE HIM, AND I ASKED HIM IF HE KNEW  
10 SOMEONE THAT COULD TAKE HIM, AND HE SAID POSSIBLY. AND  
11 I ALLOWED HIM TO MAKE A TELEPHONE CALL.

12 Q DID YOU HAVE ANY IDEA WHO HE WAS CALLING?

13 A NO.

14 Q WHEN YOU ASKED IF HE HAD ANYONE WHO COULD  
15 TRANSPORT HIM, HE SAID POSSIBLY. DID YOU HAVE ANY IDEA  
16 WHO THE POSSIBLY WAS?

17 A HE SAID A FRIEND.

18 Q DID YOU KNOW AT THE TIME OF THIS  
19 APPROXIMATELY ONE HOUR INTERVIEW WITH THE DEFENDANT THAT  
20 HE HAD A HISTORY OF DOMESTIC VIOLENCE?

21 A I HAD A COPY OF HIS COMPUTER PRINTOUT THAT  
22 SHOWED THAT HE HAD BEEN ARRESTED FOR DOMESTIC BATTERY.

23 Q DID YOU REALIZE THAT IN FACT HE WAS BEING  
24 RELEASED FROM THE CITY IN CONNECTION WITH A MISDEMEANOR  
25 DOMESTIC VIOLENCE CONVICTION WHICH INVOLVED THE USE OF A



1 KNIFE?

2 A I DIDN'T KNOW ABOUT THE USE OF A KNIFE. I  
3 KNEW THAT HE HAD SERVED SOME TIME FOR A DOMESTIC BATTERY  
4 AND WAS BEING RELEASED.

5 Q DID YOU KNOW HIS VICTIM WAS DEBORAH PANOS?

6 A NO, I DID NOT.

7 Q DID YOU REALIZE WHEN YOU DISCUSSED THE  
8 CIRCUMSTANCE WITH MR. CHAPPELL AUGUST THE 31ST THAT  
9 CHARMAINE SMITH, THE PREVIOUS SUPERVISOR OF THE  
10 DEFENDANT, HAD SPOKEN AT LENGTH WITH DEBORAH PANOS?

11 A I DIDN'T KNOW THAT.

12 Q YOU DIDN'T KNOW THAT DEBORAH PANOS HAD  
13 EXPRESSED FEAR OF THE DEFENDANT?

14 A NO, I DID NOT.

15 Q I WOULD PRESUME YOU DIDN'T KNOW THE WHOLE  
16 SERIES OF LETTERS THAT MR. CHAPPELL HAD WRITTEN TO  
17 DEBORAH PANOS FROM THE CLARK COUNTY DETENTION CENTER?

18 A NO, I WAS NOT AWARE OF THAT.

19 Q SO TELL US IN A NUTSHELL WHAT HAPPENED?

20 A BASICALLY, I WAS GIVEN A MESSAGE THAT HE WAS  
21 BEING RELEASED FROM CUSTODY AND SO I STARTED TRYING TO  
22 DETERMINE WHY AND I RAN SOME COMPUTER RECORDS AND I WAS  
23 ABLE TO DETERMINE THAT HE WAS IN JAIL FOR SOME DOMESTIC  
24 BATTERY CHARGES AND WAS BEING RELEASED.

25 ALSO DISCOVERED THAT HIS OFFICER AT

1 THAT TIME WAS MR. ARAVE AND THAT HE WAS WORKING SWING  
2 SHIFT AND HE WASN'T AVAILABLE.

3 I CALLED HIM AT HOME AND I ASKED HIM  
4 WHAT HE WAS DOING IN CUSTODY, WHY WAS HE BEING RELEASED?  
5 AND HE WAS VERY UNCLEAR ON THE CASE. COULDN'T RECALL IT  
6 AND THEN THE OFFICERS BROUGHT MR. CHAPPELL IN.

7 WE HAD A DISCUSSION AND I BECAME AWARE  
8 OF THE FACT THAT HE WAS SUPPOSED TO BE IN E.O.B. AND  
9 THAT HE HAD BEEN INTERVIEWED. THAT'S THE REASON I  
10 CALLED THEM.

11 AND AS I SAID BEFORE, THEY DIDN'T FEEL  
12 THAT HE WAS APPROPRIATE BASED ON THE INTERVIEW THAT THEY  
13 HAD DONE IN THE JAIL.

14 I DISCUSSED THAT WITH HIM. HE TOLD ME  
15 THAT HE HAD BASICALLY SEEN THE LIGHT FROM HAVING BEEN --  
16 SPENT ADDITIONAL DAYS IN CUSTODY AND HE WAS READY TO GO  
17 IN THE PROGRAM.

18 I ASKED HIM HOW HE COULD POSSIBLY GET  
19 INTO THE SALVATION ARMY DRUG PROGRAM, BUT THAT AN  
20 APPOINTMENT WOULD HAVE TO BE SCHEDULED. HE WOULD HAVE  
21 TO SEE HIS OFFICER AT 1:00 O'CLOCK TO DO THAT.

22 A AND ALSO HE SAID THAT HE WOULD LIKE TO GO  
23 DOWN AND BE INTERVIEWED AT THE E.O.B. PROGRAM, TRY TO  
24 GET ANOTHER INTERVIEW.

25 I TRIED TO TELEPHONE E.O.B. AGAIN BUT

1 THERE WAS NO ANSWER, WHICH IS NOT UNUSUAL. WHEN THEY  
2 HAVE GROUP SESSIONS, SOMETIMES THEY DON'T ANSWER THE  
3 TELEPHONE.

4 SO IT WAS ABOUT 11:00 O'CLOCK AND I  
5 TOLD HIM THAT HIS OFFICER WOULD BE IN AT 1:00 AND COULD  
6 TAKE HIM TO THE SALVATION ARMY TO BE INTERVIEWED; BUT  
7 THAT HE COULD GO DOWN TO THE E.O.B. CENTER WHICH IS TWO  
8 BLOCKS AWAY AND TRY TO BE INTERVIEWED BY THEM, BUT THAT  
9 IF HE DID, HE WOULD HAVE TO BE, YOU KNOW, BACK BY  
10 1:00 O'CLOCK. DID HE KNOW ANYONE THAT COULD TAKE HIM?

11 HE SAYS, "I HAVE A FRIEND I THINK CAN  
12 TAKE ME."

13 MY TELEPHONE IS BEHIND MY DESK, SO I  
14 HAD HIM COME SIT NEXT TO THE DESK.

15 I HANDED HIM THE TELEPHONE. HE GAVE  
16 ME SOME NUMBERS AND I PUNCHED THEM INTO THE TELEPHONE.  
17 AND IT APPEARED AS THOUGH HE WAS LEAVING A MESSAGE FOR  
18 SOMEONE ON A MESSAGE PHONE. THEN HE SAID THAT HE DIDN'T  
19 HAVE A WAY TO GET DOWN THERE.

20 SO I AGREED TO ALLOW HIM TO WALK DOWN  
21 TO THE E.O.B. UNDER THE CIRCUMSTANCES, THE CONDITIONS  
22 THAT HE BE BACK AT 1:00 O'CLOCK FOR HIS OFFICER TO TAKE  
23 HIM TO THE SALVATION ARMY TO BE CONSIDERED FOR ADMISSION  
24 INTO THAT PROGRAM.

25 Q WAS HE THEN RELEASED TO WALK TO E.O.B.?

1 A YES.

2 Q AND WAS THAT AT ABOUT 11:00 CLOCK IN THE  
3 MORNING?

4 A THAT'S CORRECT.

5 Q AUGUST THE 31ST, 1995?

6 A YES.

7 Q WHERE WAS THE E.O.B. OFFICE FROM WHERE YOU  
8 WERE SPEAKING WITH THE DEFENDANT?

9 A THE PROBATION OFFICE IS ON BONANZA BETWEEN --  
10 A BLOCK FROM MAIN STREET.

11 Q YOU'RE TALKING ABOUT YOUR OFFICE?

12 A THAT'S CORRECT.

13 Q SO YOU WERE NEAR BONANZA AND MAIN STREET?

14 A THAT'S CORRECT. AND THE E.O.B. CENTER IS ON  
15 WASHINGTON AND D STREET, RIGHT ABOUT THAT AREA. I  
16 BELIEVE IT'S TWO OR THREE BLOCKS AWAY.

17 Q NOT FAR?

18 A THAT'S CORRECT.

19 Q BUT YOU CERTAINLY WOULDN'T WALK EASTBOUND ON  
20 BONANZA DOWN TO LAMB BOULEVARD TO GET TO E.O.B., WOULD  
21 YOU?

22 A NO.

23 Q WHEN YOU AGREED TO LET HIM WALK THE SEVERAL  
24 BLOCKS FROM YOUR OFFICE TO E.O.B., DID YOU HAVE ANY IDEA  
25 THAT THE DAY BEFORE HE HAD TOLD DEBORAH PANOS HE WAS

1 GOING TO KILL HER?

2 A NO, I DIDN'T KNOW THAT.

3 Q DID MR. CHAPPELL EVER SHOW BACK UP FOR HIS  
4 1:00 O'CLOCK IN THE AFTERNOON APPOINTMENT WITH LARRY  
5 ARAVE?

6 A MR. ARAVE CAME IN ABOUT 12:30 AND I  
7 INSTRUCTED HIM TO CONTACT SALVATION ARMY BECAUSE MR.  
8 CHAPPELL HAD BEEN THERE AND WAS SUPPOSED TO BE BACK AT  
9 1:00 O'CLOCK. AND MR. ARAVE DID TELL ME THAT HE HAD  
10 MADE THAT APPOINTMENT, BUT THAT MR. CHAPPELL NEVER  
11 RETURNED.

12 MR. HARMON: THANK YOU. THAT CONCLUDES THE  
13 DIRECT, YOUR HONOR.

14 THE COURT: CROSS-EXAMINATION?

15 MR. EWING: YES, YOUR HONOR.

16  
17 CROSS-EXAMINATION

18 BY MR. EWING:

19 Q MR. DUFFEY, WHAT TIME DID MR. CHAPPELL LEAVE  
20 YOUR OFFICE?

21 A AROUND 11:00 A.M.

22 Q SO IT WAS FOR APPROXIMATELY TWO HOURS  
23 BETWEEN THAT TIME AND THE TIME HE WAS SUPPOSED TO BE  
24 BACK?

25 A THAT'S CORRECT.

1 Q AND E.O.B. WAS A COUPLE OF BLOCKS AWAY?

2 A THAT'S TRUE.

3 Q HOW LONG DO THOSE E.O.B. INTERVIEWS USUALLY  
4 TAKE?

5 A I DON'T KNOW HOW LONG, EXACTLY, THEY TAKE.

6 Q NO IDEA?

7 A NO.

8 Q BEFORE MR. CHAPPELL CAME INTO YOUR OFFICE,  
9 DID YOU HAVE AN OPPORTUNITY TO LOOK AT HIS FILE?

10 A PARTIALLY.

11 Q DID YOU HAVE AN OPPORTUNITY TO SEE THE COURT  
12 MINUTES FROM AUGUST THE 1ST, 1995?

13 A I BELIEVE SO.

14 Q WHEN HE WAS INFORMED THAT HE WOULD BE  
15 RELEASED TO PAROLE AND PROBATION TO BE PLACED IN AN  
16 INPATIENT DRUG TREATMENT PROGRAM?

17 A THAT'S CORRECT, YES.

18 Q WOULD IT BE SAFE TO SAY THAT IN HIS MIND,  
19 WHEN HE GOT RELEASED ON AUGUST THE 31ST, THAT HE WAS  
20 GOING TO BE PLACED IN AN INPATIENT DRUG TREATMENT  
21 PROGRAM?

22 A WHAT WAS THE QUESTION?

23 Q WOULD IT BE SAFE TO SAY THAT BASED ON THIS  
24 COURT ORDER OF AUGUST THE 1ST, 1995, WHEN MR. CHAPPELL  
25 WAS RELEASED ON AUGUST THE 31ST, HE BELIEVED HE WAS

1 GOING INTO AN INPATIENT DRUG TREATMENT PROGRAM?

2 A YES.

3 Q MAY I APPROACH, YOUR HONOR? I'D LIKE TO  
4 HAVE AN EXHIBIT MARKED.

5 (BRIEF PAUSE IN PROCEEDINGS.)

6 MR. HARMON: COURT'S INDULGENCE, YOUR HONOR.

7 THE COURT: YES.

8 MR. HARMON: THANK YOU.

9 MR. EWING: MAY I APPROACH THE WITNESS?

10 THE COURT: YES.

11 BY MR. EWING:

12 Q IS THIS A COPY OF THE COURT MINUTES YOU  
13 REVIEWED REFERRING TO AUGUST THE 1ST OF 1995?

14 A YES, IT IS.

15 MR. EWING: YOUR HONOR, THIS IS A CERTIFIED  
16 COPY OF THE DISTRICT COURT MINUTES, AND I'D LIKE TO MOVE  
17 FOR ITS ADMISSION AT THIS TIME.

18 THE COURT: ANY OBJECTION?

19 MR. HARMON: WHAT IS THE EXHIBIT NUMBER?

20 MR. EWING: EXHIBIT -- DEFENDANT'S PROPOSED  
21 EXHIBIT "C".

22 MR. HARMON: NO OBJECTION.

23 THE COURT: IT WILL BE RECEIVED IN EVIDENCE.

24 MR. EWING: I DON'T HAVE ANY OTHER  
25 QUESTIONS.

1 MR. HARMON: NO FURTHER REDIRECT, YOUR  
2 HONOR.

3 THE COURT: MAY THIS WITNESS BE DISCHARGED?

4 MR. HARMON: YES, JUDGE.

5 THE COURT: THANK YOU, SIR. YOU MAY STEP  
6 DOWN.

7 (WHEREUPON, WILLIAM DUFFEY  
8 WITHDREW FROM THE COURTROOM.)

9 THE COURT: WILL COUNSEL APPROACH THE BENCH.

10 (DISCUSSION OFF THE  
11 RECORD AT THE BENCH.)

12 THE COURT: ALL RIGHT, UPON CONSULTATION  
13 WITH COUNSEL OFF THE RECORD, IT'S AGREED THAT THIS IS  
14 THE TIME -- BEST TIME TO TAKE OUR EVENING RECESS.

15 TWO MORE WITNESSES FROM THE STATE  
16 TOMORROW MORNING?

17 MR. HARMON: EXCUSE ME, JUDGE?

18 THE COURT: WE'LL HAVE TWO MORE WITNESSES?

19 MR. HARMON: FROM THE STATE, YOUR HONOR,  
20 YES.

21 THE COURT: LADIES AND GENTLEMEN, DURING  
22 THIS RECESS, IT IS YOUR DUTY NOT TO CONVERSE AMONG  
23 YOURSELVES OR WITH ANYONE ELSE ON ANY SUBJECT CONNECTED  
24 WITH THE TRIAL; OR TO READ, WATCH OR LISTEN TO ANY  
25 REPORT OF OR COMMENTARY ON THE TRIAL BY ANY PERSON



1 CONNECTED WITH THE TRIAL; OR BY ANY MEDIUM OF  
2 INFORMATION, INCLUDING, WITHOUT LIMITATION, NEWSPAPER,  
3 TELEVISION AND RADIO; AND YOU ARE NOT TO FORM OR EXPRESS  
4 AN OPINION ON ANY SUBJECT CONNECTED WITH THE CASE UNTIL  
5 IT IS FINALLY SUBMITTED TO YOU.

6 WE'LL BE STARTING TOMORROW MORNING AT  
7 10:00 O'CLOCK. YOU ARE DISCHARGED FOR THE EVENING,  
8 LADIES AND GENTLEMEN.

9 MR. GRITIS, IF I COULD SEE YOU AT THE  
10 BENCH FOR JUST A MOMENT BEFORE WE PART COMPANY TODAY.

11 (WHEREUPON, THE JURY PANEL,  
12 WITH THE EXCEPTION OF JUROR  
13 GRITIS, WITHDREW FROM THE  
14 COURTROOM.)

15 THE COURT: COUNSEL, APPROACH THE BENCH WITH  
16 THE JUROR, PLEASE.

17 (DISCUSSION OFF THE  
18 RECORD AT THE BENCH.)

19 THE COURT: WE'LL TAKE A BRIEF RECESS AT  
20 THIS POINT. I'LL BE BACK IN ABOUT 10 MINUTES.

21 (A SHORT RECESS WAS TAKEN.)

22 THE COURT: BACK ON THE RECORD OUTSIDE THE  
23 PRESENCE OF THE JURY.

24 MR. BROOKS: I HAVE A BRIEF ORAL MOTION TO  
25 PRESENT TO THE COURT.

1 I'LL ENTITLE THIS THE MOTION TO STRIKE  
2 THE TESTIMONY OF LISA DURAN, MICHAEL POLLARD AND MOTION  
3 FOR DECLARATION OF MISTRIAL AS TO THE GUILTY PHASE ON  
4 THE BASIS OF THE STATE'S WILLFUL FAILURE TO PRESENT  
5 CONFLICTING. TESTIMONY.

6 DURING THE GUILTY PHASE WE HEARD LISA  
7 DURAN TESTIFY REGARDING THE SLAPPING INCIDENT IN  
8 DECEMBER AND THE COURT RULED IN THE PETROCELLI HEARING  
9 THAT THAT TESTIMONY WAS ADMISSIBLE AS PRIOR BAD ACT  
10 EVIDENCE.

11 WE ALSO HEARD LISA DURAN TESTIFY THAT  
12 PANOS LEFT WORK AT 9:00 OR 10:00 O'CLOCK ON THE DAY OF  
13 THE MURDERS, AND THIS AFFECTED ARGUMENT IN REGARD TO  
14 TIMING IN THIS CASE.

15 TODAY, DURING THE PENALTY PHASE --

16 THE COURT: WHAT DO YOU MEAN REGARDING  
17 TIMING? YOU STIPULATED THAT HE KILLED THIS WOMAN.

18 MR. BROOKS: ABSOLUTELY, BUT IT AFFECTS THE  
19 TIMING QUESTION AS TO WHETHER OR NOT MR. CHAPPELL WAS  
20 THERE WAITING FOR THIS WOMAN WHEN SHE CAME HOME OR IF IN  
21 FACT, AS HE SAYS, THE WOMAN WAS THERE WHEN HE ARRIVED,  
22 AND I THINK MY ARGUMENT WILL BECOME CLEAR WHAT I'M  
23 SAYING, I HOPE.

24 DURING THE PENALTY PHASE, JUDGE, WE  
25 HEARD MIKE POLLARD TESTIFY REGARDING A SLAPPING INCIDENT

1 WHICH SOUNDS AN AWFUL LOT LIKE LISA DURAN'S DESCRIPTION  
2 OF A SLAPPING INCIDENT WHICH SHE SAID OCCURRED IN  
3 DECEMBER.

4 MR. POLLARD PUTS THIS IN MARCH, I  
5 BELIEVE. ALSO, JUDGE, MR. POLLARD CONTRADICTS DURAN'S  
6 TESTIMONY REGARDING THE DAY OF THE MURDER BY SAYING THAT  
7 INSTEAD OF MS. PANOS GOING HOME AT EITHER 9:00 OR  
8 10:00 O'CLOCK AS MS. DURAN TESTIFIED, HE HAS MISS PANOS  
9 GOING HOME AT NOON, HEARING THE MESSAGES ON THE  
10 ANSWERING MACHINE FROM JAMES CHAPPELL, THEN GOING BACK  
11 TO HIS APARTMENT.

12 AND A JURY CAN INFER FROM THAT  
13 TESTIMONY THAT JAMES' TESTIMONY -- THAT DEBORAH PANOS  
14 WAS HOME WHEN HE GETS TO THE TRAILER, WAS IN FACT A LIE,  
15 WHEN HE TESTIFIED THAT THAT WAS SO.

16 OUR POSITION, JUDGE, IS THAT MICHAEL  
17 POLLARD'S TESTIMONY WAS ESSENTIAL IN THE PETROCELLI  
18 HEARING. HIS TESTIMONY ABSOLUTELY CALLS INTO QUESTION  
19 THE CREDIBILITY OF LISA DURAN AND ALSO THE ACCURACY OF  
20 HER MEMORIES.

21 THE COURT: IS THIS GENTLEMAN ENDORSED ON  
22 THE INFORMATION?

23 MR. BROOKS: YES, HE WAS.

24 MR. HARMON: YES.

25 MR. BROOKS: FURTHERMORE, THE STATE HAD A

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IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \* \*

JAMES CHAPPELL,

S.C. CASE NO. 61967

Appellant,

Electronically Filed  
Nov 18 2013 02:19 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

vs.

THE STATE OF NEVADA,

Respondent.

APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS  
(POST-CONVICTION) AND SENTENCE OF DEATH  
EIGHTH JUDICIAL DISTRICT COURT  
THE HONORABLE JUDGE CAROLYN ELLSWORTH, PRESIDING

~~~~~  
APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME VIII  
~~~~~

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IN THE SUPREME COURT OF NEVADA

JAMES CHAPPELL,

CASE NO. 61967

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

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28	VERDICT (FILED 10/24/1996)	2167-2167
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1	7	VERDICT - COUNT III (FILED 10/16/1996)	1749-1749
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**CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on this 18<sup>th</sup> day of November, 2013. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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