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No. 64515

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Tracie K. Lindeman  
Clerk of Supreme Court

v.

Respondent.

APPELLANT'S APPENDIX VOLUME V PAGES 916-1091

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**ANTHONY CASTANEDA**  
**Case No. 64515**

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1 house, give each room the letter designator, photograph the  
2 room, and if there is obvious evidence that's out, we'll  
3 photograph that and place -- or go back later as needed.

4 Q Now as one of the photographers, are you told  
5 what type of case it is before you start taking pictures?

6 A Usually there's a briefing prior to entry at a  
7 search site, so I have a pretty good idea of what -- and then  
8 there's also the search warrant which I try to read every --  
9 at every site.

10 Q Okay. And does the briefing and reading of the  
11 search warrant help you determine what pictures you're going  
12 to take at a location?

13 A Most sites are the same amount of pictures  
14 taken; but, yes, that actually gives a better idea of what --  
15 what to be looking for.

16 Q Okay. Thank you. So speaking of the house at  
17 2205 Beverly Way, what type of information do you remember  
18 having prior to taking any photographs at that location?

19 A It was a search warrant for the Internet Crimes  
20 Against Children's task force, so it was believed to have  
21 child pornography either on the computers or somewhere within  
22 the residence.

23 Q So were computers one of the things that you  
24 were interested in taking photographs of?

25 A Yes.

1           Q     But do you only take pictures of those items or  
2 do you take pictures of the rest of the house as well?

3           A     We take pictures of everything.

4           MR. CHEN: Okay. Now, Your Honor, may I approach the  
5 witness, please?

6           THE COURT: Yes.

7           MR. CHEN: Court's indulgence. If I could approach  
8 again, please?

9           THE COURT: You may.

10          BY MR. CHEN:

11           Q     I'm going to show you State's Proposed Exhibits  
12 32, 35 -- sorry -- 32, 34, 35, 37, 38, 39, 41 through 70, 72,  
13 73.

14           A     Okay.

15           Q     If you could please just take a moment to thumb  
16 through these images and tell me if you recognize them after  
17 you've thumbed through them.

18           A     Yes.

19           Q     And what are these images?

20           A     These would be the search -- these would be the  
21 photographs from the search warrant.

22           Q     Do these fairly and accurately depict the photos  
23 that you took on April 7th of 2010?

24           A     Yes.

25           MR. CHEN: Okay. I'd move for admission of State's

1 32, 34, 35, 37, 38, 39, 41 through 70, 72 and 73.

2 MR. WESTBROOK: Submitted.

3 MS. BALLOU: Actually, I'm sorry, can I just take a  
4 look at 73 because I didn't remember [inaudible]? Can I  
5 approach?

6 THE COURT: Yes.

7 MS. BALLOU: Okay. That's fine.

8 THE COURT: They'll be admitted.

9 (State's Exhibit 32, 34, 35, 37 - 39, 41 - 70, 72, 73  
10 admitted.)

11 MR. CHEN: Thank you, Your Honor. Permission to  
12 publish as well, Your Honor.

13 THE COURT: Granted.

14 MR. CHEN: Thank you.

15 BY MR. CHEN:

16 Q You mentioned a moment ago that you also --  
17 someone works with you as you're taking photographs, correct?

18 A Correct.

19 Q And they take a log of the photographs that  
20 you're taking, correct?

21 A Correct.

22 Q And was that performed in this case as well?

23 A Yes.

24 Q And a log was kept to help you identify which  
25 photos --



1 A Correct.

2 Q -- are what?

3 MR. CHEN: And if I could actually approach the  
4 witness one more time, please, Judge?

5 THE COURT: You may.

6 BY MR. CHEN:

7 Q Ma'am, do you recognize this as well?

8 A Yes.

9 Q And what exactly is this?

10 A This is a photo log, and each number as it  
11 relates to the photo I've taken is documented and a brief  
12 description of the photos.

13 Q Okay. And is this the photo log that was taken  
14 or that was written in this particular case?

15 A Yes, it was.

16 Q All right. Would this log help you in  
17 testifying about the photographs you took on the day in  
18 question?

19 A Yes.

20 MR. CHEN: If I can have the Elmo, please.

21 THE CLERK: You do.

22 MR. CHEN: Thank you.

23 BY MR. CHEN:

24 Q So I'm going to just start with Exhibit now 34.  
25 Now I'll start with saying that there's an A listed here; is

1 that correct?

2 A Yes, there is.

3 Q Okay. And is this one of the room designators  
4 that you had mentioned?

5 A Yes.

6 Q And this helps you identify what picture you  
7 took, correct?

8 A Correct.

9 Q And according to the log, what is Room A  
10 depicting?

11 A What picture did you say -- I'm sorry -- did you  
12 say this was?

13 Q This is -- oh, you know what? Our numbers --  
14 I'm sorry -- are going to be different from your log. It is  
15 Court's Exhibit 34, however for your purposes this would be  
16 picture -- it looks like it would be picture 80 under your  
17 log.

18 A Yes.

19 Q Okay. And what is depicted for Room A?

20 A This was the exit photo after we completed our  
21 search of Room A. Previously photo 4 and 5 designate that as  
22 the kitchen --

23 Q Okay.

24 A -- according to my log.

25 Q So State's Exhibit 34 is the kitchen, correct?

UNCERTIFIED ROUGH DRAFT

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1 A Correct.

2 Q Then I'm going to refer to State's 35. This  
3 would be 79?

4 A Correct.

5 Q And what is depicted here?

6 A This is Room B. This is also an exit photo, but  
7 it connects back to Photo No. 6, which is the dining room.

8 Q Exhibit 37, and on your log -- I'm sorry -- this  
9 would be considered 19?

10 A Correct.

11 Q And what is this a picture of?

12 A It is in Room D of the desktop computer.

13 Q And what exactly was in Room D according to your  
14 notes?

15 A Room D was the west living room and this was a  
16 computer desk with a computer on it.

17 Q Okay. I'm next referring to 38. And this one  
18 would have been Number 10 on the log?

19 A Correct. The room --

20 Q What is depicted here?

21 A A Room C in the living room. It was a computer  
22 shuttle, and if that's picture 11 it would be -- looks like  
23 the close-up of the shuttle and possibly [inaudible].

24 Q Okay. And you mentioned this is in Room C,  
25 correct?

UNCERTIFIED ROUGH DRAFT

1 A Correct.

2 Q And now I have also State's Exhibit 36, which  
3 has already been admitted previously, and that would correlate  
4 to your Number 7 on your log. And what is Room C, please?

5 A The living room.

6 Q Now when you were in this house, do you recall  
7 this to be kind of like the main living area?

8 A As I recall, yes.

9 Q I move to 41. This would be 19 on your log?

10 A Yes.

11 Q What's depicted here?

12 A Desktop computer in Room D.

13 MR. CHEN: Court's indulgence.

14 BY MR. CHEN:

15 Q And basically so far all the photos that I've  
16 shown are just photos that you took on the day in question,  
17 correct?

18 A Correct.

19 Q And then they were documented as to where they  
20 were, correct?

21 A Correct.

22 Q And now I'm going to jump to just one other  
23 specific photo. Actually, let's move to -- I'm going to show  
24 this specific one. It's State's Exhibit 70, okay. And  
25 according to your log it would be referring to 57, please.

UNCERTIFIED ROUGH DRAFT

1 What exactly did you take a photo of here?

2 A It was in Room E, and it was a Fujitsu hard  
3 drive.

4 Q Fujitsu hard drive, okay. And what kind of room  
5 is Room E according to your log?

6 A The bar area.

7 Q And you also, I assume, take a larger photo of  
8 that room as well?

9 A Yes, Photo 23.

10 Q All right. And then you also -- I'm showing you  
11 69 as well. And what exactly is this a picture of? This  
12 would have been 56 on your log. I'm sorry.

13 A Again, Room E. This would be the flip side of  
14 the Fujitsu hard drive.

15 Q Okay. For the sake of time I'm just going to  
16 refer you to two more. State's Exhibit 50 here. And this one  
17 according to your log would refer to State's Exhibit -- I'm  
18 sorry -- to 31 on your log, please?

19 A Yes. Room H, the front southwest bedroom.

20 Q Okay. And furthermore, 51, and on your log it  
21 would be 32, please.

22 A The HP laptop in Room H, a side rearview photo  
23 of it.

24 Q So is that a closer view basically?

25 A Correct.

UNCERTIFIED ROUGH DRAFT

1 Q And HP laptop, are you familiar if that's  
2 Hewlett Packard brand?

3 A Yes, I'm sorry. Yes.

4 MR. CHEN: Court's indulgence. I will pass the  
5 witness at this time. Thank you, Your Honor.

6 THE COURT: Cross.

7 MS. BALLOU: Court's indulgence for just a second.  
8 If I may approach your clerk?

9 THE COURT: Yes.

10 MS. BALLOU: I think these would be Defense Exhibits  
11 B and C?

12 THE CLERK: B and C.

13 CROSS-EXAMINATION

14 BY MS. BALLOU:

15 Q Is it Officer Partridge?

16 A Nope. Just Photographer Partridge.

17 Q Okay. Ms. Partridge then. So --

18 MS. BALLOU: Your Honor, if I may approach?

19 THE COURT: Yes.

20 MS. BALLOU: Okay.

21 BY MS. BALLOU:

22 Q I'm showing you what's been previously admitted  
23 as State's 36 -- 36, yes. Do you recognize that?

24 A Yes.

25 Q And showing you what are Defense Proposed B and

UNCERTIFIED ROUGH DRAFT

1 C, which I've previously shown to Counsel. Do you recognize  
2 those?

3 A Yes, I do.

4 Q And do they accurately depict what you took  
5 photographs of?

6 A Yes.

7 MS. BALLOU: Okay. Permission -- I'm sorry. I'd ask  
8 -- I'd offer them for admission.

9 MS. ANTHONY: No objection.

10 THE COURT: B and C?

11 MS. BALLOU: Yes.

12 THE COURT: They'll be admitted.

13 (Defendant's Exhibit B and c admitted.)

14 MS. BALLOU: And permission to publish?

15 THE COURT: Granted.

16 BY MS. BALLOU:

17 Q So now I'm showing on the Elmo State's 36. And  
18 now I'm showing you Defense B. Does that appear to be a  
19 closer-up of something that was in State's --

20 A Yes.

21 Q Okay. And if you just look at your log it will  
22 help you out. That's your Log No. 13?

23 A Correct, yes.

24 Q Okay. And can you tell what that is?

25 A That is a wireless and Surf modem, so a stand-up

UNCERTIFIED ROUGH DRAFT

1 modem.

2 Q Okay. Now I'm showing you Defense C. Do you  
3 recognize that?

4 A Yes, I do.

5 Q Okay. That's from your Log No. 14?

6 A Correct.

7 Q Okay. And what is that?

8 A It is the rear of the modem and router.

9 MS. BALLOU: Court's indulgence. I don't think I  
10 have anything further.

11 THE COURT: Any redirect?

12 MR. CHEN: Yes, Judge. And if I could have just a  
13 quick moment with Defense counsel as well. May I proceed,  
14 Judge?

15 THE COURT: Yes.

16 REDIRECT EXAMINATION

17 BY MR. CHEN:

18 Q Now, Ms. Partridge, when you were at the  
19 residence -- are you familiar with a diagram that was  
20 essentially done of the residence as well?

21 A Yes.

22 Q And that diagram would have been labeled as well  
23 with --

24 A Yes, it should be.

25 Q -- what rooms were which?

UNCERTIFIED ROUGH DRAFT



1 A Yes.

2 Q Now this diagram that you've seen -- and it's  
3 not too scale or professionally done in that regard, is it?

4 A No.

5 Q Okay. But it does give a general gist of kind  
6 of where things were located; is that correct?

7 A Yes.

8 MR. CHEN: May I approach the witness, Judge?

9 THE COURT: Yes.

10 MR. CHEN: If I could actually approach the clerk.

11 THE COURT: All right.

12 BY MR. CHEN:

13 Q I'm showing you State's Proposed Exhibits 32 as  
14 well as State's Proposed Exhibit 74. Can you just take a look  
15 and tell me if you recognize these items, please?

16 A Yes, yes, I do.

17 Q Okay. And what exactly are these items?

18 A This is a diagram --

19 Q I'm sorry. You're referring to this, State's  
20 Proposed 32, correct?

21 A Correct. It's a diagram of the residence, yeah.

22 Q Okay. And what exactly is depicted in State's  
23 Proposed 74?

24 A It is basically a labeling of each room  
25 corresponding with what it is.

UNCERTIFIED ROUGH DRAFT

1           Q     Now the letters that are depicted in State's  
2 Proposed 74, are those the same -- would these be the same  
3 letters that are referred to in the photographs that we were  
4 looking at earlier?

5           A     Yes.

6           Q     Okay. So if one were looking at the  
7 photographs, looking at State's Proposed 74 would give them a  
8 reference as to what room they were actually looking at?

9           A     Yes.

10          Q     Much like the log that you were referring to  
11 earlier?

12          A     Yes.

13          MR. CHEN: I move for admission of State's Proposed  
14 32 and 74, please.

15          MS. BALLOU: No objection.

16          THE COURT: They'll be admitted.

17                 (State's Exhibit 32 and 74 admitted.)

18          MR. CHEN: And if I could publish? May I publish,  
19 Your Honor?

20          THE COURT: Yes, you may.

21          MR. CHEN: Thank you. And I'll start with State's  
22 Exhibit 74.

23 BY MR. CHEN:

24          Q     And so, Ms. Partridge, for instance, it says A,  
25 kitchen. So if you -- if one were to look at the photos that

1 were previously admitted and saw the letter A, then they could  
2 find out that was the front of the kitchen, correct?

3 A Correct.

4 Q And B, the dining room, et cetera?

5 A Yes.

6 Q And showing State's 32. Although this is not to  
7 scale, this is the map that you were referring to, correct?

8 A Yes. Don't judge.

9 Q I see. And again there are letters depicted on  
10 this map; is that correct?

11 A Yes.

12 Q And would those letters go along with the  
13 letters that are on State's 74?

14 A Correct.

15 Q So, for instance, pointing at D right now. If I  
16 refer to D on the 74, it's the deck?

17 A Correct.

18 MR. CHEN: Pass the witness. Thank you, Your Honor.

19 THE COURT: Recross, I mean.

20 MS. BALLOU: Could I get the --

21 MR. CHEN: Photos?

22 MS. ANTHONY: Pictures?

23 MS. BALLOU: Yeah, pictures. Court's indulgence for  
24 just a moment. I need to approach your clerk and find a  
25 specific picture, Your Honor, in the State's exhibits.

UNCERTIFIED ROUGH DRAFT

1 THE CLERK: You have to look at them all?  
2 MS. BALLOU: Yeah. Thank you. I'm sorry.  
3 THE COURT: Jury, if you would like to stand and  
4 stretch and wake yourselves up, that might be a good time to  
5 do it. I see some eyelids kind of heavy there.  
6 MS. BALLOU: Would you mark this as Defense Exhibit  
7 D.  
8 MS. ANTHONY: State has no objection to its  
9 admission, Your Honor.  
10 THE COURT: Are you going to offer D?  
11 MS. BALLOU: Yes.  
12 THE COURT: State stipulated to its admission --  
13 MS. ANTHONY: Yes, Your Honor.  
14 THE COURT: -- it will be admitted.  
15 (Defendant's Exhibit D admitted.)  
16 MS. BALLOU: If I may approach the witness?  
17 THE COURT: You may.  
18 RECROSS--EXAMINATION  
19 BY MS. BALLOU:  
20 Q This has been marked as State's [sic] D. And  
21 that is on your log 75.  
22 A Okay.  
23 Q Does that appear to be the same room as in  
24 State's 46, which was on your log as Number 25?  
25 A Correct.

1 Q And is there any difference that you see in 46  
2 from Defendant's D?

3 A Yes. 46 was the entry photos. This is --

4 Q 75.

5 A -- 75, this is the exit photos. The laptop  
6 computer that was on the desk has been removed and it would  
7 appear the box was also.

8 MS. BALLOU: Permission to publish?

9 THE COURT: Granted.

10 BY MS. BALLOU:

11 Q So you said that State's 46 was the entry photo,  
12 which was on your log as Number 25?

13 A That is correct.

14 Q Okay. And now I'm showing you Defense D, that  
15 is your log 75 and you said that the computer had been removed  
16 and so had the box?

17 A Yes.

18 MS. BALLOU: Okay. And permission to approach again?

19 THE COURT: Granted.

20 MS. BALLOU: Thank you.

21 BY THE COURT:

22 Q I'm showing you State's 47 and 51, and I'm sorry  
23 I left the log up at the podium. State's 47 is your Item 26?

24 A Correct.

25 Q And 51, it is 32?

1 A Yes.

2 Q Would you have any way of knowing if that was  
3 the same computer just in different locations from your log?

4 A From my log? Yes.

5 Q Okay.

6 A Photo 25 --

7 Q Which is State's 47?

8 A I'm sorry. Actually Photo 26 designates it as a  
9 Dell laptop.

10 Q Your 32?

11 A My 32 designates it as a HP laptop.

12 Q Okay. So that is not the same computer. Okay.  
13 From your log would you be able to tell if you took a picture  
14 of Item 26 in a different location just from your photos or  
15 from your --

16 A I do not have any documentation of another Dell.

17 Q Okay.

18 A Correct.

19 MS. BALLOU: I have nothing further. This was yours.  
20 Was that admitted? I don't think I have anything further.  
21 Thank you.

22 THE COURT: Any redirect?

23 MR. CHEN: No redirect, Your Honor.

24 THE COURT: Thank you. May this witness be excused?

25 MR. CHEN: Yes, Your Honor.

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1 THE COURT: Thank you very much for your testimony.  
2 Counsel, approach?

3 (Off-record bench conference.)

4 THE COURT: All right. Ladies and gentlemen, we're  
5 going to be recessing for the evening. Tomorrow we cannot  
6 start until one o'clock because I have a morning calendar that  
7 will take me probably till about that time, so because I have  
8 that work in the morning we can't start until the afternoon.  
9 But we'll be here again in this courtroom. We may have to on  
10 Friday move to another courtroom, but tomorrow we'll be back  
11 here one o'clock. The marshal will let you know what time  
12 he'd like you to be here so because we plan on starting at one  
13 o'clock.

14 THE MARSHAL: 12:50.

15 THE COURT: He rules with an iron hand. Ten minutes  
16 to one o'clock, if you'll be out and ready to go. We'll try  
17 and be the same and ready for you to start taking testimony  
18 again. So ladies and gentlemen, we are taking an overnight  
19 recess.

20 During this recess it is your duty not to converse  
21 among yourselves or with anyone else on any subject connected  
22 with the trial or to read, watch or listen to any report of or  
23 commentary on the trial by any person connected with the trial  
24 or by any medium of information, including without limitation  
25 newspapers, television, the Internet or radio, and you are not

1 to form or express an opinion on any subject connected with  
2 this trial until it is finally submitted to you.

3 Good evening.

4 (Jury recessed at 4:52 p.m.)

5 THE COURT: All right. The record will reflect we  
6 are outside the presence of the jury. Are there any matters  
7 outside the presence?

8 MR. WESTBROOK: I have a motion to suppress, and then  
9 depending on how well that goes, a motion to dismiss. We just  
10 heard a person commit perjury under oath in this courtroom in  
11 front of everybody. She admitted to committing perjury,  
12 although I strongly suspect that the perjury was today and not  
13 at the preliminary hearing; but really it doesn't matter at  
14 this point. We know that at least at one point during this  
15 case she committed perjury.

16 Let's say that what she said directly and completely  
17 unambiguously on the stand is true today, and let's say that  
18 she lied at preliminary hearing, which she expressly said that  
19 she did. At that point we have a problem with the bind [sic]  
20 over itself. Under Goldsmith versus Sheriff, 85 Nevada 295,  
21 1965, it establishes that bind over can only be based upon  
22 legal and competent evidence, and that the standard for  
23 admissibility is exactly the same in a justice court as it  
24 would be in a district court. While there is a smaller  
25 standard for the burden of proof, obviously, being probable

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1 cause as opposed to beyond a reasonable doubt, that proof must  
2 be based on legally competent and admissible evidence.

3 We just had a witness here on the stand admit that  
4 she lied under oath at that hearing, therefore, the evidence  
5 that she gave at that hearing was not legal, it was not  
6 competent, and bind over cannot be based upon it.

7 Now there's another problem with that as well, and  
8 that's that her evidence, this admitted perjurer, is the basis  
9 for this entire case. This case started when she claimed to  
10 have found a thumb drive and then later claimed it belonged to  
11 my client and started an investigation. Police didn't  
12 question this, they didn't search anything involving her house  
13 or her computer. They just took it at face value and they got  
14 warrants to search based on her evidence to them.

15 She is now a known perjurer. This is not competent  
16 evidence and it cannot be relied upon by the State without  
17 subornation of perjury being the natural result. I don't see  
18 how this case can possibly continue given the fact that she's  
19 now an admitted perjurer.

20 I feel like the District Attorney's Office now has a  
21 conflict of evidence because they have now been a witness to a  
22 felony and, in fact, they would have a duty to prosecute, I  
23 would imagine. They should probably be excluded under ethical  
24 rules from both this case and whatever case comes against her  
25 as I assume her perjury under oath and her admission to it

1 won't just be let go.

2 THE COURT: All right. You know, perjury --

3 MR. WESTBROOK: Fruit of the poisonous tree.

4 THE COURT: --- as a crime, of course, requires that  
5 the -- that the matter be material. I don't find, frankly,  
6 that she's committed perjury. So you -- you know, it's fine  
7 you want to make your record; but I'm not making a finding  
8 that she committed perjury, and so if you would like to put --  
9 because basically I don't see that you've cited any authority  
10 for the basis that you get from the argument that she lied at  
11 preliminary hearing to a motion to suppress.

12 And what is it you want to suppress? Her testimony  
13 here today? Her testimony at the preliminary hearing? Of  
14 course her testimony at the preliminary hearing was only part  
15 of the evidence that would have been presented. So if you're  
16 looking to make a motion to suppress based upon testimony that  
17 your argument that the testimony was insufficient for bind  
18 over, I don't have enough evidence in front of me to determine  
19 whether there was insufficient evidence of the bind over  
20 because I haven't read the preliminary hearing transcript  
21 because there was no pretrial writ of habeas corpus, at least  
22 that I'm aware of, filed.

23 MR. WESTBROOK: I can be much more specific, and I  
24 can do it right now, and I actually do have legal authority  
25 cited, which I'll expand on. I'm not saying it's complete

1 because, obviously, this just happened and I certainly wasn't  
2 expecting it. I was expecting her to say the same thing that  
3 she's been saying.

4 THE COURT: Okay. But it's like three minutes to  
5 5:00.

6 MR. WESTBROOK: Well, if you'd like, Judge, we can  
7 table this and I can write it for you.

8 THE COURT: And -- and I'd like it in writing.

9 MR. WESTBROOK: Sounds great. I'll do that. Thank  
10 you, Judge. Just wanted to preserve my record  
11 contemporaneously.

12 THE COURT: Great. Great. And so we'll take it up  
13 tomorrow morning. You can -- I prefer to have that on my desk  
14 by -- since we're going to start at 1:00, if you can have it  
15 to me by noon.

16 MR. WESTBROOK: I can do that.

17 THE COURT: Because, of course, I always work through  
18 lunch.

19 MS. ANTHONY: Are we going to have to respond to it  
20 as well because that won't give me enough time?

21 THE COURT: Well, you won't be able to do that.

22 MR. WESTBROOK: I'll send it to them as soon as it's  
23 done, Judge.

24 THE COURT: Yes.

25 MR. WESTBROOK: And I don't mind [inaudible]

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1 response.

2 MS. ANTHONY: But if you send it at noon, I mean, I  
3 won't be able to -- I'll do my best.

4 THE COURT: I need to be able to see it at least by  
5 noon. So, like I say, I -- I would have to see the  
6 preliminary hearing transcript in its entirety. I mean, I can  
7 look that up and obviously I assume if one was filed it's  
8 there.

9 MS. BALLOU: I have a copy here if you want to take a  
10 copy of it. You can make a copy if you want a copy.

11 THE COURT: Hopefully it was shorter than the --

12 MR. WESTBROOK: Much shorter.

13 THE COURT: -- testimony of the photographer.

14 MR. WESTBROOK: Oh, no. I'm sorry. It was actually  
15 two -- two days because there was -- it was continued.

16 MS. ANTHONY: Continuation, yeah. April 11th and  
17 April 14th of 2011.

18 THE COURT: Well, I can read pretty quickly, it's  
19 just that this is not my only case.

20 MR. WESTBROOK: I know, Your Honor. And it's also  
21 that awful [inaudible] nonsense, unless you guys have a better  
22 copy of it. Do you just have the four-square tiny print one?

23 THE COURT: Oh, yeah.

24 MR. WESTBROOK: Your Honor, I'll try to get it to  
25 everybody as soon as I possibly can. Obviously we got a lot

1 on our plate as well, probably not as much as Your Honor has,  
2 but we'll try to get -- I'll try to get it written up as soon  
3 as possible, tonight if I can, and I'll send it to everybody.

4 THE COURT: All right. Thank you.

5 MR. WESTBROOK: Thank you.

6 MS. ANTHONY: The only response -- I mean, obviously  
7 we'll argue that tomorrow. My response -- and I just want to  
8 make it so we can finish it tomorrow. Obviously, he's going  
9 the full route she committed perjury and all that. Depending  
10 on how you rule tomorrow, obviously I'm going to be asking  
11 that he not call her that in closing argument. He obviously  
12 has -- can argue facts and things that happened; but calling  
13 her a perjurer is, you know, going to cause issues.

14 THE COURT: Well, yes.

15 MR. WESTBROOK: That's a legal determination, I agree  
16 with that, Judge. I won't say the word "perjury."

17 THE COURT: Yes. I mean, you would -- I would expect  
18 you to confine your oral arguments in close to the evidence  
19 and I'll expect you to do that. Obviously if there's improper  
20 argument, I would expect if either side made improper argument  
21 that there would be a contemporaneous objection and I would  
22 rule upon that at the time.

23 MR. WESTBROOK: And, Your Honor, also [inaudible] for  
24 the State as well, obviously there wouldn't be a complaint  
25 with me arguing that she lied under oath. I would assume it's

1 just the word "perjury" and the fact that that's loaded and  
2 also a legal determination. Am I right on that with  
3 everybody?

4 THE COURT: Well, you can argue from the evidence  
5 there and make your argument that she -- if you want to argue  
6 that she lied. I think she used that testimony or she used  
7 that term in response to you, so she's characterized it like  
8 that, so I don't think it would be improper under the  
9 circumstance because she used that term for you to use it as  
10 well. You know, there is plenty of case law and using that  
11 term in closing argument is you walk a dangerous line, but  
12 because she used it, I don't see a problem with using it. But  
13 I would not expect you to be, yes, saying that she's a  
14 perjurer because that is a legal term. The jury is not here  
15 to determine perjury and I'm not going to allow that.

16 MR. WESTBROOK: And I would never do it anyway; but I  
17 appreciate the Court's finding and I will abide by that -- by  
18 that order. Thank you.

19 THE COURT: Thank you, Counsel. All right. Anything  
20 else outside the presence?

21 MS. ANTHONY: No, Your Honor.


22 THE COURT: All right. We'll be in recess till  
23 tomorrow at one o'clock.

24 (Court recessed for the evening at 5:01 p.m.)

25

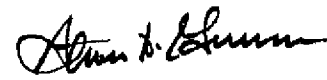
ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON  
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT



CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA,

Plaintiff,

vs.

ANTHONY CASTANEDA,

Defendant.

CASE NO. C272657  
DEPT NO. V

**TRANSCRIPT OF  
PROCEEDINGS**

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 3**

WEDNESDAY, JULY 10, 2013

**APPEARANCES:**

For the State:

ALEXANDER G. CHEN, ESQ.  
Deputy District Attorney  
MICHELLE ANTHONY, ESQ.  
Deputy District Attorney

For the Defendant:

P. DAVID WESTBROOK, ESQ.  
Deputy Public Defender  
ERIKA D. BALLOU, ESQ.  
Deputy Public Defender

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TRANSCRIBED BY: KARR Reporting, Inc.

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## I N D E X

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1 LAS VEGAS, NEVADA, WEDNESDAY, JULY 10, 2013, 1:19 P.M.

2 \* \* \* \* \*

3 (Outside the presence of the jury panel.)

4 MR. WESTBROOK: Good morning, Your Honor. David  
5 Westbrook on behalf of Mr. Castaneda. Mr. Castaneda is here.

6 THE COURT: All right. Good morning -- or afternoon.  
7 This is State of Nevada versus Anthony Castaneda, Case No.  
8 C11272657. The record will reflect the presence of the  
9 Defendant with his counsel, Deputy District Attorneys  
10 prosecuting the case, all officers of the Court, and the  
11 absence of the jury and the two alternates.

12 Will Counsel so stipulate?

13 MS. ANTHONY: Yes, Your Honor.

14 MR. WESTBROOK: Yes.

15 THE COURT: Is there a motion?

16 MR. WESTBROOK: There is not quite a motion yet, Your  
17 Honor. I think I have a motion, but I have to proofread it.  
18 I was hoping to do that at a break and then maybe turn it in;  
19 and assuming I didn't make a gigantic error, and then my  
20 suggestion was going to be that we sit on this today, do our  
21 witnesses, and give the State some time to digest it because I  
22 don't think it's fair to hit them with something they haven't  
23 seen yet and expect them to argue it.

24 THE COURT: Well, all right. Well, I haven't -- you  
25 know, I had told you if you wanted to file one you needed to

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1 file it -- get it to me by noon.

2 MR. WESTBROOK: I understand, Your Honor. I  
3 apologize.

4 THE COURT: And so -- because I have no time to read  
5 it. I have something like 40 motions on Friday's calendar,  
6 and I've been working, you know, after I finish trial, I then  
7 go into my chambers and work till -- like last night 8:00, and  
8 then I go home and do my criminal calendar until 10:30, and  
9 then I go to bed and come in here at 7:00 to work some more,  
10 and so there's no time left. I had had some time carved out  
11 for you for that. We still -- I don't -- you know, there's  
12 only so much of me.

13 MR. WESTBROOK: I understand, Your Honor, and I can  
14 certainly empathize and sympathize.

15 THE COURT: Since I'm sure there's only so much of  
16 you too.

17 MR. WESTBROOK: Yeah. Increasingly less of me. I  
18 actually lost five pounds this week, it was wonderful.

19 THE COURT: Congratulations.

20 MR. WESTBROOK: So thank everybody for stressing me  
21 the hell out. But five pages, it's five pages, double-spaced,  
22 12 point. I don't expect anyone to read it right this second.  
23 You know, I have to read it very quickly.

24 THE COURT: Whenever you want to file it then, you  
25 know, I will try to read it.

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1 MR. WESTBROOK: Okay. And I'll do that at a break.  
2 THE COURT: Okay.  
3 MR. WESTBROOK: Thank you, Judge.  
4 THE COURT: Anything else outside the presence?  
5 MR. WESTBROOK: The stipulation.  
6 MR. CHEN: The stipulation.  
7 MS. BALLOU: Oh, yeah, there's a new stipulation.  
8 MR. WESTBROOK: We just added some slight wording to  
9 the stipulation to make it more clear.  
10 MS. ANTHONY: And I believe this is the stipulation  
11 that just added we can read to the jury, Your Honor.  
12 THE COURT: All right. And did you want me to do  
13 that first thing, the stipulation?  
14 MS. ANTHONY: We can -- yes, that would probably be  
15 best.  
16 MR. WESTBROOK: Yes.  
17 MS. ANTHONY: Sorry. We did not file it.  
18 THE COURT: Okay. We'll file it in open court.  
19 MR. WESTBROOK: And this will replace any prior  
20 copies of stipulation that might have been filed.  
21 MS. BALLOU: Well, I don't know it replaces it. I  
22 think it supplements.  
23 MS. ANTHONY: No.  
24 MS. BALLOU: And it's one that can be read to the  
25 jury.

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1 MS. ANTHONY: That's correct.

2 MR. WESTBROOK: Okay.

3 THE COURT: Are there just -- there are four copies,  
4 is that what --

5 MS. ANTHONY: Yes, they're all the same. We just had  
6 copies and signed them all.

7 THE COURT: Okay. All right. We're ready to bring  
8 the jury in?

9 MS. ANTHONY: Yes, Your Honor.

10 THE COURT: Does anyone wish to invoke the  
11 exclusionary rule?

12 MS. ANTHONY: Yes, Your Honor.

13 MR. CHEN: Yes, Your Honor.

14 THE COURT: All right. Anyone who is going to be  
15 called as a witness in this matter, please wait in the hall.

16 MR. WESTBROOK: Is it possible for me to get a copy  
17 of that file structure exhibit that was just turned in?

18 MS. ANTHONY: The one I just marked?

19 MR. WESTBROOK: Yeah.

20 MS. ANTHONY: He has them, but I'm sure we can do it  
21 at a break.

22 (Jury panel reconvened at 1:23 p.m.)

23 THE COURT: Please be seated. Good afternoon, ladies  
24 and gentlemen. How are you today? Are you surviving with the  
25 fire smoke? Everybody smells like they've been camping.

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1 Okay. Well, it's not -- it doesn't seem like it's as bad  
2 today as it was yesterday. I don't smell it in the courtroom  
3 right now, but we'll do our best. All right.

4 Ladies and gentlemen, this is a continuation of State  
5 of Nevada versus Anthony Castaneda. Counsel will stipulate  
6 that all members of the jury are present, as well as the two  
7 alternates?

8 MS. ANTHONY: Yes, Your Honor.

9 MR. WESTBROOK: Yes, Your Honor.

10 THE COURT: All right. And State may call its next  
11 witness.

12 MR. CHEN: Thank you, Your Honor. State would call  
13 Vicente Ramirez, please.

14 VICENTE RAMIREZ, STATE'S WITNESS, SWORN

15 THE CLERK: Please be seated. And please state your  
16 name and spell it for the record.

17 THE WITNESS: First name is Vicente, that's  
18 V-I-C-E-N-T-E; last name is Ramirez, that's R-A-M-I-R-E-Z.

19 DIRECT EXAMINATION

20 BY MR. CHEN:

21 Q Good afternoon, sir.

22 A Hello.

23 Q Sir, how are you employed?

24 A I'm employed with the Las Vegas Metropolitan  
25 Police Department.

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1           Q     And what capacity are you employed with Las  
2 Vegas Met?

3           A     I'm a detective in the Crimes Against Youth and  
4 Family Bureau.

5           Q     How long have you been a detective with that  
6 particular bureau?

7           A     November of '98, so 13 years.

8           Q     And what exactly type of crimes do you  
9 investigate in that department?

10          A     Child sexual exploitation.

11          Q     Oftentimes are those involving computers? Are  
12 they crimes that you're investigating involve the use of a  
13 computer in one way or another?

14          A     Yes.

15          Q     Now are you also familiar with computer  
16 examinations and analyzing other people's computers?

17          A     Yes.

18          Q     Are you trained to do that?

19          A     Yes.

20          Q     What type of training have you undergone to be  
21 in your type of position?

22          A     I'm in the Internet Crimes Detail, so we  
23 basically do investigations and we also do computer forensic  
24 analysis. So they send us to computer forensic classes, which  
25 are pretty much -- one of them is called EnCase, and that is

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1 spelled capital E, lower case n, capital C-a-s-e; and the  
2 other one is Forensic Toolkit. Those are the two primary  
3 forensic softwares that we use.

4 Q Okay. So you basically get training on how to  
5 use the software?

6 A Yes.

7 Q Okay. And in your position as a detective on  
8 this unit, how many computers total would you say you've  
9 analyzed over your --

10 A Well over a thousand.

11 Q Well over a thousand?

12 A Yes.

13 Q Okay. Now I'd like to, in general, talk about  
14 this -- about forensic analysis or computer forensic analysis.  
15 In general, when you want to examine a digital device, whether  
16 it be a computer or a memory stick or any type of device, do  
17 you follow a certain procedure?

18 A Yes, we do.

19 Q Generally, what type of procedure do you follow  
20 in order to examine that device?

21 A Basically we try to make sure that the device  
22 that we're going to examine stays in the same state as we  
23 found it, so we use what's called write blockers. It's a  
24 hardware write blocker which will get connected from my  
25 forensic machine to the device I'm going to examine.

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1           Q     When you say "your forensic machine," are you  
2 referring to a laptop or a computer that you use?

3           A     Yes. If I'm on the field I use a laptop that I  
4 have my forensic software on.

5           Q     Okay. And the forensic software would be  
6 something like EnCase; correct?

7           A     EnCase, correct.

8           Q     Now you mentioned a write blocker. Is that an  
9 actual physical device then?

10          A     Yes.

11          Q     And can you describe what a write blocker looks  
12 like?

13          A     Write blocker is just a -- looks like -- just a  
14 square wallet-type looking device. One side will have  
15 connectors to where it goes to the drive that I'm going to  
16 examine and the other side has data cables that will go to my  
17 computer.

18          Q     So if I have this correct then, you have your  
19 laptop and the --- there will be wires plugged into your  
20 laptop, and then that's connected to this wallet-looking  
21 device, and that device is then connected to whatever you're  
22 trying to analyze?

23          A     Correct.

24          Q     All right. What's the purpose of a write  
25 blocker?

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1           A     The write blocker is just pretty much just what  
2 it says. It makes sure that information only feeds to me, but  
3 no information feeds back and the evidence or the device that  
4 I'm examining does not get written to, does not get touched,  
5 nothing gets changed.

6           Q     Okay. So essentially you're saying that you  
7 won't be able to change whatever device you're trying to look  
8 at?

9           A     That's correct.

10          Q     And you won't be able to move files within that  
11 device either?

12          A     No.

13          Q     Now when you're examining the digital device, do  
14 you examine everything through looking at your laptop?

15          A     Yes.

16          Q     And what exactly appears on your laptop when you  
17 have a digital device connected to it?

18          A     Once -- once I hook it up and they call -- they  
19 call acquire for a preview, I won't be looking at it like a  
20 regular computer desktop. It will actually show me the raw  
21 files. So when I look at it on this side, it will show me the  
22 structure of all the program files; and then on my -- on my  
23 viewer it will show me -- if I'm in table view it will just  
24 show me all the structure of the files. If I'm in gallery  
25 view, it will show me thumbnails of what's on that computer as

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1 far as graphics.

2 Q Can you describe what a thumbnail is?

3 A Thumbnail is just a small picture of a -- of a  
4 image of what's on the computer. It's not a full-size  
5 picture. It's just a small digitized picture.

6 Q So, for instance, if you were looking for  
7 photographs on a digital image, will your software pull the  
8 photographs from whatever device you're looking at and show  
9 them on your computer?

10 A Yeah, it will just show it to me, yeah.

11 Q Okay. And then you can scroll through them?

12 A Yes.

13 MR. CHEN: Judge, may I approach the witness?

14 THE COURT: Yes.

15 BY MR. CHEN:

16 Q Now I'm showing you what's been marked as  
17 State's Proposed 77. Do you generally recognize what this is?

18 A Yes.

19 Q Okay. And just from looking at this, what is  
20 depicted here?

21 A It's just regular, you know, scenery of flowers  
22 and background.

23 Q Do you see different thumbnails though?

24 A Yes.

25 Q And thumbnails, as you mentioned, those are

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1 small pictures, correct?

2 A Yes.

3 Q Now with the software that you use in EnCase, do  
4 the images generally show up such as what we have here in  
5 State's Proposed 77; do they show up similarly on your  
6 computer?

7 A Yeah, and that would be my gallery view.

8 MR. CHEN: Your Honor, I'm not going to move for  
9 admission of State's marked 77, but I have shown it to Defense  
10 counsel, and I don't believe there's an objection to having it  
11 published just for demonstrative purposes only.

12 THE COURT: All right. And, ladies and gentlemen,  
13 what that means is this isn't a piece of evidence. It's just  
14 to demonstrate something as sort of a visual aid.

15 MR. CHEN: May I publish, Your Honor?

16 THE COURT: Yes.

17 MR. CHEN: Thank you.

18 BY MR. CHEN:

19 Q So, Detective Ramirez, essentially here we see  
20 four different photographs, correct?

21 A Correct.

22 Q And when you pull images from a -- a device that  
23 you're looking at, you mentioned that there's a gallery view.  
24 Would the pictures show up similarly to this?

25 A Yes.

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1 Q And then could you actually click on different  
2 images to get larger versions of it?

3 A Yes.

4 Q Okay. Now in the process of conducting a  
5 forensic analysis, are there also certain checks and balances  
6 that you go through to insure that the information that you're  
7 receiving is accurate?

8 A Typically we use other -- like I said, there's  
9 other software we use, and once -- once the files are acquired  
10 then, of course, it's verified also. So the program actually,  
11 once we're acquiring the file, it will give me an acquisition  
12 hash and then after -- after it's already acquired it, it will  
13 give me a verification hash; and those two need to match to  
14 show that that is a true file and it is exactly the copy of  
15 the drive that I'm imaging.

16 Q Just because I don't know as detailed of things  
17 about computers as you, I just want to make sure I understand  
18 this correctly. So are you saying that you make essentially a  
19 copy of whatever is on the hard drive that you wish to  
20 examine?

21 A On my own hard drive. So the -- whatever's  
22 examined will never be touched; and what it is, it's a digital  
23 fingerprint of that drive on my working drive.

24 Q Okay.

25 A So I'll use a drive, and that's the drive that

1 I'll do all my work on and searches and everything.

2 Q And you mentioned the digital fingerprints, so  
3 can you verify whether the fingerprints match up or not?

4 A Correct. It's pretty much just a digital  
5 fingerprint of that drive.

6 Q And that's how you know that the information on  
7 the piece that you wish to examine got onto your hard drive  
8 exactly in the same condition?

9 A Correct.

10 Q Now on February 18, 2010 -- I'd like to move to  
11 that time -- were you asked to examine a particular USB flash  
12 stick?

13 A Yes, I was.

14 Q Can you kind of describe what a USB stick is?

15 A USB stick is, you know, to a lot of people is  
16 just known as a thumb drive, and it's just a small, you know,  
17 like I said, stick, and it has a USB end to it, and it's  
18 something that, you know, you can just save your files. A lot  
19 of people use them at work, take the file, save it, take it to  
20 another drive or whatever; but it's just a little storage  
21 device.

22 Q Okay. So you can put any type of files on it?

23 A Yes.

24 MR. WESTBROOK: And, Your Honor, I'd like to just  
25 repeat my objection to the admissibility of a thumb drive in

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1 the same lines as yesterday, just for the record for  
2 contemporaneous objection. I think that the thumb drive  
3 should be excluded; and then I'll obviously submit since  
4 you've already overruled that objection.

5 THE COURT: Okay. And it continues to be overruled.

6 MR. CHEN: Thank you.

7 BY MR. CHEN:

8 Q And, Detective Ramirez, we're only talking in  
9 general about a thumb drive?

10 A Yes.

11 Q But does a thumb drive have other -- flash drive  
12 -- what other type of names does it have or is it commonly  
13 referred to?

14 A Pretty much commonly referred to as a thumb  
15 drive.

16 Q Thumb drive?

17 A Yeah.

18 Q Memory stick, would that be normal?

19 A Memory stick. It could be a memory stick, thumb  
20 drive, flash drive.

21 Q Okay. And is that something that gets plugged  
22 into the computer in order to put information on?

23 A Yes.

24 Q Okay. Now specifically on February 18, 2010,  
25 you did come into possession of a particular thumb drive,

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1 correct?

2 A Yes.

3 Q And you had a -- did you have a search warrant  
4 to look on that particular drive?

5 A Yes, I did.

6 Q And how was it that you got involved with  
7 examining that particular thumb drive?

8 A In my detail we can do investigations and  
9 forensic analysis, and Detective Tooley worked in our detail  
10 at that time and still does, so she came to me advising me  
11 that she needed to do a forensic exam on this thumb drive.

12 MR. CHEN: Okay. May I approach the witness, Your  
13 Honor?

14 THE COURT: Yes.

15 BY MR. CHEN:

16 Q Sir, I'm showing you what's already been  
17 admitted as State's Exhibit 16, as well as State's Proposed 75  
18 and 76. Do you recognize the images depicted here?

19 A Yes, I do.

20 Q And I'd like to start with State's Exhibit 16.  
21 What exactly is depicted in that photo?

22 A The background is the actual evidence envelope  
23 that we use to impound evidence, has Detective Tooley's  
24 writing on it, and the event number and the bar code that's  
25 used at the evidence vault; and then the drive that was

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1 examined is sitting on top of it.

2 Q Okay. Now you mentioned an event number. What  
3 exactly is an event number?

4 A Event number is just pretty much a case number.  
5 It will contain the year, the month, the day, and then the  
6 last four is typically the number of calls that have come in  
7 that day.

8 Q Now does every basically case that you get  
9 assigned to have an event number?

10 A Yes.

11 Q And is each event number specific to a  
12 particular case that you're working on?

13 A Yes.

14 Q And in this particular case was there an event  
15 number?

16 A Yes.

17 Q And could you please let us know what that event  
18 number was?

19 A That event number is 100208-1406.

20 Q And the flash drive that you examined, was it  
21 associated with this particular event number?

22 A Yes.

23 Q And is this, in fact, the flash drive that you  
24 eventually did a forensic analysis on?

25 A Yes.

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1 Q And in terms of State's Proposed 75 and 76,  
2 what's depicted in those?

3 A Basically what's depicted is just the file  
4 structure of the thumb drive.

5 Q So when you say "file structure," is that the  
6 internal or what the information that's on this particular  
7 thumb drive?

8 A Yes.

9 Q And are those fair and accurate depictions of  
10 the file structure?

11 A Yes.

12 Q 75 and 76?

13 A Yes.

14 MR. CHEN: I move for admission of State's Proposed  
15 75 and 76.

16 MR. WESTBROOK: No further objection.

17 THE COURT: Those will be admitted.

18 (State's Exhibit 75 and 76 admitted.)

19 MR. CHEN: Permission to publish, please.

20 THE COURT: Granted.

21 BY MR. CHEN:

22 Q So I'm going to start with State's 16. And so,  
23 Detective, this is the flash drive that you're referring to,  
24 correct?

25 A Correct.

1           Q     And what part of the flash drive in this picture  
2 would be inserted into the computer in order to put  
3 information on?

4           A     The USB side, so the silver side that's off of  
5 the orange.

6           Q     All right. And just so we're clear -- you can  
7 actually circle on the screen as well. So if you could just  
8 draw for us.

9           A     (The witness complied.)

10          Q     So the metal part is what's inserted into the  
11 computer?

12          A     Yes.

13          Q     Okay.

14          A     That's not the best circle there.

15          Q     That's okay. Now when you received or came into  
16 possession of this USB stick, what type of information were  
17 you looking for when you performed your forensic analysis?

18          A     Whenever I -- you know, once a -- a drive is  
19 acquired and everything, I typically look for any type of  
20 ownership, what's on the drive; just kind of scan the whole  
21 drive just to get an idea of what's -- what's held within that  
22 drive.

23          Q     Were you also looking for certain images in  
24 particular on that occasion?

25          A     Yes, I was.

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1 Q And what type of images were you looking for?  
2 Were you looking for child pornography?

3 A Yes.

4 Q Okay. Now you mentioned that you go through  
5 protocols of making sure that you perform a correct forensic  
6 analysis. Did you follow those protocols that you described  
7 earlier in this case as well?

8 A Yes.

9 Q And did you use a write blocker?

10 A Yes.

11 Q And was it successfully connected to your  
12 computer?

13 A Yes, it was.

14 Q Now I'm going to show you State's Exhibit 75.  
15 All right. When you're performing your forensic analysis is  
16 this initially what you see in your screen when you start to  
17 look at that USB drive?

18 A On -- on my software I'll see three different  
19 screens, three different what they calls panes, and this  
20 structure will be on my left pane, yes.

21 Q What other screens will you see at the time?

22 A On the right side is my view pane and that -- if  
23 I have it in the gallery view it will show the thumbnails. If  
24 I have it in the table view, it will just show all the  
25 structures of these files.

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1 Q Okay. So basically what's within these files,  
2 but just the titles of them, not the actual pictures?

3 A Right.

4 Q Now this says at the top of State 75, Imation  
5 USB flash drive, 8 gigabytes, and it has a serial number?

6 A Correct.

7 Q What does that mean?

8 A That's just telling me that the program has  
9 identified this -- this drive or when we acquire a lot of  
10 times we will input that information, that's the drive, and  
11 then we can put in Imation USB and then attach a serial number  
12 to it.

13 Q And is that the specific flash drive that you  
14 were analyzing on the day in question?

15 A Yes.

16 Q Now when I'm looking at this I see that there  
17 are folders to the far left-hand side and then there's folders  
18 that are more to the right-hand side. Do you see that?

19 A Correct.

20 Q So the folders to the left-hand side, what kind  
21 of folders are those?

22 A These little things right here are called home  
23 plates and that's just something that powers the program. So  
24 if I wanted to look at every single thing within I would --  
25 what's called home plating. I would home plate that. If I

1 want a specific folder and to, say, export it out or something  
2 then the box is where I would checkmark it. Now the folders,  
3 those are the folders that are contained in the drive.

4 Q Okay.

5 A So this is the drive folders, and this stuff is  
6 my working area where I can either home plate or checkmark or  
7 do whatever I need to do on that side.

8 Q So are you able to actually look at the  
9 information that's within those folders?

10 A Yes.

11 Q Now I see that one of the folders is labeled  
12 "adult," do you see that, Detective?

13 A Yes.

14 Q All right. Did you look within that folder?

15 A Yes.

16 Q And within that folder were there a number of  
17 other folders?

18 A Yes.

19 Q Are those folders the ones that are listed  
20 directly below Adult?

21 A Yes.

22 Q And it starts with, I believe, Accumulator  
23 [phonetic], and it goes all the way to pic zero two; is that  
24 correct?

25 A Correct.

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1           Q     So all of those would have been sub-folders of  
2 the Adult folder; is that also accurate?

3           A     Correct.

4           Q     Did you examine those folders, Detective?

5           A     Yes.

6           Q     And during your examination of those folders did  
7 you come across a number of photographs?

8           A     Yes.

9           MR. CHEN: And, Your Honor, I would ask to approach  
10 for just a moment with Counsel, if I could.

11          MR. WESTBROOK: Sure.

12                   (Off-record bench conference.)

13          THE COURT: All right. Ladies and gentlemen, we have  
14 to excuse you to do some work outside your presence and so I'm  
15 going to have the marshal take you to the jury room for --  
16 while we conduct some further business outside your presence.

17                But, ladies and gentlemen, during this recess for  
18 you, and we'll call you as soon as we can, it is your duty not  
19 to converse among yourselves or with anyone else on any  
20 subject connected with the trial or to read, watch or listen  
21 to any report of or commentary on the trial by any person  
22 connected with this trial by any medium of information,  
23 including without limitation newspapers, television, the  
24 Internet or radio, form or express any opinion on any subject  
25 connected with this trial until it is finally submitted to

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1 you.

2 (Jury recessed at 1:49 p.m.)

3 THE COURT: All right. The record will reflect we're  
4 outside the presence of the jury.

5 MR. CHEN: And Detective Ramirez is still with us,  
6 Your Honor, just for the record.

7 THE COURT: Yes.

8 MR. CHEN: Basically before I got into the line of  
9 questioning that I wanted to just get clarification from the  
10 Court based on a prior discussion that we had at the beginning  
11 of this trial about whether or not the State was going to be  
12 able to talk about any other images that were found on the  
13 flash drive or any of the computers.

14 What I indicated to the Court was that my intention  
15 was to ask the detective about 56 images which he bookmarked.  
16 I was going to talk -- say that they were pornography, but I  
17 was not going to mention that those were, in fact, what he  
18 believed to be child pornography; and then based upon the 56  
19 images, he was going to do further investigation; and then we  
20 were only going to talk about the nine images which are  
21 charged in this case, and I basically wanted to bring it to  
22 the Court's attention prior to me doing so, and so that's  
23 where we left off.

24 THE COURT: Okay. And so at the discussion at the  
25 bench I indicated because Defense has -- has voiced a concern

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1 that he doesn't want the jury speculating that there were many  
2 other child pornography images. And I thought that we had  
3 resolved that we would say, okay, the software bookmarked 56  
4 images; and then from there then what?

5 MR. CHEN: From there he examined nine that he  
6 determined to be --

7 THE COURT: Child pornography.

8 MR. CHEN: -- child pornography.

9 THE COURT: Okay. But then Defense counsel indicated  
10 that it was his intent to say: So, you only found nine --

11 MR. WESTBROOK: No, that's what Ms. Thomas said that  
12 I would say.

13 THE COURT: I thought that you said you --

14 MS. ANTHONY: No.

15 THE COURT: -- wanted to ask on cross-examination  
16 what?

17 MR. WESTBROOK: Your Honor, first of all, I don't  
18 think that that was our agreement at all that they would be  
19 allowed to say 56 images. Here's the issue --

20 THE COURT: It wasn't an agreement. It was my  
21 ruling.

22 MR. WESTBROOK: It was a ruling. I didn't think that  
23 was the ruling either, I'm sorry.

24 THE COURT: All right. Go ahead.

25 MR. WESTBROOK: The idea of saying -- first of all,

1 since we have the witness here I'd like to ask: Is the EnCase  
2 software designed only to look for child pornography images?

3 THE WITNESS: No.

4 MR. WESTBROOK: Okay. What is it designed to look  
5 for?

6 THE WITNESS: Any type of case I'm looking at,  
7 whether it be a vice case, fraud case. All it does is it just  
8 provides a platform for me to look at that drive in a clean  
9 environment so that that evidence stays in the normal state  
10 and never gets touched.

11 MR. WESTBROOK: Do you put parameters into it as to  
12 what to search for?

13 THE WITNESS: If I'm doing word searches, key word  
14 searches, yes.

15 MR. WESTBROOK: Okay.

16 THE WITNESS: But typically, like, when I was showing  
17 you the structure where I said the home plate, if I home plate  
18 that, it will give me every single thing that's on that drive.  
19 So if I'm looking -- for instance, this type of case I'm  
20 looking more for graphics than anything else, so I'll put it  
21 in the gallery view and look at all of the graphics that are  
22 on that computer; and then that's when I bookmark what I feel  
23 is substantial in the case or not.

24 MR. WESTBROOK: So you looked at -- out of all the --  
25 and how many images were on this drive total? Like 1000 or

1 2000 or [inaudible]?

2 THE WITNESS: I couldn't tell you, like, without  
3 actually pulling the drive back up; but you got to remember  
4 there's also graphics, which even means those little icons  
5 that you get from program files and --

6 MR. WESTBROOK: I know, I know.

7 THE WITNESS: -- just a whole bunch of --

8 MR. WESTBROOK: Would it be close to say thousands?

9 THE WITNESS: Over thousands, yeah.

10 THE COURT: Okay. All right.

11 THE WITNESS: There's typically 20,000 or plus, and  
12 this is only 8-gig, so I would say, you know, 25,000 roughly,  
13 right around there.

14 MR. WESTBROOK: Okay. And of all different types;  
15 some of them are, like, Windows resident graphics?

16 THE WITNESS: Yeah.

17 MR. WESTBROOK: When you get a toolbar and you open  
18 it up, there's that little blue thing at the top?

19 THE WITNESS: Yeah.

20 MR. WESTBROOK: Here's my issue, Your Honor. I think  
21 he just described it perfectly. A human being looked at these  
22 images and determined by looking at them that 56 looked like  
23 child pornography, correct.

24 THE WITNESS: Correct.

25 MR. WESTBROOK: The jury will be left with the

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1 assumption that there was more child pornography on that disk  
2 than what is being presented and charged today, and they might  
3 get the idea because they all watch television that some  
4 lawyer trick kept it out by some technicality, or there might  
5 be -- this might just be the tip of the iceberg. And there's  
6 no reason for it because it would also be accurate -- and I'd  
7 like you, Detective Ramirez, to correct me if I'm wrong --  
8 would it be accurate to say that your investigation and the  
9 EnCase software reviewed all of the images on the disk? I  
10 mean, the EnCase reviews a lot of [inaudible] when you plug it  
11 in, right?

12 THE WITNESS: When I -- yeah, if I pull up the  
13 gallery view, yeah, it will pull everything up.

14 MR. WESTBROOK: Okay.

15 THE WITNESS: But I only --

16 THE COURT: It doesn't review them?

17 THE WITNESS: It only -- it only --

18 MR. WESTBROOK: It accesses them.

19 THE WITNESS: -- accesses them.

20 THE COURT: Just access.

21 THE WITNESS: But it only shows me the allocated,  
22 then I do a search for the unallocated that's actually still  
23 there but just the normal person can't get it. So it will  
24 show whatever was viewed and then deleted. It will show there  
25 to, so we review that too. So if you're looking at 25,000,

1 you're looking at another 25,000 in unallocated too.

2 MR. WESTBROOK: So is it accurate to say that through  
3 your investigation using the EnCase software you reviewed all  
4 of the images on the disk -- I'm sorry -- you accessed all of  
5 the images on the disk, and that through your investigation  
6 you determined that nine were confirmed as child pornography;  
7 is there anything inaccurate about that?

8 THE WITNESS: Well, there was more than nine.

9 MR. WESTBROOK: Only nine have been charged?

10 THE WITNESS: Yeah, that's all that was charged.

11 MR. WESTBROOK: So that you confirmed that you should  
12 charge nine of them as child pornography?

13 MR. CHEN: He doesn't charge, Your Honor.

14 THE WITNESS: I don't do the charging.

15 MR. WESTBROOK: [Inaudible.] Okay.

16 THE WITNESS: I just turned all my report over to the  
17 detective; and then they charge whatever, you know,  
18 whatever's --

19 MR. WESTBROOK: And in your report did you say nine  
20 or did you say 56?

21 THE WITNESS: There was 59 total bookmarks, but 56  
22 are of relevant images.

23 MR. WESTBROOK: Okay. You returned -- you turned --  
24 you did all your investigation, you turned your report over to  
25 detectives, and it was determined that they would charge nine

1 as child pornography; is that accurate?

2 THE WITNESS: I'm -- I'm not sure how many was  
3 charged.

4 THE COURT: Now the -- again, the prosecutor's office  
5 is the only place that can make charges.

6 MR. WESTBROOK: I guess -- but, I mean, you see the  
7 problem, Your Honor? He looked at these and he thought 56 of  
8 them were child pornography, which means that the jury is  
9 going to be left with the idea that all of these uncharged  
10 files are bad and that my client has a child pornography cache  
11 somewhere and we're only hearing part of the story.

12 This is very prejudicial, and there was never a  
13 Petrocelli hearing. This is -- this is -- this is not just  
14 bad [inaudible], this is essentially either crimes that were  
15 not charged that are now being brought up in court, the same  
16 trial for which they should have been charged if the State  
17 intended to. It's -- it's very prejudicial.

18 It's a due process violation and it should be kept  
19 out. I mean, he determined that there was child pornography  
20 on the disk, which -- by the way, we're not even arguing  
21 against that. We -- we have stipulated that there were -- and  
22 I'll stipulate to the number nine too, if you like -- that  
23 there were child pornography images on these computers. His  
24 testimony isn't even relevant, and if they're concerned that  
25 I'm going to attack his credibility or the reliability of his

1 investigation as to whether or not this is child pornography,  
2 absolutely not. I've already agreed that it's child  
3 pornography and so did Mr. Castaneda.

4           What we're saying is that it's not -- he didn't look  
5 at it. It's not his. He didn't know it was there. He didn't  
6 willfully -- that's -- that's what this case is about. So I  
7 don't see the relevance, but I see massive prejudice and  
8 limited relevance. He did his investigation. He determined  
9 there was child pornography on the disk. Ultimately it was  
10 determined that there were nine child pornographic --  
11 pornography images on the thumb drive. That's all accurate,  
12 and it's all credible, and that's all the jury needs to know.  
13 Fifty-six of these unproven images that have not been verified  
14 and were not charged in this case should not be talked about.

15           THE COURT: Well, I'm not sure then if it's necessary  
16 -- why is it necessary to talk about the number?

17           MR. CHEN: A, Your Honor, part of Mr. Westbrook's  
18 argument as I heard it in opening statement --

19           THE COURT: Yes.

20           MR. CHEN: -- was that he was challenging the  
21 sufficiency and the reliability of the way that our detectives  
22 investigated the case. So certainly I think that the process,  
23 the thoroughness, everything that the detectives did in this  
24 case should be admissible so that it shows that they actually  
25 did a credible job in terms of locating child pornography on

1 that drive.

2 MR. WESTBROOK: I've never said they didn't do a  
3 credible job of locating child pornography on that drive, nor  
4 will I ever. They did a fantastic job. We have some child  
5 pornography. It's been charged in this case.

6 THE COURT: Yeah, if -- as I see it, I mean, as it  
7 seems to be firming up at this point or -- or from the  
8 evidence so far, it appears the Defense is they didn't try to  
9 figure out who put the child pornography there. You're not  
10 arguing that there wasn't child pornography, they're attacking  
11 that it wasn't their -- their client. That's the Defense.

12 MR. CHEN: Your Honor, to make things -- to expedite  
13 things as well as to make it clean, I don't mind not talking  
14 about the 56 images. I'll certainly talk about the fact that  
15 there were many photographs on there, and he certainly  
16 examined those photographs; but at the same time if Mr.  
17 Westbrook opens the door by asking the question that he put at  
18 the bench that you only determined there was nine images of  
19 child pornography, you would be putting the detective in a  
20 place to essentially lie.

21 THE COURT: That's what I don't want you to do.

22 MR. WESTBROOK: And I agree. I agree with him.

23 THE COURT: Because I talked about that earlier, if  
24 you open the door, and that's what I was concerned about when  
25 you said that at the bench. Now --



1 MR. WESTBROOK: And I can even review -- I'll tell  
2 you exactly what I was going to ask him, if you like. I mean,  
3 I'm going to ask him about the stuff he didn't do, you know,  
4 the computers he didn't look at, and whether or not he viewed  
5 the source of this thumb drive and all that stuff. I'm not  
6 going to ask a thing about his investigation of whether or not  
7 this is child pornography because I agree it's child  
8 pornography.

9 MR. CHEN: I think we're beyond that, Your Honor.  
10 I'm going to go ahead and not ask the question about 56  
11 specific images. I'll simply refer to the photographs.

12 THE COURT: Okay. Now among these images I would  
13 assume the thumb drive, that would include the images we've  
14 already see in evidence, the driver's license, UNLV card --

15 MR. CHEN: It does, Your Honor, it does.

16 THE COURT: -- birth certificate, all of those things  
17 too.

18 MR. CHEN: It does.

19 MR. WESTBROOK: And you looked at those too.

20 THE COURT: Those are relevant --

21 MR. WESTBROOK: Oh, absolutely, yes.

22 THE COURT: -- items that they need to talk about.

23 MR. WESTBROOK: I'm only concerned about the images  
24 that were suspected child pornography that I don't want people  
25 suspecting. That's it.

1 THE COURT: Okay. So you're going to stay away from  
2 the number part?

3 MR. CHEN: I'm going to stay away from the 56 images  
4 specifically.

5 THE COURT: Okay.

6 MR. WESTBROOK: All right. That's good. Thanks.

7 THE COURT: Okay. Anything -- there was only nine on  
8 the thumb drive. My clerk's concerned that it's 15 charges.  
9 Those others were found on other computers?

10 THE CLERK: Yes.

11 THE COURT: All right. Anything else? No. Let's  
12 bring the jury in.

13 (Jury reconvened at 2:02 p.m.)

14 THE COURT: Please be seated. The record will  
15 reflect that we are back within the presence of all 12 members  
16 of the jury, as well as the two alternates. Will Counsel so  
17 stipulate?

18 MR. CHEN: Yes, Your Honor.

19 THE COURT: All right. You may proceed.

20 MR. CHEN: Thank you.

21 DIRECT EXAMINATION, resumed

22 BY MR. CHEN:

23 Q Detective Ramirez, as we left off we were  
24 talking about the different folders and your examination of  
25 those folders, if you recall. Is it safe to say that you

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1 found a number of photographs on the USB drive?

2 A Yes.

3 Q And did you find pornography on the USB drive?

4 A Yes.

5 Q Is it fair to say some of it was adult  
6 pornography that you found as well?

7 A Yes.

8 Q All right. And were these all part of the  
9 gallery view that you had kind of described earlier that you  
10 saw that there was some adult pornography?

11 A Yes.

12 Q And do you remember which folders, for instance,  
13 the adult pornography was found?

14 A Under the Adult folder.

15 Q Okay. Do you -- specifically there's  
16 sub-folders. Do you remember where there was adult  
17 pornography in the sub-folders?

18 A A lot of them were in the girl pics.

19 Q Okay. Now in this specific girl pics folder,  
20 the one I'm pointing to, is that what you examined?

21 A Yes.

22 Q And that's where you're saying some of the adult  
23 pornography was?

24 A Yes.

25 Q Okay. Now did you also find any images of child

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1 pornography in that particular folder?

2 A Yes.

3 Q And again, were those things that you found in  
4 the gallery view as you were examining that USB drive?

5 A Yes.

6 Q And you mentioned earlier that you've examined  
7 thousands of computers; do you remember that?

8 A Yes.

9 Q And I assume it's probably hard to remember file  
10 names to everything?

11 A Correct.

12 Q All right. Do you record -- basically when you  
13 see something of evidentiary value to you, do you record that  
14 information?

15 A Basically our recording on this program was  
16 called bookmarking.

17 Q Okay. But do you also, for instance, keep a  
18 report of your findings?

19 A Yes.

20 Q And do you put information relevant to the  
21 investigation in your report?

22 A Yes.

23 Q And did you generate a report in this specific  
24 matter?

25 A Yes.

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1           Q     And based upon the nature of the files and their  
2 names, would it help you to refer to that report as we talk  
3 about some of the images that you found?

4           A     Yes.

5           Q     And is that because it's hard for you to  
6 remember specifics about some of the files that were on there?

7           A     Yes.

8           Q     Now in addition to this EnCase software locating  
9 picture files on the USB drive, does it also give you any  
10 other information about those pictures?

11          A     Basically gives you a file name and a file path.

12          Q     Okay. And does it also tell you, for instance,  
13 if I had a picture that I found on here, could I find out any  
14 other information about when someone had accessed it or when  
15 it was created, things like that?

16          A     Yes. It will give me what's called last written  
17 created and last [inaudible].

18          Q     All right. And I'd like to first talk about  
19 last written. When a file or picture has information that  
20 says "last written," does it have a date associated with it?

21          A     Yes.

22          Q     All right. And what exactly does "last written"  
23 mean?

24          A     Last written basically means that's the date  
25 that either somebody created that file for the first time or

1 that it was introduced to your computer. So it can be either  
2 or. It's either created on your computer or that's when that  
3 file was written to your computer.

4 Q So as an example, Detective, if I go on the  
5 Internet right now and download a picture of a baseball  
6 player, and that picture shows up on my desktop, will it have  
7 a last-written date?

8 A It should, yes.

9 Q And will -- if I downloaded it today, would the  
10 last-written date be today's date?

11 A It should.

12 Q In general, does that date change?

13 A Typically it doesn't unless you're changing  
14 operating systems. There's certain things that could make a  
15 change -- I mean, there's a number of things; but typically it  
16 stays the same unless you put another operating system on your  
17 computer or modify that picture and now it's a different  
18 picture, so it could change.

19 Q Okay. But in -- in general, so I understand  
20 this, last written is essentially when you acquired the photo?

21 A Yes.

22 Q Or the image?

23 A Yes.

24 MR. CHEN: May I approach the witness, Your Honor?

25 THE COURT: Yes.

1 MR. WESTBROOK: Is this the report?

2 BY MR. CHEN:

3 Q Detective Ramirez, I'm going to ask you to keep  
4 these photos to yourself, so please don't show them in a  
5 public view. But if you could, please, just go through these  
6 photos, keep them in order, and just tell me if you recognize  
7 these photos. And I'm showing you -- I'm sorry -- State's  
8 proposed -- State's Proposed 1, 2, 3, 4, 5, 7, 9, 11, and 12.  
9 If you could look at those to yourself and please do keep them  
10 [inaudible]. Okay.

11 Do you recognize those, Detective?

12 A Yes, I do.

13 Q What is depicted in those exhibits?

14 A Images of child pornography.

15 Q Are these the same images that you discovered on  
16 that USB flash drive?

17 A Yes.

18 Q Do these pictures fairly and accurately depict  
19 the images as you saw them when you examined the flash drive?

20 A Yes.

21 MR. CHEN: Judge, I would move for admission of  
22 State's Proposed 1, 2, 3, 4, 5, 7, 9, 11 and 12, please.

23 THE COURT: Any objection?

24 MR. WESTBROOK: No additional objections.

25 THE COURT: Okay. Those will be admitted.

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1 (State's Exhibit 1 - 5, 7, 9, 11, and 12 admitted.)

2 BY MR. CHEN:

3 Q What I'd like to do, Detective, is talk  
4 specifically about the information that you were able to  
5 gather about these specific exhibits, okay? So what I'd like  
6 to do is I'd like to start with as you see now State's Exhibit  
7 1 in front of you. So you have State's Exhibit 1?

8 A Yes.

9 Q Okay. Now as I mentioned before, you did do a  
10 report and you would have put information related to  
11 [inaudible] on your report; is that correct?

12 A Correct.

13 Q So I'd like to start off with on Exhibit No. 1,  
14 what was the name of that particular file?

15 A The name of that file is girls01.jpg.

16 Q So if I'm just going to follow along here so I  
17 [inaudible]. It's girls01.jpg?

18 A Correct.

19 Q And what is a jpg file, Detective?

20 A It's a -- it's just a -- jpg is just an image  
21 file, just a picture file.

22 Q Picture file. And that was consistent with what  
23 this was, correct?

24 A Yes.

25 Q All right. Now you had mentioned earlier about

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1 a last-written date. Were you able to determine a  
2 last-written date with regards to Exhibit 1?

3 A Yes.

4 Q And what was the last-written date?

5 A The last-written date on this file is 08/09/07.

6 Q Is that August 9, 2007?

7 A Yes.

8 Q And just so we're clear, you said girls01.jpg.

9 Is that how your report reads? I believe it's 2girls, does  
10 that sound familiar?

11 A I'm sorry. Yes. 2girls01.jpg, I apologize.

12 Q All right.

13 A Did you want the full path or just the final  
14 extension?

15 Q Just the final extension is fine because these  
16 were all found within the same folder, correct?

17 A Correct.

18 Q And showing again State's 75, that would have  
19 been all within this girlpics folder, correct?

20 A Correct.

21 Q Moving on to -- if you could switch to State's  
22 Exhibit No. 2, please. What was the file name of State's  
23 Exhibit 2?

24 A Number 2 is girlondick06.bmp.

25 Q Okay. And does that also have a last-written

1 date?

2 A Yes, it does.

3 Q And if you could tell me the date that it was  
4 last written and if there's a time associated as well, please?

5 A Last-written date is 08/13/07. Time is 10:07:54  
6 p.m.

7 Q And so based upon your experience, Detective,  
8 it's likely that this file was first acquired on August 13,  
9 2007; is that what that means?

10 A Yes.

11 Q Moving on to State's Exhibit 3, please. Do you  
12 have a file name for State's Exhibit 3?

13 A Yes.

14 Q And what is the file name on that?

15 A The file name is girlondick08.jpg.

16 Q Okay. And again, could I have a last-written  
17 date on that, please?

18 A Last-written date is 08/13/07. 10:09:00 p.m.

19 Q Moving on to State's Exhibit 4, please. If you  
20 could tell me what the name of that file was.

21 A The new is all capitals, NEW, N-E-W, -22.jpg.

22 Q Okay. And if we could go to State's Exhibit 5,  
23 please. And again, if you could tell me the name of that  
24 file?

25 THE COURT: Are we not going to hear the last-written

1 date of?

2 MR. CHEN: Oh, I'm sorry. Thank you, Your Honor.

3 BY MR. CHEN:

4 Q And does NEW-22 have a last-written date as  
5 well, Number 4?

6 A Last-written 08/11/07. Time 01:03:18 a.m.

7 Q And that's one o'clock in the morning roughly?

8 A Yes.

9 Q And then sorry to -- now if we could move to  
10 Exhibit 5. If you could tell me the file name, please?

11 A File name is 2girls.jpg.

12 Q And could you tell me that last-written date for  
13 that file?

14 A Last-written date is 08/09/07. Time is 7:30:54  
15 a.m.

16 Q Okay. Couple more. If you could go to State's  
17 Exhibit 7, please. And if you could tell me that file name.

18 A Capital letters, NEW, N-E-W, -01.jpg.

19 Q And could you please tell me what the  
20 last-written date was?

21 A Last-written date was 08/11/07. 12:33:22 a.m.

22 Q And if I'm correct so far, all of the  
23 last-written dates have been in the year 2007; is that  
24 correct, Detective?

25 A Correct.

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1 Q If you could, please, move to Exhibit 9 and tell  
2 me what the title of that file is?  
3 A Number 9 is capitals, GIRL69.jpg.  
4 Q Okay. And what was the last-written date on  
5 that?  
6 A 08/09/07. 6:29:02 a.m.  
7 Q Moving on to State's Exhibit No. 11, please. If  
8 you could tell me the file name.  
9 A File name is capitals, NEW, N-E-W, -47.jpg.  
10 Q Okay. And finally, if you could look at State's  
11 Exhibit 12 and tell me if there's a file name associated with  
12 that photo?  
13 A You want the last written on 11?  
14 Q Oh, I'm sorry. Last-written as well, please, on  
15 Number 11.  
16 A 08/11/07. 01:15:20 a.m.  
17 Q Okay. So 1:15 in the morning, roughly?  
18 A Yes.  
19 Q And then finally, if you could move to State's  
20 Exhibit 12, please.  
21 A Capitals, EURO, that's E-U-R-O, -001.jpg.  
22 Q What's the last-written date on there?  
23 A 02/07/10. 10:0354 p.m.  
24 MR. CHEN: Court's brief indulgence.  
25 BY MR. CHEN:

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1 Q So that one was in 2010 as opposed to all the  
2 rest were in 2007; is that correct, Detective?

3 A Correct.

4 Q Now these file names, is there any way for you  
5 to tell whether the file names originally came like this or  
6 whether an individual named them when they put them on the  
7 computer?

8 A The file extensions, those typically stay the  
9 same.

10 Q And the extensions, is that the .jpg part, for  
11 instance?

12 A Correct.

13 Q So those stay the same; but what about the  
14 titles of the files?

15 A Those typically stay the same unless -- I mean,  
16 they can be renamed; but typically the original name of the  
17 file usually stays with that file.

18 Q Based upon your software, are you able to  
19 determine whether the person who downloaded it changed the  
20 name or whether they downloaded as is?

21 A Yeah, I can look at, you know, if I go from the  
22 gallery to a table view I can look to see if that was the  
23 original name or if that extension was changed; so it would  
24 pretty much tell me if that extension is the same original one  
25 or if it was changed and that will tell me the very first name

1 on there.

2 Q Now extensions again, those are -- that's  
3 talking about the type of file that it is, correct?

4 A Correct.

5 Q So you can tell, for instance, if a jpg is  
6 changed to a different type of file?

7 A Correct.

8 Q All right. But what about the name, for  
9 instance, here we have 2girls01, would you be able to tell  
10 whether that was named by an individual or if it was  
11 downloaded that way? Is there any way for you to tell that?

12 A Myself, for this part, no.

13 Q So there's no way to tell if the person who  
14 downloaded it actually named them that way?

15 A Correct.

16 Q Now in addition to the last-written dates that  
17 we talked about, is there other type of information that  
18 through your software you're able to gather about the photos  
19 that you discovered?

20 A We can look at file-created date and last-access  
21 date.

22 Q Okay. Let's talk first about a file-created  
23 date. What exactly is that?

24 A File-created date can be where if this file was  
25 on a drive and you put it on a CD or any other type of device

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1 and moved it to another drive or another device, that file-  
2 created date will change.

3 Q Okay. So, for instance, here we're talking  
4 about a USB drive that you were examining. If a person were  
5 to put something from a computer onto the USB drive, when you  
6 look at the USB drive, would that have the file-created date?

7 A Correct.

8 Q And essentially that's the day that the picture  
9 got onto the USB drive; is that correct?

10 A Correct.

11 Q And did you say that you are able to determine  
12 that information as well?

13 A Yes, the report shows it.

14 Q Specifically with the images which you  
15 mentioned, the titles that you all just gave, the nine titled  
16 that you gave, were you able to determine a file-created date  
17 for those files?

18 A Yes.

19 Q And when was that?

20 A Can I refer to my report?

21 Q Please do.

22 A The file-created date was 11/25 of '08.

23 Q And so that would be November 25, 2008; is that  
24 correct, Detective?

25 A Yes.

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1           Q    All right. Is there also a time of when those  
2 files were moved onto the flash drive?

3           A    Typically 4:01 a.m.

4           Q    And am I correct that all of those images were  
5 put onto the flash drive within maybe a minute's time  
6 according to your report?

7           A    Correct.

8           Q    Now you mentioned that you also examined other  
9 photographs, such as adult pornography on that flash drive,  
10 correct?

11          A    Correct.

12          Q    And were you able to also determine the  
13 last-written dates and the file-created dates, for instance?

14          A    On all of those -- I didn't do any bookmarks on  
15 any of those.

16          Q    At least you -- you did examine other photos,  
17 correct?

18          A    Yes.

19          Q    And then were you able -- based upon your  
20 report, were you able to get or did you keep track of, for  
21 instance, file-created dates for some of the other photos that  
22 we didn't talk about?

23          A    Yes.

24          Q    And did those file-created dates have the same  
25 date as the nine images that we have on the overhead?

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1 A Yes.

2 Q So all of the files, all of the photographs that  
3 you looked at from that folder were put onto the drive on  
4 November 25, 2008?

5 A Yes.

6 Q And then in addition to the file-written and  
7 file-created date, is there also one other type of piece of  
8 information you can get about the pictures?

9 A Yes.

10 Q And what type of information is that?

11 A It's called the last-access date.

12 Q And what exactly is a last-access date?

13 A Last-access date will just show the date that  
14 that driver device was plugged into a computer.

15 Q Okay. Now I want to talk about that for a bit.  
16 So if I were to put a USB stick into a computer and access one  
17 of the pictures, would that be the last-access date then?

18 A If you did it right now it would show today's  
19 date and time.

20 Q Okay. And does the file actually have to be  
21 opened as well in order for it to show up as the last access?

22 A Yeah, it needs to be opened by some form.

23 Q Okay. So just plugging in the USB stick alone  
24 would not be enough to change the last-access date; is that  
25 correct?

1           A     It could change some of the registry things; but  
2 typically, you know, it -- unless you look at the photos or  
3 open a file, it's going -- you have to have some type of  
4 action --

5           Q     Okay.

6           A     -- pretty much.

7           Q     And were you able to determine the last-access  
8 date of all the photographs that you looked at on the USB  
9 drive?

10          A     Yes.

11          Q     And what was the last-access date that you found  
12 on all of the photographs?

13          A     2/7 of '10.

14          Q     And so that would be February 7, 2010; is that  
15 correct?

16          A     Correct.

17          Q     And was it the same last access date for all the  
18 photographs?

19          A     Yes.

20          Q     In addition to the photographs that you found on  
21 the USB drive, did you also find additional information that  
22 you found relevant?

23          A     Yes.

24          Q     All right. And was that actual personal  
25 documents that belonged to an individual?

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1           A     Yes.

2           Q     Okay. Going back to State's Exhibit 75, in what  
3 folder were you able to find these other documents?

4           A     In the 200604 folder.

5           Q     And I'm pointing to the top of the page. Is  
6 this what you're referring to, Detective?

7           A     Yes.

8           Q     And what type of documents were you able to find  
9 in the educational history and identification there?

10          A     I bookmarked a couple of items that were of a  
11 driver's license, UNLV I.D., an Army document, and an  
12 education document.

13          Q     Did those belong to a particular individual?

14          A     Yes, it did.

15          Q     And who -- according to the -- what you saw,  
16 whose documents were those?

17          A     Mr. Anthony Castaneda.

18          Q     Do you see Mr. Castaneda in court today?

19          A     Yes, I do.

20          Q     Can you, please, point to that individual and  
21 describe an article of clothing that person is wearing?

22          A     He's sitting right there with the glasses and  
23 the blue long-sleeve shirt.

24          MR. CHEN: Judge, would the record please reflect the  
25 identification of the Defendant?

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1 THE COURT: It will.  
2 MR. CHEN: May I approach the witness, Your Honor?  
3 THE COURT: Yes.  
4 MR. CHEN: Thank you.  
5 BY MR. CHEN:  
6 Q Now, sir, I'd like to show you State's Proposed  
7 Exhibit 27, as well as what's already been admitted as State's  
8 Exhibit 28. Do you recognize these items?  
9 A Yes.  
10 Q And are these items that you found on the USB  
11 flash drive?  
12 A Yes.  
13 Q And do these fairly and accurately depict what  
14 you saw on the flash drive?  
15 A Yes.  
16 MR. CHEN: Judge, I move for admission of State's  
17 Proposed 27, please.  
18 MR. WESTBROOK: Submitted.  
19 THE COURT: It will be admitted.  
20 (State's Exhibit 27 admitted.)  
21 MR. CHEN: Permission to publish as well.  
22 THE COURT: Granted.  
23 BY MR. CHEN:  
24 Q I'm going to start with State's Exhibit 27,  
25 which has now been admitted. And, Detective, what is -- what

1 are we looking at here?

2 A That's a California State University of Fresno  
3 diploma, Bachelor's Degree of Science for Mr. Anthony  
4 Castaneda.

5 Q Okay. And I'm not showing you State's Exhibit  
6 28.

7 THE COURT: That hasn't been admitted, has it?

8 MR. CHEN: Judge, I had that it's been admitted  
9 previously.

10 THE COURT: Was it previously? Okay. Thank you.  
11 I'm sorry.

12 BY MR. CHEN:

13 Q State's Exhibit 28. And what exactly is here,  
14 Detective Ramirez?

15 A That would be the Nevada identification card, a  
16 Rebel card of University Nevada Las Vegas, and a Social  
17 Security card.

18 Q Now similar to the photographs that we're  
19 talking about earlier, were you also able to get additional  
20 information related to these pieces of -- these photographs?

21 A Yes.

22 Q All right. And would that have been the same  
23 type of information that you told us about before?

24 A Yes.

25 Q All right. So, and please do refer to your

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1 report if necessary; but I'm going to start with State's  
2 Exhibit 27. This is the diploma from Cal State Fresno for Mr.  
3 Castaneda. Could you please tell us what the last-written  
4 date of this particular item is?

5 A The last-written date is 4/25 of '06 at 11:02:34  
6 a.m.

7 Q Okay. And could you please tell us when this  
8 diploma was put onto the flash drive or otherwise the  
9 last-created date -- or file-created date, please?

10 A 12/01/08 at 2:57:22 a.m.

11 Q So that would be December of 2008?

12 A Correct.

13 Q And if I'm not mistaken, that would have been  
14 after the photographs that you had discovered or put on the  
15 flash drive; is that also correct?

16 A Correct.

17 Q And then I'd like to just talk about State's  
18 Exhibit 28. Do you have information related to this photo as  
19 well?

20 A Yes, I do.

21 Q Okay. And could you please tell us when the  
22 last-written date was?

23 A Last-written, 4/25/06, 11:38:10 a.m.

24 Q And in the situation like this where this isn't  
25 necessarily a photograph, would that still be the same thing

1 when the scan was created or when this file was created?

2 A Yes.

3 Q And then when was the file-creation date?

4 A 12/01/08 at 2:27:30 a.m.

5 Q So essentially this particular piece of State's  
6 28 was put onto the flash drive on December 1st of 2008; is  
7 that correct?

8 A Correct.

9 Q And what -- what time was that at?

10 A Eleven -- the created date?

11 Q If we can -- yeah, the file-created, at what  
12 time was this actually put onto the flash drive?

13 A Okay. File created was 12/01/08 at 2:27:30 a.m.

14 Q So roughly almost three o'clock in the morning?

15 A Correct.

16 Q And finally, is there a last-access date for  
17 this piece -- State's 28?

18 A Yes. That's 2/07/10.

19 Q So if I heard you correctly, the last-access  
20 dates all the same on all the files that you looked at?

21 A Yes.

22 Q Now, Detective Ramirez, in addition to examining  
23 the flash drive, did you also have further involvement with  
24 this particular case?

25 A Yes, I did.

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1 Q And, in fact, on April 7, 2010, were you  
2 involved with executing a search warrant at 2205 Beverly Way?

3 A Yes, I was.

4 Q Is that here in Las Vegas, Clark County, Nevada?

5 A Yes, it is.

6 Q All right. What was your primary role in terms  
7 of executing that search warrant?

8 A My primary role was to go in and do a preview on  
9 any of the computers that were identified in the residence.

10 Q So did you carry a laptop with you in order to  
11 do that?

12 A Yes.

13 Q Did you carry write blockers as you mentioned  
14 before in order to do that?

15 A Yes.

16 Q And did you make entry into that residence?

17 A Yes.

18 Q Okay. Did you find computer -- computers and  
19 other computer-related equipment within that residence?

20 A Yes.

21 Q And who was your understanding of who that  
22 residence belonged to?

23 A Mr. Anthony Castaneda.

24 Q Okay. When you were inside the residence did  
25 you begin to do previews of the hard drives that you found?



1 A Yes.

2 Q Now I'd like to show you what's already been  
3 admitted as State's Exhibit 36. Do you recognize that,  
4 Detective?

5 A Yes.

6 Q Okay. And why is it that you recognize that  
7 particular image?

8 A That was the area where I pretty much set up my  
9 laptop and conducted my preview.

10 Q Now I'm also showing you State's Exhibit 37.  
11 Did you do a preview on this particular computer?

12 A Yes.

13 Q And based upon your preliminary preview, were  
14 you able to determine if there was anything of evidentiary  
15 value on this particular computer?

16 A Yes.

17 Q Okay. And was that child pornography that you  
18 found on that computer?

19 A Yes.

20 Q And I'd like to show you State's Exhibit 38.  
21 What exactly is depicted here, Detective?

22 A That's a small computer that they [inaudible]  
23 shuttle.

24 Q And is that basically a type -- I see it says  
25 Shuttle here, is that the type of computer that it is?

1 A Yes.

2 Q Is that a name brand or is it just a model?

3 A It's just a name brand, and everybody kind of  
4 adopted the name for smaller compact computers at that time as  
5 a shuttle.

6 Q And is this, in fact, a hard drive?

7 A That's a whole computer system right there.

8 Q Computer system. So files and memory and  
9 everything else would be in this?

10 A The hard drive will be contained inside that  
11 shuttle.

12 Q Okay. I see. And in State's Exhibit 39, what  
13 does this show?

14 A That just shows the connection of the shuttle to  
15 show what was actually connected to it, if there was Internet  
16 service or if it was wireless.

17 Q And could you tell if that computer was  
18 connected to a modem or to the Internet or anything like that?

19 A Yes.

20 Q How can you tell that?

21 A It would have to be -- this picture is kind of  
22 hard to tell.

23 Q If I approached and showed you the picture, do  
24 you think that would make it easier to see rather than on the  
25 overhead?

1           A     Yeah. It looks like the coaxial is the second  
2 white one. Not the USB one. That one, yeah.

3           Q     Okay. Now when you were doing -- conducting  
4 previews at the residence, were there other people who were  
5 also doing the same thing as you with the residence?

6           A     Yes.

7           Q     And who would that have been?

8           A     That would have been Detective Ehlers.

9           Q     Is he -- is he employed in the same capacity as  
10 you?

11          A     Yes.

12          Q     Now you mentioned that the lead detective in  
13 this case was one Detective Shannon Tooley, correct?

14          A     Correct.

15          Q     Was she present at the execution of that search  
16 warrant?

17          A     Yes.

18          Q     And as you were conducting a preview of the  
19 hardware inside the residence, where was Detective Tooley?

20          A     She was outside in her undercover car  
21 interviewing Mr. Castaneda.

22          Q     At some point did Detective Tooley and Mr.  
23 Castaneda enter the residence?

24          A     Yes.

25          Q     Were you still in the residence when they came

1 in?

2 A Yes.

3 Q Were you conducting your preview at that time?

4 A Yes.

5 Q Was your laptop turned on?

6 A Yes.

7 Q And was your laptop connected to this shuttle  
8 computer?

9 A To the drive that's inside there, yes.

10 Q Okay. And were there images at that time of  
11 child pornography that you were looking at on your laptop  
12 preview?

13 A Yes.

14 Q Okay. And while you were in the residence did  
15 Mr. Castaneda see that there was child pornography on the --  
16 on your laptop -- the image on your laptop?

17 A Yes.

18 Q Okay. And how did he respond to seeing the  
19 image?

20 A He basically --

21 MR. WESTBROOK: Objection, speculation.

22 THE COURT: Overruled.

23 BY MR. CHEN:

24 Q How did he respond to seeing the image of child  
25 pornography?

1           A     He basically just said, Those are kids, I'm  
2     sorry.  
3           Q     And how was his demeanor as he said this?  
4           A     Just very nonchalant.  
5           MR. CHEN: Court's indulgence. Pass the witness at  
6     this time. Thank you, Judge.  
7           THE COURT: Cross.  
8           MR. WESTBROOK: Court's indulgence.  
9           THE WITNESS: Can I make one correction?  
10          MR. WESTBROOK: I would object without a question.  
11          THE WITNESS: Well, okay.  
12          THE COURT: Well, I --  
13          MR. CHEN: Can I ask a question?  
14          THE COURT: Yes. Ask a question.  
15     BY MR. CHEN:  
16           Q     Sir, is there something that you wish to tell us  
17     with regards to my last question?  
18           A     No, it was on Ehlers [inaudible].  
19           Q     Okay.  
20           A     And his capacity.  
21           Q     Is there a clarification with regards to  
22     Detective Ehlers?  
23           A     Yes.  
24           Q     And what is it that you wish to tell us?  
25           A     Detective Ehlers -- I work in the Internet

1 Crimes. Detective Ehlers works in the computer forensic lab.

2 MR. CHEN: Okay. Thank you for the clarification.

3 THE COURT: Cross.

4 CROSS-EXAMINATION

5 BY MR. WESTBROOK:

6 Q Detective, I'm glad you're here to explain this.

7 Have you ever tried to explain -- you've probably done this  
8 before. You've testified before in cases, right?

9 A Yes.

10 Q So you've explained these sort of complicated  
11 points to lay people before, right?

12 A Yes.

13 Q Are you used to seeing eyes glazed over when  
14 that happens?

15 A Yes.

16 Q I can understand that. You know, I've got  
17 several questions for you; but something that you just said  
18 really kind of struck me and I was hoping you could explain  
19 it. So a last-written date is the date the file was acquired?

20 A That's the date that it was either made or taken  
21 or created on the original computer or wherever it was  
22 downloaded from.

23 Q Okay. Referring to State's No. 12, it's  
24 EURO-001.jpg.

25 A No. 12.

1 Q I think it's Number 12. EURO-001.jpg. Have you  
2 found it? Am I right about it that that's Number 12?

3 A Yes.

4 Q Okay. Good. It says: Last-written, February  
5 7, 2010, doesn't it?

6 A Yes.

7 Q When it was in Tami Hines' possession, right?

8 MR. CHEN: Objection, Judge. Calls for speculation  
9 of this particular witness.

10 THE COURT: Well, it lacks foundation. I don't know  
11 that this witness knows anything about that.

12 MR. WESTBROOK: I can lay a foundation.

13 THE COURT: Okay.

14 BY MR. WESTBROOK:

15 Q Do you know where this thumb drive came from?

16 MR. CHEN: Objection, Judge. That's going to call  
17 for hearsay.

18 THE COURT: No, no. The answer is yes or no; does he  
19 know?

20 MR. CHEN: Thank you, Judge.

21 THE COURT: Overruled. You may answer.

22 THE WITNESS: I got the thumb drive from Detective  
23 Tooley.

24 BY MR. WESTBROOK:

25 Q So Detective Tooley gave you the thumb drive?

1 A Yes.

2 Q All right. Do you know whose possession the  
3 thumb drive was in prior to Detective Tooley. Do you know  
4 where she [inaudible]?

5 A Just the person that was in the report. I don't  
6 know the person's name.

7 Q Okay. Do you know what date she got it?

8 A Should have been the 7th, 2/7/10.

9 Q She got the thumb drive on 2/7/10. And you have  
10 a last-written date, which means the time the file was  
11 acquired on this thumb drive. It was put on a thumb drive on  
12 2/7 of 2010, right? Is that right?

13 A My last written is 2/7/10, yes.

14 Q Okay. I'll get back to my more prepared cross  
15 now. I just thought that was very strange.

16 THE COURT: Counsel? I would like you to confine  
17 yourself to questions, not comments, okay?

18 MR. WESTBROOK: Thank you, Your Honor.

19 THE COURT: You're welcome.

20 BY MR. WESTBROOK:

21 Q Okay. Did you check this thumb drive for the  
22 presence of any viruses?

23 A Typically what I do is instead of the gallery  
24 view, I'll go to the full view of the whole structure and I'll  
25 go down through the file extensions and see if I see anything



1 that's out of ordinary that would key me into where there  
2 might be executable files or something that does not fit. So  
3 running virus software on it, I didn't mount the drive and run  
4 the virus and do the EDF, emulator, or anything like that on  
5 it; but I do physically go through and look through all the --  
6 al the structure of it to make sure that there's nothing  
7 that's out of the unordinary.

8 Q So you did a site check?

9 A Yes.

10 Q With human eyes?

11 A Yes.

12 Q You did not run a virus scanner?

13 A No.

14 Q Do viruses always show up to human eyes?

15 A Typically it would -- comes up on execute.

16 Q Typically comes up on an executable?

17 A Yes.

18 Q Which means that sometimes it does not, correct?

19 A It's possible.

20 Q In your experience, have you ever run into a  
21 situation where an image of child pornography was associated  
22 with a virus?

23 A It wouldn't be associated as far as the picture  
24 itself. It would possibly be the links, what's called link  
25 files. So say somebody was on the computer and was directed

1 to three or four or five different link files to get to that,  
2 then yeah; but you have to do a lot of work to actually get to  
3 it.

4 Q I see. So, yes, you've had some child  
5 pornography in your experience that has been associated  
6 through links to a virus, correct?

7 A Yeah.

8 Q Now -- and forgive me because it sounds to me  
9 like this wasn't your call; but did you do any investigation  
10 at all of the computer of Tami Hines?

11 A No.

12 Q That's not your call, is it?

13 A No.

14 Q Okay. What about a person named Michael  
15 Landeau?

16 A No.

17 Q Okay. Had you ever even heard the name Michael  
18 Landeau?

19 A No.

20 Q Okay. Some of these files you found, is it fair  
21 to say they've been around for many years?

22 A Yes.

23 Q They've been the subject of other cases?

24 A Yes.

25 Q Would you go as far to say that child porn is a

1 scourge on the Internet, it's a terrible problem?

2 A Yes.

3 Q In fact, these files have been tracked by the  
4 FBI, haven't they?

5 A Correct.

6 Q They're in a FBI database?

7 A Correct.

8 Q In that sense as far as law enforcement circles  
9 go, some of them are famous?

10 A Yes.

11 Q They keep popping up again and again?

12 A Yes.

13 Q Are you familiar with zip files?

14 A Yes.

15 Q What's a zip file?

16 A Zip file is just a -- easiest way to explain it,  
17 you have a big file and you have a small cabinet to put it in  
18 and you crunch it down, you zip it down so it can fit. Say if  
19 a CD, if it only contains 4 gigs and you have 5 gigs of space,  
20 you zip it down so you can put it on that CD.

21 Q Okay. Is it common to have multiple files in  
22 one little zip file?

23 A You can have, yes.

24 Q Okay. So in a zip file -- I'll try to do a  
25 visualization.

1 MR. WESTBROOK: For the record I'm holding my fingers  
2 up making them really tiny like this. They're parallel.

3 BY MR. WESTBROOK:

4 Q You have like a little icon potentially, right?  
5 And it would say something like pictures.zip, okay? And then  
6 I guess if you double click it and you open it, then you would  
7 have a folder and then a bunch of file names listed, is that a  
8 typical way that a zip file could look?

9 A Yeah.

10 Q Okay. So if you downloaded a zip file that said  
11 pictures.zip in one big batch, you wouldn't necessarily know  
12 every single thing that's in the zip file, would you?

13 A If you download the whole zip, no.

14 Q Okay. You don't know the source of any of these  
15 files, do you?

16 A No.

17 Q There are lots of places it could have come  
18 from, aren't there?

19 A Yes.

20 Q Okay. In fact, on the Internet they have --  
21 what we're probably most familiar with, right, are Internet  
22 websites?

23 A Correct.

24 Q Okay. A website is something that you -- you  
25 see a lot of pictures on; is that fair to say?

1 A Yes.

2 Q A lot of images and graphics on websites?

3 A Yes.

4 Q How long has the web as we know it, the World  
5 Wide Web been around?

6 A '80s. I mean, as far as we know it --

7 Q With graphics? Maybe '90s, '93, '94?

8 A [Inaudible] started becoming popular. I mean,  
9 everybody knows what WWW stands for, Worldwide Web, so about,  
10 yeah.

11 Q Was one of the problems, I guess, with the  
12 Internet and our desire to view movies and graphics bandwidth?

13 A Correct.

14 Q Could you explain what bandwidth is?

15 A Bandwidth pretty much is just like a water hose.  
16 The more pressure you want, the bigger hose you want so you  
17 can get more water through there. So, you know, like, if you  
18 have Cox Cable, and say you have a T-1, that's your standard  
19 home one. So if you had a business you want more information,  
20 faster downloads and everything, so you get what's called,  
21 like, a T-3. So it's just -- I just use the water hose  
22 method. You want more water, you have to have a bigger hose.

23 Q Okay. So a big picture, like, say I'm a  
24 professional photographer and I have a super Nikon camera and  
25 I take a picture of it and I want it to be so big that someone

1 could put it on their wall without losing any resolution.  
2 That would be considered in your analogy like a -- a swimming  
3 pool full of water, right?

4 A Actually, a picture would be pixels.

5 Q Pixels, that's true.

6 A Because you, you know, you don't want it -- the  
7 bandwidth would just be the speed that it's downloading it.

8 Q Okay.

9 A And the picture, if you want it huge and to be  
10 not distorted, you have to have smaller and smaller pixels --

11 Q Sure.

12 A -- so it doesn't get distorted out.

13 Q The smaller the pictures, the bigger the file,  
14 right?

15 A Yeah.

16 Q So the result is I would have a giant file which  
17 would be like a big bunch of water, right?

18 A Uh-huh.

19 Q Now if I want to get that water into my house  
20 and I only have a little tiny hose, it's going to go really  
21 slow, right?

22 A Takes longer, yes.

23 Q If I had, like, a big fire hose it's going to go  
24 real quick, right?

25 A Yes.

1           Q     Is it fair to say that the big fire hose is  
2 modern, always on Internet, like through Cox Cable, or  
3 something like that?

4           A     Yes.

5           Q     But a long time ago, back in the early '90s,  
6 long, long ago for some people, history books for some people,  
7 they didn't have those big fire hoses, did they?

8           A     No.

9           Q     All they have was little tiny modems?

10          A     Dial-up, yes.

11          Q     And you dial up and they go [inaudible], right?

12          A     Correct.

13          Q     So they had something online that was created  
14 called used [phonetic] net group; didn't they?

15          A     Yes.

16          Q     Okay. A used net group is mostly a text-based  
17 forum; is it not?

18          A     A lot of them, yes.

19          Q     Okay. It's text-based because of the bandwidth  
20 problem, right?

21          A     Yes.

22          Q     People were trying to communicate when they only  
23 had a little tiny bit of bandwidth that wasn't always on and  
24 so they couldn't do big huge files; they go and do small ones,  
25 correct?

1 A Yes.

2 Q Okay. And text files are smaller than picture  
3 files, right?

4 A Yes.

5 Q Used nets are still around, are they not?

6 A Yes.

7 Q And text-based used net software is still  
8 around; isn't it?

9 A Yes.

10 Q Okay. So you can download tons and tons of  
11 files without actually seeing a thumbnail or any kind of  
12 graphical representation, can't you?

13 A Yes, you can.

14 Q So I was trying to follow along, and when you  
15 were talking about dates you said typically dates are  
16 reliable?

17 A Yes.

18 Q Okay. But then you said that they sometimes are  
19 changed?

20 A They can change, yes.

21 Q Okay. How can they change?

22 A If I have, say -- let's just make it easy and  
23 say I have Windows 7 on my computer --

24 Q Okay.

25 A -- but I save files and then I reload Windows 8,



1 but keep all the other files saved. Well, putting a new  
2 operating system could change those dates.

3 Q They can be changed manually too; can't they?

4 A Yes.

5 Q In fact, there's lots and lots of free software  
6 on the Internet that would allow you to manually change the  
7 dates on individual files; isn't there?

8 A Yes.

9 Q I'm sorry. I meant to ask this before. There  
10 are viruses that give people on the outside access to your  
11 computer, aren't they?

12 A You have to pretty much give them permission  
13 through an email or something.

14 Q Or if they had a password?

15 A Or if they have a password.

16 Q Or if you have a wireless router that they know  
17 the password to, they can get in that way, can't they?

18 A Wireless routers are pretty hard to get into.

19 Q If it's not password protected it's pretty easy;  
20 isn't it?

21 A Yes.

22 Q Speaking of networks, there was a network in Mr.  
23 Castaneda's house, wasn't there?

24 A Yes.

25 Q He had a wireless router. Do you know the

1 password for the wireless router?

2 A No.

3 Q Do you know if it was password protected?

4 A No.

5 Q Do you know if anyone even checked that?

6 A Typically one of the forensic guys will check  
7 it.

8 Q But it wasn't you?

9 A No.

10 Q If it was done at all?

11 A Correct.

12 Q These files were found on a thumb drive, right?

13 A Yes.

14 Q Putting stuff on a thumb drive to get it from  
15 one computer to another is not necessary when you have a  
16 network, is it?

17 A If that thumb drive is plugged into a computer,  
18 then no, you can transfer it over.

19 Q Okay. So if I -- if I have -- let's say that  
20 these are real computers and I just monitor, okay? If I have  
21 some stuff on my computer here, and Ms. Ballou has something  
22 on her computer over here and we want to share files, I could  
23 plug a thumb drive in and then I would put my files on it. I  
24 could pick it up, take it out, and I could put it into her  
25 computer and then she could open it up and download it; and

1 that's one way to do that, right?

2 A Correct.

3 Q But if your computer is a network, then I can  
4 just drag a folder into our network folder and then it  
5 automatically appears on her computer, right?

6 A Yes.

7 Q Second way is easier, right?

8 A Yes.

9 Q I heard the word "digital fingerprints."

10 A Yes.

11 Q Okay. Digital fingerprints are used for  
12 identifying computer files, right?

13 A Yes.

14 Q Digital fingerprints are not used for  
15 identifying people?

16 A No.

17 Q But speaking of fingerprints, which are used,  
18 regular fingerprints for identifying people, you guys didn't  
19 happen to fingerprint the thumb drive in this case, right?

20 A No.

21 Q You didn't happen to thumb print the thumb  
22 drive, did you?

23 You're using this EnCase software, right?

24 A Yes.

25 Q Okay. Are you running this software on Windows

1 XP?

2 A No. I am -- at that time it was Windows Vista,  
3 64-bit.

4 Q Okay. So the view you're getting is the view  
5 you get through your specialized software?

6 A Yes.

7 Q Have you always worked -- you said right now  
8 you're -- you're mainly concerned with these child-computer  
9 crimes; is that correct?

10 A Correct.

11 Q Okay. Have you always been a computer guy?

12 A Starting from '99, yes.

13 Q Okay.

14 A I do both; I do the forensic part and the  
15 investigation part. But if it's my investigation then I don't  
16 do my own forensics, another detective will do that.

17 Q There's a variety of computer crimes, right,  
18 besides just this particular type of computer crime?

19 A Yes.

20 Q Hackers, cyber attacks, white-collar crime?

21 A Yes.

22 Q Okay. Identity theft?

23 A Yes.

24 Q On this thumb drive there were a lot of personal  
25 documents for Mr. Castaneda. We had Bachelor of Science

1 degree from the University of Fresno, right?

2 A Yes.

3 Q Microsoft Certified Professional Certificate?

4 A Yes.

5 Q His driver's license?

6 A Yes.

7 Q His Social Security card with his Social  
8 Security number on it, right?

9 A Yes.

10 Q His birth certificate, right?

11 A Yes.

12 Q What kind of damage can an identity thief do  
13 with those kind of documents?

14 MR. CHEN: Objection, Judge. I don't know if this is  
15 part of this witness's specialization.

16 BY MR. WESTBROOK:

17 Q If you know.

18 THE COURT: Sustained. How is that relevant,  
19 Counsel? Unless you can tell me how it's relevant.

20 MR. WESTBROOK: I can explain the relevance. The  
21 thumb drive was found with a bunch of my client's personal  
22 information on it and it was found in the possession of  
23 somebody else.

24 THE COURT: And that's relevant how?

25 MR. WESTBROOK: I think it seems pretty --

1 THE COURT: I mean, the question is could people do  
2 damage with?

3 MR. WESTBROOK: Right. Well, I'm going to get to how  
4 it can be used in passwords, Your Honor. One other way -- I  
5 can -- I can lay more foundation.

6 THE COURT: All right.

7 MR. WESTBROOK: I understand. I understand that. I  
8 understand. I was skipping two questions ahead in my head and  
9 nobody else was.

10 BY MR. WESTBROOK:

11 Q One of the ways that identity thieves operate is  
12 through knowing personal things about other people; is that  
13 fair to say?

14 A Yes.

15 Q Okay. And when you're dealing in the realm of  
16 computers, a lot of times people's passwords and other  
17 information is connected to their personal data, correct?

18 A Yes.

19 Q Like, for example, if I lose a bank password,  
20 they might ask me for the last four digits of my Social  
21 Security number, right?

22 A Correct.

23 Q Or if I lose my email password, they might say,  
24 What's your mother's maiden name, right?

25 A Correct.

1 Q Anybody who had these documents would know that  
2 information, wouldn't they?

3 A They could, yes.

4 Q The word "access" is not a synonym for the word  
5 "open," is it?

6 A No.

7 Q If you -- and, sorry, that was a no, right?

8 A Correct.

9 Q Okay. If a file is accessed, it can mean a lot  
10 of things, right?

11 A Yes.

12 Q In fact, when a file is accessed, it can be done  
13 automated, correct?

14 A Yes.

15 Q By an automated program that's doing it without  
16 the user's direct involvement, correct?

17 A Yes.

18 Q In fact, they can be done without the user's  
19 knowledge, right?

20 A Yes.

21 Q I've heard these things running in the  
22 background, what does that mean?

23 A Let's just say, like, I have anti-virus software  
24 and I have it scheduled for every Saturday morning at twelve  
25 o'clock when I'm not using my computer, I'm going to run my

1 software to make sure I don't have any viruses or anything.  
2 So in the background that program will run by itself because  
3 I've scheduled it to run.

4 Q And every time that program checks a file --  
5 which it does automatically, right?

6 A Yes.

7 Q It leaves an access record, doesn't it?

8 A It can, yes.

9 Q It can -- it can check a file without even  
10 accessing a record?

11 A It depends on what it's touching. It's looking  
12 for viruses so it's not going to physically open every single  
13 folder.

14 Q Okay.

15 A It's just looking for those numbers of, you  
16 know, this does not belong here so.

17 Q Okay. So -- so what happens is a lot of times  
18 then -- and correct me if I'm wrong, you know more about this  
19 than I do -- is that it will access like groups of files and  
20 then it will move on to something else?

21 A Typically it likes to go to the registry. So  
22 kind of like, you know, it's kind of like the brain of the  
23 file systems and it will go in there and see if there's  
24 anything that's attached itself to registry files because  
25 that's the first way that viruses attack. They can attack



1 your registry files.

2 Q Of course, if you had the virus scanner set to  
3 complete virus scan it, it scans everything, it just takes  
4 forever, right?

5 A Yes.

6 Q And jpg's, .doc documents, like Word documents,  
7 and executable files are big virus targets; aren't they?

8 A Yes.

9 Q Okay. So it's typical for a virus scanner to  
10 actually view those files individually; isn't it?

11 A Yes.

12 Q And when it does, it leaves an access record?

13 A It can, yes.

14 Q And you can't tell the difference between that  
15 type of access record and somebody opening the file, can you?

16 A I'd have to look at the registry.

17 Q You'd have to look at the registry?

18 A Yes.

19 Q Did you do that in this case?

20 A The thumb drive -- the thumb drive doesn't have  
21 a registry.

22 Q So you certainly can't tell on a thumb drive?

23 A I can't tell on a thumb drive, no.

24 Q All right. Maybe even more to the point, you  
25 can't identify who opened a file, even if you could identify

1 that it was opened?

2 A No.

3 Q Nothing in here indicates the identity of the  
4 person who may or may not have been accessing this, right?

5 A Correct.

6 Q In fact, nothing identifies whether it was a  
7 person or an automated system, right?

8 A Correct.

9 Q Now it's not just virus scanners that cause  
10 access logs, is it?

11 A No.

12 Q There's a lot of programs that do; is that fair  
13 to say?

14 A Yes.

15 Q For example, does -- does Microsoft in Windows  
16 have a resident pre-loaded photo viewer?

17 A Some have what's called Microsoft OIS, so you  
18 can have that program on your computer and that typically --  
19 any picture that you take, it kind of puts it in a collage and  
20 makes it easier, kind of like a cookie. It makes it easier to  
21 open that picture right away.

22 Q Okay. And I guess what happens when you open  
23 any picture viewer, no matter how it catalogs things, what  
24 happens is it goes and searches your entire hard drive for  
25 pictures, doesn't it?

1           A     If it's the Microsoft one it will just go to  
2 those folders.

3           Q     What if it's like Google Picasa?

4           A     I'd have to research that; but it would go to  
5 wherever Google Picasa is held in the program files.

6           Q     Oh. So it's going to, like, say default  
7 folders?

8           A     Yes.

9           Q     Okay. Well, that brings up a good point. So  
10 when you're -- when you're in Microsoft Windows -- and this is  
11 true across multiple versions, right? It was true in Windows  
12 XP. It's true in 2007 -- I'm sorry, Windows 7, excuse me?

13          A     Yeah.

14          Q     Okay. There are certain folders that Microsoft  
15 sets as the default folder, right?

16          A     Right.

17          Q     For example, the default folder for anything  
18 downloaded from the Internet is called the download folder,  
19 right?

20          A     If you download it is.

21          Q     The default -- well, if anyone downloads, if --  
22 if a program downloads it, it goes into the download's folder  
23 as a default?

24          A     Yes.

25          Q     That could be changed?

1           A     Yes, you can change your default setting.  
2           Q     But that's the default?  
3           A     Yeah.  
4           Q     Default folder for music is My Music, right?  
5           A     My Music, unless you have something, you know,  
6     like an iPod or something, then it's going to go to that --  
7     those folders.

8           Q     Okay. And in -- in fact, there's some programs,  
9     speaking of music programs, like iTunes, that actually go to  
10    the Internet to look for stuff without you telling it to,  
11    don't they?

12          A     If you keep it on, yes.

13          Q     Okay. So, like, for example, you have an MP3 on  
14    your computer and you put it into your music thing and iTunes  
15    sees it, it goes, I bet you he would like a picture of  
16    Santana's CD to go along with this Santana song, so it goes to  
17    the Internet and finds a picture of the CD cover, doesn't it?

18          A     Yes.

19          Q     Sometimes it finds it, sometimes it doesn't,  
20    right?

21          A     Yes.

22          Q     In fact, when it does that, when it goes out  
23    automatically looking for a picture, it creates an Internet  
24    temporary file, doesn't it?

25          A     Temporary and [inaudible], yes.

1 Q Okay. And that's just automatically created by  
2 the -- by the program?

3 A Yes.

4 Q Okay. So it sounds like a lot of things happen  
5 on a computer creating access logs that have nothing to do  
6 with human intervention, right?

7 A Correct.

8 Q All right.

9 THE COURT: Mr. Westbrook, how much longer do you  
10 think you'll have on cross? Is it time for a break or --

11 MR. WESTBROOK: I would think -- I think a break  
12 might be good.

13 THE COURT: All right. Ladies and gentlemen, it's  
14 three o'clock. I want to give you a chance to use the  
15 facilities, stretch, so we'll take a break until 3:15.

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

25 We'll be in recess for about 10 minutes, which will

1 be 3:15.

2 (Jury recessed at 3:04 p.m.)

3 THE COURT: The record will reflect we're outside the  
4 presence of the jury. Are there any matters outside the  
5 presence?

6 MS. ANTHONY: No, Your Honor.

7 THE COURT: We're off the record.

8 MR. WESTBROOK: Thank you.

9 (Court recessed at 3:05 p.m. until 3:21 p.m.)

10 (In the presence of the jury panel.)

11 THE COURT: Please be seated. We are back on the  
12 record. State of Nevada versus Anthony Castaneda. The  
13 Defendant is present with his Counsel, Deputy District  
14 Attorneys prosecuting the case are present, as are all  
15 officers of the Court, all 12 members of the jury and the two  
16 alternates.

17 Will Counsel so stipulate?

18 MR. CHEN: Yes, Your Honor.

19 MS. BALLOU: Yes, Your Honor.

20 THE COURT: Mr. Westbrook, continue.

21 CROSS-EXAMINATION, continued

22 BY MR. WESTBROOK:

23 Q Just to summarize, these are things that you  
24 don't know: Whose thumb drive this is, right? You don't know  
25 that?

1 A No.

2 Q That's a no?

3 A No.

4 Q Who put the pictures on it, you don't know that?

5 A No.

6 Q Where these pictures came from, you don't know  
7 that?

8 A No.

9 Q If the child pornography was ever viewed by  
10 human eyes, you don't know that, right?

11 A Somebody had to view it because somebody had to  
12 take it.

13 Q Okay. If the child pornography on this disk was  
14 ever viewed by Mr. Castaneda, you don't know that, do you?

15 A No.

16 Q You have no idea whether he even knew this child  
17 pornography existed, do you?

18 A No.

19 MR. WESTBROOK: I'll pass the witness.

20 THE COURT: Redirect.

21 MR. CHEN: Very briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. CHEN:

24 Q Detective Ramirez, Mr. Westbrook just asked a  
25 series of questions to you about whether you could tell if,

UNCERTIFIED ROUGH DRAFT

1 for instance, Mr. Castaneda ever looked at that thumb drive;  
2 you remember those questions?

3 A Yes.

4 Q Is there any software program in the world that  
5 you're aware of that could tell that type of information?

6 A No.

7 MR. CHEN: No further questions. Thank you, Your  
8 Honor.

9 THE COURT: Defense?

10 MR. WESTBROOK: Nothing further.

11 THE COURT: May this witness be excused?

12 MR. CHEN: Yes, Your Honor.

13 THE COURT: Thank you.

14 THE WITNESS: Thank you.

15 THE COURT: You may call your next witness.

16 MS. ANTHONY: State calls Detective Ehlers.

17 PAUL EHLERS, STATE'S WITNESS, SWORN

18 THE CLERK: Please be seated. And please state your  
19 name and spell it for the record.

20 THE WITNESS: My name is Paul, P-A-U-L; and last name  
21 is Ehlers, E-H-L-E-R-S.

22 MS. ANTHONY: Get a little situated here. Have quite  
23 a bit of photographs.

24 DIRECT EXAMINATION

25 BY MS. ANTHONY:



1           Q     All right. Detective Ehlers, where are you  
2 currently employed?

3           A     I'm employed with the Las Vegas Metropolitan  
4 Police Department.

5           Q     How long have you been there?

6           A     Almost 22 years now.

7           Q     And right now what is your job title?

8           A     I'm a detective, excuse me, and a forensics  
9 examiner assigned to our department's computer forensics lab.

10          Q     And in 2010, where were you assigned?

11          A     I was assigned as a detective examiner at the  
12 computer forensics lab.

13          Q     And what does a -- did you tell me a forensics  
14 examiner?

15          A     Yes.

16          Q     You did. Okay. Sorry. Making notes. What  
17 does a forensics examiner do?

18          A     For our department and as a forensics examiner  
19 mostly what we'll detail or deal with is examining digitally-  
20 stored media. So anything that a computer, cellphone, tablet,  
21 some type of electronic device that may contain data, we may  
22 be asked into review, look at, process it for evidentiary  
23 information.

24          Q     And what type of training experience do you have  
25 in order to do that?

1           A     Well, again, I've been a police officer for 22  
2 years; 10 years in patrol activities, detective for over 10  
3 years now. Specifically been assigned to the computer  
4 forensics lab for a little over four years now. I've logged  
5 in over 800 hours of specific training in reference to  
6 computer forensics.

7           Q     And some of that training, is it done with the  
8 FBI?

9           A     It is. I have taken some FBI courses, private-  
10 establishment courses for software programs, training for the  
11 Secret Service, training through forensic tools that we  
12 actually use, along with certifications on several of those  
13 tools. So it's kind of a myriad of collection of that -- of  
14 that 800 hours.

15          Q     I want to talk to you about April 7, 2010. Were  
16 you on duty that day?

17          A     I was.

18          Q     And on that day did you assist in service of a  
19 search warrant?

20          A     I did.

21          Q     And did that occur at 2205 Beverly Way here in  
22 Clark County, Nevada?

23          A     Yes.

24          Q     Who was the lead detective on that case?

25          A     The lead detective was Shannon Tooley from our

1 police department and the ICAC office, which is the Internet  
2 Crimes Against Children.

3 Q And before you went to that address, did you get  
4 briefed on the reason the search warrant was being served?

5 A I did.

6 Q And what was that reason?

7 A Briefly we'd go over it whenever we're going to  
8 participate or assist in it; but from the information I had  
9 gathered and was provided to us, we were going to assist them,  
10 one, with the entry and service of a search warrant at that  
11 residence involving a child pornography investigation.

12 Q Who else -- Detective Tooley, I assume, was also  
13 at the residence?

14 A Yes, she was.

15 Q Who else was present during the service of that  
16 search warrant?

17 A We had several FBI agents with us also assigned  
18 to the ICAC task force. Detective Vince Ramirez was with us;  
19 myself; I believe another ICAC detective; another one of our  
20 forensic examiners, Stephen Tafoya, also came out and  
21 assisted. So I think there was probably about 10 or more of  
22 us actually that had come at one point in time to that  
23 residence.

24 Q And Shawna Partridge was always present?

25 A I'm sorry?

1 Q Shawna Partridge was also present?

2 A Yes.

3 Q During the service of the search warrant, what  
4 was your role?

5 A My role at that time initially was just assist  
6 in -- if they were going to require us to preview any items or  
7 assist in looking at whether we need to work on bringing down  
8 any networks or any problems with digital data-type material.  
9 I was tasked at that time to actually look at a computer  
10 laptop from the Defendant's son who had been staying there and  
11 I was asked to preview that and determine that -- and  
12 determine whether or not any child pornography possibly  
13 existed on that computer.

14 Q And let's back up just for a moment. When you  
15 say "preview a computer," what is a preview of a computer?

16 A A preview is usually going to be a shortened or  
17 a limited exam where we'll boot up and most likely just look  
18 at the logical-type data in there. It's not going to be a  
19 full forensics exam as these take days, weeks, sometimes  
20 months to actually complete and do. So usually [inaudible]  
21 preview to give us an idea of whether or not some of the  
22 things we may be looking for may be contained on any of that  
23 data or devices.

24 Q And when you're previewing a computer, what type  
25 of tools do you use in order to complete a preview?

1           A     Personally, I use FTK Imager, also EnCase.  
2     These are software programs specifically designed for forensic  
3     work; but there's a myriad of tools that you can use.

4           Q     And in this particular preview did you use  
5     EnCase?

6           A     I did.

7           Q     Okay. And does EnCase have a mechanism that  
8     once you're previewing a computer, it prevents the computer  
9     you're looking at from any information being changed on it?

10          A     Yes. That software program, in conjunction with  
11     what we will use called write blockers, will prevent us from  
12     actually writing any data to something that we may be viewing  
13     or imaging. So there are devices that we use and on that date  
14     and time I did use one and I know the other detectives, I saw  
15     them also [inaudible].

16          Q     Okay. I'd like to show you State's Exhibit 63.  
17     Do you see a laptop in that photograph?

18          A     If I can find my glasses.

19          Q     You may.

20          A     Yes, I did.

21          Q     All right. And I want to show you State's  
22     Exhibit 64. Is that the front side of that laptop?

23          A     Yes, it is.

24          Q     And is this a laptop that you did a preview on?

25          A     Yes, it is.

1           Q     You said this -- is this the laptop you  
2 indicated belonged to the Defendant's son?

3           A     Yes, actually the laptop as explained to myself  
4 and everyone there at that time actually belonged to the  
5 university that the son was attending, and it wasn't  
6 necessarily his alone, and there was some request of if we  
7 could make this a priority object so that we weren't actually  
8 going to take this device and deprive him of it for months,  
9 years, whatever the case may be while we conduct an  
10 examination. So that was one of the reasons this was targeted  
11 explicitly and I was asked then to preview it.

12          Q     And you did preview this laptop?

13          A     I did.

14          Q     Okay. And let me back up. Do you happen to  
15 know the son's name? Do you recall?

16          A     I don't recall it offhand right now.

17          Q     Was the son present at the residence as well?

18          A     Yes, he was.

19          Q     Okay. And then you actually did do the preview  
20 of this laptop which is marked as -- in the photograph as  
21 State's Exhibit 63 and 64?

22          A     I did.

23          Q     And did you preview it at that same residence?

24          A     I did.

25          Q     When you did the preview, did you locate any

1 child pornography on that laptop?

2 A No, I did not.

3 Q And since you didn't locate any child  
4 pornography on that laptop, was this laptop impounded?

5 A No, it was not.

6 Q Did you do any other -- well, at the search  
7 warrant did you have any other roles?

8 A No. In general, it was just to assist then if  
9 it was required with the photography, the impounding. The  
10 assist when we serve a search warrant will have to leave a  
11 return which states if we are going to take any items what  
12 those will be. So there's quite a large volume of work to be  
13 done there in reference to if we're going to be taking items,  
14 keeping receipts of those and putting them back.

15 So I assisted basically just in general information  
16 as directed by Detective Tooley, who was the lead investigator  
17 on that, if we were going to gather or take certain material  
18 and put it aside as opposed to things we may not be taking.

19 Q All right. After the service of the search  
20 warrant, did you remain involved in this case?

21 A I did.

22 Q And what was your role, further investigation in  
23 this case?

24 A I was assigned then afterwards to conduct a  
25 forensic examination on the items that were then impounded or

1 seized from the service of that search warrant.

2 Q And were you the lead forensic analyst [sic] on  
3 the items that were impounded?

4 A I was.

5 Q Showing you State's Exhibit 36. Is this -- is  
6 there an item in that photograph that you recognize?

7 A Well, I do -- I do recognize this being the  
8 living room area of the residence of Mr. Castaneda where we  
9 served the search warrant and there was a shuttle desktop, a  
10 computer connected here at this table.

11 Q If you circle -- if you circle on there the jury  
12 will be able to see.

13 A At that table area there is where we did take  
14 and recover one of the items that I eventually then  
15 photo-examined.

16 Q All right. And showing you State's Exhibit 38.  
17 Is that the shuttle that you've been referring to?

18 A Yes, it is.

19 Q And did you do a forensic analysis on this  
20 shuttle computer?

21 A I did.

22 Q Okay. I'm going to go through some of the other  
23 items; but we're going to come back to the shuttle. When you  
24 did -- well, since it's here for just a quick moment. When  
25 you did a forensic analysis on this shuttle did you find any



1 child pornography on it?

2 A I did.

3 Q I want to show you State's Exhibit 51. Do you  
4 recognize the item that's in this photograph?

5 A Yes, I do.

6 Q And what is this?

7 A This is an HP laptop, which was also taken from  
8 the scene of the residence, which I further examined later  
9 also.

10 Q And when you further examined this laptop, did  
11 you find child pornography on it?

12 A Yes, I did.

13 Q Showing you State's Exhibit 47. Do you  
14 recognize the item that's in this photograph?

15 A I do.

16 Q And what is this?

17 A This is a Dell laptop that was also taken from  
18 the scene that I examined also.

19 Q Did you find any child pornography on this  
20 laptop?

21 A I did not.

22 Q Showing you what's been marked as State's  
23 Exhibit 70. State's Exhibit 70, it's kind of a glare on there  
24 and I'm going to try to put side by side -- let's see if I can  
25 do this -- 69. Do you recognize what's in that photograph?

1 A Yes, I do.

2 Q Okay. And what was it?

3 A There's two hard drive -- computer hard drives.

4 Q And did you -- so this is 69 would be the back  
5 of 70?

6 A Okay. This appears to be --

7 Q Sorry, I'm moving it so I can --

8 A That's okay.

9 Q -- kind of zoom in for you.

10 A This appears to be the -- a hard drive that I  
11 did examine.

12 Q Okay. And did you -- were you able to find any  
13 information off of this hard drive?

14 A I'm not sure whether or not this specific hard  
15 drive -- I know one of them I had that would not boot up so I  
16 wasn't able to retrieve any data from it. I couldn't get it  
17 to power up. So one of them I know I wasn't able to get any  
18 data from, and I believe one other I did examine, was able to  
19 power up; but in either case, in both instances, I did not  
20 recover any child pornography from those items.

21 Q Okay. So you did forensic evidence on two hard  
22 drives that were impounded from the house at 2205 Beverly Way?

23 A In addition to the -- the shuttle and the laptop  
24 and -- and just because as you say "hard drive" --

25 Q I understand.

1           A     -- that actually is the material that we look  
2 at. So we take the hard drives out of the actual computer  
3 machines and they conduct forensics. So in addition to the  
4 shuttle, desktop, and the HP laptop, I believe there's two  
5 others, hard drives, along with several other CD media, and a  
6 thumb drive.

7           Q     Okay. So perhaps a better question would have  
8 been two freestanding hard drives?

9           A     Yes.

10          Q     Okay. And showing you State's 45. This is --  
11 just a bad glare -- an additional hard drive that you  
12 analyzed?

13          A     Yes.

14          Q     And at this point you don't remember, but you  
15 did look at two different hard drives. And showing you 70 and  
16 45, these are two hard drives that you performed analysis on  
17 and neither one of them were you able to get child pornography  
18 off of?

19          A     That is correct.

20          Q     Okay. One worked and one didn't?

21          A     Correct.

22          Q     Okay. Did you also take a look forensically at  
23 some CDs and DVDs that were impounded?

24          A     I did.

25          Q     And when you looked at those CDs and DVDs, were

1 you able to find any child pornography on them?

2 A No, I was not.

3 Q What was mainly on those CDs and DVDs?

4 A As I recall, system operating software and  
5 programs as such, mostly that had been -- I'd seen from those,  
6 but no child pornography or specific files or photographs or  
7 things like that.

8 Q Did you also forensically analyze a USB drive?

9 A I did.

10 Q Showing you State's Exhibit 16. Is this the USB  
11 -- USB stick might be a better name?

12 A Yeah, it is a drive. It is flash memory.  
13 Differs a little bit from a spinning platter disk of a hard  
14 drive; but it is an electronic-storage device. You're able to  
15 write data to it, erase it, put it back and forth on it. And  
16 just a clarification, I didn't complete a full forensics exam  
17 on this. I did do some forensic work around [sic] in  
18 reference to this device involved with the laptop and the  
19 desktop. But as it had been previously done by Detective  
20 Ramirez, I pretty much just was able to look at it, verify  
21 that his findings were correct in reference to it, and then  
22 did some other forensic work on it.

23 Q And Detective Ramirez is the witness who just  
24 left the courtroom right before you entered?

25 A That is correct.

1           Q     Okay. All right. So let's talk about State's  
2 Exhibit 38, which is the shuttle that you forensically  
3 examined. All right. So I want to get to some specifics  
4 regarding this. What procedure did you use to perform a  
5 forensic analysis on the shuttle?

6           A     The forensic procedure, which would have been  
7 the same for almost all devices except for the CDs, is that --  
8 and which I did perform in this case -- was that we'll take  
9 the electronic-storage device media from it. In this case we  
10 usually take out the hard drive and we'll perform or conduct  
11 an image on that. So we'll write block it to insure that  
12 we're not affecting or tampering with any of the original  
13 evidence, and we're going to make a bit-for-bit mirror copy of  
14 that actual drive and material.

15           We then are going to actually conduct our forensic  
16 analysis using that bit-for-bit copy insuring that we don't  
17 alter or change any information. Once we perform or obtain  
18 this image file, it cannot be altered at all. So we can go in  
19 and look at it, tool with it, move it around, and we're not  
20 going to make any changes to it whatsoever; but we also insure  
21 that it is an exact bit-for-bit copy of what the original  
22 drive was where we imaged it from.

23           Q     And when you actually imaged this shuttle, you  
24 took steps to protect it from being modified?

25           A     Yes.

1 Q During your [inaudible] houses, did you  
2 determine who the registered owner of this computer was?

3 A I did. I probably would have to refer to some  
4 of our reports that I completed, just in reference to there's  
5 a lot of material, user activity as such, but I do know that  
6 -- I believe it was this item which I designated, I remember,  
7 as Item 1.

8 Q So let's talk about your reports just for a  
9 moment.

10 A Okay.

11 Q When you did an analysis of the shuttle and  
12 actually -- or I guess physically talk about the shuttle, the  
13 HP laptop, and the USB stick, when you analyzed all three of  
14 those you had a report that was made?

15 A Yes.

16 Q And the report was made essentially by you?

17 A Yes.

18 Q And in order to make the report you used this  
19 program -- did you say FTK?

20 A Yes, I did, which stands for Forensic Tool Kit.  
21 It's made by a company by the name of Access Data and it's one  
22 of the premier forensic utilities that's used by law  
23 enforcement and in the forensic community.

24 Q And you had the report generated as you were  
25 searching through these computers and these devices?

1           A     Yes. As conducting it we're able to pull out  
2 certain information, even information that the user has no  
3 access to, such as deep registry-type files, and we're able to  
4 bookmark certain things or place them into a digital report or  
5 report-type status from the software as we obtain and pull  
6 some of that information out of areas we're looking for.

7           Q     And this is a program that you used regularly in  
8 conducting your forensic analysis?

9           A     Yes, it is.

10          MS. ANTHONY: Your Honor, at this point I would ask  
11 that he be able to use his report in order to testify  
12 regarding the details of the forensic analysis pursuant to NRS  
13 151.135.

14          MR. WESTBROOK: I have no objection.

15          THE COURT: That will be allowed.

16 BY MS. ANTHONY:

17          Q     You may get your report out.

18          A     Okay. Now I only -- just to clarify, Your  
19 Honor, I also have a shortened -- what we call a coversheet,  
20 which will kind of pull some of those things out from the  
21 forensic report that we've done and put into maybe a 3-, 4-,  
22 5-, 10-, 20-, 30-page report that we're going to hand the  
23 detective, which kind of is a brief synopsis or overall of  
24 what is going to be contained in the forensic report. This  
25 forensic report such as in this case that I have is too big to

1 have papers. It would stack quite a bit. So if we do, and  
2 you wish for me to review that, I'm going to have to fire up  
3 the computer and we're [inaudible].

4 Q Get what you need to get out so that we can ask  
5 the details of these questions. If the computer is it, bring  
6 it up, if it has the report on it.

7 THE COURT: So you created a summary of the larger  
8 report because it's so voluminous?

9 THE WITNESS: That is correct, Your Honor.

10 MR. WESTBROOK: Your Honor, may we approach on that  
11 just very briefly?

12 THE COURT: Yes.

13 (Off-record bench conference.)

14 MR. WESTBROOK: Thank you, Your Honor.

15 BY MS. ANTHONY:

16 Q Are you up and running?

17 A We're getting there.

18 Q All right.

19 A And this was the coversheet.

20 THE COURT: That's the summary that you talked about?

21 THE WITNESS: That is correct.

22 THE COURT: Okay.

23 THE WITNESS: I'm going to restart it, but is there  
24 any questions I could possibly answer offhand.

25 MS. ANTHONY: Yes.



1 BY MS. ANTHONY:

2 Q Okay. So when you performed the forensic  
3 analysis on the shuttle, did you verify that the times that  
4 were going in the registry were accurate?

5 A I -- I did. Normally, as I did in this case and  
6 most cases, will look at and obtain at the very beginning of  
7 our investigation or examination the actual time zone that the  
8 computer is set to. We obtain this from the BIOS information  
9 as well as the registry information in the computer. So in  
10 this case I did and [inaudible] that it was set at Pacific  
11 Standard Time, which was our local time here in Las Vegas.

12 THE COURT: Are you having a problem with that  
13 microphone pick-up?

14 THE COURT RECORDER: Just move it -- that's fine.  
15 Thank you.

16 THE WITNESS: Sorry.

17 THE COURT RECORDER: That's okay. That's good.

18 THE COURT: All right. I think we need to back up.  
19 There was an awful lot of distraction going on so I didn't  
20 hear the last answer, I'm sorry.

21 THE WITNESS: I believe it was in reference to the  
22 time zone and the setting of files within the registry.

23 BY MS. ANTHONY:

24 Q Yes.

25 A And the answer was that, yes, in all

1 examinations we'll look at and one of the first things we'll  
2 do is obtain the time zone that the computer is currently set  
3 to or was set to at the shut-down time when we actually seized  
4 it or impounded it or took it. And in this case it was set --  
5 both of them, that being the laptop and also the desktop,  
6 Items 1 and 2, were set with Pacific Standard Time, which was  
7 our local time here in Las Vegas.

8 Q Okay. Is your laptop up and running? Almost?  
9 I'm not sure I can ask you many more questions I don't know  
10 the answer to, so I'll just wait just a second.

11 A I do have that report up now.

12 Q You're up?

13 A Yes.

14 Q Excellent. Okay. Talking about the shuttle,  
15 who was the registered owner of this shuttle?

16 A And if I could, on some of the basic questions I  
17 may be able to refer to the written report, which I have, so  
18 if you listen [sic] out -- and the reason being is it's a  
19 little easier to refer to this than waiting to populate this.

20 The shuttle, which I further refer to as Evidence  
21 Item No. 1, showed the registered owner was listed as Tony  
22 Castaneda.

23 Q And as part of the analysis of the beginning  
24 portions of this computer, do you also determine if there's an  
25 install date?

1 A Yes.

2 Q And was there an install date on the shuttle?

3 A Yes, there was. And when we say "install date,"  
4 just to clarify, that would be of the operating system, so  
5 Windows, Apple, Mac, whatever it is, the actual system that  
6 makes your computer run, it contains all the files.

7 Q And what date was that?

8 A We had an install date on that Item 1 of the  
9 shuttle of 12 -- so December 10, 2008.

10 Q Let me back up for just a moment. A registered  
11 owner, what is a registered owner?

12 A When the operating system is initially installed  
13 or placed upon, it will give you a box to fill in and say,  
14 Who's the registered owner, What name do you want to list,  
15 company, name, and you then can populate that with whatever  
16 you choose to, and that will then go as the registered owner's  
17 name of that product.

18 Q Did you also determine user files on this  
19 computer?

20 A I did.

21 Q And how many user files were there?

22 A There were eight user files on this operating  
23 system. And just to clarify in case it comes up later, this  
24 was a Microsoft Windows XP with a Service Pack Three operating  
25 system.

1           Q     What is a user account?

2           A     A user account is how the computer distinguishes  
3 of where files or information is going to be placed and the  
4 activity of who actually is going to manipulate the keyboard  
5 or the actual system. So upon initially installing an  
6 operating system, depending which version of it is, such as  
7 Windows 8, 7, Windows XP, a few files will automatically be  
8 populated and built into it, such as we know administrator and  
9 guest are both common ones that we see on almost all  
10 computers. But each variation of the operating system  
11 sometimes throws a few others in there for networking  
12 assistance and such and others. You are then given the  
13 opportunity to enter in user information as such as you want  
14 placing your name, establishing an account to use on that  
15 computer, and this can be changed at any time, it can be added  
16 or deleted. But that really is how you would log in then to a  
17 computer and get it to operate and access your information and  
18 files.

19          Q     Okay. So you said there were eight user files?

20          A     That was listed, yes.

21          Q     Okay. So tell me about the first one.

22          A     The first one was Administrator Account, which  
23 is a built-in account, which is automatically installed with  
24 that operating system.

25          Q     Had it been logged into?

1 A No, it had not been.  
2 Q And what's the next account?  
3 A Guest.  
4 Q Had it been logged into?  
5 A No.  
6 Q And the third?  
7 A Was Help Assistant, and that's an account for  
8 providing remote assistance if required.  
9 Q And was it logged into?  
10 A No, it had not been.  
11 Q And the fourth?  
12 A Is a Support Account.  
13 Q Had it been logged into?  
14 A No, it had not.  
15 Q Okay. So then I think we're on the fifth. What  
16 is the fifth account?  
17 A The fifth account is Tony.  
18 Q Had it been logged into?  
19 A Yes, it had.  
20 Q How many times had it been logged into?  
21 A 2,532 times.  
22 Q Did it have a password?  
23 A Yes, it showed to have a password.  
24 Q So it was password protected?  
25 A Yes.

1           Q     And when is the last time it had been logged  
2 into?

3           A     The last log-on date was listed as 4/7 of 2010,  
4 so April 7th of 2010.

5           Q     And what time?

6           A     At 12:05 a.m.

7           Q     What is the sixth account?

8           A     It was titled "the\_girls," but "the" and then an  
9 underscore "girls."

10          Q     And did it have a password?

11          A     I can check the other system. I'll be able to  
12 answer that.

13          Q     Okay. I'm also next going to ask you how many  
14 log-ins.

15          A     Okay. It shows that it was password protected,  
16 this is "the\_girls" account, user account now. It had a  
17 log-on count of 755, and a last-written to time or log-on  
18 count -- or excuse me, last log-on time of 3/13/2010, and a  
19 last-written time of 3/27/2010, so March.

20          Q     And the seventh account?

21          A     Was an account title S-Net [phonetic] and this  
22 is an account that's also populated automatically by the  
23 operating system.

24          Q     Had it been logged onto?

25          A     No, it had not been.

1 Q And the final account, the eighth account?

2 A Was account titled "Craig" and I do remember  
3 now, refreshing my recollection that that was Mr. Castaneda's  
4 son, Tony Castaneda's son, Craig, whose computer I had  
5 initially previewed at the scene.

6 Q And had the Craig account been logged into?

7 A Yes, it had been; ten times with the last log-on  
8 on 4 -- April 5, 2010.

9 Q And did it have a password?

10 A No.

11 Q All right. On the shuttle computer you  
12 indicated previously that you found child pornography?

13 A Yes.

14 Q I would like to talk to you about specific  
15 items.

16 MS. ANTHONY: Your Honor, may I approach the witness?

17 THE COURT: Yes.

18 BY MS. ANTHONY:

19 Q Without showing the jury, I'm going to ask you  
20 to take a look at Exhibits -- Exhibits 1, 3, 4, 5, 6, 7, 8, 9,  
21 and to the end, 9 through 15, all except for Number 2. Taking  
22 a look at Exhibits 1 through 15, with the exception of Number  
23 2, do you recognize all of these items?

24 A Yes, I do.

25 Q And where did all of these items come from?

1           A     These are -- these are graphic depictions of --  
2 graphic picture files that I recovered in reference to this  
3 investigation.

4           Q     And were these all -- these photographs that you  
5 just looked at true and accurate depictions of the photographs  
6 that you took off of that shuttle computer?

7           A     Yes, they appear to be.

8           Q     And that's the shuttle computer that's currently  
9 up on the screen?

10          A     I can't verify that only those were found on the  
11 shuttle, the desktop computer. I know I did find several that  
12 were located on the desktop and the laptop, as well as the  
13 thumb drive.

14          Q     Okay. So we're going to go through them  
15 separately, so we're starting with the shuttle. Do you also  
16 have another report, a summary report with you?

17          A     I do. And this would come --

18          Q     And it has photographs on it?

19          A     Yes.

20          Q     Microphone issues. Okay. So these photographs  
21 I just showed you, Exhibits 1 through 15, with the exception  
22 of 2, did all of these come from the shuttle computer?

23          A     Yes.

24          MS. ANTHONY: Your Honor, State moves to admit  
25 State's Proposed Exhibits 1 through 15, with the exception of



1 2 at this point.

2 MR. WESTBROOK: I'll rest on my prior objections.

3 Thanks, Judge.

4 THE COURT: All right. They'll be admitted.

5 (State's Exhibit 1, 3 - 15 admitted.)

6 MS. ANTHONY: Thank you.

7 BY MS. ANTHONY::

8 Q I would like to ask you specific questions about  
9 each exhibit.

10 MS. ANTHONY: There it is. Thank you.

11 BY MS. ANTHONY:

12 Q All right. Let's start with Exhibit 1. And  
13 Exhibit 1, what was the -- now we're talking about the shuttle  
14 -- what was the file name of that exhibit?

15 A The file name given to that file was the number  
16 "2" and then "girls01.jpg," so exactly as it is written to the  
17 left there.

18 Q Okay. And based on your forensic analysis, what  
19 date -- before we start to talk about these, when you do a  
20 forensic analysis you are able to get three different dates,  
21 correct?

22 A For files, like [inaudible] files usually do  
23 contain three dates, yes.

24 Q Okay. What are those three dates?

25 A Those are going to be modified, accessed, and

1 created. They might differ in modified to written, just  
2 depending on their operating system; but basically those three  
3 dates.

4 Q And we actually just heard from Detective  
5 Ramirez and he uses a different program than you?

6 A Yes.

7 Q So your information is going to be a modified  
8 date, but Detective Ramirez would have been a written date?

9 A Yes, and also depending probably on a file  
10 system, so I don't want to so much say the operating system  
11 changed that. I'm going to venture to say if it was in  
12 reference to Detective Ramirez referencing dates on --

13 Q Using EnCase.

14 A -- the USB thumb drive --

15 Q Correct.

16 A -- would be. The reason you're going to see a  
17 different term of written and modified on that case is going  
18 to be it's two different file systems. File systems are  
19 software programs that keep all the files together as such.  
20 We started initially when computing start with FAT12, 16, 32.  
21 Now we're into NTFS, New Technology File System; and now  
22 there's even a newer one with Windows 8; HFS, different file  
23 system for the Macintoshes.

24 But in reference to that, yes, it would be, and that  
25 being that most flash media, whether it be an ST card or USB

1 thumb drive is going to be a FAT32 file system, which was on  
2 the USB thumb drive, which was identified as Item 8.

3 Q Yes.

4 A And the shuttle or desktop, as well as the  
5 laptop contain NTFS file systems. They pretty much do the  
6 same things, little variations in the master file table of how  
7 they're going to write or put things and how it kind of keeps  
8 track of where files go as they're deleted or moved around or  
9 placed or stored. One's just a newer version than the other.  
10 And like I said, on almost all flash media you're going to  
11 have a FAT32. The newer technology is the NTFS.

12 Q Okay. So if he gave us a written date, it would  
13 be the same as your modified date?

14 A That is correct.

15 Q All right. So tell us what a modified date  
16 means?

17 A A modified date is going to determine whether or  
18 not you actually changed an item within that file. So you  
19 look at a file, and not just -- excuse me -- not necessarily  
20 changing the file name, but you actually change any of the  
21 attributes in it. Just flipping a bit and putting a period in  
22 something, taking a pixel in or out of a picture might cause  
23 it then to be updated to say, Okay, it has been modified or  
24 changed to some degree.

25 Q All right. And what is a created date?

1           A     Created date is going to be when that file was  
2 introduced to the media it's being placed upon. As an  
3 example, if I had files and I placed them onto a computer on  
4 my laptop right now it's going to show today's created date  
5 because that is the date that I'm creating it into this  
6 environment, this operating system.

7           Q     All right. And before we go any further on  
8 this, State's Exhibit 1, which is the image 2 girls01.jpg,  
9 what was the path that this image was saved under?

10          A     The item path would be the actual hard drive,  
11 then Documents and Setting, the user account of Tony, My  
12 Documents, Downloads, adult girl -- adult girl pics, and then  
13 2 girls01.

14          Q     So in order to get to this image, what does  
15 somebody have to do to get there?

16          A     I guess to explain it as clicking, I would have  
17 to be where the path is and where it's stored would be in the  
18 C drive, so your normal operating system drive. The documents  
19 and settings is where Windows XP places the user accounts. So  
20 within there, the Tony account would be next. And then we  
21 start pretty much going into a folder hierarchy or lineage  
22 down and we're going to have My Documents, which is a common  
23 populated folder; a new folder titled "downloads;" a new  
24 folder -- sub-folder category here as you go down, "Adult;"  
25 another sub-folder, "girlpics;" and then that file.

1 Q So how many clicks is that? C drive, Document  
2 setting, user name Tony, My Documents, Downloads, Adult  
3 Girlpics, and the image; seven?

4 A Seven, unless you're logged in as Tony. So if  
5 you're logged into the account, what you're accessing, which  
6 you should be, you're kind of minus two then. So once you're  
7 logged in, now you're logging in, maybe clicking Tony one, my  
8 documents, downloads, adult girlpics, and now I see the file.

9 Q All right. Are all of these images that you  
10 found on the shuttle, were they all located in the same  
11 folder?

12 A Of these --

13 Q Child pornography?

14 A -- fifteen ones I just viewed?

15 Q Yes.

16 A Yes.

17 Q They're all located in the girlpics folder?

18 A That is correct.

19 Q And they're all under what user name?

20 A Tony.

21 Q Let's talk about State's Exhibit 3. What was  
22 the image name for that?

23 A "Girllondick," all one word, and then "0" and I  
24 have "8.jpg." I was going to say just -- exactly as it's  
25 written then, yes, correct.

1 Q All right. And this was -- this document was  
2 found in the same girlpics folder?

3 A That is correct. Same path.

4 Q All right. What date was it created?

5 A Created date of 12/10 of 2008.

6 Q And what was the last month [inaudible]?

7 A 8/13 of 2007.

8 Q I'm sorry. Did I get that information from you  
9 in Item No. 1. Did I ask about the exact date that Exhibit 1  
10 was modified?

11 A I do not believe you did.

12 Q Okay. Let's do that.

13 A And on Exhibit 1 I had a created date again of  
14 12/10 of 2008.

15 Q Okay.

16 A And a modified date of 8/9 of 2007.

17 Q Let's go ahead and do the access date on Exhibit  
18 1 as well?

19 A Access date of 4/1 of 2010 for Item 1.

20 Q Okay. And Item 3?

21 A Access date of 4/1 of 2010.

22 Q What about Exhibit 4? What is the image name?

23 A Counsel, if I may?

24 Q Yes.

25 A We didn't -- I know we went over two of the

1 dates. The access date I don't believe I -- I covered. On  
2 that we had a modified changing created when I was placing it  
3 onto it and in accessing if I'm actually touching it, viewing  
4 it, opening it, saving it.

5 Q So Exhibit 4, what is its image name?

6 A "New-" then the numbers "22.jpg."

7 Q Okay. And what was it's created date?

8 A Yeah. I have it as lower case. I don't know if  
9 that matters to you. And that is correct.

10 Q Okay.

11 A Created date of 12/10 2008, a modified date of  
12 8/11 2007, and an access date of 4/2 or 2010.

13 Q That modified date, what time was it done?

14 A 2:03:18 a.m., that would be standard local time.

15 Q Okay. Let's do Exhibit 5. What is the name of  
16 that item?

17 A The number "2," then "girls," g-i-r-l-s, ".jpg."

18 Q This image, did you find it on that computer  
19 more than once, on the shuttle?

20 A Yes, I did.

21 Q So this -- the first one you found in the  
22 girlpics folder?

23 A Yes.

24 Q And the second image, what was its title, the  
25 name of the image?

1           A     It's actually not named. It's given a number,  
2 and I can explain that a little further if you would like me  
3 to.

4           Q     Sure.

5           A     We've titled or named it as "carved" and then  
6 parentheses "(4521984).jpg".

7           Q     Okay. I'm just going to do carved, okay? And  
8 describe to the jury what carved means.

9           A     Carving is a -- a way or a performance that  
10 we'll do in actual forensic analysis. And when we say  
11 "carved" as in this instance, when we pulled a graphic file,  
12 we carved for all graphic files within that disk drive with --  
13 on that hard drive.

14           And with the forensic software what I can do is I can  
15 say I want it to give me all the pictures that it can  
16 retrieve, from logical area, which is going to be what the  
17 user can see and what is currently up, as well as physical.  
18 When I say "physical," that's the entire -- from the very  
19 beginning of the drive to the very end of the drive, all the  
20 little zeros and ones that will fit in there. It's every  
21 space all together.

22           What some of these programs can do or what carving  
23 can do is I can then set it for certain file headers,  
24 signatures, or extensions and say, I want to carve, as in this  
25 case the program I was using, FTK allows me to carve for all



1 graphic files. It's going to go and try and find all the  
2 graphic files that it can on that actual physical disk of that  
3 drive. So it may find several, and normally where you'll see  
4 this recovering using it forensically is it's going to find  
5 deleted data, and data that is maybe even partially  
6 over-written.

7           If you've ever seen, like, a picture of a website or  
8 a picture and you only have a few pixels of it and it's not  
9 all the way down, that's a carved picture. It's a portion of  
10 that file, some of that where you can't see it anymore has  
11 been over-written on that disk drive, that's not why you're  
12 seeing the whole picture, but it was able to carve out or pull  
13 enough of that graphic seeing the header of it, knowing the  
14 type of file that it is.

15           Q     So the image that you saw in -- or in State's  
16 Exhibit 5 was the same image you found in the carved area?

17           A     Yes. And this was verified.

18           Q     Okay. How do you verify it?

19           A     If I can, how do I know all these pictures are  
20 the exact same? Because we run a program on it, which is  
21 going to be a kind of a digital fingerprint. I'm going to  
22 look at each file and I'm going to run a program on it, and  
23 it's going to be able to say -- what I'm actually doing is  
24 hashing it and looking at all the bits and bytes that are in  
25 there. And then I'm going to say, Is that picture located

1 anywhere else? Possibly. And I maybe only say, Yes, and I'm  
2 matching up an algorithm number or a digital fingerprint of  
3 that file and I'm able to say that, Yes, that's the same file.

4 Q And you did that here?

5 A Yes, that was done here.

6 Q State's Exhibit No. 6, what was the title of  
7 that image?

8 A Okay. And if I could -- the last on that was  
9 that file, then that item path, that was found in unallocated  
10 space area.

11 Q Okay. So describe to the jury what unallocated  
12 means.

13 A So carved from that area and what that's telling  
14 me, that's going to be unallocated space that's not currently  
15 in use by the file system and the operating system. So it may  
16 contain previous material, such as deleted files, and  
17 sometimes we can recover that with forensic tools to be able  
18 to pull some of that material out. As in the case of this,  
19 that is what it was found twice on that computer. So once in  
20 unallocated space and then once under the Tony, documents,  
21 adult, girlpics folder.

22 THE COURT: Are we going to get the dates for Exhibit  
23 5?

24 MS. ANTHONY: Thank you, Your Honor.

25 BY MS. ANTHONY:

1           Q     So with the carved or the unallocated image, can  
2 you get dates and times?

3           A     No, usually not; and in this case no. When it's  
4 an unallocated that information of the date and time stamps  
5 which are placed on files is omitted on it. So usually I'm  
6 not going to get the file name, as in this instance I didn't  
7 get the file name of 2girls.jpg. I am able to determine that  
8 is a jpg file by the file signature on it, the extension of  
9 what was made in it, but I can't get the name and I can't get  
10 the dates; but what that would lead me to in the unallocated  
11 is that it had been deleted.

12          Q     What about the image, the 2girls.jpg, what was  
13 the created date of that?

14          A     From Item 1, the created date was 12/10 of 2008.

15          Q     And the modified date?

16          A     Modified date of 8/9 of 2007.

17          Q     And the access date?

18          A     And the access date of 4/1 of 2010.

19          Q     Moving on to Number 6, what was the image title?

20          A     For Item 1 it was "Euro," E-U-R-O, and this was  
21 lowercase, "dash," then the number "002.jpg."

22          Q     Okay. Again, are we back in the girlpics  
23 folder?

24          A     Yes.

25          Q     What was the created date?

1 A 12/10 of 2008.  
2 Q What was the modified date?  
3 A 8/11 of 2007.  
4 Q And what was the time of that modified date?  
5 A Time was 1:33:36, so 1:33 a.m.  
6 Q And what was the access date?  
7 A 4/2 of 2010.  
8 Q Okay. Image No. 7 or State's Exhibit 7, what  
9 was the name of the image?  
10 A "New," lowercase, "dash," then the numbers  
11 "01.jpg."  
12 Q And again, found in the girlpics folder?  
13 A That is correct.  
14 Q All right. What was the created date?  
15 A 12/10 of 2008.  
16 Q Modified date and time, please?  
17 A Modified date was 8/11 of 2007.  
18 Q And the time?  
19 A 1:33:22 a.m.  
20 Q And the access date?  
21 A 4/1 of 2010.  
22 Q Okay. And State's Exhibit 8.  
23 A File name was "new," lowercase n-e-w, "dash,"  
24 the numbers "35.jpg."  
25 Q And what was the created date?

1 A 12/10 of 2008.  
2 Q Modified date and time, please?  
3 A 8/11 of 2007. Time of 2:06:30 a.m.  
4 Q And the access date?  
5 A Access date: 4/1 of 2010.  
6 Q Also found in the girlpics folder?  
7 A That is correct.  
8 Q State's Exhibit 9. And what was the name of the  
9 image?  
10 A "Girl," g-i-r-l, and then the numbers "69."  
11 Q Uppercase or lowercase?  
12 A It's lowercase "girl.jpg".  
13 Q And what was -- again found in the girlpics  
14 folder?  
15 A Yes, it was.  
16 Q And what was the created date?  
17 A Created date of 12/10 of 2008.  
18 Q Modified date?  
19 A 8/9 of 2007.  
20 Q Access date?  
21 A The time of that was 7:29:02 a.m. And then  
22 access date 4/2 of 2010.  
23 Q Okay. Did you find a second matching image on  
24 the shuttle computer?  
25 A I did.

1 Q Where was it located?

2 A This was located on that item, so the shuttle  
3 desktop in the unallocated area.

4 Q And could you give us any information regarding  
5 that second image?

6 A Only that it -- it is the same image matching  
7 that digital fingerprint; so it is the same image. The name  
8 assigned to it is what the computer operating system -- my  
9 software actually has to title it something, so it gives it a  
10 carved and then a parentheses number.

11 Q Okay.

12 A And no dates -- no dates.

13 Q And it's also a jpg?

14 A Yes.

15 Q Okay. State's Exhibit 10. What's the name of  
16 that image?

17 A Lower case "new," n-e-w, "-43.jpg."

18 Q All right. Also found in the girlpics folder?

19 A Yes, it was.

20 Q And what is the created date?

21 A 8/11 of 2007.

22 Q And the time?

23 A Created time of 2:14:56 a.m.

24 Q We're talking modified, right?

25 A No, that was created.

1 Q All right. Let me back up so I put a check in  
2 the wrong place. So let's start over. Created date, please?

3 A Okay. 8/11 of 2007. No.

4 Q I think you're confusing me. All right. Go  
5 ahead.

6 A My booboo.

7 Q All right. So let's start with created date.  
8 Created date.

9 A And I'm sorry, from Item 1, the shuttle desktop,  
10 name: "new-43.jpg."

11 Q Okay.

12 A Created date: 12/10 of 2008.

13 Q Modified date?

14 A 8/11 of 2007.

15 Q And the time?

16 A 2:13:16 a.m.

17 Q Access date?

18 A 4/2 of 2010.

19 Q All right. Moving on to State's Exhibit 11.  
20 What was the name of that image?

21 A "new," lowercase, "-47.jpg."

22 Q So a dash.

23 MS. ANTHONY: I may have broke it, Your Honor.  
24 Nothing is happening.

25 MR. WESTBROOK: Is there an escape button?

1 MS. ANTHONY: And I don't know what happened.  
2 THE COURT: Turn it off and we'll turn it back on  
3 again. That usually works.  
4 MR. WESTBROOK: I think if you just scroll down to  
5 save and exit.  
6 MS. ANTHONY: Perfect. Thank you so much.  
7 BY MS. ANTHONY:  
8 Q So we got State's Exhibit 11 was new-47.  
9 A Same path, the adult girlpics.  
10 Q Okay. What is the created date?  
11 A 12/10 of 2008.  
12 Q Modified date?  
13 A 8/11 of 2007.  
14 Q And the time?  
15 A 2:15:20 a.m.  
16 Q And the access date?  
17 A 4/2 of 2010.  
18 Q All right. State's Exhibit 12, what is the  
19 name, please?  
20 A "euro," so lowercase e-u-r-o, "-001.jpg."  
21 Q And created date?  
22 A 12/10 of 2008.  
23 Q Modified date?  
24 A 8/11 of 2007.  
25 Q Time?



1 A 1:33:28 a.m.

2 Q And the access date?

3 A 4/2 of 2010.

4 Q All right. State's Exhibit 13. I'll move this  
5 up.

6 A File name of lowercase "new," n-e-w, "-33.jpg."

7 From that path, the same of adult girlpics, same path.

8 Created date of 12/10 of 2008.

9 Q Modified date?

10 A 8/11 of 2007.

11 Q Time?

12 A 2:06:30 a.m.

13 Q Access date?

14 A 4/1 of 2010.

15 Q And did you also find that same image under  
16 another name?

17 A Yes.

18 Q And what was the other name?

19 A That same image was also found under the name of  
20 "girl," g-i-r-l, "ondick," all one word.

21 Q Capital G?

22 A No. All lowercase, g-i-r-l-o-n-d-i-c-k, and the  
23 numbers "32.bmp."

24 Q Okay. And where was that located?

25 A This was also located in the same folder, Tony,

1 My Documents, downloads, adult, girlpics.  
2 Q Okay. State's Exhibit 14.  
3 A Do you need the times, dates on that at all?  
4 Q Yes, please. Sorry. Created date?  
5 A 12/10 of '08. Modified date of 8/14 of 2007 at  
6 2:05:12 a.m. And access date of 4/1 of 2010.  
7 Q Okay. State's Exhibit 14, please. Name?  
8 A File name: lowercase, "new," n-e-w, "-38.jpg."  
9 Q Created date?  
10 A 12/10 of '08.  
11 Q Modified date?  
12 A 8/11 of 2007.  
13 Q Time?  
14 A 2:08:28 a.m.  
15 Q Access date?  
16 A 4/2 of 2010.  
17 Q Also found in the girlpics folder?  
18 A That is correct.  
19 Q All right. Last one, State's Exhibit 15.  
20 What's the name, please?  
21 A Lowercase "new," n-e-w, "-44.jpg."  
22 Q And where was it located?  
23 A Same path, same folders. Adult and the  
24 girlpics.  
25 Q Created date?

1 A 12/10 of 2008.  
2 Q Modified date?  
3 A 8/11 of 2007.  
4 Q Access date?  
5 A 4/1 of 2010.  
6 Q And all of these items that we just indicated  
7 were all found under the user account Tony?  
8 A That is correct.  
9 Q All right. When you went through the other user  
10 names, so there were seven other user names, was there any  
11 child pornography found under any of the other seven user  
12 names?  
13 A On that, no.  
14 Q On the shuttle computer?  
15 A No.  
16 Q Now I'd like to move to -- so in addition to  
17 finding the child pornography on the shuttle, did you also  
18 find items that belonged to Anthony Castaneda on that  
19 computer?  
20 A Yes.  
21 Q And what types of items did you find?  
22 A Several files.  
23 Q Can you describe them?  
24 A I -- I recall seeing some employment resumes,  
25 personal documents underneath this folder; some text files

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1 which indicated he was looking for a house or an apartment;  
2 some more contact for employment opportunities; some  
3 certificate scanned items of -- I guess you could say class  
4 certificate of attendance type things. Several documents I  
5 noticed were within there and -- and normally we'll search for  
6 those.

7 MS. ANTHONY: Just one second. Your Honor, may I  
8 approach?

9 THE COURT: Yes.

10 BY MS. ANTHONY:

11 Q Showing what's been marked as State's Proposed  
12 Exhibits 17 through 31 previously shown to Defense. I believe  
13 several of them have already been admitted, and I'll do it as a  
14 whole group. Can you take a brief look at all of these  
15 documents?

16 A Okay.

17 THE CLERK: I'm sorry, Counsel. What were the  
18 numbers? 17 through what?

19 MS. ANTHONY: 31, I believe. Yes, 17 through 31.

20 BY MS. ANTHONY:

21 Q All of these items, 17 through 31, did you find  
22 all of these on the shuttle computer?

23 A I -- I'm not positive all of those were found on  
24 the shuttle. I do recall seeing several of those exact files  
25 within that shuttle and I know some were also found on the

1 laptop.

2 Q All right. So let me ask you another question  
3 then. So State's Exhibit 17 through 31, you've previously  
4 seen these exhibits?

5 A Yes.

6 Q And you've seen these exhibits on either the  
7 shuttle or on whatever device?

8 A The thumb drive, the USB drive, as well as some  
9 documents on the desktop, so which would have been Item No.  
10 2.

11 Q Okay. And all of these photographs that you  
12 just saw, are they all true and accurate copies of what you've  
13 seen on either the thumb drive, the shuttle, or the HP laptop?

14 A Yes.

15 MS. ANTHONY: Your Honor, State moves to admit  
16 State's Proposed Exhibits 17 through 31.

17 THE COURT: They'll be -- any objection?

18 MR. WESTBROOK: No, objection. Sorry, Judge.

19 THE COURT: They'll be admitted.

20 (State's Exhibit 17 - 31 admitted.)

21 THE COURT: I'm a bit confused though because I -- I  
22 thought we had a shuttle, a laptop, and a thumb drive; and  
23 then now he just said desktop.

24 MS. ANTHONY: I'm sorry.

25 MR. WESTBROOK: The shuttle and the desktop I think

1 are the same.

2 THE WITNESS: The shuttle is a desktop. I will refer  
3 to it from now on as shuttle only, if that will help.

4 THE COURT: Thank you.

5 MS. ANTHONY: I'm sorry.

6 BY MS. ANTHONY:

7 Q Okay. So of these exhibits do you recall which  
8 you found on the shuttle? I'd like to publish them for the  
9 jury; but I'd like to show them what you found on the shuttle  
10 drive.

11 A I do have some documents that I had pulled off  
12 of there, which was part of the report additionally, which  
13 we'll normally do and I might be able to clarify exactly what  
14 they -- which ones may match up then.

15 Q Do you need to see the exhibits back?

16 A I would, please.

17 Q Okay. Don't get them mixed up. I think those  
18 are what you just went through. Look at these.

19 A Yes.

20 Q All of these up here?

21 A Yes. Yes, all of those documents were located  
22 on the shuttle, Item 1; as well as I believe I saw most of the  
23 documents on the USB drive also.

24 Q And we'll get to them separately. So let's talk  
25 about State's 22.

1 A Okay.

2 Q And what was this that you saw?

3 A This is a Certificate of Attendance, completed a  
4 course of study in the name of Tony Castaneda.

5 Q And is it a computer course?

6 A Yes, it is.

7 Q Do you know what type of a computer course that  
8 is?

9 A It's from Hewlett Packard, a computer  
10 manufacturing company, but looks like Unix [sic] 9 System  
11 Administrator for the HP 9000.

12 Q And do you have -- do you know what that means?

13 A I -- I don't specifically know; but a system  
14 administrator is going to be --

15 Q That's okay. If -- I only want to know if you  
16 specifically know.

17 A A system administrator for computer Internet  
18 technology-type.

19 Q State's Exhibit 23. Again what is this?

20 A Another Certificate of Attendance in the name of  
21 Anthony Castaneda; completed the course, eight-hour course in  
22 Beyond Microsoft Excel.

23 Q Another computer course?

24 A That is a Microsoft -- it is a Office-type  
25 security product -- not security, but Office-type software

1 product.

2 Q [Inaudible], right?

3 A Correct.

4 Q Spreadsheet-type program?

5 A That would be correct.

6 Q Okay. 24, State's Exhibit 24, another  
7 certificate?

8 A Yes.

9 Q Additionally computer course?

10 A For Tony Castaneda, yes. Computer course being  
11 in Paradox for Windows, correct.

12 Q And do you know what is Paradox for Windows?

13 A I don't.

14 Q Okay. State's Exhibit 25?

15 A Again a certificate of attendance, 16 hours in  
16 Tony Castaneda's name, Beginning Paradox.

17 Q And State's Exhibit 26?

18 A Eight-hour course, Certificate of Attendance,  
19 Tony Castaneda, Intermedia Paradox.

20 Q Okay. State's Exhibit 21, what is this?

21 A Appears to be a Microsoft Certified Professional  
22 Transcript, so it's giving a certified professional ID number  
23 in the name of Tony Castaneda; certification exams, looks like  
24 he completed successfully, in reference to Microsoft  
25 supporting Windows -- Microsoft Windows-type base product



1 operating system.

2 Q And one of those certificates is a networking  
3 exam?

4 A Yes. It appears there is four certificates  
5 awarded.

6 Q Okay. State's Exhibit 19.

7 A Appears to be a certificate entitled Netware  
8 System Manager course, Anthony Castaneda's name for Arco  
9 Prestige Stations, Inc., the company, maybe one he worked for.

10 Q Do you know what a netware -- Netware System  
11 Manager is?

12 A Specifically, no.

13 Q Okay.

14 A I mean, it deals with networks, computer  
15 networking and -- and a system manager, so again in the IT  
16 field.

17 Q So computers again?

18 A Yes.

19 Q And State's Exhibit 20?

20 A A certificate from the same company, the Arco  
21 introduction to data communications course.

22 Q Okay. State's Exhibit 28?

23 A Appears to be a scanned photocopy of a driver's  
24 license, UNLV card, and a Social Security card, all in the  
25 name of Anthony Castaneda, and then depicting photos.

1 Q Okay. And State's Exhibit 18?

2 A This is a certificate from United States Army,  
3 Academy of Health Sciences, so basic health service course in  
4 the name of Anthony Castaneda.

5 Q State's Exhibit 17?

6 A Another certificate from United States Army.

7 Q In the name of who?

8 A In the name of Anthony Castaneda in radiographic  
9 procedures, basic course.

10 Q All right. State's Exhibit 30?

11 A Appears to be a copy -- a certificate of live  
12 birth, so birth certificate.

13 Q And whose name?

14 A This is under the name of Anthony Castaneda.

15 Q And State's Exhibit 27?

16 A California State University, Fresno, so degree,  
17 BA degree from the school.

18 Q And what type of degree is it?

19 A In Anthony Castaneda's name, and in industrial  
20 technology manufacturing industries.

21 Q Is that the computer field?

22 A Yes, it is.

23 Q And all of the documents were located where on  
24 the shuttle drive?

25 A These documents were recovered from the user

1 account of Tony. The specific location I'm not positive of.  
2 I believe it had a folder name of, like, 200609, something  
3 titled as such --

4 Q Okay.

5 A -- but it wasn't under that -- under his  
6 account.

7 Q And was it under educational history and  
8 identification field?

9 A I believe so.

10 Q Okay. All right. I know this is a slow  
11 process; but I need to go through also the HP.

12 MS. ANTHONY: Your Honor, I'm going to do the same  
13 thing. I don't know if we need a break or if you would like  
14 me to forge ahead.

15 THE COURT: Counsel --

16 MS. ANTHONY: I don't know what time it is.

17 THE COURT: It's quarter to 5:00.

18 MS. ANTHONY: Okay.

19 THE COURT: Counsel approach so we can talk about the  
20 schedule.

21 (Off-record bench conference.)

22 THE COURT: All right. Ladies and gentlemen, we're  
23 going to go 15 more minutes with this witness and then we'll  
24 recess for the evening.

25 BY MS. ANTHONY:

1 Q Okay. So we're going to start with the HP  
2 laptop. And I would like to go through the same process we  
3 just went through with the shuttle. The HP laptop, let's  
4 start with -- let me ask you, how many -- State's Exhibits 1  
5 through 15, you just saw them. I can approach with them if  
6 you'd like to see them again. But let's go through --

7 A I --

8 Q Would you like to see them again?

9 A I -- I don't. I believe I have --

10 Q Okay. so on the --

11 A -- depicted.

12 Q So on the HP laptop, State's Exhibit 1, did you  
13 find that on the HP laptop?

14 A Yes, I did.

15 Q Okay. State's Exhibit 2, did you also find that  
16 on the HP laptop?

17 A Yes, I did.

18 Q Okay. I believe that was the only one that's  
19 not admitted yet, so let me approach and show you that again  
20 without showing it to the jury.

21 THE CLERK: It's already been admitted.

22 MS. ANTHONY: It's been admitted? Okay.

23 BY MS. ANTHONY:

24 Q Okay. State's Exhibit 2, you found that on the  
25 HP laptop?

1 A That is correct.

2 Q Okay. State's Exhibit 3 you found on the HP

3 laptop?

4 A Yes.

5 Q State's Exhibit 4, was it on the HP laptop?

6 A No, I do not believe so.

7 Q And then 5 through 15, you found each on the HP

8 laptop, correct?

9 A Five, yes; 6, yes; 7, yes; 8, yes; 9, yes; 10,

10 yes; 11, 12, 13, 14, 15, yes.

11 Q Okay. So let's start with -- let's start with

12 Number 1. What was the name of that first image?

13 A The number "2" then "girls01.jpg." So it was

14 the same -- yes, that's correct.

15 Q Okay. And image -- well, let's do the dates.

16 Sorry. Created date?

17 A 8/9 of 2007. Modified date: 8/9 2007.

18 Q Access date?

19 A 3/24 of 2010.

20 Q Okay. State's Exhibit 2, what was the name?

21 A "girlondick," so g-i-r-l-o-n-d-i-c-k, "06.bmp."

22 Q Okay. Created date?

23 A That is correct. 8/13 of 2007.

24 Q Modified date?

25 A 8/13 of 2007.

1 Q Access date?  
2 A 3/24 of 2010.  
3 Q Okay. Exhibit 3, what is its title?  
4 A "girlondick08."  
5 Q What was the extension?  
6 A And that's.jpg.  
7 Q Okay. Created date?  
8 A 8/13 of 2007.  
9 Q Modified date?  
10 A 8/13 of 2007.  
11 Q And the access date?  
12 A 3/24 of 2010.  
13 Q All right. And Exhibit 4 was not on this?  
14 A No.  
15 Q Okay. Exhibit 5, what was the name?  
16 A The number "2" and then "girls," g-i-r-l-s,  
17 ".jpg."  
18 Q Okay. And the created date?  
19 A 8/9/2007.  
20 Q And the modified date?  
21 A 8/9/2007.  
22 Q And the access date?  
23 A 3/24 of 2010.  
24 Q Exhibit 6. State's Exhibit 6, what was the  
25 name, please?

1 A "Euro," E-U-R-O, "-002.jpg."  
2 Q Created date?  
3 A 8/11/2007.  
4 Q Modified date and time?  
5 A 8/11/2007. Time: 1:33:35 a.m.  
6 Q Access date?  
7 A 3/24/2010.  
8 Q Okay. State's Exhibit 7, the name?  
9 A "new," n-e-w, "-01.jpg."  
10 Q Upper or lower?  
11 A Lower.  
12 Q Okay. Created date?  
13 A 8/11/2007. Modified the same: 8/11/2007.  
14 Q Okay. And access date?  
15 A 3/24 of 2010.  
16 Q Did you also find another identical image?  
17 A I did, that same image under a different file  
18 name.  
19 Q What was the file name?  
20 A "new-05," lowercase, ".jpg."  
21 Q Okay. And do you have it's created --  
22 A 8/11/2007.  
23 Q Modified?  
24 A 8/11/2007.  
25 Q Access date?

1 A 3/24 of 2010.  
2 Q All right. State's Exhibit 8?  
3 A Name is "new," n-e-w, "-35," lowercase, ".jpg."  
4 Q Okay. Created date?  
5 A 8/11/2007.  
6 Q Modified date?  
7 A 8/11/2007.  
8 Q Time?  
9 A 2:06:29 a.m.  
10 Q Access date?  
11 A 3/24/2010.  
12 Q Exhibit 9?  
13 A Name: "girl," G-I-R-L, lowercase, the number  
14 "69.jpg."  
15 Q Created date?  
16 A 8/9/2007.  
17 Q Modified date?  
18 A 8/9/2007.  
19 Q Access date?  
20 A 3/24/2010.  
21 Q State's Exhibit 10?  
22 A Name: "new," n-e-w, lowercase, "-43.jpg."  
23 Q Created date?  
24 A 8/11/2007.  
25 Q Modified date and time?



1 A 8/11/2007. Time: 2:13:15 a.m.  
2 Q Access date?  
3 A 3/24/2010.  
4 Q State's Exhibit 11?  
5 A Name is going to be: "new," n-e-w, lowercase,  
6 "-47.jpg."  
7 Q Okay. Created date?  
8 A 8/11/2007.  
9 Q Modified date and time?  
10 A 8/11/2007. 2:15:19 a.m.  
11 Q Access date?  
12 A 3/24/2010.  
13 Q State's Exhibit 12?  
14 A File name is "euro", e-u-r-o, lowercase,  
15 "-001.jpg."  
16 Q Created date?  
17 A 8/11/2007.  
18 Q Modified date?  
19 A 8/11/2007.  
20 Q Access date?  
21 A 3/24 of 2010.  
22 Q Okay. Exhibit 13?  
23 A Name is -- the file name is "new," lowercase  
24 n-e-w, "-33.jpg."  
25 Q Created date?

1 A 8/11/2007.  
2 Q Modified date and time?  
3 A Modified date: Same, 8/11/2007. Time: 2:06:28  
4 a.m.  
5 Q Access date?  
6 A 3/24/2010.  
7 Q Did you also find an additional image on --  
8 identical image?  
9 A Yes. This image was found on other devices but  
10 within that laptop now, Item No. 2, it was also under the name  
11 of "girlondick32," so all lowercase, G-I-R-L-O-N-D-I-C-K, the  
12 number "32.bmp."  
13 Q Okay. And created date?  
14 A 8/14 of 2007.  
15 Q Modified date?  
16 A 8/14/2007.  
17 Q And access date?  
18 A 3/24/2010.  
19 Q And then you verified that these two images had  
20 the same -- is it thumbprint or fingerprint?  
21 A That is correct.  
22 Q Okay. State's Exhibit 14, what was the name?  
23 A From Item No. 2, this was a carved item, so it  
24 has a name of "carved" and then parentheses, "(4096).jpg."  
25 Q And again, carved is the same on this?

1           A     Yes, then this was taken from unallocated so it  
2 had been a deleted photo.

3           Q     State's Exhibit 15, name?

4           A     File name is lowercase "new," n-e-w, "-44.jpg."

5           Q     Okay. And created date?

6           A     8/11/2007.

7           Q     Modified date?

8           A     8/11/2007.

9           Q     Access date?

10          A     3/24 of 2010.

11          Q     Okay. And that's the child pornography that you  
12 found on the HP laptop?

13          A     That is correct.

14          MS. ANTHONY: I think, Your Honor, before I continue  
15 on it might be a good place to stop.

16          THE COURT: You were very quick. About two minutes  
17 to spare. All right.

18          Ladies and gentlemen, we're going to take our  
19 overnight recess. Did we decide on 9:00?

20          MR. WESTBROOK: Nine o'clock would be good.

21          THE COURT: All right. We'll see you back in this  
22 courtroom, tomorrow is Thursday, nine o'clock, and so I'm sure  
23 the marshal will want you at 10 minutes to 9:00, and plan on  
24 starting at 9:00.

25          During this recess it is your duty not to converse

1 amongst yourselves or with anyone else on any subject  
2 connected with the trial or to read, watch or listen to any  
3 report of or commentary on the trial by any person connected  
4 with this trial or by any medium of information, including  
5 without limitation newspapers, television, the Internet or  
6 radio, and you are not to form or express an opinion on any  
7 subject connected with this trial until the case is finally  
8 submitted to you. Good evening.

9 (Jury adjourned at 4:58 p.m.)

10 All right. The record will reflect we're outside the presence  
11 of the jury. Are there any matters outside the presence?

12 MS. BALLOU: So, Your Honor, do you want us -- this  
13 is just a scheduling issue. Do you want us here, say, at 8:30  
14 to try and talk about the motion and then possibly jury  
15 instructions?

16 THE COURT: Well, let's talk about scheduling off the  
17 record. But are there any matters that we want to put on the  
18 record?

19 MR. WESTBROOK: Nothing for on the record for us.

20 MS. BALLOU: No, Your Honor.

21 THE COURT: Okay. Nothing from the State?

22 MR. CHEN: No, Your Honor.

23 THE COURT: All right. We're off the record.

24 (Court recessed at 4:59 p.m.)

25

ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON  
TRANSCRIBER

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vi.

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