

IN THE SUPREME COURT OF THE STATE OF NEVADA

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ERNESTO MANUEL GONZALEZ,

CASE NO. 64249

Appellant.

v.

THE STATE OF NEVADA,

Respondent.

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**APPELLANT'S APPENDIX, VOLUME XVII**

**APPEAL FROM JUDGMENT AFTER  
JURY TRIAL AND SENTENCING**

**Second Judicial District**  
**State of Nevada**

**THE HONORABLE CONNIE J. STEINHEIMER, PRESIDING**

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**No. 64249**

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1 was -- did not suggest the answer, which is the other part of  
2 leading questions.

3 MR. HOUSTON: Okay.

4 THE COURT: And that doesn't suggest the answer, so  
5 I'm going to overrule.

6 MR. HOUSTON: Thank you, Your Honor.

7 THE COURT: Do you want him to ask the question  
8 again?

9 THE WITNESS: Can you answer it, please? Or can you  
10 repeat the question again, please?

11 BY MR. HALL:

12 Q Sure. Would a San Jose chapter member support other  
13 San Jose chapter members?

14 A Most definitely.

15 Q And, if you were still a Vagos member, would a Vagos  
16 member try and support the Vagos?

17 A Yes, most definitely.

18 Q All right. Now, if they're just -- hypothetically  
19 speaking, if it were proven that there was actually a green  
20 light from Tata given to the defendant, do you think that  
21 would cause some problems between the Vagos and the Hells  
22 Angels? If Tata sanctioned killing Pettigrew, would that  
23 cause a riff between the Vagos and the Hells Angels?

24 A If the Hells Angels knew about it?

1 Q Right.

2 A Probably.

3 Q Do you think they know about it?

4 A Yes.

5 Q Okay. So do you think that's a problem?

6 A Yes.

7 Q All right. So if you were Tata, how would you try  
8 and fix that problem?

9 A I don't know how he would do it.

10 Q Would he kick you out of the club and say, that's a  
11 drunken fool, and it's all his fault?

12 MR. HOUSTON: Objection. Leading, Your Honor.  
13 Leading.

14 THE COURT: Overruled.  
15 You can answer the question.

16 THE WITNESS: What was the question again? I'm  
17 sorry.

18 BY MR. HALL:

19 Q The question was, what would Tata do?  
20 You said, "I don't know?"

21 I said, "Would one of the things he might do would  
22 be to kick you out of the club, out bad, kick your president  
23 out of the club, Bradley Campos, to send the Hells Angels a  
24 message that we have taken care of the drunken fool. It was

1 all your fault"?

2 A Could have.

3 Q Now, when you had this meeting, was this  
4 meeting -- you know, is it -- I mean, we have seen some of the  
5 fellows here, we've seen Greg Fearn, we've seen Mr. Nickerson,  
6 we've seen Mr. Rocky.

7 Is this kind of indicative of all the Vagos,  
8 everybody kind of the same group of guys, guys like that?

9 A Of brotherhood or --

10 Q Yeah, just kind of same. I mean, they all get along  
11 together, is everybody pretty much the same?

12 A Some people don't get along with some other  
13 brothers..

14 Q Okay. So, when you're sitting here about a green  
15 light, was there any kind of a specific plan, like, you say,  
16 okay, I'm going to go to the Oyster Bar and hide behind the  
17 bushes at -- you know, did you have a map or anything of where  
18 everybody was going to be?

19 A No.

20 Q So was -- there was an issue with the 99, right?

21 A Yes.

22 Q And we'll talk about that in the transcript here in  
23 a minute. But when you're up -- when you get out of that OM  
24 meeting, is there any kind of a specific, detailed plan on

1 what to do about Pettigrew and the Hells Angels and the Nugget  
2 that night?

3 A We had a little pow-wow outside our door.

4 Q All right. Was there a detailed plan as to what you  
5 were going to do as a group to resolve the issue or kill  
6 Pettigrew?

7 A No, not a specific detailed plan.

8 Q Was it more of like -- well, you said there was  
9 about 5 or -- 7 or 8 guys standing around?

10 A Yes.

11 Q I mean, there wasn't 50 guys standing around,  
12 saying, hey, let's go kill Pettigrew?

13 MR. HOUSTON: Objection.

14 THE COURT: Sustained.

15 BY MR. HALL:

16 Q How many guys were standing around in this group?

17 A A small portion of our brothers, 10, 20.

18 Q Now, if you were going to have had a plan to kill  
19 somebody, would you want to tell everybody in the Vagos?

20 A To some extreme, you kind of want to keep it  
21 low-key, to some extreme.

22 Q Have you ever heard of that expression "Loose lips  
23 sink ships"?

24 A Yes.

1 Q Would that expression apply in this particular case?  
2 A Most definitely.  
3 Q So you wouldn't necessarily tell everybody that  
4 there was a green light on Mr. Pettigrew?  
5 A Yes.  
6 Q So that part of it was kept somewhat between the San  
7 Jose guys; is that accurate?  
8 A Yes.  
9 Q All right. So the San Jose guys knew?  
10 A San Jose guys, we knew, LA charter knew some of the  
11 guys from the LA charter, knew me and Bradley, knew Candyman.  
12 Q And Candyman was your president?  
13 A P, yes.  
14 Q What was the plan? What was Mr. Gonzalez's original  
15 plan? You know he sent you that e-mail, said, all is good, my  
16 P has a different plan. What was the original plan?  
17 A To come by my house.  
18 Q So Gonzalez was going to come to your house?  
19 A Yes.  
20 Q And, now, he's claiming that you're the one that got  
21 him into this, but a couple of days after that, he's going to  
22 come over to your house?  
23 A Yes.  
24 Q All right. And did you know that he had a ticket

1 out of the country?

2 A No, I did not.

3 Q And you knew he went to Nicaragua frequently?

4 A Yes.

5 MR. HOUSTON: Leading, Your Honor, leading.

6 THE COURT: Sustained.

7 MR. HOUSTON: Thank you.

8 BY MR. HALL:

9 Q Did you stab anybody?

10 A No.

11 Q Did you shoot anybody?

12 A No.

13 Q Did you -- did you hit anybody?

14 A Yes.

15 Q All right. Those two fellows back there by the

16 horseshoe bar, the guys carrying the cooler?

17 A Yes.

18 Q And why did you do that?

19 A We all got in a fight.

20 Q Well, it was more of an attack, would you agree with

21 that?

22 A Yes.

23 Q All right. And was it an attack at the Trader

24 Dick's?

1 A At --  
2 Q After Pettigrew punched you?  
3 A At that other bar there?  
4 Q Right.  
5 A Where those other Hells Angels were?  
6 Q Yes.  
7 A It was more of an attack, yes.  
8 Q And where were you when you saw Mr. Gonzalez shoot  
9 Mr. Pettigrew?  
10 A Behind the second row of the slot machines.  
11 Q So if you looked at Exhibit 135, you can tell us  
12 where you were -- or 130, I'm sorry.  
13 THE COURT: Did you hear the question?  
14 THE WITNESS: No, I didn't hear the question. I  
15 apologize.  
16 BY MR. HALL:  
17 Q Sorry. Where were you when you saw --  
18 A Where is the Oyster Bar?  
19 Q Oh the Oyster Bar?  
20 A Yeah. So it's turned around.  
21 Q So the Oyster Bar is up here.  
22 A I was here in the second row.  
23 MR. HOUSTON: Your Honor, I'm sorry.  
24 THE COURT: Can you move?



1 Do it again, so everybody can see.

2 THE WITNESS: Right here, second row, by the second  
3 row.

4 BY MR. HALL:

5 Q Okay. Are you good friends with Rocky, Rocky  
6 Siemus, Cocky Rocky?

7 A No, I'm not.

8 Q Why not?

9 A I don't like him.

10 Q Why not?

11 A He's a shady guy.

12 Q Why do you say that?

13 A He kisses a lot of ass in the club.

14 Q Do you respect him?

15 A No, I don't.

16 Q Have you had issues with him?

17 A Yes, I have.

18 Q What kind of issues?

19 A It's different between charters.

20 Q Did you know that Caesar Morales was shaking  
21 Mr. Pettigrew's hand at about a little after 11:00?

22 A I -- I didn't quite hear you.

23 Q You know Caesar Morales is president of --

24 A Yes.

1 Q -- the San Jose chapter of the Vagos? Did you know  
2 he was shaking Mr. Pettigrew's hand at about 11:04?

3 A Yes, I noticed that.

4 Q Did you talk to him about that?

5 A No, I did not.

6 Q Were they buddies?

7 A I don't know how close they were.

8 Q All right. But he was there with you when Pettigrew  
9 came in for --

10 MR. HOUSTON: Objection. Leading, Your Honor.

11 THE COURT: I'll sustain the objection.

12 BY MR. HALL:

13 Q Did you see him in the video, at 23:26:40, when  
14 Pettigrew came walking down The Yellow Brick Road?

15 A Yes, I did.

16 Q Okay. And did you see what he did in the video, as  
17 soon as you got punched?

18 A I don't remember.

19 Q You don't know if he smashed a bottle on Christopher  
20 Nolton's head?

21 MR. HOUSTON: Objection. Leading, Your Honor.

22 THE COURT: Sustain the objection.

23 BY MR. HALL:

24 Q Do you know that?

1 A I don't know that.

2 MR. HOUSTON: Can we strike that, Your Honor,  
3 please?

4 THE COURT: Yes, you can strike that.

5 MR. HALL: I would like the record to reflect we've  
6 seen it about 15 times.

7 THE COURT: Which is exactly why, if he doesn't know  
8 anything about it, we don't have to go into it. That's why I  
9 struck it.

10 MR. HALL: Thank you.

11 BY MR. HALL:

12 Q Now, there was also a mention, on page 97, at line  
13 19, that was in that same interview with Mr. Patton and  
14 Mr. Begby?

15 A Page 97, line 19.

16 Q Yes.

17 A Yes.

18 Q All right. And so what did you say at that time,  
19 that line?

20 A I said, "But that was the agreement that Tata and  
21 Dragon gave us to go ahead and take it out."

22 Q All right. And what were you referring to there?

23 A He gave us the green light.

24 Q Okay. And, on page 27 -- on page 27, there was some

1 questions about -- the beginning of that page about -- I think  
2 it started off here with -- how often you would go get --  
3 about who has everybody's numbers; is that right?

4 A Exactly.

5 Q Can you look at line 7, 8, 9?

6 MR. HOUSTON: What page, Your Honor?

7 MR. HALL: 27.

8 THE WITNESS: Okay.

9 BY MR. HALL:

10 Q So what are you talking about at that portion of the  
11 interview?

12 A That I have a lot of the San Jose brothers' number.

13 Q All right. So you were good friends with those  
14 guys?

15 A Very good friends with them.

16 Q And what you were talking about there is the issues  
17 that the San Jose Vagos had with the --

18 MR. HOUSTON: Objection. Leading, Your Honor.

19 THE COURT: Sustained.

20 BY MR. HALL:

21 Q Okay. Why don't you read the page to yourself and  
22 tell me what you were talking about?

23 A From the top to the bottom?

24 Q We'll take a little while and do this, so...

1 A Read that whole page?

2 Q Yeah, specifically the last paragraph.

3 A Okay.

4 Q And what were you talking about there in the last  
5 paragraph?

6 A All the issues we had in San Jose.

7 Q What were the issues you had?

8 A At a coffee shop --

9 MR. HOUSTON: Objection as to foundation, Your  
10 Honor.

11 THE COURT: You can ask that. He obviously knew the  
12 answer, but you can go ahead and explain how he knew whatever  
13 he's going to tell us.

14 BY MR. HALL:

15 Q Okay. So what did you tell the police the problems  
16 were with San Jose?

17 A We had a incident in Bakersfield about an  
18 18-year-old kid got killed. We had the fight that happened at  
19 the bar at the San Jose campout. And we had the incident at  
20 the coffee shop and that they were trying to start charters up  
21 and Hells Angels wouldn't let them do it.

22 Q All right. So those were problems that you said  
23 that Tata and Dragon weren't doing anything about?

24 A Exactly.

1 Q Were those issues that were brought up at this  
2 meeting?

3 A Exactly.

4 Q The fact that a kid was killed, there were fights,  
5 and then when you say that you guys were looking like bitches,  
6 that was some of the things that you were considering?

7 A Yes.

8 Q Or those were some of the things. And that didn't  
9 involve just you, did it, these incidents?

10 A It involved the whole club.

11 Q So, when those types of things happen, does the  
12 information spread throughout the club?

13 A Most definitely.

14 Q Then we went to 59. I'll skip that.

15 Do you know where -- did you know that Mr. Gonzalez  
16 had a gun?

17 A Yes.

18 Q Where did he keep his gun?

19 A Right-hand side.

20 Q Right-hand side of what?

21 A In his waist line.

22 Q Did you get the wrecking crew, or did other people  
23 get the wrecking crew?

24 A Phone calls were getting made. Other people were

1 calling everyone.

2 Q So there would be a combination of word of mouth and  
3 a few phone calls?

4 A Most definitely.

5 Q They wouldn't necessarily, would they -- what would  
6 be the information that you would expect to be conveyed during  
7 one of these phone calls?

8 A Shit's going to hit the fan. Playing baseball.

9 Q Now, did you call everybody to go down to the Oyster  
10 Bar? Remember -- remember, when all this started up, your  
11 initial conversation?

12 A No, I did not.

13 Q With --

14 A No, I did not. No, I did not.

15 Q So it wasn't you that made the phone call that said,  
16 hey, get all the Vagos down here?

17 A I got the 911 call that there were Hells Angels in  
18 the bar.

19 Q That's why you went down there?

20 A Yes.

21 Q And did a number of other Vagos respond to that same  
22 location?

23 A Many.

24 Q So it wasn't you that called?

1 A No.

2 Q Do you know who called them?

3 A I don't know who was making the phone calls. The  
4 phone was just ringing.

5 Q So is Bradley Campos out bad as well?

6 A That's what I heard from Eric Bennett.

7 Q All right. So have you told the truth here today?

8 A Yes, I have.

9 Q Is there anything you want to change about your  
10 statement or anything else?

11 A No.

12 MR. HALL: I don't think I have any further  
13 questions.

14 THE COURT: Did you have anything further?

15 MR. HOUSTON: No, Your Honor. Thank you.

16 THE COURT: Okay. Thank you. May this witness be  
17 excused?

18 MR. HOUSTON: Yes, Your Honor.

19 THE COURT: Okay. You may step down. The clerk  
20 will get it in a minute. Thank you. You are excused.

21 THE WITNESS: Thank you.

22 THE COURT: Ladies and gentlemen of the jury, we  
23 appreciate your willingness to stay here with us. I know you  
24 didn't have a choice, but I appreciate your willingness to



1 change whatever plans you had this afternoon. We are still  
2 going to be going tomorrow, and I do believe we'll be back on  
3 a regular schedule tomorrow from 7:30 until 2:30 or  
4 thereabouts, will be the Court case.

5 Now, we are still making good progress, so I just  
6 wanted to stay and get a little more work done this afternoon.  
7 So thank you again.

8 We will be in recess for the evening. You are going  
9 to be able to leave. And, during this recess, I ask that you  
10 remember the admonition that I've given you at all other  
11 breaks; that is, that you may not form or express any opinion  
12 regarding the ultimate outcome of this case.

13 Further, you may not speak of the case to anyone or  
14 allow anyone to speak of it in your presence. Should any  
15 person attempt to discuss the case or influence you in any  
16 way, report such a occurrence to the Court immediately.

17 Discussing the case includes discussing it in  
18 internet chat rooms, through internet blogs, internet bulletin  
19 boards, such as Facebook or Twitter, e-mails or text  
20 messaging. If anyone were to use these communication devices,  
21 it would be in violation of this admonition.

22 Do not read, watch, or listen to any news media  
23 accounts regarding this case or any other accounts about the  
24 trial or those associated with it either through national news

1 media, any other kind of news media, or online information.

2 Do not research in any way anything about the  
3 parties, or groups, or the law involved in this case. That  
4 includes consulting dictionaries, searching the internet, or  
5 other reference materials.

6 Do not make any independent investigation or inquiry  
7 into any of the facts or circumstance, including going to the  
8 Sparks Nugget, either in person or through the internet.

9 I'll see you back tomorrow morning at 7:30. You may  
10 step out.

11 (The jury left the courtroom.)

12 THE COURT: Thank you. Please be seated. Counsel  
13 approach.

14 (Discussion at the bench.)

15 THE COURT: Court is in recess.

16 (Proceedings concluded.)  
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1 STATE OF NEVADA )  
2 COUNTY OF WASHOE ) ss.

3  
4 I, SUSAN CULP, an Official Reporter of the  
5 Second Judicial District Court of the State of Nevada, in and  
6 for the County of Washoe, State of Nevada, DO HEREBY CERTIFY:

7 That I am not a relative, employee or  
8 independent contractor of counsel to any of the parties, or a  
9 relative, employee or independent contractor of the parties  
10 involved in the proceeding, or a person financially interested  
11 in the proceedings;

12 That I was present in Department No. 4 of the  
13 above-entitled Court on July 31, 2013, Afternoon Session, and  
14 took verbatim stenotype notes of the proceedings had upon the  
15 matter captioned within, and thereafter transcribed them into  
16 typewriting as herein appears;

17 That the foregoing transcript, consisting of  
18 pages 1 through 175, is a full, true and correct transcription  
19 of my stenotype notes of said proceedings.

20 DATED: At Reno, Nevada, this 3rd day of  
21 August, 2013.

22 /s/ Susan Culp

23 SUSAN CULP, CCR No. 343  
24

58

Code No. 4185

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

-oOo-

STATE OF NEVADA,

Plaintiff,

vs.

ERNESTO MANUEL GONZALEZ,

Defendant.

Case No. CR11-1718B

Dept. No. 4

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

MORNING SESSION

THURSDAY, AUGUST 1, 2013

RENO, NEVADA

**COPY**

Reported By: BECKY VAN AUKEN, CCR No. 418

*Captions Unlimited of Nevada, Inc. (775) 746-3534*

4019

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1 RENO, NEVADA, THURSDAY, AUGUST 1, 2013, 7:30 A.M.

2 -oOo-

3  
4  
5  
6 (The following proceedings were held in open  
7 court, outside the presence of the jury.)

8 THE COURT: Please be seated. Good morning.

9 MR. HALL: Good morning.

10 THE COURT: Do you have anything for the Court  
11 this morning?

12 MR. HALL: Your Honor, I just wanted to admit the  
13 pages of the transcript of the two interviews that were  
14 mentioned by counsel yesterday. And I've got a list of  
15 them, if I could just pull them out a little later.

16 THE COURT: Okay. We can do it later.  
17 Absolutely.

18 MR. HALL: And I also wanted to just have the  
19 Indictment marked as an exhibit. I'd move for admission  
20 of that.

21 MR. HOUSTON: Your Honor, is the Guilty Plea  
22 Memorandum admitted at this time?

23 THE CLERK: Hold on a second, please.

24 MR. HOUSTON: Okay.

1 THE CLERK: Exhibit 158 is marked, and I do not  
2 believe we have admitted the Guilty Plea Memorandum.

3 THE COURT: Do you know what it is marked,  
4 Ms. Clerk?

5 MR. HOUSTON: I think it's 153.

6 THE CLERK: It is. It's 153.

7 THE COURT: No, it's not been admitted.

8 MR. HALL: I'm sorry. The guilty plea memo? All  
9 right. And then we might as well mark the guilty plea  
10 transcript as well.

11 THE COURT: Okay.

12 (Exhibit No. 153A marked.)

13 MR. HALL: Move for admission of that.

14 MR. HOUSTON: No objection. To both.

15 THE COURT: Do you all want to use a certified  
16 copy of the guilty plea transcript? And did you request a  
17 certified copy?

18 MR. HALL: I don't think it is a certified copy,  
19 but that would probably be the best course of business.

20 THE COURT: Okay. When we get a certified copy,  
21 we will mark it as 153A. We'll check. I think you  
22 requested that last week, didn't you?

23 MR. HALL: We do have a copy. We could probably  
24 just take it down and get it certified.

1 THE COURT: I think the court reporter has to  
2 certify it.

3 MR. HALL: Okay.

4 THE COURT: But we'll work on that, and it will  
5 be marked 153A, Mr. Houston, when we get it --

6 MR. HOUSTON: Thank you, Your Honor.

7 THE COURT: -- and 153. So we'll wait to admit  
8 153A until we have it. 158 and 153 are admitted.

9 (Exhibit Nos. 153 and 158 admitted.)

10 THE COURT: Anything further? Okay. Please  
11 bring the jury in.

12 (Whereupon, the following proceedings were  
13 held in open court, in the presence of the jury.)

14 THE COURT: Counsel, will you stipulate to the  
15 presence of the jury?

16 MR. HALL: Yes, Your Honor.

17 THE COURT: Thank you.

18 Mr. Houston?

19 MR. HOUSTON: Yes, Your Honor.

20 THE COURT: Okay. Thank you. Please be seated.  
21 Good morning, ladies and gentlemen.

22 Mr. Hall, go ahead and call your next witness.

23 MR. HALL: Sir, would you please step forward and  
24 be sworn.

1 THE COURT: You may proceed.

2  
3 FRANK PESARIN,  
4 called as a witness on behalf of the Plaintiff,  
5 having been first duly sworn,  
6 was examined and testified as follows:  
7

8 DIRECT EXAMINATION

9 BY MR. HALL:

10 Q Sir, would you state your name and spell your  
11 last name.

12 A Frank Pesarin, P-e-s-a-r-i-n.

13 Q And what is your occupation, sir?

14 A I work for Roadshows Production Company as a site  
15 manager for the event Street Vibrations, which we do all  
16 over the country.

17 Q Can you explain a little bit about Roadshows?

18 A We produce motorcycle rallies all over the  
19 country. Basically I'm the site manager, the on-site  
20 person that kind of oversees the management of the entire  
21 event.

22 Q Can you tell us about an event, how you manage  
23 it, what types of things are presented?

24 A It goes from vendor location to power situations

1 with people coming into the venue, just kind of basically  
2 controlling the crowd, controlling any situation that  
3 develops regardless of what it is.

4 Q All right. Now, let's just talk about Street  
5 Vibrations. So as a manager of Street Vibrations are  
6 there certain things you market, sell, as a company,  
7 Roadshows, Inc.?

8 A Yeah, we sell -- you know, the integrity of our  
9 event is being safe, doing things the right way, giving  
10 every vendor and every person that comes there an  
11 opportunity, whether they're -- a fair opportunity,  
12 whether they're a registered VIP guest, whether they're a  
13 vendor; just whatever situation develops, we try and keep  
14 things as, you know, classy and with the most integrity  
15 that we possibly can regardless of what the situation is.

16 Q So does Roadshows, Inc., typically work with the  
17 same vendors or a number of vendors that are repeat  
18 customers?

19 A Yeah. Over the years the majority of our vendors  
20 are repeat vendors and repeat guests as well.

21 Q Can you provide us with an example of the vendors  
22 that would go to Street Vibrations?

23 A The majority of them are leather, retail, kind of  
24 merchandise people; jewelry. They kind of travel around

1 with us from event to event. We go all over the country  
2 and do these events. They're all pretty much just kind of  
3 retail stuff. That kind of goes along with what we do,  
4 you know, biker gear, biker stuff, kind of...

5 Q So it would be biker parts --

6 A Parts, jackets, bikes themselves, specialized  
7 bikes, lighting. You know, setup of bars, certain  
8 different people bringing in bars, different people that  
9 kind of just kind of come in and contribute to the event  
10 as -- we do food vendors. I mean, there's a numerous  
11 amount of, you know, retail people that kind of show up.

12 Q All right. Now, as a management person, are  
13 there certain areas where your vendors would be set up? I  
14 mean, do you sell like slots or parking spots for the --

15 A Oh, yeah. We -- you know, pretty much I manage  
16 from beginning to end. Where people park, parades, any  
17 event that happens within the event, like the coproduction  
18 of the events within the event, parking, security, any  
19 problem that any vendor would possibly have, when we  
20 close, when we open. I mean, pretty much the whole gamut  
21 of the event. I'm there for 18 hours a day kind of just  
22 observing it, putting out fires as the day progresses.

23 Q All right. Let's talk about Street Vibrations in  
24 September of 2011 --

1 A Uh-huh.

2 Q -- in the Sparks area, because it was, I guess, a  
3 county-wide event where you had vendors in Reno as well as  
4 Sparks?

5 A Well, we had specifically been in downtown Reno  
6 for 17 -- 16, 17 years. And some logistical things  
7 happened to where we wanted to incorporate Sparks into our  
8 event. The people in Sparks wanted us to be there. They  
9 kind of wanted a piece of the action, so to speak.

10 We decided to go on Victorian Avenue, which we  
11 had done a Spring Vibrations event there for about four or  
12 five different years. But we wanted to bring in the big  
13 factory trucks which sell the parts, the mufflers, the  
14 seats, the tires. They wanted more area than in downtown  
15 Reno, and at Victorian Avenue, that venue gave us an  
16 opportunity to bring in 12 factory trucks that are  
17 130 feet long and have the ability to have motorcycles  
18 pull right up to where they are.

19 So the year prior we had been at Sparks, and it  
20 was a tremendous success. So from one year to the next,  
21 our event kind of got bigger, so we had two locations to  
22 kind of manage and run.

23 But at this particular time I was basically  
24 camped out in Sparks, watching and managing that, because

1 it was kind of a new playing field for all of us. So  
2 there was things that were happening that we just really  
3 had no idea what was coming at us. So I was completely  
4 camped out there for the entire -- for the entire week,  
5 that was where I was.

6 Q All right. And so you would manage the parking  
7 aspect of where --

8 A Yep.

9 Q -- motorcycles would park --

10 A Yep.

11 Q -- and where all vendors were set up?

12 A Uh-huh.

13 Q When they opened, when they closed?

14 A Yep.

15 Q All that?

16 A Uh-huh.

17 Q All right. Now, did you know an individual by  
18 the name of Bobby Vieira?

19 A Yes, I did. He was one of our vendors. And he's  
20 been with us for probably 16, 17 years.

21 Q All right. And how well do you know him?

22 A You know, I've got to know him over the years  
23 as -- just got to know him pretty well. I mean, he's  
24 one -- I mean, I think it's kind of the old adage, you



1 keep your friends close, you keep your enemies closer.  
2 And he's the type of guy that he called -- if I had a  
3 problem with anybody, I would go to him. He would take  
4 care of the problem as far as, you know, that world is  
5 concerned.

6 So he never had problems with anybody. He was  
7 always very respectful, always paid his bills, always paid  
8 up front. There was never an issue with him at all. I  
9 mean, just, to me, been a very nice man.

10 Q So he had gone to a number of Roadshows, Inc.,  
11 productions?

12 A Yeah. He's been with us for 15, 16 years.

13 Q So how many functions do you think he had gone  
14 to?

15 A Over the years boy, you know, two, three a year,  
16 so -- times 15. So we're looking at 30, 40, maybe,  
17 pushing 40.

18 Q All right. But he'd only been to Sparks the  
19 last --

20 A He had been to Sparks the year before, had  
21 tremendous success, didn't want to be in downtown Reno  
22 because he just didn't like the environment, thought it  
23 was too elbow-to-elbow, thought it was too close for  
24 comfort, enjoyed the opportunity to be in an open

1 environment on Victorian Avenue and not be so cramped in.  
2 So it just kind of fit his style.

3 Q How far in advance would -- well, how far in  
4 advance did Bobby Vieira book his slot?

5 A Well, every vendor that we have gets a vendor  
6 rate at any particular casino. So it's just not him; it's  
7 everybody. He probably booked out six months, eight  
8 months, a year, I would think. I'm almost positive it was  
9 about eight months out that he booked out.

10 Q All right. Now, were you there at The Nugget on  
11 Friday, September 23rd, 2011?

12 A Yeah. I was in the midst of closing down  
13 Victorian Avenue. Tons of chores to do as the event is  
14 concluded. I had received probably 10, 12, 14 phone calls  
15 from other vendors. In the motorcycle world they call me  
16 Coach. They were like, "Coach, where are you? Coach,  
17 where are you?"

18 I'm like, "What's going on there?"

19 "You need to get in there."

20 And I'm like, "What's going on there?"

21 "You need to get in here, Coach."

22 Because I handle these situations. These are  
23 situations that develop, and it goes -- I'm first up. I  
24 was on a golf cart, collecting money, counting beer kegs,

1 kind of doing what I do. And eventually I finally got a  
2 phone call from Bob Vieira. And when he calls, you kind  
3 of just kind of go okay.

4 So I got on my golf cart and I proceeded to go to  
5 the valet parking of the Nugget, opened the front door of  
6 the Nugget, and you could cut the tension with a knife.  
7 At that particular time I realized that it wasn't -- this  
8 wasn't a good situation.

9 I walked the entire casino kind of sizing up what  
10 was going on. Ended up finding Bob at the Oyster Bar kind  
11 of surrounded. Huge groups. They were basically back in  
12 the corner of the Oyster Bar. People milling around.  
13 Conversations going here and there. In that world, the  
14 more you talk, the worse it gets. It's not the more you  
15 talk, the better it gets. So I understood where we were,  
16 and you could tell that there had been a large amount of  
17 time that this situation was developing.

18 In the course of the days leading up to what had  
19 transpired that night, I was basically -- like I'm telling  
20 you, I'm in the middle of all of it. I'm sizing up who  
21 goes where and who says -- stands here and who stands  
22 there as far as enforcement. So, you know, I had  
23 requested two enforcement people to stand kind of right  
24 out there in the middle and be visible and this is what we

1 need to -- this needs to be rectified on a  
2 minute-to-minute basis because I could see this person  
3 looking at this person, this group looking at this group,  
4 this group looking at this group (indicating).

5 So it's just one of those things. Once I got  
6 these phone calls from vendors who I have to look out  
7 for -- I'm looking out for their well-being. I have their  
8 well-being in my hands, and they were concerned.

9 So as soon as I sized it up, I talked to Bob, I  
10 saw the conversations that were going on -- I had had a  
11 long day. Certain people would talk to certain people,  
12 and it looked like a handshake deal had been made; we were  
13 going to white flag this whole thing. "Coach, everything  
14 is gonna be fine."

15 I'm kind of basically on the phone talking with  
16 my boss, with just people in general, and the phone is  
17 ringing off the hook. I kind of got the wink from Bob  
18 that it's time to go to bed. "Coach, go to bed. You got  
19 a long day tomorrow. Everything's gonna be fine."

20 And I stood at the breezeway door on the west  
21 side of the Nugget, walked all the way back around to  
22 where my golf cart was at valet parking. I figured I  
23 could see through the window. If I saw the group come  
24 through the -- to the lobby of valet parking, everything

1 was gonna be fine.

2 As I'm standing there, I see two young girls,  
3 probably the age of 20, come through the door with the  
4 look of death in their eyes. I walked inside, called  
5 everybody that I needed to call, and proceeded to go back  
6 inside and -- kind of to see what was going on, and it was  
7 like a movie scene basically.

8 Q Now, when you say there were groups, there were  
9 issues earlier that day, what groups are you talking  
10 about?

11 A Vagos and Hells Angels.

12 Q All right. And so did you see tension in the air  
13 earlier that day?

14 A The first day on Wednesday, which is kind of  
15 set-up day, there was no tension. On Thursday there was  
16 really no tension. There was -- you know, both groups  
17 were kind of coming and going, and everything was fine.  
18 Bob had set his T-shirt trailer up, which is kind of a  
19 long process. He had guys coming and going. Everything  
20 was fine.

21 Friday -- Friday night, you know, everyone kind  
22 of got to town, and that's kind of when the party begins  
23 and everything's set up, everything's going, the drinking  
24 begins. People kind of start, you know, going down the

1 road of having fun for the weekend. And that is the  
2 day -- probably by noon Friday the atmosphere changed and  
3 the tension level went up on the street tremendously, and  
4 it became to a point where I spent probably more time  
5 observing, watching from a distance and seeing what was  
6 going on with this situation than I did worrying about my  
7 vendors and power and parking.

8 And it was just a situation -- as many years as  
9 I've been doing this, I understand how these things  
10 develop. This is something I deal with on a regular  
11 basis. This just isn't like, oh, my goodness, this is  
12 happening now. You know, we have groups of other people  
13 coming into our venues all the time, and this is just part  
14 of the playing field, something that you have to deal  
15 with.

16 Q Were you aware of a rivalry between the Vagos and  
17 the Hells Angels?

18 A Yeah. Oh, obviously. I mean, over the years you  
19 understand that there is differences between both groups.  
20 But in years past -- I mean, we do this 18 years, there's  
21 never been a problem. The problem gets -- the problems  
22 get rectified. You have the right people talk to the  
23 right people and then everything's fine.

24 You know, the year before, Vagos, Hells Angels

1 shake hands, hug it out. They're on their way; they're on  
2 their way. Everything's fine. So this situation, the  
3 tension level you could tell was at a different level.  
4 And there was a lot more -- skunk-eyeing is kind of the  
5 word that we use in the world that I work in. And there  
6 was a lot more of that going on that day from probably  
7 about noon until we shut the venue down which, was  
8 9:00 o'clock.

9 Q Based upon your observations, was it one guy or  
10 was it a number of --

11 A It was groups. I mean, both groups. I mean,  
12 granted, one guy kind of was kind of right up front, but  
13 it was a group. You know, everybody was kind of -- it was  
14 on both sides.

15 You know, when you're in that brotherhood, that's  
16 what it's all about. It's the -- you know, you got your  
17 guy's back basically is how it goes down. So you can't --  
18 you could say it was one guy kind of leading the chase,  
19 but you could say that it was -- you know, it was groups  
20 on both sides.

21 Q Did you get a call from Bobby Vieira that night?

22 A Yeah. He called -- once he called is when I kind  
23 of had to drop everything. Because I had probably 12  
24 vendors call me prior to him. And once he called, it was

1 kind of drop everything and get in here and let's kind of  
2 see what's going on.

3 Q So it was apparent to everybody that there was an  
4 issue between these two groups?

5 A Oh, yeah. Oh, yeah. Yeah. You could feel the  
6 tension in the casino. From the time I opened the door,  
7 walking through, sizing up what was going on in the  
8 casino, you could understand that there was definitely an  
9 issue.

10 Q What did you do after you talked to Bob? Did you  
11 make any phone calls?

12 A Yeah, I called Chad Hawkins, the chief of police  
13 from Sparks. I called Nugget security, basically let them  
14 know that, all right, here's where I'm at: I got this guy  
15 here and I've talked to this guy over here and I need some  
16 help.

17 You know, Nugget security was nowhere to be  
18 found. I called Chad probably three, four, five, six  
19 times. Honestly, I couldn't remember. But I was on the  
20 horn with him constantly. All I needed was a badge and I  
21 felt that this situation would have been rectified  
22 because, realistically, who am I to be telling anybody  
23 anything, but I'm in the middle regardless because  
24 everything runs through me. So...



1 Q Were you there when Sergeant Walsh showed up?

2 A No, I did not see Sergeant Walsh at all.

3 Q Okay. But there was a time when you were sure  
4 that it looked like --

5 A Yeah. Once I got outside within eyeshot of Bob  
6 and he basically gave me the wink and gave me "go to bed,  
7 you got a long day" kind of -- kind of look and -- that  
8 was it. Then I proceeded to go around the casino just to  
9 kind of continue to observe the situation, and then it  
10 kind of, you know, is what it is.

11 Q And Mr. Vieira's booth was set up right outside  
12 the --

13 A Yeah, in front of the Nugget, right on Victorian  
14 Avenue.

15 Q Now, did you -- you indicated that you were going  
16 to bed or you were going to leave?

17 A Uh-huh.

18 Q And you were aware that the Hells Angels were  
19 going to head to their rooms?

20 A From what it looked like to me, the one group  
21 kind of backed off. The other group, the Hells Angels,  
22 looked like they kind of all kind of met and decided like  
23 they were on the move. You could tell that they were  
24 going to bed.

1           That's why I decided to go around. And I could  
2 see through windows of the Nugget that -- you can see the  
3 lobby of the Nugget. So if that group gets to where  
4 they're supposed to go, to the west tower, then  
5 everything's going to be fine.

6           As I stood there and kind of watched them gather  
7 up to go, I figured I had enough time to come around the  
8 building and kind of get to the observation point, which  
9 is what I did, and then, you know, kind of what happened,  
10 what happened.

11           As far as going back into the casino, you know,  
12 seeing the young girls come out, going into the casino and  
13 kind of just hearing all hell breaking loose is -- is kind  
14 of where we went from there.

15           Q     Did you get the impression from Mr. Vieira that  
16 they wanted any issues with the Vagos?

17           A     No. You know, the comment that sticks out in my  
18 head is, "I'm too old for this," and, you know, "We're  
19 here to work." They're here to work and sell his goods.  
20 And they wanted no part of any of it.

21           And that was the issue from -- I mean, as the day  
22 started and the tension stepped up, you know, obviously  
23 they step up, everyone steps up, but it was because that's  
24 what you have to do in that world. You show any sign of

1 fear, you're gonna get eaten alive.

2 They didn't want any problems at all. And I know  
3 that just because that's what I'm gonna tell him: "I  
4 don't want any problems. This is going to get  
5 white-flagged, and this is how it's gonna be." And that's  
6 exactly kind of -- that's -- he adheres to what I'm gonna  
7 tell him.

8 Q Have you had any issues with these two groups  
9 before?

10 A Yeah. Prior -- you know, on numerous events at  
11 certain points of the day, you know, big groups will come  
12 in and stage up and kind of make their presence known.  
13 And, you know, more times than I can count on two hands  
14 I've been standing in between, you know, these guys here  
15 and these guys over here just so -- and then on the phone  
16 going (indicating) -- usually have some sort of a password  
17 or a code with enforcement: I'm standing right here and I  
18 got this many people over here and I got this many people  
19 over here. I got vendors going, "What is going on? We're  
20 intimidated. We're afraid. What's going on?"

21 So realistically me, my boss, me, my staff, I'll  
22 go stand between both of them, stand there on the phone  
23 until enforcement shows up to let our vendors know --  
24 because like the integrity of our event is what I'm

1 concerned about. If I don't show up and I don't get  
2 between these guys, look what happens.

3 So I'm standing there numerous times to say,  
4 "Listen, this is not going down." There's going to be  
5 some sort of a presence from our Roadshows Production  
6 Company, so we're trying to save the integrity of what we  
7 do, that we're being proactive. We're not just laying  
8 back and, you know, "What's happening?" "Where are you  
9 at?" We're there, we're visible, and you know that we're  
10 there.

11 Q Now, did you know that the Vagos were having  
12 their national run at that --

13 A No. No one had informed me of that from the  
14 Nugget at all. We understood as a company that the Vagos  
15 were kind of Sparks-based in Reno. The year before there  
16 was presence, but there was nowhere near the amount of  
17 presence that they had before. And, like I said, they had  
18 shook it out. They had talked it out. They understand  
19 that we want a white flag on our situation. We want a  
20 white flag on our event. We want things to be nice. And  
21 for the most part, everyone kind of adheres to that  
22 mentality and respect what we do, because this is about  
23 the public and kids and families and people coming to hang  
24 out and see each other.

1           We have numerous people that come here from all  
2 over just to meet here for that one week just to see each  
3 other and hang out and kind of go for rides and do all the  
4 things, the events that we do inside the event. So it's  
5 just, I mean, it was just having a nice event and doing it  
6 the right way is kind of where we're at.

7           Q     Had you known that the Vagos were having their  
8 national run or --

9           A     Oh, yeah.

10          Q     -- in the casino, would you have put Bobby V.  
11 out front?

12          A     No, that would have never happened. No one told  
13 us. We had no -- no communication whatsoever from that  
14 standpoint.

15          Q     Thank you. I have no further questions.

16                THE COURT: Cross?

17                MR. HOUSTON: Thank you, Your Honor.

18  
19                               CROSS-EXAMINATION

20 BY MR. HOUSTON:

21          Q     Good morning, sir.

22          A     How are you?

23          Q     Doing well. I wanted to ask you a couple  
24 questions kind of starting off where you ended.

1 Roadshow Productions actually booked the rooms  
2 for the HAs in the Nugget?

3 A Well, we book rooms for every vendor. Every  
4 vendor that comes with us as a vendor gets a specific room  
5 rate. And that's all he got was a room rate. He didn't  
6 get a specific like you're special, more special than any  
7 other vendor that we have. You've got this particular  
8 rate. And that's all they were requesting was they wanted  
9 a rate. They didn't want to get hit. Because room rates  
10 on that particular weekend are pretty stiff.

11 Q Were you aware Mr. Pettigrew was staying in the  
12 Nugget?

13 A I had no idea.

14 Q Okay. Were you aware as to the number of the HAs  
15 that were staying there?

16 A I had no clue.

17 Q If you're putting this on and obviously you feel  
18 there's a problem, at least if the groups are together,  
19 isn't that something you would check for?

20 A Well, when you register for a hotel room, I'm not  
21 going to ask her who you're affiliated with. You register  
22 for a hotel.

23 Q Right.

24 A I mean, I'm not asking you, "Who are you with?"

1 You book the room and then it's -- you're booked. I mean,  
2 I can't legally say, "Who are you, and what are you here  
3 for?"

4 Q I kind of got the impression from your testimony  
5 that you sort of considered yourself to be the go-between  
6 in reference to that world.

7 A Uh-huh.

8 Q And being the go-between in reference to that  
9 world, if you thought in advance there was going to be a  
10 problem, wouldn't you take certain cautionary steps?

11 A Well, I didn't know in advance that there was  
12 going to be a particular problem because I put those  
13 particular problems to bed.

14 Q Right. And --

15 A So as far as rooms go, you know at this event  
16 that people are coming that are affiliated with each  
17 group, so there's going to be groups of people from every  
18 different -- member of every different motorcycle  
19 association at every hotel. So you can't really say that,  
20 okay, this amount of people are staying at this particular  
21 hotel because this amount of people are staying at  
22 particular hotels all over the area.

23 Q I think, as you said, if you knew in advance  
24 there was going to be a problem, certainly --

1           A     Right. No, if I would have known that those  
2 rooms were booked, that would have been my first move.

3           Q     Now --

4           THE COURT: I'm sorry. I have to stop you.

5           Sir, you have to wait until the question is  
6 completed before you start. The court reporter is having  
7 a hard time.

8           THE WITNESS: Gotcha.

9 BY MR. HOUSTON:

10          Q     That particular Street Vibrations started out no  
11 different than any other that you've worked?

12          A     Uh-huh.

13          Q     And I think, as you made it clear, in that world  
14 when you put all these groups together, whether it's Vagos  
15 and Hells Angels or Mongols and whoever, there are the  
16 potentials for people chesting-up, trying to announce  
17 their presence. Correct?

18          A     Uh-huh.

19          Q     And -- can you say "yes"?

20          A     Yes.

21          Q     I know that gets lost sometimes.

22                 And it wasn't a situation where it was  
23 unexpected. True? That's what goes on?

24          A     Uh-huh. Yes.



1 Q And I think, as you said, that's just the way  
2 that world is?

3 A Yeah. That's the landscape of what goes on at  
4 motorcycle rallies.

5 Q And sometimes you'll have problems between the  
6 normal everyday Joe Citizen and biker groups. True?

7 A Yes.

8 Q It's just, you know, kind of that sort of -- and  
9 I hate to say event, but it is that sort of an event,  
10 right?

11 A Yes.

12 Q And that in part is why they have you to sort of  
13 run cover and make sure everything stays calm, right?

14 A Yes.

15 Q You're pretty experienced at that I think --

16 A I've been the point man, the site manager, and  
17 been doing these events all over the country for about  
18 nine years.

19 Q Now, I think you said in the past if there was  
20 any kind of a dispute, the Vagos and HAs would shake  
21 hands, hug it out, things like that?

22 A Uh-huh. Yep.

23 Q That was the normal way they handled any problem,  
24 correct?

1 A Yes. Yes.

2 Q It wasn't a situation where every time a Vago and  
3 HA got together we're going to have gunfire and knife  
4 fights, right?

5 A No.

6 Q All right. That would be kind of silly to come  
7 to this type of an event with families and kids and do  
8 that, right?

9 A Yeah. But from my perspective, I have to look at  
10 it as this is an opportunity or a possibility of something  
11 like that happening when you see this group and this group  
12 talking regardless of whether it's one-on-one or it's a  
13 group. That's the outlook that I have to have. I have to  
14 be proactive. I can't sit -- if I see those two guys  
15 talking, no matter who it is, I need to be aware that  
16 those two guys are talking and realize that in the full  
17 spectrum of that area, there could be people staging up to  
18 do other things, and these two guys could initially be the  
19 ones starting it.

20 Q There's always that potential?

21 A Uh-huh.

22 Q Okay. And that, as I think we've discussed, is  
23 why you're there, right?

24 A Correct. Yes.

1 Q Now, the difference in this event I think, as you  
2 advised the police, was there was one guy that just  
3 wouldn't let it go.

4 A Yeah. I mean, there was one mouth in the -- in  
5 the room, in the casino, that night to speak -- so to  
6 speak, but it was a collective group of -- I mean, it was  
7 an intimidating environment to walk into. If I was there  
8 by myself and I walked in, you're gonna know who's talking  
9 and who isn't.

10 But from my perspective, it was a group. It was  
11 one guy, but it's a brotherhood. I mean, that's how they  
12 roll. That's how they do their thing. So it was a group  
13 of...

14 Q Fair statement that it only takes one guy to make  
15 a difference between that Street Vibrations and the other  
16 15, right?

17 A Yes.

18 Q And the other 15 we didn't have this problem, did  
19 we?

20 A No.

21 Q And from what you understood, you actually had --  
22 did you have conversations with Bobby Vieira?

23 A Yes, I did.

24 Q And Bobby Vieira basically let you know: Hey

1 we've worked it out. This matter is put to bed?

2 A Yes.

3 Q And in fact you felt calm enough about it that  
4 you left?

5 A I didn't leave. I went to another position to  
6 post up and kind of observe what was going on.

7 Q All right. But from the Bobby Vieira  
8 situation -- did you meet him in the Oyster Bar?

9 A Yeah, I did.

10 Q All right. So you were in the Oyster Bar. You  
11 felt it was calm enough at that point. True?

12 A Yes.

13 Q Because you thought all of the right people were  
14 talking?

15 A Yes.

16 Q And all of the right people were the people from  
17 the Vagos leadership and the people from the Hells Angels  
18 leadership, right?

19 A Correct.

20 Q And from your observations as the trained guy for  
21 the last 15, 16 years, that to you said, okay, it's under  
22 control?

23 A Yeah, I got the impression that -- from the body  
24 language that I witnessed and from all the right people

1 saying all the right things that the situation was kind of  
2 tapering down and that everyone was planning on going to  
3 bed or kind of going a different direction.

4 Q And in fact I think you also indicated to the  
5 police that these are the two -- these are the types of  
6 groups that would rather talk it out and walk away from  
7 each other.

8 A Yeah.

9 Q All right. However, there was, I think, as we  
10 learned through this trial, a difference that night by the  
11 name of Gary Rudnick.

12 A Yes.

13 Q I think you also told the police that when you  
14 saw everybody talking, you thought both the Vagos and the  
15 Hells Angels leadership at least was on the same page?

16 A Yeah. Oh, I had made -- I made that point to  
17 both of them that, "Listen, this is an event for  
18 everybody, not for just you guys to come here and kind  
19 of," you know, "be cool."

20 Q And they agreed with you, right?

21 A Yep.

22 Q Okay. Thank you. Nothing further.

23 /////

24 /////

## REDIRECT EXAMINATION

BY MR. HALL:

Q Now, on cross-examination you were asked about Gary Rudnick. Do you remember that question?

A Uh-huh.

Q Well, one man, one Vago, wouldn't take on a whole group of Hells Angels --

A No.

Q -- by himself, would he?

A No.

Q And you talked about the brotherhood.

A Uh-huh.

Q So you know about how they roll --

A Uh-huh.

Q -- how they work?

A Uh-huh.

Q All right. So in this kind of situation do they work alone?

A No.

Q They work together?

A Yep.

Q And that means if there's gonna be a brawl, everybody's jumping in?

A Basically. And that kind of holds true for any

1 situation like that in an event. I mean, that's just kind  
2 of how that world is. I mean, it's -- that's just kind of  
3 how they get down.

4 Q So when they gather up and put their arms around  
5 their shoulders, they're showing support for their  
6 brother?

7 A Yep.

8 Q Letting them know they're gonna back 'em up?

9 A Uh-huh.

10 Q And this had been going on for quite a while,  
11 right?

12 A Yeah.

13 Q I mean, we started at the Oyster Bar, so --

14 A My first phone call came at about 9:15, 9:20,  
15 right around there, so -- and like I stated, through the  
16 course of the day you could see things developing. You  
17 could just see these people walking by and staring at  
18 these people and these people seeing this person show up  
19 and going by and seeing who this is. And it's just kind  
20 of like a chess game that gets played in an event that we  
21 do like this.

22 Q So you've seen them -- you've seen groups like  
23 this post up in different areas in preparation for a  
24 possible fight?

1           A     Yeah, I've seen that numerous times, numerous  
2 events, numerous -- I mean, that's kind of how they -- how  
3 it goes.

4           Q     So you know that they have ways to communicate --

5           A     Yep.

6           Q     -- either text, phone, whistles --

7           A     Uh-huh.

8           Q     -- hand signals, different ways that they kind of  
9 send messages to each other?

10          A     Yep. All kinds of different gestures. All kinds  
11 of different positioning and posting.

12          Q     All right. And if you were going to have an  
13 attack, then you certainly would want to have the numbers  
14 in your favor?

15               MR. HOUSTON: Leading, Your Honor.

16               THE COURT: Sustained. You're leading.

17 BY MR. HALL:

18          Q     Do you know anything about the numbers game in  
19 this type of world?

20          A     As far as -- numbers as far as?

21          Q     If you were going to get in a fight, would you  
22 want numbers in your favor?

23          A     Oh, yeah. I would want more than less,  
24 obviously. I mean -- especially with that, because you



1 don't know who's coming from where. So...

2 Q Now, if we had -- you're familiar with the Hells  
3 Angels? They've been here on another Street Vibrations  
4 event?

5 A Yep.

6 Q Where were they staying?

7 A From what I understand, we obviously had Bob  
8 Vieira's rooms at The Nugget. He was staying there.  
9 There was Hells Angels all over town. I mean, from what I  
10 understand, years past I've had to make rounds after  
11 things are over and you see everybody is everywhere. It's  
12 not particularly you can say that this group is here and  
13 this group is here and -- I mean, they're all over. I  
14 mean, there's people staying -- the whole region. I mean,  
15 I've been on a poker run to the Hyatt at Lake Tahoe and  
16 seen everybody up there. So it's kind of...

17 Q Right. I'm just talking in Reno. Was there one  
18 hotel where there was kind of a majority of Hells Angels?

19 A Really -- you can't really say.

20 Q All right. Now, if Bobby Vieira was concerned  
21 that there was going to be a brawl, could he have made a  
22 phone call?

23 A Oh, definitely. I was more concerned about that  
24 than anything.

1 Q All right. So he could have increased his  
2 numbers, made a phone call and said, "Hey, man, I need  
3 some backup"?

4 A Yes.

5 MR. HOUSTON: Objection. Leading, Your Honor.

6 THE COURT: Sustained.

7 THE WITNESS: Yeah.

8 MR. HOUSTON: Move to strike, Your Honor.

9 THE COURT: The answer will be stricken.

10 BY MR. HALL:

11 Q If he were concerned and wanted to increase his  
12 numbers, would you expect that he would do something about  
13 that?

14 A Yes.

15 Q And what would that be?

16 A Call somebody, you know.

17 Q And who would you expect him to call?

18 A Whoever he -- I mean, I don't know how that chain  
19 works. That's a different food chain and --

20 MR. HOUSTON: Objection. Speculation, Your  
21 Honor.

22 THE COURT: Overruled.

23 BY MR. HALL:

24 Q Well, would it be other Hells Angels? Would you

1 expect him to call other Hells Angels?

2 A Yeah. Yeah.

3 Q All right. Now, you've been to a number of these  
4 events, right?

5 A Uh-huh.

6 Q Are these guys typically -- are they typically  
7 carrying weapons?

8 A Yes.

9 Q All right. So both the Hells Angels and Vagos?  
10 I mean, they're either packing or -- either knives or  
11 guns?

12 A Yes.

13 Q So when a fight breaks out, it's predictable that  
14 it's going to evolve into deadly force?

15 MR. HOUSTON: Leading, Your Honor.

16 THE COURT: Sustained.

17 THE WITNESS: Chances --

18 THE COURT: The objection has been sustained.  
19 You can't answer the question.

20 THE WITNESS: All right.

21 BY MR. HALL:

22 Q Have you seen fights break out between these  
23 groups?

24 A Not between these two particular groups.

1 Q All right. Have you seen fights break out  
2 between other motorcycle people?

3 A Yeah.

4 Q All right. And did those evolve into use of  
5 either --

6 A Not when I witnessed it. It was just strictly  
7 fistfights.

8 Q Typically they do carry weapons, based upon your  
9 experience?

10 A From what I would -- from what I've seen and what  
11 you kind of just know, visually you can look at somebody  
12 and kind of figure it out.

13 Q All right. Thank you. I have no further  
14 questions.

15  
16 RECROSS EXAMINATION

17 BY MR. HOUSTON:

18 Q Sir, you talked a little bit about the  
19 brotherhood and how they support each other, correct?

20 A Uh-huh.

21 Q And that's pretty common knowledge, right?

22 A Yeah.

23 Q Now, if a Hells Angels punches a Vago and they  
24 start pulling guns and shooting Vagos, it's pretty much

1 on, isn't it?

2 A Basically.

3 Q And that would be a spontaneous reaction, right?

4 MR. HALL: Objection, Your Honor. Speculation.

5 THE COURT: Sustained.

6 BY MR. HOUSTON:

7 Q In reference to a fight starting, other Vagos  
8 would become involved as a spontaneous reaction?

9 MR. HALL: Objection. Speculation.

10 THE COURT: Sustained.

11 BY MR. HOUSTON:

12 Q When the Vagos are there, if a member of their  
13 group is being attacked, what do they do?

14 MR. HALL: Objection. Speculation.

15 MR. HOUSTON: If he's got knowledge, Your Honor,  
16 it's --

17 THE COURT: The question is very vague. "There"?  
18 I don't know what you're talking about --

19 BY MR. HOUSTON:

20 Q On the Street Vibrations event --

21 THE COURT: -- so I'm sustaining the objection.

22 MR. HOUSTON: Thank you, Your Honor.

23 BY MR. HOUSTON:

24 Q On September 23, 2011, there was a Street

1 Vibrations event, correct?

2 A Correct.

3 Q And you've been present at other events, correct?

4 A Yes.

5 Q If a fistfight breaks out between various clubs,  
6 what do the other members do?

7 A They join in.

8 Q Do you think that means it was preplanned or  
9 spontaneous?

10 A It's all spontaneous.

11 Q Thank you. Nothing further.

12  
13 FURTHER REDIRECT EXAMINATION

14 BY MR. HALL:

15 Q Well, in this particular instance we're talking  
16 about an issue that had evolved since at least  
17 9:00 o'clock?

18 A Uh-huh.

19 Q And you saw problems before that?

20 A You could just kind of see larger amounts of  
21 people showing up, and you could just see that there were  
22 problems developing, I mean, just as far as intimidation  
23 and vendors being concerned for their well-being. So  
24 there was an issue.

1 Q So when the two groups square off --

2 MR. HOUSTON: Objection. Leading, Your Honor.

3 BY MR. HALL:

4 Q -- that's not necessarily --

5 THE COURT: I'm going to have to hear the  
6 question first.

7 BY MR. HALL:

8 Q The two groups did come together, correct, later  
9 in the evening?

10 THE COURT: Overruled.

11 THE WITNESS: Well, inside the casino,  
12 definitely. During the course of the day, they were  
13 milling around each other the whole day.

14 BY MR. HALL:

15 Q And there was an issue in the Oyster Bar when  
16 they came together.

17 MR. HOUSTON: Objection, Your Honor --

18 BY MR. HALL:

19 Q -- are you aware of that?

20 THE COURT: I'm sorry?

21 MR. HOUSTON: -- leading.

22 THE COURT: Overruled.

23 THE WITNESS: Yeah, there was definitely an issue  
24 inside the Oyster Bar.

1 BY MR. HALL:

2 Q All right. So we've got a situation that evolved  
3 over at least an hour?

4 A Yeah, at least an hour, hour and a half.

5 Q All right. So what's spontaneous about that?

6 A Nothing. I mean, it was developing. So you're  
7 correct in the fact that it was something that was kind  
8 of -- it had been going on through the course of the day.  
9 That's why I responded the way I did when vendors called  
10 me, because they're -- they're -- they were afraid. They  
11 knew that there was tension in the air and things were  
12 going on.

13 Q Nothing further.

14  
15 FURTHER RECROSS EXAMINATION

16 BY MR. HOUSTON:

17 Q Not the first time you've been to an event with  
18 tension in the air, correct?

19 A Correct.

20 Q And it resolved peacefully, correct?

21 A Correct.

22 Q The Vagos and Hells Angels talked it out, shook  
23 hands and walked away, correct?

24 A Yes, sir.



1 Q Thank you. Nothing further.

2 THE COURT: Anything else?

3 Sir, you may step down.

4 May this witness be excused?

5 MR. HALL: Yes.

6 THE COURT: You may be excused.

7  
8 JAMES TIPTON,

9 called as a witness on behalf of the Plaintiff,

10 having been first duly sworn,

11 was examined and testified as follows:

12  
13 DIRECT EXAMINATION

14 BY MR. HALL:

15 Q James, would you please state your name and spell  
16 your last name.

17 A James Tipton.

18 Q How do you spell Tipton?

19 A T-i-p-t-o-n.

20 Q Can you speak up a little bit?

21 A Repeat it.

22 Q Yeah, I was just going to ask you if you can  
23 speak up a little bit. I just want to make sure everybody  
24 can hear.

1 Did you happen to be at The Nugget on  
2 September 23rd of 2011?

3 A Yes, sir.

4 Q All right. And what were you doing that night  
5 there at The Nugget?

6 A I was playing at a card table game.

7 Q All right. And were you with anybody or by  
8 yourself?

9 A I was by myself.

10 Q All right. And you're a resident of Washoe  
11 County and the Reno-Sparks area?

12 A Yes.

13 Q And you were at that time?

14 A Yes.

15 Q Now, did you become aware that there was an issue  
16 there in the casino?

17 A I did.

18 Q And how did you become aware that there was a  
19 problem?

20 A There was a gunshot.

21 Q Where were you in the casino when you heard that  
22 gunshot?

23 A On a length of tables that would be running west  
24 to east. The gunshot approximately was behind my right

1 shoulder, in that direction.

2 Q If I showed you a diagram of the casino -- are  
3 you familiar with the casino?

4 A I am.

5 Q If I showed you a diagram of the casino, would  
6 you be able to locate the area where you were?

7 A Yes.

8 Q I'm going to look at 130.

9 So just to orient you briefly, the Victorian or  
10 11th Street -- avenue doors -- I'm sorry, 11th Street is  
11 down here, and obviously we've got the Trader Dick's bar,  
12 a bathroom, Rosie's, Horseshoe Bar.

13 A Yep.

14 Q All right. Where were you?

15 A Here (indicating).

16 Q All right. So this would be -- I think they  
17 commonly refer to this is as Pit 1. And that's adjacent  
18 to the Horseshoe Bar or next to the Horseshoe Bar, in that  
19 area?

20 A That would be straight across.

21 Q All right. So how long had you been there?

22 A Approximately 45 minutes to an hour.

23 Q All right. Now, you heard a gunshot, and what  
24 happened after that?

1           A     Well, I heard a gunshot. Everyone around me  
2 got -- kind of went down except for a few people. I had  
3 turned my back. I turned around towards where the  
4 gunshot -- I thought I heard the gunshot, and I basically  
5 got up and started walking up towards it and started using  
6 my cell phone to record video.

7                     And as I walked up towards this area here  
8 (indicating), there was multiple gunshots then. And  
9 that's when I ducked down and went right back to the  
10 general area that I was.

11           Q     What happened after that?

12           A     I stood back up after maybe a minute, maybe  
13 30 seconds after those gunshots, and I felt things were a  
14 little bit clearer. I stood back up and started  
15 video-cameraing again and walked back towards that general  
16 area. I actually walked back to right here (indicating).

17           Q     All right. And just so I've got a record, you  
18 indicated on Exhibit 130 that you walked over towards slot  
19 bank 625?

20           A     625 to 630. In between those.

21           Q     And that would have been over by, I believe, Pit  
22 2. So just over by Pit 2? All right.

23                     What happened at that location?

24           A     At that point in time a lot of people were

1 basically coming out of that general location. I was  
2 still video-cameraing, so I was up and down in front of my  
3 screen, coming down, seeing what was going on, but also  
4 kept wanting to make sure I was getting video. And  
5 eventually three, maybe four gentlemen were walking  
6 straight through to me from this location (indicating)  
7 here. They were coming straight over and --

8 Q And you indicated that they were coming -- I just  
9 want to make sure we make a record here. So you're  
10 indicating that they were coming generally from the area  
11 of the men's and women's bathroom past 624 towards your  
12 location?

13 A Yes.

14 Q All right. And can you describe these people?

15 A I can. One was a larger Hispanic male. He was  
16 wearing a biker vest, a black T-shirt, and bluejeans. And  
17 then another gentleman, and he was fairly tall. I would  
18 say he was six, five, heavy built. And another gentleman  
19 was wearing a green shirt, all green, and he was -- shaved  
20 head. And a white gentleman, Caucasian, and he was  
21 probably five, six in height. Another gentleman was also  
22 wearing biker attire, a vest, and he was -- to me he  
23 seemed like he was Hispanic, a white Hispanic, and --  
24 longer hair, though.

1           Those are the three I remember because they were  
2 the ones that -- they approached me, physically in front  
3 of me.

4           Q     What happened when they approached you?

5           A     Well, when I had my video camera up I heard some  
6 foul language called to me, and --

7           Q     You can go ahead and tell me. I want to know  
8 what they said.

9           A     They said, "What the fuck are you doing? Why are  
10 you disrespecting us like this? Why are you disrespecting  
11 us?" That's the first thing that I heard.

12                So right when that happened I put my phone down  
13 and I realized that they were talking to me. And that's  
14 when I had my phone in my hand, just looking straight down  
15 at the ground. And they were walking up, so I pushed my  
16 button on my phone, which would make it go black. And  
17 they approached me, calling me foul language. You know,  
18 basically I was a piece of shit and that I have no respect  
19 for them and that I should have never been video-cameraing  
20 it.

21                And so the shorter gentleman in the green shirt,  
22 all-green shirt, he came up right away and just took my  
23 phone right out of my hands, and he started walking away  
24 with it. The other two gentlemen kind of got behind me,

1 and I approached up to that gentleman and said, "Please  
2 don't take my phone."

3 And he was basically sitting there trying to work  
4 my phone, which is a touch screen, and he couldn't figure  
5 it out. And another guy went to go grab my phone, and he  
6 grabbed it and he turned it on. And I said, "Listen, I  
7 don't want you to take my phone." And then that's when I  
8 got involved and I actually put my hands on my phone while  
9 they had it and I said, "Give my phone back to me. I'll  
10 show you the video," you know, "Just don't take my phone.  
11 Whatever I have to do. I don't want any trouble. Just  
12 tell me what I need to do so you do not leave here with my  
13 phone."

14 And so the larger gentleman, the largest of the  
15 three, he said, "Turn it on." So I turned it on. And  
16 right when I did my password for my phone he -- the  
17 video -- that video was paused up on my phone. So you can  
18 see that that was it.

19 He goes, "Okay. Delete it." So I did. I went  
20 through and I deleted it right in front of him. And there  
21 was a second video, because I took two. In between the  
22 pause of me running back and from the shooting, the  
23 multiple gunshots, I went back, and then I started a  
24 second video going forward.

1           And so then I deleted that one, and I said,  
2 "There you go. The videos are deleted. I just don't want  
3 any trouble."

4           And the larger gentleman, he grabbed me by my  
5 shirt. And he grabbed me and he said, "That's not good  
6 enough."

7           And the other gentleman with the longer hair, he  
8 said, "Give us your wallet." And at that point in time I  
9 pulled my wallet out of my pocket, they took it from me,  
10 they took my driver's license out of my wallet, and they  
11 proceeded taking pictures with their camera phones of my  
12 driver's license.

13       Q     Then what happened?

14       A     Well, the one person, the longer-haired guy, he  
15 couldn't get his camera working fast enough. So the  
16 larger gentleman, he took the license, he took the  
17 picture -- he took a picture, and then the other gentleman  
18 said, "Okay. I'm ready." He took my driver's license and  
19 then he took a picture.

20           And right at that moment they were -- they were  
21 around me. There was multiple people around me. And alls  
22 I saw in the background was a guy walking up, and I just  
23 thought it was more trouble, and it was a -- it ended up  
24 being an off-duty police officer, or in street clothes.



1 And he -- he, you know, he pulled out a badge. And  
2 immediately the only thing I can think of is I want my  
3 driver's license. And I grabbed it out of the guy's hands  
4 and I took it, and they all -- he grabbed basically the  
5 largest gentleman, and he basically sat him down, and the  
6 others all ran. So everyone just started running right at  
7 that point in time that were around me.

8 And I basically told him -- I actually told him,  
9 I was like, "I don't want any trouble." I was like, "They  
10 have pictures of my driver's license. I don't want there  
11 to be any confrontation here. I don't know what's gonna  
12 happen."

13 And so he said, "You'll be fine. Just stand  
14 right here."

15 And so I basically stood there until eventually  
16 police -- other police officers moved into the casino and  
17 cleared it out, and then they escorted me out of the  
18 casino to the police station.

19 Q And did you give a statement?

20 A Yes.

21 Q Did you give your phone to the police?

22 A I didn't at that time. They said that -- "Go  
23 ahead and keep your phone, but we're gonna need it. Get  
24 all your contacts out of there, whatever you need, but,"

1 you know, "in a couple days we're gonna need your phone."

2 So it was multiple days -- it was probably, I'd  
3 say, a week. I worked out of town, so it was a lot harder  
4 for me to just give my phone up, traveling long-distance  
5 to work every day. I have a two-hour drive, a two-hour  
6 drive back. So eventually I surrendered my phone to the  
7 police department, and after about a week I got it back.

8 Q Now, were you able to recoup any of the video  
9 that you took?

10 A I didn't.

11 Q Let me rephrase the question. Was your brother  
12 able to get some --

13 A Yes.

14 Q -- off the phone?

15 A Yes. You know, when I got the phone back they  
16 said they weren't able to retrieve it. My brother, who's  
17 very inclined on the computer, spent about four hours  
18 going through files and -- encrypted files and everything  
19 and was able to actually -- about 3:00 o'clock in the  
20 morning I remember him waking me up and saying, "I got  
21 one. I got one." And he put it on a USB drive, and I  
22 immediately that day called the DA's office and said, "My  
23 brother was able to retrieve a video," and within a few  
24 moments, I would say about five minutes or so, they

1 were -- someone was there to pick up the USB and took it.  
2 So...

3 Q So you reviewed that and it was accurate, the  
4 video?

5 A Yeah. It was the second video. My brother was  
6 able to see two video files on that date, and one was  
7 basically just in numbers and letters, and he said that  
8 usually that means that it could have been overwritten by  
9 another picture or video. And then he was able to  
10 retrieve the second one where I walked up around, and you  
11 can actually physically hear and see those guys  
12 approaching me.

13 Q All right.

14 MR. HALL: That's been marked as Exhibit 75.  
15 Move for admission of 75.

16 MR. LYON: No objection.

17 THE COURT: Okay. Mr. Hall, I think this is a  
18 good time to take our morning recess.

19 So Exhibit 75 -- oh, it's only been an hour.  
20 Never mind. I'm getting ahead of myself.

21 MR. HALL: I think it's a good time.

22 THE COURT: I was just thinking we're going to  
23 move this along. Okay. So Exhibit 75 is admitted.

24 (Exhibit No. 75 admitted.)

1 THE COURT: I'm glad everyone is listening and  
2 paying attention.

3 MR. HALL: Thank you.

4 THE COURT: Mr. Hall?

5 MR. HALL: Did I kick your -- sorry about that.

6 THE COURT: That's okay. Go ahead.

7 BY MR. HALL:

8 Q It's a little loud. I'll back it up so Her Honor  
9 can see.

10 (Video played.)

11 BY MR. HALL:

12 Q So those are the fellows, the Vagos, that grabbed  
13 you?

14 A Yes.

15 Q How did you feel when those people approached  
16 you?

17 A Empty. And just scared. Everything seemed to go  
18 so slow, and I didn't know what to do.

19 Q Are you concerned still?

20 A I am.

21 Q So that had quite an impact on you?

22 A (Nodding head.)

23 Q Now do you know who that guy is that took your  
24 phone or the one that the -- do you recognize any of these

1 guys?

2 A I do.

3 Q Which guy do you recognize?

4 A Well, I think this gentleman here (indicating)  
5 looks like the guy that was the shorter guy that took my  
6 phone from me in the beginning. The most -- the guy that  
7 looks most familiar, the largest of them, it actually  
8 looks like this guy here (indicating).

9 Q Bradley Campos?

10 A Yeah. Bradley Campos. And then, like I said,  
11 the shorter gentleman that first grabbed my phone, he  
12 looks a lot like Gary Rudnick.

13 Q Gary Rudnick and Bradley Campos?

14 A Yes. And I don't -- I don't think I can -- I  
15 could recognize the third gentleman out of this group. I  
16 don't think I --

17 Q You don't recognize anybody else?

18 A No. I mean...

19 Q All right. Thank you. I have no further  
20 questions.

21 THE COURT: Go ahead.

22 MR. LYON: Thank you, Your Honor.

23 /////

24 /////

## CROSS EXAMINATION

BY MR. LYON:

Q Good morning, sir.

A Good morning.

Q So you arrived at The Nugget by yourself that evening?

A Yes.

Q Do you recall about what time you got there?

A I don't think I can recall the exact time.

Q Okay. And you go over and you start gambling --

A Yes.

Q -- gaming?

And how long do you think you were there before you heard gunshots?

A It didn't seem like it was that long. Like I said, I would say about 45 minutes.

Q Okay. Were you -- did you stay at the same area while you were -- while you were gaming?

A The whole time?

Q Uh-huh. That whole 45 minutes. Or were you moving about the casino?

A I might have -- I moved about a couple times. I usually don't sit at the same table, but -- I probably

1 went to two different tables that time.

2 Q But in the same general area?

3 A Yes, sir.

4 Q Okay. And you hear gunshots. How many gunshots  
5 do you hear initially?

6 A Well, initially I heard one.

7 Q Okay. Was there -- and then did you hear more  
8 shots after that?

9 A Well, I started video-cameraing and walking up  
10 to -- like I pointed out in the beginning, I would say  
11 towards the men's and women's restrooms. And that's when  
12 I -- when I was video-cameraing there was seven to eight  
13 gunshots, it seems. I couldn't totally recall, but if I  
14 was to remember, it would have been seven to eight  
15 gunshots.

16 Q Did it sound like more than one gun?

17 A Absolutely.

18 Q How many guns do you think were being used?

19 A It seemed like a couple.

20 Q Two guns going off?

21 A Yeah.

22 Q Okay. You could distinguish between the sounds  
23 you were hearing?

24 A Yeah.

1 Q What was your intention? Why were you  
2 videotaping?

3 A Just, you know, something happening. It was one  
4 of those things where you almost feel like, you know, you  
5 never have that thing where something crazy is happening.  
6 It's almost like today's -- what we do today, you know?  
7 And hopefully you can get something on video that might  
8 save someone or, you know, might help someone.

9 Q Were you intending to use the video to maybe sell  
10 it later on or anything like that?

11 A No. Absolutely not.

12 Q You were just trying to get some recording of  
13 what you were observing or what was going on that evening?

14 A Yes, sir.

15 Q Now, you indicate that as -- I understand it,  
16 essentially you hear these gunshots and then things kind  
17 of calmed down and you stopped videotaping?

18 A Yes. I -- I immediately go down because all  
19 those gunshots, I mean, they were -- now at this point in  
20 time they were in front of me and a lot closer and a lot  
21 louder. I immediately went down on -- crouching and then  
22 going right back, as far back -- even further than where I  
23 was gambling. I went further back, probably to the end  
24 of, I guess it would be a pit, to the end of that pit.



1 Q Okay. And did it sound like the gunshots had,  
2 for the most part, calmed down at that point in time?

3 A Yes.

4 Q And then I think you said you moved down towards,  
5 I think it was slot 625?

6 A Uh-huh.

7 Q And did you hear more gunshots at that point in  
8 time?

9 A No.

10 Q You just started videotaping again?

11 A I started videotaping probably -- it was only  
12 like 30 seconds after I got back. So all those eight  
13 gunshots, seven or eight gunshots, happened right there.  
14 I, just basically almost crawling back, went hurrying back  
15 to the end of the pit, and 30, 40 seconds after that I  
16 noticed that I wasn't video-cameraing anymore, started a  
17 new video. And that's when I was just starting -- I was  
18 just gonna video from that point. And it seemed like  
19 things were calming down, so I approached again.

20 Q And that's the video that we saw here this  
21 morning?

22 A Yes.

23 Q Okay. And there was about 45 seconds, you said,  
24 between the first video and the second video?

1           A     No. It would have been 45 seconds of me getting  
2 to that point. So you're looking at maybe, I would say, a  
3 minute, you know. It didn't take me long to get from --  
4 after those gunshots to get to the end of the pit; I'll  
5 tell you that.

6           Q     And what was your intention of videotaping the  
7 second go-around?

8           A     To get whatever I could out of what was happening  
9 and -- you know, I think that, you know, it would have  
10 been good to make sure that people knew what was going on.

11          Q     Now, we noticed there was an individual that  
12 seemed to be speaking in that video wearing some red,  
13 giving you, I guess, a description of what happened. Did  
14 you know that individual?

15          A     No. He was talking as I was turning on my phone.  
16 It seemed like he was kind of a little -- a little bit  
17 drunk, and he was talking to whoever he could, just  
18 blabbering to all kinds of people. So, no, I don't -- he  
19 just happened to be in front of the video at the time. I  
20 wasn't really paying attention much to him.

21          Q     And you could see other individuals, older  
22 couples kind of walking. It didn't seem like they were  
23 running away. So would it be fair to say that things had  
24 pretty much calmed down at that point in time?

1           A     I would say things had calmed down.

2           Q     You didn't see any other fighting or hear any  
3 other gunshots going on?

4           A     I didn't hear any other gunshots.

5           Q     And that's when you were approached by the four  
6 individuals?

7           A     As I approached up to the point of where I was  
8 prior, that's when I was approached by the individuals.

9           Q     Okay. And you've identified them as Mr. Campos  
10 and Mr. Rudnick?

11          A     Yes.

12          Q     Okay. And Mr. Campos was the bigger gentleman,  
13 correct?

14          A     Yes.

15          Q     Okay. Now, they didn't pull any guns or knives  
16 on you?

17          A     No.

18          Q     Okay. But you felt threatened by them?

19          A     Yeah. I mean, they took me by the shirt, so -- I  
20 mean, there was multiple people, and they were -- the way  
21 they were looking at me and the way they were talking to  
22 me, I absolutely felt threatened.

23          Q     Did you remember Mr. Rudnick saying anything to  
24 you specifically?

1           A     Most were just that I was -- I was disrespectful  
2     and that -- you know, that -- basically they went into the  
3     point of I need to delete the video, you know. So I did.  
4     And then they went into the whole idea that deleting the  
5     video wasn't gonna be good enough for them and they wanted  
6     to know who I was.

7           I mean, when they took my -- they made me take my  
8     wallet out of my pocket. They were holding me, so I  
9     didn't feel like I had a choice, and I pulled the wallet  
10    out, and they took my wallet and they took the driver's  
11    license straight up out of my -- you know, up through the  
12    visible part of the wallet and immediately just started  
13    tossing it to each other and trying to get pictures as  
14    fast as they could.

15          Q     And you weren't trying to be disrespectful, were  
16    you?

17          A     I was not.

18          Q     Okay. Did you know that night that members of  
19    the Vagos had been shot?

20          A     I didn't -- I didn't know anyone had -- who had  
21    been shot in general. If it was a particular biker gang  
22    or club or whatever you want to call it, I didn't know who  
23    was actually shot. I mean, innocent people could have  
24    been shot. I didn't know that.

1 Q Okay. Did you see anybody that had been shot?

2 A I wouldn't know -- I mean, I saw one person slide  
3 to the ground when I was doing the first videos when there  
4 was gunshots, but I couldn't tell you if he was ducking  
5 into -- you know, to the floor or if he had been shot. I  
6 wouldn't have known that.

7 Q Okay.

8 A It all happened too fast.

9 Q You wouldn't want -- if someone in your family  
10 had been hurt, you wouldn't want somebody videotaping  
11 them. True?

12 MR. HALL: Objection; relevance to this.

13 THE COURT: Sustained.

14 BY MR. LYON:

15 Q In any event, Mr. Gonzalez was not a part of the  
16 group that confronted you that evening?

17 A What's that?

18 Q Mr. Gonzalez, the individual sitting over at this  
19 table, he wasn't a part of the group that confronted you  
20 that night, correct?

21 A No.

22 Q Thank you. That's all I have.

23 THE COURT: Anything further?

24 MR. HALL: No. Thank you, sir.

1 THE COURT: Thank you. You can step down. You  
2 are excused.

3 THE WITNESS: Thank you.

4  
5 LYND SAY SPAIN,  
6 called as a witness on behalf of the Plaintiff,  
7 having been first duly sworn,  
8 was examined and testified as follows:  
9

10 DIRECT EXAMINATION

11 BY MR. STEGE:

12 Q Good morning, ma'am.

13 A Good morning.

14 Q Is your name Lyndsay Spain?

15 A Yes.

16 Q Spelled S-p-a-i-n?

17 A Yes.

18 Q I might need you to speak into the microphone.

19 A Okay. All right.

20 Q Are you a resident of Washoe County?

21 A Yes, I am.

22 Q How long have you lived in Washoe County?

23 A 50 years. My whole life.

24 Q On September 23rd of 2011 did you go to the

1 Nugget?

2 A Yes, I did.

3 Q And who did you go to the Nugget with?

4 A My friend Carol and her niece Tina Morris.

5 Q What were you doing at The Nugget?

6 A We went to listen to the music, play the  
7 machines, have a good time.

8 Q And did you guys plan on spending the night  
9 there?

10 A We did.

11 Q Why were you going to spend the night?

12 A We had a room. She gets rooms comped all the  
13 time. So we went and stayed the night for the Street  
14 Vibrations.

15 Q Out having a good time?

16 A Pardon me?

17 Q You were just out having a good time?

18 A Yes.

19 Q Now, do you remember -- you were gambling, right?

20 A Yes.

21 Q Table or slot games?

22 A Slots.

23 Q And what part of the casino were you in?

24 A We -- near the Trader Dick's bar and the

1 high-limit slot area.

2 Q I direct your attention to the monitor in front  
3 of you. I'm going to show you Exhibit 36E which has been  
4 admitted by stipulation. Do you recognize this area?

5 A Yes.

6 Q This is Trader Dick's, the dance floor, slots  
7 here, and the high-limit area is going to be over here?

8 A Yes. Yes.

9 Q Do you see the area where you were --

10 A Yes, I do.

11 Q -- gambling?

12 Now, these screens, if you touch on it you can  
13 put an X. So if you can put an X at the machine that you  
14 were sitting at.

15 A (Indicating).

16 THE COURT: I'm going to stop you there for just  
17 a minute.

18 Are you saying this is Exhibit 36E, as in  
19 Everett?

20 MR. STEGE: Yes.

21 THE COURT: Okay. Thank you. The clerk will  
22 note that that is admitted. Go ahead.

23 (Exhibit No. 36E admitted.)

24 /////



1 BY MR. STEGE:

2 Q Is that X still in the right spot?

3 A I believe that's the spot where we were, yes.

4 Q And so this is the row of slots with an ATM  
5 machine on the --

6 A Yes.

7 Q -- up here on the end?

8 A Yes.

9 Q So did you notice other people in the casino?

10 A Oh, yes.

11 Q And were there a lot of people in the casino?

12 A Yes, there was.

13 Q And what were these people wearing?

14 A Most of them were wearing black vests with the  
15 green writing on them.

16 Q And did you notice a lot of them in your area?

17 A Actually, they were everywhere. They were  
18 everywhere.

19 Yes, there was some in our area. Not a lot in  
20 our -- right in that general area.

21 Q But when you got into the casino, you saw there  
22 were a lot?

23 A Yes.

24 Q They were everywhere?

1 A Yes.

2 Q What time do you think you got to the Nugget?

3 A Well, I believe we were there around 9 p.m., but  
4 in the room. We came downstairs -- I have no idea. I  
5 don't remember right now.

6 Q So at some point you were gambling there and  
7 there was a man wearing a green vest who started to talk  
8 to you and your friends; is that right?

9 A To my friend, yes, not to me.

10 Q And did you hear that person say -- start talking  
11 about The Players Club?

12 MR. LYON: Objection. Leading.

13 THE COURT: I'm going to overrule it because I'm  
14 going to consider that a predatory question.

15 MR. STEGE: Did you say predatory?

16 THE COURT: No. Predatory.

17 MR. STEGE: Oh, okay.

18 THE WITNESS: Do I answer that? I'm sorry. So  
19 will you please ask me again?

20 BY MR. STEGE:

21 Q Was this man in green asking your friends about  
22 the Players Cards?

23 A Yes.

24 Q And you or your friend told him about how Players

1 Cards works?

2 A Yes.

3 Q And the substance was whether you need one to  
4 play the machines?

5 MR. LYON: Objection. Leading.

6 THE COURT: Sustained.

7 BY MR. STEGE:

8 Q What was the substance of this conversation?

9 A If you needed one to play.

10 Q And is that when he said --

11 MR. LYON: Objection.

12 THE COURT: Sustained. You're leading.

13 MR. LYON: Leading and hearsay.

14 THE COURT: I don't know about that, but you're  
15 leading.

16 BY MR. STEGE:

17 Q What did the man say after being --

18 MR. LYON: Objection. Hearsay.

19 THE COURT: Counsel approach.

20 (A sidebar was held off the record.)

21 BY MR. STEGE:

22 Q What happens after this conversation with the man  
23 dressed in the green?

24 A My -- Tina Morris asked me did I hear what they

1 said --

2 MR. LYON: Objection. Hearsay.

3 THE COURT: The fact that she asked Tina  
4 Morris -- is that the friend?

5 THE WITNESS: Yes. She asked if I heard what he  
6 said.

7 THE COURT: I'm going to sustain the objection.  
8 I'm not sure where you're going, Counsel. It does sound  
9 like hearsay.

10 MR. STEGE: I didn't ask her for the substance of  
11 it. I'm asking her what happened after this conversation.

12 MR. LYON: I think the witness was going to talk  
13 about conversations from her friend.

14 THE COURT: Ma'am, don't get too confused. It's  
15 all a little technical. But you can answer whether or not  
16 you had a conversation, not tell us what was the content.

17 THE WITNESS: Oh, I see. Okay.

18 THE COURT: Go ahead, Counsel.

19 BY MR. STEGE:

20 Q So after speaking to this man, you continued to  
21 speak with your friend, right, with Tina, right?

22 A Yes.

23 Q And what happens next?

24 A She asked me if I heard what he said. Is that

1     what --

2             MR. LYON:  Objection, Your Honor.

3             THE COURT:  That is telling me what she said.  
4     You can say, "My friend said something to me."

5             THE WITNESS:  Oh, my friend said something to  
6     me.

7             I'm sorry.  I'm a wreck.

8     BY MR. STEGE:

9             Q     Well, why are you a wreck?

10            A     It turned my life upside down.

11            Q     Well -- so after your friend asked you if you  
12     heard what he said, what do you guys then do?

13            A     We continued conversing.

14            Q     And how long after that conversation does  
15     something happen there in the casino?

16            A     Approximately -- within five minutes.  Within  
17     five minutes.

18            Q     And what happens?

19            A     We heard voices getting louder, a bottle break on  
20     the ATM machine, and the shuffle came our way.

21            Q     Where did you hear the loud voices?

22            A     To my right near the ATM machine in that area  
23     near the Trader Dick's and ATM.  Right in this area  
24     (indicating).

1 Q Is it fair to characterize what you heard as an  
2 argument?

3 A Yes.

4 Q And did you turn and look?

5 A Yes.

6 Q And what did you see?

7 A I saw one man in red and white and black with  
8 shoulder-length hair walking this way and about four Vagos  
9 around him, and they were shuffling -- not wrestling on  
10 the floor but wrestling, fighting -- not fighting, just --  
11 they were trying to, I don't know, detain him. And I  
12 looked and saw that he had a gun.

13 Q And what did you do when you saw the gun?

14 A I said, "Is that a gun? He's got a gun. Move,"  
15 and started telling people to get out of the way and get  
16 down and, "He's got a gun. Move."

17 Q What happened next?

18 A Shooting started.

19 Q And where were you when the shooting started?

20 A I was heading this way (indicating), getting out  
21 of the way --

22 Q Who was shooting?

23 A -- leaving the area.

24 The man with the white shirt and the red --

1 red-and-white shirt and black with the long hair. The one  
2 that was holding the gun.

3 Q The one you first saw with the gun?

4 A Yes.

5 Q Did you see anyone else with a gun?

6 A No, I did not.

7 Q Did you see who the man was shooting at?

8 A I thought all of us, the crowd.

9 No, I did not see -- no, I did not.

10 Q And what happened next?

11 A The shooting stopped, the crowd started moving  
12 towards him, more shooting started, they started going  
13 back away from him, the shooting stopped, and the crowd  
14 started going back towards him. And then I went -- my  
15 friends were yelling at me to get on the elevator -- they  
16 were holding the elevator -- and I got on the elevator and  
17 went upstairs to my room.

18 Q How were people inside the casino reacting to  
19 what was going on?

20 A Chaotic. It was very chaotic. The people  
21 gambling -- some were still gambling, some were running,  
22 screaming.

23 Q What about your friend?

24 A Yelling at me to move, move, move.

1 Q Well, did you guys run to the elevators?

2 A I did not. I cannot run. I hurried, though.

3 Q What about your friends?

4 A Yes, they ran.

5 Q And did you see anyone on your way to the  
6 elevator? Did you see anyone who was shot?

7 A I did. I was walking next to a gentleman that  
8 was shot.

9 Q And how did you know he was shot?

10 A He was holding his abdomen and said to his friend  
11 he was hit, and he said, "We'll get you to the hospital."

12 Q And did you have any part in talking to him or  
13 talking to his friends?

14 A Absolutely not.

15 Q You just saw him as you were getting out of  
16 there?

17 A Yes.

18 Q What happened once you were in the elevator?

19 A The elevator closed, and we went to the second  
20 floor, it opened, no one got off, third floor, and it  
21 continued all the way until the 15th floor where I got  
22 off.

23 Q And eventually you ended up meeting with the  
24 police?



1 A Yes.

2 Q And, now, you did state that you -- this changed  
3 your life or this had an impact on you?

4 A Yes, it did.

5 Q And why is that?

6 A There was a shootout, and I'm not -- I don't  
7 believe in violence. I just was -- I can't believe people  
8 just would shoot in a crowd like that. It devastated me.

9 Q You were --

10 A I'm very traumatized by it.

11 MR. STEGE: Pass the witness.

12 THE COURT: Mr. Lyon?

13 MR. LYON: Thank you, Your Honor.

14  
15 CROSS-EXAMINATION

16 BY MR. LYON:

17 Q Good morning, ma'am.

18 A How are you?

19 Q So you get to the Nugget about 9:00 o'clock, go  
20 over to the slots, start playing. About five minutes  
21 later, that's when you started hearing the noises? And I  
22 think you described it like breaking glass.

23 A Yeah, it wasn't -- we were at the room for a  
24 while.

1 Q Oh, okay.

2 A We came downstairs, you know -- I don't even know  
3 what time it was. It was a little later than that.

4 Q Okay.

5 A But yes.

6 Q Do you recall about what time the fight broke out  
7 that you witnessed?

8 A I don't. I'm sorry.

9 Q Okay. Fair to say that when you turned and you  
10 saw the person holding the gun, he was wearing red and  
11 white?

12 A Yes.

13 Q And do you recall what the gun looked like?

14 A Yes.

15 Q What did you see?

16 A Well, I saw a long, skinny barrel, and as it came  
17 up more I saw the revolver part.

18 Q And you indicated that he was shooting out -- you  
19 thought he was shooting out at you or out in the crowd?

20 A Well, yes, that was the impression I was under,  
21 that he just started shooting into the crowd.

22 Q Okay. Fair to say he was out of control?

23 A Yes.

24 Q Fair to say you wanted somebody to stop him?

1 A Yes.

2 Q Now, what were the Vagos doing at this point in  
3 time?

4 A Well, as I said, they were going towards the  
5 shooting and -- well, actually -- well, some were coming  
6 towards, not everyone, when the shooting stopped. More  
7 were going that way, and then the shooting started, and  
8 then they went back, and then the shooting stopped and  
9 they went back. It was a back-and-forth.

10 Q Did it appear like they were trying to stop him?

11 A Yes.

12 Q How many shots do you think you heard?

13 A Well, I believe it was five at the beginning and  
14 then maybe six more and then four at the end. The last  
15 ones that I heard were four.

16 Q And you indicated that you eventually moved down  
17 the casino and got onto the elevators with your friends  
18 and just went back up to your room?

19 A Yes.

20 Q And then later talked with the police?

21 A Yes.

22 Q You didn't see any Vagos with any guns that  
23 night?

24 A I did not.

1 Q Thank you. That's all I have.

2 A Thank you.

3 THE COURT: Counsel?

4  
5 REDIRECT EXAMINATION

6 BY MR. STEGE:

7 Q Did you see any of the Vagos hit the man in red  
8 and white with a bottle?

9 A I heard the glass break. I looked -- I believe I  
10 saw him get hit with the bottle, yes.

11 Q And is it fair to say that the Vagos continued to  
12 go after the man in red and white?

13 A Yes.

14 Q Were they also going -- did you see any other  
15 people dressed in red and white or Hells Angels?

16 A I did not.

17 Q Let me ask you, that conversation that we went  
18 over --

19 A Uh-huh.

20 Q -- before, what effect did that have on you?

21 A It did raise an alert.

22 Q What effect did it have on your friends --

23 /////

24 /////

1 MR. LYON: Objection. Speculation.

2 BY MR. STEGE:

3 Q -- if you know?

4 THE COURT: You have to lay a foundation.

5 Sustained.

6 BY MR. STEGE:

7 Q Did that conversation affect the mood of either  
8 of the two women you were with, your two friends?

9 A Yes.

10 Q And what effect did it have on them?

11 A It made them more aware of our surroundings.

12 Q Nothing further.

13  
14 RECROSS EXAMINATION

15 BY MR. LYON:

16 Q Ma'am, isn't it correct you were more afraid of  
17 the man wearing red than the men wearing green?

18 A Yes.

19 Q Because he's the one that had the gun and was  
20 shooting everybody?

21 A Yes.

22 Q And the men in green, in your opinion, were  
23 trying to stop him?

24 A Yes.

1 Q Thank you.

2 THE COURT: Anything further?

3  
4 FURTHER REDIRECT EXAMINATION

5 BY MR. STEGE:

6 Q Why did you think this conversation was  
7 important?

8 A Because it made us a little on alert and -- like  
9 maybe something was gonna happen.

10 Q Thank you.

11 MR. LYON: Nothing further, Your Honor.

12 THE COURT: Okay, ma'am. Thank you. You may  
13 step down. You are excused.

14 THE WITNESS: Oh, thank you.

15 THE COURT: All done.

16  
17 CHAD MOWBRAY,

18 called as a witness on behalf of the Plaintiff,

19 having been first duly sworn,

20 was examined and testified as follows:

21  
22 DIRECT EXAMINATION

23 BY MR. STEGE:

24 Q Sir, please state and spell your name.

1 A Chad Mowbray, M-o-w-b-r-a-y.

2 Q How are you employed?

3 A Yes.

4 Q How?

5 A The City of Sparks as a police officer.

6 Q How long have you been a police officer?

7 A Just over 10 years.

8 Q On September 23rd of 2011 did you respond to the  
9 Nugget in Sparks?

10 A 2011?

11 Q Yes.

12 A Yes.

13 Q Did I say --

14 A I thought you said 2010.

15 Q I'm sorry. 2011.

16 Where were you when you got the call to respond  
17 there?

18 A I believe it was in the area of Vista and  
19 Brierley.

20 Q And you arrived there relatively soon?

21 A Yeah. I responded to a Code 3, which was lights  
22 and sirens, down the I-80.

23 Q And where did you go when you got to the Nugget?

24 A I came in off of Victorian and turned south onto

1 what we call 11th Street -- it's on the east side of the  
2 Nugget -- and then stopped about middle of the block.

3 Q So directing your attention here to Exhibit 130,  
4 which side of the building were you on if we have Trader  
5 Dick's here, the showroom here, the Horseshoe Bar up in  
6 that area?

7 A I believe this is the east side of the building  
8 here (indicating).

9 Q So out the east side doors there?

10 A East side doors, yeah.

11 Q Okay. And so what do you do when you get to the  
12 east side doors?

13 A I got out of the car. There were several Vagos  
14 wearing jackets exiting out of the building and then there  
15 was -- there by the parking garage, and there were several  
16 inside of the building.

17 And when I got out, basically I didn't hear any  
18 sounds of violence so I didn't know where to really go,  
19 and I didn't know who I was really looking at because  
20 there was so many of them. So I waited, trying to get  
21 backup before I entered the building.

22 And shortly after, the subject came outside, and  
23 I believe there was two other subjects, and they said, "He  
24 was shot in the leg and he needs help," so -- it appeared



1 that he was shot in the right calf, and I requested for  
2 medics.

3 Q Could you tell the affiliation of these three  
4 guys who came out?

5 A I believe they were Vagos members.

6 Q What about the guy who was shot?

7 A I don't remember if he had on anything that would  
8 indicate him as being a Vagos member. But I believe that  
9 one of the subjects had on what they call a rocker  
10 indicating that they were a Vagos member.

11 Q Are you familiar with what a cut is?

12 A Yeah.

13 Q A leather vest with Vagos patches on it?

14 A Yeah.

15 Q The guy who was shot, was he wearing one of those  
16 vests?

17 A I can't remember if he was or not.

18 Q What about the other two guys he was with?

19 A I believe that one of them was, and I don't  
20 remember about the other guy.

21 Q What about gloves? Was -- the man who was shot,  
22 was he wearing gloves?

23 A I don't remember.

24 Q The man who was shot, was -- did he have a gun on

1 him?

2 A I didn't -- I don't remember searching him,  
3 because there was too many subjects around, and I didn't  
4 feel secure in searching them. Basically I kept an eye on  
5 them and then waited for the medics' response. I don't  
6 know if he did or not.

7 Q But there was no obvious gun on him, and you  
8 didn't --

9 A No, there was no obvious gun.

10 Q And in fact the paramedics eventually came?

11 A Yes.

12 Q And the man was taken to the hospital?

13 A Correct.

14 Q I'd like to direct your attention here to the  
15 screen in front of you and to your right. This video is  
16 called Cam V7 23:20 to 23:40 hours. Do you recognize this  
17 area?

18 A It looks like the east doors.

19 Q Let's move up here to 23:32 hours.

20 A That's my cop car that I pulled up in.

21 Q So what do you do when you get there?

22 A I pulled up, and I believe I got out and went  
23 towards the back of my car.

24 Q Now, you testified earlier that there were Vagos

1 towards the parking --

2 A That would be towards my left or -- as I pulled  
3 in, it would be towards my left towards the parking  
4 garage.

5 Q What were those Vagos doing?

6 A Just standing there.

7 Q So what do you do when you go to the back of your  
8 car?

9 A I went to the back, and I was waiting for like  
10 another unit to show up before I entered because, like I  
11 said, I didn't hear any sounds of violence, so I wasn't --  
12 I didn't know where I needed to go and who I was looking  
13 at at the time.

14 Q Well, did you pull out a weapon?

15 A I had my firearm, my sidearm.

16 Q I'll slow it down here.

17 (Video played.)

18 BY MR. STEGE:

19 Q What are we seeing here?

20 A Looks like me up in the corner, up in the right  
21 corner, talking on my radio. And then --

22 Q This is you (indicating)?

23 A Yeah.

24 Q Okay. And who are those people coming out?

1           A     This looks like the guy that got shot, and then  
2 they go to the right front of my car, and that's basically  
3 where they remain until we get medics there.

4           Q     The guy on the far -- which of those guys was the  
5 one that was shot? Let's go back to it.

6           A     By looking at it, I'd have to say it's the guy  
7 that appears that he's limping, but I'm not a hundred  
8 percent sure.

9           Q     The guy on the left?

10          A     Yeah.

11          Q     And now that we've seen it, do you remember if,  
12 for example, this guy was wearing a cut?

13          A     I remember more of the guy that was helping him  
14 out.

15          Q     Okay.

16          A     That was on -- that would be on the subject's  
17 left, but as I look at it, on his right. And that's the  
18 guy that was asking me to get medics for his buddy.

19          Q     What happens when you get this guy -- these guys  
20 to the car?

21          A     Basically they just stay there, and we're waiting  
22 for medics, and they're pretty animated because they want  
23 medics to get there, but medics seemed to be taking -- you  
24 know, at the moment seemed to be taking quite a while.

1 The first medic that showed up stopped at the Victorian  
2 and 11th Street corner.

3 Q Okay.

4 A Which I later learned they stopped there for  
5 another gunshot victim, which later I learn was Pettigrew.

6 Q So you waited there --

7 A For another medic to show up and come down to  
8 where we were.

9 When that medic showed up, Detective Patton, he  
10 arrived, and Detective Patton took over as far as handling  
11 the subject with the gunshot.

12 Q Now, were people -- how was the crowd acting  
13 during this time?

14 A Just kind of nonchalant really. I mean, it  
15 wasn't --

16 Q Well, weren't people coming up --

17 A Are you talking about like civilians or Vagos?

18 Q Vagos.

19 A Vagos were just kind of -- they were inside the  
20 casino, kind of coming out of the casino, kind of walking  
21 around, kind of just looking.

22 MR. STEGE: Can I approach the witness?

23 THE COURT: You may.

24 /////

1 BY MR. STEGE:

2 Q Sir, do you recognize what's depicted in  
3 Exhibit 26A and 26B?

4 A Yeah. That was Diego Garcia. That's the gunshot  
5 to his right calf.

6 Q In fact the person who was shot who was brought  
7 out was identified as Diego Garcia?

8 A Correct.

9 Q And these are true and accurate depictions of how  
10 he looked?

11 A Correct.

12 MR. STEGE: Move to introduce these two exhibits.

13 MR. LYON: No objection.

14 THE COURT: Exhibit 26A and B are admitted.

15 (Exhibit Nos. 26A and 26B admitted.)

16 BY MR. STEGE:

17 Q What are we seeing here in 26A?

18 A As far as Diego laying down?

19 Q Who's this?

20 A Diego Garcia.

21 Q The guy who came out shot in the leg?

22 A Correct.

23 Q And what's he wearing?

24 A He has on I guess -- I mean just by my

1 experience, I'd say that's a Vagos motorcycle club shirt  
2 and then a Vagos tattoo on his belly.

3 Q Now, you didn't take off any of his clothes  
4 before he was put in the ambulance, did you?

5 A I didn't deal with him as far as like the  
6 ambulance stuff. That's when Detective Patton came.

7 Q As you see this, can you say whether he was  
8 wearing his cut when he came out?

9 A His cut, I would say no.

10 Q And Exhibit 26B, what are we seeing here?

11 A It appears there's a gunshot on his calf down by  
12 the tattoo.

13 MR. STEGE: Pass the witness.

14 MR. LYON: No questions, Your Honor.

15 THE COURT: Okay. You may step down. You are  
16 excused.

17 THE WITNESS: Thank you.

18 MR. HALL: Your Honor, I think now would be a  
19 good time for a break. I think next witness will be a  
20 little while, but we can start if you'd like.

21 THE COURT: Well, I know I was jumping the gun a  
22 little bit before, so we'll go until 9:30.

23 MR. HALL: All right.

24 THE COURT: Thank you.

1 HEATHER KOHLES,  
2 called as a witness on behalf of the Plaintiff,  
3 having been first duly sworn,  
4 was examined and testified as follows:  
5

6 DIRECT EXAMINATION

7 BY MR. HALL:

8 Q Good morning. How are you?

9 A Good. How are you?

10 Q Would you state your name and spell your last  
11 name, please.

12 A My name is Heather Kohles, spelled K-o-h-l-e-s.

13 Q What's your occupation?

14 A I'm a forensic investigator for the Washoe County  
15 Crime Lab.

16 Q How long have you worked there?

17 A I've worked there for a little over six years.

18 Q And what are your duties as a forensic  
19 investigator for Washoe County?

20 A Our duties are to respond to crime scenes and to  
21 collect, preserve, and document evidence found there at  
22 the scene.

23 Q All right. Did you do that in this case?

24 A Yes, I did.



1 Q And how do you typically document a crime screen?

2 A We document crime screens using photographs or  
3 photography.

4 Q All right. And is there a certain procedure that  
5 you follow to collect evidence?

6 A Typically we use what's called clean collection  
7 processing or procedure. And what that means is we're  
8 wearing gloves at all times and then the items are either  
9 put into the appropriate piece of packaging, which might  
10 be a Manila envelope, a paper bag, and these items have  
11 never been used before so they're clean, without  
12 contamination.

13 Q Many times do you wear booties as well --

14 A Yes.

15 Q -- shoe coverings?

16 All right. So what time are you called out on  
17 September 23rd, 2011, to respond to the Nugget?

18 A I was actually called out just after midnight on  
19 the 24th by my sergeant.

20 Q Who's that?

21 A Sergeant Michael Lyford.

22 Q Were there other forensic investigators that  
23 assisted you down there at The Nugget?

24 A Yes. Deputy Michael Ivers was there, and also

1 later on during the time we were at the scene Deputy Dean  
2 Kaumans.

3 Q And they're both forensic investigators as well?

4 A Yes.

5 Q All right. So you're all working the same scene?

6 A Yes.

7 Q All right. So what was your function? Why don't  
8 you just tell me the function of those individuals you  
9 just mentioned. So we've got Ivers and Kaumans. What  
10 were they doing?

11 A Deputy Ivers was responsible for putting  
12 together, taking measurements, and a rough sketch for  
13 diagramming purposes. And Deputy Kaumans I believe was  
14 working in another capacity away from the scene, and then  
15 when he arrived on scene he was assisting in helping  
16 Deputy Ivers with that diagramming process.

17 Q All right. We've got an exhibit marked here as  
18 Exhibit No. 129.

19 MR. HALL: More for admission.

20 MR. HOUSTON: No objection, Your Honor.

21 THE COURT: Exhibit 129 is admitted.

22 (Exhibit No. 129 admitted.)

23 BY MR. HALL:

24 Q All right. Can you explain what Exhibit 129 is?

1           A     Exhibit 129 is the computer diagram that was  
2 generated from the measurements and rough sketch of what  
3 Deputy Ivers was doing while he was on scene. And it  
4 includes numbers, color-coded numbers, corresponding to  
5 items of evidence that we located on scene.

6           Q     All right. Now, I know it's difficult for the  
7 members of the jury to see these little numbers, but why  
8 don't we just explain some of the information that's on  
9 here.

10                  So, for example, there's a lot of different  
11 numbers and arrows. Can you explain to the ladies and  
12 gentlemen of the jury what those arrows correspond to?

13           A     If I may read.

14           Q     Yes.

15           A     The red arrows and the numbers corresponding to  
16 those red arrows are placards that represented areas of  
17 the red staining; same with the blue placards representing  
18 guns or knives; and then yellow placards representing  
19 ammunition, casings, cartridges, or projectiles; black  
20 placards representing all the other items of evidence.

21           Q     All right. So let's just talk about some of this  
22 evidence generally and then we can get a little more  
23 specific. So the red -- the blood and the red staining,  
24 meaning you suspect it was blood?

1           A     Yes. We typically, because we don't have a  
2     confirmatory test on scene to confirm that it is blood,  
3     we're going off of our education and training. We call it  
4     red staining. That way in case it is tested and deemed  
5     not to be blood, we haven't said anything that is  
6     incorrect.

7           Q     All right. So all these little arrows are areas  
8     of red staining, and those were areas that you would have  
9     collected a sample of what you believed to be blood?

10          A     Yes.

11          Q     All right. And then we've got some blue  
12     placards, and those represent guns or knives?

13          A     Uh-huh.

14          Q     All right. And what do the yellow placards  
15     represent?

16          A     The yellow placards, there were different types  
17     of ammunition. And when I say "types," they're in  
18     different, I guess, stages. You had casings, expended  
19     casings that had been ejected or fired from a gun; we had  
20     cartridges that were unfired ammunition, as far as we  
21     could see; and then we had projectiles, which are the  
22     bullet or what is expended out through the muzzle of the  
23     gun.

24          Q     All right. And you took some photographs of

1 that?

2 A Yes, I did.

3 Q And those photographs I believe are documented or  
4 in Exhibit 37.

5 MR. HALL: Move for admission.

6 MR. HOUSTON: No objection, Your Honor.

7 THE COURT: Exhibit 37 is admitted.

8 MR. HALL: All right.

9 THE COURT: Exhibit 37A.

10 (Exhibit No. 37A admitted.)

11 BY MR. HALL:

12 Q Let me take a look at some of the photographs  
13 documenting some of the evidence.

14 Now, did you put placards in certain areas?

15 A Yes, I did.

16 Q You made a report?

17 A Yes, I did.

18 Q So tell me how you went about generating your  
19 report.

20 A We take notes at the scene of what we're doing  
21 throughout the time we're there. When we get back to the  
22 lab, we are then taking all of the evidence that we  
23 acquired, putting it into our computer system to be  
24 tracked and monitored, and then we take our notes and

1 generate a report from that to be disseminated to the  
2 agencies involved.

3 Q All right. Now, you went by placard. Is that  
4 how you generated your report; placard 1 documented that  
5 evidence, placard 2 documented what you collected of  
6 placard 2, and so on?

7 A I believe so, yes.

8 Q All right. So what did you collect with  
9 placard 1?

10 A Placard 1 was actually not collected. It was a  
11 white paper receipt. At the onset of when we were at the  
12 scene, we thought it may be of value, but it was deemed  
13 later that it was not of any forensic value.

14 Q Okay. Why don't we just walk through all of the  
15 placards real quick. What I'd like to do, just so  
16 everybody can kind of get a general idea, if there's no  
17 objection --

18 MR. HOUSTON: No objection.

19 MR. HALL: Yet.

20 MR. HOUSTON: We're just starting.

21 MR. HALL: Your Honor, may I position myself --

22 THE COURT: You may.

23 MR. HOUSTON: Thank you.

24 /////

1 BY MR. HALL:

2 Q I have not -- I can't remember if I've got this  
3 marked or not, but let me show you part of -- I think it's  
4 Michael Ivers' report, and this is the part of the report  
5 that lists all the placards.

6 So are you familiar with Ivers' report as far as  
7 the placards and the list of evidence that he documented  
8 on his diagram?

9 A I am not familiar, but these do seem consistent  
10 with what I have as my placards.

11 Q All right. So did you and Michael Ivers work  
12 together so that he could generate a map based upon your  
13 placards and your collection of evidence?

14 A Yes, we did.

15 Q All right. So if we could just walk through this  
16 quickly, and then I've got some other -- so, for example,  
17 if we wanted to look at what has been marked for  
18 identification as 36B --

19 MR. HALL: Has 36B been admitted, Ms. Clerk?

20 THE COURT: 36B? No. 36E, as in Everett, was  
21 admitted.

22 MR. HALL: Move for B.

23 MR. HOUSTON: No objection, Your Honor.

24 THE COURT: 36B is admitted.

(Exhibit No. 36B admitted.)

THE COURT: And you're showing the jury  
exhibit --

MR. HALL: 36B. Oh, and then this (indicating).

THE COURT: What's that?

MR. HALL: This is 129.

THE COURT: So 129 is up, and you're also showing  
36B?

MR. HALL: Right.

THE COURT: Thank you.

MR. HALL: They're essentially the same exhibits,  
only the guns and bullets on Exhibit 126 are in yellow,  
and on this exhibit they're in green.

BY MR. HALL:

Q So I direct your attention to the diagram on the  
board. I want to zoom in a little bit just so we can talk  
about the different types of evidence that we have.

So let's just go to the blood evidence. And  
that's in red, right?

A Yes.

Q So we're going to start down by Rosie's and work  
our way down. Did you collect blood evidence down by  
Rosie's?

A I believe so. I took swabs from various



1 locations. However, throughout kind of the trail that we  
2 saw and from the information we were given, we were told  
3 there was one person bleeding. And so in and around the  
4 area in front of the restrooms and Rosie's we did collect  
5 several swabs, and then we picked swabs as we went -- or  
6 areas as we went down the hallway towards the -- I believe  
7 that's the northeast exit.

8 Q Did you see a lot of blood on the floor?

9 A Yeah. It was in kind of pockets as you went  
10 through on the floor.

11 Q So you collected stains or samples of red  
12 staining in this area? Now, this would be in front of  
13 Rosie's; is that right?

14 A Yes.

15 Q And another sample from here. And then did you  
16 collect samples pretty much all the way down this walkway?

17 A Yes.

18 Q And did that continue out towards the exit --

19 A Yes.

20 Q -- there on the northeast?

21 A Yes.

22 Q All right. And then you collected some bullet  
23 and casing evidence; is that correct?

24 A Yes.

1 Q All right. Did you collect some casings in the  
2 dance area --

3 A Yes, I think I --

4 Q -- indicating here?

5 A I referenced it as the lounge area, I believe, in  
6 my report.

7 Q How many casings did you collect there?

8 A Between several different placards -- since I  
9 can't see the placard numbers on this particular diagram,  
10 between placards 23 and 27 I collected seven casings.

11 Q All right. Seven casings right in this area.  
12 And we have photographs of that.

13 And then did you collect any casings over in this  
14 area? That would be over by the ticket redemption.

15 A Yes, I did. I believe placard 29.

16 Q So if we go to zoom out a little bit -- so if we  
17 go to placard 29 --

18 A And then at placard 51.

19 Q And placard 51. What were those?

20 A Those were both casings.

21 Q All right. And then we have a 52. What was 52?

22 A 52 was a yellow metal cartridge. So it was a  
23 bullet that had not been fired from a gun.

24 Q All right. What was 44?

1 A 44 was a casing.

2 Q All right. And then there appears to be quite a  
3 bit of evidence collected in here, bullet-type or  
4 projectiles?

5 A Yes.

6 Q Evidence associated with firearms?

7 A Placard 55 was a projectile. Placard 53 was also  
8 a projectile. And so was placards 18 and 19.

9 Q All right. Directing your attention to 129, do  
10 you recall any projectiles over in this area, the  
11 Horseshoe Bar, at placard 46?

12 A Yes. Yes, I do.

13 Q All right. And what was collected at 46?

14 A A projectile that was located on the floor.

15 Q A bullet?

16 A Yes.

17 Q All right.

18 THE COURT: Now we will take our morning recess.

19 Ladies and gentlemen of the jury, during this  
20 break remember the admonition I've given you at all the  
21 other breaks. We'll see you back after the recess.

22 Court's in recess.

23 (A recess was taken.)

24 (The following proceedings were held in open

1 court, outside the presence of the jury.)

2 THE COURT: Counsel, are you ready to proceed?

3 MR. HOUSTON: Yes, Your Honor.

4 THE COURT: Counsel for the State, do you have  
5 any issues?

6 MR. HALL: No. I did want to mark something that  
7 you put right here. I thought we had it in 36. Can you  
8 mark this as 36, please.

9 THE COURT: While we're talking about exhibits,  
10 the clerk informed me that we admitted a CD -- was it the  
11 CD of photographs, 38? Was that it?

12 THE CLERK: I'm sorry. That was in 37.

13 THE COURT: 37. So we have 37, and I admitted  
14 37A, which was the CD. And I'm not sure you didn't want  
15 the 37B series, 1 through 66 -- 1 through 166. So did you  
16 want the CD of the photographs or did you want the actual  
17 printed photographs admitted?

18 MR. HALL: I was going to use the printed  
19 photographs. They're probably easier to use than the CD.  
20 Maybe I should be using the CD here. Let me --

21 THE COURT: We don't care. It's just that --

22 MR. HALL: Let me plug in the CD. What was that?

23 (A discussion was held off the record.)

24 THE COURT: Counsel, the video that was played

1 with the witness this morning, that was not on the main --  
2 I know that's on the main drives that you all have been  
3 looking at, but we're separately marking that particular  
4 video as 74D.

5 And it's my understanding that you are  
6 stipulating to its admission.

7 MR. HOUSTON: Yes, Your Honor.

8 THE COURT: So 74D, as in dog, is admitted.

9 (Exhibit No. 74D admitted.)

10 THE COURT: And then a clarification of the  
11 earlier issue. The CD of the photographs was marked and  
12 admitted as 37A.

13 And it's my understanding, Mr. Hall, you're going  
14 to go ahead and use the CD.

15 MR. HALL: Right.

16 THE COURT: Okay. Thank you.

17 THE CLERK: There is -- he asked me to mark a  
18 document and it did not get marked.

19 And, Mr. Hall, you wanted it marked as part of  
20 the 36 series. Am I correct?

21 MR. HALL: Let me double-check that.

22 Yes, the 36 series.

23 THE CLERK: So that will be 36M, as in Mary.

24 THE COURT: Did you wish that admitted?

1 MR. HALL: Yes.

2 THE COURT: Any objection?

3 MR. LYON: No, Your Honor.

4 THE COURT: 36M, as in Mary, is admitted. So in  
5 the 36 series we have 36B, as in boy, E, as in Everett,  
6 and M, as in Martha, and H admitted.

7 (Exhibit Nos. 36B, 36E, 36M and 36H  
8 admitted.)

9 THE COURT: Any other housekeeping?

10 MR. HALL: No. I think we're good to go.

11 THE COURT: Go ahead and bring the jury in.

12 Mr. Hall, I can't see the jury with that, which  
13 is okay during the testimony, but I want to see them come  
14 in.

15 MR. HALL: Sure.

16 THE COURT: Thank you.

17 (Whereupon, the following proceedings were  
18 held in open court, in the presence of the jury.)

19 THE COURT: Counsel, will you stipulate to the  
20 presence of the jury?

21 MR. HALL: Yes, Your Honor.

22 MR. HOUSTON: Yes, Your Honor.

23 THE COURT: Thank you. Please be seated.

24 You may proceed.

## CONTINUED DIRECT EXAMINATION

BY MR. HALL:

Q All right. I'd just like to clarify. Exhibit 36M is a list of placards. So if we wanted to find out where a piece of evidence was in the photographs that we're going to look at here in a minute, we could look at this list, which is 36M. So, for example, if we have the receipt, Coors Light, red staining that we've talked about, and that would correspond to the diagrams that we have, right?

A Yes.

Q And so when we have placards on different diagrams and we broke those out into different items -- for example, blood, knives and guns, that type of thing -- they will all be same in terms of location of the evidence --

A Yes.

Q -- on the diagrams?

So just to continue on, for example, at placard 10 and 11 we have two handguns?

A Yes.

Q So if we went to the diagram, for example, we could see 10 and 11 are going to be right here in blue in front of the bathroom?

1 A Yes.

2 Q Okay. Now, let's just walk through some of the  
3 photographs documenting your evidence collection.

4 All right. We could start at 1. I think we  
5 discussed 1 just briefly before we broke, which was a  
6 receipt, and you determined that it really didn't have any  
7 evidentiary value.

8 A That's correct.

9 Q Now, area 1 and 2, what area is that? Over here  
10 at the Horseshoe Bar.

11 A Yes. This is on the floor near the bar at  
12 placard 2.

13 Q Why did you go over to that area? Do you recall?

14 A We were told that part of the altercation or what  
15 had happened had happened near the Horseshoe Bar and that  
16 some items could be located there that --

17 Q Did you hear there was a fight?

18 A Yeah.

19 Q And part of the fight was over there?

20 A Yeah.

21 Q So you went over there to see if there was some  
22 evidence?

23 A Yes.

24 Q Okay. And in that area you saw some items



1 spilled on the floor at placard No. 3?

2 A Yes.

3 Q Were these photographs numbered sequentially?  
4 You can see some numbers down here at the bottom. Can you  
5 see that?

6 A Yes, I can.

7 Q All right. Are those numbers assigned as you  
8 take them?

9 A The beginning part, the 01-003A- is not assigned.  
10 However, the B9Q05023 is assigned by our digital  
11 management system. It's a computer system that we use to  
12 store all of our images.

13 Q All right. So how many pictures did you take  
14 when you were processing the scene, do you recall?

15 A One moment.

16 Q About 563? Something like that?

17 A While on scene I took 565 photos.

18 Q Well, we narrowed that down a little bit, and I  
19 just made reference to those -- that number down at the  
20 bottom so we could make reference to the photographs. And  
21 all of these 500 photographs have an identifying number  
22 just like this?

23 A Yes. It's embedded as part of their data, their  
24 file data.

1 Q All right. So, just for the record, we're  
2 looking at 5023. We have a close-up of 5024 of those same  
3 bottles, is that correct --

4 A Yes.

5 Q -- over at the Horseshoe Bar?

6 And so we've got 1, 2, 3. So that would have  
7 been to the south side of the Horseshoe Bar. Can you see  
8 that?

9 A Yes. Thank you.

10 Q All right. The next couple photographs are  
11 basically the same area. Do you recall what area we're  
12 looking at now?

13 A This is the entrance into Rosie's.

14 Q All right. And now this is, what, about 1:00,  
15 2:00 in the morning, something like that, when you're  
16 taking these photographs?

17 A Approximately.

18 Q All right. What area -- so now you've just --  
19 what area does this depict?

20 A This is the area facing in towards the bathroom  
21 where I've laid out placards.

22 Q What placards do we see here?

23 A The only ones that I can make out are 4, 5 and, I  
24 believe, 8.

1 Q What did you collect at those areas?

2 A 4, I collected red staining; 5, I also collected  
3 red staining; and at placard 8 two like luggage-type bags  
4 and a red cloth were collected.

5 Q And 5029?

6 A It's a similar image, just slightly shifted to  
7 the right.

8 Q 5038?

9 A This is where I began panning away from the  
10 bathrooms and onto the casino floor to show the slot  
11 machine banks. This is showing the floor and chair area  
12 of the slot machine banks nearest to the placard No. 4.

13 This is depicting placard No. 4, which is red  
14 staining observed on the tile.

15 Q Where do you see the red staining?

16 A May I?

17 Q You may.

18 A In this area (indicating).

19 Q And how do you collect suspected blood evidence?

20 A We use swabs that -- they look like longer  
21 versions of Q-tips. And depending on the state of the red  
22 staining, if it's dry we will use distilled water to help  
23 us collect it. Those swabs are then placed in a swab box.

24 Q And what was collected at 5?

1 A Red staining.

2 Q Can you see what's depicted in that photograph?

3 A We have placard 8 near the bathroom, but I can't  
4 make out the other placard in front of Rosie's, I'm sorry.

5 Q All right. Well, placard 9 was red staining?  
6 Does that look like 9 to you?

7 A I'm sorry, I can't make it out.

8 Q Six?

9 A After zooming in, it's placard 6.

10 Q Okay. And what did you collect at 6?

11 A Six was red staining also.

12 Q And 7?

13 A Seven was documented to show that -- what we were  
14 told is part of the altercation had occurred outside the  
15 bathroom, and so we were documenting the damage that was  
16 done right there in front of the bathroom.

17 Q Can you explain the damage a little bit in more  
18 detail?

19 A From what I remember it was like, I think, a  
20 broken pot and plant material and various scattered items.

21 Q And that was at the men's bathroom or the  
22 women's?

23 A I believe the men's.

24 Q All right. Photograph 5061?

1           A     This is showing placard 8, the bags I spoke about  
2     that were collected there.

3           Q     Those were the ones that we saw located in front  
4     of the bathrooms?

5           A     Yes.

6           Q     All right. Now we're looking at photograph  
7     5068.

8           A     This picture depicts the walkway in front of  
9     Trader Dick's depicting placards 9, 10, 11, 12, 13, 14,  
10    15, 20, 21 -- and if you can zoom in, please -- 44, 28,  
11    and 29.

12          Q     And you take a close-up of pretty much each  
13    placard as you go?

14          A     Yes, I did.

15          Q     So now looking at 5071.

16          A     It's placard 9, which is red staining.

17          Q     All right. So placard 9 corresponds to our  
18    diagram right here, so that would have been basically  
19    right in front of the bathrooms there?

20          A     Yes.

21          Q     And I wanted to make reference to the slot bank  
22    number. So if we look at Exhibit 130, that would  
23    correspond to slot bank No. 624. Would that be about that  
24    area?

1 A Approximately, yes.

2 Q All right. Out on the tile area, obviously?

3 A Uh-huh.

4 Q And that's what you a documented as red staining?

5 A Yes.

6 Q 569 depicts basically the same thing?

7 A Correct.

8 Q 568, another view down the walkway. Now, that  
9 would be looking north; is that correct?

10 A Yes.

11 Q Now we're looking at photograph 5076. And what  
12 does this depict?

13 A This depicts a revolver that was located at  
14 placard 10.

15 Q 5077?

16 A This is a closer view of the revolver to show  
17 that there was red staining on the revolver.

18 Q Can you describe it? Was there a lot of -- did  
19 it look like blood to you?

20 A Yes, it did.

21 Q Did it look like there was a lot of blood on the  
22 gun?

23 A Yes.

24 Q All right. 5078?

1 A Just, again, a closer view of the revolver.

2 Q And 5080?

3 A This depicts a handgun that was located at  
4 placard 11.

5 Q Now we're moving on to 5149.

6 A This is a photo taken from the Trader Dick's area  
7 back onto the tile walkway depicting placards 9, 10, 11,  
8 12, and 14.

9 Q So if we were just going to switch this up a  
10 little bit, let's give a reference point by using 36E. So  
11 using this diagram, can you give us a general area as to  
12 where you were standing when you took that photograph?

13 A I would've been standing approximately here  
14 (indicating) shooting in this direction. Approximately.

15 Q This is another photograph depicting the area  
16 looking, again, to the north; is that accurate?

17 A Correct.

18 Q And so what did you collect at 14?

19 A I collected a red bandana from placard 14.

20 Q And 15?

21 A Red staining.

22 Q And 20?

23 A Additional red staining.

24 Q 12? Placard 12?

1 A 12 was more red staining.

2 Q 13?

3 A More red staining.

4 Q 15?

5 A Red staining.

6 Q And 20?

7 A 20, red staining.

8 Q Did you see any broken glass?

9 A There appears to be some in this photograph, yes.

10 Q All right. Did you notice broken glass in  
11 that -- in the area that you were looking to collect  
12 evidence?

13 A Based on photographs, yes. At the time I don't  
14 recall if I noticed it right off the bat.

15 Q Okay. Did you collect any of that?

16 A No, I did not.

17 Q Now, this area 20, where's 20 located?

18 A I believe 20 is just east on the tile walkway --

19 Q So 20 --

20 A -- of the lounge area.

21 Q So it would be right here (indicating)?

22 A Yes.

23 Q Okay. Great.

24 What area is depicted in photograph 5118, placard



1 22?

2 A Placard 22 was tables located near the lounge  
3 area with several bottles and glasses and other items on  
4 it. During our briefing we were told that persons who  
5 participated in the altercation were sitting there prior  
6 to the altercation happening.

7 Q All right. So did you collect some of that  
8 evidence at 22?

9 A Yes, I did.

10 Q And did you search it for fingerprints?

11 A The items I did search for fingerprints.

12 Q All right. And then there's -- when you're doing  
13 fingerprints, are there prints of value and prints not of  
14 value for comparison purposes?

15 A Yes. I did find from one of the items a latent  
16 fingerprint that was of value for comparison.

17 Q All right. And was that sent to another person  
18 to look at?

19 A It was forwarded to our certified latent print  
20 examiner, Kevin Byrne.

21 Q And the purpose of that was what? Do you know?

22 A To identify the persons who would have been  
23 sitting there at that table.

24 Q And that would help you identify witnesses or

1 potential witnesses?

2 A Yes.

3 Q Now we're looking at 5122. Do you recognize this  
4 photo?

5 A Yes, I do.

6 Q Where is this area located inside the casino?

7 A This is in the lounge area of Trader Dick's, and  
8 it's depicting placards 23, 26, and 27.

9 Q What was collected at those placards?

10 A At placard 23 there were three casings that were  
11 collected, at placard 26 there was one casing collected,  
12 and at placard 27 there was an additional casing  
13 collected.

14 Q So we can zoom in a little bit. All right. Can  
15 you identify a casing adjacent to placard 26?

16 A Yes (indicating).

17 Q All right. And then at placard 23, you said  
18 there were several?

19 A Three were collected.

20 Q Can you tell me where those were?

21 A If you zoom out a little bit, I can get all  
22 three. At this point I can only get two.

23 Q Oh, okay. I can zoom out.

24 A Thank you.

(Indicating).

Q All right. And then there was placard 27? There was another shell casing located next to that placard?

A Yes.

Q And then there's another placard back here. What number is that?

A I believe it's placard No. 24. But I would need to see another photograph to confirm.

Q Okay. These photographs I'm flipping through -- we looked at 5129 and a number of photographs. Were those close-up photographs of the shell casing at those placards: 23, 24?

A These particular ones correspond with placard No. 23.

Q And so at 5139?

A This is depicting placards 24 and 25.

Q And there were shell casings with those two placards?

A Yes.

Q Here and here (indicating)?

A Yes.

Q All right. Now we're looking at photograph 5148. Can you tell us which direction we're looking in this photograph?

1 A We're looking back towards the tile floor from  
2 Trader Dick's somewhat in the angle towards the Horseshoe  
3 Bar, and it's depicting placards 5, 9, 10, 11, 14, and 50.

4 Q All right. Since we've got 50 in the photograph  
5 here, can you tell me what 50 -- what evidence was there  
6 at 50?

7 A 50 was a knife that was collected.

8 Q All right. We've already looked at these.  
9 What was at placard 27?

10 A Placard 27 was a casing.

11 Q Where was that placard located?

12 A It was just within the lounge area near that  
13 table and chairs of Trader Dick's.

14 Q So it's associated with those other shell  
15 casings, one of the seven?

16 A Yes, it was.

17 Q All right. 28?

18 A Image 1554 depicts placard 28 and 29 on the tile  
19 walkway.

20 Q Red staining?

21 A Yes.

22 Q And photograph 5155, is that continuing --

23 A This is continuing, I believe, north, up the  
24 walkway, depicting placards 29, 30, and 31.

1 Q And what was located at 29, 30, and 31?

2 A It was a casing.

3 Q All right. So 29 -- going to Exhibit 129, we  
4 have 29 indicating it was on the tile walkway?

5 A Yes.

6 Q All right. And approximately -- can you give us  
7 where that was in relationship to some of the other  
8 landmarks?

9 A It was right in between -- approximately -- right  
10 in between the table that was marked as placard 29 and I  
11 believe what was deemed the bar area of Trader Dick's.  
12 It's in kind of the opening walkway into Trader Dick's.

13 Q Just to zoom in a little bit with the diagram --  
14 now, you mentioned Michael Ivers early on in your  
15 testimony; is that right?

16 A Yes.

17 Q All right. And he made the diagrams?

18 A Yes, he did.

19 Q All right. So he documented where you collected  
20 the evidence?

21 A Yes, he did.

22 Q We're just talking about 29. And in this  
23 particular exhibit we're looking at 36G documented "Bullet  
24 Evidence." So we just got through talking about 23, 24,

1 25, 27, and 26. And now we're at 29, right?

2 A Yes.

3 Q So if we're looking at 29, we can see where  
4 that's located on the tile walkway kind of in the opening  
5 to the Trader Dick's restaurant area?

6 A Yes.

7 Q Okay. Now, this evidence is when we have shell  
8 casings, firearms evidence. Is that submitted to another  
9 examiner in your office?

10 A Yes, it is.

11 Q Who's that?

12 A Supervising criminalist Carrie Hewart.

13 Q All right. And we're looking at placard 43. Can  
14 you tell us what, if anything, was collected at 43.

15 A 43 was red staining, and then there was also a  
16 fragment that was collected.

17 Q All right. For the record, that's photograph  
18 5167.

19 Now we have placard 41 depicted in photograph  
20 5293.

21 A This was red staining to the ticket redemption  
22 booth or machine at placard 41.

23 Q Did you collect a blood sample at this location?

24 A Yes, I did.

1 Q Did you take it off the machine?

2 A Yes.

3 Q Did you assign a Q number to that?

4 A Yes, I did.

5 Q And what's a Q number?

6 A A Q number is a unique bar code identifier that  
7 we give each -- each set of evidence items that we collect  
8 so that we can track them through our computer system.

9 Q All right. What was the Q number assigned to  
10 placard 41 or the evidence collected at placard 41?

11 A The red staining collected at placard 41 in  
12 combination with all the other swabs that I took was  
13 booked under Q number 84530.

14 Q And photograph number 5294 just further documents  
15 the blood evidence on that ticket redemption machine?

16 A Yes.

17 Q Same thing with 5295?

18 A Yes.

19 Q In photograph 5299, what area is this depicting?

20 A This appears to be the front of the ticket  
21 redemption machine towards the top. And it's showing a  
22 scale which I used to show the height, and then at the  
23 very top you see my placard sitting on top of the machine.

24 Q Now we're looking at 5170, which would appear to

1 be a close-up of placard 43. And what did you collect at  
2 placard 43?

3 A What I collected was the fragment, the metal  
4 fragment that was on the chair stand.

5 Q All right. Now, on our diagram on Exhibit 129,  
6 43 appears to be red staining. Was there some red  
7 staining at that area as well?

8 A Yes.

9 Q Did you collect that -- a sample of the red  
10 staining in that location?

11 A Yes, I did.

12 Q All right. Now I'm directing your attention to  
13 5174.

14 A This was the fragment that was collected at  
15 placard No. 43.

16 Q So if I back up just a little bit, can you  
17 identify that fragment in this photograph?

18 A Yes, I can.

19 Q And this photograph, just for the record, would  
20 be photograph 5170.

21 A Approximately where the arrow is.

22 Q All right. Now we're looking at photograph  
23 No. 5168.

24 A This is looking from the tile walkway into --



1 approximately east, looking into the slot machine banks.  
2 In the left side of the image you can see the ticket  
3 redemption machine, and then on the right side you can see  
4 placard No. 44.

5 Q And what, if anything, was collected at placard  
6 44?

7 A A casing was collected at placard 44.

8 Q Then we have a close-up view of that casing at  
9 5178?

10 A Yes.

11 Q And 5148 appears to be a similar photograph as  
12 some of the others we looked at of looking back from out  
13 of Trader Dick's bar?

14 A Yes.

15 Q A south view?

16 All right. And photograph 5152?

17 A This is depicting placard 50. You can see the  
18 placard at the bottom-right corner of the image and then  
19 the knife just above it.

20 Q And placard 42?

21 A 42 were various items, including a bandana,  
22 another what seemed like personal effects that were  
23 collected in the carpeting area by the slot machine banks.

24 Q And where was 42?

1           A     If you go in kind of in the carpeting area where  
2     the slot machines were, or are, that's where 42 was  
3     collected from.

4           Q     All right. So that would've been near slot  
5     bank -- or right behind 606?

6           A     Approximately.

7           Q     Approximately?

8                     So that would have been the slot bank behind the  
9     ticket redemption machine?

10          A     I believe so.

11          Q     All right. And what was collected in that -- at  
12     that placard, placard 42?

13          A     Would you like me to read the description I gave  
14     the items?

15          Q     Yes.

16          A     At placard 42 it was one pair of gray/black  
17     G-Tech gloves, one pair of black/white Tillman gloves, one  
18     pair of white socks, two red bandanas, one pair of brown  
19     Altitude eyeglasses, one pair of black metal LED Lenser --  
20     I'm sorry, one black metal LED Lenser flashlight, one  
21     white bottle with liquid contents, one orange  
22     prescription-like bottle containing a white gel substance,  
23     one blue/teal Gillette razor, and one black Bic lighter  
24     collected from the carpet area at placard 42.

1 Q All right. So now we're looking at photograph  
2 5187, which appears to be a knife?

3 A Yes.

4 Q All right. And where did you collect that?

5 A That was also collected at placard 42.

6 Q Placard 45?

7 A Placard 45 were two knives that were collected.

8 Q All right. So there were two knives collected  
9 over on the slot banks? I'm just referring to  
10 Exhibit 130. Can you tell us what slot banks those were?  
11 We can match it up over here. Probably easier for me  
12 because you can't see over there.

13 If we're looking at 45, it would be one, two,  
14 three over. So one, two -- by 618, right?

15 A Yes.

16 Q Where are the knives?

17 A In image 5190 the knives are actually sitting --  
18 the slot machines have like a little hand rest area or  
19 elbow rest area, and they are located here, and I believe  
20 the other one is here behind the placard.

21 Q Oh, okay. And did you collect those?

22 A Yes.

23 Q And did you assign Q numbers to those?

24 A Yes, I did.

1 Q What are those Q numbers?

2 A Placard 45 was assigned to Q number Q84551.

3 Q So did you put both knives in one box?

4 A Yes.

5 Q All right. So you collected all those knives  
6 that you found? So the one at 50, the one at 45, the one  
7 at 43? I think it was 43.

8 A 42?

9 Q 42, yeah.

10 A The knife at 42 was collected. The knife at 50  
11 was also collected.

12 Q What about the knives at 45?

13 A They were also collected.

14 Q Moving on to 46.

15 A This is a view of the tile walkway depicting  
16 placard 46.

17 Q And what did we find at 46?

18 A 46 was a projectile.

19 Q All right. And referring to 128, where was 46  
20 located?

21 A I believe it was closer to the Horseshoe Bar than  
22 Trader Dick's.

23 Q All right.

24 A On the tile walkway.

1 Q So that was documented by Mr. Ivers as well?

2 A I would have -- the photograph that he would have  
3 measured it in as part of the diagramming process.

4 Q All right. So if we zoom in, we can see the  
5 bullet right here by 46. Is this the bullet?

6 A Yes.

7 Q And this would be the north end of the Horseshoe  
8 Bar. So we saw those bottles on the south end of the  
9 Horseshoe Bar. This would be the other end of the  
10 Horseshoe Bar?

11 A Yes.

12 Q Looking at 5034?

13 A Is depicting placard 46 and the projectile.

14 Q 5035 appears to be a close-up. Did you notice  
15 any -- anything particular about this particular bullet?

16 A No, I did not.

17 Q Did you notice that red thing in the end?

18 A At the time I don't recall. I see it now in the  
19 photograph, but at the time I don't recall if I saw that  
20 specifically or not.

21 Q But you can clearly see that in the photograph  
22 that you took? You see the red tip of that bullet?

23 A Yes, there's something red on -- on the  
24 projectile.

1 Q All right. Now we're looking at photograph  
2 5193. What area is depicted in this photograph?

3 A This is the slot banks on the carpeted area just  
4 across from the bathroom depicting placards 17, I believe,  
5 12, 13, and then possibly 50 in the background.

6 Q All right. What area -- this is directly across  
7 from the bathrooms, you said?

8 A Yes.

9 Q Now, do you know where Mr. Pettigrew went down?

10 A I don't know specifically since I did not see it  
11 happen, but I have an idea based on the blood or the red  
12 staining at the scene.

13 Q All right. Was that in this area?

14 A Yes. In a different photograph we'll see the  
15 other side -- on the other side of these chairs.

16 Q All right. So this is looking west down the slot  
17 area in between slot banks, what, 618 and 624?

18 A I believe so.

19 Q Okay.

20 A Yes.

21 Q So that would have been right in this area here  
22 where you collected blood evidence or at least some  
23 evidence at 16 and 17?

24 A Yes.

1 Q Okay. What did you collect at 16 and 17?

2 A Both 16 and 17 were red staining.

3 Q I can see a purse right here. Is that a purse?

4 A I believe that's a hat.

5 Q Oh, okay. How about this item?

6 A Yes, that appears to be a purse.

7 Q This monitor is a little bit harder to see, but I  
8 thought it was a purse in there.

9 All right. Did you collect that?

10 A No, I did not.

11 Q Did you collect the hat?

12 A No, I did not.

13 Q All right. What's depicted in photograph  
14 No. 5195?

15 A In 5195 is placard 17, the red staining.

16 Q All right. You also see a motorcycle helmet  
17 depicted in that photograph; is that correct?

18 A Correct.

19 Q All right. Did you collect that?

20 A No, I did not.

21 Q In photograph 5200, what was depicted in that  
22 photograph?

23 A This is depicting placard 16, which is red  
24 staining.

1 THE COURT: We'll stop for a minute.

2 (Pause in the proceedings.)

3 BY MR. HALL:

4 Q All right. We were looking at photograph 5200.

5 A Yes. It's depicting placard 16, which was red  
6 staining.

7 Q All right. Early we mentioned the -- you  
8 surmised that there was an area where Mr. Pettigrew went  
9 down?

10 A From how much red staining is there, we would --  
11 we would surmise that a person bleeding would be there for  
12 an extended period of time to allow them to bleed that  
13 much into or onto the ground.

14 Q Could they have a lot of holes in them to make  
15 them bleed that much?

16 A It's possible.

17 Q All right. Okay. And you've been to a lot of  
18 crime scenes, correct?

19 A Yes, I have.

20 Q And so when you see a big pile of blood, do you  
21 make a conclusion or can you draw a conclusion based upon  
22 the amount of blood you see at a certain location that a  
23 person may have spent some time at that location bleeding?

24 A Yes. That's usually our educated guess since we



1 don't usually or typically see a person who's been -- if  
2 they've been transported to the hospital, we don't see  
3 them on scene.

4 Q So usually if somebody's hurt, the ambulance  
5 comes before you get there and they transport the person  
6 away?

7 A Yes.

8 Q And that's what happened in this case?

9 A Yes.

10 Q And photograph 5207 is a close-up of that same  
11 area, placard 16?

12 A Yes. And it has a scale on the right side of the  
13 image to hopefully show how large the red stain was.

14 Q All right. This scale would indicate that it's a  
15 couple feet?

16 A Approximately.

17 Q Two feet?

18 A Approximately.

19 Q Now we're looking at photograph 5208. What does  
20 this photograph depict?

21 A This is a photograph depicting another set of  
22 slot machine banks and depicting placard 19.

23 Q What did you collect at placard 19?

24 A I collected a projectile.

1 Q Did you assign a Q number to that?

2 A Yes, I did.

3 Q What Q number?

4 A It was assigned Q number Q84536.

5 Q And you assigned Q numbers to all of the evidence  
6 that you collected, is that right, all the bullet  
7 evidence?

8 A Yes.

9 Q The casings?

10 A Yes.

11 Q The guns?

12 A Yes.

13 Q The blood?

14 A Yes.

15 Q And so we would have those Q numbers over here?

16 A Yes, you should.

17 MR. HALL: I'll go ahead and move for admission  
18 of all of the bullet-casing evidence.

19 MR. HOUSTON: No objection, Your Honor.

20 THE COURT: And you're noting those as what  
21 numbers, Mr. Hall?

22 MR. HALL: Those are 79, 77D, 80, 81, and 82.

23 THE COURT: Okay. 77D, 79, 80, 81, and 82 are  
24 admitted.

(Exhibit Nos. 77D, 79, 80, 81, and 82  
admitted.)

BY MR. HALL:

Q So placard 18?

A Placard 18 was also a projectile. It's depicted  
in the photograph.

Q All right. And that's depicted in 5211.

And 5213?

A Is an additional photograph of the same  
projectile. I've just included a scale to show the size  
of that projectile.

Q Now, was that bullet collected in the same aisle  
as Pettigrew was in or a different one?

A I believe, if I'm remembering correctly, it was a  
different one.

Q All right. So if we look at 18 and 19 on the  
diagram, it looks like 16 and 17 were the -- depicted the  
blood evidence that we just looked at a moment ago, and  
then 18 and 19 would be just the next aisle over?

A Yes.

Q And that would be in between slot banks 624 and  
628?

A Yes. I can't see that --

Q Okay.

1 A -- but yes.

2 Q All right. All right. At 19 and photograph  
3 5217?

4 A This is depicting the projectile that was located  
5 at placard 19.

6 Q Placard 49?

7 A This was in and around the slot banks, closer  
8 towards the bathroom and Rosie's. Placard 49 is depicting  
9 a red bandana.

10 Q And photograph 5224?

11 A This is photographing the tile walkway, again,  
12 near Trader Dick's facing north depicting placards 31, 32  
13 and 33 in the far background.

14 Q What did you collect at those placards?

15 A Those were all red staining. However, red  
16 staining was only collected at placard 30.

17 Q So was there a blood trail going out that  
18 entrance?

19 A Yes. It --

20 Q Or exit?

21 A It kind of -- the trail kind of went northeast  
22 out towards -- I believe that's Victorian Avenue.

23 Q All right. And what is depicted in 5235?

24 A This is a set of slot machines towards that end

1 of the casino, and we observed damage to the right-hand  
2 screen of the slot machine.

3 Q All right. Where are these slot machines  
4 located?

5 A Farther north; closer, I believe, to the Noodle  
6 Hut.

7 Q All right. So if we used the ticket redemption  
8 machine as a landmark, these machines would be located --

9 A North of --

10 Q North? So to the right?

11 A Yes.

12 Q Okay. Close to the Noodle Hut. And, of course,  
13 the Noodle Hut is right down here (indicating)?

14 A Yes.

15 Q All right. You noticed damage to the machines,  
16 did you say?

17 A Yes.

18 Q Do you know what caused that damage?

19 A No.

20 Q Did you notice any glass in that area?

21 A Yes. There appears -- in this photograph there  
22 appears to be some broken glass down on the lower slot  
23 machine screen area.

24 Q Up there? Is that what you're talking about?

1 A Correct.

2 Q 5235?

3 And 5237, what does that depict?

4 A This depicts the upper screen of that slot  
5 machine and the damage that we observed, then with the  
6 scale to show how, I guess, tall the damage itself was.

7 Q The next photograph, 5236?

8 A Similar photograph, closer to the damage.

9 Q All right. 5242?

10 A This is the tile walkway looking north and is  
11 depicting placard 33, I believe.

12 Q Now photograph 5251?

13 A This is the tile walkway continuing towards kind  
14 of the northeast portion following the red-stained trail  
15 depicting placards 35, 36, 37, and 38 in the far  
16 background.

17 Q Photograph 5281?

18 A This is depicting placard 40, which is as you  
19 start to exit the casino area in a northeast direction  
20 headed to Victorian Avenue.

21 Q All right. And at photograph 5287, what is  
22 depicted at this location?

23 A This is depicting the tile walkway on the --  
24 basically the opposite side of the casino floor, and it's

1 depicting placard 47.

2 Q Where is placard 47?

3 A In relation, it's near, I believe, the cashier's  
4 cage, which is on the opposite side heading east from  
5 Trader Dick's.

6 Q All right. So that would have been over by the  
7 main cashier cage?

8 A Yes.

9 Q And what did you find at that location?

10 A There was a fragment located -- located --

11 Q A fragment what?

12 A A fragment located there.

13 Q A bullet fragment?

14 A Yes.

15 Q All right. And photograph 5290?

16 A This is depicting placard 47 and the fragment  
17 that was located there.

18 Q Now we're looking at photograph 5027. What does  
19 that depict?

20 A This is depicting the -- again, back at the  
21 Horseshoe Bar, placard 48.

22 Q What was located at 48?

23 A 48 were three knives that were collected from --  
24 there was a bucket located behind the bar.

1 Q The bucket depicted in 5030?

2 A Yes.

3 Q And then in 5031?

4 A This is showing the contents of the bucket, being  
5 the three knives that were collected.

6 Q 49 depicts -- appears to depict a red bandana.  
7 Is that what was collected at that location?

8 A Yes.

9 Q And where was this?

10 A This was in the carpeted area by the slot  
11 machines kind of near the Rosie's area.

12 Q Back where we kind of started over by the  
13 bathrooms?

14 A Yes.

15 Q We already talked about 50.

16 A Correct.

17 Q Now we're looking at photograph number 5311.  
18 What does this photograph depict?

19 A This is depicting the handgun that was collected  
20 from placard 11.

21 Q All right. So you collected both those guns that  
22 were sitting there at 10 and 11?

23 A Correct.

24 Q All right. And is there a process that you would



1 follow when you collect those guns?

2 A Yes. It's our policy that we do not submit any  
3 guns loaded to our evidence section, so -- and we also  
4 want to document the condition and the placement of  
5 cartridges and how the weapon appeared at the time we see  
6 it on scene, and so this is the process of unloading and  
7 documenting the condition of that firearm.

8 Q All right. And what was the Q number on this  
9 item?

10 A The pistol was Q number Q84534.

11 Q What did you do with this gun?

12 A It was unloaded, we documented the unloading  
13 process, it was packaged, it was given a -- it was given  
14 its Q number, and then it was booked into our computer  
15 system and given a chain of custody, and then I believe it  
16 was returned -- it would have been returned to Sparks  
17 Police Department, who was the investigating agency, but  
18 it also may have been kept at the lab for testing. I'm  
19 not sure where it went after I was done getting --

20 Q I was just talking about in the photograph.

21 A That was the unloading process and documentation  
22 of the unloading process.

23 Q Okay. And did you notice anything about --  
24 anything out of the ordinary when you unloaded it?

1           A     Yes. There was what we call a double stack where  
2 it appeared that the firearm malfunctioned at some point  
3 while being fired.

4           Q     So when we're looking at photograph 5314, what  
5 exactly was this photograph designed to document?

6           A     This photograph was meant to document that  
7 mal- -- or the cartridge that malfunctioned or that double  
8 stacked.

9           Q     And photograph 5316?

10          A     Is the same photograph of that double stack, just  
11 at a different angle.

12          Q     And photograph 5318?

13          A     This is depicting the head stamp on that  
14 cartridge.

15          Q     This was the one that appeared to be lying loose  
16 inside of the handle of the gun?

17          A     Correct.

18          Q     Of the pistol? All right.

19                 And photograph No. 5319, what does this depict?

20          A     This depicts what I believe was a cartridge that  
21 was actually in the muzzle of the firearm.

22          Q     Now, was that a full cartridge or just a shell  
23 casing?

24          A     I would have to see the next photos to -- but I

1 believe it was a cartridge.

2 Q All right. And could you tell by the firing --  
3 the pin on that?

4 A I see that there's a marking, but you'd have to  
5 ask -- talk with, I think, Criminalist Hewart about that.

6 Q So this is photograph 5321.

7 A So this would be after we had removed -- and I  
8 can see it is a cartridge that came out of there. This  
9 would be after we removed that cartridge from the muzzle.

10 Q All right. Now we're looking at the revolver  
11 collected from placard 10. Was it placard 10?

12 A Yes.

13 Q And did you examine this firearm as well?

14 A We documented it and rendered it safe before  
15 returning it to the lab.

16 Q And how did you document this particular piece of  
17 evidence?

18 A With photographs.

19 Q All right. Did you do anything while you were  
20 taking the photographs to document the location of the  
21 cylinder?

22 A We will make markings on either side of the  
23 cylinder which indicates what -- what position the gun was  
24 in and what cartridge or casing was underneath the hammer.

1 Q 5222, 5223, what does this photograph depict?

2 A This depicts as the cylinder is first being  
3 moved, depicting the casing or cartridge that was right  
4 underneath the hammer.

5 Q All right. Did you unload the gun?

6 A Yes. I had some assistance so I could document,  
7 but I worked basically in tandem with my sergeant. While  
8 I was documenting, he was manipulating the firearm.

9 Q All right. Can you tell us how many expended  
10 shell casings were inside of this exhibit?

11 A There was one expended shell casing in this  
12 exhibit.

13 Q All right. Photograph 5335? 25, I'm sorry.

14 A 5325 depicts when we moved cylinder more to show  
15 the entire contents of the cylinder.

16 Q All right. And can you tell which one had been  
17 fired?

18 A Based off of the markings (indicating).

19 Q That would be the firing pin that would strike  
20 the end of the bullet at that location?

21 A Yes.

22 Q You didn't see any other -- the rest of them were  
23 just full cartridges?

24 A Correct.

1 Q Right. Now I'm directing your attention to  
2 photograph 5306. So we've kind of walked back out onto  
3 the casino floor to placard 51. And what was located at  
4 placard 51?

5 A Placard 51 is on the tile walkway in front of  
6 Trader Dick's, and it was a casing that was collected.

7 Q All right. And so we've documented that on 129  
8 as 51 being a shell casing.

9 And 5307?

10 A Is a close-up photograph of placard 51 and the  
11 shell casing.

12 Q And 52?

13 A Image 5330 is depicting the tile walkway and part  
14 of the carpeted area with placard 30, which was red  
15 staining, and placard 52, which was a cartridge.

16 Q All right. So when you say "a cartridge," this  
17 is a bullet that has not been fired?

18 A Correct.

19 Q And 52 was located kind of across from 51 but on  
20 the east side of the walkway. Would that be accurate?

21 A Correct.

22 Q And 53?

23 A 53 is on a particular slot machine. There was a  
24 strike mark to the machine itself, and then a projectile

1 was recovered from inside the machine.

2 Q Can you tell us where slot bank 53 was located  
3 at? We have it here on this diagram. So it was the same  
4 slot bank where we identified 16 and 17, so that would  
5 have been the aisle where we suspect Pettigrew went down  
6 or we surmised he went down?

7 A Correct.

8 Q Okay.

9 A If you'd like, I can give you the specific slot  
10 machine number.

11 Q What was that?

12 A It was slot machine No. 1412332.

13 Q So earlier when we were talking about the  
14 motorcycle helmet, the purse, the hat, the big puddle of  
15 blood, that's all in this same general area; is that  
16 accurate?

17 A Correct. Though now that I'm thinking about it,  
18 I believe it's one -- one slot machine bank over, I  
19 believe. But I think I would have to see a different  
20 photograph to confirm.

21 Q Okay.

22 A If possible, you might be able to zoom out.

23 Yes, I'm sorry, it is in the slot bank where  
24 placard 16 is located, which is the larger pooling of red

1 staining.

2 Q All right. Now in this photograph, since I've  
3 zoomed out a little bit, can you identify where that  
4 bullet strike is located?

5 A Yes. It was located on the lower door -- lower  
6 portion of the slot machine, approximately there  
7 (indicating).

8 Q All right. And then that 16 documents that area  
9 of red staining, the large area of red staining?

10 A Correct.

11 Q All right. All right. And photograph No. 5351?

12 A Is a somewhat closer view of the strike mark that  
13 we observed to the slot machine.

14 Q All right. And that's this right here?

15 A Correct.

16 Q And we just continue to zoom in?

17 A Correct.

18 Q And subsequent photographs 53, 54.

19 So did you go into the machine and get the  
20 bullet?

21 A Yes, we did.

22 Q And this -- this series of photographs documents  
23 the procedure to retrieve that bullet in 5304?

24 A Yes. We were able to open the door to that lower

1 portion of the machine, and the projectile was, I believe,  
2 resting just right there kind of within the door.

3 Q Is this it right here (indicating)?

4 A Yes.

5 Q All right. And now we're looking at photograph  
6 5370.

7 A This is, I believe, on the eastern side of the  
8 slot machine banks that ran along front of the -- of  
9 Trader Dick's facing towards the Horseshoe Bar.

10 Q We're looking at photograph 5357 at placard 54.  
11 And what was significant about this area and this placard?

12 A Placard 54 depicts a strike mark to one of the  
13 chairs located around the Horseshoe Bar.

14 Q Now, earlier we talked about Exhibit 46. What  
15 was 46?

16 A It was a projectile.

17 Q All right. And what was significant about this  
18 particular placard at 54?

19 A That it appeared that a projectile may have  
20 traveled in and through that chair.

21 Q So looking at 5362, it appears that you thought  
22 that that was a bullet strike and that the bullet that you  
23 found at 46 was the one that caused the hole in that  
24 chair?



1           A     We did believe that a bullet had caused the  
2 defect to the chair. However, since I did not do the  
3 testing on the projectile from 46, I can't testify if they  
4 were one and the same or the bullet made that strike.

5           Q     All right. So you saw a hole in the chair and  
6 you saw a bullet sitting next to it?

7           A     Yes.

8           Q     All right. Did the hole go all the way through  
9 the chair?

10          A     Yes, it did.

11          Q     It went through the chair seat; is that --

12          A     Correct.

13          Q     And in subsequent photographs -- we've looked at  
14 5368, 5367.

15                And you documented the height of the chair. What  
16 was the approximate height of the chair based upon your  
17 measurement?

18          A     The approximate height was two feet, three  
19 inches. And that's to the bottom of the chair cushion.

20          Q     Moving on now to photograph 5373, what does that  
21 depict?

22          A     This depicts back to the slot machine banks, and  
23 it's depicting placard 55.

24          Q     All right. Now, just to -- on the right, I just

1 want to make sure we view the general location. Can you  
2 tell us what slot bank we're looking at here?

3 A We're looking in between slot bank 618 and 624.

4 Q All right. 618 and 624. So this was the same  
5 area where we had all the blood staining at 16 and 17?

6 A Correct.

7 Q Okay. And what did we find at placard 55?

8 A We collected a projectile.

9 Q All right. Subsequent photographs, just close-up  
10 photographs of that? We're looking at 5378?

11 A Correct. It's the projectile that was collected  
12 at placard 55.

13 Q Did you notice anything in particular about this  
14 piece of evidence?

15 A I noticed some separation that is not observable  
16 in some of the other projectiles, but again, that would be  
17 probably a better question for Criminalist Hewart.

18 Q I was wondering if you noticed any red staining  
19 on any of those projectiles that you recovered at these  
20 locations, specifically 18, 19, 55, 53.

21 A 18, 19, and 53, I did not note that there was any  
22 red staining to those projectiles. However, on the  
23 projectile here on placard 55 I did note as part of my  
24 description that there was red staining to that

1 projectile.

2 Q All right. Now we're looking at photograph 5385.  
3 What, if anything, did you document at this area?

4 And I guess before we get there, what area are we  
5 looking at?

6 A We're looking at the gaming tables east of Trader  
7 Dick's, more towards the opposite side of the casino  
8 floor.

9 Q All right. Are we going to document area 56?

10 A Yes.

11 Q All right. And what did you observe at that  
12 location that you believed to be of evidentiary value?

13 A We documented what we believed was a strike mark  
14 to the chip tray that holds all of the playing chips and  
15 also to the felt of the playing table at 56.

16 Q And did you document what table this was?

17 A I believe so. From the photograph, it is table  
18 TC-2 GDS-B.

19 Q All right. So the photograph -- the previous  
20 one -- we're looking now at 5391, and the one I think we  
21 looked at was 5390. But that's a view looking at the back  
22 of the machines, so that would have been looking in an  
23 easterly direction?

24 A Correct.

1 Q From standing west, looking east?

2 A Correct.

3 Q Can you identify in this photograph where that  
4 bullet strike was?

5 A The tear we observed in the felt is right here  
6 (indicating). The defect is not quite so visible in the  
7 chip tray, but I believe it is in this area (indicating).

8 Q All right. Photograph 5392?

9 A This is a slightly different angle showing the  
10 defect to the chip tray in more of its entirety.

11 Q Then we have a close-up, another close-up at  
12 5393.

13 What does 5401 depict?

14 A This is the defect we observed to the felt  
15 portion of the tabletop.

16 Q All right. Now, we have a couple other views of  
17 the damage to the table. Moving on now to a photograph  
18 which has been numbered 5342, do you recognize what's  
19 depicted here?

20 A Yes. This is a view of the John's Club counter  
21 area.

22 Q All right. And where is John's Club located?

23 A John's Club is located near the Horseshoe Bar.

24 Q All right. So on diagram 129 we've got the

1 Horseshoe Bar here (indicating), and then just, I guess,  
2 south of that there's another kiosk. Would this be John's  
3 Club in this general area? Can you see where I'm  
4 pointing?

5 A Yes, that would be where the John's Club was  
6 located.

7 Q All right. What, if anything, did you find at  
8 that location?

9 A There were -- there was a cooler collected.

10 Q Can you describe the cooler?

11 A It was a red/white I believe Coleman -- let me  
12 double-check.

13 Q Red and white, about this big (indicating)?

14 A I'm sorry. It was a Rubbermaid cooler.

15 Q Okay.

16 A We also collected a couple of knives and a green  
17 bandana with a lock attached to it.

18 Q All right. Do you see those items depicted in  
19 photograph No. 5344?

20 A I see the knives and the green bandana and lock  
21 depicted if you look towards the top of the image just  
22 beyond the telephone. If you'd like I can mark --

23 Q Sure.

24 A -- (indicating) there.

1 Q And what was the Q number assigned to that item  
2 or those items?

3 A The cooler was assigned Q number 84561, one of  
4 the knives was assigned Q number Q84562, and the knife  
5 with the green bandana and the lock was assigned Q number  
6 Q84563.

7 Q So these are just close-up views of those items  
8 depicted in 5345?

9 A Correct.

10 Q 5346, just another photograph of the same items.

11 And what does photograph 5409 depict?

12 A This depicts -- I'm shooting into the actual  
13 restaurant area of Trader Dick's, shooting west.

14 Q All right. So we're just flipping through these  
15 photographs. We're at 5414. These photographs depict the  
16 Trader Dick's restaurant area?

17 A Yes.

18 Q 5416, 5417, and then now we're at 5420. What  
19 does 5420 depict?

20 A This is -- 5420 is depicting a defect to one of  
21 the westernmost or rear walls of Trader Dick's.

22 Q All right. And why did you take some pictures of  
23 that damage or hole in the wall?

24 A We believed it could possibly be a bullet strike.

1 Q All right. Did you take the wall apart?

2 A No, we did not. Not at that time.

3 Q It was done later?

4 A Yes.

5 Q And it was determined that there was no bullet in  
6 there?

7 A I believe so.

8 Q All right.

9 MR. HALL: I'd just move for admission of the  
10 knives.

11 MR. HOUSTON: No objection, Your Honor.

12 THE COURT: Okay. Go ahead and give us the  
13 numbers.

14 MR. HALL: Okay.

15 THE COURT: Or do you want to do that on the next  
16 break?

17 MR. HALL: We can do that on the next break.

18 I'll track them down. It'll save some time.

19 THE COURT: We can do that.

20 MR. HALL: Thank you. I have no further  
21 questions.

22 THE COURT: Counsel?

23 MR. HOUSTON: Thank you, Your Honor.

24 /////

## CROSS-EXAMINATION

BY MR. HOUSTON:

Q Good morning, Ms. Kohles. How are you?

A Good, how are you?

Q Good.

MR. HOUSTON: I'm going to try to move this, if I may, Your Honor.

THE COURT: You may.

BY MR. HOUSTON:

Q Ms. Kohles, you began your direct examination speaking about your job and what you do, correct?

A Correct.

Q And you had gone to the University of Nevada, Reno, and I believe were a criminal justice major.

A Yes, I was.

Q And you also minored in photography?

A Yes, I did.

Q And prior to the time that you began working at the crime lab you were working in other parts of government. True?

A Yes. Part-time.

Q Okay. Now, what is a pristine crime scene?

A There are different opinions, I guess.



1 Q What's yours?

2 A Well, a pristine crime scene is when there's --  
3 evidence is where it fell or, you know -- and there hasn't  
4 been any sort of interference by onlookers, witnesses,  
5 that it has been left the way it was -- it was basically  
6 at the time of the incident.

7 Q Okay. So, for instance -- and it's probably my  
8 best example at the moment -- if I take my pencil and drop  
9 it and it lays there and no one touches it and that's  
10 subsequently photographed, that would be more of a  
11 pristine crime scene, correct?

12 A Correct.

13 Q Okay. But if there are a bunch of people running  
14 around and possibly kicking that, then clearly it's not  
15 where it was when it originally fell. True?

16 A In the case of the pen, yes.

17 Q All right. How about in the case of, for  
18 instance, bullet casings?

19 A It's always possible. But since I don't see what  
20 happens between the time of the incident and when I  
21 arrive, I can only testify or go off of what I observe  
22 when I get there.

23 Q Of course. When did you get to the Nugget on --  
24 was it September 23rd, or did you come in on the 24th?

1 A I arrived at 1:30 in the morning on the 24th.

2 Q Okay. What's a crime scene log?

3 A A crime scene log is usually kept by one of the  
4 officers on scene documenting who is going in and out of  
5 that crime scene.

6 Q And what's the crime scene log in this case say  
7 as far as documenting who was going in and out of the  
8 crime scene?

9 A I don't know since I wasn't responsible for that.

10 Q Who would have been?

11 A One of the officers on scene. And I don't  
12 remember which officer.

13 Q Now, are you -- have you seen any of the video in  
14 this case?

15 A I have.

16 Q All right. And you would agree with me during  
17 the time this event was occurring, it was a very chaotic  
18 scene?

19 A From the little bit that I saw, it appeared to be  
20 chaotic.

21 Q A lot of people running?

22 A Yes.

23 Q Others milling about or walking about?

24 A I don't recall.

1 Q Okay. A lot of people?

2 A There was a fair amount. I don't know if I'd say  
3 a lot, but --

4 Q I'm sorry. Go ahead.

5 A I would say normal casino traffic, I guess.

6 Q Would you agree with me that the more people that  
7 are involved in a crime scene, the less likely it's going  
8 to be a pristine crime scene?

9 A It's possible.

10 Q Right. Especially untrained people who aren't  
11 there to preserve evidence, right?

12 A Yes, it's possible.

13 Q So if you've got a large group of people that are  
14 running or moving about, they're not really concerned with  
15 where things are located on the floor, right?

16 A It's possible, yes.

17 Q In other words, they're possibly even trying to  
18 get out of the place?

19 A Yes.

20 Q Now, we did see some areas of the photographs  
21 that seemed to be more of a static situation; like, for  
22 instance, the red staining on the floor.

23 A If you mean by static --

24 Q Fixed.

1 A Yes.

2 Q Okay. Some, I mean, in that case we may have  
3 somebody that walked across it and could have tracked  
4 blood, but it really isn't going to move that primary  
5 blood stain or red stain, right?

6 A No, it should not.

7 Q But we saw some other things in the photographs  
8 that were on the floor and clearly capable of being moved  
9 or kicked about by others. True?

10 A Yes, it's possible.

11 Q Now, the trained officers, when they go on the  
12 scene, well, they're going to be a little more careful,  
13 right?

14 A They should be.

15 Q And in this particular case our crime scene log  
16 isn't going to encompass all of the people that were in a  
17 given area that night, would it?

18 A Again, since I wasn't responsible for the crime  
19 scene log, I don't know how they operated that. That was  
20 up to the officer responsible.

21 Q So what we saw today in essence was what you saw  
22 at 1:30 or so on the morning of September 24th?

23 A Yes. Also what other investigators or detectives  
24 may have seen since we work collaboratively to identify

1 items that are considered evidence.

2 Q Now, when you say you're working collaboratively  
3 with other detectives, you mean other detectives from the  
4 crime lab?

5 A Other investigators from the crime lab or --  
6 because we were there to -- basically for Sparks Police  
7 Department, we will have interaction with their detective  
8 unit.

9 Q And what we do know is -- who puts the placards  
10 down, those yellow things with numbers on them?

11 A For me, it was me.

12 Q Okay. So you would walk around and you'd either  
13 be advised that there appears to be something there? Or  
14 would you walk around yourself and look for those things?

15 A Both.

16 Q Okay. Isn't it true that there were some casings  
17 actually found by the janitorial personnel later?

18 A There was one that I was told about, yes, later.

19 Q Now, were you aware what was underneath the  
20 carpet as far as the flooring material?

21 A No, I was not.

22 Q I noted that you found some projectiles on the  
23 floor. Right?

24 A Correct.

1 Q Now, this may be out of your realm, and if it is,  
2 tell me: Has it been your experience that if a bullet is  
3 fired into the floor at an angle, if it's concrete it can  
4 actually travel under the carpet and emerge somewhere  
5 else?

6 A I've never experienced that so I wouldn't be able  
7 to testify to that.

8 Q Okay. What we do know is you saw some  
9 projectiles simply laying on the floor?

10 A Correct.

11 Q And, again, those projectiles, like the shell  
12 casings, are capable of being disturbed and moved by  
13 people accidentally kicking them or running past and  
14 striking them somehow, correct?

15 A It's possible.

16 Q So what are we seeing, then, in your photographs  
17 of these movable items on the floor? What is it  
18 depicting, in essence, from a timeframe?

19 A We are seeing those items as I see them when I  
20 first arrive on scene.

21 Q Okay. And it's as you see them hours later.  
22 True?

23 A I believe so.

24 Q And after untold numbers of people may or may not

1 have been by and disturbed them?

2 A Yes.

3 Q Okay. So, in other words, you're not trying to  
4 say by your testimony today that because you've got a  
5 picture of something on the floor, that it was there at  
6 the time of the event, meaning where you took your  
7 picture?

8 A The only thing that I'm able to testify to is  
9 where I saw it and documented it when I arrived on scene.

10 Q And one of the reasons that someone in your  
11 position as a forensic investigator appreciates a pristine  
12 crime scene for is because it's more reliable to depict  
13 what actually happened at the time of the event. True?

14 A That's the hope.

15 Q Right. Because the less people that have  
16 potentially moved evidence means the closer it would be to  
17 actually its original existence at the time a crime  
18 occurred?

19 A Yes. That's the hope.

20 Q Okay. And in this case, at least, we know we're  
21 hours later with a lot of people that were potentially  
22 able to alter, we'll call it, the location of those  
23 movable objects on the floor?

24 A It's possible --

1 Q Okay.

2 A -- yes.

3 Q We just don't know where it was at the time of  
4 the event. True?

5 A I don't know.

6 Q Right. And your pictures don't tell us; meaning  
7 for the jury. Correct?

8 A My pictures show you where the evidence was  
9 located when I arrived or when I documented that item.

10 Q Okay. Now, some of the things, in fairness, are  
11 fixed. Like, for instance, you showed the -- I think it  
12 was the chip tray. There was a defect on it.

13 A Correct.

14 Q And obviously if somebody bumped the chip tray,  
15 it would only turn it at an angle one way or another.  
16 True?

17 A It's possible.

18 Q But it's going to still show whatever that defect  
19 is on the corner, right?

20 A Yes.

21 Q And that would also be true in reference to --  
22 for instance, the slot machine where you said there was  
23 damage to the glass, we can pretty well be assured that  
24 that damage to the glass is pretty much where it was



1 located at the time of the event, correct?

2 A Correct.

3 Q It would be kind of hard to move that one around  
4 by other people, right?

5 In other words, some of the evidence is pretty  
6 reliable as far as being where it was located at the time  
7 of the event that you depicted. True?

8 A Yes, it is more likely or very slim that it would  
9 have been moved.

10 Q Right. Whereas, other parts of the evidence --  
11 and I'll talk shell casings --

12 MR. HALL: Objection. Asked and answered.

13 THE COURT: I don't know where you're going with  
14 this.

15 MR. HOUSTON: I hadn't finished yet, Your Honor.

16 THE COURT: Have you asked the question before?

17 MR. HOUSTON: Kind of. All right. Then I'll  
18 move on.

19 THE COURT: Thank you.

20 BY MR. HOUSTON:

21 Q We also saw items, purses, on the floor, right?

22 A Correct.

23 Q Hats on the floor?

24 A Yes.

1 Q Clothing on the floor?

2 A Yes.

3 Q Same circumstance for those pieces of evidence?

4 A Again, it's always possible.

5 Q Okay. All right. Thank you very much. I  
6 appreciate it.

7 THE COURT: Any more questions, Counsel?

8 MR. HALL: No.

9 THE COURT: Thank you, ma'am. You may step down.  
10 You are excused.

11

12 MICHAEL IVERS,

13 called as a witness on behalf of the Plaintiff,

14 having been first duly sworn,

15 was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MR. STEGE:

19 Q Sir, please state and spell your name.

20 A It's Mike Ivers, I-v-e-r-s.

21 Q And how are you employed?

22 A I'm a forensic investigator with the Washoe  
23 County Crime Lab.

24 Q How long have you been a forensic investigator?

1           A     I've been with the sheriff's office for 17 years  
2 and with the crime lab for four.

3           Q     Did you respond out, I guess it was on the 24th  
4 of September, to the Nugget?

5           A     Yes, I did.

6           Q     Who did you arrive there with?

7           A     I arrived there with my boss, Sergeant Mike  
8 Lyford, and Investigator Kohles.

9           Q     And during the -- what was your role in the  
10 forensic investigation?

11          A     I was requested to complete the crime scene  
12 diagram.

13          Q     And how did you go about doing that?

14          A     To do the crime scene diagram, it's a four-part  
15 process. The first thing we do is sketch the crime scene,  
16 then we'll take measurements of the general layout of the  
17 crime scene and then add the evidence. After that we take  
18 all the measurements and put them into a computer program  
19 and it generates a computer-aided diagram.

20          Q     And you did that in this case, generated a  
21 computer-aided diagram?

22          A     Yes.

23          Q     Did you also consult with the -- did you have a  
24 computer drawing of the Nugget from the Nugget?

1           A     Yes. I got an overall diagram from the Nugget  
2 staff of the entire casino floor.

3           Q     But the diagrams you did with the specific crime  
4 scene areas is your own work?

5           A     I diagramed specifically the area around Trader  
6 Dick's and the gaming area just to the east of that.

7           Q     You also, I guess -- backing up a little bit, you  
8 ended up doing a summary or a list of what evidence was  
9 located at what placard?

10          A     Correct.

11               MR. STEGE: Your Honor, at this time I'd move to  
12 introduce the remainder of the 36 series, which is A  
13 through, I believe, H.

14               THE COURT: Any objection?

15               MR. HOUSTON: No objection, Your Honor.

16               THE COURT: Okay. 36A, B -- C was previously  
17 admitted -- F, G, H, I, J, K?

18               MR. STEGE: And I also have L here.

19               THE COURT: L. And then we have a 36M, as in  
20 Martha, also that was previously admitted.

21                       (Exhibit Nos. 36A, B, F, G, H, I, J, K and L  
22                       admitted.)

23               MR. STEGE: Thank you.

24       /////

1 BY MR. STEGE:

2 Q Let's just talk a little bit about a few of these  
3 diagrams. Let's I guess start with 36A.

4 What are we seeing here in this exhibit?

5 A This is the overall diagram of the casino floor.  
6 This is the diagram that I received from the Nugget staff  
7 with my added evidence placards in there.

8 Q And so this diagram can be used to -- you  
9 associated colors with types of evidence and their placard  
10 numbers?

11 A Yeah, I did associate. And that was just to  
12 simplify because there was such a large amount of  
13 evidence.

14 Q Now, let's -- so you did that. You also did a  
15 little bit -- did some closer diagrams; is that correct?

16 A Yeah. There was the main diagram with all the  
17 placards in place, so there was 56 different placards, and  
18 then I broke it down into a diagram for each of the color  
19 groupings.

20 Q Let's talk about some of the closer views. For  
21 example, 36F. This is the diagram that you yourself drew  
22 based on your measurements?

23 A Correct.

24 Q This particular one, you called them blue

1 placards for guns or knives?

2 A Correct.

3 Q 36I, what's the difference between that and other  
4 previous ones?

5 A Some of the red placards were representing areas  
6 of red staining.

7 Q And then in 36J you have green for ammunition,  
8 casings, cartridges, and projectiles?

9 A Correct.

10 Q I noticed here in the area near the dance floor  
11 you put these three boxes. What do those represent?

12 A Those three boxes represent the three tables that  
13 were pulled together, and they're also marked in the  
14 previous diagrams as No. 22.

15 Q So if we were to switch over to the previous  
16 exhibit, do you recognize what is depicted in this  
17 photograph of placard 22?

18 A Those are the three tables.

19 Q In your diagram?

20 A Correct.

21 Q Let's talk about some of these measurements. Can  
22 you give us some idea of the distances involved here in  
23 this diagram?

24 A Sure.

1 Q How about -- what is the length of Trader Dick's  
2 bar there?

3 A The length of the bar is going to be 56 feet, 10  
4 inches, I believe. I could refer to my notes and give you  
5 an exact measurement on that.

6 Q Please do.

7 A The length of the bar is 57 feet, 10 inches.

8 Q So would that be from here to here (indicating)?

9 A Right. It would be outside edge to outside edge.

10 Q What about the distance between, on this diagram,  
11 that left-hand side of Trader Dick's bar and the dance  
12 floor area?

13 A From the bar to the dance floor is 11 feet.

14 Q So 11 feet is right in there?

15 A Correct.

16 Q What other -- can you give us some more  
17 measurements here?

18 A The measure -- can I write on this right here?

19 Q Please. Do you want me to delete mine?

20 A Okay. From this edge of the bar (indicating)  
21 right here to the tile walkway is 11 feet. The entire  
22 length of this walkway is 142 feet and 9 inches. The  
23 distance from this table right here to the edge of the  
24 walkway right here is 16 feet.

1 Q Now, you have here placards for 27, 25, 24, that  
2 series there, where .40-caliber cartridge casings were  
3 recovered. Did you take any measurements from there?

4 A Yes.

5 Q Tell us some of those measurements. And then  
6 perhaps let's refer to Exhibit 36A, zooming in here. So,  
7 for example, what is the distance from this table where  
8 the cartridge casings were found to over here, 46, where  
9 the --

10 A I took measurements from the table around  
11 placards 23 through 27 to placard No. 54, and that  
12 distance was 138 feet.

13 Q 54 being the area where the -- we had this chair  
14 with the defect to it and a bullet on the ground?

15 A Yes.

16 Q I'm sorry, can you repeat that --

17 A 138 feet.

18 Q 138 feet.

19 Did you also take measurements from those same  
20 cartridge -- or from that table to the area of red  
21 staining in 16?

22 A Yes.

23 Q So the table is in between.

24 A From the single table where the casings were



1 located to No. 16 was 35 feet.

2 Q So could you mark -- that would be from here  
3 (indicating) to where?

4 A Right there (indicating).

5 Q 35 feet.

6 So what, then -- sort of going back, I think the  
7 one we didn't get to was the dimensions of the dance floor  
8 area.

9 A The dance floor is 34 feet, 6 inches wide by  
10 36 feet.

11 Q So we have 138 from here to here (indicating); is  
12 that right?

13 A No.

14 Q I'm sorry, 56 --

15 A 57 --

16 Q 57' 10"?

17 A Correct.

18 Q 57' 10" there. Then from the edge of the bar  
19 from here, 11?

20 A Correct.

21 Q The dimensions of the -- of the dance floor, 34  
22 by 6 -- 34.6 by --

23 A 36.

24 Q 36. Thank you.

1 MR. STEGE: Pass the witness.

2 THE COURT: Counsel?

3 MR. HOUSTON: Thank you, Your Honor.

4  
5 CROSS-EXAMINATION

6  
7 BY MR. HOUSTON:

8 Q Good morning, Mr. Ivers. How are you?

9 A Good morning. I'm well, thanks.

10 Q Mr. Ivers, we have seen some diagrams that you  
11 were looking at on direct, right?

12 A Correct.

13 Q Now, did you get -- you were part of the forensic  
14 investigation group that was called out?

15 A Yes.

16 Q And did you get there before or after Ms. Kohles?

17 A Together.

18 Q And you and she arrived together. And as I  
19 understand it, Ms. Kohles was the primary investigator,  
20 correct?

21 A That's correct.

22 Q Now, as the primary investigator, who's  
23 responsible to keep the crime scene log?

24 A That would be the agency that we're working for,

1 which would be Sparks Police Department.

2 Q Okay. Did you sign in on one?

3 A I don't recall, sir.

4 Q All right. And what's a crime scene log for?

5 A It's a list of everybody that enters the crime  
6 scene.

7 Q In other words, to control the crime scene to  
8 some respect?

9 A Right. We want the name of everybody that enters  
10 into the crime scene.

11 Q And part of the idea of controlling a crime scene  
12 is to make sure that evidence remains as pristine as  
13 possible in reference to the timing of the act? Does that  
14 make sense?

15 A It's a document that lists everybody that entered  
16 the crime scene.

17 Q Okay. Now, you got there approximately 1:34 a.m.  
18 on the morning of September 24th?

19 A I arrived there about 1:20 a.m.

20 Q And when you arrived there, how many people are  
21 in the casino, do you know?

22 A I don't know. There were several people inside  
23 the casino.

24 Q A lot of police officers?

1           A     There was an area around Trader Dick's that I  
2 recall that was roped off with crime scene tape, and there  
3 were several uniformed officers in the vicinity around  
4 that area that were maintaining the crime scene.

5           Q     Do you know what time this event took place as  
6 far as the issues referencing the shooting of the Vagos,  
7 shooting of Mr. Pettigrew, et cetera?

8           A     No, I don't.

9           Q     If it occurred in the neighborhood of around  
10 11:30 or so, you're about, what, an hour and 45 minutes  
11 after the fact?

12          A     Correct.

13          Q     And how many people had come and gone from the  
14 Nugget during that timeframe?

15          A     I would not have that information.

16          Q     Have you seen any of the video?

17          A     I have not.

18          Q     When you drew your diagrams and took your  
19 measurements -- now, we know something like this, Trader  
20 Dick's (indicating), that's a static object, right? It's  
21 fixed?

22          A     Correct.

23          Q     So you can measure how long that is. It wouldn't  
24 matter if people were running around bumping into it; it's

1 going to stay there. Right?

2 A Yes.

3 Q Okay. And the same would be true as to the  
4 distance from that bar to this doorway into the dance  
5 area, right?

6 A Correct.

7 Q Now, you also -- did you measure or do any  
8 measurements as it concerned where shell casings were  
9 located on the floor?

10 A Yes.

11 Q Were those shell casings in the same spot they  
12 were originally deposited?

13 A I could not testify to that. That's the location  
14 that they were when I was there.

15 Q Okay. So your measurements are based upon what  
16 you found when you got there. True?

17 A That's absolutely correct.

18 Q Not necessarily on where they may have been prior  
19 to the time you got there?

20 A They may be in a different -- they may not have  
21 come to rest in that location as when they were when I  
22 arrived on scene.

23 Q Right. As a matter of fact, if I was walking  
24 along or running, trying to get out of there, and wasn't

1 looking and hit a shell casing, I could send it pretty  
2 far, couldn't I?

3 A Sure.

4 Q So what we're seeing in reference to your  
5 diagrams is your re-creation based upon what you found an  
6 hour and 45 minutes later with untold numbers of people  
7 going back backwards and forward over that evidence?

8 A That's correct.

9 Q So it doesn't necessarily depict what existed at  
10 the time -- I think I said this -- they were deposited.  
11 True?

12 A That's accurate.

13 Q Thank you. Nothing further.

14 THE COURT: Anything further?

15  
16 REDIRECT EXAMINATION

17 BY MR. STEGE:

18 Q When you arrived on scene was there crime scene  
19 tape around these areas?

20 A Yes.

21 Q And that's what happens when you have a crime  
22 scene. Crime scene tape is put up by who?

23 A Officers that are first on the scene.

24 Q And then forensic investigators come in and

1 document what's in there?

2 A That's correct.

3 Q And in your experience, does evidence tend to  
4 move a lot?

5 A It can. It can. In a casino floor area, it's a  
6 possibility that evidence has moved.

7 Q In your general experience would you say evidence  
8 would tend to move a lot or a little or in between?

9 A I would say it depends. It depends on the  
10 situation.

11 Q But in this situation you had crime scene tape  
12 up, right?

13 A Correct.

14 Q And did you have officers outside of the crime  
15 scene tape?

16 A There was officers positioned in the various  
17 areas around the crime scene tape.

18 Q And what is the purpose of that?

19 A They were to keep people out of the crime scene.

20 Q I have nothing further.

21  
22 RECROSS EXAMINATION

23 BY MR. HOUSTON:

24 Q The crime scene tape got put up after the fact.

1 True?

2 A After the shooting?

3 Q Yeah.

4 A Yes.

5 Q And how many people were there before the  
6 shooting?

7 A I have no idea.

8 Q During the shooting?

9 A I have no idea.

10 Q How many people left after the shooting?

11 A I don't know, sir.

12 Q You don't think any of those people put up crime  
13 scene tape to make sure it was pristine right after the  
14 shooting, do you?

15 A I would not, no.

16 Q Okay. Thank you. Nothing further.

17  
18 FURTHER REDIRECT EXAMINATION

19 BY MR. STEGE:

20 Q Can you put up crime scene before a crime  
21 happens?

22 A No.

23 Q Thank you.

24 THE COURT: Thanks ladies and gentlemen --



1 I think this witness can be excused, correct?

2 MR. STEGE: Yes.

3 MR. HOUSTON: Yes, Your Honor.

4 THE COURT: Thank you, sir.

5 We're going to take our second break of the day.  
6 During this break remember the admonition that you've  
7 gotten at all the other recesses.

8 You may not discuss the case among yourselves or  
9 with anyone else. You may not form or express any opinion  
10 about the ultimate outcome of this matter. Should any  
11 person attempt to discuss the case with you or attempt to  
12 influence you with regard to this case, report such an  
13 occurrence to the Court. Do not listen to, view, or read  
14 any news media accounts or any other accounts regarding  
15 the case, the parties, or any of the circumstances  
16 surrounding this case, and do not make any independent  
17 investigation or inquiry into any of the circumstances  
18 surrounding the case.

19 Go ahead and go into the jury room for our  
20 recess.

21 Court's in recess.

22 (A recess was taken.)

23 -oOo-  
24

STATE OF NEVADA, )  
COUNTY OF WASHOE. )

I, BECKY VAN AUKEN, Certified Shorthand Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the above-entitled Court and took stenotype notes of the proceedings entitled herein, and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said proceedings.

DATED: At Reno, Nevada, 08/21/2013.

  
BECKY VAN AUKEN, CCR No. 418

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4 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

5 IN AND FOR THE COUNTY OF WASHOE

6 THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

7 -oOo-

8 STATE OF NEVADA, )

9 Plaintiff, ) Case No. CR11-1718B

10 vs. )

11 ERNESTO MANUEL GONZALEZ, ) Dept. No. 4

12 Defendant. )

13 \_\_\_\_\_)

14  
15  
16 TRANSCRIPT OF PROCEEDINGS

17 THURSDAY, AUGUST 1, 2013

18 AFTERNOON SESSION

19 RENO, NEVADA

20  
21 COPY

22  
23 Reported By: MARCIA FERRELL, CCR No. 797

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1 RENO, NEVADA, THURSDAY, AUGUST 1, 2013, 12:30 P.M.

2 --o0o--

3 THE COURT: Counsel, are you ready?

4 MR. HALL: Yes.

5 MR. HOUSTON: Yes, your Honor.

6 THE COURT: Please bring the jury out.

7 (Jury present.)

8 THE COURT: Counsel, will you stipulate to the  
9 presence of the jury?

10 MR. HALL: Yes, your Honor.

11 MR. HOUSTON: Yes, your Honor.

12 THE COURT: You may be seated, go ahead and call  
13 your next witness.

14 BRITTANY BAGULEY

15 Called as a witness by the State  
16 who, having been first duly sworn,  
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. HALL:

20 Q Good afternoon.

21 A. Good afternoon.

22 Q. Would you please state your name and spell your last  
23 name?

24 A. Dr. Brittany Baguley, B-a-g-u-l-e-y.

1 Q. And what is your occupation, ma'am?

2 A. I'm a criminalist.

3 Q. With whom?

4 A. The Washoe County Crime Lab.

5 Q. And how long have you been so employed?

6 A. Approximately seven years.

7 Q. And what do you do at the crime lab?

8 A. I'm assigned to the trace evidence, primary  
9 examination, and DNA sections of the crime lab. In the trace  
10 evidence section I examine nonbiological evidence,  
11 specifically things like fire debris for signs of  
12 accelerants. In the primary examination section I examine a  
13 wide rather of evidence, everything from bedding to stains  
14 from crime scenes to look for biological materials, usually  
15 blood, saliva, semen and hairs. And in the DNA section I  
16 develop DNA profiles from those materials.

17 Q. All right, what I'd like to talk about today is a  
18 little DNA examinations that you did in this particular case.  
19 And there is typically lab numbers assigned to cases, is that  
20 correct?

21 A. That's correct.

22 Q. All right, and in this particular instance it was  
23 lab number L4186-11?

24 A. That's correct.

1 Q. All right, and what were you asked to do with  
2 respect to a comparison of some blood samples there at the  
3 Nugget?

4 A. I was asked to develop DNA profiles from some stain  
5 swabs collected from various placard locations and compare  
6 any DNA profiles developed from those stain swabs to known  
7 individuals.

8 Q. I just want to grab our diagram here real quick.  
9 Did you document the placards in your report as to what blood  
10 stains you derived DNA profiles from?

11 A. I did.

12 Q. All right. Now, do you have specialized equipment  
13 to develop a DNA profile?

14 A. Yes.

15 Q. And is that equipment and your procedures generally  
16 accepted in the scientific community as being reliable?

17 A. Yes.

18 Q. And do you undergo periodic testing and  
19 examinations, internal examinations as well as external  
20 examinations, to ensure the quality and integrity of your  
21 results?

22 A. Yes.

23 Q. Can you tell us just a little bit about how you go  
24 about deriving a DNA profile?



1           A. So there are several steps involved. The first step  
2 is the extraction process, and that's when we're actually  
3 pulling the DNA out of the cells it's present in. So body  
4 fluids consist of cells, and inside those cells is the DNA.  
5 So we break open the cells to release the DNA, we then clean  
6 up the solution so that we're left with just a pure liquid  
7 solution of DNA, none of the other cellular material we're  
8 not interested in.

9           Typically the amount of DNA we've isolated is  
10 pretty small, not enough for analysis, so we'll use the  
11 process called the polymerase chain reaction, or PCR for  
12 short, to make copies of the regions of DNA that we're  
13 interested in. And we're making exact copies of those  
14 regions over and over again.

15           We'll then run that amplified DNA or copied DNA on  
16 an instrument called a 3130 genetic analyzer, and it  
17 generates a DNA profile for us. It's in the form of a graph,  
18 it's just a sheet of paper with a series of peaks on it, and  
19 that's the DNA profile for that piece of evidence or for that  
20 individual.

21           Q. You mentioned earlier that you are a doctor, you  
22 have a doctorate?

23           A. Yes.

24           Q. What is your specialty, what's your doctorate in?

1 A. I have a Ph.D. in analytical chemistry.

2 Q. And where did you achieve your Ph.D. credential?

3 A. Ohio University.

4 Q. Now, with respect to the DNA profiles that you were  
5 looking at, there was some blood taken from certain placards,  
6 is that right?

7 A. That's correct.

8 Q. All right. And are you generally familiar with  
9 Exhibit 129, can you see 129? Have you seen that before?

10 A. I have seen it briefly.

11 Q. All right, and that was just to acquaint you with  
12 the general location of the various blood stains that were  
13 collected by Heather Kohles?

14 A. Yes.

15 Q. All right, so can you tell us what placards you  
16 noted in your report as far as samples that you were looking  
17 at to derive a DNA profile from?

18 A. So I took portions of the stain swabs that were  
19 collected from placards 4, 5, 6, 9, 16, 20, 21, 30, and 41,  
20 and I utilized those for DNA analysis.

21 Q. All right, so you said 4, 5, 6, 9 -- did you say --

22 A. 16.

23 Q. 16 would be right here, uh-huh.

24 A. 20.

1 Q. 20.

2 A. 21.

3 Q. 21.

4 A. 30.

5 Q. 30.

6 A. And 41.

7 Q. And 41 would be right here. All right, now, did  
8 you -- snuck up on me, scared me. All right now, did you  
9 have a person, or did you have a person that you derived the  
10 profile from?

11 A. Yes, there was --

12 Q. Who was that?

13 A. I had developed a DNA profile from Jeffrey  
14 Pettigrew.

15 Q. And were you able to match the profile from Jeffrey  
16 Pettigrew's DNA to any of the samples that were mentioned in  
17 the -- or derived from the placards?

18 A. I was.

19 Q. All right, can you tell us which ones matched?

20 A. Yes. They were the stain swabs collected from  
21 placards 4, 5, 9, 16, 20, 21, and 41.

22 Q. All right. Now, did you do any other DNA work?

23 A. I did.

24 Q. In this case? And can you describe what you did

1 additionally in this case?

2 A. I was also asked to examine a knife that was  
3 recovered at the crime scene, determine whether or not blood  
4 was present, and attempt to obtain a DNA profile from that  
5 blood, and also possibly from a handler of the knife.

6 Q. All right, and where was the knife collected?

7 A. It was collected from just inside Trader Dick's  
8 lounge area at placard 50.

9 Q. All right, so placard 50 would have been right --  
10 right here, I believe. 50. And what were your results?

11 A. So I took a portion of the staining on one side of  
12 the knife blade along the non-cutting edge, I removed that as  
13 A-1 knife, and an unknown male DNA profile was obtained from  
14 that swab. There was a large amount of staining on the  
15 handle, and so it could not be swabbed for possible residual  
16 DNA from a handler of the item without also collecting some  
17 of that staining. I ended up taking a portion or swabbing a  
18 portion of each side of the knife handle, and I call these  
19 A-2 knife and A-3 knife. The DNA results obtained from those  
20 two sets of swabs yielded a mixture of at least two sources  
21 of DNA, and the dominant DNA profile in that mixture -- so  
22 that's the major contributor, whose ever has the most DNA in  
23 the sample is the dominant contributor -- was the same as the  
24 unknown male DNA profile obtained from the A-1 knife swab,

1 which was the staining on the blade.

2 And then I could draw no conclusions about the  
3 minor, so the lower contributor present in the A-2 and A-3  
4 knife swabs. It was just too low.

5 Q. All right, so was all of the DNA collected from red  
6 staining or blood evidence?

7 A. Yes.

8 Q. All right, and there was blood on the handle and  
9 blood on the blade?

10 A. Yes.

11 Q. All right, and can you match that to any other  
12 samples?

13 A. Yes.

14 Q. And what samples were those?

15 A. So the single source unknown male DNA sample from  
16 the A-1 knife swab, which was the same as the dominant  
17 profile in the A-2 knife and A-3 knife swabs, was the same as  
18 the DNA profile obtained from the stain swabs collected from  
19 placard 30.

20 Q. All right, so placard 30 was -- is right here on  
21 diagram number 128. Okay, thank you, I have no further  
22 questions.

23 THE COURT: Cross.

24 MR. HOUSTON: No, thank you.

1 THE COURT: Thank you, you may step down.

2 KERRI HEWARD

3 Called as a witness by the State

4 who, having been first duly sworn,

5 testified as follows:

6 THE CLERK: Thank you, please be seated at the  
7 witness stand.

8 DIRECT EXAMINATION

9 BY MR. HALL:

10 Q. Ma'am, would you state your name and spell your last  
11 name?

12 A. My name is Kerri Heward. First name is K-e-r-r-i,  
13 and the last H-e-w-a-r-d.

14 Q. And what is your occupation, ma'am?

15 A. I'm a supervising criminalist at the Washoe County  
16 Sheriff's Office forensic science division.

17 Q. And do you have a specialty?

18 A. I do, I do -- continue to do firearms examinations  
19 at the laboratory, even though I am a supervisor.

20 Q. Can you provide the jury with your background,  
21 training and experience with respect to your position as a  
22 firearms examiner?

23 A. Certainly. I have worked at the Washoe County Crime  
24 Lab for 5 and a half years. The previous 15 years to that I

1 worked at San Bernardino County Sheriff's Office in  
2 San Bernardino, California, and that's where I was trained to  
3 do firearms examinations.

4 My training was done in-house there by another  
5 firearms examiner, it's a two year training program. In  
6 addition to the training program that I went through there, I  
7 also have training through the FBI Academy in Quantico,  
8 through the California Department of Justice, an organization  
9 that they have called the California Criminalistics  
10 Institute. And I also belong to an organization called the  
11 Association of Firearm and Toolmark Examiners, and at their  
12 annual meetings they offer training, and so I've been to many  
13 of those trainings as well.

14 Q. What do you do on a day-to-day basis up at the crime  
15 lab?

16 A. Myself?

17 Q. Yes.

18 A. I do a mixture of supervisory duties, where I make  
19 assignments, and I do reviews, and all of those things. And  
20 the part that pertains to this case is the examination of  
21 firearms. Generally what I'm asked to do is look at  
22 firearms, cartridge cases and bullets, and make  
23 determinations of if the fired cartridge cases and bullets  
24 came from the gun. That's normally what the request is.

1 Q. So are you able to look at firearms, bullets, shell  
2 casings, and try to match them up?

3 A. Yes.

4 Q. Were you able to do that in this case?

5 A. I was.

6 Q. And generally speaking, just an overview, what  
7 evidence did you look at?

8 A. I looked at several firearms, I looked at some  
9 cartridges, I looked at fired cartridge cases, I looked at  
10 bullets, and I also looked at some items in which I looked  
11 for trajectory angles.

12 Q. Now, did you prepare a Powerpoint presentation to  
13 document and help explain your examination and your  
14 examination results?

15 A. I did, I brought with me some pictures that I could  
16 explain what I did, and to help explain some terms that I'm  
17 going to be using, so that it's -- it helps me to explain  
18 what I did in this case.

19 Q. All right, let me give you the clicker here.

20 A. There, there we go. Depicted on this screen are a  
21 picture of a semiautomatic pistol, which is the type of  
22 firearms that I examined in this case. An unfired cartridge.  
23 A cartridge is the term I'm going to use when I talk about  
24 the item that's unfired. Then we have a fired bullet. And



1 if you look at that fired bullet, it has stripes on it. I'm  
2 going to talk about those stripes, those are land impressions  
3 and groove impressions on there, and I'm going to explain to  
4 you how those get put on there.

5 Below that there's a fired cartridge case and it  
6 has several areas marked, and we'll see that again. Those  
7 are the potential areas that I have to look at under the  
8 microscope to make an identification to a gun.

9 And then lastly, in the lower right-hand corner you  
10 see a comparison microscope, that's the tool that I use to  
11 make the comparison. And it allows me to put two different  
12 things, it has two stages, so I can put a cartridge case, for  
13 example, that I have fired from a gun, and one from evidence,  
14 under the microscope at the same time and see them split by a  
15 line.

16 So we'll see some pictures in a few slides that  
17 show a picture like that, with a black line down the middle,  
18 and what you're viewing are images from both of those objects  
19 on the different stages.

20 The firearm makes marks on bullets and cartridge  
21 cases, and that's what I'm looking at to make the  
22 determination of whether a bullet or a cartridge case was  
23 fired in a firearm. The way a semiautomatic pistol works is  
24 that you load the cartridges into the magazine, and the

1 magazine goes in this bottom part here, it slides up in.

2           You need to take the top of the firearm, which is  
3 called the slide, this area here, pull it to the rear,  
4 let it go forward, and it will pick the up cartridge up out  
5 of the magazine and load it into the chamber area. And you  
6 can see there's a cartridge in the chamber area here, that's  
7 the part of the firearm that holds the cartridge when it's  
8 waiting to be fired.

9           The firing pin, which in this diagram is blue, when  
10 the trigger is pulled, the firing pin goes forward, it hits  
11 the back of that cartridge in an area that's called the  
12 primer, and we'll see what that looks like in just a minute.

13           Inside that primer is an explosive material. So  
14 the primer hits -- excuse me, the firing pin hits the primer,  
15 there's an explosion. That explosion ignites the gunpowder  
16 that's contained within that cartridge case. That does two  
17 things. It pushes the bullet down the barrel of the firearm,  
18 and the opposite force of that pushes the cartridge case back  
19 against the area of the firearm where the firing pin  
20 protrudes through, that's called the breach. So the  
21 cartridge case is marked by that movement, and the bullet is  
22 marked by the movement as it passes through the barrel of the  
23 firearm.

24           This is what I'm talking about when I say that

1 there's a primer. That yellow area at the bottom is where  
2 the explosive material is, and it's a softer metal, so it  
3 allows the -- when the firing pin hits it, it's softer than  
4 the metal around it, then it's able to puncture that -- that  
5 primer area, causing the explosion to ignite the gunpowder  
6 that you see in there, and push the bullet out the barrel of  
7 the firearm.

8 This is a depiction of areas that can be marked as  
9 a cartridge case is fired in a firearm. As the cartridge  
10 comes in contact with every part of that firearm, it has the  
11 potential of having marks impressed on it. The theory is  
12 that the harder metal is going to mark the softer metal, and  
13 the metal in the gun is harder.

14 The machining that takes place when the gun is made  
15 creates unique marks that are transferred to the cartridge  
16 case and the bullet, and those are the marks that we're  
17 looking at.

18 So you can see here that center portion that's  
19 circular, that is the primer area. You can see where the  
20 firing pin impression is marked, that's where the firing pin  
21 in the firearm would hit it. The lines that you see on that  
22 circular portion are marks that are impressed by the breach  
23 face area of the firearm. A semiautomatic pistol works where  
24 it automatically extracts and ejects the cartridge cases.

1 Those are pieces of the firearm, the extractor you can think  
2 of kind of like a hook that hooks in on the rim of the  
3 cartridge case, and it works in conjunction with the ejector,  
4 which is kind of like a punch, so it ejects the cartridge  
5 case, after it's fired, out the portion of the firearm called  
6 the ejection port. All of these things have the potential to  
7 mark the firearm.

8 In this case there's also one other type of  
9 examination that I did. A cartridge was cycled in a firearm,  
10 which means it was put in the magazine, the magazine  
11 inserted, it was loaded into the chamber area, and then  
12 ejected without being fired. So as it passes over those  
13 different parts of the firearm that it comes in contact with,  
14 it can pick up marks that are identifiable back to the  
15 firearm.

16 This is a depiction of that primer area, and it's  
17 to show you the difference in the marks that we can see. The  
18 item that's marked as Glock type markings, you can see that  
19 that firing pin is a different shape, it's an elliptical  
20 shape. The aperture, which is a fancy word for the hole that  
21 the firing pin protrudes through in the gun, is more of a  
22 rectangular shape.

23 The one that's on the right-hand side is a standard  
24 type with a round firing pin, and the aperture is not square.

1 So you can see that this is what I'm seeing under the  
2 microscope.

3 These differences in the shape of the firing pin  
4 and the shape of the firing pin aperture I'm going to refer  
5 to as class marks. Those will be the same for every gun of a  
6 certain make and model. The marks that we're using to make  
7 the identifications to a particular gun are the microscopic  
8 striations that you see in this area, and this area, and  
9 those are the transfer of those marks from the machining  
10 process that happens to the firearm when it's being made.

11 I told you that there were stripes on the bullets,  
12 and those were caused by the barrel of the firearm. Barrels  
13 of most firearms have grooves cut into the barrel, and the  
14 purpose of cutting those grooves is to make that bullet  
15 travel straighter, more accurate. What it does is those  
16 grooves are cut in a twisted fashion, manufacturers generally  
17 put somewhere between four and 16 grooves. The land  
18 impressions that I talked about are the area between the  
19 grooves.

20 So we can see that if there was a difference in the  
21 number of grooves, we refer to that as a class marking as  
22 well. So every make and model of a certain firearm will have  
23 the same number of lands and grooves, that's the intention of  
24 the manufacturer, and they will be twisted in the same

1 direction, either right or left, and the width of those will  
2 be the same.

3 So that's a class marking. If those differ between  
4 a firearm and a bullet, they could not have been fired in  
5 that same firearm.

6 The other thing that I talked to you about just a  
7 minute ago was the idea of twist. Those grooves are cut in a  
8 twisted fashion, and they are either twisted to the right or  
9 twisted to the left. And as you look down the barrel you can  
10 actually see that twist. If it goes to the right-hand side  
11 or to the left-hand side.

12 That transfer on a bullet is going to be viewed as  
13 the stripes that we see, but they're going to lean either to  
14 the left or to the right. And so you can look at a bullet  
15 and tell whether it is a left twist or a right twist by the  
16 lean of those stripes that you see.

17 And now we're to the items that I analyzed in this  
18 case.

19 Q. Okay. So what items did you analyze in this case?

20 A. I analyzed several guns, but the gun that I was able  
21 to identify back to bullets and cartridge cases was a 9  
22 millimeter Luger pistol, and the Q number on that is 84534.  
23 I was able to, using those examinations that I just spoke  
24 about, make identifications. So it's the class markings are

1 the same, and those microscopic individual markings are the  
2 same for three 9 millimeter cartridge cases that we see there  
3 at placard 29, 51, and 44. That's --

4 Q. Can I interrupt you there, I'm sorry, I just want to  
5 make sure. So that was the semiautomatic pistol?

6 A. Yes.

7 Q. So the Luger is the semi. Okay.

8 A. Yes. Even though that was a 9 millimeter gun, there  
9 was a .380 auto cartridge case fired in that gun, and that  
10 was identified with a number of W267504. So there were four  
11 fired cartridge cases that I identified to that gun. I  
12 identified a bullet fragment that was at placard 47 as having  
13 been fired from that gun. Also, a bullet that was retrieved  
14 from Mr. Garcia, and that was a .380 auto bullet that was  
15 identified back to that 9 millimeter pistol.

16 And I examined a cartridge, which is the unfired  
17 but cycled cartridge. Markings on that cartridge I was able  
18 to identify back to that 9 millimeter pistol as well.

19 Q. Now, we have marked as Exhibit 42 a copy of your  
20 presentation, is that right?

21 A. Yes, I believe so. Yes, that is my presentation.

22 MR. HALL: And I believe has that been admitted?

23 THE CLERK: It has not.

24 MR. HALL: I'd move for its admission.

1 MR. HOUSTON: No objection, your Honor.

2 THE COURT: Exhibit 42 is admitted.

3 (Exhibit No. 42 admitted.)

4 BY MR. HALL:

5 Q. So all of the information that you were talking  
6 about now is contained in an exhibit which has been admitted  
7 into evidence?

8 A. Yes.

9 Q. All right, so everybody can look at that so they  
10 don't need to write down the numbers, you've got them here in  
11 this exhibit?

12 A. Yes, thank you.

13 Q. All right.

14 A. Shall I move on to the next slide?

15 Q. Let's just talk about -- I just want to talk about  
16 this for one minute. Now, with respect to placards 29, 51,  
17 and 44, those were all 9 millimeter shell casings?

18 A. They were.

19 Q. All right, and those were located out on the tile  
20 floor, do you remember looking at the diagram?

21 A. Yes, I do have actually a copy of the diagram in  
22 this presentation, as well, and they were near the tile  
23 walkway, yes.

24 Q. All right, and the .380 auto cartridge, that was



1 down the way a little bit, and that was vacuumed up by -- or  
2 found by a cleaning person like the next day?

3 A. Yes, that's my understanding from the description on  
4 the package.

5 Q. All right. And so but you were able to tell that  
6 that .380 auto cartridge was actually fired from the 9  
7 millimeter pistol?

8 A. Yes, I was.

9 Q. And that was by doing your examination on the  
10 compare -- the microscope?

11 A. Yes.

12 Q. All right. And then -- so then we had two bullet  
13 fragments, is what you've just talked about, just to kind of  
14 clarify. So placard 47, that was the bullet fragment. Now,  
15 can you describe that bullet fragment? Was it the core, was  
16 it the --

17 A. It was nearly the entire jacket, but no core.

18 Q. All right, so just to break down a bullet, a bullet  
19 has a copper jacket and a lead core?

20 A. Yes, in this case these were jacketed bullets, so it  
21 consists of a lead core with a metal jacket over the top of  
22 it.

23 Q. All right, and so the copper cover would be the one  
24 that had the striations on it, and the markings on it, to

1 allow you to compare?

2 A. That's correct.

3 Q. And 47, just to recap, was over by the cashier's  
4 cage?

5 A. Yes, I believe that it was.

6 Q. All right, and then we had a 3 auto -- .380 auto  
7 bullet from Garcia's leg?

8 A. I'm not sure where it came from Garcia, but I know  
9 that it came from Diego Garcia, that was on the packaging  
10 information.

11 Q. All right, so that would have been admitted into  
12 evidence, assigned a Q number, and sent up to you for  
13 comparison purposes?

14 A. That's correct.

15 Q. All right. And then we have a 9 millimeter Luger  
16 cartridge at placard 52, which again is located in that same  
17 area where we had 29, 51 and 44?

18 A. Yes, I believe so.

19 Q. Generally speaking? All right, and what were you  
20 telling us about that?

21 A. That cartridge I compared to cartridges I put in the  
22 gun and cycled through, and I was able to find markings that  
23 I was able to see that the lines matched up and able to  
24 determine that that cartridge had been cycled in the 9

1 millimeter pistol.

2 Q. Now, do you usually fire .380 ammo out of a 9  
3 millimeter?

4 A. You don't. And when I test-fired this, I test-fired  
5 it with 9 millimeter, and I also test-fired it with .380.  
6 They're both the same diameter bullet, but a 9 millimeter is  
7 a different shape, it's a little bit longer, and it has more  
8 powder in it. The .380 autos, when I fire them, they fired,  
9 but they would not cycle that slide back and forward to eject  
10 the cartridge case and pick up a new one. I had to manually  
11 pull the slide back after each .380 auto cartridge was fired  
12 and let it go forward to allow the cartridge case that was  
13 fired to be ejected and to load a new one in. So the gun  
14 will not work as designed with a .380, but it will fire.

15 Q. All right, and you performed that examination or  
16 experiment with the 9 millimeter that was collected at  
17 placard 11, right? The one Q84534?

18 A. Yes, with that pistol I fired 9 millimeter cartridge  
19 cases, .380 -- or excuse me, cartridges. .380 auto  
20 cartridges, and then I cycled some 9 millimeter cartridges in  
21 there to do the comparison to the unfired cartridge that we  
22 found at the scene.

23 Q. What's a double stack?

24 A. A double stack is when that mechanism that ejects

1 the cartridge and loads a new one from the magazine does not  
2 work properly, and rather than one coming up and going into  
3 the chamber, two will try to pop up and go into that chamber,  
4 so you get the double stacks. And it just kind of jams  
5 things up.

6 Q. So when you say jam, does that mean the gun is not  
7 going to shoot?

8 A. That's correct.

9 Q. Because you've got two bullets, and you don't have  
10 one in the chamber, is that how it works? Is that what  
11 causes the jam?

12 A. Generally, yes, two cartridges are trying to fit  
13 into the space for one, and the slide generally will not even  
14 close. It will remain partially open, and with two partially  
15 jammed between the magazine and the chamber area.

16 Q. All right. And did you document how many bullets  
17 were in the pistol? Was that documented?

18 A. It was. There were a total of seven that were  
19 listed as double-stacked, for the magazine, and all of those  
20 that were in there were .380 auto type. They were not 9  
21 millimeter Luger. Some of the cartridges they had in there  
22 are called -- they're by a European manufacturer, and they're  
23 called a 9 millimeter Browning Court, and that is exactly the  
24 same as a .380.

1           Q. All right, and how could -- would it be easy to  
2 confuse a 9 millimeter cartridge with that .380 ammunition  
3 that was in there by virtue of the markings on the  
4 ammunition?

5           A. Yes, if somebody saw 9 millimeter they might think  
6 that it's the same. And if it's not somebody that's familiar  
7 with the ammunition. Like I said, the diameter of the  
8 cartridge is the same, it's just a little bit different  
9 shape, and it's a little bit shorter for a .380.

10          Q. Now, the .380 ammunition had 9 millimeter marked on  
11 the end of the bullet?

12          A. Some of them did, and some of them were marked .380.

13          Q. Now, did you compare or look at the revolver?

14          A. Yes, I did.

15          Q. Okay. We'll go to your next slide.

16          A. I'm going to skip past that one, that was for the  
17 .40 caliber. I did look at the revolver, the revolver had --  
18 you could load six into the chamber. There was one fired  
19 cartridge case, and the other five were unfired cartridges.

20               I examined that gun, I test-fired it, and I  
21 compared a cartridge case that I test-fired to the fired one  
22 that was in the chamber, that was removed from the chamber,  
23 and in fact that was fired from that revolver.

24          Q. All right, what caliber was that revolver?

1           A. It was a .38 caliber.

2           Q. And then you also examined some shell casings that  
3 were collected from placards 23 through 27, I believe?

4           A. I did. That is all represented on this slide. I  
5 examined several things that were all .40 caliber type  
6 things. There were seven fired cartridge cases, and there  
7 were seven bullets. The seven fired cartridge cases all had  
8 the markings that were consistent with the Glock that I  
9 showed you on the presentation with that elliptical firing  
10 pin and that square aperture type, and I compared them to one  
11 another, and they were all fired from the same gun. I don't  
12 have a gun to compare those to, but I had the markings that  
13 tell me that they were all fired from the same gun.

14           The barrel of a Glock firearm has what we call  
15 polygonal rifle. And it doesn't have those sharp edges that  
16 I showed you in the presentation, where we saw the difference  
17 between five land impressions and six land impressions. The  
18 inside of a Glock firearm looks more like a stop sign. The  
19 edges are not well defined, they don't mark the bullet well,  
20 and they're almost impossible to identify to one another.

21           So at this point, without a gun to compare them to,  
22 I examined them to make sure that they had the same class  
23 markings. So they do have the same number of lands and  
24 grooves, and they twist in the same direction, but I did not

1 do a further examination without having a gun. That would be  
2 the next step, if we had a gun recovered in this case then we  
3 would test fire, or I would test fire cartridge cases and  
4 bullets and then compare that to this evidence.

5 But in this case we didn't have a gun, so I just  
6 made the comparison within that group.

7 Q. All right, so were you able to compare the  
8 cartridges to one another?

9 A. I did.

10 Q. At placards 23 through 27?

11 A. Yes, and I determined that they were all fired from  
12 the same gun. And that gun was consistent with a Glock  
13 firearm.

14 Q. All right, and the bullets that were recovered,  
15 obviously there were a couple bullets from -- recovered from  
16 Pettigrew at the autopsy, and then there were a number of  
17 other bullets recovered at placards 18, 19, 46, 53 and 55.  
18 Was there anything particular about any of those bullets?

19 A. There were, there was a style of bullet that I saw  
20 at this crime scene that I had never seen before. The --  
21 four of the six bullets that were of a jacketed hollow point  
22 type had little red plugs in the nose. That type is only  
23 manufactured by Hornady, and Hornady is marked on six of the  
24 seven cartridge cases. That's a very specific, not common,

1 type of cartridge that's manufactured.

2 And the other cartridge case that I looked at,  
3 placard 27, that's CCI, they make a type of bullet called a  
4 total metal jacket. And instead of just having bullets over  
5 the nose and having either the base or the nose have exposed  
6 lead, these type of bullets are electroplated and they have a  
7 copper jacket that covers all surfaces.

8 So the CCI fired cartridge case that's from placard  
9 27 is consistent with having been loaded with a type of  
10 bullet that we see in placard 18. And the jacketed hollow  
11 point bullets that we see with the red insert are consistent  
12 with having been loaded in those Hornady cartridges.

13 Q. Now, you mentioned hollow point cartridges, the  
14 Hornadys, are those designed for any specific purpose?

15 A. Yes. A hollow point cartridge is meant to open up  
16 and have a bigger surface area so that it has more impact,  
17 and it's also designed to stay in the target. It doesn't  
18 tend to travel through, like a jacketed -- a full metal  
19 jacket type of bullet.

20 The red inserts are meant to stay in the nose of  
21 that jacketed hollow point bullet until it hits a target, so  
22 that it doesn't become plugged. Because if it becomes  
23 plugged, it cannot open, and then it just behaves like a full  
24 metal jacket type bullet.



1           So the red insert is a design feature to make it  
2 work more effectively, in that jacketed hollow point  
3 function.

4           Q. Now, you're familiar with Glock firearms, and  
5 specifically .40 caliber Glock firearms?

6           A. Yes.

7           Q. All right, now what I'd like to talk about is a  
8 little bit about which way the shell casing would eject when  
9 it was fired. Do you know which way the -- a .40 caliber  
10 Glock would eject an expended shell casing?

11          A. Most firearms will -- including Glock, will eject to  
12 the right. Generally, they'll eject either slightly forward,  
13 slightly to the rear, or straight out several feet. And in  
14 doing studies of ejection patterns, it isn't consistent, they  
15 don't land in the same place every time. But they do eject  
16 to the right, and they would be expected to be found several  
17 feet from where the person firing is standing at.

18          Q. All right, so how far would you expect a .40 caliber  
19 shell casing to travel, just generally speaking? Let's just  
20 pretend like I'm the person firing the gun.

21          A. I would expect somewhere between where you're  
22 standing and four or five feet out.

23          Q. All right, so would that be about where the jury box  
24 would be, four or five feet?

1 A. Yes.

2 Q. Approximately?

3 A. I would say that's -- that's a general distance.  
4 And we're talking about where the cartridge case would land,  
5 not if it bounced and rotated or anything, but where it would  
6 initially land.

7 Q. Was a .40 caliber gun ever recovered for you to  
8 compare?

9 A. There were some items submitted to me, but never  
10 anything that matched this evidence.

11 Q. All right, and there was mention early on in this  
12 trial about a .40 caliber Glock pistol that was dumped out in  
13 the parking lot, it was either a .40 or a .45?

14 A. A .45.

15 Q. That's what it was, a .45. So you eliminated that  
16 just by virtue of the caliber?

17 A. Yes, I actually just wanted to see if it even would  
18 hold a .40 caliber, and it falls right through the barrel.  
19 So there's absolutely no way you could fire a .40 caliber in  
20 a .45.

21 Q. All right. Thank you.

22 A. Thank you.

23 THE COURT: Turn on the lights, please.

24 //

## CROSS-EXAMINATION

BY MR. HOUSTON:

Q. Thank you, your Honor. Good afternoon, Ms. Hayward, how are you?

A. Good afternoon.

Q. Heward, my mistake. We've met have before, haven't we?

A. We have.

Q. I'm sorry, I butchered your name.

A. That's okay.

Q. I want to talk to you a little bit about the -- you were talking about the -- was it a Smith and Wesson 9 millimeter that was recovered?

A. Yes.

Q. And that Smith and Wesson 9 millimeter, as I think you've testified, had a 9 millimeter Luger in the magazine, along with .380 caliber in the magazine.

A. That's correct.

Q. Now, I think you also said that the .380 sometimes --

A. I need to clarify. There were 9 millimeter Browning Kurz and .380 cartridges in the magazine.

Q. Right.

A. All associated from the scene, there were 9

1 millimeter Luger, .380 auto, and the 9 millimeter Browning  
2 Kurz.

3 Q. Okay, now, you indicated that the .380's, we'll call  
4 it, will cause it to double stack?

5 A. It can.

6 Q. And to clear, a double stack is kind of a matter of  
7 pulling the slide back, and as opposed to auto-ejecting,  
8 you're manually ejecting it?

9 A. Yes. But if it's double stacked, just simply  
10 pulling it back may not clear it. You may need to do some  
11 manipulation to eject that out of there. But yes, pulling  
12 the slide back will generally eject the cartridge case and  
13 load another one.

14 Q. So it might disable the firearm for a bit until the  
15 shooter is clearing it or fixes it, right?

16 A. That's correct.

17 Q. It's not something you'd have to take to a gun store  
18 to get them to take it out with a screwdriver or something.

19 A. No.

20 Q. Okay. As far as the revolver, have you ever heard  
21 the term speed loader?

22 A. Yes.

23 Q. What's a speed loader?

24 A. A speed loader is something that is going to hold

1 all of your cartridges so you can do it in one shot rather  
2 than putting individual cartridges into the chamber.

3 Q. So if someone wanted to reload a revolver quickly,  
4 it's a mechanism that actually accomplishes that pretty fast  
5 if you're accomplished with it, correct?

6 A. That's correct.

7 Q. All right. The evidence that you evaluated, you  
8 didn't personally retrieve it, did you, from the crime scene?

9 A. I did not.

10 Q. And I noted you said something when Mr. Hall was  
11 talking to you about the ejection pattern of the Glock, you  
12 indicated that it could be four to five feet, slightly in  
13 front, slightly in the back, or off to the side.

14 A. Well, it's always going to be off to the side, to  
15 the right.

16 Q. I'm sorry, I meant more at a straight angle from the  
17 shot.

18 A. Yes.

19 Q. Okay.

20 A. But it won't land in exactly the same place every  
21 time.

22 Q. And you said something else about that doesn't mean  
23 where it would be found if it were kicked or if it bounced.

24 A. When I said that four or five feet --

1 Q. Yeah.

2 A. Is where I would expect when the cartridge case is  
3 ejected for it to initially land. If cartridge cases were  
4 kicked, then I couldn't account for that, but I can make a  
5 comment on in my experience when I testify or what I see.  
6 That's what I meant.

7 Q. Or and you said something about bouncing, it may  
8 have a tendency, depending on the surface they come in  
9 contact with, they can also bounce, as well. Correct?

10 A. They can, yes.

11 Q. Okay. So when we have a situation where -- have you  
12 been able to determine total in the Nugget that night,  
13 between the three firearms, how many shots were fired?

14 A. No, I can only tell you what I examined.

15 MR. HOUSTON: Okay, thank you very much. I have  
16 nothing further.

17 THE COURT: Anything further?

18 MR. HALL: Just --

19 THE COURT: Okay.

20 REDIRECT EXAMINATION

21 BY MR. HALL:

22 Q. Just with respect to a pistol, a revolver, can you  
23 explain the process of speed loading a revolver?

24 A. I've never actually used a speed loader, but I have

1 examined speed loaders, and they will hold -- in this case we  
2 have a cylinder, so it's a metal device that holds the six  
3 cartridges so they can load in one motion, as you would load  
4 one. If you were to load them by hand, you would have to  
5 turn the cylinder and load one into a chamber, six times it  
6 would take. Six times as long to do that, as it would be  
7 with a speed loader.

8 Q. All right, now, if you want to unload, let's say you  
9 want to eject all of the empty cartridges, let's say you have  
10 your revolver, fired all six shots, out of ammo, you want to  
11 take those empty cartridges out of the gun. How do you do  
12 that?

13 A. The cylinder slides to the right -- or it slides  
14 out, and there's a plunger that you push, and it ejects all  
15 of them at the same time.

16 Q. So they all come out at the same time?

17 A. Yes.

18 Q. So they're going to go all over the place,  
19 typically, right? Unless you've got your hand right under it  
20 and can catch them all.

21 A. That's correct.

22 Q. All right. And then you've got to do something with  
23 those, because you've got -- you've either got them on the  
24 ground or you've got them in your hand, then you've got to

1 get out your speed loader and dump all those -- or line up  
2 the bullets with your -- with your cylinder, the holes in the  
3 cylinder, load it, close it back up, and then you're ready to  
4 go again.

5 A. That's correct.

6 Q. So if -- let's just take an example, here. If  
7 Mr. Pettigrew was using a speed loader, you'd expect to find  
8 some .38 empty shell cartridges somewhere, either in his  
9 pocket, on the floor, especially when he only walked from --  
10 you know, only walked approximately 50 feet from where he got  
11 his -- where he was injured, where he apparently shot the  
12 gun, to the area where he was shot and killed.

13 A. I would expect to find cartridge cases that were  
14 fired, yes.

15 Q. And then Mr. Houston tried to say that there was 9  
16 millimeter ammo in the magazine of the 9 millimeter?

17 A. Yes, he initially said that, and I had agreed, but  
18 not -- I realized my mistake, that in the magazine itself  
19 were only .380 auto and the 9 millimeter Browning Kurz. The  
20 9 millimeter Luger cartridge cases, which is the type of  
21 cartridges designed for that firearm, were found either as  
22 the cycled cartridge or as the three fired cartridge cases  
23 from the scene.

24 Q. So just so I understand it, was all the ammunition



1 in the magazine of the 9 millimeter, .380 auto?

2 A. Yes, you are correct.

3 Q. So it would have jammed every time.

4 A. It would not have ejected the cartridge cases, and  
5 every single one of those the slide would have had to have  
6 been pulled to the rear to eject the cartridge case and load  
7 another one. For every one.

8 Q. And if Heather Kohles testified when she took it  
9 apart or ejected the magazine it was double stacked, that  
10 would indicate that it was jammed at that time.

11 A. Yes.

12 MR. HALL: That's all I have, thank you.

13 RECROSS-EXAMINATION

14 BY MR. HOUSTON:

15 Q. Ma'am, how many rounds were in the magazine?

16 A. There was a total of seven that were listed from the  
17 magazine and the double stack. So five in the magazine.

18 Q. Five in the magazine, and then two in the double  
19 stack.

20 A. I believe so.

21 Q. How many rounds does that magazine hold?

22 A. I don't know. I didn't measure the capacity of that  
23 magazine.

24 Q. Do you have an approximate?

1           A. I believe it's 15, but that's just off the top of my  
2 head.

3           Q. Okay, so that meant that if it were a full magazine,  
4 at least, what, eight rounds were fired?

5           A. If it was a full magazine, and we look at what I  
6 know was fired, which is four fired cartridge cases, then  
7 that is a possibility.

8           Q. Okay. Now, to the onlooker, if I'm watching  
9 somebody shoot, I don't know necessarily that they've got  
10 .380 ammunition in a magazine that should have 9 millimeter,  
11 do I?

12           MR. HALL: Objection, speculation.

13           THE COURT: Sustained.

14           MR. HOUSTON: I thought she was an expert, your  
15 Honor.

16           THE COURT: I think she is, but I still think it's  
17 speculation.

18 BY MR. HOUSTON:

19           Q. Let me ask you this. If my gun jams, it doesn't  
20 visibly start smoking or turn red or anything, does it?

21           A. No, the only thing that you're going to see is  
22 perhaps the slide doesn't go fully forward.

23           Q. Right. And in the situation of the revolver,  
24 Mr. Hall said you would expect to see cartridge cases on the

1 ground, right?

2 A. If there had been six cartridge cases fired from the  
3 chamber, yes, I would expect to find them somewhere.

4 Q. What if others were going around --

5 MR. HALL: Objection, speculation.

6 MR. HOUSTON: I haven't asked a question yet, your  
7 Honor.

8 THE COURT: What if others were --

9 BY MR. HOUSTON:

10 Q. Okay, let me phrase it this way. If a shell casing  
11 hits the ground and is picked up, you're not going to find  
12 it, are you?

13 A. The people at the crime scene collecting evidence  
14 would not find something that somebody has removed, no.

15 Q. Have you seen the video in this case?

16 A. I have seen parts of the video yesterday.

17 MR. HOUSTON: Okay, your Honor, may we show a bit  
18 of video at this point?

19 THE COURT: Counsel approach.

20 (Unrecorded discussion at the bench.)

21 MR. HOUSTON: Thank you, your Honor. I have  
22 nothing further, ma'am, thank you.

23 THE COURT: Thank you. May this witness step down?

24 MR. HALL: Yes.

1 THE COURT: Ma'am, you may step down, you are  
2 excused.

3 THE WITNESS: Thank you very much.

4 THE COURT: You're welcome.

5 STEVE MOORE

6 Called as a witness by the State  
7 who, having been first duly sworn,  
8 testified as follows:

9 THE CLERK: Thank you, please be seated at the  
10 witness stand.

11 THE WITNESS: Thank you.

12 DIRECT EXAMINATION

13 BY MR. STEGE:

14 Q. Hello, sir, is your name Steve Moore?

15 A. Yes, sir, it is.

16 Q. M-o-o-r-e?

17 A. Yes, sir.

18 Q. And how long have you lived here in Washoe County?

19 A. Just under -- or excuse me, just over two years.

20 Q. In September of 2011 how long had you lived here?

21 A. Approximately two months.

22 Q. And are you familiar with the Nugget in Sparks?

23 A. Yes, sir, I'm employed there.

24 Q. At the time this happened, the incident we're about

1 to talk about, how long had you worked there?

2 A. I had been there roughly about a month.

3 Q. And what was your -- what did you do at the Nugget?

4 A. I was a bartender.

5 Q. And on September 23rd of 2011, can you tell us,  
6 please, what you witnessed?

7 A. On that day -- well, actually on that evening, I was  
8 getting off work and I was walking with a coworker towards a  
9 room called the vault, where we deposit our -- our cash and  
10 our keys.

11 Q. Can I ask you what bar it was that you were working  
12 at that evening?

13 A. I had been working at the Orozco bar that evening.

14 Q. And what part of the casino is that in?

15 A. That's on the far side of the casino, down by what  
16 they call the west tower. So it's in the western, far  
17 western end of the casino.

18 Q. So you're walking in to turn in your money to --

19 A. My money and my keys, yes, sir.

20 Q. Who were you walking with?

21 A. I was walking with a fellow employee, a cocktail  
22 waitress. She had asked me to accompany because she was  
23 nervous, with the amount of people that were in there.

24 Q. Now, were you also nervous with the number of people

1 that were in there?

2 A. No, sir.

3 Q. And tell us about the people that were in there.

4 A. Well, it was during Street Vibrations, so it was a  
5 majority of bikers. The overwhelming majority were wearing  
6 the Vagos patch. And I did see -- there were some other  
7 clubs there, as well.

8 Q. Had -- up until this point had you noticed Hells  
9 Angels in the casino?

10 A. Yes, sir, I had seen just a few of them there.

11 Q. But your coworker was nervous, so you escorted her  
12 to the --

13 A. Yes, she had come to me, she said that they were  
14 scaring her, that some of the guys were like grabbing her  
15 when she was walking by and things like that, so she asked me  
16 to walk with her. So once I deposited my belongings that we  
17 could leave.

18 Q. Did something happen as you're walking to the vault?

19 A. Yes, sir, I heard a loud noise, I thought it was  
20 either an explosion or gunfire.

21 Q. And what part of the casino were you in when you  
22 heard this? I'll direct your attention here to Exhibit  
23 No. 130, orient you a little bit. You have Trader Dick's  
24 here, the showrooms here, with the Oyster Bar being off in

1 this area.

2 A. Yes, sir, I would have been --

3 THE COURT: You may point.

4 THE WITNESS: Oh, okay. I would have been  
5 approximately here.

6 BY MR. STEGE:

7 Q. Why don't you use the pointer.

8 A. Oh, sure. I would have been -- we would have been  
9 right here in this area, and we were heading toward this area  
10 here.

11 Q. And where did you hear this noise that drew your  
12 attention?

13 A. I heard it over here, in the area of Trader Dick's,  
14 right about there is where I -- I heard it, and I could see  
15 some flash.

16 Q. If you'll take your seat.

17 A. Sure.

18 Q. What -- did it sound like a gunshot, or something  
19 else?

20 A. I wasn't sure at first whether it was an explosion  
21 or a gunshot until I -- a few more shots went out, then I  
22 recognized what it was, that it was gunfire.

23 Q. And were you able to see from where you were what  
24 was going on?

1           A. No, not at that point I couldn't see -- looking  
2 towards that direction, all I could see were a lot of people  
3 running away from that area.

4           Q. Towards you.

5           A. Yes, sir.

6           Q. And what happened next?

7           A. I -- I threw my coworker to the ground, and I had  
8 covered her up with my body 'til I got my bearings so I could  
9 see what was going on. And I placed her in what -- a room  
10 called the service bar, which is right here. And then after  
11 I put her in there, I ran toward this area here, and I ran  
12 into the pit area.

13          Q. And as you were running up, what do you see, or  
14 what's going on in the casino?

15          A. Well, running up I could see people who were  
16 ducked -- ducked for cover and laying on the ground, that  
17 type of thing. When I got into the pit area, I saw a couple  
18 of individuals engaged in a gun fight.

19          Q. And could you tell who these people were?

20          A. Not specifically who they were. I could tell by the  
21 patches that they were wearing that they were affiliated with  
22 different clubs.

23          Q. And which clubs were those?

24          A. A Vagos and Hells Angel.



1 Q. Did you see a Hells Angel with a gun?

2 A. Yes, sir, I did.

3 Q. Were you later able to identify that person?

4 A. Yes, sir, I was.

5 Q. And who was that?

6 A. His name was Villagrana.

7 Q. Did the Vago have a gun?

8 A. Yes, sir, I saw a gun in a Vago's hand.

9 Q. What was he doing with it?

10 A. He was pointing it at the Hells Angel, and I recall  
11 shots going off.

12 Q. Pointing it at Villagrana.

13 A. Villagrana.

14 Q. And didn't you previously describe it as they're  
15 having a gun fight?

16 A. Yes, sir.

17 Q. Is that what they were doing?

18 A. Yes, sir, they were, they were having a gun fight.

19 Q. And could you point out the area where they were  
20 having the gun fight?

21 A. Sure. It would have been approximately right in  
22 this area right here, amongst these slots.

23 Q. Now, is that the same row of slots that has  
24 something at the end of it there? What's at the end of that

1 slot row?

2 A. At the end of it there, there is what I call a  
3 cash-out machine, it's a machine that you put in your  
4 voucher, if you won anything gambling, and it gives you the  
5 cash amount for that voucher.

6 Q. And which direction was Villagrana facing? Or  
7 shooting?

8 A. Villagrana would have been facing this way and  
9 shooting this way.

10 Q. What about the Vago?

11 A. Towards Villagrana, so it would have been this way.

12 Q. And can you say whether or not the Vago was actually  
13 firing his gun?

14 A. I believe that -- I believe that's what I saw at the  
15 time, that he was firing his weapon.

16 Q. And how many shots did the Vago shoot?

17 A. I -- that I could not tell you, sir, I didn't count  
18 shots at all.

19 Q. And what did you do? Rather than count shots?

20 A. I just kind of -- just keeping an eye on what was  
21 going on, I was watching them.

22 Q. Could you tell what was going on in the rest --  
23 around you?

24 A. Well, there were off -- I recall off to my left I

1 saw another individual, a Hells Angel, who was wearing a  
2 long-sleeved shirt over -- under his vest, his Hells Angels  
3 vest, and he teamed up with Villagrana at some point, I  
4 recall seeing them together, and Villagrana was shooting his  
5 gun down the casino.

6 Q. In what direction?

7 A. He was shooting this way.

8 Q. So what -- how does this gun fight between the Vago  
9 with the gun and Villagrana -- and what happens?

10 A. Well, the Vago disappeared from my view. I assumed  
11 he ran away, but he disappeared from my view, I didn't see  
12 him after that.

13 Q. Did that end that gun fight?

14 A. It did, yes, sir.

15 Q. So you then said that Villagrana teams up or gets  
16 back with this other --

17 A. Yes, sir.

18 Q. -- Hells Angel. And do you see Villagrana shooting  
19 some more?

20 A. Yes, I did, and then at one point he stepped out  
21 from between the slots --

22 MR. HOUSTON: Your Honor, who is "he," please?

23 THE WITNESS: Oh, I'm sorry, Mr. Villagrana. He  
24 stepped out from the slots here, and he raised his gun to

1 fire. And the gun went click, and he turned and ejected the  
2 magazine, placed another magazine back into the gun, and  
3 started firing again.

4 BY MR. STEGE:

5 Q. Well, do you know if it was the -- did you see him  
6 grab a new magazine from somewhere, or could it have been the  
7 same magazine?

8 A. I -- I recall it being a new magazine.

9 Q. And could you tell who he was shooting at?

10 A. No, sir, I could not see who he was shooting at.

11 Q. And how did you know that it went click?

12 A. I heard it.

13 Q. What happened next?

14 A. I recall after that Mr. Villagrana was walking --  
15 just kind of walking in and out of the slots, pointing his  
16 gun, sometimes he'd point it on the ground and then sometimes  
17 he would point it up. He disappeared from my view  
18 momentarily, because my view was obstructed by the slot  
19 machines. And then at some point I saw the Hells Angel who  
20 was wearing the long-sleeved shirt, I saw him fall to the  
21 ground.

22 Q. And could you tell what he was doing before he fell  
23 to the ground?

24 A. No, I couldn't, I couldn't see, because my view had

1     been obstructed by what was going on over there by some of  
2     the slot machines.

3             Q.    Could you tell what Villagrana was doing before this  
4     man, the long-sleeved Hells Angel, falls down?

5             A.    No, I couldn't see.  That's when he disappeared from  
6     my view behind the machines, I couldn't see exactly what was  
7     going on over there.

8             Q.    Did you hear any gunshots around this time?

9             A.    I heard gunshots the entire time, all the way up  
10    until the police arrived.  So yes, I'd say yes, I heard  
11    gunshots.

12            Q.    And can you give us an idea of how many gunshots you  
13    heard?

14            A.    I -- I really couldn't, I was not counting gunshots  
15    at that time.

16            Q.    What were you doing at that time when you saw a  
17    long-sleeved Hells Angel go down?

18            A.    Well, I was standing -- I was still standing in the  
19    pit area, and there were a lot of people who were underneath  
20    those tables in the pit and they were pretty hysterical.  And  
21    so as I was watching those -- those gentlemen, I would tell  
22    people in the pit area which way they -- who were hiding  
23    underneath the table, excuse me, I was telling people who  
24    were hiding underneath the table which way the guys that were