

IN THE SUPREME COURT FOR THE STATE OF NEVADA

DEANGELO R. CARROLL,  
Appellant,  
v.

THE STATE OF NEVADA,  
Respondent.

No. 64757

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Tracie K. Lindeman  
Clerk of Supreme Court

Appeal

From the Eighth Judicial District Court  
Clark County  
The Honorable Valerie Adair, District Judge

APPELLANT'S APPENDIX  
(Volume 1)

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3  
4 IN THE JUSTICE COURT OF BOULDER CITY TOWNSHIP  
5 COUNTY OF CLARK, STATE OF NEVADA  
6 THE STATE OF NEVADA,  
7 Plaintiff,  
8 vs. CASE NO. 05FB0052ABCD  
9 KENNETH COUNTS, LUIS ALONSO  
10 HIDALGO, ANABEL ESPINDOLA and  
11 DEANGELO RESNAWN CARROLL,  
12 Defendants.  
13  
14 REPORTER'S TRANSCRIPT  
15 OF  
16 PRELIMINARY HEARING  
17 BEFORE THE HONORABLE VICTOR L. MILLER,  
18 JUSTICE OF THE PEACE  
19 JUNE 13, 2005  
20 8:35 A.M.  
21  
22 APPEARANCES:  
23 For the State: GIANCARLO PESCI, ESQ.,  
24 MARC DIGIACOMO, ESQ.,  
25 DEPUTY DISTRICT ATTORNEYS  
For Defendant Counts: KRISTINA M. WILDEVELD, ESQ.  
For Defendant Hidalgo: ROBERT M. DRASKOVICH, ESQ.  
For Defendant Espindola: CHRISTOPHER R. ORAM, ESQ.  
For Defendant Carroll: DAYVID J. FIGLER, ESQ., and  
DANIEL M. BUNIN, ESQ.  
For Witness Ronta Zone: RANDALL H. PIKE, ESQ.  
Reported by: MARCIA HARNES, CCR 204

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RECEIVED  
JUL 01 2005  
COUNTY CLERK



BOULDER CITY, CLARK COUNTY, NEVADA,

JUNE 13, 2005, 8:35 A.M.

PROCEEDINGS

THE COURT: Okay. We've gathered for the time set for the preliminary hearing in Case 05FB052A through E, Kenneth Counts, Luis Alonso Hidalgo, Anabel Espindola?

MR. ORAM: Yes, Espindola.

THE COURT: And Jayson Taoipu.

MR. PESCI: Judge, for the record, first of all, I don't see Mr. Carroll in the courtroom.

MR. FIGLER: Your Honor, they were keeping everyone separate. David Figler representing Mr. Carroll with Dan Bunin.

I think we could bring him into the room. I think he needs to be here for this proceeding.

THE COURT: Mr. Carroll?

In that case, let me see counsel about this.

(Thereupon, a brief discussion was held at the bench.)

MR. ORAM: Your Honor, we would invoke the exclusionary rule on behalf of Ms. Espindola.

MR. DRASKOVICH: As well as Mr. Hidalgo.

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MS. WILDEVELD: As well as Mr. Counts.

MR. PESCI: State's witnesses have been told not to come in.

THE COURT: Anyone who's been called here to testify or anticipates testifying in these proceedings, please wait in the hall. Do not discuss your testimony, what happened in the courtroom with the other witnesses until the case is concluded.

MR. DIGIACOMO: I apologize, Judge.

Judge, I would like to raise one other issue that relates to the exclusionary rule. There is an Irene Counts in the courtroom. There is going to be jail phone calls admitted into evidence during the course of this hearing.

Now, I didn't subpoena her as a witness as she is the wife of a potential defendant; however, there is evidence that relates to her. I anticipate that she may at some point become a witness, either for the defense or for the State. Judge, I would ask you to exclude her from this particular hearing.

MS. WILDEVELD: Your Honor, she is my client's wife, and I would prefer her be in the courtroom. It's his support, however. I understand that if she would become a witness. I haven't had the opportunity to read through these documents to see

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where she would become a witness. And as of right now, I don't anticipate her being a witness.

THE COURT: I would -- Ms. Irene Counts, when we get to that witness where we're discussing the tapes, then you'll need to leave the courtroom.

I won't exclude her throughout the testimony, but on that issue I will.

MS. WILDEVELD: Thank you, your Honor.

MR. DIGIACOMO: Thank you, Judge.

Judge, I have in my hand State's Proposed Exhibit Number 1, as well as State's Proposed Exhibit Number 2.

Number 1 is a copy of the autopsy report done by Dr. Telgenoff on May 20th of the year 2005 on a person identified to him as Timothy Hadland. I move to admit it based on the agreement of counsel, Judge.

THE COURT: Okay. Any objection?

MR. DRASKOVICH: And that's for the purposes of preliminary hearing only. No, there is no objection.

THE COURT: Okay.

MR. FIGLER: That is correct.

MR. ORAM: No objection, your Honor.

MS. WILDEVELD: That's correct, your Honor.

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THE COURT: It will be admitted.

(Thereupon, State's Exhibit 1 was admitted into evidence.)

MR. DIGIACOMO: Thank you, Judge.

State's Exhibit 1 establishes that the cause of death is multiple gunshot wounds to the head, as well as the manner of death being homicide.

Also, based upon the same agreement, the identity of Mr. Hadland as the victim of this particular crime has been agreed to, and we have State's Exhibit Number 2, which is an autopsy photograph of Mr. Hadland, which I would move to admit too.

MR. DRASKOVICH: No objection.

MR. ORAM: No objection.

MS. WILDEVELD: No objection.

MR. FIGLER: With that same limitation, that's fine, your Honor.

THE COURT: It will be admitted.

(Thereupon, State's Exhibit 2 was admitted into evidence.)

MR. DIGIACOMO: Your Honor, the State calls Ronta Zone.

Judge, as Mr. Zone's coming up, I don't know that a record has been made, but an arrest warrant

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1 was issued for Jayson Taoipu, who was the fifth  
2 co-conspirator in this particular case.

3 Based upon the arrest warrant, the  
4 Criminal complaint was amended to add a fifth  
5 individual. There is no language which changed or  
6 allegations which changed against the other four  
7 co-defendants in the Amended Criminal Complaint, but  
8 there is a Second Amended Criminal Complaint.

9 THE COURT: Okay. That's what I have  
10 before me is a second amended. So that's what we're  
11 proceeding on.

12 THE CLERK: Please remain standing and  
13 raise your right hand.

14 Do you swear the statements that you are  
15 about to make are the truth, the whole truth, and  
16 nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: I need you to state your name  
19 for the record and spell your name, please.

20 THE WITNESS: R-O-N-T-A, Z-O-N-E.

21 THE COURT: You can be seated.

22 MR. FIGLER: Your Honor, at this point,  
23 Mr. Carroll's intention is to waive his preliminary  
24 hearing and to face the charges that he's been given in  
25 the Complaint in District Court.

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1 THE COURT: Okay.

2 MR. DIGIACOMO: Judge, just for the  
3 record, my understanding -- well, there is a number of  
4 reasons why an individual may waive his preliminary  
5 hearing without forcing the State to go through the  
6 testimony as it relates to proving a preliminary  
7 hearing.

8 One of those is to prevent the  
9 preservation of certain testimony, in particular the  
10 preservation of the witnesses against him. Now,  
11 Crawford and the other case law that relates to  
12 testimony and whether or not I can use prior testimony  
13 at a future proceeding, should Mr. Zone become  
14 unavailable between now and then, or any other witness  
15 for that matter, relates to whether or not they had the  
16 prior opportunity to cross-examine the witness.

17 I just want to put on the record that they  
18 are making this waiver with an understanding that later  
19 the State will be arguing, should we have to use the  
20 prior testimony of Mr. Zone, that this is their  
21 opportunity for cross-examination. They have waived  
22 that opportunity, and I will be seeking to use any  
23 prior testimony should it become necessary.

24 So I just ask the Court to canvass counsel  
25 that he's aware that I'm making the argument. He

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1 doesn't have to agree that that argument will succeed  
2 in District Court, but certainly that that played into  
3 his determination as to whether or not he would waive  
4 his preliminary hearing, Judge.

5 MR. FIGLER: Thank you, your Honor. The  
6 opportunity to cross-examine or to be in the position  
7 to cross-examine is one which has been litigated for a  
8 very long time. Whether or not that would apply in  
9 this particular case if Mr. Zone were not to be  
10 available to testify at the time of trial is going to  
11 be a matter of legal discourse between the parties and  
12 the district court judge as to the admissibility or  
13 limited admissibility of anything that might come in.

14 Certainly I have discussed that with  
15 Mr. Carroll, and his intention today is to waive his  
16 preliminary hearing and approach these charges at the  
17 time of trial. So whether or not Mr. Zone or any other  
18 witness is going to have preserved testimony, and  
19 whether or not that's going to be able to come in if  
20 they are not available, and his rights of  
21 cross-examination, I think are going to be a matter of  
22 litigation, and he understands that.

23 So, I have never seen the waiver when he  
24 just kind of waives up and wants to face the charges at  
25 trial where he has to specifically or expressly waive

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1 his legal rights to challenge the admissibility of  
2 evidence in the future, but I appreciate what  
3 Mr. Digiacoimo is saying.

4 THE COURT: Certainly you wouldn't have to  
5 do that at this point. I would note that the waiver  
6 came after the witness was called and sworn.

7 MR. DIGIACOMO: Thank you, Judge.

8 Lastly, there was an offer outstanding for  
9 Mr. Carroll. At this time, the State revokes the offer  
10 and doesn't intend to re-offer it.

11 Thank you, Judge.

12 THE COURT: Okay. Mr. Carroll, if you  
13 will stand. Do you understand what is going on here?

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. You have a right to  
16 have a preliminary hearing in a criminal case as  
17 charged in the State of Nevada when it's either a  
18 felony or a gross misdemeanor. The charges against you  
19 are felony charges.

20 You have the right to have a preliminary  
21 hearing, which means to have a magistrate determine  
22 whether or not there is probable cause or a reasonable  
23 belief that a crime has been committed and that you  
24 have committed the crime.

25 If the State meets that burden, then

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1 you're then bound over to the District Court to go to  
2 trial on those charges. If the State does not meet  
3 that burden at the preliminary hearing, then the  
4 charges against you would be dismissed.

5 Now, do you understand that if you waive  
6 your preliminary hearing we're not going to have one  
7 today for you?

8 THE DEFENDANT: Yes.

9 THE COURT: Also, do you understand that  
10 at the preliminary hearing you have certain valuable  
11 rights that go along with any court proceeding. The  
12 rights include being represented by counsel, as you  
13 are.

14 Also, the right to be -- confront the  
15 witnesses against you. That means to have the  
16 witnesses testify right here in court in your presence,  
17 and then have your attorney be able to cross-examine  
18 them.

19 You can also present evidence on your own  
20 behalf at your preliminary hearing and even testify, if  
21 you wanted to. You have the subpoena powers of the  
22 Court to compel people to testify.

23 If you waive your preliminary hearing,  
24 you're also waiving those rights. Is that okay?

25 THE DEFENDANT: (Witness nods head.) Yes,

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1 sir.

2 THE COURT: All right. Now, your waiver  
3 is also unconditional, which means that it's a waiver  
4 not only for today, but it's a waiver for forever.

5 So if you go down to District Court and  
6 change your mind, then you wouldn't have an opportunity  
7 to come back here for preliminary hearing. The waiver  
8 is for today. And then it's forever. Is that okay?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. All right. I find your  
11 waiver of your right to a preliminary hearing is being  
12 voluntarily given, knowledgeably given and is  
13 unconditional.

14 Okay. For the bind over, the clerk will  
15 now give you a time and date that you will next appear  
16 in District Court to answer for these charges.

17 Based upon the review of the Complaint and  
18 your waiver, I am finding reasonable cause to believe  
19 that a crime has been committed, the crimes of  
20 conspiracy to commit murder, murder with use of a  
21 deadly weapon and solicitation of murder were committed  
22 and were committed by you --

23 MR. FIGLER: Your Honor, the solicitation  
24 didn't apply to my client.

25 THE COURT: Okay. Count IV does not apply

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1 to Mr. Carroll. Counts --

2 MR. FIGLER: I and II, your Honor.

3 MR. DIGIACOMO: I and II.

4 THE COURT: I and II.

5 MR. DIGIACOMO: That's correct.

6 THE COURT: There are two solicitations?

7 MR. FIGLER: That's correct. Neither have  
8 anything to do with my client.

9 THE COURT: All right. So it's conspiracy  
10 to commit murder and murder with use of a deadly  
11 weapon. Therefore, you will be bound over to answer to  
12 those charges.

13 The clerk will give you the date and time  
14 you next appear in District Court to answer to those  
15 charges.

16 THE CLERK: June 27th, 9:00 a.m.,  
17 District Court No. XIV.

18 MR. DIGIACOMO: Thank you, Judge.

19 MR. FIGLER: Thank you, your Honor.

20 THE COURT: You may proceed with your  
21 witness.

22 MR. DIGIACOMO: Thank you, Judge.

23  
24 HONTA ZONE,  
25 having been first duly sworn, did testify as follows:

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DIRECT EXAMINATION

1  
2 BY MR. DIGIACOMO:

3 Q. Mr. Zone, I need you to sit forward and  
4 speak right into that microphone so everybody can hear  
5 you. I know you have a soft voice. Pull that  
6 microphone a little closer to you.

7 How old are you?

8 A. Nineteen.

9 MR. DIGIACOMO: Is that on, Judge?

10 BY MR. DIGIACOMO:

11 Q. Just speak up as much as you can.

12 A. I just turned 19.

13 Q. You just turned 19 years of age?

14 A. Yeah.

15 Q. I want to direct your attention back to  
16 middle of May of this year, 2005. Okay. Did you know  
17 an individual named Deangelo Carroll?

18 A. Yes, I did.

19 Q. Do you see Mr. Carroll here in court  
20 today?

21 A. Yes, I do.

22 Q. Can you point him out and describe  
23 something he's wearing?

24 A. He's wearing a jail outfit.

25 Q. Okay. There is a number of people wearing

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- 1 jail outfits. Just tell the Court where is he sitting  
2 in the courtroom?
- 3 A. Sitting in the back.
- 4 Q. The back row of the jury box?
- 5 A. Yes, sir.
- 6 MR. DIGIACOMO: May the record reflect the  
7 identification of Defendant Carroll, Judge?
- 8 THE COURT: Record will so reflect.
- 9 BY MR. DIGIACOMO:
- 10 Q. Did there come a point in time in May when  
11 you began working with Mr. Carroll?
- 12 A. Yes, I did.
- 13 Q. Tell the Court how it is that started.
- 14 A. I was a flyer boy.
- 15 Q. A flyer boy for who?
- 16 A. For the Palomino.
- 17 Q. For the Palomino Club?
- 18 A. Yes.
- 19 Q. What does that mean you did?
- 20 A. Passed out flyers.
- 21 Q. What kind of flyers were they?
- 22 A. Pamphlets, flyers that represents the  
23 club.
- 24 Q. Who did you pass these things out to?
- 25 A. To cab places, you know, cab stops.

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- 1 Q. Were these flyers color or were they  
2 photocopies?
- 3 A. They were pink, and they were all kind of  
4 colors.
- 5 Q. Okay. And how many times did you do this  
6 type of work with Mr. Carroll?
- 7 A. For about four to five days.
- 8 Q. Okay. The first time you worked with  
9 Mr. Carroll, who else worked with you?
- 10 A. My cousin.
- 11 Q. What was his name?
- 12 A. Michael.
- 13 Q. Okay. So it was you, Michael and  
14 Mr. Carroll?
- 15 A. Yes.
- 16 Q. What kind of car were you in?
- 17 A. We were in the van.
- 18 Q. What kind of van?
- 19 A. A white Astro van.
- 20 Q. White Chevy Astro van?
- 21 A. (Witness nodded.)
- 22 Q. Whose van was it?
- 23 A. I'm not really sure.
- 24 Q. Was it Deangelo's van?
- 25 A. No.

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- 1 Q. Okay. Did it relate at all to the  
2 promoting or passing out flyers?
- 3 A. Yeah.
- 4 Q. Okay. That first night did you get paid  
5 for your services?
- 6 A. Yes, I did.
- 7 Q. How much did you get paid?
- 8 A. I got paid \$20 for my services.
- 9 Q. How long before the incident that we're  
10 here to talk about was it the first time that you went  
11 out promoting with Deangelo?
- 12 A. Yeah.
- 13 Q. How long before the incident, the murder?
- 14 A. About three days.
- 15 MR. DRASKOVICH: Objection, calls for a  
16 conclusion. Moreover, it assumes facts not in  
17 evidence.
- 18 BY MR. DIGIACOMO:
- 19 Q. Are you aware that there was a homicide  
20 that occurred on May 19th, 2005?
- 21 A. Yes, I was.
- 22 Q. Okay. Now, how long prior to May 19th,  
23 2005, did you start promoting?
- 24 A. About three days before.
- 25 Q. So that first night you work with Deangelo

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- 1 and Michael. Where did you go when you were done  
2 working?
- 3 A. I went to Deangelo's house.
- 4 Q. Okay. Where is Deangelo's house located?
- 5 A. On Yale Street.
- 6 Q. Yale? Okay.
- 7 And who else lived at Deangelo's house?
- 8 A. Just his wife and son.
- 9 Q. Okay. And what about, did you have  
10 anybody that was related to you that stayed there?
- 11 A. Just Deangelo.
- 12 Q. Just Deangelo.
- 13 Are you related at all to Deangelo?
- 14 A. No, but we are good friends.
- 15 Q. You're good friends.
- 16 Let's talk about the next day. Did you go  
17 out and promote again?
- 18 A. Yes, we did.
- 19 Q. Okay. Who did you go out with this time?
- 20 A. It was me, it was just me and Deangelo.
- 21 Q. Just you and Deangelo.
- 22 And after -- were you in the white van  
23 again?
- 24 A. Yes.
- 25 Q. After you were done promoting, where did

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1 you go.  
 2 A. We went back to the house.  
 3 Q. To Deangelo's house?  
 4 A. (Witness nods head.)  
 5 Q. Did you get paid for that?  
 6 A. No, I didn't.  
 7 Q. Let's talk about the third day. Who did  
 8 you go out with?  
 9 A. With JJ.  
 10 Q. JJ. So it was JJ, you and who else?  
 11 A. JJ, me and Deangelo.  
 12 Q. And you were promoting again?  
 13 A. Yes.  
 14 Q. And this is, once again, for the Palomino  
 15 Club?  
 16 A. Yes.  
 17 Q. Did there come a point in time where a  
 18 discussion occurred between you and Deangelo concerning  
 19 doing violence to anybody?  
 20 A. Yes.  
 21 Q. Okay. Describe for the Court the nature  
 22 of that conversation.  
 23 MR. ORAM: Your Honor, I'm going to object  
 24 to anything Deangelo may have said. It's not - I  
 25 think they are going to argue co-conspirator rule;

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1 a violation of the Bruton rule because Bruton applies  
 2 to statements made by a defendant confessing to an  
 3 officer that implicates a co-defendant.  
 4 It's not a violation of Crawford because  
 5 Crawford requires that the statement, the declarant  
 6 believed that it's going to be used for future  
 7 testimony. In other words, he has to believe that the  
 8 statement is like a transcription of a statement to a  
 9 police officer. Crawford does not apply to a statement  
 10 by a co-conspirator in the course and in the  
 11 furtherance of the conspiracy.  
 12 There is no confrontation clause problem.  
 13 MR. ORAM: And they have to establish that  
 14 there is a conspiracy beforehand, which they have not  
 15 done. In order to get in any conspirator statement  
 16 they are going to have to establish by a scintilla of  
 17 evidence that there is a conspiracy, which they haven't  
 18 done.  
 19 MR. DRASKOVICH: That there is a  
 20 conspiracy, that it was made in furtherance of the  
 21 conspiracy, and a co-conspirator made it. There are  
 22 actually three things that they need to establish, and  
 23 they have established none of the three.  
 24 Moreover, I would disagree with the  
 25 State's summary of the applicable case law in that

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1 however, it's going to be a confrontation clause  
 2 violation.  
 3 Now, I have no problem as long as my  
 4 client's name is not mentioned or in there because I  
 5 have no proof that my, that we're going to hear  
 6 anything about my client. But I don't want to hear  
 7 something right now that means that Deangelo Carroll is  
 8 saying something to him that is somehow going to  
 9 implicate my client.  
 10 First of all, it's a Bruton violation.  
 11 Second of all, it violates Crawford versus Washington  
 12 where the U.S. Supreme Court has said we have a right  
 13 to confront.  
 14 Now, maybe Mr. Digiacomo is going to tell  
 15 us that it has nothing to do with my client, in which  
 16 case I'm going to withdraw the objection.  
 17 MR. DRASKOVICH: And on behalf of  
 18 Mr. Hidalgo, I would make the same objection for the  
 19 same purposes.  
 20 MS. WILDEVELD: And on behalf of  
 21 Mr. Counts, I would as well.  
 22 MR. DIGIACOMO: Judge, as you will find  
 23 throughout the testimony, the testimony of a  
 24 co-conspirator in the course or in the furtherance of a  
 25 conspiracy is not a violation of the hearsay rule, not

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1 Crawford deals with right to confrontation, which they  
 2 are attempting to circumvent. Right now it's not  
 3 narrowly tailored to testifying at trial.  
 4 The rules of evidence apply at a  
 5 preliminary hearing here in Nevada. And they are now  
 6 attempting to circumvent the United States Supreme  
 7 Court case through this young man's testimony. For  
 8 that reason, it's inappropriate.  
 9 MS. WILDEVELD: We would second all that  
 10 for Mr. Carroll.  
 11 MR. DIGIACOMO: Judge, just two last  
 12 things. One, you're going to hear a lot of testimony  
 13 concerning a conspiracy. If he wants me to go through  
 14 everything about what the evidence of the conspiracy is  
 15 and then go back, this is a court, the Court can decide  
 16 what evidence is admissible or not admissible, allow  
 17 the evidence in subject to connection up.  
 18 Second of all, if the confrontation clause  
 19 applied to the preliminary hearing purposes, then we  
 20 would never have a Grand Jury because I have yet to see  
 21 a defense attorney allowed to cross-examine anybody  
 22 during a Grand Jury.  
 23 So to the extent that Crawford applies,  
 24 which it doesn't because it's a confrontation clause  
 25 case, it certainly doesn't apply to preliminary

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1 hearing, Judge.  
 2 MS. WILDEVELD: Your Honor, there are  
 3 different rules in a preliminary hearing than there are  
 4 in a Grand Jury hearing. And this case wasn't Grand  
 5 Juried. We're at a preliminary hearing.  
 6 THE COURT: I agree. I think the  
 7 confrontation clause does apply at preliminary hearing,  
 8 but I am going to reserve my ruling to see if you can  
 9 tie it in. And I'll see if the testimony is  
 10 testimonial or the statements are testimonial because I  
 11 think that's what Crawford goes to.  
 12 MR. DIGIACOMO: Thank you, Judge.  
 13 BY MR. DIGIACOMO:  
 14 Q. Describe the nature of this conversation  
 15 that you had with Mr. Carroll.  
 16 A. Excuse me?  
 17 Q. You said that you had a conversation with  
 18 Mr. Carroll about hurting somebody. Can you describe  
 19 that conversation?  
 20 MS. WILDEVELD: Objection, I don't think  
 21 that hurting someone has ever come into the record.  
 22 MR. DIGIACOMO: Wasn't that my last  
 23 question to the witness before the objection?  
 24 THE COURT: Doing violence to.  
 25

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1 BY MR. DIGIACOMO:  
 2 Q. Doing violence to.  
 3 A. Well, Deangelo told me that he was, that  
 4 Mr. H had wanted him to kill somebody.  
 5 Q. Okay. And Deangelo said Mr. H. Did you  
 6 know who Mr. H was?  
 7 A. No.  
 8 Q. Okay. Do you now know who Mr. H is?  
 9 A. Yes, I do.  
 10 Q. Who is Mr. H?  
 11 A. Mr. Hidalgo.  
 12 Q. Now, there is a number of Mr. Hidalgos in  
 13 this particular case. What did Mr. H, what does he do  
 14 for a living?  
 15 MR. DRASKOVICH: Objection, lack of  
 16 foundation.  
 17 THE WITNESS: If I'm right, he owns the  
 18 club.  
 19 THE COURT: Overruled.  
 20 BY MR. DIGIACOMO:  
 21 Q. He owns the club?  
 22 A. (Witness nods head.)  
 23 Q. That's the Palomino Club we're talking  
 24 about?  
 25 A. Yes, sir.

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1 Q. When Deangelo told you that Mr. H wanted  
 2 him to kill somebody, what was your response?  
 3 A. Well, my response I wasn't even in it.  
 4 You know, that was my response was no.  
 5 Q. You told him no?  
 6 A. Yeah.  
 7 Q. Was there anybody else present when  
 8 Mr. Carroll was talking about Mr. H wanting to kill  
 9 somebody?  
 10 A. Yes.  
 11 Q. Who was that?  
 12 A. JJ.  
 13 Q. JJ. And what's JJ's full name, do you  
 14 know?  
 15 A. Jayson Taoipu.  
 16 Q. Jayson Taoipu?  
 17 A. Yes.  
 18 Q. How long before the events of May 19th did  
 19 this first conversation between you and Mr. Carroll  
 20 occur?  
 21 A. Well, earlier that day.  
 22 Q. Earlier in the day that Mr. Hadland died?  
 23 A. No, earlier in the day before.  
 24 Q. Before Mr. Hadland was killed?  
 25 A. Yes.

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1 Q. Okay. What was JJ's response to what  
 2 Mr. Carroll had said?  
 3 A. Well, you know, he was supposed to be  
 4 down, but --  
 5 Q. What do you mean by supposedly be down?  
 6 A. He was with it, you know.  
 7 Q. What did he say?  
 8 A. He was in it. He was like I want to do  
 9 it, but he didn't.  
 10 Q. Okay. But JJ indicated that he was  
 11 willing to do it?  
 12 A. Yeah.  
 13 Q. At any point in time, did you see JJ with  
 14 a weapon?  
 15 A. That night.  
 16 Q. Okay. What kind of gun was it?  
 17 A. .22 revolver.  
 18 Q. Okay. Where did JJ get the gun, if you  
 19 know?  
 20 A. He got it from Deangelo.  
 21 Q. He got it from who?  
 22 A. Deangelo.  
 23 Q. Deangelo.  
 24 Did there ever come a point in time when  
 25 Deangelo tried to give you anything?

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1 A. No.  
 2 Q. What about some bullets?  
 3 A. Yes.  
 4 Q. Okay. Describe to the Court that  
 5 interaction.  
 6 A. Well, he gave me the bullets, but I gave  
 7 them to JJ.  
 8 Q. Okay. Why is it that you gave them to JJ?  
 9 A. Because I didn't want nothing to do with  
 10 it.  
 11 Q. You didn't want anything to do with it?  
 12 A. No.  
 13 Q. Let's talk about Thursday, May 19th,  
 14 2005. Did there come a point in time when you went out  
 15 promoting with JJ and Deangelo?  
 16 A. Yes.  
 17 Q. And how long did you guys promote for?  
 18 A. For like two hours, two or three hours.  
 19 Q. What time did you start about?  
 20 A. About 8 o'clock.  
 21 Q. Eight o'clock at night?  
 22 A. (Witness nods head.)  
 23 Q. Is that a yes?  
 24 A. Yes.  
 25 Q. I'm sorry, she's going to type down

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1 everything you say. Okay?  
 2 A. (Witness nods head.)  
 3 Q. All right. So a couple hours. What  
 4 happened after that couple hours? Where did you go?  
 5 A. We went back home.  
 6 Q. To whose house?  
 7 A. Deangelo's house.  
 8 Q. Who was at Deangelo's house when you were  
 9 there?  
 10 A. His wife.  
 11 Q. His wife?  
 12 A. His wife and son and my baby's mother.  
 13 Q. Your baby's mother?  
 14 A. (Witness nods head.)  
 15 Q. Okay. What about JJ, was he there?  
 16 A. Yes, he was.  
 17 Q. How long do you stay at Deangelo's house?  
 18 A. For about four days.  
 19 Q. Okay. I'm talking about after the couple  
 20 of hours that you went out promoting, you went back to  
 21 Deangelo's house. How long did you stay at Deangelo's  
 22 house that night?  
 23 A. For about three hours, and then we went  
 24 back out to promote.  
 25 Q. Okay. When you were going back out, did

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1 Deangelo tell you what you were going back out to do?  
 2 A. No, he said that we were going to promote.  
 3 Q. He said that you're going to promote and  
 4 you said okay?  
 5 A. Yes. Because my baby's mother asked me  
 6 where I was going when I left.  
 7 Q. What did you tell her?  
 8 A. I didn't tell her nothing. Deangelo told  
 9 her we were going to promote.  
 10 Q. So did you and JJ and Deangelo then leave?  
 11 A. Yes, we did.  
 12 Q. And where did you, JJ and Deangelo go?  
 13 A. We went to pick up KC.  
 14 Q. Where was KC at?  
 15 A. West side.  
 16 Q. The west side.  
 17 Do you know what street it is?  
 18 A. E Street.  
 19 Q. E Street.  
 20 And did there come a point in time that  
 21 Deangelo had a conversation with you concerning  
 22 anything that Mr. H's son said?  
 23 A. Yes.  
 24 Q. Okay. What is it that Deangelo told you?  
 25 MS. WILDEVELD: Objection, against --

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1 MR. DRASKOVICH: Clearly, Judge, this is  
 2 hearsay. I think they have basically far exceeded your  
 3 Honor's prior ruling. We basically have an evidentiary  
 4 free for all here where you can say what other people  
 5 are saying that he hasn't heard and what he's being  
 6 told.  
 7 We have a party that's not now a party to  
 8 this preliminary hearing whose testimony is being  
 9 bootstrapped through this young man, and this is wholly  
 10 inappropriate.  
 11 MR. DIGIACOMO: Judge, first of all, I  
 12 have now established the conspiracy. He's present for  
 13 the formation of the conspiracy, at least through JJ  
 14 and Deangelo. And any statement thereafter related to  
 15 the conspiracy would go against the co-conspirator.  
 16 If I later cannot come up with independent  
 17 evidence that establishes that Luis or that Luis  
 18 Hidalgo, III, was part of the conspiracy, that may be  
 19 an argument, but it's not an evidentiary argument as to  
 20 the statement related to a co-conspirator's statement  
 21 in furtherance of the conspiracy.  
 22 MR. DRASKOVICH: My second objection is  
 23 that of leading in that he is now pulling out names and  
 24 feeding names to this particular witness, and that's  
 25 wholly inappropriate as well.

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1 If Mr. DiGiacomo has any personal  
2 knowledge and would like to go under oath, I would be  
3 happy to hear him testify, but this young man did not  
4 mention anybody's name outside of those names that  
5 Mr. DiGiacomo is now stating to him in this courtroom.  
6 THE COURT: Let's see if we can not  
7 suggest answers.  
8 MR. DIGIACOMO: I will try, Judge. I  
9 think that I just said son, but okay.  
10 BY MR. DIGIACOMO:  
11 Q. Tell me about this conversation between --  
12 what did Deangelo tell you about a conversation or what  
13 did he tell you about Mr. H's son?  
14 MR. DRASKOVICH: Objection, leading.  
15 THE COURT: What did he tell you? How  
16 could that possibly be leading?  
17 MR. DRASKOVICH: About so and so's son.  
18 Once again, we have him suggesting answers, suggesting  
19 names and suggesting identities of people this young  
20 man has not stated, so clearly the answer is contained  
21 within the question that Mr. DiGiacomo is presenting to  
22 this witness.  
23 THE COURT: I don't think so. I'll  
24 overrule that.  
25 MR. DIGIACOMO: Thank you.

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1 A. It's a house.  
2 Q. And this house, is it near anybody who is  
3 related to Deangelo?  
4 MS. WILDEVELD: Objection, leading.  
5 MR. DRASKOVICH: Join in that objection.  
6 THE WITNESS: Across the street from his  
7 mom.  
8 MR. DIGIACOMO: How can that be leading,  
9 Judge?  
10 THE COURT: Overruled.  
11 THE WITNESS: Across the street from his  
12 mom.  
13 BY MR. DIGIACOMO:  
14 Q. Across the street from his mother. Okay.  
15 When you get up there, does everybody get  
16 out of the van or does anybody get out of the van?  
17 A. Deangelo gets out of the van.  
18 Q. Where does Deangelo go?  
19 A. Goes to KC.  
20 Q. Does he go inside the house?  
21 A. Yes, he does.  
22 Q. How long was Deangelo inside the house?  
23 A. About a maximum of ten minutes.  
24 Q. Eventually, does Deangelo leave the house?  
25 A. Yes.

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1 BY MR. DIGIACOMO:  
2 Q. What did Deangelo tell you about Mr. H's  
3 son?  
4 A. Well, that he wanted to have him dead  
5 also.  
6 Q. Okay. Did he tell you anything else?  
7 A. He told me that, that he was supposed to  
8 grab baseball bats and a trash can -- I mean, trash  
9 bags.  
10 Q. Okay. What was the baseball bat and trash  
11 bags for?  
12 A. Murder.  
13 Q. Okay. Eventually -- are you now on the  
14 night of the 19th, are you still in the white van with  
15 JJ and Deangelo?  
16 A. Yes.  
17 Q. Eventually, do you wind up on the west  
18 side?  
19 A. Yes.  
20 Q. Do you wind up on E Street?  
21 A. Yes.  
22 Q. When you get there, where do you go?  
23 A. We pick up KC and we leave.  
24 Q. What kind of place does KC live in? Is it  
25 a house, is it an apartment, what is it?

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1 Q. Does he have anybody with him?  
2 A. He has KC with him.  
3 Q. Does KC get in the van with Deangelo?  
4 A. Yes, he does.  
5 Q. Do you see KC here in court today?  
6 A. Yes, I do.  
7 Q. Can you point him out and describe  
8 something he's wearing?  
9 A. Sitting in the front.  
10 Q. Okay. Is he white, black or Hispanic?  
11 A. Black.  
12 Q. Black?  
13 A. Yes.  
14 Q. What kind of clothes is he wearing?  
15 A. Jail outfits. I mean, I don't really know  
16 what to call them.  
17 Q. Jail outfits, that's what he's wearing  
18 today?  
19 A. Yes, sir.  
20 MR. DIGIACOMO: May the record reflect the  
21 identification of Defendant Counts, Judge?  
22 THE COURT: In the front row there are  
23 three people, which of the three?  
24 THE WITNESS: Person on the right.  
25 THE COURT: The record will so reflect.

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1 MS. WILDEVELD: I'm having a hard time  
2 hearing him, your Honor, if you can ask him to speak  
3 up, please.  
4 THE WITNESS: Person on the right.  
5 BY MR. DIGIACOMO:  
6 Q. When KC gets in the van, is there any  
7 discussion about what's going to happen?  
8 A. No.  
9 Q. Where does the van go?  
10 A. Van goes to Lake Mead.  
11 Q. During the time the van is going to --  
12 well, do you know why the van was heading towards Lake  
13 Mead?  
14 A. When we got out there, I knew.  
15 Q. When you got out there you knew.  
16 How did you know?  
17 A. Because I'm like we ain't just going to  
18 Lake Mead just to go.  
19 Q. Do you ever -- does anybody in the car  
20 have any conversations by way of any phone?  
21 A. Yes.  
22 Q. What?  
23 A. Yes.  
24 Q. Who?  
25 A. Deangelo.

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1 Q. Who does he talk to that you're aware of?  
2 MR. ORAM: Objection. How would he know  
3 who he's going to talk to by phone?  
4 THE COURT: Sustained.  
5 BY MR. DIGIACOMO:  
6 Q. Did you hear Deangelo talking to somebody?  
7 A. Yes.  
8 Q. What is Deangelo saying to this person?  
9 A. He was supposed to meet Timothy.  
10 Q. He was supposed to meet Timothy?  
11 A. (Witness nods head.)  
12 Q. Was it your understanding that he's  
13 talking to Timothy?  
14 A. (Witness nods head.)  
15 Q. Is that a yes?  
16 A. Yes, sir.  
17 Q. Okay. Where is it that the van goes?  
18 A. It goes to, it goes to Lake Mead by the  
19 highway road to where you have no direction but to turn  
20 left or right.  
21 Q. Okay. Do you ever have to pass any  
22 checkpoints or anything else to get out there?  
23 A. I'm pretty sure that you do.  
24 Q. Okay. The car goes out there the first  
25 time. Describe for the Court what you do in the van.

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1 The van drives out there, and then what happens?  
2 A. It drives out there, and Deangelo didn't  
3 get no service on his phone. He had no service on his  
4 phone, so he turned around.  
5 Q. Where did the van drive back to?  
6 A. Back, back towards the city to where he  
7 can get a connection on his phone.  
8 Q. When he got the connection on his phone,  
9 what happened at that point?  
10 A. When he got the connection on his phone,  
11 he turned back around.  
12 Q. Okay. Did he make a phone call now that  
13 he has a connection on his phone?  
14 A. Yes, he did.  
15 Q. What was he saying on the phone?  
16 A. He just said, he turned Timothy, but  
17 Timothy never answered.  
18 Q. So then the van turned back around?  
19 A. No, he don't turn back around twice.  
20 Q. So I got this straight, you drive out  
21 there, there is no cell phone service, Deangelo turns  
22 back around until he gets cell phone service?  
23 A. And then he turns around.  
24 Q. And then he turns around a second time.  
25 A. But then he doesn't turn around no more.

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1 Q. And then he drives back down the road?  
2 A. Correct.  
3 Q. Correct?  
4 A. Right.  
5 Q. Where are you seated in the van?  
6 A. Left back seat.  
7 Q. So behind the driver?  
8 A. Yes.  
9 Q. Who is driving?  
10 A. Deangelo.  
11 Q. Who is in the front passenger seat?  
12 A. JJ.  
13 Q. Who is in behind the front passenger?  
14 A. KC.  
15 Q. KC.  
16 Do you have any conversations with KC on  
17 the way out to Lake Mead?  
18 A. No, we smoked a blunt. That was about it.  
19 Q. When you say smoked a blunt, what kind  
20 of -- what is a blunt?  
21 A. Marijuana.  
22 Q. Marijuana.  
23 And after smoking the blunt --  
24 MR. DRASKOVICH: I object to this part.  
25 We have this kid admitting to crimes now before this

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1 Court, which I think is actually within this Court's  
2 jurisdiction if they are on their way to Lake Mead and  
3 they're in this area.

4 Obviously, he probably should consult with  
5 a lawyer but that's the Court's call. This is --

6 MR. DIGIACOMO: Judge, we have people,  
7 witnesses testify to drug use in preliminary hearings  
8 every day, and I have never seen a judge instruct a  
9 witness in a murder case that he needs to be worried  
10 about the fact that he said that there was marijuana  
11 being smoked. I don't have any corpus to establish the  
12 crime.

13 MR. DRASKOVICH: I have represented many,  
14 many people for much lesser crimes, even having pipes  
15 or drug paraphernalia that the District Attorney's  
16 office sees fit to charge.

17 MS. WILDEVELD: Additionally, your Honor,  
18 I see nothing more than another co-conspirator sitting  
19 on the stand, and he is not even represented by  
20 counsel.

21 I have represented numerous people who are  
22 passengers in a vehicle and have done much less than he  
23 did being charged with murder.

24 MR. DIGIACOMO: Judge, as far as I am  
25 aware, there is nothing he's said so far that would

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1 allow me to charge him with murder. There is nothing  
2 that any other witness in any other discovery has said  
3 that he's been involved in a murder.

4 In fact, the only other witness who's  
5 given a statement related to the murder or any other  
6 defendant is Mr. Carroll, and Mr. Carroll specifically  
7 says that Ronta Zone had absolutely nothing to do with  
8 this crime. There is not a single shred of evidence to  
9 establish that Ronta Zone was involved in this murder.

10 MS. WILDEVELD: Judge, JJ Taoipu is also a  
11 co-defendant in this case. Unfortunately, he's not  
12 here today, but he's facing the same charges as these  
13 men are.

14 MR. DRASKOVICH: And we have had testimony  
15 that we have, according to this young man, they are  
16 headed out to the lake to commit a murder, he is  
17 present, he is in the car. He has not left, and he's  
18 going with them knowing what they are doing. He's  
19 clearly present when these conversations or alleged  
20 conversations occur.

21 MS. WILDEVELD: And before he got in the  
22 car, he's already testified that he knew. They said we  
23 were going to take care of him and collected baseball  
24 bats and bags.

25 MR. DRASKOVICH: And his getting into the

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1 car is an outward act that would obviously establish  
2 his participation, his presence, directly or  
3 indirectly, to quote the State in their Complaint, of  
4 the commission of a crime.

5 THE COURT: Well, I appreciate very much  
6 your concern for this gentleman's constitutional  
7 rights, but --

8 Mr. Zone, you have the right against  
9 self-incrimination. It's a constitutional right. And  
10 anything that you say can be used against you later on.

11 Because you have that right, you also have  
12 a right to be represented by an attorney. If you could  
13 not afford to hire an attorney, the Court would appoint  
14 an attorney to represent you.

15 Do you understand you have those rights?

16 THE WITNESS: Yes, sir.

17 THE COURT: You also have, because they  
18 are your rights, you have the right to waive those  
19 rights and proceed without an attorney and answer  
20 questions that the District Attorney asks you, so it's  
21 entirely up to you.

22 If you want to have an attorney and  
23 consult with an attorney before you answer questions, I  
24 would provide one for you. Or if you want to go  
25 forward and answer questions without an attorney, you

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1 can do that.

2 THE WITNESS: Yes.

3 THE COURT: What would you like to do?

4 THE WITNESS: With an attorney.

5 THE COURT: With an attorney? Okay.

6 MR. DIGIACOMO: Can we take a break then  
7 Judge. We need to get an attorney here.

8 THE COURT: All right. Why don't we take  
9 a five-minute break.

10 (A brief recess was taken.)

11 THE COURT: Okay. Do we have counsel  
12 coming for Mr. Zone? So we can interrupt his testimony  
13 until he discusses the proceedings with his attorney.

14 In the meantime, is there another witness  
15 that we can proceed with?

16 MR. PESCI: Yes, Judge, the State calls  
17 Pajit, P-A-J-I-T, I'm sorry, P-A-I-J-I-T, Karlson.

18 THE COURT: Ms. Karlson?

19 MR. PESCI: She's just right outside.

20 THE COURT: Okay. Come over here. When  
21 you get up here, remain standing and raise your right  
22 hand.

23 THE CLERK: Raise your right hand, please.

24 Do you swear the statements that you are  
25 about to make are the truth, the whole truth, and

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1 nothing but the truth, so help you God?  
 2 THE WITNESS: I do.  
 3 THE CLERK: I need you to state your name  
 4 for the record and spell your name, please.  
 5 THE WITNESS: My name is Pajit Karlson,  
 6 P-A-I-J-I-T. Karlson, K-A-R-L-S-O-N.  
 7 THE COURT: Have a seat.  
 8 MR. PESCI: May I proceed, your Honor?  
 9 THE COURT: Yes, please.  
 10 MR. PESCI: Thank you.  
 11  
 12 PAIJIT KARLSON,  
 13 having been first duly sworn, did testify as follows:  
 14  
 15 DIRECT EXAMINATION  
 16 BY MR. PESCI:  
 17 Q. Ma'am, where are you from?  
 18 A. Island.  
 19 Q. Do you speak English?  
 20 A. Not fully.  
 21 Q. If you have any questions or something  
 22 don't make sense, please stop and ask a question. Is  
 23 that okay?  
 24 A. (No audible response.)  
 25 Q. This woman right in front of you is taking  
 everything down, so we have to give an answer out loud

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1 so she'll know what was said. Is that okay?  
 2 A. Okay.  
 3 Q. All right. You have to speak loud enough  
 4 so everybody can hear you.  
 5 A. All right.  
 6 Q. Thank you.  
 7 Ma'am, did you know a Timothy Hadland?  
 8 A. Yes.  
 9 Q. What did you call him? What was your name  
 10 for him?  
 11 A. TJ.  
 12 Q. TJ?  
 13 A. (Witness nods head.)  
 14 Q. And I want to focus your attention on May  
 15 the 19th of 2005. We're going to talk about that day.  
 16 Before that, though, when did you first  
 17 meet TJ?  
 18 A. I met him on November 25 of Christmas Eve.  
 19 Q. Would that be in 2004?  
 20 A. Yes.  
 21 Q. And were you in a dating relationship with  
 22 TJ?  
 23 A. Not after three months. Three months  
 24 after that.  
 25 Q. So three months after you met, you started

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1 dating?  
 2 A. Yes.  
 3 Q. Okay. Thank you.  
 4 And looking at May the 19th of 2005, did  
 5 you and TJ decide to go somewhere?  
 6 A. Yes.  
 7 Q. Where did you decide to go?  
 8 A. To the lake.  
 9 Q. When you say "lake," are you referring to  
 10 Lake Mead?  
 11 A. Lake Mead, yes.  
 12 Q. Did anybody go with you?  
 13 A. Just us.  
 14 Q. When you say "us," who do you mean?  
 15 A. Just TJ and I.  
 16 Q. All right. And what were you going to do  
 17 at the lake?  
 18 A. We just go camping.  
 19 Q. Had you ever been camping before?  
 20 A. No.  
 21 Q. Whose idea was it to go camping?  
 22 A. TJ.  
 23 Q. Did you actually get out to the lake?  
 24 A. We get out to the lake.  
 25 Q. Was there a camping area that you stopped

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1 in?  
 2 A. Yes, they have a small camping over there.  
 3 Q. And how long were you -- about what time  
 4 do you think you got out to the camping area at the  
 5 lake?  
 6 A. About 7:30 about.  
 7 Q. Is that 7:30 at night?  
 8 A. Yes, about. It's kind of late, about  
 9 7:30, something like that. And 8 o'clock when we set  
 10 up the camping.  
 11 Q. Did you set up your camp?  
 12 A. Yes.  
 13 Q. At about 8 o'clock?  
 14 A. (Witness nods head.) Yes.  
 15 Q. Thank you.  
 16 And did you have a phone with you?  
 17 A. Yes.  
 18 Q. Was it your cell phone?  
 19 A. Yes.  
 20 Q. Did TJ have a phone or something to  
 21 communicate with with him?  
 22 A. Yes.  
 23 Q. What was that, do you recall?  
 24 A. Walkie-talkie.  
 25 Q. Had you seen that walkie-talkie before?

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- 1 A. I have, yes.  
 2 Q. Was that something that he had from work?  
 3 A. He just have. He just bought a new one,  
 4 so yes, he have.  
 5 Q. All right. And did you know where did TJ  
 6 work?  
 7 A. At the Palomino Club.  
 8 Q. How long ago had he worked at the Palomino  
 9 Club?  
 10 A. About three months.  
 11 Q. Now, at the time that you were camping,  
 12 was TJ still working at the Palomino?  
 13 A. No.  
 14 Q. Had he stopped working there?  
 15 A. Yes.  
 16 Q. About how long before you went camping had  
 17 TJ stopped working at the Palomino?  
 18 A. About two-and-a-half weeks.  
 19 Q. Two-and-a-half weeks?  
 20 A. Yes.  
 21 Q. While you were out there, were you  
 22 spending some time together, you and TJ?  
 23 A. Yes.  
 24 Q. That was a bad question.  
 25 Did you have any drinks while you were out

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- 1 at the lake?  
 2 A. Not me.  
 3 Q. Did TJ have any drinks?  
 4 A. Yes.  
 5 Q. Did TJ get a phone call while you were  
 6 together at the lake?  
 7 A. Yes.  
 8 Q. And do you recall was it on his  
 9 walkie-talkie?  
 10 A. Yes.  
 11 Q. Did you hear the person that was making  
 12 the call?  
 13 A. I heard he talked too, but not to when he  
 14 in conversation. He tell me.  
 15 Q. Okay. So if I understand correctly, you  
 16 heard the phone call come in?  
 17 A. Yes.  
 18 Q. You were not able to hear the voice of the  
 19 person making the call?  
 20 A. No.  
 21 Q. Were you able to hear TJ as he was on that  
 22 phone call with the other person?  
 23 A. Yes.  
 24 Q. Did you hear TJ talking on the phone?  
 25 A. Yes.

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- 1 Q. Was he standing near you or did he move  
 2 around during this phone call?  
 3 A. He move around.  
 4 Q. And was he still in an area where you  
 5 could hear him?  
 6 A. I can hear him talk but not, you know,  
 7 like every word.  
 8 Q. Okay. Did that phone conversation end?  
 9 A. Yes.  
 10 Q. And did TJ come back and speak with you?  
 11 A. Yes.  
 12 Q. Did TJ explain who it was or what he was  
 13 going to do based on that phone conversation?  
 14 A. Yes.  
 15 Q. What was he going to do?  
 16 A. He say he going to meet someone.  
 17 Q. Did he say who he was going to meet?  
 18 A. Yes.  
 19 Q. Who did he say he was going to meet?  
 20 A. Deangelo.  
 21 Q. Do you see Deangelo here in court today?  
 22 A. Yes.  
 23 Q. Could you point to him and describe  
 24 something he's wearing here in court today?  
 25 A. Just sitting there by himself.

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- 1 Q. And what is he wearing?  
 2 A. The blue.  
 3 MR. PESCI: Would the record reflect  
 4 identification of Deangelo Carroll, your Honor?  
 5 THE COURT: The record will so reflect.  
 6 MR. PESCI: Thank you.  
 7 BY MR. PESCI:  
 8 Q. Now, when he had this conversation with  
 9 Deangelo, what did he do after that conversation?  
 10 A. He just talk, and he say I'm going to get  
 11 Angelo.  
 12 Q. And did you say something to him about  
 13 that idea?  
 14 A. I said why? You know, supposed to be us  
 15 for camping, that's why I coming. I coming. Because  
 16 it's supposed to be us.  
 17 Q. Did he explain why he was going to go meet  
 18 Deangelo?  
 19 A. Yes.  
 20 MR. ORAM: Your Honor, this is getting  
 21 into a little bit of hearsay with the victim in this  
 22 case. We've heard that he's going to meet Deangelo  
 23 Carroll. I let that go, but I don't think anything  
 24 further.  
 25 It's a not a dying declaration, so I'm not

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1 sure how they think they can get this into evidence.  
2 It would be hearsay.

3 MR. PESCI: Well, Judge, notwithstanding  
4 his kindness, there is a statute that actually allows  
5 for it, 51.105, which talks about the future intent,  
6 talks about present sense impression, and it  
7 specifically highlights State v. Lyle.

8 It was a homicide case in which the victim  
9 of a homicide said that he was going to meet some  
10 people and, in fact, for a drug deal. And that was  
11 allowed by the State Supreme Court as an exception to  
12 the hearsay rule.

13 MR. DRASKOVICH: And he's already gotten  
14 to ask why he is going so, therefore, he's now  
15 exceeding the ruling in that Nevada Supreme Court case  
16 with these further questions.

17 MR. PESCI: I believe, I think that I just  
18 asked her what he said as to why he was going to meet,  
19 not just he was going to meet, but why he was going to  
20 meet them.

21 MR. ORAM: And just for the record,  
22 Crawford versus Washington specifically states that the  
23 State has traditionally been trying to get in hearsay  
24 through many different exceptions. They say now you  
25 can't do it that way. You have to call the witnesses.

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1 So as long as we're just carrying just a  
2 quick explanation regarding Deangelo Carroll, but I  
3 would be concerned if there was anything to do with my  
4 client on this.

5 MR. DRASKOVICH: I'd join in with that.

6 THE COURT: This isn't testimony. I don't  
7 think that Crawford applies. I am going to overrule  
8 the objection.

9 MR. PESCI: Thank you, Judge.

10 BY MR. PESCI:

11 Q. Ma'am, you can answer the question. Did  
12 TJ explain why he was going to meet Deangelo?

13 A. Yes.

14 Q. What did he say?

15 A. Deangelo have weed for him.

16 Q. Did you say weed?

17 A. Yes.

18 Q. And did TJ eventually leave?

19 A. I don't want him to leave, but he say he  
20 going to be met him in half hour, you know. That's  
21 what he say.

22 Q. Now, how did you get out to the lake?  
23 What did you drive to get out to the lake?

24 A. What?

25 Q. What kind of a car did you drive?

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1 A. A Kia Sportage.

2 Q. And when Deangelo left, did he leave in  
3 that car?

4 A. I don't see him.

5 Q. When TJ left, did you see which car he  
6 went in?

7 A. When he left, it's my car.

8 Q. In your car?

9 A. My car.

10 Q. How was TJ dressed when he left you?

11 A. He left without no shirt. Just the jean.

12 Q. Did he have a hat with him, do you  
13 remember?

14 A. He have hat, yes. But I don't believe he  
15 wear that.

16 Q. Okay. After he left, did you hear from  
17 him again?

18 A. No.

19 Q. Did you become concerned?

20 A. Yes.

21 Q. Did you make some phone calls based on  
22 your concern?

23 A. Yes.

24 Q. Who did you contact?

25 A. I call my friend, and I call his mom on

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1 the phone.

2 Q. Were you able to talk to his mother?

3 A. Yes.

4 Q. And from talking to his mother, were you  
5 able to find out where he was?

6 A. (Witness shakes head.)

7 Q. Did you ever see TJ again after he left?

8 A. No.

9 Q. Eventually, did some people come and talk  
10 to you?

11 A. Yes, in the morning.

12 Q. In the morning.

13 Did you stay at the campsite?

14 A. Yes.

15 Q. And when the people came, did some police  
16 or some investigators come and speak with you?

17 A. Yes.

18 Q. Did you tell them what you recall that  
19 happened that day? Did you tell them what had  
20 happened?

21 A. Yes.

22 Q. Okay.

23 MR. PESCI: I pass the witness, your  
24 Honor.

25 THE COURT: Thank you.

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1 MR. ORAM: On behalf of Ms. Espindola,  
2 nothing.  
3 MR. DRASKOVICH: I have no questions for  
4 this young lady.  
5 MS. WILDEVELD: I have no questions, your  
6 Honor.  
7 THE COURT: Okay. Ms. Karlson, thank you  
8 very much. You are excused.  
9 MR. DIGIACOMO: May I approach, Judge?  
10 THE COURT: Yes.  
11 (Thereupon, a brief discussion was held  
12 at the bench.)  
13 THE COURT: All right. While we wait for  
14 Mr. Zone's attorney to come from Las Vegas, we will be  
15 in recess until 10:30.  
16 (A recess was taken.)  
17 THE COURT: Okay. Back on the record in  
18 Case 05FB0052A through E. We had broke so that  
19 Mr. Zone could consult with counsel. And I had the  
20 Special Public Defender's office to represent Mr. Zone.  
21 I believe that he's had an opportunity to talk with  
22 counsel; is that right, Mr. Zone?  
23 THE WITNESS: Yes, sir.  
24 THE COURT: Okay. And Mr. Pike is present  
25 from the Special Public Defender's office.

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1 Mr. Pike, you had a chance to confer with  
2 Mr. Zone?  
3 MR. PIKE: I did, your Honor. I had an  
4 opportunity to meet with him, go over everything with  
5 his mother. And so in reference to this, I can accept  
6 the appointment to be his attorney, and he will be  
7 testifying today.  
8 THE COURT: Okay.  
9 Mr. Zone, we had broke before we had  
10 indicated that you have the right to be represented by  
11 counsel and you chose to do that. And now that you  
12 are, are you prepared to go ahead and answer questions  
13 for me?  
14 THE WITNESS: Yes, sir.  
15 THE COURT: Okay. Then we can proceed.  
16  
17 RONTA ZONE,  
18 having been previously duly sworn, did testify as  
19 follows:  
20 DIRECT EXAMINATION (Resumed)  
21 BY MR. DIGIACOMO:  
22 Q. Okay, Ronta, I want you to slide back up  
23 and get close to that microphone again. Okay?  
24 I think we left off when you said that you  
25 were smoking blunt with KC. Do you remember that?  
A. Yes.

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1 Q. Okay. This was on the way out to Lake  
2 Mead?  
3 A. Yes.  
4 Q. Did you have any conversations at all with  
5 KC concerning anything?  
6 A. Yes.  
7 Q. Okay. What did KC say to you?  
8 A. He asked me if I had a gun.  
9 Q. He asked you if you had a gun.  
10 Did he use the term gun or did he use a  
11 different word?  
12 A. Burner.  
13 Q. What was that?  
14 A. A burner.  
15 Q. A burner.  
16 So to you that meant a gun?  
17 A. Yes.  
18 Q. What was your response to KC?  
19 A. I didn't have one.  
20 Q. Okay. Did you tell him that?  
21 A. Yes, I did.  
22 Q. Okay. Did KC ask anybody else in the car  
23 if they had a burner?  
24 A. Well, he asked JJ.  
25 Q. He asked JJ, and did you hear JJ's

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1 response?  
2 A. No.  
3 Q. You didn't hear JJ's response?  
4 A. No, I didn't.  
5 Q. Okay. Did you have any other  
6 conversations with KC?  
7 A. No, I didn't.  
8 Q. No.  
9 Describe - now, the car is going back  
10 down north shore, down the road out to Lake Mead one  
11 last time.  
12 As you approach the area where the murder  
13 actually occurred, tell the Court what happened.  
14 A. Well, we approached it. And as we was  
15 coming to Timothy was coming, and he seen us. And he  
16 turned around because he was on the other side.  
17 Q. So Timothy turned around?  
18 A. Yes, so he turned around. And he parked  
19 in the front.  
20 Q. Did you guys park before Timothy parked?  
21 A. We stopped before he stopped.  
22 Q. You stopped on the side of the road?  
23 A. Yeah.  
24 Q. Did anybody exit the vehicle when you  
25 first stopped?

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- 1 A. Yes.  
 2 Q. Who?  
 3 A. Deangelo did.  
 4 Q. Deangelo did?  
 5 A. Yes.  
 6 Q. What did Deangelo do when he got out of  
 7 the vehicle?  
 8 A. He used the bathroom.  
 9 Q. He was using the restroom out on the side  
 10 of the road?  
 11 A. Yes, sir.  
 12 Q. Did there come a point in time when  
 13 Deangelo got back to the car?  
 14 A. Yes, he did.  
 15 Q. Now, was Deangelo back to the car by the  
 16 time Timothy drove up, or was he outside of the car  
 17 when Timothy first drove up?  
 18 A. Before he drove up.  
 19 Q. Before he drove up?  
 20 A. Yes, sir.  
 21 Q. Okay. Timothy, you said, drove by you.  
 22 Did he do anything to indicate that he saw you, saw the  
 23 van?  
 24 A. He seen Deangelo.  
 25 Q. What makes you think that he saw Deangelo?

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- 1 A. Because he don't know none of us.  
 2 Q. But did he do anything, wave, yell, do  
 3 anything?  
 4 A. Yeah, he waved.  
 5 Q. He waved. And then he turned the car  
 6 around?  
 7 A. Yes, he did.  
 8 Q. Where did he park his car in relationship  
 9 to where the van was?  
 10 A. In front, but not right in front.  
 11 Q. How far would you say that Timothy's car  
 12 was from the van?  
 13 A. It was far, but not as far.  
 14 Q. Okay. We talking the distance between me  
 15 and you, you and the wall, you and somewhere farther  
 16 than the wall?  
 17 A. A little more from the wall.  
 18 Q. It was a little bit farther than that back  
 19 wall.  
 20 MR. DIGIACOMO: Judge, what's that back  
 21 wall distance, if you know?  
 22 THE COURT: About 30 feet.  
 23 MR. DIGIACOMO: About 30 feet.  
 24 BY MR. DIGIACOMO:  
 25 Q. So he parked a little bit farther ahead of

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- 1 you than right in front of you?  
 2 A. Yes, sir.  
 3 Q. Was Timothy's vehicle parked in the same  
 4 direction as the van or a different direction?  
 5 A. Same direction.  
 6 Q. When Timothy parked his vehicle, did  
 7 Timothy, what did Timothy do when he parked his  
 8 vehicle?  
 9 A. He parked his Kia and he got out.  
 10 Q. He got out of the vehicle?  
 11 A. Yes.  
 12 Q. You said it was a Kia? What kind of Kia  
 13 was it?  
 14 A. I think a Sportage.  
 15 Q. Sportage.  
 16 Is that a regular sedan? Is it a SUV?  
 17 What is it?  
 18 A. SUV.  
 19 Q. An SUV?  
 20 A. Yes, sir.  
 21 Q. Timothy got out of the vehicle, and what  
 22 did Timothy do?  
 23 A. He waved at Deangelo.  
 24 Q. He waved at Deangelo.  
 25 Was Deangelo already back in the passenger

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- 1 seat, I mean, the driver's seat by now?  
 2 A. Yes.  
 3 Q. What did Deangelo do?  
 4 A. He don't do nothing. He sat in the  
 5 driver's seat.  
 6 Q. What did Timothy do?  
 7 A. Timothy got out and walked towards the  
 8 van.  
 9 Q. Describe Timothy for me. Is he white,  
 10 black or Hispanic?  
 11 A. White.  
 12 Q. White?  
 13 A. (Witness nods head.)  
 14 Q. What was he wearing?  
 15 A. He was wearing, I think, a little t-shirt,  
 16 like a little vacation t-shirt and shorts. And I think  
 17 some sandals.  
 18 Q. Anything on his head?  
 19 A. Yeah, a hat.  
 20 Q. Okay. Can you describe the hat at all for  
 21 me?  
 22 A. It was like made of straw or - I wasn't  
 23 really sure. It was late.  
 24 Q. Okay. Was there any lights on this road?  
 25 A. No, except for ours.

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- 1 Q. Except for yours. The headlights of your  
2 vehicle were on, of the van?  
3 A. (Witness nods head.) And Timothy's.  
4 Q. And Timothy's lights were in front of him?  
5 A. Yes, sir.  
6 Q. Now, Timothy is walking back towards the  
7 van. Is he walking into the headlights?  
8 A. No, he's walking towards the driver's  
9 side.  
10 Q. But back from his car towards the driver's  
11 side?  
12 A. Yes, sir.  
13 Q. Okay. What happens when Timothy winds up  
14 at the driver's side of the van?  
15 A. He goes to the driver's side. And then  
16 after he goes to the driver's side, he's talking to  
17 Deangelo. And then after meeting at the time, KC was  
18 getting out of the van.  
19 Q. All right. Let's talk about that. You  
20 said KC was in the back behind the passenger, so he was  
21 on the right side of the van?  
22 A. Yes.  
23 Q. That's where he was sitting?  
24 A. Yes.  
25 Q. How did he get out of the van?

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- 1 A. He sneaked out of the van.  
2 Q. Through what door?  
3 A. Through the sliding door.  
4 Q. How many sliding doors does this van have?  
5 A. Just one.  
6 Q. Which side is it on?  
7 A. On the right side.  
8 Q. The passenger side?  
9 A. Yes, sir.  
10 Q. Okay. Can you describe for the Court how  
11 KC -- well, let me ask you this.  
12 Before KC got out of the van, did you see  
13 him with anything in his hands?  
14 A. Yes.  
15 Q. What was that?  
16 A. .357.  
17 Q. A .357?  
18 A. Yes, sir.  
19 Q. A gun?  
20 A. Yes, sir.  
21 Q. Can you describe the gun any more than  
22 that?  
23 A. All I can tell you is that it was black.  
24 Q. Black. Okay.  
25 Was it a -- do you know the difference

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- 1 between a revolver and a semiautomatic?  
2 A. No, sir.  
3 Q. Okay. So he got out with a black gun.  
4 Describe for the Court, if you would, how  
5 it is he got out of the van.  
6 A. He snuck out. He like crept, he crept  
7 out. Quiet.  
8 Q. You say crept out. Can you just show  
9 the Court, if that opening right there is the van, can  
10 you show the Court how it is he crept out?  
11 A. Slide the door, went down like this and he  
12 slid out.  
13 Q. And he slid out?  
14 A. Yeah, like crept out.  
15 Q. He crept out?  
16 A. Yes.  
17 Q. From anything you saw, did you ever see TJ  
18 see KC or acknowledge KC's presence?  
19 A. No, he didn't see him.  
20 Q. When KC slid out, where did he go?  
21 A. He went to the back of the van. But after  
22 he went to the back, he thought Timothy was going to  
23 see him, so I guess he went to the front.  
24 Q. Then as he went to the front, tell us what  
25 happened.

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- 1 A. He snuck around slowly. He snuck around  
2 real low and raised up and he shot him.  
3 Q. Okay. I want you to describe for the  
4 Court the way he snuck around the front of the vehicle.  
5 And if you want to demonstrate it, you can demonstrate  
6 it. How did he sneak around the vehicle?  
7 A. He snuck and he went low. He was low.  
8 And he snuck around. He snuck around the van. And he  
9 leaped up and he shot him.  
10 Q. And you put your hand up, your right hand.  
11 Do you think KC used his right hand or his left?  
12 A. I can't tell you which hand.  
13 Q. Did you see the gun in his hand?  
14 A. Yeah.  
15 Q. When you say he shot him, did you actually  
16 see him shoot Timothy?  
17 A. I seen it, but it was so dark to where you  
18 couldn't really see nothing.  
19 Q. What did you see?  
20 A. All I seen was a spark.  
21 Q. A spark from the gun?  
22 A. Yes.  
23 Q. Where was Timothy standing when he got  
24 shot?  
25 A. On the driver's side.

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- 1 Q. So he's facing the driver's side window?  
 2 A. Yes, sir.  
 3 Q. Okay. Where was the gun pointed?  
 4 A. At his head.  
 5 Q. So KC came around the front of the  
 6 vehicle, raised the gun and pointed the gun at his  
 7 head?  
 8 A. Yes, sir.  
 9 Q. How many times did he shoot while Timothy  
 10 was standing?  
 11 A. Once.  
 12 Q. Did he shoot -- how many times did he  
 13 shoot total?  
 14 A. Twice.  
 15 Q. Okay. When did he shoot the second time?  
 16 A. When he was on the floor.  
 17 Q. So Timothy fell after the first shot?  
 18 A. Yes, sir.  
 19 Q. And then another shot occurs?  
 20 A. Yes, sir.  
 21 Q. What happens after Timothy shoots -- I'm  
 22 sorry -- KC shoots Timothy?  
 23 A. He gets back in the van, and we leave.  
 24 Q. Does KC say anything when he first gets in  
 25 the van?

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- 1 A. He tells Deangelo to hurry up.  
 2 Q. Now, in this van, is this the same van you  
 3 were using to promote on the previous occasions?  
 4 A. Yes, sir.  
 5 Q. Was there any of the stuff that you were  
 6 using, any of the flyers or anything that were inside  
 7 the van?  
 8 A. Yes.  
 9 Q. Okay. Is there anything else that was  
 10 inside the van that you are aware of?  
 11 A. There was like a canister.  
 12 Q. A canister. What kind of canister was it?  
 13 A. Like something you get from a medical  
 14 place.  
 15 Q. Like a --  
 16 A. A little tube.  
 17 Q. A tube?  
 18 A. Yeah.  
 19 Q. Did you ever see -- well, let me ask  
 20 you -- strike that.  
 21 KC got back in the van. KC told Deangelo  
 22 to drive. Did Deangelo drive?  
 23 A. Yes, he did.  
 24 Q. Where did he go?  
 25 A. He drove back to the club.

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- 1 Q. Okay. Did he drive away straight, did he  
 2 turn, what did he do?  
 3 A. Well, straight.  
 4 Q. Okay. And did you feel the van hit  
 5 anything as it was driving away?  
 6 A. Yes.  
 7 Q. What did you feel?  
 8 A. Like a bump.  
 9 Q. A bump?  
 10 A. Just a bump.  
 11 Q. Now, you said that KC told Deangelo to  
 12 drive. Did he say anything to JJ?  
 13 A. He asked if he had a gun.  
 14 Q. He asked JJ again if he had a gun?  
 15 A. Yes.  
 16 Q. Did he use the word gun?  
 17 A. No.  
 18 Q. What exactly did KC say?  
 19 A. A burner.  
 20 Q. What exact words did he say to JJ?  
 21 A. He asked him did he have a burner, and JJ  
 22 said yeah.  
 23 Q. Then what did he say in response?  
 24 A. He asked JJ why he didn't shoot.  
 25 Q. What was JJ's response?

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- 1 A. That he was going to, he was going to  
 2 shoot him, but Deangelo was in the way.  
 3 Q. He was going to shoot him through the  
 4 window or something?  
 5 A. Through the window.  
 6 Q. Okay. And what was KC's reaction to that?  
 7 A. He didn't really have no reaction. Just  
 8 he didn't say nothing.  
 9 Q. When KC got back in the van, did he say  
 10 anything to you?  
 11 A. He asked me where I lived.  
 12 Q. Did you tell him?  
 13 A. No.  
 14 Q. You said that the van drove back to the  
 15 Palomino Club. Did you go directly back to the  
 16 Palomino Club?  
 17 A. Yes, we did.  
 18 Q. Were all four of you still in the van?  
 19 A. Yes, we were.  
 20 Q. Once you got to the Palomino Club, did  
 21 anybody get out of the van?  
 22 A. We all did.  
 23 Q. Who is we all?  
 24 A. Me, KC and JJ and Deangelo.  
 25 Q. Okay. Did anybody go into the Palomino

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1 Club?  
 2 A. KC and Deangelo.  
 3 Q. What did you and JJ do?  
 4 A. We sat outside.  
 5 Q. How long did you stay outside?  
 6 A. For about an hour, 30 minutes tops.  
 7 Q. Who first left the Palomino Club, KC or  
 8 Deangelo?  
 9 A. KC.  
 10 Q. And what did you see KC do when he left  
 11 the Palomino Club?  
 12 A. He left in a cab.  
 13 Q. Okay. He left in a cab?  
 14 A. Yes.  
 15 Q. How long after KC came out did Deangelo  
 16 come out?  
 17 A. About 45 minutes later.  
 18 Q. When Deangelo came out, what happened?  
 19 A. Nothing. When he left, he said that KC  
 20 was tripping because he wasn't getting paid. I mean, I  
 21 don't really know about what went on in there because I  
 22 wasn't there. I wasn't up there at the time.  
 23 Q. Did he tell you eventually that KC got  
 24 paid?  
 25 A. Yeah.

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1 they a co-conspirator statement or are they in the  
 2 course of any furtherance.  
 3 The foundation is a self-authenticating  
 4 statement. Once you hear the statements and the rest  
 5 of the conversations, you can make a determination as  
 6 to whether or not it is or is not a statement in the  
 7 course of furtherance of the conspiracy, Judge.  
 8 MR. DRASKOVICH: As part and parcel of  
 9 that, the case law is very clear that the statements,  
 10 while they themselves can be considered, they can't  
 11 self-authenticate. There has to be some independent  
 12 corroboration, which the State has failed to provide.  
 13 THE COURT: All right. I'm gathering that  
 14 they are saying that's coming, so I will reserve on the  
 15 understanding that that is coming.  
 16 MR. DIGIACOMO: Thank you, Judge.  
 17 BY MR. DIGIACOMO:  
 18 Q. What did Deangelo tell you about KC  
 19 getting paid?  
 20 A. He just told me that he got paid. He  
 21 didn't say how much. He didn't even tell me the  
 22 amount. He just said that he got paid.  
 23 Q. Did anybody ask about anybody else getting  
 24 paid?  
 25 A. No.

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1 Q. What did he tell you about that?  
 2 MR. ORAM: I would object to all of this.  
 3 Again, so far as I can tell, my client has not been  
 4 mentioned in this case at all. And so now we're  
 5 hearing what KC was telling Deangelo, which is now  
 6 being brought through this witness. It's not just  
 7 hearsay, it's double hearsay. And I would ask that it  
 8 be stricken as to my client.  
 9 MR. DRASKOVICH: Moreover, when we  
 10 discussed this matter previously, it was the State's  
 11 position that these were somehow co-conspirator  
 12 statements. As the Court is well aware, in order for  
 13 it to qualify under that exception, or that that  
 14 exception still exists, is that it must be made by a  
 15 co-conspirator in furtherance of the conspiracy. And  
 16 there has been no foundation laid concerning that.  
 17 So I would join with his objection, and  
 18 also add an objection as to foundation.  
 19 THE COURT: What is your response to that?  
 20 MS. WILDEVELD: We would join as well.  
 21 MR. DIGIACOMO: Deangelo was telling him  
 22 what happened inside the club, not what KC said  
 23 happened, Deangelo telling him what happened inside the  
 24 club. And I think the Court has to hear all the  
 25 statements before it can make a determination as to are

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1 Q. Okay. What about Deangelo, did he tell  
 2 you about what he got paid?  
 3 A. No.  
 4 Q. What happened at that point?  
 5 A. At that point, we went back to Deangelo's  
 6 house.  
 7 Q. When you got to Deangelo's house, how long  
 8 did you stay there?  
 9 A. I stayed there the whole night.  
 10 Q. Eventually, do you leave with Deangelo  
 11 ever again?  
 12 A. Yes, we did.  
 13 Q. Who went with you?  
 14 A. JJ.  
 15 Q. Where did you go?  
 16 A. We went and we got rid of the tires.  
 17 Q. Did Deangelo tell you why you needed to  
 18 get rid of the tires?  
 19 A. No, because I already knew why.  
 20 Q. Okay. Why did you need to get rid of the  
 21 tires?  
 22 A. Because, I guess, they didn't want no  
 23 evidence.  
 24 Q. Who is they?  
 25 A. Mr. Hidalgo, one of them.

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- 1 Q. So it wasn't clear on who told him to get  
2 rid of the tires?  
3 A. No.  
4 Q. What kind of tires were they that you got  
5 rid of?  
6 A. I'm not sure.  
7 Q. Okay. Where did you go to get rid of  
8 these tires?  
9 A. To a Mexican mechanic place.  
10 Q. Who was driving the van to the mechanic's  
11 place?  
12 A. JJ.  
13 Q. All right. And how else, did you take  
14 more than one car or was it just in the van?  
15 A. We took two cars.  
16 Q. Two cars?  
17 A. (Witness nods head.)  
18 Q. Who was in the second car?  
19 A. Me and DeAngelo.  
20 Q. You and DeAngelo.  
21 Who was driving that vehicle?  
22 A. The vehicle, DeAngelo.  
23 Q. Now, before you got to the tire shop, did  
24 anybody do anything to the tires?  
25 A. Yes.

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- 1 Q. What was that?  
2 A. DeAngelo stabbed the tires.  
3 Q. Okay. And then did you eventually get to  
4 the tire shop?  
5 A. Yes, we did.  
6 Q. And were additional tires purchased for  
7 the van?  
8 A. Yes.  
9 Q. And who changed the tires?  
10 A. The mechanic people did.  
11 Q. Who paid for that?  
12 A. I'm not sure.  
13 Q. Did you pay?  
14 A. No.  
15 Q. Did you see JJ pay?  
16 A. DeAngelo paid.  
17 Q. Okay. But did DeAngelo tell you who gave  
18 him the money to do that?  
19 MR. ORAM: Objection. The question was  
20 asked and answered. Who paid? He just said DeAngelo.  
21 Now the question by the prosecutor is, did he tell you  
22 who gave -- we heard that it was DeAngelo gave the  
23 money. If he doesn't know, he shouldn't be permitted  
24 to answer.  
25 THE COURT: Well, he knows.

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- 1 BY MR. DIGIACOMO:  
2 Q. If you know, did DeAngelo tell you?  
3 A. DeAngelo told me Anabel gave him a hundred  
4 dollars to change the tires.  
5 Q. After the tires were changed off the  
6 vehicle, what happened to these cut up tires?  
7 A. We got rid of them.  
8 Q. When you say "we," where did you go?  
9 A. Two tires went in the trash can and two  
10 tires went another place.  
11 Q. Two tires went into a trash can where?  
12 A. About around the corner from, around the  
13 corner from the Mexican mechanic's place.  
14 Q. Who actually threw the tires out?  
15 A. JJ.  
16 Q. Okay. And who was driving the van at this  
17 point?  
18 A. JJ.  
19 Q. And who was driving the vehicle, the other  
20 vehicle?  
21 A. DeAngelo was.  
22 Q. Okay. And were you familiar with the  
23 business in the area where these tires were thrown  
24 away?  
25 A. No, I wasn't.

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- 1 Q. Okay. Eventually, do you wind up at a  
2 7/Eleven?  
3 A. Yes, we do.  
4 Q. Were the tires thrown away anywhere near  
5 the 7/Eleven?  
6 A. No.  
7 Q. Who works at the 7/Eleven?  
8 A. My father-in-law works there.  
9 Q. Okay. Did there come a point in time when  
10 you wound up going --  
11 MS. WILDEVELD: Objection, leading.  
12 BY MR. DIGIACOMO:  
13 Q. Did you ever enter the 7/Eleven?  
14 A. Yes.  
15 Q. Okay. What were DeAngelo and JJ doing  
16 when you went into the 7/Eleven?  
17 A. DeAngelo had went in the 7/Eleven to  
18 purchase some cigars. And he came out, and we were  
19 leaving, but a North Las Vegas trooper had pulled JJ  
20 over.  
21 Q. What was JJ in?  
22 A. He was in a white van.  
23 Q. What did DeAngelo do?  
24 A. DeAngelo helped him.  
25 Q. What do you mean helped him? What did

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- 1 Deangelo actually do?
- 2 A. He talked to the officer. I don't know
- 3 what words were said because I wasn't over there when
- 4 he were talking to the officer.
- 5 Q. What did you do when Deangelo went and
- 6 talked to the officer?
- 7 A. Yes.
- 8 Q. What did you do when Deangelo talked to
- 9 the officer?
- 10 A. Went in the store.
- 11 Q. You went back in the store?
- 12 A. Yes, I did.
- 13 Q. Eventually, was the situation resolved?
- 14 A. Yes, it was.
- 15 Q. And then did you leave the store?
- 16 A. Yes, I did.
- 17 Q. Where did you go?
- 18 A. I went back to Deangelo's house.
- 19 Q. Did you ever -- did you leave -- well, on
- 20 the way back to Deangelo's house, did all of you go to
- 21 the house together?
- 22 A. Yes, we did.
- 23 Q. Okay. And when you got there, who was at
- 24 the house?
- 25 A. My baby's mother and Deangelo's wife and

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- 1 son.
- 2 Q. Eventually, did the group -- well, did
- 3 anybody decide to leave to do anything else?
- 4 A. No, we left to eat breakfast.
- 5 Q. Okay. Who went to go to breakfast?
- 6 A. Me, JJ, Deangelo, my baby's mother and his
- 7 wife, his son, a few more friends.
- 8 Q. Okay. Where did you go to eat?
- 9 A. We went to IHOP.
- 10 Q. So you're at a big table, I'm assuming,
- 11 with that many people?
- 12 A. Yes.
- 13 Q. Does everybody order food?
- 14 A. Yes.
- 15 Q. Eventually, does the check come?
- 16 A. Yes.
- 17 Q. What happens when the check comes?
- 18 A. Deangelo pays for it.
- 19 Q. What do you mean, how did he pay for it?
- 20 What did he do?
- 21 A. The check, like usually you pay after the
- 22 check comes, but he paid before it came. Like he paid
- 23 right when it came, right when the bill came, he paid
- 24 for it.
- 25 Q. So you guys were still eating and he

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- 1 decided to pay for the bill?
- 2 A. No, the food hadn't even came yet.
- 3 Q. So the receipt comes with the bill, the
- 4 food hadn't even come yet, and Deangelo is going to go
- 5 pay?
- 6 A. (Witness nods head.)
- 7 Q. Did he say anything to the group when he
- 8 was going to pay?
- 9 A. No.
- 10 Q. Did he ever tell you -- strike that.
- 11 Do you know how much money the bill was,
- 12 approximately?
- 13 A. The bill was about 47, 50 bucks estimate.
- 14 Q. And do you know if he used a credit card
- 15 or any other method to pay?
- 16 A. No.
- 17 Q. Okay. After breakfast, what happened?
- 18 A. We go back to Deangelo's. No, we went to
- 19 a barber shop.
- 20 Q. Okay. Then what happened?
- 21 A. Deangelo was getting his hair cut. After
- 22 that, we went into a store.
- 23 Q. What kind of store?
- 24 A. To like a Dollar store, Family Dollar
- 25 store.

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- 1 Q. What happened there?
- 2 A. And he bought a fan and a mop and some
- 3 housing material.
- 4 Q. Did you see how he paid for any of those
- 5 items?
- 6 A. No.
- 7 Q. After the Dollar store, did you go
- 8 anywhere else?
- 9 A. We went home.
- 10 Q. When you say "home," you're back to
- 11 Deangelo's place, right?
- 12 A. Yes.
- 13 Q. And how long did you remain at Deangelo's
- 14 place?
- 15 A. I remained there until the next morning.
- 16 Q. Okay. And did Deangelo stay there the
- 17 whole time?
- 18 A. Yes. He went to sleep for a minute, but
- 19 before he went to sleep, he went to Simone's Auto
- 20 Plaza.
- 21 Q. So before Deangelo goes to sleep for that
- 22 night, after breakfast, you go to Simone's Auto Plaza?
- 23 A. Yes.
- 24 Q. Who goes with you?
- 25 A. Me and JJ and Deangelo.

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- 1 Q. And whose car are you in?  
 2 A. The white van.  
 3 Q. Who is driving?  
 4 A. Deangelo is driving.  
 5 Q. Eventually, you get down to Simone's Auto  
 6 Plaza. Tell me what happens.  
 7 A. Well, we get down there. And we was  
 8 waiting, we just waited in the car.  
 9 Q. For how long did you -- when you say "we,"  
 10 who waited in the car?  
 11 A. Me and JJ.  
 12 Q. Where is Simone's Auto Plaza generally  
 13 located?  
 14 A. I think by the airport.  
 15 Q. Somewhere down by the airport. Okay.  
 16 You and JJ waited in the car and Deangelo  
 17 got out?  
 18 A. Yes, Deangelo went in Simone's Auto Plaza.  
 19 Q. On the way down there, did Deangelo tell  
 20 you why you were going to Simone's?  
 21 A. No, he didn't.  
 22 Q. Okay. Eventually, you said Deangelo got  
 23 out of the car. Did he come back to the car or did you  
 24 and JJ get out?  
 25 A. We got out.

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- 1 Q. Where did you go?  
 2 A. And we went in.  
 3 Q. Where did you go into?  
 4 A. We went into Simone's Auto Plaza.  
 5 Q. Now, describe the area of Simone's Auto  
 6 Plaza that you went into. Was it an office area? Was  
 7 it a work area?  
 8 A. It was an office area.  
 9 Q. When you went in the door, what did you  
 10 do?  
 11 A. We sat on the couch.  
 12 Q. What were you doing while you were sitting  
 13 on the couch?  
 14 A. We were waiting for Deangelo.  
 15 Q. Is there any sort of entertainment there  
 16 for you?  
 17 A. We was watching TV, and I went to the  
 18 bathroom. And we seen, that's when Deangelo came. He  
 19 had to use the bathroom too, so we seen him at the  
 20 bathroom.  
 21 Q. While you were in the bathroom, did  
 22 Deangelo talk to you at all?  
 23 A. Yes.  
 24 Q. What did he tell you?  
 25 MR. ORAM: Judge, objection to this. How

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- 1 is this in furtherance of a conspiracy? The man has  
 2 been shot. He's been killed. Now, all of a sudden, we  
 3 apparently can't get Deangelo Carroll to testify and  
 4 the State's upset about it, so they're going to ask  
 5 this man everything that Mr. Carroll said.  
 6 I don't understand how this could be in  
 7 furtherance of a conspiracy. I don't -- since this man  
 8 didn't even mention what he's now testifying to in his  
 9 statement, this whole accident at Simone's, I'm very  
 10 concerned about what's going to come out.  
 11 I really think we need an offer of proof  
 12 from the State what they intend to elicit so that we  
 13 can make the appropriate objections because I have no  
 14 idea what this man is going to say. I think this is  
 15 all into hearsay, and I don't think it's an exception  
 16 under Crawford whatsoever.  
 17 MR. DIGIACOMO: Judge, the conspiracy  
 18 continues so long as the co-conspirators are trying to  
 19 get away from the crime, which means if they are down  
 20 at Simone's Auto Plaza in the course of the conspiracy,  
 21 and Deangelo comes in there and starts talking about  
 22 them keeping their mouths shut, that statement's made  
 23 in furtherance of the conspiracy, Judge.  
 24 I think that the Court -- there is no jury  
 25 here, and I appreciate Mr. Oram's getting up a lot to

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- 1 object to it, but I think the Court can make a  
 2 determination at the end was there a conspiracy  
 3 established and what statements, if any, am I going to  
 4 allow in as a statement by a co-conspirator in the  
 5 course and in furtherance.  
 6 And if you make a determination that a  
 7 particular statement wasn't, then you can move -- they  
 8 can move to strike that. But certainly if we're going  
 9 to object, and I have an offer of proof as to every  
 10 statement Deangelo made over a four-day period, we're  
 11 going to be here forever. And there is no jury to  
 12 worry about prejudicing by the statements.  
 13 MR. DRASKOVICH: Just in response,  
 14 apparently Mr. Zone now is a co-conspirator because  
 15 that's what I glean from Mr. Digiacomo's response. I  
 16 guess Mr. Zone now is a co-conspirator, and he's acting  
 17 in participation with other co-conspirators. Is that  
 18 not what he just stated?  
 19 MR. DIGIACOMO: No. I'm not asking about  
 20 his statements being statements of a co-conspirator in  
 21 the course and furtherance. I'm talking about  
 22 Deangelo's statements being statements by a  
 23 co-conspirator in the course and furtherance.  
 24 MR. DRASKOVICH: So it's my understanding  
 25 then that not only did he go to the lake, but then he

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1 went to this auto shop or wherever with these same  
2 people, they're getting rid of evidence, yet this young  
3 man is not a co-conspirator. Is that the State's  
4 position?

5 MR. DIGIACOMO: That's a legal argument.  
6 I appreciate Mr. Draskovich asking me what my position  
7 is, but I have yet to hear this witness testify that he  
8 physically did any act in furtherance of the  
9 conspiracy.

10 MR. DRASKOVICH: And we have heard very  
11 little testimony concerning what anybody else did,  
12 other than perhaps Deangelo and perhaps Mr. Counts. So  
13 obviously my question is to clarify because they are  
14 attempting to bring in hearsay statements under this  
15 apparently growing hearsay exception, that of a  
16 statement of a co-conspirator. Yet the State is still  
17 unclear as to whether or not Mr. Zone is a  
18 co-conspirator.

19 And, apparently, they don't want to be  
20 nailed down at this point as to whether or not he was a  
21 co-conspirator because obviously that may erase this  
22 exception or somehow limit it. And obviously that  
23 concerns me.

24 They are wanting to throw everything at  
25 the Court, and then have the Court somehow determine

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1 later on if it applies or if not. Yet, they  
2 themselves, and this kind of went to what my co-counsel  
3 brought up, we need some showing of proof and an offer  
4 made by the State concerning the statements that they  
5 are attempting to elicit from Mr. Zone.

6 MR. ORAM: Additionally, your Honor,  
7 Crawford, it sounds to me like the State needs, with  
8 all due respect, perhaps they need to go back and look  
9 at some of the language that Crawford said, that these  
10 exceptions under the hearsay rules are completely  
11 limited by that ruling.

12 And it just seems that just ignoring that,  
13 let's just go ahead, co-conspirator, everything is  
14 coming in because we can't get Deangelo Carroll to come  
15 in and say what we need him to say.

16 MR. DIGIACOMO: In response, Judge, first  
17 of all, McDowell v. State, 103 Nevada 527, 1987, "a  
18 co-conspirator statement does not violate the  
19 confrontation clause."

20 How could these possibly be testimonial?  
21 If he's a co-conspirator by definition, he doesn't want  
22 these in a courtroom.

23 MS. WILDEVELD: Your Honor, it's hearsay.  
24 If he's not a co-conspirator. It's hearsay.

25 MR. ORAM: And it's also well before

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1 Crawford. He's quoting a Nevada Supreme Court case  
2 where Crawford then came out, what, two years ago.

3 MR. DRASKOVICH: March 2004. And  
4 obviously changed the lay of the land in reference to  
5 hearsay and exceptions to the hearsay and non hearsay.

6 MR. DIGIACOMO: As a confrontation clause  
7 issue, if the confrontation clause isn't an issue, it  
8 can't possibly be relevant to a Crawford. Crawford  
9 talks about testimonial statements. A co-conspirator  
10 statement, by its very definition, is not testimonial.

11 MR. ORAM: It's impossible for us to  
12 cross-examine anyone. I might as well not be here from  
13 what I can tell. I'm not going to be able to  
14 cross-examine an accuser. Deangelo Carroll is the  
15 accuser. We're not going to be able to cross-examine  
16 him.

17 And so now I'm just sitting here listening  
18 to this gentleman. I don't know what he's going to say  
19 next. If he says something that Deangelo Carroll told  
20 me your client did something really bad, how do I  
21 cross-examine that? That's the purpose of the  
22 confrontation clause.

23 What's the point in having me here if I  
24 can't cross-examine the speaker, who is sitting right  
25 back here?

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1 THE COURT: So where are we going? I need  
2 to know that too.

3 MR. DIGIACOMO: Judge, Mr. Carroll is  
4 going to make statements to JJ and Ronta about keeping  
5 their mouth shut. This is going to dovetail into a  
6 surreptitious wire that Deangelo Carroll has with Luis  
7 Hidalgo, III, and Anabel Espindola where they discuss  
8 the killing of Ronta and Jayson Taoipu. It's all  
9 relevant to that particular issue.

10 MR. ORAM: Which we're not going to hear  
11 today because they don't have Deangelo Carroll to talk  
12 about the surreptitious statements. And as Mr. Pesci  
13 is well aware, the Nevada Supreme Court has  
14 specifically heard this issue, and if it comes to that,  
15 and they try to play these CDs, I'll fax the decision  
16 over. It was one Mr. Pesci and I did ourselves where  
17 they tried to play CDs without calling the witness, so  
18 they are not going to be able to do that. And if —

19 MR. DRASKOVICH: And if they're intending  
20 this to be the independent corroboration of this  
21 supposed conspiracy or ongoing conspiracy, they are not  
22 going to be able to provide that. Therefore, all of  
23 these statements should be stricken.

24 THE COURT: Okay. Where we're at is, I  
25 think motions at the end. We need to get it in, so I

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1 know what it is and can rule one way or another.  
 2 MR. DIGIACOMO: Thank you, Judge.  
 3 BY MR. DIGIACOMO:  
 4 Q. When Deangelo comes into the bathroom at  
 5 Simone's Auto Plaza, what does he say to you and JJ?  
 6 A. He said you're just going to act like it's  
 7 a regular day. Like nothing happened.  
 8 Q. What was your response to that?  
 9 A. And there was nothing I could say.  
 10 Q. What about JJ?  
 11 A. He didn't have no response either.  
 12 Q. So he tells you to act like it's just  
 13 another day?  
 14 A. Yes.  
 15 Q. What did you and JJ then do?  
 16 A. We sat on the couch watching TV.  
 17 Q. Did you see anybody else that you  
 18 recognized inside Simone's Auto Plaza?  
 19 A. I seen Mr. H.  
 20 Q. Okay. How did you know it was Mr. H?  
 21 A. I don't know. I just knew.  
 22 MR. DRASKOVICH: Objection, calls for  
 23 clairvoyance on the part of the -- it's speculation and  
 24 calls for clairvoyance on the part of the testifying  
 25 witness.

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1 MR. DIGIACOMO: Let me clarify.  
 2 BY MR. DIGIACOMO:  
 3 Q. What made you believe that it was Mr. H?  
 4 A. Because it's just like I was told to stop  
 5 and go in and look for a man. That he was a  
 6 Salvadorian-looking man, and he looked like a  
 7 Salvadorian-looking man to me.  
 8 MR. DRASKOVICH: Judge, once again I'd  
 9 object --  
 10 THE COURT: Wait until he's done.  
 11 THE WITNESS: He was the man talking to  
 12 Deangelo, so I figured it was him.  
 13 BY MR. DIGIACOMO:  
 14 Q. He was the man talking to Deangelo. How  
 15 old was this individual?  
 16 A. He looked elderly.  
 17 Q. When you say elderly --  
 18 A. Not old, but old.  
 19 Q. I mean, are we talking 30, 40, 50, 60, 70?  
 20 A. Like in his 40s or 50s.  
 21 Q. I guess for a guy who is 19 that is old.  
 22 What kind of hair, do you remember his  
 23 hair color?  
 24 A. I think it was gray.  
 25 Q. And how tall was he?

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1 A. He was short.  
 2 Q. Did you see this person after he talked to  
 3 Deangelo where he went inside Simone's Auto Plaza?  
 4 A. He went in his office.  
 5 Q. Which office was it?  
 6 A. It was the office to the right side.  
 7 Q. The farthest right office?  
 8 A. Yes, because it was glass. It was a glass  
 9 office, and then it was another office on the other  
 10 side.  
 11 Q. Okay. So there are two offices?  
 12 A. Yeah.  
 13 Q. That are on the right side of where you  
 14 are sitting?  
 15 A. Yes, sir.  
 16 Q. He went into the farthest right office  
 17 after talking to Deangelo?  
 18 A. Yes, sir.  
 19 Q. Eventually, did Deangelo come back to you?  
 20 A. Yes, he did.  
 21 Q. Did you and JJ and Deangelo leave?  
 22 A. Yes, we did.  
 23 Q. Did Deangelo make any statements  
 24 thereafter concerning the crime that you witnessed the  
 25 night before?

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1 A. Yes.  
 2 Q. What did he say?  
 3 A. He said that they were investigating  
 4 Mr. H, and Mr. H had told them that --  
 5 MR. ORAM: Now, objection. Objection.  
 6 Now, we're hearing it --  
 7 THE COURT: Sustained.  
 8 MR. DIGIACOMO: Thank you.  
 9 BY MR. DIGIACOMO:  
 10 Q. Deangelo provided you information from  
 11 Mr. H?  
 12 A. Yes.  
 13 Q. And then did Deangelo tell you anything  
 14 else?  
 15 A. No.  
 16 Q. What happened, where did you go from  
 17 there?  
 18 A. Well, he had the Palomino shuttle, so we  
 19 drove by the house.  
 20 Q. So you left in the Palomino shuttle?  
 21 A. Yes.  
 22 Q. So you went in the white Chevy Astro van,  
 23 but you left in the Palomino shuttle?  
 24 A. Yes.  
 25 Q. Can you describe the Palomino shuttle?

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- 1 A. It's a shuttle with naked women on it.  
 2 Q. It's a shuttle with naked women on it?  
 3 A. Yes.  
 4 Q. Does it say anything on the sides that  
 5 identifies the Palomino Club?  
 6 A. It says PC.  
 7 Q. PC?  
 8 A. (Witness nods head.)  
 9 Q. Where did you go?  
 10 A. We were driving on the way home, and when  
 11 we were driving on the way home, Deangelo dropped us  
 12 off about around the corner from his house.  
 13 Q. Okay. And why is it that -- did he tell  
 14 you why he was dropping you off there?  
 15 A. Yeah, because he didn't want to seem  
 16 suspicious.  
 17 Q. Okay. So you dropped you and JJ off, or  
 18 he dropped you and JJ off, and then did he continue  
 19 down towards his house?  
 20 A. Yes.  
 21 Q. What did you do?  
 22 A. We walked to his house.  
 23 Q. Okay. Why did you go directly to his  
 24 house?  
 25 A. Because my baby's mother is there.

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- 1 Q. And why did that concern you?  
 2 A. Because it's my baby's mother. She has my  
 3 son.  
 4 Q. If you had shown up at a different time  
 5 than Deangelo, would that have caused an issue?  
 6 A. With my baby's mother, it would cause an  
 7 issue.  
 8 Q. Why?  
 9 A. Because she would have asked, she would  
 10 ask questions.  
 11 Q. And why is that a problem?  
 12 A. No, it's not a problem. But when we  
 13 walked, after he dropped us off, we walked to his  
 14 house. We was just there.  
 15 Q. Okay. So does Deangelo eventually go to  
 16 sleep?  
 17 A. Yes, he does.  
 18 Q. Does anybody leave that house after that?  
 19 A. JJ left.  
 20 Q. Okay. After JJ left, did Deangelo ever  
 21 leave?  
 22 A. No.  
 23 Q. Okay.  
 24 A. He was sleeping too. He was going to  
 25 work.

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- 1 Q. So then eventually Deangelo went to work?  
 2 A. Yes.  
 3 Q. Did you go with Deangelo this time?  
 4 A. No, I didn't go.  
 5 Q. You stayed at the house?  
 6 A. I stayed at his house.  
 7 Q. When is the next time you saw Deangelo  
 8 after that?  
 9 A. When he was getting off work, and that's  
 10 when the homicide detectives was with him.  
 11 Q. So he showed up the next time with a  
 12 homicide detective?  
 13 A. Yes.  
 14 Q. Did you have any conversations with  
 15 Deangelo at that point?  
 16 A. He told me, all he told me was just to  
 17 tell the truth or we're going to jail.  
 18 Q. Okay. Did you go with the homicide  
 19 detectives?  
 20 A. Yes, I did.  
 21 Q. Did you eventually provide a statement to  
 22 the homicide detectives?  
 23 A. Yes, I did.  
 24 Q. After that statement, where did you go?  
 25 A. I went back to Deangelo's house.

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- 1 Q. Okay. How long did you stay there for?  
 2 A. Just the night. And I left early that  
 3 morning because my grandmother, my grandma -- my baby's  
 4 mama's grandma just came back from a cruise. She  
 5 wasn't back yet. We didn't have no ride. So I waited  
 6 until she got back. She came the next morning and  
 7 picked us up.  
 8 Q. Okay.  
 9 MR. DIGIACOMO: Thank you, Judge.  
 10 BY MR. DIGIACOMO:  
 11 Q. I want to clarify an issue that was raised  
 12 right before we took a break and you had counsel.  
 13 When you left before Timothy's murder the  
 14 last time Deangelo's house, what did you think you were  
 15 going to do?  
 16 A. Really I wanted to go.  
 17 Q. Go where?  
 18 A. I wanted to leave.  
 19 Q. Let me back up. I think I am confusing  
 20 you with the question.  
 21 You said earlier in the day that Timothy  
 22 was killed you went promoting and then you wound up  
 23 back at Deangelo's house?  
 24 A. Yes.  
 25 Q. Eventually, Deangelo told you it's time to

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- 1 go. Did you -- and you testified you asked him where  
2 you're going, what you're going to do. What was his  
3 response?  
4 A. Before or after?  
5 Q. Before the murder of Timothy.  
6 A. He said we're going to promote.  
7 Q. Okay. Had you known that they were going  
8 out to kill Timothy Hadland, would you have ever gotten  
9 into that vehicle?  
10 A. No, I wouldn't have.  
11 MR. DIGIACOMO: Thank you. I pass the  
12 witness, Judge.  
13 MR. ORAM: I will go first, your Honor.  
14 I'll be the quickest.

CROSS-EXAMINATION

- 17 BY MR. ORAM:  
18 Q. Good morning. Do you know the people that  
19 are employed at the Palomino Club? Do you know them  
20 all?  
21 A. No.  
22 Q. You mentioned a lady named Anabel. Do you  
23 know her last name?  
24 A. No. I know by, the only way I knew her  
25 was by the news.

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- 1 Q. So prior to the day this murder happened,  
2 you had never seen her, correct?  
3 A. No.  
4 Q. You did not know what she looked like?  
5 A. No.  
6 Q. Correct?  
7 A. Correct.  
8 Q. You had never seen Deangelo speak with  
9 her, correct?  
10 A. No. See, the auto plaza --  
11 Q. In fact, you don't know how many people by  
12 the name of Anabel would work at the Palomino Club?  
13 A. No.  
14 Q. It could be five, right? You just don't  
15 know.  
16 A. Yeah. I don't really know nobody that  
17 works for Palomino. Only person I knew was Deangelo.  
18 Q. And there was no lady out there at the  
19 desert with you, correct?  
20 A. No.  
21 MR. ORAM: Nothing further, your Honor.

CROSS-EXAMINATION

- 24 BY MR. DRASKOVICH:  
25 Q. Following up on co-counsel's questions,

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- 1 you said you do not know anybody else at the Palomino  
2 Club other than Deangelo, correct?  
3 A. Yes. And one more person.  
4 Q. Who is that other person?  
5 A. Luie.  
6 Q. You do know Luie?  
7 A. Yes.  
8 Q. How do you know Luie?  
9 A. Well, I have been knowing him like ever  
10 since I've been kicking with Deangelo. I would see  
11 Louie from time to time. I never knew he worked at the  
12 club, but I knew him before I even knew he worked at  
13 the club.  
14 Q. You never had a conversation with him, did  
15 you?  
16 A. No.  
17 Q. So you would agree that you did not know  
18 him well then?  
19 A. No.  
20 Q. You and he had never gone out and hung out  
21 together, correct?  
22 A. No.  
23 Q. You never attempted any projects together?  
24 A. No.  
25 Q. You never went to any clubs together?

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- 1 A. Except for his.  
2 Q. Okay. Never talked to him on the phone,  
3 did you?  
4 A. No.  
5 Q. Now, you had testified about some  
6 statement that you had given to the police, correct?  
7 A. Yes.  
8 Q. And that statement occurred May 21st?  
9 A. Yes.  
10 Q. Of this year.  
11 A. Yes, sir.  
12 Q. The statement that you made was tape  
13 recorded?  
14 A. Yes, sir.  
15 Q. There was you and two other detectives  
16 during this statement, correct?  
17 A. Yes.  
18 Q. One was a Detective Wildemann?  
19 A. Yes.  
20 Q. And one was a Detective McGrath?  
21 A. Yes.  
22 Q. And you knew these detectives wanted to  
23 talk to you from Deangelo, correct?  
24 A. Yes.  
25 Q. He told you that they were coming?

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- 1 A. No, he didn't.  
 2 Q. Okay. But you knew they were coming from  
 3 Deangelo?  
 4 A. Yes.  
 5 Q. Okay. Now, after, and we're going to talk  
 6 about this statement somewhat, but after this  
 7 conversation or interview that you had with the police,  
 8 did you have another one with the police after  
 9 May 21st?  
 10 A. Yes.  
 11 Q. When was the next time that you had spoken  
 12 with the police?  
 13 A. Well, that was with the DA.  
 14 Q. Okay. Was that today?  
 15 A. No.  
 16 Q. When was this, and this was the second  
 17 meeting that you had or the second time that you told  
 18 your story?  
 19 A. This was a week and a half. This was a  
 20 week and a half from prior to today.  
 21 Q. Okay. So it wasn't last week but the week  
 22 before?  
 23 A. Yes.  
 24 Q. And you went to the district attorney's  
 25 office?

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- 1 A. Yes, I did.  
 2 Q. And you went with a detective?  
 3 A. Yes, I did.  
 4 Q. Which detective did you go with?  
 5 A. I went with Detective Falkner.  
 6 Q. Falkner?  
 7 A. Yes, sir.  
 8 Q. I see. You went inside the DA's office?  
 9 A. Yes, I did.  
 10 Q. Do you remember what floor you went to?  
 11 A. Floor 10.  
 12 Q. Floor 10. And there you met with the  
 13 district attorney?  
 14 A. Yes.  
 15 Q. Did you meet with Mr. DiGiacomo, the one  
 16 who has been asking you the questions?  
 17 A. Yes, I did.  
 18 Q. So it was you, Mr. DiGiacomo and a  
 19 detective?  
 20 A. Yes.  
 21 Q. You gave a statement, you went over your  
 22 story that you went over today, correct?  
 23 A. Yes, sir.  
 24 Q. And during this time that you gave this  
 25 statement, was the detective writing notes?

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- 1 A. Yes, he was.  
 2 Q. I see. So Detective Falkner was taking  
 3 notes on what you were saying?  
 4 A. Yes.  
 5 Q. Approximately how long did this  
 6 conversation take place, or how long were you there  
 7 talking to this detective and to this district  
 8 attorney?  
 9 A. About an hour-and-a-half, two hours.  
 10 Q. I see. Did you take a break during this  
 11 hour-and-a-half to two hours or was it straight  
 12 talking?  
 13 A. It was just talking.  
 14 Q. So you did a lot of talking during that  
 15 hour-and-a-half to two hours, didn't you?  
 16 A. Yes.  
 17 Q. During this whole time, this detective was  
 18 writing down notes, correct?  
 19 A. Yes, sir.  
 20 Q. Did you see the same detective here today?  
 21 A. Yes.  
 22 Q. You saw him in the back?  
 23 A. Yes.  
 24 Q. And you also discussed with him what you  
 25 had discussed with him before for that hour-and-a-half

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- 1 to two hours, didn't you?  
 2 A. Yes.  
 3 Q. He wrote more notes too, didn't he?  
 4 A. Yes.  
 5 Q. And he went over the notes that he had  
 6 written that you had given to him the last time you and  
 7 he met, correct?  
 8 A. Yes.  
 9 Q. Okay.  
 10 MR. DRASKOVICH: Judge, at this time, I  
 11 would like to -- could we approach for a second?  
 12 THE COURT: Sure.  
 13 (Thereupon, a brief discussion was held  
 14 at the bench.)  
 15 BY MR. DRASKOVICH:  
 16 Q. In reference to this -- let me ask you  
 17 this. After those two times that you met after the  
 18 meeting with Detective McGrath and Wildemann, have you  
 19 met with any other detectives and told him your story?  
 20 A. No.  
 21 Q. So we have three times then; is that  
 22 correct?  
 23 A. No, we have two times.  
 24 Q. Plus the time today before you took the  
 25 stand?

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- 1 A. Yes.  
 2 Q. Correct?  
 3 A. Yes.  
 4 Q. And when you spoke to this other detective  
 5 or whoever he was, he went over what you needed to say  
 6 today, didn't he?  
 7 A. No, he asked me, he asked me questions.  
 8 And then he went over it with me.  
 9 Q. What questions did he ask you?  
 10 A. He asked me, he asked me -- he just told  
 11 me to tell the truth. That's it.  
 12 Q. I see. He went over names of people that  
 13 you had talked about with him?  
 14 A. Oh, no.  
 15 Q. Okay. The prior time that you were in the  
 16 office talking to him, okay, a week and a half ago, you  
 17 went over names with people at that time, didn't you?  
 18 A. Yes.  
 19 Q. He had told you people's names, didn't he?  
 20 A. No, I had knew. They knew what I had knew  
 21 too.  
 22 Q. You had been following this matter in the  
 23 news, haven't you?  
 24 A. Yes, I have.  
 25 Q. You have read the newspapers?

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- 1 A. Yes, I have.  
 2 Q. You have watched TV?  
 3 A. Yes, I have.  
 4 Q. And you would agree with me in reading the  
 5 newspaper and watching the TV that's helped you put  
 6 things together, correct?  
 7 A. Yes.  
 8 Q. Names?  
 9 A. Yes, sir.  
 10 Q. In fact, you would agree with me that by  
 11 watching the TV and reading the newspaper it's helped  
 12 you fill in blanks that you had before, correct?  
 13 A. Yes. No, as a matter of fact, no. It  
 14 just told me things that I didn't know about the club.  
 15 Q. Okay. So you have learned more about the  
 16 club by watching TV, correct?  
 17 A. Yes, sir.  
 18 Q. And you would agree with me that by  
 19 learning these things, it's affected your ability to  
 20 remember and say thing today in this court?  
 21 A. No.  
 22 Q. I see. Now, when you gave this first  
 23 statement to the cops, it was back on the 21st of May,  
 24 correct?  
 25 A. Yes, sir.

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- 1 Q. It was early in the morning, wasn't it?  
 2 A. No, it wasn't.  
 3 Q. In the afternoon.  
 4 A. It was around -- yeah. Yeah, it was in  
 5 the morning.  
 6 Q. About 1:00 a.m.  
 7 A. But it was like at night in the morning.  
 8 Q. Okay. You wanted to be as truthful as you  
 9 could?  
 10 A. Yes, and I was.  
 11 Q. You wanted to be as complete as you could?  
 12 A. Yes.  
 13 Q. Hey, this was a homicide investigation,  
 14 wasn't it?  
 15 A. Yes, it was.  
 16 Q. It was important, wasn't it?  
 17 A. Yeah.  
 18 Q. And you were scared when you talked to  
 19 them, correct?  
 20 A. Yes and no.  
 21 Q. You wanted to give them everything you  
 22 possibly could at that point, didn't you?  
 23 A. I didn't have a choice. They already knew  
 24 that I knew.  
 25 Q. And did they tell you how they knew that

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- 1 you knew?  
 2 A. Yes, he did.  
 3 Q. They told you that they had spoken to  
 4 Deangelo, correct?  
 5 A. Yes.  
 6 Q. Now, in this statement that you gave to  
 7 them on May 21st, it was tape recorded?  
 8 A. Yes.  
 9 Q. If you had questions, you would stop them,  
 10 correct?  
 11 A. Yes.  
 12 Q. And they had talked about a number of the  
 13 things that you have testified to today, correct?  
 14 A. Yes.  
 15 Q. There came a time in which they discussed  
 16 why this guy named TJ got shot, correct?  
 17 A. Yes.  
 18 Q. And at the time, being honest and wanting  
 19 to be truthful, you told the police you didn't know who  
 20 wanted TJ shot, correct?  
 21 A. Yes, I did. But when they, when they had  
 22 already, they had already knew that I was lying at  
 23 first, but then that's when I told them.  
 24 Q. I see. So you first told them that you  
 25 did not know?

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- 1 A. Yes, I did.  
 2 Q. So then you lied to the police, didn't  
 3 you?  
 4 A. Yes, I did.  
 5 Q. At the time that you lied to the police,  
 6 you lied because you thought it might help you,  
 7 correct?  
 8 A. No, I lied because I was scared.  
 9 Q. Okay. And then you thought that if you  
 10 told the truth, you would get into trouble, correct?  
 11 A. No.  
 12 Q. But you lied because you were scared?  
 13 A. Yes.  
 14 Q. I see. So you didn't tell the truth  
 15 because you were scared?  
 16 A. Yes. And but then I did tell the truth  
 17 because it was either that or jail.  
 18 Q. I see. So they told you that if you  
 19 didn't name other people you were going to jail,  
 20 correct?  
 21 A. Yeah, because I was going to be, I was  
 22 going to be in the midst of the conspiracy with the  
 23 murder.  
 24 Q. I see. So they told you then that if you  
 25 gave other people's names you weren't going to be in

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- 1 this mix for this conspiracy?  
 2 A. No, he didn't tell me that.  
 3 Q. I see. There was a time in which one of  
 4 those police officers swore at you, didn't he?  
 5 A. Yes.  
 6 Q. He told you to smarten up or you were  
 7 going in jail, correct?  
 8 A. Yes.  
 9 Q. He told you that you were making him  
 10 fucking mad, correct?  
 11 A. Yes.  
 12 Q. And that you didn't want to see a mad man,  
 13 correct?  
 14 A. Yes.  
 15 Q. And that scared you, didn't it?  
 16 A. No, it didn't.  
 17 Q. That didn't?  
 18 A. No.  
 19 Q. I see.  
 20 A. It just, he just told me, he told me that  
 21 I knew what I had to do.  
 22 Q. I see. And that you knew that you had to  
 23 finger other people, correct?  
 24 A. I'm the one that had to deal the truth.  
 25 Q. I see. So you knew you needed to finger

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- 1 other people?  
 2 A. I told the truth.  
 3 Q. Now, when he asked you about -- let me  
 4 back up just a little bit.  
 5 Earlier in this day of May 19th, you  
 6 testified and you stated later to the detective that  
 7 Deangelo said somebody needed to be dealt with,  
 8 correct?  
 9 A. Yes.  
 10 Q. And those were your words?  
 11 A. No, those wasn't my words.  
 12 Q. Those were Deangelo's words?  
 13 A. Yes.  
 14 Q. Okay. And on May 21st, you told the  
 15 police that you didn't know who it was that wanted T.J.  
 16 to be dealt with, correct?  
 17 A. Yes, I did.  
 18 Q. You didn't, did you?  
 19 A. I did, but -- I did, but I didn't. It's  
 20 like, okay, I was told something and then I was told  
 21 something else.  
 22 Q. Okay. But at the time, earlier in the day  
 23 of May 19th, you didn't know why they wanted this guy  
 24 taken care of, correct?  
 25 A. No, I didn't.

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- 1 Q. You didn't even know who this guy was, did  
 2 you?  
 3 A. No.  
 4 Q. You had never met this T.J., had you?  
 5 A. No.  
 6 Q. You knew that Deangelo knew him, correct?  
 7 A. Yes.  
 8 Q. But you personally had never seen him  
 9 before, had you?  
 10 A. No.  
 11 Q. Never gone out with him, correct?  
 12 A. Or if I have seen him, I probably didn't  
 13 recognize him because, I mean, I don't know the guy.  
 14 Q. Okay. You had never done anything  
 15 socially with him?  
 16 A. No.  
 17 Q. Never talked to him on the phone?  
 18 A. No.  
 19 Q. Basically, you didn't know him from Adam,  
 20 correct?  
 21 A. I didn't know him from a can of paint.  
 22 Q. You didn't know him from a can of paint?  
 23 A. Yes.  
 24 Q. But you knew Deangelo knew him, correct?  
 25 A. Yes.

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- 1 Q. And you didn't know if anybody else knew  
2 him, did you, that was in the car with you?  
3 A. No, I didn't.  
4 Q. Now, you had told these detectives at the  
5 beginning of the interview that you didn't know who  
6 wanted TJ taken care of?  
7 A. Yes, I did.  
8 Q. Is that correct?  
9 A. Yes.  
10 Q. And then you had this conversation where  
11 this cop told you to smarten up and you were making him  
12 mad, correct?  
13 A. Yes.  
14 Q. Then you and he still talked about who  
15 wanted this TJ taken care of, correct?  
16 A. Yes.  
17 Q. And even at that time, after he told you  
18 to smarten up or you were going to jail, you still told  
19 him that you didn't know who wanted TJ taken care of,  
20 correct?  
21 A. Yes, I did.  
22 Q. I see.  
23 A. I did tell him who did.  
24 Q. So when you told him on page 35 of your  
25 statement that you didn't know who wanted TJ taken care

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- 1 of, that wasn't true, was it?  
2 A. No.  
3 Q. No, it wasn't?  
4 A. No, no.  
5 Q. So then you lied to the police again  
6 concerning what you knew or what you didn't know?  
7 A. No, I didn't lie to the police. I lied to  
8 them the first time. Then he told me I better smarten  
9 up or I'm going to jail, and that's when I told him  
10 what I knew.  
11 Q. Okay. But then, again, in order to tell  
12 him what you knew --  
13 A. And I did tell them who, and I did tell  
14 him that I knew who wanted Tim to be done.  
15 Q. Backing up just a little bit, though.  
16 Once again, you had to rely on what Deangelo told you,  
17 didn't you?  
18 A. Part of it.  
19 Q. Okay. You never spoke with this Mr. H,  
20 did you?  
21 A. No.  
22 Q. You never spoke with this Luie or Hidalgo  
23 the third, did you?  
24 A. No.  
25 Q. So you had to rely upon what Deangelo told

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- 1 you, correct?  
2 A. Yes, I did.  
3 Q. And you also had to rely upon what the  
4 police told you as they were questioning you, correct?  
5 A. Yes.  
6 Q. And you would agree with me that today as  
7 you are testifying you had to rely somewhat upon what  
8 the police had told you, correct?  
9 A. Yes.  
10 Q. Concerning this Luie Hidalgo, correct?  
11 A. Yes.  
12 Q. You never got paid any money in this case,  
13 did you?  
14 A. No.  
15 Q. In fact, when the detectives asked you  
16 about Deangelo getting paid, after they told you to  
17 smarten up and to tell them the truth, even then you  
18 told them you did not know whether or not Deangelo had  
19 gotten paid, correct?  
20 A. Still today I don't know if Deangelo got  
21 paid.  
22 Q. And you don't know if KC got paid either,  
23 do you?  
24 A. No, I don't.  
25 Q. So, once again, you're having to rely upon

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- 1 what the police may have told you, correct?  
2 A. No, I'm going by what Deangelo told me.  
3 Q. Okay. And Deangelo alone; isn't that  
4 right?  
5 A. Yes.  
6 Q. There came a time on this day that you  
7 were being interviewed the first time with the police,  
8 that you thought that TJ had been ratting on somebody,  
9 correct?  
10 A. I wasn't really told why. I wasn't told  
11 why he was going to get done or any reason. That's all  
12 I was told.  
13 Q. Okay. But, sir, I'm asking you what you  
14 said. You told the police on May 21st that you thought  
15 the reason TJ had gotten shot was because he was  
16 ratting?  
17 A. Yeah, I guess. He had to be talking or  
18 something.  
19 Q. You also told the police that you thought  
20 he was snitching, correct?  
21 A. Yeah.  
22 Q. And when you say snitching, you mean maybe  
23 he was telling the police on somebody, correct?  
24 A. Yes.  
25 Q. Because you had learned from Deangelo that

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- 1 TJ was into weed, correct?
- 2 A. No. I didn't learn nothing about TJ.
- 3 Q. I see.
- 4 A. I didn't learn whether he was with weed or
- 5 nothing. I told the cops, I told the cops I don't know
- 6 nothing about this guy.
- 7 Q. You knew Deangelo smokes weed, correct?
- 8 A. Yes, of course.
- 9 Q. You have smoked marijuana with Deangelo
- 10 before, correct?
- 11 A. Yes.
- 12 Q. And you knew that he would get, and I'm
- 13 talking about Deangelo, he would get marijuana from TJ?
- 14 A. No.
- 15 Q. I see. But you smoked the weed with him,
- 16 correct?
- 17 A. Yes.
- 18 Q. Did you bring the weed when you and he
- 19 would smoke together?
- 20 A. Me and Deangelo?
- 21 Q. Yes.
- 22 A. Yes.
- 23 MR. DIGIACOMO: Okay. You clarified it
- 24 for us.
- 25 MR. DRASKOVICH: I pass the witness.

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## CROSS-EXAMINATION

- 1 BY MS. WILDEVELD:
- 2 Q. Mr. Zone, when you were talking with the
- 3 detective, you, in fact, didn't know Mr. Counts' name
- 4 either, did you?
- 5 A. No.
- 6 Q. In fact, the detective had to tell you
- 7 what his name was?
- 8 A. Yes.
- 9 Q. When you were at Deangelo's apartment, you
- 10 never spoke with Kenneth Counts, did you?
- 11 A. No.
- 12 Q. Kenneth Counts wasn't present at
- 13 Deangelo's apartment?
- 14 A. No.
- 15 Q. It was you, JJ and Deangelo, correct?
- 16 A. Yes.
- 17 Q. So Kenneth was never a part of any of the
- 18 conversations about this guy needs to be taken care of,
- 19 correct?
- 20 A. No.
- 21 Q. And when you went out promoting, Kenneth
- 22 Counts wasn't present, was he?
- 23 A. No.
- 24 Q. Have you ever seen Kenneth Counts before?
- 25

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- 1 A. No.
- 2 Q. And you were staying at DC's house, or I'm
- 3 sorry, Deangelo's house. Kenneth Counts wasn't staying
- 4 there, was he?
- 5 A. No.
- 6 Q. In fact, when they, when the detectives
- 7 asked you where you picked up Kevin Counts from or
- 8 Kevin, excuse me -- strike that.
- 9 Kenneth Counts from, you didn't know where
- 10 you picked up Kenneth Counts from, did you?
- 11 A. Yes, but that's when I told them before
- 12 the officer said what he said.
- 13 Q. I'm sorry?
- 14 A. I said that before the officer said, I
- 15 said that before the officer said what he said.
- 16 Q. You said what?
- 17 A. That's when I told him that I didn't
- 18 really know where he lived.
- 19 Q. Right, but you're not from Las Vegas, are
- 20 you?
- 21 A. No, I'm not.
- 22 Q. How long have you been in Las Vegas?
- 23 A. Eight, nine years.
- 24 Q. So you've been here long enough that you
- 25 would know east side, west side, correct?

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- 1 A. Yes.
- 2 Q. But when the officer said the west side,
- 3 you didn't know where Kenneth Counts lived, did you?
- 4 A. No.
- 5 Q. So you had never had contact with Kenneth
- 6 Counts before?
- 7 A. Never.
- 8 Q. And the only people that got in that van,
- 9 according to you, according to what your statement is,
- 10 is you, JJ, Deangelo Carroll and then Kenneth Counts
- 11 you say you picked up?
- 12 A. Yes.
- 13 Q. And all of you drove out to Lake Mead?
- 14 A. Yes.
- 15 Q. And you have had two conversations with
- 16 the police?
- 17 A. I had one with homicide, and two with,
- 18 twice with the DA.
- 19 Q. And then once again this morning?
- 20 A. Yes.
- 21 Q. Have you been made any promises?
- 22 A. No.
- 23 Q. Have they promised you that they are not
- 24 going to take away your child maybe?
- 25 A. No, they didn't say nothing about my

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- 1 child.
- 2 Q. Have they ever talked about pressing
- 3 charges against you?
- 4 A. They said, police said I ain't, I wasn't
- 5 being charged with nothing.
- 6 Q. Why are you testifying here today?
- 7 A. I'm testifying here today because it's my
- 8 choice. It's either that or I'm supposed to be on the
- 9 run.
- 10 Q. Why would you be on the run?
- 11 A. Because they think that I'm in the mix
- 12 with this murder.
- 13 Q. So if you're not testifying here today,
- 14 you would be in the mix with this murder?
- 15 A. Yes, I would.
- 16 Q. And did the police tell you that if you
- 17 weren't testifying here today you would have to be on
- 18 the run because you would be in the mix with this
- 19 murder?
- 20 A. No. They told me exactly this. They
- 21 said, if you don't testify, you either have something
- 22 to do with the crime.
- 23 Q. So you're testifying here today to show
- 24 that you did not have something to do with the crime?
- 25 A. Yeah, to show them that I did not.

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- 1 Q. And you're testifying here today so that
- 2 you won't get charged with this crime, correct?
- 3 A. Yes, exactly.
- 4 Q. Because if you don't testify today, do you
- 5 think you're going to get charged with this crime?
- 6 A. Yes.
- 7 Q. And when you were at Deangelo's house and
- 8 Deangelo said he needs to get taken care of, it was
- 9 you, in fact, that offered the information to the
- 10 police that get taken care of meant to kill him, right?
- 11 A. Yes.
- 12 Q. And when initially the time comes to get
- 13 baseball bats and garbage cans, garbage bags, did you
- 14 collect some baseball bats and garbage bags?
- 15 A. I didn't collect nothing.
- 16 Q. Did Deangelo collect garbage bags and
- 17 baseball bats?
- 18 A. I didn't see any.
- 19 Q. When you walked out of his apartment and
- 20 got into the car, was anyone carrying a baseball bat or
- 21 garbage bags?
- 22 A. No.
- 23 Q. But when he said this person needs to get
- 24 taken care of, come on, let's go, you went, right?
- 25 A. No, he didn't say come on, let's go.

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- 1 Q. What were his words?
- 2 A. His words, his words, he -- see, that was
- 3 earlier, that was earlier even before the time. He had
- 4 left and came back. He left and came back. And then
- 5 he was like come on, we're fixing to go to work. He
- 6 didn't say come on, we're fixing to go kill a guy,
- 7 let's go. He said we're fixing to go to work, and
- 8 that's the only reason that I got up and left.
- 9 Q. And at that point, it was you, JJ and
- 10 Deangelo, correct?
- 11 A. Yes.
- 12 Q. And there was no Kenneth Counts present?
- 13 A. No.
- 14 Q. Kenneth Counts didn't work with you guys?
- 15 A. No.
- 16 Q. You said you had been promoting a couple
- 17 other times. Was Kenneth Counts ever present with you
- 18 guys?
- 19 A. No.
- 20 Q. And then when you find out that TJ needs
- 21 to be taken care of, you were in the van at that point
- 22 or were you still in the apartment?
- 23 A. It wasn't in the van. It was at the
- 24 apartment.
- 25 Q. So it was at the apartment, and you

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- 1 learned that TJ needed to be taken care of?
- 2 A. Yes.
- 3 Q. And you still got in the van and went with
- 4 Deangelo and JJ, correct?
- 5 A. You're trying to mix it up. He told me,
- 6 he would like, yeah, he's going to get taken care of or
- 7 whatever. And he asked me did I want a part, and I
- 8 said no. That's it. I said flat no. I said no. I
- 9 got a son. No. All right.
- 10 And then after that, he left and he came
- 11 back. And he was like you ready to go promote? And
- 12 I'm like yeah. I mean, why not? I mean, I've been
- 13 doing this for about a week. We've been promoting for
- 14 like a week, so I figure we're going out to promote.
- 15 Q. And so when the police officer asked you,
- 16 when the detective asked you the question, "So when you
- 17 thought, hey, he needs to be taken care of, what did
- 18 you think he meant?" Your answer was, "I already knew
- 19 what it meant," right?
- 20 A. Yes.
- 21 Q. And it was it meant murder, right?
- 22 A. Yes.
- 23 Q. So when Deangelo then said come on, let's
- 24 go, you thought you were going to promote?
- 25 A. No. He said, he was like come on, let's

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- 1 go. I'm sitting at the house with my baby's mama and  
 2 his wife. And my baby's mama asked me where I was  
 3 going. She said where are you all going? He said  
 4 we're going to promote. So I'm thinking we're going to  
 5 promote and we leave.  
 6 Q. But you don't tell your baby's mama  
 7 everything, right?  
 8 A. Yes, I do, as a matter of fact.  
 9 Q. Well, you got dropped off by the Palomino  
 10 shuttle so your baby's mama wouldn't ask you questions,  
 11 right?  
 12 A. No, it didn't have anything to do with my  
 13 baby's mama asking questions. It had something to do  
 14 with homicide or a detective being suspicious. It  
 15 didn't have nothing to do with my baby's mama saying  
 16 anything.  
 17 Q. So you got in the van and you were driving  
 18 out to Lake Mead. Was there any talk about what was  
 19 going to occur in the van on the way out there?  
 20 A. No, there wasn't.  
 21 Q. You had no idea why you were going out to  
 22 Lake Mead?  
 23 A. I didn't know until we got to Hollywood  
 24 Boulevard.  
 25 Q. Okay. And then when you were out at

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- 1 Lake -- when you were out at Lake Mead and TJ drove up  
 2 to the car, did you ever scream stop, something is  
 3 going to happen? Did you ever warn him?  
 4 A. No.  
 5 Q. You never did that?  
 6 A. No.  
 7 Q. Why not?  
 8 A. So I can be a dead man?  
 9 Q. Why would you be a dead man? Were they  
 10 going to be taking care of you?  
 11 A. All right. Let's say this. You sitting  
 12 next to a man that's willing to kill somebody. You  
 13 mean to tell me you're going to tell that man to stop  
 14 and he's sitting right next to you?  
 15 Q. He wasn't. He was out of the car, right?  
 16 A. How am I going to tell the man to stop  
 17 when I can be just as dead as him or my baby's mama  
 18 could be harmed.  
 19 Q. Well, you told me that you were out at  
 20 Lake Mead, right?  
 21 A. Yes.  
 22 Q. And somebody slid out of the car?  
 23 A. Yeah.  
 24 Q. And they went around and they were  
 25 standing by the car, so they were out of the car at

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- 1 that point, right?  
 2 A. He was out of the car at that point.  
 3 Q. And Deangelo is your friend, right?  
 4 A. Yes.  
 5 Q. Are you saying that Deangelo would never  
 6 have put you in this situation if you did not know what  
 7 you were getting yourself into?  
 8 A. I'm not sure. I can't really be sure.  
 9 It's for him to say for himself.  
 10 Q. But you yourself never screamed stop, get  
 11 away?  
 12 A. No.  
 13 Q. He has a gun?  
 14 A. No.  
 15 Q. You never said anything like that?  
 16 A. No.  
 17 Q. And on the way out to the lake, was there  
 18 any talk about what was going to occur?  
 19 A. No.  
 20 Q. So you never heard -- if Kenneth Counts  
 21 was, in fact, in the van, he never participated in any  
 22 communication about what was going to happen on the way  
 23 out to the lake?  
 24 A. No, he didn't.  
 25 Q. And then the next day, when you went and

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- 1 you switched the tires on the van, was Kenneth Counts  
 2 with you?  
 3 A. No.  
 4 Q. And did you take part in any of the  
 5 stabbing of the tires or anything like that?  
 6 A. No.  
 7 Q. And you knew why the tires needed to be  
 8 switched though, right?  
 9 A. Yes.  
 10 Q. Did you help lift the tires and put them  
 11 into the trash can or anything?  
 12 A. I didn't touch nothing.  
 13 Q. Did you see Kenneth Counts at all that  
 14 day?  
 15 A. No.  
 16 Q. And when you went to the Palomino Club --  
 17 I'm sorry, let me back up.  
 18 After you left Lake Mead and you went back  
 19 to the Palomino Club, you got out of the van to go into  
 20 the Palomino Club with Deangelo, correct?  
 21 A. No.  
 22 Q. You never got out of the van?  
 23 A. I didn't get out of the van and go in the  
 24 club.  
 25 Q. What did you get out of the van for?

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- 1 A. We were left in the van.  
 2 Q. Did you initially get in the van and  
 3 Deangelo said no, don't come in?  
 4 A. No. He said that he just, he was like you  
 5 all wait here.  
 6 Q. So you waited in the van for two hours?  
 7 A. No. I got out and I waited on the, on  
 8 some little seats.  
 9 Q. How far does Deangelo -- how far is  
 10 Deangelo's apartment from the Palomino Club? Was it in  
 11 walking distance?  
 12 A. Yes.  
 13 Q. Have you walked from the Palomino Club to  
 14 Deangelo's apartment before?  
 15 A. No.  
 16 Q. You never have?  
 17 A. No.  
 18 Q. But it was in walking distance?  
 19 A. Yes.  
 20 Q. You knew how to get home?  
 21 A. Yes.  
 22 Q. But you stayed in the van for two hours?  
 23 A. You mixing it up. I told you I didn't  
 24 stay in the van for two hours.  
 25 Q. What did you do?

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- 1 A. I got out. I got out, and I sat on the  
 2 seats that they have at the Palomino. They have like a  
 3 little table that's outside by where the cabs come up  
 4 and you sit there. I got out and we sat there.  
 5 Q. So you just didn't go in the club?  
 6 A. No.  
 7 Q. But you didn't stay in the van?  
 8 A. No, I didn't go in the club.  
 9 Q. And what were you waiting for?  
 10 A. I didn't have no choice but to wait. I  
 11 have a baby's mother at his house. I have to do what I  
 12 have to do to take care of my son.  
 13 Q. What was it that you were doing then  
 14 waiting at the Palomino Club?  
 15 A. I was waiting so I could go back to his  
 16 house.  
 17 Q. Were you waiting to get paid?  
 18 A. No.  
 19 Q. Did you have an expectation of payment?  
 20 A. I didn't get paid for nothing. I don't  
 21 want nothing to do with nothing. That's the reason I  
 22 didn't get paid.  
 23 Q. Were you getting paid for waiting there?  
 24 A. No.  
 25 Q. So what were you waiting for then?

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- 1 A. I was waiting on Deangelo.  
 2 Q. But you weren't getting paid to wait  
 3 there?  
 4 A. No, I wasn't.  
 5 Q. But you still waited two hours?  
 6 A. Yeah, I still waited for Deangelo, but I  
 7 didn't get paid. I didn't get paid no money. I didn't  
 8 receive no money. That's because I didn't have nothing  
 9 to do with nothing.  
 10 Q. Okay. And when Deangelo came out, you  
 11 mentioned that you do not know whether or not he got  
 12 paid, correct?  
 13 A. Yes. I don't know if he got paid because  
 14 I didn't go in the club with him. And he didn't tell  
 15 me.  
 16 Q. But you told the detective that you  
 17 wondered whether or not he got paid, right?  
 18 A. Yeah, I was wondering, but what's  
 19 wondering?  
 20 Q. Wondering if he got paid for driving the  
 21 car out to the lake?  
 22 A. Yeah, but I don't know who got paid. As a  
 23 matter of fact, at the time I didn't want to know who  
 24 got paid.  
 25 Q. Okay. And it was your understanding, it

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- 1 was your understanding that you didn't know if anyone  
 2 was getting paid, correct?  
 3 A. No, I didn't. I knew that KC got paid.  
 4 Q. How did you know that?  
 5 A. Because I was told, I was told that a  
 6 person to person --  
 7 MR. ORAM: I would object. I would object  
 8 to my co-defendant's attorney's question asking,  
 9 eliciting hearsay.  
 10 MS. WILDEVELD: I'll strike that, your  
 11 Honor.  
 12 BY MS. WILDEVELD:  
 13 Q. But you didn't get paid?  
 14 A. No, I didn't.  
 15 Q. But you had breakfast the next morning and  
 16 Deangelo paid?  
 17 A. Yes, I had breakfast the next morning.  
 18 Q. You do not know where Deangelo got that  
 19 money from?  
 20 A. No.  
 21 Q. And he took your whole family out to  
 22 breakfast?  
 23 A. No. Why would I ask questions?  
 24 Q. Okay. Were you getting paid the next  
 25 morning for promoting when you drove the van to get the

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- 1 tires changed?
- 2 A. No, I didn't.
- 3 Q. Are you really just being loyal to --
- 4 A. I only got paid for one night.
- 5 Q. And that was for promoting?
- 6 A. That was promoting, my first night of
- 7 promoting. That's the only time I got paid.
- 8 Q. But yet you continued to work without
- 9 expectation of payment?
- 10 A. Yeah. Yes, because he's my friend. And I
- 11 figured he was going to pay me sooner or later, so I
- 12 wasn't really tripping at the time.
- 13 MS. WILDEVELD: Thank you, your Honor.
- 14 That's it.
- 15 MR. DIGIACOMO: Judge, before I take my
- 16 opportunity to redirect, I just wanted to make the
- 17 record clear that Deangelo Carroll is still sitting in
- 18 the courtroom, both of his attorneys are in the
- 19 courtroom, and I invite them, if they want to, to take
- 20 their cross-examination now. If they choose not to,
- 21 that's fine. I'll continue with redirect.
- 22 MR. DRASKOVICH: I would object to that.
- 23 They waived up. They are welcome to watch.
- 24 THE COURT: They are welcome. Then
- 25 apparently the DA says they are welcome to cross if

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- 1 they want.
- 2 MR. FIGLER: Your Honor, do you want to
- 3 let me cross-examine the witness and I'm not even a
- 4 party to the proceedings?
- 5 THE COURT: I think you have stand to
- 6 cross-examine if you wanted to, yes.
- 7 MR. FIGLER: That's interesting. Can I
- 8 consult with counsel for a second? I didn't really
- 9 know that I had a standing.
- 10 (Brief pause in proceedings.)
- 11 MR. FIGLER: Your Honor, Mr. Carroll has
- 12 waived his preliminary hearing so that he may face
- 13 these charges in district court. So as a result, he
- 14 doesn't believe that we have any need to go forward
- 15 because we'll be challenging the State's evidence at
- 16 trial and that's our position.
- 17 THE COURT: Redirect?
- 18 MR. DIGIACOMO: Redirect.
- 19
- 20 REDIRECT EXAMINATION
- 21 BY MR. DIGIACOMO:
- 22 Q. Couple of brief questions. You said you
- 23 did not know that the murder was going to occur until
- 24 you got to Hollywood Boulevard. Do you remember that
- 25 question you answered on cross-examination?

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- 1 A. Yes.
- 2 Q. How did you, how did you know once you got
- 3 to Hollywood Boulevard that the murder was going to
- 4 occur?
- 5 A. Because there is no cab place on Hollywood
- 6 Boulevard?
- 7 Q. So you knew then that you had to be
- 8 somewhere other than going to cabs?
- 9 A. Yes.
- 10 Q. Do you remember a discussion from
- 11 Mr. Draskovich, who is the lawyer in the middle here,
- 12 concerning Little Lu?
- 13 A. Yes.
- 14 Q. Right, Luie?
- 15 A. Yes.
- 16 Q. You had seen and met Luie before?
- 17 A. Yes.
- 18 Q. Okay. And you had talked to Deangelo
- 19 about Luie before?
- 20 A. Yes.
- 21 Q. Okay. Do you see the individual that
- 22 Deangelo referred to as Little Lu or Luie here in court
- 23 today?
- 24 A. Yes.
- 25 Q. Can you point him out and describe

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- 1 something he's wearing?
- 2 A. He's over there.
- 3 Q. White, black or Hispanic?
- 4 A. Hispanic.
- 5 Q. Hispanic.
- 6 And is he male?
- 7 A. Yes.
- 8 Q. Where is he sitting in the front row
- 9 there?
- 10 A. Second seat.
- 11 MR. DIGIACOMO: May the record reflect the
- 12 identification of Luis Hidalgo, III, Judge?
- 13 MR. DRASKOVICH: I would object to that
- 14 unless the Court gives me just a brief voir dire.
- 15 THE COURT: Sure.
- 16 MR. DRASKOVICH: Thank you.
- 17
- 18 VOIR DIRE EXAMINATION
- 19 BY MR. DRASKOVICH:
- 20 Q. Mr. Zone, the courtroom is full of people,
- 21 correct?
- 22 A. Yes.
- 23 Q. And you know who is being prosecuted today
- 24 for this matter, correct?
- 25 A. Yes.

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- 1 Q. You know that these people are in custody,  
2 correct?  
3 A. Yes.  
4 Q. There are only four people sitting in the  
5 box right now that are in custody, correct?  
6 A. Yes.  
7 Q. Two of them are black, and one of them is  
8 a woman, correct?  
9 A. Yes.  
10 Q. So you would agree that pointing out to  
11 this Lule it helps knowing that he's in custody right  
12 now, correct?  
13 A. Yes.  
14 Q. Because he's the only Latin male sitting  
15 in the box, isn't he?  
16 A. Yes.  
17 Q. Now, if you'd been given a lineup, you  
18 probably wouldn't have been able to pick him out,  
19 correct?  
20 A. Yes, I would.  
21 Q. I see. But you said you didn't really  
22 know him, though, did you?  
23 A. I know a face.  
24 Q. I see. And when was the last time that  
25 you saw this face?

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- 1 A. Simone's Plaza.  
2 Q. And before that, it was a long time  
3 before, correct?  
4 A. Yes.  
5 MR. DRASKOVICH: Thank you. I have no  
6 further questions.  
7 MR. DIGIACOMO: May the record reflect the  
8 identification of Mr. Hidalgo, III?  
9 THE COURT: That's correct, the record  
10 will so reflect.  
11  
12 REDIRECT EXAMINATION (Resumed)  
13 BY MR. DIGIACOMO:  
14 Q. And you said, in response to  
15 Mr. Draskovich's questions, the last time you saw him  
16 was at Simone's Plaza?  
17 A. Yes.  
18 Q. Is that the day after the murder?  
19 A. Yes.  
20 Q. Where in Simone's Plaza did you see  
21 Mr. Hidalgo?  
22 A. He was leaving.  
23 Q. He was leaving?  
24 A. Yes.  
25 Q. And what, did you see what vehicle he got

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- 1 into or you saw him leaving the store?  
2 A. Sports car. Convertible.  
3 MR. DIGIACOMO: Okay. Thank you, Judge.  
4 I have nothing further.  
5 MR. DRASKOVICH: I have further.  
6  
7 RECROSS-EXAMINATION  
8 BY MR. DRASKOVICH:  
9 Q. Simone's place, that's a business, isn't  
10 it?  
11 A. Yes.  
12 Q. It's a car shop, isn't it?  
13 A. Yes.  
14 Q. It's in a plaza?  
15 A. Yes.  
16 Q. There is more than one business in this  
17 plaza, correct?  
18 A. Well, if it is, I'm not sure.  
19 Q. It's got a parking lot?  
20 A. Yes.  
21 Q. Cars in the parking lot?  
22 A. Yes.  
23 Q. People coming and going?  
24 A. Yes.  
25 Q. So you didn't see him inside, and I'm

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- 1 referring to Lule inside the building, did you?  
2 A. No.  
3 Q. You saw him just outside in the parking  
4 lot, correct?  
5 A. I saw him leave.  
6 Q. You saw him leave?  
7 A. Yes.  
8 Q. This place of business where it's common  
9 for people to come and go, correct?  
10 A. Yes.  
11 MR. DRASKOVICH: No further questions.  
12 THE COURT: Okay. Are we going to need  
13 Mr. Zone anymore?  
14 MR. DIGIACOMO: No, your Honor. He's free  
15 to go.  
16 MR. DRASKOVICH: We don't intend on  
17 calling him.  
18 THE COURT: All right. It's five to noon.  
19 I'd say it's a good time to take our lunch recess.  
20 We'll start about a quarter after one.  
21 (A brief lunch recess was taken.)  
22 THE COURT: Okay. Next witness.  
23 MR. DIGIACOMO: Before we call the next  
24 witness, can we approach for a moment?  
25 THE COURT: You bet.

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1 (Thereupon, a brief discussion was held  
2 at the bench.)  
3 MR. DIGIACOMO: State calls Detective  
4 Michael McGrath.  
5 THE CLERK: Do you swear the statements  
6 that you are about to make are the truth, the whole  
7 truth, and nothing but the truth, so help you God?  
8 THE WITNESS: I do.  
9 THE CLERK: I need you to state your name  
10 for the record and spell your name, please.  
11 THE WITNESS: Michael S. McGrath,  
12 M-C-G-R-A-T-H.  
13  
14 MICHAEL S. McGRATH,  
15 having been first duly sworn, did testify as follows:  
16  
17 DIRECT EXAMINATION  
18 BY MR. DIGIACOMO:  
19 Q. Good afternoon, Detective. How are you  
20 employed?  
21 A. I'm currently employed with the Las Vegas  
22 Metropolitan Police Department.  
23 Q. How are you employed?  
24 A. I'm a detective in the homicide section.  
25 Q. How long have you been a detective with  
the homicide section?

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1 divided up in any particular manner?  
2 A. Yes. Basically, when we're dispatched,  
3 prior to us going, we have decided one person is going  
4 to be in charge with documenting a crime scene, taking  
5 notes and working with the crime scene analyst at the  
6 scene, and the other detectives will split up to  
7 interview witnesses.  
8 Q. What was your responsibility that night?  
9 A. My responsibility was the crime scene  
10 investigation.  
11 Q. And when you first responded, describe for  
12 the Court the course of your initial investigation.  
13 When you arrived on the scene, what did you first do?  
14 A. Basically, when you drive through the toll  
15 booth on East Lake Mead, over the mountain, over the  
16 saddle and go through the toll booth. Once you get to  
17 approximately two miles past the toll booth, it  
18 intersects with North Shore Road. If you take a left  
19 there, that's what we're referring to. I called it  
20 .33 miles east of that intersection.  
21 Q. Is the scene where the homicide occurred?  
22 A. Is the scene where the homicide occurred.  
23 Q. And that's here in Clark County, Nevada?  
24 A. Yes, it is.  
25 Q. And when you got there, describe what you

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1 A. Three-and-a-half years now.  
2 Q. How long have you been with Metro?  
3 A. Almost 13 years.  
4 Q. I want to direct your attention to  
5 May 19th of the year 2005. Did you have an opportunity  
6 to respond out to North Shore Road near Lake Mead  
7 concerning a homicide of an individual identified as  
8 Timothy Hadland?  
9 A. Yes, I did.  
10 Q. Approximately what time did you get the  
11 call?  
12 A. The call came out before midnight,  
13 however, sometime after midnight, I would say 12:30ish,  
14 a.m., which would be the 20th, is when they called me  
15 to respond.  
16 Q. Okay. When you responded, did you respond  
17 by yourself or were there other members of the homicide  
18 unit that responded with you?  
19 A. Our whole squad responded at that time.  
20 Q. Who is your whole squad?  
21 A. Detective Jimmy Vaccaro, who is the acting  
22 sergeant, Detective Marty Wildemann, my partner,  
23 Detective Teresa Kyger, and myself responded.  
24 Q. Now, when homicide group or a squad  
25 responds out to a homicide scene, are the duties

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1 saw for the Court.  
2 A. When I got there, there was -- there were  
3 the, there was Metro police vehicles on each side of  
4 the roadway. There was also park service officers, you  
5 know, stopping the traffic in both directions. The  
6 crime scene analysts were already arrived on the scene  
7 when I got there.  
8 Q. Now, do the crime scene analysts do their  
9 work before you get there, or do they wait for you to  
10 make a determination on the course of your  
11 investigation?  
12 A. They wait for us, but they were working  
13 already on their regular shift, and we responded from  
14 our residences because it's during the nighttime.  
15 Q. When you say that you're responsible for  
16 working with the crime scene analysts and documenting  
17 the scene, what does that mean you do?  
18 A. Basically, what that means is myself, they  
19 make their notes and diagrams, and I also make my notes  
20 and diagrams as to what I see. And then we come  
21 together and talk about different items that they see.  
22 Do we want this particular item impounded? What do you  
23 think about this? You know, things like that.  
24 Q. Prior to disturbing the scene, do crime  
25 scene analysts do anything to document the scene before

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1 anything is disturbed?  
 2 A. Yes.  
 3 Q. What is that?  
 4 A. Photographs are taken of the overall area  
 5 exactly the way that it is. Then items of evidence,  
 6 which we've both seen, the crime scene analysts and  
 7 myself put item numbers, which they are going to  
 8 impound later, and then they are photographed in place.  
 9 MR. DIGIACOMO: May I approach, Judge?  
 10 THE COURT: Yes.  
 11 BY MR. DIGIACOMO:  
 12 Q. Showing you what's been marked for  
 13 purposes of identification as State's Proposed 6  
 14 through 17, if you could just briefly flip through  
 15 those and tell me if you recognize what's depicted in  
 16 those photographs?  
 17 A. One at a time or do you want me to go  
 18 through all of them?  
 19 Q. Flip through all of them and see if you  
 20 recognize all of them.  
 21 MS. WILDEVELD: Your Honor, the victim's  
 22 family members are in the courtroom if you wanted to  
 23 let them know in case they want to leave the courtroom  
 24 when they are being described.  
 25 THE COURT: Okay. If you heard that, I

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1 don't know who you are, but if you don't want to be  
 2 here when they describe this, it's your opportunity to  
 3 know what's going to be happening.  
 4 BY MR. DIGIACOMO:  
 5 Q. Do you recognize all 6 through 17?  
 6 A. Yes, all of the pictures accurately  
 7 depict. One picture is from the morning, so you can  
 8 see the time difference with the sun coming up.  
 9 Q. But they all accurately depict either the  
 10 scene or items of evidence collected from the scene  
 11 that night on May 19th into the early morning hours of  
 12 May 20th of 2005?  
 13 A. Yes, they do.  
 14 MR. DIGIACOMO: Judge, I move to admit 6  
 15 through 17.  
 16 MR. ORAM: No objection.  
 17 MR. DRASKOVICH: No objection.  
 18 MS. WILDEVELD: No objection.  
 19 THE COURT: They will be admitted.  
 20 (Thereupon, State's Exhibits 6 through  
 21 17 were admitted into evidence.)  
 22 BY MR. DIGIACOMO:  
 23 Q. I'm just going through these slowly with  
 24 you. Could you just describe what we see in State's  
 25 Exhibit Number 6?

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1 A. This is the body of Timothy Hadland. He's  
 2 lying on his back face up. He has on brown sandals, a  
 3 blue bathing suit and there is a white hat resting on  
 4 his chest.  
 5 Q. Is he wearing a shirt?  
 6 A. He is not wearing a shirt. There's  
 7 visible blood on his left side of his chest, as well as  
 8 on the pavement here.  
 9 Q. Okay. And then showing you State's  
 10 Exhibit Number 7, will you describe what's depicted  
 11 there?  
 12 A. On this photograph here, we have the  
 13 shoulder of the roadway, which is actually south of  
 14 Mr. Hadland's body. We have several Palomino flyers,  
 15 VIP flyers, on the ground. And also here we have a, we  
 16 called it a plastic pneumatic tube, which is used at  
 17 the bank or at drugstores to take items from the  
 18 outside into the inside of the store.  
 19 Q. Now, the blood we see on State's Exhibit  
 20 Number 7, is that the same blood that appears to be  
 21 coming from the head and body area of Timothy Hadland?  
 22 A. Yes, the body would be further towards me,  
 23 and the blood would have trickled down towards the  
 24 shoulder of the road.  
 25 Q. Side of the road,

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1 And then State's Exhibit Number 8, is that  
 2 just a close-up of the VIP cards?  
 3 A. Yes, and you can also see the plastic tube  
 4 here also in this photo.  
 5 Q. State's Exhibit Number 9?  
 6 A. It's a close-up of the plastic tube here  
 7 on the, really close to the shoulders, actually near  
 8 the sidewalk.  
 9 Q. State's Exhibit Number 10?  
 10 A. This is the back of the vehicle that  
 11 Mr. Hadland was driving. It's a silver Kia Sportage.  
 12 Q. And that was parked in the position when  
 13 you arrived where it's at right now?  
 14 A. Yes, that has not been moved.  
 15 Q. Now, the body of Timothy Hadland, is it  
 16 behind the vehicle or is it in front of the vehicle?  
 17 A. It was behind the vehicle approximately  
 18 30 feet.  
 19 Q. State's Exhibit Number 11, is that just  
 20 the front view of the vehicle?  
 21 A. Yes. You can see in this photo of the  
 22 front of the vehicle that the lights are on also.  
 23 Q. Then State's Exhibit number 13, describe  
 24 what's being depicted in that photograph.  
 25 A. In the morning hours, this is a photograph

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- 1 of, from a higher elevation up the side of the mountain  
2 down towards where the vehicle was.
- 3 Q. And then State's Exhibit Number 14?
- 4 A. This is -- this is the overall picture,  
5 which we've already discussed, the body of Mr. Hadland  
6 is in the roadway, and you can see further south from  
7 him the VIP cards, and then the vehicle, which is in  
8 front of him.
- 9 And you can see also in this photo, you  
10 can see the park services vehicle, which I have talked  
11 about, and the Metro vehicle on the east side.
- 12 Q. Then, finally, showing you State's Exhibit  
13 Number 12, what's depicted in that photograph?
- 14 A. This is Mr. Hadland's cell phone, which  
15 is, which was on the driver's side floorboard of the  
16 vehicle.
- 17 Q. Was there any other communication device,  
18 other than Mr. Hadland's cell phone, that was located  
19 at the crime scene itself?
- 20 A. Not that I can recall.
- 21 Q. Okay. Fair enough.
- 22 Did you do any investigation as it relates  
23 to that cell phone?
- 24 A. Yes.
- 25 Q. What is it that you did?

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- 1 A. I particularly went through, I took the  
2 cell phone out of the car and went through the call  
3 history of the cell phone.
- 4 Q. And did you identify the last call? Did  
5 you find the last call received inside that phone?
- 6 A. Yes.
- 7 Q. And did it have any information that  
8 eventually became important in your investigation?
- 9 A. Yes.
- 10 Q. What was that?
- 11 A. At 11:27, which would have been on the --  
12 on the 19th, there was a phone call to Mr. Hadland's  
13 phone from a Nextel direct connect, that meaning that  
14 the one, two, three star number's in there and not the  
15 regular phone number was in there, and also at that  
16 time, it said the name Deangelo.
- 17 Q. Did you eventually or members of the unit  
18 eventually go down to the lake and contact  
19 Mr. Hadland's girlfriend?
- 20 A. Yes, Detective Wildemann and Detective  
21 Kyger contacted her.
- 22 Q. And based upon her statement, did you have  
23 an idea of who Deangelo was?
- 24 A. Yes.
- 25 Q. Who was that?

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- 1 A. Mr. Deangelo Carroll that was a co-worker  
2 at one time of Mr. Hadland.
- 3 Q. I noticed you pointed -- have you  
4 personally met Mr. Carroll?
- 5 A. Yes, I have.
- 6 Q. Do you recognize him here in court today?
- 7 A. Yes.
- 8 Q. Can you point him out and describe  
9 something he's wearing?
- 10 A. He's seated against the wall in the back  
11 row here. He has got on a blue shirt with blue pants.
- 12 MR. DIGIACOMO: May the record reflect  
13 identification of the defendant, Judge?
- 14 THE COURT: The record will so reflect.
- 15 MR. DIGIACOMO: Of Defendant Deangelo  
16 Carroll. I guess it should be clear.
- 17 Thank you, Judge.
- 18 BY MR. DIGIACOMO:
- 19 Q. The next day, May 20th, did you respond  
20 to and/or did you go to the medical examiner's office,  
21 the Coroner's office here in Clark County for the  
22 autopsy of Mr. Hadland?
- 23 A. Yes.
- 24 MR. DIGIACOMO: May I approach, Judge?
- 25 THE COURT: You may.

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- 1 BY MR. DIGIACOMO:
- 2 Q. Showing you what's been marked as State's  
3 Proposed 3 through 5, will you briefly flip through  
4 those and see if you recognize those.
- 5 Those appear to be photographs taken  
6 during the autopsy --
- 7 A. Yes.
- 8 Q. -- of Mr. Hadland?
- 9 A. Yes, they are.
- 10 Q. And they are true, fair and accurate  
11 depictions of Mr. Hadland at that time?
- 12 A. Yes.
- 13 MR. DIGIACOMO: Move to admit 3, 4 and 5.
- 14 MR. ORAM: No objection.
- 15 MR. DRASKOVICH: No objection.
- 16 MS. WILDEVELD: No objection.
- 17 THE COURT: They will be admitted.
- 18 (Thereupon, State's Exhibits 3, 4 and 5  
19 were admitted into evidence.)
- 20 BY MR. DIGIACOMO:
- 21 Q. Would you describe the wounds you saw at  
22 the scene, as well as at the autopsy?
- 23 A. At the scene, it was apparent that there  
24 was a gunshot wound to the left side of the head closer  
25 to, you know, the cheek area. What isn't done is an

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1 inspection of the entire body where we, where I could  
2 see the second bullet strike to the ear. So at the  
3 scene, all we can see was that he had a gunshot wound  
4 to the head.

5 Q. During the autopsy, did you learn that  
6 there was a second wound to Mr. Hadland?

7 A. Yes.

8 Q. And that was to the ear?

9 A. Yes.

10 Q. What did you do after learning that  
11 Deangelo or the cell phone said Deangelo was the last  
12 call to Mr. Hadland, and after having officers speak to  
13 Pajit Karlson, how did your investigation progress from  
14 there?

15 A. Well, the way the events unfolded, we had  
16 been up all night into the next day, and I attended the  
17 autopsy. Detective Wildemann and Detective Kyger went  
18 back to the lake to speak with the girlfriend, and then  
19 they came back. We all met together.

20 We had the direct connect number from the  
21 cell phone and we sent out a request for the subscriber  
22 of the direct connect number, and we didn't have the  
23 phone number, but we knew it was a Nextel direct  
24 connect.

25 Q. Did you receive information back that

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1 furthers your investigation?

2 A. Yes.

3 Q. What information did you receive?

4 A. The subscriber to the cell phone was a  
5 Anabel Espindola, and the address that was used was  
6 Simone's Auto Plaza, which is the 6770 Bermuda is the  
7 address of that.

8 Q. Where approximately in the valley is 6770  
9 Bermuda?

10 A. That's down Sunset and Bermuda. Actually  
11 south of the airport.

12 Q. Is it near the airport?

13 A. Yeah, Sunset and the airport is -- a half  
14 a mile from the airport.

15 Q. Good enough.

16 Once you found out this information,  
17 Simone's Auto Plaza, Deangelo, Anabel Espindola, what  
18 did you do?

19 A. We used our regular resources, what we  
20 describe as suspectology and victimology where we punch  
21 things into our regular computer, which we have in our  
22 office, and try to determine who these people are and  
23 where they work.

24 So we punched in this Miss Anabel  
25 Espindola and found out that she was also a key

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1 employee at the Palomino Club. And one of the other  
2 detectives just randomly started throwing names.  
3 Deangelo into the computer and came up with Deangelo  
4 Carroll. And that's how we came up with his name.

5 Q. Okay. Now, eventually, did you meet  
6 Anabel Espindola?

7 A. Yes.

8 Q. Have you had contact with her?

9 A. Briefly, yes.

10 Q. Okay. Do you recognize Miss Espindola  
11 here in court today?

12 A. Yes.

13 Q. Will you point her out and describe  
14 something she's wearing?

15 A. She's sitting in the front row here  
16 furthest, fourth seat from me. She has the dark hair,  
17 and she has on blue with a blue top on.

18 MR. DIGIACOMO: May the record reflect the  
19 identification of the defendant, Anabel Espindola,  
20 Judge?

21 THE COURT: The record will so reflect.

22 MR. DIGIACOMO: Thank you, Judge.

23 BY MR. DIGIACOMO:

24 Q. So now that you have this information and  
25 you have plugged it all into the computers and you have

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1 learned that she's related to the Palomino Club, what  
2 did you guys decide to do?

3 A. Detective Wildemann and Detective Kyger  
4 contacted Mr. Hidalgo, Jr.

5 Q. What relationship does Mr. Hidalgo have to  
6 the Palomino Club, if any, if you're aware?

7 A. He's the owner.

8 Q. Now, let me jump ahead a little bit. Had  
9 you ever had an opportunity to come into contact with a  
10 Luis Hidalgo, III?

11 A. Yes.

12 Q. What is Luis Hidalgo, III, relationship to  
13 Mr. Hidalgo, Jr.?

14 A. He's his son.

15 Q. Do you see Mr. Hidalgo, III, here in court  
16 today?

17 A. Yes.

18 Q. Will you point him out and describe  
19 something he's wearing.

20 A. He's sitting in the second seat here. He  
21 also has on the blue top. He's has dark hair and a  
22 slight beard.

23 MR. DIGIACOMO: May the record reflect the  
24 identification of Defendant Luis Hidalgo, III, Judge?

25 THE COURT: The record will so reflect.

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1 MR. DIGIACOMO: Thank you.  
 2 BY MR. DIGIACOMO:  
 3 Q. Let me back up. So now Detective  
 4 Wildemann and Detective Kyger went down and had contact  
 5 with Mr. H or Mr. Hidalgo. Did you eventually learn  
 6 another name for him?  
 7 A. Luis --  
 8 Q. Luis Hidalgo?  
 9 A. -- Hidalgo, Jr., or they called him Mr. H.  
 10 Q. That's my question. So people referred to  
 11 him as Mr. H?  
 12 A. Yes.  
 13 Q. Did you learn a name that was used for  
 14 Luis Hidalgo, III, that people used?  
 15 A. Yes.  
 16 Q. What was that?  
 17 A. Little Lu.  
 18 Q. Little Lu?  
 19 A. Yes.  
 20 Q. So we're not confused during the course of  
 21 our testimony, if we can talk about Mr. H versus Little  
 22 Lu so that we can keep ourselves straight, okay?  
 23 A. That sounds great.  
 24 Q. So after detectives spoke to Mr. H, what  
 25 further in the investigation occurred?

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1 A. The detectives were told to come back  
 2 after 7:00 p.m. that evening and speak with a woman  
 3 known to us as Arial (phonetic) at the time.  
 4 Q. Did you eventually go and have an  
 5 interview with Arial?  
 6 A. Yes, I spoke with her and Detective  
 7 Wildemann spoke to her and we actually interviewed her.  
 8 Q. Where did this interview take place?  
 9 A. At the Palomino Club.  
 10 Q. And this interview took place at the  
 11 Palomino Club. And did you ask her certain questions  
 12 concerning the individuals that you had questions  
 13 about?  
 14 A. Yes.  
 15 Q. After the interview with -- well, did you  
 16 learn Arial's real name?  
 17 A. Yes.  
 18 Q. Do you know it off the top of your head?  
 19 A. Michelle -- I don't recall her last name.  
 20 She has a lengthy last name.  
 21 MR. DIGIACOMO: Court's indulgence, Judge.  
 22 BY MR. DIGIACOMO:  
 23 Q. Did you eventually have a transcription  
 24 made of the taped statement she provided you?  
 25 A. Yes.

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1 Q. Would that taped statement refresh your  
 2 recollection as to her last name?  
 3 MR. ORAM: Your Honor, we have no  
 4 objection to leading for purposes of the last name.  
 5 BY MR. DIGIACOMO:  
 6 Q. Was it Michelle Schwanderlik,  
 7 S-C-H-W-A-N-D-E-R-L-I-K.  
 8 A. Yes, it was.  
 9 Q. What was her position at the Palomino  
 10 Club?  
 11 A. She was a floor manager.  
 12 Q. Did you interview her concerning the  
 13 information concerning Deangelo and/or Anabel or  
 14 anything else?  
 15 A. Yes, I interviewed her. She provided  
 16 employee records of Mr. Carroll and some of the other  
 17 people.  
 18 Q. Okay. Did she also provide you  
 19 information as it relates to Timothy Hadland?  
 20 A. Yes.  
 21 Q. Did she provide you employment records  
 22 related to Mr. Hadland also?  
 23 A. Yes.  
 24 Q. Thereafter how did your investigation  
 25 progress?

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1 A. During the interview with her, Mr. Carroll  
 2 showed up at the club, so Detective Wildemann broke off  
 3 from the interview that I was conducting with Michelle  
 4 and he went with Mr. Carroll. So we split up at that  
 5 time because Mr. Carroll had just, you know, walked up  
 6 on us inside the club.  
 7 Q. Eventually, was Mr. Carroll asked to come  
 8 down to the homicide section?  
 9 A. Yes.  
 10 Q. Did he voluntarily do so?  
 11 A. Yes, he did.  
 12 Q. Did you eventually take a tape recorded  
 13 statement from him?  
 14 A. Yes.  
 15 Q. Approximately how long was that statement?  
 16 A. Four hours maybe.  
 17 Q. Okay. At the conclusion of the statement,  
 18 without telling us what Mr. Carroll said to you, what  
 19 did you decide to do in the course of your  
 20 investigation?  
 21 A. We decided to follow up on some of the  
 22 information that he provided us in his statement.  
 23 Q. How did you do that?  
 24 A. We got together as a group and formulated  
 25 a plan as to how we were going to continue our

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1 investigation into other suspects.

2 Q. What was the eventual decision as to how  
3 the plan was going to work?

4 A. We were interested in first getting a  
5 person identified who was only known to us as KC  
6 identified at the time, and then executing a search  
7 warrant at his residence. That was our first course  
8 that we wanted to do.

9 Q. Prior to executing that search warrant,  
10 did you have an opportunity to come into contact with  
11 either a Ronta Zone or a Jayson Taoipu?

12 A. Yes.

13 Q. How did that occur?

14 A. During the conversation with Mr. Carroll,  
15 Mr. Zone was mentioned, as well as this Jayson Taoipu.  
16 When we went to Mr. Carroll's residence, Mr. Zone was  
17 there at the time. So he came back to the office with  
18 us and was interviewed also on the 20th.

19 Q. Were you present when Deangelo went back  
20 to his house that night and when you found Mr. Zone at  
21 his house?

22 A. Yes, I drove him.

23 Q. Okay. And did you go to the door at  
24 Deangelo's, or did you allow him to go up to the door  
25 by himself?

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1 A. He walked up with Detective Long and  
2 Wildemann, and I stayed in the vehicle.

3 Q. Eventually, does Ronta then come out?

4 A. Yes.

5 Q. With who?

6 A. With Mr. Carroll.

7 Q. Okay. Where were Detectives Long and  
8 Wildemann at that point?

9 A. We came in two separate vehicles, so  
10 Mr. Carroll was with me and Mr. Zone went with  
11 Detective Long.

12 Q. Okay. Eventually, did you come back and  
13 have an interview with Mr. Zone?

14 A. Yes.

15 Q. And based upon that interview, did you  
16 decide that you needed to speak to a Jayson Taoipu?

17 A. Yes.

18 Q. Did that interview occur before you  
19 decided to identify -- well, not decided to identify,  
20 is it before you ever had contact with an individual  
21 that was identified to you as KC?

22 A. Yes, that happened before.

23 Q. Okay. How did that come about?

24 A. We had, we had identified the residence  
25 of -- who we only knew at that time of as KC. We had

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1 knew where the address was though. It was 1676 E  
2 Street, and that was provided by Mr. Carroll.

3 So the next Saturday I started drafting  
4 the search warrant for the residence, and during the  
5 day, as I was preparing the search warrant, Mr. Taoipu  
6 came into our office to be interviewed.

7 Q. Are you aware of how Mr. Taoipu wound up  
8 coming down to the office?

9 A. Mr. Carroll drove him down to our office.

10 Q. Now, you said the next Saturday, so we  
11 have Thursday is the 19th, you don't get to the  
12 homicide scene until May 20th, right, Friday?

13 A. Yes.

14 Q. So this would be the next Saturday you're  
15 talking about, Saturday, May 21st?

16 A. Yes.

17 Q. So you're drafting a search warrant for  
18 the 1676 E Street?

19 A. Yes.

20 Q. Okay. Now, you identified -- how was it  
21 that you were able to identify 1676 E Street as the  
22 residence of KC?

23 A. Mr. Carroll, as well as Mr. Zone,  
24 described the residence where they picked up KC at  
25 prior to driving out to the lake. It was also

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1 killy-corner to Mr. Carroll's mother's house.

2 Q. Okay. Eventually, a search warrant was  
3 drafted for an execution at 1676 E Street?

4 A. Yes.

5 Q. And how was that search warrant served?

6 A. By utilizing the SWAT team.

7 Q. I want to back up a little bit because I  
8 forgot a question or I forgot --

9 Did there come a point in time prior to  
10 the execution of the search warrant where you had an  
11 opportunity to go find and recover some tires?

12 A. Yes.

13 Q. Okay. When in this whole series of events  
14 did that occur?

15 A. During our interview with Mr. Carroll  
16 prior to us picking up Mr. Zone, Mr. Carroll told us  
17 about --

18 MR. ORAM: Objection, your Honor, hearsay.

19 MR. DIGIACOMO: Judge, it's not offered  
20 for the truth of the matter asserted. It's only  
21 offered to explain why this detective went to where he  
22 went to and did what he did.

23 MR. DRASKOVICH: Obviously, it's not  
24 offered for the truth, unless perhaps it's offered for  
25 the falsehood of what was stated. That doesn't make a

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1 lot of sense, Judge. We would object it's hearsay.  
 2 THE COURT: There is an exception when  
 3 it's for the state of mind or why somebody did  
 4 something, so I'll allow it.  
 5 MR. DIGIACOMO: Thank you.  
 6 THE COURT: But not for the truth of the  
 7 matter asserted.  
 8 MR. DIGIACOMO: Thank you.  
 9 BY MR. DIGIACOMO:  
 10 Q. Why is it that you responded to these  
 11 particular two locations to recover tires?  
 12 A. Mr. Carroll, in his interview, told me  
 13 where that the tires were changed on the van that they  
 14 drove out to the lake.  
 15 Q. And based upon the information he provided  
 16 you, did you, in fact, go out to those locations and  
 17 recover tires?  
 18 A. Yes. Mr. Carroll was with me at the time.  
 19 Q. When you recovered those tires?  
 20 A. Yes.  
 21 Q. So he directed you into these tires?  
 22 A. Yes.  
 23 Q. Did you, in fact, recover -- how many  
 24 tires did you recover?  
 25 A. Four tires.

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1 Q. What kind of tires were they?  
 2 A. They were whitewall tires. Detective  
 3 Vaccaro is more of a tire person than me.  
 4 Q. Were they straight black tires or were  
 5 they whitewall tires?  
 6 A. They're whitewalls on the tires.  
 7 Q. Okay. After collecting those, and I'm  
 8 going to direct you back forward now, we're in the  
 9 nighttime of May 21st and you have drafted the search  
 10 warrant, and there is going to be an execution of the  
 11 search warrant at 1676 E Street, how was that search  
 12 warrant executed? Who initially executes the warrant  
 13 for you?  
 14 A. The SWAT team.  
 15 Q. Okay. SWAT team is called, and then how  
 16 far behind the SWAT team are you in execution of the  
 17 search warrant?  
 18 A. The SWAT team meets and briefs, and we're  
 19 there during the briefing. They roll up to the  
 20 residence and start executing the search warrant.  
 21 We're waiting on the street for them to call us in.  
 22 MS. WILDEVELD: Objection, your Honor,  
 23 this is hearsay. It's all -- he didn't do any of these  
 24 things. It's the SWAT team who did these things.  
 25 MR. DIGIACOMO: He's following right

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1 behind them, Judge. He's not saying anything anyone  
 2 told him. He's saying what he's observed.  
 3 THE COURT: It's only observations.  
 4 BY MR. DIGIACOMO:  
 5 Q. Right? You were actually able to observe  
 6 the SWAT team approach, and then you approached the  
 7 residence; is that correct?  
 8 A. Yes, I was on the street behind the SWAT  
 9 team.  
 10 Q. Okay. During the execution of the search  
 11 warrant, was KC found at 1676 E Street?  
 12 A. No.  
 13 Q. Based upon -- during the course of the  
 14 searching or the execution of the search warrant, did  
 15 you receive additional information on the location of  
 16 KC?  
 17 A. Yes.  
 18 Q. Who actually from your unit received that  
 19 information?  
 20 A. Detective Wildemann.  
 21 Q. And how was it that he returned to see  
 22 that? Were you present when he received the  
 23 information?  
 24 A. Yes.  
 25 Q. Okay. And where was he located when he

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1 received it, if you recall?  
 2 A. Detective Wildemann and myself were in  
 3 Detective Wildemann's vehicle.  
 4 Q. Okay. And how did he receive information  
 5 as to the location of KC?  
 6 A. He received a telephone call from  
 7 Mr. Carroll.  
 8 Q. Based upon the conversations he had with  
 9 Mr. Carroll, an additional search warrant was created?  
 10 A. Yes.  
 11 Q. Where was that search warrant for?  
 12 A. 1677 E Street.  
 13 Q. Where in relationship to 1676 E Street is  
 14 1677 E Street?  
 15 A. Across the street.  
 16 Q. Now, prior to the execution of the search  
 17 warrant, was efforts made to contact KC inside 1677  
 18 prior to having to actually execute the search warrant?  
 19 A. Yes.  
 20 Q. Were those efforts successful?  
 21 A. No.  
 22 Q. Eventually, a duly authorized search  
 23 warrant was issued, and then who actually entered the  
 24 house to search for KC?  
 25 A. SWAT team.

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- 1 Q. Where were you positioned in relationship  
2 to the house while the SWAT team was inside?  
3 A. Across the street.  
4 Q. And do you have some sort of communication  
5 ability to listen to the information being provided by  
6 SWAT during the execution of the warrant?  
7 A. Yes.  
8 Q. How is it that you are listening in on the  
9 SWAT team's activities?  
10 A. We have radios with their channel on them.  
11 Also, during particular times, they would come across  
12 the street and ask us any further updates or, so there  
13 was communication verbally, as well as over the radio.  
14 Q. Did there come a point in -- well, let me  
15 ask you this. How long did the search by SWAT take  
16 place inside 1677 E Street, approximately?  
17 A. From the time that they were there calling  
18 people out of the residence until the time that they  
19 actually went in was several hours.  
20 Q. Okay. And then once they went in, how  
21 long were they actually in the house trying to get KC  
22 out of the house?  
23 A. It seemed like a long time. I mean --  
24 Q. During the course --  
25 MS. WILDEVELD: Your Honor, I'm going to

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- 1 object. We have no foundation as to who KC is or  
2 what -- where they are.  
3 MR. DIGIACOMO: All right. Let me get a  
4 little further. I'll jump forward and back up, Judge,  
5 to clarify.  
6 BY MR. DIGIACOMO:  
7 Q. Eventually, was somebody pulled out of  
8 that house?  
9 A. Yes.  
10 Q. And this person, what was his name?  
11 A. Kenneth Counts.  
12 Q. And do you see Mr. Counts here in court  
13 today?  
14 A. Yes, Mr. Counts is seated right here.  
15 Q. Describe something he's wearing.  
16 A. He's wearing the blue top and bottom.  
17 Also, he's the first person in the first row here.  
18 MR. DIGIACOMO: May the record reflect the  
19 identification of the Defendant Counts?  
20 THE COURT: The record will so reflect.  
21 MS. WILDEVELD: Your Honor, I would also  
22 like to make a record that he has identified Mr. Counts  
23 as being someone that Deangelo Carroll called him while  
24 he was executing a search warrant and told him where he  
25 was, so we have a Bruton issue, as well.

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- 1 MR. DIGIACOMO: Bruton issue?  
2 THE COURT: Say that again.  
3 MS. WILDEVELD: Deangelo Carroll notified  
4 the detective when they were executing the search  
5 warrant and told this detective where Kenneth Counts  
6 was. Deangelo Carroll is a co-defendant in this.  
7 MR. DIGIACOMO: I'm not offering anything  
8 Deangelo Carroll said for the truth of the matter  
9 asserted. I'm offering to explain why it is he got a  
10 search warrant for 1677 E Street.  
11 MS. WILDEVELD: Based on what Deangelo  
12 Carroll said, he got a search warrant for another  
13 residence.  
14 MR. DIGIACOMO: Okay. But it's not  
15 offered for the truth of the matter asserted, so it  
16 can't obviously be a Bruton problem.  
17 THE COURT: It's just why they were over  
18 at that house. Whether it was true, whether he was  
19 there or not, it just explains why they were over  
20 there.  
21 BY MR. DIGIACOMO:  
22 Q. Can you describe for the Court the types  
23 of sound that you were hearing, as well as the radio  
24 traffic that you're listening to during the time that  
25 they are, SWAT is actually inside 1677 E Street?

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- 1 A. Numerous loud bangs. Lots of yelling.  
2 Q. What kind of yelling?  
3 A. "Police, come out."  
4 Q. Eventually, over the radio, did you hear  
5 that there was an individual somewhere in that house  
6 that SWAT had contained?  
7 A. Yes.  
8 Q. Where was he contained?  
9 A. He was in the attic.  
10 Q. Okay. And were you able to hear both on  
11 the radio, as well as orally while outside that house,  
12 the type of efforts it took to get Mr. Counts out of  
13 that house?  
14 A. I didn't hear those efforts at that time.  
15 Q. Okay. What about the explosions you were  
16 hearing?  
17 A. I mean, there was a loud, a lot of  
18 explosions.  
19 Q. Okay. Eventually, are you aware how  
20 Mr. Counts was extracted from the attic at 1677 E  
21 Street?  
22 A. I know he was removed from the attic. I  
23 didn't get into the actual how he was removed.  
24 Q. Did you eventually go inside 1677 E Street  
25 to execute the rest of the search warrant that was

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1 issued?

2 A. Yes. I was involved in the search phase

3 of the residence.

4 Q. Showing you what's been marked as State's

5 Proposed Exhibit Number 18, do you recognize what's

6 depicted in that photograph?

7 A. Yes.

8 Q. What is that?

9 A. That's the attic area, which is in the

10 hallway, and there is also a ladder here in the

11 hallway.

12 Q. Okay. And there is an attic entrance, and

13 next to the attic entrance, what appears to be right

14 here in this photograph?

15 A. There is a, it looks like there's another

16 hole in the attic.

17 Q. And that hole, did it appear to be fresh

18 to you?

19 A. Right. There was a hole in this portion

20 of the attic, the hallway, which was, which is recently

21 made, and there was another one in another room in the

22 ceiling also.

23 Q. And based upon the information that you

24 are hearing on the radio, as well as the sounds you're

25 hearing from outside, are you aware how eventually

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1 those holes got put in the ceiling?

2 A. Yes, the SWAT officers put the holes in

3 the ceiling.

4 Q. Eventually, did you come into contact with

5 Mr. Counts?

6 A. I didn't speak with Mr. Counts.

7 Q. Did you --

8 A. I saw him.

9 Q. You saw him being brought out of the

10 house?

11 A. Yes. I saw him at the homicide office.

12 Q. Did you actually see him physically still

13 at the residence at 1677 E Street?

14 A. Yes, I saw him placed into Detective

15 Vaccaro's vehicle.

16 Q. Did he have anything on him other than

17 just clothing? I mean any debris or anything else that

18 you recall?

19 A. I didn't really look at him that good. I

20 just saw that he got, they put him in the car.

21 Q. Eventually, Mr. -- what is your

22 responsibility once Mr. Counts is taken from the scene

23 at 1677 E Street?

24 A. 1677.

25 Q. E Street?

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1 A. Basically, I was going to, I was in charge

2 with the search of the residence, controlling the other

3 detectives that were there to assist us with the search

4 of the residence.

5 Once the detectives found an item of

6 evidence or something that was located, photographs

7 were taken of it in place, and then they were

8 impounded.

9 MR. DIGIACOMO: May I approach, Judge?

10 THE COURT: Yes.

11 BY MR. DIGIACOMO:

12 Q. Showing you State's Proposed Exhibits 19

13 through 28, do you recognize what's depicted in those

14 photographs?

15 A. Yes.

16 Q. Do they all fairly and accurately depict

17 what's being depicted in the photographs?

18 A. Yes.

19 MR. DIGIACOMO: Move to admit 19 through

20 28.

21 MR. ORAM: No objection.

22 MR. DRASKOVICH: For the purpose of

23 prelim, no objection.

24 MS. WILDEVELD: No objection.

25 MR. DRASKOVICH: We have no objection for

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1 the purpose of the prelim.

2 THE COURT: Admitted.

3 (Thereupon, State's Exhibits 19 through

4 28 were admitted into evidence.)

5 BY MR. DIGIACOMO:

6 Q. Showing you State's Exhibit Number 19, can

7 you describe where in 1677 this particular picture was

8 taken?

9 A. This is the back of the residence, which

10 is basically a TV room, and you can't really see it,

11 but there is a big screen TV, which is in this room.

12 And this is a couch where you would watch television,

13 and there is a sliding glass door in the back of the

14 residence, which opens up to the backyard.

15 Q. Now, this couch, was it in this position?

16 Is that a non seating position I guess I should ask?

17 A. Yes, the couch is tipped over.

18 Q. Okay. Based upon your understanding of

19 what SWAT did -- strike that.

20 Did you eventually have that item of

21 evidence collected?

22 A. Yes. These items were collected.

23 Q. And showing you what's been admitted as

24 State's Exhibit Number 27, do you recognize what's

25 depicted in that photograph?

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- 1 A. Yes. This is a photograph which was taken  
2 back at the lab of -- I called it a leather, a black  
3 satchel, which you can see is on the little footstool  
4 here in this room.  
5 Q. And is there an identification in State's  
6 Exhibit Number 27?  
7 A. Yes. What we have here is -- I'm in this  
8 picture a holding open the satchel, and you can see  
9 Mr. Counts' Nevada identification, which was inside  
10 this black satchel.  
11 Q. Right on top of Mr. Counts' Nevada ID, was  
12 there any currency?  
13 A. Yes. There was several hundred dollar  
14 bills and some other money there.  
15 Q. Okay. Now, behind this couch, State's  
16 Exhibit Number 22, behind this couch, was there items  
17 of evidence that were located?  
18 A. Yes.  
19 Q. What was that?  
20 A. Behind the couch, on the floor, was some  
21 VIP cards to the Palomino Club. There was also some  
22 U.S. currency also on the floor there behind the couch.  
23 Q. Was there also a cigarette pack or  
24 cigarillo pack?  
25 A. Yes, there were peach cigars also on the

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- 1 floor.  
2 Q. Showing you -- can you tell me between  
3 State's Exhibit Number 19 and State's Exhibit Number  
4 22, the approximate relationship between where that  
5 satchel is and where those items of evidence are, the  
6 VIP cards to the Palomino, as well as the money and the  
7 cigarillos?  
8 A. Basically, what we have here is the couch  
9 is turned up on the side, and you have -- the dark  
10 portion here is the bottom of the couch. The couch  
11 would have been resting against the wall, the back of  
12 the room, and those items would have been underneath  
13 the couch.  
14 Q. Now, showing you State's Exhibit 26, are  
15 those close-ups of those items?  
16 A. Yes. Those are the VIP cards for the  
17 Palomino.  
18 Q. And there are approximately six of them?  
19 A. There's two, four, six, six of them, yes.  
20 Q. After the search of 1677 E Street,  
21 describe to the Court the course of the investigation.  
22 A. After executing the search warrants, our  
23 next course was to meet with Mr. Carroll and to take  
24 some of the other information that he provided to us  
25 and try to work that towards other possible suspects in

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- 1 the case.  
2 Q. Eventually, what did you decide as a  
3 group, as a squad to do with Mr. Carroll, or what did  
4 he agree to do?  
5 MR. ORAM: Objection as to what he agreed  
6 to do, your Honor. That's not in furtherance of a  
7 conspiracy. It's not a furtherance of anything. Under  
8 their own exception, that doesn't come in.  
9 If they are trying to bring out that he  
10 was wired, then I think they could say that they put a  
11 wire on him, but not what he agreed to do.  
12 MR. DRASKOVICH: Second that objection.  
13 MS. WILDEVELD: Again, your Honor, I  
14 object to it as well along with the other Bruton  
15 issues.  
16 MR. DIGIACOMO: I'm going to ask him if he  
17 agreed to wear a wire. It's essential that it was not  
18 a hearsay issue. Did he consent to wear the wire and,  
19 as such, was there any violation of anybody's rights.  
20 It's a one-party consent. If he consents, hence I have  
21 got my foundation.  
22 THE COURT: That's the foundation.  
23 MR. DIGIACOMO: Correct.  
24 THE COURT: You can ask that question.  
25

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- 1 BY MR. DIGIACOMO:  
2 Q. Did Mr. Carroll agree to do anything?  
3 A. Yes, he agreed to wear a body recorder.  
4 Q. This is a surreptitious recording, so that  
5 the other individuals in the course of the conversation  
6 don't know that it's being recorded?  
7 A. Yes, it's a body recorder, not a  
8 transmitter.  
9 Q. So the information is actually recorded  
10 directly on the body?  
11 A. Yes.  
12 Q. Approximately, or what day was it that you  
13 first used the body recorder with Mr. Carroll?  
14 A. That would have been Monday, the 23rd.  
15 Q. Okay. And what is it that you decided as  
16 the homicide squad to do with Mr. Carroll?  
17 A. Well, I mean, the body recorder was from  
18 the FBI, so we met with Special Agent Shields, who  
19 provided us with the body recorder. Then we put the  
20 body recorder on Mr. Carroll, and we surveilled him to  
21 Simone's Auto Plaza.  
22 MR. DRASKOVICH: Object here as to  
23 foundation too. We're hearing put the body wire on.  
24 We don't know where, when, how.  
25 MR. DIGIACOMO: First of all, that's not

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1 relevant to any particular issue. And I do not believe  
2 that the FBI, certain issues as it relates to do we  
3 want all the criminal defendants in the camera to know  
4 exactly how it is that a body recorder works for  
5 purposes of prelim. The mere fact that it recorded is  
6 all that's relevant.

7 MR. DRASKOVICH: No, it's not. And I  
8 think anytime anyone is subject to any kind of  
9 recording, they should know when, how and why.

10 THE COURT: It's a subject for  
11 cross-examination.

12 MR. DIGIACOMO: Thank you, Judge.

13 BY MR. DIGIACOMO:

14 Q. So your unit surveilled Mr. Carroll down to  
15 Simone's Auto Body?

16 A. Yes.

17 Q. Were there units specifically at Simone's  
18 Auto Body that could watch Mr. Carroll go in and out of  
19 Simone's Auto Body?

20 A. Yes.

21 Q. Did that, in fact, occur on May 23rd of  
22 2005?

23 A. Yes.

24 Q. After he came out of Simone's Auto Body,  
25 where did Mr. Carroll go?

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1 It also goes to his ability. Obviously, he's a lay  
2 witness. He can only testify to what he has personal  
3 knowledge of.

4 So Mr. DiGiacomo's question requires him  
5 to rely upon what someone else has told him, and it  
6 goes beyond his ability to perceive, testify and  
7 recount to this Court.

8 THE COURT: Well, there was not a request  
9 for any information. It was just whether his opinion  
10 it was consistent. He can give us that.

11 BY MR. DIGIACOMO:

12 Q. Was there information that was consistent  
13 with the information Mr. Carroll provided you about  
14 what happened in Simone's Auto Body?

15 A. Yes.

16 Q. Based upon that, did you decide to  
17 conduct -- well, after that first wire at first, I'm  
18 sorry, body recorder at Simone's Auto Body, what did  
19 you -- did you decide to do another body recording that  
20 day of Mr. Carroll?

21 A. Yes.

22 Q. And where was that for?

23 A. That was at the Palomino Club.

24 Q. And what was the purpose of you sending  
25 Mr. Carroll into the Palomino Club, or did you send

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1 A. He met myself and Special Agent Shields at  
2 a meet location.

3 Q. And did you eventually take -- did you  
4 actually do an interview of Mr. Carroll concerning the  
5 events that occurred inside Simone's Auto Body?

6 A. Yes.

7 Q. After having that interview, or at least  
8 understanding the nature of that interview, did you  
9 check the body recorder to see if there was information  
10 on there which was consistent with what Mr. Carroll --

11 MR. ORAM: Objection.

12 MR. DRASKOVICH: It calls for a  
13 conclusion. It's hearsay. It affirms or denies  
14 hearsay.

15 MR. ORAM: Your Honor, my concern is that  
16 if he wants to say did you talk to Mr. Carroll after he  
17 went in on wire, that's fine. Okay. Did you talk to  
18 him, yes.

19 But if he starts saying yes, he told us  
20 something, and we confirmed it, he can't say that.  
21 That's hearsay. There is no exception for this.  
22 And -- well, I'll get to that when they try to play the  
23 surreptitious tape.

24 MR. DRASKOVICH: Moreover, it goes to his  
25 perception, unless this officer can see through walls.

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1 Mr. Carroll into the Palomino Club?

2 A. Mr. Carroll was instructed to go to the  
3 Palomino Club to resign.

4 Q. And did you, in fact, put a body recorder  
5 on him to see if that actually occurred?

6 A. Yes.

7 Q. And did that occur?

8 A. Yes.

9 MR. ORAM: Objection, Judge. Objection as  
10 to what was said on the recorder. He cannot testify to  
11 what was said, and he overheard. He's now telling us  
12 or the prosecutor just elicited did he resign and --

13 MR. DIGIACOMO: If I can stop you for a  
14 second, Judge. I don't need to use the recording in  
15 fact because the recording only has Palomino music on  
16 it. There's other information, which has already been  
17 provided in the discovery, that the detective can  
18 testify to that Deangelo Carroll resigned.

19 MR. ORAM: If he's just saying that  
20 Deangelo Carroll --

21 THE COURT: Do you want different  
22 foundation?

23 MR. ORAM: Yes, I do. I want different  
24 foundation so that this man is not relying upon what he  
25 hears on a wire. If he is just relying on the fact

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1 that the man resigned, that's fine, but not on what he  
2 heard from the wire.  
3 MR. DIGIACOMO: For foundational purposes,  
4 I think I can clear this up.  
5 THE COURT: Okay.  
6 BY MR. DIGIACOMO:  
7 Q. The next day were you involved in the  
8 execution of a search warrant at the Palomino Club?  
9 A. Yes.  
10 Q. And during the course of that search  
11 warrant, did you personally see the resignation papers  
12 of Deangelo Carroll be impounded?  
13 A. Yes.  
14 Q. Thank you.  
15 Backing up now. After the 23rd, was  
16 Mr. Carroll surveilled going into the Palomino Club?  
17 A. Yes.  
18 Q. And was he surveilled coming out of the  
19 Palomino Club?  
20 A. Yes.  
21 Q. Was the body recorder recovered at that  
22 time?  
23 A. Yes.  
24 Q. Describe for the Court the course of the  
25 investigation thereafter?

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1 A. We wanted to send him back in to speak  
2 with other persons at that time the following day, so  
3 we met with him again the next day, which would have  
4 been the 24th.  
5 Q. Now, when you say you wanted him to speak  
6 to other persons, did you want him to speak to other  
7 persons than persons that he allegedly spoke to on the  
8 23rd or the same people that he spoke to on the 23rd?  
9 A. The same people and to see if he can get  
10 any other possible suspects.  
11 Q. Okay. And so, once again, a body recorder  
12 was placed upon him?  
13 A. Yes.  
14 Q. And was he surveilled going inside the  
15 Simone's Auto Body?  
16 A. Yes.  
17 Q. And was, after he left Simone's Auto Body,  
18 was the recording taken from him, the body recording  
19 taken from him and reviewed?  
20 A. Yes.  
21 Q. After that, were search warrants drafted  
22 for both Simone's Auto Body, as well as -- Auto Plaza,  
23 I'm sorry, and the Palomino Club?  
24 A. Yes.  
25 Q. And was there something that the

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1 detectives or your squad waited for before you actually  
2 executed those search warrants at Simone's Auto Body,  
3 Auto Plaza, as well as the Palomino Club?  
4 A. I mean, we were waiting for them, you  
5 know, to leave.  
6 Q. Who were you waiting to leave?  
7 A. Luis, III, and Anabel Espindola to leave  
8 the plaza so we could talk to them.  
9 Q. So who left first?  
10 A. Mr. Luis Hidalgo, III, left first.  
11 Q. Little Lu?  
12 A. Little Lu.  
13 Q. So surveillance was conducted at Simone's  
14 until Little Lu left Simone's Auto Plaza?  
15 A. Yes. And this was the entire day. The  
16 search warrants were prepared and signed, you know,  
17 everything happened that same day.  
18 Q. On the 24th?  
19 A. Yes.  
20 Q. Okay. So the wire was gotten, the search  
21 warrants were being drafted, the second wire, or the  
22 second body recording was collected, and then you  
23 waited for the suspects or certain individuals to leave  
24 Simone's Auto Plaza in order to have contact with them  
25 before the execution of the warrants?

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1 A. Exactly.  
2 Q. And you said that Little Lu left first?  
3 A. Yes.  
4 Q. Were you involved at all in coming into  
5 contact with Little Lu?  
6 A. Yes.  
7 Q. Describe how that occurred.  
8 A. He left and started -- he headed out  
9 towards Sunset. And Detective Wildemann contacted a  
10 patrol unit. Myself and Special Agent Shields were  
11 tasked with speaking with Little Lu once he was stopped  
12 by patrol.  
13 Q. What kind of vehicle was he driving?  
14 A. He was driving a black Hummer H2.  
15 Q. Okay. And that black Hummer left from  
16 Simone's Auto Plaza?  
17 A. Yes.  
18 Q. Where was Mr. -- Little Lu stopped?  
19 A. He was stopped in the area of Patrick and  
20 Pecos.  
21 Q. And this was by a patrol officer?  
22 A. Yes.  
23 Q. And then after the stop by the patrol  
24 officer, who approaches him to speak to him?  
25 A. The patrol officer contacted him at the

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- 1 door and asked him to step out of the car. Myself and  
2 Special Agent Shields walked up and spoke with Little  
3 Lu.  
4 Q. What did you say to Little Lu?  
5 A. We told him that we wanted to speak with  
6 him, and we asked him if he would come voluntarily to  
7 the homicide office.  
8 Q. Did he consent to do so?  
9 A. Yes.  
10 Q. Did you ask him about his leaving his  
11 vehicle, or was there some discussion about leaving his  
12 vehicle there on Patrick?  
13 A. We discussed with him parking it in the  
14 parking lot there and just securing it there at the  
15 scene, and then bringing him back afterwards. He asked  
16 us if we could drive it to our office so he would have  
17 it when he was done talking to us.  
18 Q. Did you, in fact, agree to have somebody  
19 drive that vehicle up there?  
20 A. Yes.  
21 Q. Who did?  
22 A. One of the FBI agents. I believe his name  
23 is Mike Brewer.  
24 Q. Okay.  
25 A. Drove it to the office.

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- 1 Q. And then you and Special Agent Brett  
2 Shields took Mr. -- Little Lu Hidalgo, III, to the  
3 homicide offices here in, the Las Vegas Metropolitan  
4 Police Department's homicide office?  
5 A. Yes.  
6 Q. When you got there, where did you put  
7 Mr. -- or where did you ask Mr. Hidalgo to go?  
8 A. He went into an interview room in our  
9 office.  
10 Q. Is this interview room surreptitiously  
11 recorded?  
12 A. Yes.  
13 Q. Did you eventually have a conversation  
14 with Little Lu?  
15 A. Yes.  
16 Q. How much time do you think that you spent  
17 with Little Lu?  
18 A. Hours.  
19 Q. During the course of the time that you  
20 spent with him, did you notice anything about his  
21 health?  
22 A. He had what I described as a chest cough.  
23 Q. Okay. And how -- because he had a chest  
24 cough, I mean, was it a constant thing, was it  
25 periodic, what was going on?

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- 1 A. It was a constant cough that he had during  
2 the interview. He was provided and went through an  
3 entire box of Kleenex during the interview.  
4 Q. At some point, did Mr. Hidalgo ask you to  
5 speak to his father?  
6 A. Yes.  
7 Q. What specifically did he say?  
8 MR. DRASKOVICH: I would have to object  
9 here. We're getting into issues of Miranda and things.  
10 If the Court would allow me to briefly  
11 take this detective on voir dire, I do have some --  
12 MR. DIGIACOMO: I have no objection to  
13 that, Judge.  
14 THE COURT: Go ahead.  
15 MR. DRASKOVICH: Thank you.  
16  
17 VOIR DIRE EXAMINATION  
18 BY MR. DRASKOVICH:  
19 Q. Detective, you stated that you stopped  
20 Little Lu while driving his car, correct?  
21 A. I didn't stop him. He was stopped.  
22 Q. Thank you. By a patrol car, correct?  
23 A. Yes.  
24 Q. And the stop was made by the patrol car  
25 turning on its sirens, correct?

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- 1 A. Lights or sirens? Lights and siren.  
2 Q. So both the lights and the siren were  
3 blaring, correct?  
4 A. Yes.  
5 Q. His vehicle stopped?  
6 A. Yes.  
7 Q. If the vehicle had left, you assumed that  
8 the police car, patrol car would have chased it,  
9 correct?  
10 A. Yes.  
11 Q. So his vehicle, once the lights and siren  
12 were on, obviously was not free to continue driving,  
13 correct?  
14 A. Yes, he was stopped.  
15 Q. He was stopped.  
16 A. Yes.  
17 Q. And that was at your request?  
18 A. Yes.  
19 Q. He was then taken out of his vehicle,  
20 correct?  
21 A. He exited his vehicle. He was not taken  
22 out.  
23 Q. He was asked to leave his vehicle,  
24 correct?  
25 A. He was asked to exit his vehicle. Is that

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- 1 what you are asking me?
- 2 Q. Yeah, he was commanded to leave his
- 3 vehicle, correct?
- 4 A. He was asked. There is a difference
- 5 between asked and commanded.
- 6 Q. And had he not, you would have taken him
- 7 out, correct?
- 8 A. I wouldn't have taken him out.
- 9 Q. Patrol officer would have taken him out,
- 10 correct?
- 11 A. They would have spoke with us, and I don't
- 12 believe that he would have been pulled out of the car.
- 13 Q. So he could have just remained in his car
- 14 and there would have been no problem, based upon your
- 15 understanding?
- 16 A. Basically, you're going -- you are
- 17 escalating the situation. If the situation gets
- 18 escalated, you know, further on down the line, then
- 19 maybe I would have walked up and spoke with him and
- 20 asked him to exit the car. Maybe. But it didn't get
- 21 that far.
- 22 Q. Okay. And you were in control of the
- 23 situation, weren't you?
- 24 A. In what regard? I mean, I was in control
- 25 of the patrol officers.

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- 1 Q. You were in control of the stop, correct?
- 2 A. The patrol officer was in control of the
- 3 stop.
- 4 Q. And the patrol officer stopped because you
- 5 requested him to make the stop, correct?
- 6 A. Yes.
- 7 Q. So you were in control of the situation?
- 8 A. Well, if something happened, I wouldn't be
- 9 in control. Is that what you are asking me?
- 10 Q. No, I'm going you if you ordered the stop,
- 11 and the stop occurred because of your order, and it
- 12 did, correct?
- 13 A. Yes. Then you're asking me if I was in
- 14 control of the stop, but I'm obviously not in control
- 15 of the stop.
- 16 Q. Moving on.
- 17 He was requested to get out of his
- 18 vehicle, correct?
- 19 A. He was requested to exit the vehicle.
- 20 Q. Because you wished to take him with you to
- 21 interview him, correct?
- 22 A. Because we wished to speak with him.
- 23 Q. Okay. Now, once he was taken out of the
- 24 black Hummer, he was handcuffed, correct?
- 25 A. He was eventually handcuffed before he was

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- 1 placed in the car, yes.
- 2 Q. So this is out on the street, handcuffs
- 3 were put on him, right?
- 4 A. Out on the street, handcuffs?
- 5 Q. Before he's put in your car, he was
- 6 handcuffed, wasn't he?
- 7 A. He was handcuffed prior to being put in
- 8 the car, yes.
- 9 Q. And this was out on Patrick where the stop
- 10 was made, correct?
- 11 A. Yes.
- 12 Q. His handcuffs were, his hands were cuffed
- 13 behind him, weren't they?
- 14 A. Yes.
- 15 Q. And then he was placed in the patrol car,
- 16 correct?
- 17 A. No.
- 18 Q. He stood outside for sometime then
- 19 handcuffed before being placed in the patrol car?
- 20 A. No.
- 21 Q. I see. But he was handcuffed, correct?
- 22 A. He was handcuffed.
- 23 Q. He was handcuffed on the drive from out on
- 24 the street on Patrick up until the time he was in the
- 25 Metro office, correct?

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- 1 A. The homicide office?
- 2 Q. Yes.
- 3 A. Yes.
- 4 Q. And those handcuffs remained on him once
- 5 inside the homicide office, correct?
- 6 A. I don't know if they -- I believe they
- 7 were removed in the homicide office.
- 8 Q. I see. He was actually -- you recall
- 9 generally there is a policy in reference to bringing in
- 10 handcuffs into the, bringing in handcuffed individuals
- 11 into the homicide office, correct?
- 12 A. A policy?
- 13 Q. Yes, office policy?
- 14 A. No.
- 15 Q. This isn't the first time that you've
- 16 handcuffed somebody on the street and brought them into
- 17 the homicide office, is it?
- 18 A. Yes.
- 19 Q. Generally, you would agree with me, when a
- 20 person is brought in in handcuffs, they are then cuffed
- 21 to a bar or something inside of an interview room,
- 22 correct?
- 23 A. Sometimes.
- 24 Q. And that's what happened in this case,
- 25 didn't it?

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1 A. I'm not sure if he was, if he was  
 2 unhandcuffed at some time or his one hand was  
 3 handcuffed to the pole and one was on his body.  
 4 Q. It's very possible that one hand was  
 5 handcuffed to the pole, correct?  
 6 A. Maybe. I mean, I'm not positive of that.  
 7 Q. So you can't remember?  
 8 A. Well, let's look at the video.  
 9 Q. So you have a video of this?  
 10 A. I believe there is a video.  
 11 Q. Have you provided this video to the  
 12 District Attorney's office?  
 13 A. Yes.  
 14 MR. DIGIACOMO: Yes, Judge.  
 15 MS. WILDEVELD: Your Honor, we haven't  
 16 seen the video.  
 17 MR. ORAM: Nor have we. I haven't seen  
 18 the video either.  
 19 MR. DIGIACOMO: May we approach for a  
 20 second?  
 21 (Thereupon, a brief discussion was held  
 22 at the bench.)  
 23 BY MR. DRASKOVICH:  
 24 Q. During all this course of time that you  
 25 were in contact with Mr. Hidalgo, Luie, Little Luie,

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1 using your term, he was not free to go, was he?  
 2 A. No, he was not free to go.  
 3 Q. So this was a custodial interrogation,  
 4 correct?  
 5 A. Yes.  
 6 Q. It was a custodial interrogation that  
 7 occurred without Miranda having been read, correct?  
 8 A. Miranda was read. He signed the card.  
 9 Miranda was read.  
 10 Q. And you provided this signed card to the  
 11 District Attorney's office?  
 12 A. The card, we have the card. Would you  
 13 like to see the card?  
 14 Q. Yes, I would.  
 15 A. Okay.  
 16 Q. Can you provide that? If we could see  
 17 that?  
 18 A. Yes, I think that it's important.  
 19 MR. DIGIACOMO: It's in the room back  
 20 there. I have to bring the books out for you.  
 21 THE WITNESS: That's all right.  
 22 MR. DRASKOVICH: And the record should  
 23 reflect we have a black binder that's just been  
 24 provided to the detective that's 4 inches thick.  
 25 THE WITNESS: For the record, I believe

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1 that's about five-inch, 5-inch black binder.  
 2 MR. DRASKOVICH: One of two.  
 3 THE WITNESS: Would you like me to find  
 4 the card?  
 5 MR. DRASKOVICH: Please.  
 6 THE WITNESS: Okay. Flipping through the  
 7 book here.  
 8 MS. WILDEVELD: Your Honor, for the  
 9 record, our discovery is about that thick. And I see  
 10 two notebooks there that are about 5 inches each.  
 11 MR. DIGIACOMO: No way, Judge. I  
 12 personally photocopied, right before taking my wife to  
 13 a hospital, discovery that thick.  
 14 MS. WILDEVELD: I've only got one book.  
 15 MR. DRASKOVICH: On behalf of Mr. Hidalgo,  
 16 I would be happy to stipulate that his folder is bigger  
 17 than mine.  
 18 MR. DIGIACOMO: If you noticed, I don't  
 19 know why hers is smaller, but that one seems a lot  
 20 bigger to me, Judge. I photocopied everything I had in  
 21 my possession. Now, the homicide officers always have  
 22 more than what I have in my possession, but I'm  
 23 required to give them copies of what I have in my  
 24 possession, and I gave it to them.  
 25 MR. DRASKOVICH: It was a Nevada Supreme

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1 Court, Jimenez v. State, 1996, states that obviously  
 2 anything that is in Metro's custody is in constructive  
 3 possession and control of the District Attorney.  
 4 MR. DIGIACOMO: For purposes of discovery  
 5 issues at trial, not preliminary hearing. In fact, the  
 6 statute is specific at preliminary hearing that I have  
 7 to give them photocopies of my documents prior to the  
 8 preliminary hearing and give them access to anything  
 9 else they want to have access to. But I do not have to  
 10 go to the detective and make him photocopy his whole  
 11 book because stuff is coming in at this short period of  
 12 time.  
 13 THE COURT: We have a two-week date to  
 14 have a prelim, and I understand.  
 15 THE WITNESS: Would you like to see the  
 16 card? The card is here.  
 17 MR. DRASKOVICH: Thank you.  
 18 THE WITNESS: You're welcome.  
 19 BY MR. DRASKOVICH:  
 20 Q. Did you read this card to Mr. Hidalgo?  
 21 A. Special Agent Shields read the card while  
 22 I was sitting in the room. It was read to him. He  
 23 signed it. Special Agent Shields put the exact time on  
 24 there and signed it. I signed it as a witness and put  
 25 the corresponding LVMPD event number on that card.

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1 Q. And this is approximately at 4:15 p.m.?  
 2 A. Yes.  
 3 Q. Was he informed that he was allowed to  
 4 have an attorney present at that time?  
 5 A. He was read that card right there.  
 6 Q. Okay. And I'm asking you was he  
 7 specifically asked if he was allowed to have an  
 8 attorney present with him at that time, at 4:15 p.m.?  
 9 A. He was read that card right there. He  
 10 checked it, I understand, and he signed it.  
 11 Q. Okay. And the question I'm asking you,  
 12 Detective, is, was he advised at that time he could  
 13 have an attorney present?  
 14 MR. DIGIACOMO: Asked and answered because  
 15 the card itself tells him he has a right to an attorney  
 16 being present.  
 17 MR. DRASKOVICH: But he's not answering my  
 18 question.  
 19 THE COURT: I don't think I understand  
 20 your question either, then.  
 21 BY MR. DRASKOVICH:  
 22 Q. Was he advised that he could have an  
 23 attorney there at 4:15 in a homicide office present?  
 24 A. He was read that card, said that he could  
 25 have a lawyer present, he signed the card.

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1 Q. So then your answer to my question then is  
 2 no, he was not told at that time, at 4:15 p.m., he  
 3 could have an attorney come and be present then?  
 4 A. That's what he was told right there on  
 5 that card. Right there.  
 6 MR. DIGIACOMO: If I can impose an  
 7 objection because it turns out, it appears to me he's  
 8 badgering the witness. Is there a disagreement as to  
 9 what the card says? Maybe Mr. Draskovich could read  
 10 the card into the record so we can all be clear as to  
 11 exactly what Mr. Hidalgo was or was not told.  
 12 MR. DRASKOVICH: It states that he has the  
 13 right to have an attorney present. And I'm asking if  
 14 he was informed that he was allowed to have an attorney  
 15 present at that time during questioning, during  
 16 interrogation. It's a fair question.  
 17 I keep asking the question. He keeps  
 18 saying read the card. Obviously, I'm not reading the  
 19 card, I'm asking if he was told that he could  
 20 specifically have an attorney present at that time  
 21 during questioning.  
 22 THE COURT: Okay. What does this mean,  
 23 Mr. Draskovich? The card speaks for itself. Let me  
 24 photocopy it. We'll put it into evidence. I guess  
 25 that your question is, did he tell him anything more

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1 than what is on the card?  
 2 MR. DRASKOVICH: That's correct.  
 3 BY MR. DRASKOVICH:  
 4 Q. And your answer is no, correct?  
 5 A. No.  
 6 Q. So he was not told anything other than  
 7 what was on that card, correct?  
 8 A. He was read the card.  
 9 MR. DRASKOVICH: I have no further  
 10 questions. I think that the record is clear.  
 11 MR. DIGIACOMO: Let me go back. I  
 12 apologize. I skipped the Miranda warnings. Everybody  
 13 gets upset.  
 14 THE COURT: That was a 20-minute detour.  
 15 MR. DIGIACOMO: I apologize, Judge.  
 16  
 17 DIRECT EXAMINATION (Resumed)  
 18 BY MR. DIGIACOMO:  
 19 Q. Let me back up a little bit. So he was  
 20 asked if he would accompany you voluntarily down to the  
 21 homicide office?  
 22 A. Yes.  
 23 MR. DRASKOVICH: Voluntarily handcuffed  
 24 just so he --  
 25

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1 BY MR. DIGIACOMO:  
 2 Q. Prior to being handcuffed, was he asked to  
 3 come down to the homicide office?  
 4 A. Yes.  
 5 Q. Prior to being handcuffed, did he agree to  
 6 come down to the homicide office?  
 7 A. Yes.  
 8 Q. Prior to being handcuffed, did he ask for  
 9 someone to drive his truck down to the homicide office?  
 10 MR. DRASKOVICH: Objection, leading.  
 11 THE COURT: Sustained.  
 12 BY MR. DIGIACOMO:  
 13 Q. Was he handcuffed when he was asked, when  
 14 he made the request to have his truck driven down?  
 15 A. No.  
 16 Q. Why is it that you put handcuffs on  
 17 somebody when you're going to put them into a police  
 18 vehicle?  
 19 A. Special Agent Shields policy was that they  
 20 couldn't transport him without being in handcuffs, so  
 21 he was placed in handcuffs.  
 22 Q. And the vehicle that he was transported in  
 23 wasn't a patrol vehicle, it was Special Agent Shields'  
 24 vehicle?  
 25 A. Yes.

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1 Q. And that's an unmarked U.S. government  
2 vehicle?  
3 A. Yes.  
4 Q. And he was driven down to the homicide  
5 office, and when you got to the homicide office, he was  
6 read his Miranda warnings as reflected on the card,  
7 which will be marked the next State's in order?  
8 A. Yes.  
9 Q. And then after being read those rights, he  
10 indicated he understood those rights and agreed to  
11 speak with you?  
12 MR. DRASKOVICH: Objection, leading.  
13 MR. DIGIACOMO: Just foundational, Judge.  
14 THE COURT: Well, ask the question.  
15 BY MR. DIGIACOMO:  
16 Q. After reading him the Miranda warnings,  
17 what did he do on the card?  
18 A. He signed the card, stating that he  
19 understood, and he spoke with us.  
20 Q. Thereafter he spoke with you?  
21 A. Yes.  
22 Q. You spent some time speaking with him?  
23 A. A long time.  
24 Q. Did he mention anything about his father  
25 clarifying the situation, something to that effect?

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1 A. Yes.  
2 Q. What did he say?  
3 A. He said, "Call my father, tell him to come  
4 down here, and he'll clear this whole thing up."  
5 Q. Okay. Did he eventually agree to provide  
6 any sort of statement?  
7 A. Yes.  
8 Q. Was this a written statement, an oral  
9 statement, tape recorded statement, what type of  
10 statement was he willing to provide?  
11 A. He asked if he could write his statement  
12 out on a notepad.  
13 Q. During the time that he's writing out his  
14 statement on the notepad, or maybe shortly before that,  
15 does he inform you about a problem he has with the  
16 Palomino Club and the keys?  
17 A. Yes.  
18 Q. What was that problem?  
19 A. He said that he was scheduled to open the  
20 business and that no one else had a key to open the  
21 business. And that the business couldn't be opened  
22 unless he was there.  
23 Q. Did he eventually provide you the keys?  
24 A. Yes.  
25 Q. And what was done with those keys?

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1 A. Those keys we used to enter the business  
2 prior to executing the search warrant.  
3 Q. At the Palomino Club?  
4 A. At the Palomino Club, yes.  
5 Q. Let me back up. After Little Lu was taken  
6 and put into an interview room, eventually do you ever  
7 come into contact or ever see Anabel Espindola?  
8 A. Yes.  
9 Q. How does that occur?  
10 A. Same scenario as before, however, I am  
11 interviewing Little Lu in the office, when Miss  
12 Espindola and Mr. H leave the business.  
13 Q. Okay. Are you in communication with other  
14 officers at the scene so you're aware of the situation  
15 as it progresses?  
16 A. I'm in the interview room, so when I come  
17 out of the interview room, contact is made with them.  
18 And then Miss Espindola is brought to the office.  
19 Q. When Miss Espindola is brought to the  
20 office, I guess I'll get ahead of myself, was she in  
21 custody? Did a custodial interrogation of Miss  
22 Espindola occur?  
23 A. Yes.  
24 Q. Was it subject to Miranda warnings?  
25 A. Yes.

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1 Q. And were you actually physically in the  
2 interview with Anabel Espindola?  
3 A. No, I was not.  
4 Q. Were you watching it in any manner?  
5 A. Yes, I was monitoring the interview.  
6 Q. How were you doing so?  
7 A. Cameras set up, and it's what do you  
8 call --  
9 Q. A live feed?  
10 A. A live feed on a television.  
11 Q. With sound?  
12 A. Yes, with sound.  
13 Q. Do you recall who read the Miranda  
14 warnings to Miss Espindola?  
15 A. Special Agent Shields.  
16 Q. Is there a card in there, once again, for  
17 Miss Espindola?  
18 A. Yes, there is.  
19 MR. DIGIACOMO: May I approach?  
20 THE COURT: Yes.  
21 MR. DIGIACOMO: Judge, if I could request  
22 to have a photocopy made of this one, too, so I don't  
23 have to put his original into evidence. And,  
24 eventually, we'll have that marked next in order.  
25

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1 BY MR. DIGIACOMO:  
 2 Q. Is this card similar to the card or the  
 3 same card, same type of card that was used with Little  
 4 Lu, Mr. Hidalgo, III?  
 5 A. Yes, the exact same card.  
 6 Q. And after being read the rights that were  
 7 on that card, did Miss Espindola sign the card?  
 8 A. Yes.  
 9 Q. Was it witnessed by an officer or a  
 10 detective?  
 11 A. It's signed by Special Agent Shields.  
 12 Q. And did Miss Espindola check off that she  
 13 understood her rights?  
 14 A. Yes.  
 15 Q. And, thereafter, did she speak to you, or  
 16 did she speak to Special Agent Shields and Detective  
 17 Wildemann?  
 18 A. Yes.  
 19 Q. Was Miss Espindola asked about her or any  
 20 sort of relationship she had with Mr. Carroll, Deangelo  
 21 Carroll?  
 22 A. Yes.  
 23 Q. And what was her response?  
 24 MR. ORAM: Your Honor, could I just  
 25 briefly voir dire this witness, just very briefly as to

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1 Miranda and whether she eventually invoked and was this  
 2 before or after she invoked?  
 3 THE COURT: Okay.  
 4 VOIR DIRE EXAMINATION  
 5 BY MR. ORAM:  
 6 Q. Did you ever hear Miss Espindola invoke  
 7 her right to counsel?  
 8 A. Yes, she did.  
 9 Q. Was the conversation the prosecutor's  
 10 referring to before or after that?  
 11 A. Before.  
 12 Q. It was before that?  
 13 A. Yes.  
 14 MR. ORAM: Nothing further.  
 15  
 16 DIRECT EXAMINATION (Resumed)  
 17 BY MR. DIGIACOMO:  
 18 Q. What did Miss Espindola say prior to  
 19 invoking counsel concerning any relationship that she  
 20 had had or knowledge she has of Mr. Carroll?  
 21 A. She was asked when the last time that she  
 22 saw Mr. Carroll and she told us that.  
 23 Q. Which was?  
 24 A. Which was earlier that day. And then the  
 25 day before.

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1 Q. Did she tell you where that she saw him?  
 2 A. She said at Simone's Auto Plaza.  
 3 Q. And she told you that day, so we're  
 4 talking May 24th?  
 5 A. Yes.  
 6 Q. She also told you that she had spoken to  
 7 him on May 23rd also at Simone's?  
 8 A. Yes.  
 9 Q. Did she -- well, describe the course of  
 10 the interview at that point.  
 11 A. Those questions came out and a brief  
 12 interview up to that point, and then she was provided  
 13 with some of the evidence that, the strong evidence  
 14 that we had.  
 15 MR. ORAM: Judge, I would object as to  
 16 strong evidence.  
 17 THE COURT: Sustained.  
 18 MR. DIGIACOMO: All right. Let me  
 19 rephrase.  
 20 BY MR. DIGIACOMO:  
 21 Q. What did Special Agent Shields do? What  
 22 did he say to her?  
 23 A. He leaned over and whispered to her some  
 24 of the things that were overheard on the body recorder.  
 25 Q. Let me back up. As it relates to her

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1 conversations at Simone's on the 24th and the 23rd, did  
 2 she specifically tell you where in Simone's she had  
 3 these conversations or did she just say Simone's?  
 4 A. I didn't review the statement. Just  
 5 before today, I didn't even read it today.  
 6 Q. Is there a transcribed statement in there  
 7 for Anabel or Little Lu?  
 8 A. I don't know.  
 9 Q. Will you check?  
 10 A. Yes.  
 11 Q. Because they are going to want it if there  
 12 is.  
 13 MS. WILDEVELD: Your Honor, I haven't  
 14 received either of those.  
 15 MR. ORAM: Nor have I.  
 16 MR. DIGIACOMO: Nor have I, Judge, and  
 17 that's the reason I'm asking. I don't believe there's  
 18 been one created, Judge.  
 19 THE WITNESS: There isn't.  
 20 BY MR. DIGIACOMO:  
 21 Q. Eventually, were you involved in the  
 22 search warrant at the Palomino?  
 23 MR. ORAM: Okay. Judge, if their only  
 24 question was whether Special Agent Shields whispered  
 25 into her ear, first of all, it's hearsay.

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1 And second of all, it had nothing to do  
2 with her. He can whisper whatever he wants to. He can  
3 whistle Dixie if he wants to, but it's not relevant in  
4 this courtroom.

5 I don't even know quite why that question  
6 was asked, or what the purpose of it was and what the  
7 relevance of it is. What is the relevance of what  
8 Special Agent Shields, that he whispered something to  
9 her and she doesn't react? I don't understand why they  
10 are bringing that up.

11 MR. DIGIACOMO: She did react, but based  
12 on her reaction, actually he's right. I should  
13 probably have that answer stricken as she invoked her  
14 right to a lawyer; is that correct?

15 THE WITNESS: That's correct.

16 MR. DIGIACOMO: So I don't want to offer  
17 that as evidence of guilt in any way.

18 THE COURT: All right.

19 BY MR. DIGIACOMO:

20 Q. Later were you involved in a search  
21 warrant executed at the Palomino Club?

22 A. Yes.

23 Q. While you were involved in that search  
24 warrant at the Palomino Club, let me grab a few of  
25 these pictures.

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1 Showing you what's been marked as State's  
2 Proposed Exhibit 29 through 38 --

3 MR. DRASKOVICH: If I could approach the  
4 witness as these are gone through?

5 THE COURT: Yes.

6 MR. DRASKOVICH: Thank you.

7 BY MR. DIGIACOMO:

8 Q. If you'd just flip through all those and  
9 tell me if they appear to be the Palomino Club on the  
10 night you did the search?

11 A. Yes. Yes, they're all photos from there.  
12 However, this is a photo I don't --

13 Q. Recognize? State's Exhibit Number 30 you  
14 don't recognize?

15 A. I don't recognize that photo.

16 Q. Okay. So let's do State's Exhibit 29, and  
17 then 31 through 38 I move to admit, Judge.

18 MR. ORAM: No objection.

19 MR. DRASKOVICH: No objection.

20 MS. WILDEVELD: No objection.

21 (Thereupon, State's Exhibits 29, 31, 32,  
22 33, 34, 35, 36, 37 and 38 were admitted  
23 into evidence.)

24 BY MR. DIGIACOMO:

25 Q. As a result of the search warrant at the

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1 Palomino, was there eventually found paperwork that  
2 both showed Mr. Carroll and Mr. Hadland had been  
3 employees at that particular place?

4 A. Yes.

5 Q. I believe you already answered that you  
6 collected paperwork establishing that Deangelo Carroll  
7 did resign on May 23rd, 2005?

8 A. Yes.

9 Q. Did you also go through a couple one of  
10 these other pictures.

11 During the course of your investigation,  
12 did you learn whose office this was in State's Exhibit  
13 Number 31?

14 A. Yes, this was Mr. H's office.

15 Q. How were you able to verify that  
16 information?

17 A. It was paperwork in his name. Also,  
18 photos of him.

19 Q. Inside that particular office?

20 A. Inside that office, yes.

21 Q. Off of Mr. H's office, State's Exhibit  
22 Number 34, what's depicted in there?

23 A. Off the office was a small kitchenette  
24 that went to a back closet.

25 Q. And then when you go through the small

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1 kitchenette and you wind up in the back closet, is  
2 there something in that back -- oh, here we go.  
3 State's Exhibit Number 35. Is that a picture of the  
4 kitchenette?

5 A. Yes.

6 Q. And then behind the kitchenette, when you  
7 say the back closet, did you find something of  
8 evidentiary value?

9 A. There was a large -- I described it as a  
10 large safe in the office.

11 Q. State's Exhibit Number 37, is that a  
12 picture of that safe?

13 A. Yes.

14 Q. And there is money sitting on top of that  
15 safe. Was that money there before?

16 A. Yes, it was.

17 Q. Was the safe locked or unlocked, at least  
18 the outer door, initially?

19 A. The outer door was unlocked. There was an  
20 inner door, which was locked.

21 Q. The outer door, when you opened it, were  
22 you able to find more money, State's Exhibit Number 38?

23 A. Yes.

24 Q. And then you said there was a second door  
25 inside that safe that had a smaller safe that was

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1 locked?

2 A. Right. At the bottom of the safe was a

3 smaller safe, which was locked, which had to be drilled

4 by Liberty Lock and Key.

5 Q. Was that eventually opened?

6 A. Yes.

7 Q. Was there money located in that particular

8 location?

9 A. Yes, there was.

10 Q. Do you know approximately, I'm not asking

11 for a specific dollar amount, how much cash was found

12 in that room slightly behind Mr. Hidalgo's office?

13 A. In the bottom safe, there was \$105,500 in

14 the bottom portion of the safe. I believe there was

15 more than 50,000 on the shelves, as well as on top.

16 Q. Were there other safes located throughout

17 the Palomino Club?

18 A. Yes, there was.

19 Q. And how many other safes, do you recall?

20 A. There was two in an office downstairs.

21 And two more -- one, two, three, I believe there were

22 four safes total, but some of the safes had safes

23 located within the safe, so --

24 Q. And there was money found throughout in

25 those safes?

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1 A. There was money found throughout the

2 business and recorded.

3 MR. DIGIACOMO: May I approach, Judge?

4 THE COURT: Yes.

5 BY MR. DIGIACOMO:

6 Q. Eventually, you provided copies to the

7 District Attorney's office of three body recordings

8 that occurred with Deangelo Carroll; is that correct?

9 A. Yes.

10 Q. Showing you what's been marked as State's

11 Proposed Exhibit 69 and 70 and 71, do you recognize

12 those?

13 A. Yes.

14 Q. And do those appear to be the three

15 recordings that you provided to my office concerning

16 the three surreptitious or, I'm sorry, three body wires

17 that were conducted with Deangelo Carroll?

18 A. Yes.

19 Q. And there is one on the 23rd -- there is

20 two on the 23rd and one on the 24th, correct?

21 A. That's correct.

22 Q. Did you become aware that efforts were

23 made to enhance the audio of the relevant portions of

24 the two Simone conversations? Were you aware that

25 someone tried to enhance them?

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1 A. Yes.

2 Q. Did you have an opportunity then to listen

3 to the enhanced recordings this morning so to compare

4 them to the original recordings to see if they were the

5 same ones?

6 A. Yes.

7 Q. And were they the same? As to the two

8 Simone recordings, were track one, the 5/23 Simone

9 recording, and track two, the 5/24 Simone recording?

10 A. Yes, those are the two tracks that are on

11 this enhanced.

12 Q. State's Proposed Exhibit 68?

13 A. Yes.

14 MR. ORAM: Your Honor, could I ask a

15 question of the Court, have we been provided the

16 enhanced ones because I've been listening for a couple

17 weeks now, and it's been very difficult. And I just

18 wanted to know is this the enhanced ones that we've

19 been provided are or they the originals?

20 MR. DIGIACOMO: No, I have the originals

21 marked, and I got the enhanced on Friday afternoon. I

22 have a copy. I have headphones for all counsel to

23 listen to the enhanced ones, but they have both the

24 originals, and now I'll get them copies of the

25 enhanced, but we didn't have time before Monday's

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1 prelim.

2 MS. WILDEVELD: And this will be my first

3 time hearing them because the copies that I was

4 provided were inaudible.

5 MR. DIGIACOMO: Well, you were able to,

6 right? And they were all copies of the same thing.

7 MR. DRASKOVICH: We received the

8 unenhanced versions of these three disks and one could

9 hear very little of them.

10 THE COURT: There was a transcript made

11 though?

12 MR. DIGIACOMO: They are in the process of

13 attempting to transcribe from the enhanced one the

14 conversation now, but that wasn't available for today

15 yet.

16 THE COURT: Do we have a transcript?

17 MR. DIGIACOMO: Those are of jail phone

18 calls.

19 MS. WILDEVELD: Which I appreciate, but I

20 would also like the transcription of these other things

21 that we're trying to hear and were unable to hear.

22 THE COURT: Often in these cases evidence

23 is developing as the case goes on, so I'll provide

24 everything as it becomes available to you.

25 MS. WILDEVELD: I would ask that they be

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1 transcribed, though.  
 2 MR. DIGIACOMO: I've already asked the  
 3 same company that did the enhancement to do the  
 4 transcript, and when it becomes available, I will  
 5 provide it.  
 6 BY MR. DIGIACOMO:  
 7 Q. Were you able to listen this morning to  
 8 that enhanced recording?  
 9 A. Both recordings, yes.  
 10 Q. Both recordings. It's all on one disk,  
 11 though, State's Proposed --  
 12 A. Yes, one disk, two tracks.  
 13 Q. Let's talk about track one. Did you  
 14 recognize Deangelo Carroll's voice on track one?  
 15 MR. ORAM: Judge, I'm going to object. If  
 16 he's just going to -- this may be the good time to make  
 17 the argument. I believe he's going to start now trying  
 18 to get into these CDs, if I'm not correct.  
 19 MR. DIGIACOMO: Well, until I move to  
 20 admit them, it's not really an issue. I need to lay a  
 21 little bit more foundation as to who is on the CD.  
 22 THE COURT: Wait for the foundation.  
 23 BY MR. DIGIACOMO:  
 24 Q. Were you able to recognize Deangelo  
 25 Carroll's voice on these particular CDs?

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1 A. Yes.  
 2 Q. In listening to both CDs and talking to  
 3 Anabel Espindola or listening in on her interview, were  
 4 you able to recognize Anabel's voice?  
 5 A. Yes.  
 6 Q. And then, finally, in listening to or  
 7 being in the interview with Luis Hidalgo, III, as well  
 8 as the coughing and the other items or other  
 9 indications from that particular, from the two  
 10 recordings, were you able to identify Luis Hidalgo,  
 11 III, voice?  
 12 A. Yes.  
 13 MS. WILDEVELD: Objection. Your Honor,  
 14 this gentleman isn't a voice expert, he's a detective.  
 15 MR. DRASKOVICH: I would join in that  
 16 objection.  
 17 THE COURT: I'm just accepting it as lay  
 18 opinion.  
 19 MR. DIGIACOMO: Which is proper under the  
 20 statute for the foundation.  
 21 Thank you, Judge.  
 22 Well then, Judge, I guess I'm going to  
 23 move to admit all three originals --  
 24 MR. DRASKOVICH: I would object as to lack  
 25 of foundation.

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1 MR. DIGIACOMO: -- as well as the --  
 2 THE COURT: Okay. Now, let's start here  
 3 and come over. We've been anticipating this.  
 4 MR. ORAM: Judge, this is a little bit  
 5 lengthy, and the reason being because this issue has  
 6 been, it's an identical issue that's been before the  
 7 Supreme Court. Mr. Pesci is getting up because he  
 8 knows that he tried the case against me. What took  
 9 place, your Honor, is there was a case --  
 10 THE COURT: It's the Ross case?  
 11 MR. ORAM: Yeah, I had it faxed because I  
 12 didn't realize this was going to be an issue. But the  
 13 Supreme Court decision in front of you really lays out  
 14 this issue. What happened is we were in trial --  
 15 MR. PESCI: Can I interrupt for one  
 16 second? Your Honor, may I inquire, do you have Renee  
 17 Ross' only or do you also have Avery Church's?  
 18 THE COURT: Just Ross.  
 19 MR. PESCI: You didn't send over Church's?  
 20 MR. ORAM: I don't have Church's. That's  
 21 the co-defendant.  
 22 MR. PESCI: Okay, Thank you.  
 23 MR. ORAM: I represented Renee Ross, your  
 24 Honor, and there was a trial with Mr. Pesci and  
 25 Mr. Owens. In the middle of trial, they decided they

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1 wanted to play surreptitious tapes.  
 2 I say they're surreptitious because they  
 3 were jail calls between Mr. Ross on some of the calls,  
 4 the co-defendant Avery Church, and two people the State  
 5 on appeal tried to say were unindicted co-conspirators.  
 6 We've been hearing a lot about unindicted  
 7 co-conspirator exception today. That's exactly what  
 8 the State argued to the Supreme Court. Oh, we get to  
 9 play these CDs because there is all these exceptions  
 10 under the co-conspirator rule, and all these people are  
 11 conspirators, you see, Judge Bonaventure, and so we get  
 12 to play these.  
 13 And I objected and said, Judge, where are  
 14 your witnesses? If you're going to play phone calls, I  
 15 am going to be able to cross-examine someone. And  
 16 Judge Bonaventure said no, I'm afraid we're going to  
 17 play CDs, and you're going to be stuck with it. And it  
 18 was horrendous, Judge.  
 19 Obviously, I had no one to cross-examine.  
 20 I could confront no one, and eventually my client was  
 21 convicted. I took it up on appeal, and it was a very  
 22 lively appeal I would say. Ugly appeal in some of the  
 23 things that were written by both sides.  
 24 Eventually, the Nevada Supreme Court, it  
 25 seems, thought it was pretty obvious, pretty obvious a

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1 violation of numerous rules. The Court, the Court  
2 actually goes through, one, that there should have been  
3 severance if the State wanted to do this.

4 Two, violated Bruton because I could not  
5 call Avery Church, so at the end, I'm going to be  
6 calling that man to the witness stand if they play  
7 these and say, get up on that witness stand and let me  
8 cross-examine you. And that's not going to happen  
9 because his attorney back here are going to invoke his  
10 right to counsel.

11 That's what they said about Avery Church,  
12 so I couldn't do anything with Avery Church. I  
13 couldn't ask Avery Church what were you talking about  
14 when you were referring to Renee Ross? What were these  
15 other unindicted co-conspirators talking about? Who  
16 are these people? What do they mean when they are  
17 having these conversations?

18 The Supreme Court agreed not on one level,  
19 not just on severance, not just on Bruton, but on  
20 confrontation. They said absolutely not, and they  
21 threw this case so far back to the district court,  
22 which is now pending for trial. But the co-defendant  
23 also came back, which I thought was relatively weak  
24 because it really sort of was hitting my client. And  
25 that's exactly what's going on here.

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1 This detective is going to try to tell us  
2 what that man back there, Deangelo Carroll, means, what  
3 he was saying, what they were talking about, and they  
4 are not going to put this guy on the witness stand to  
5 let me confront him, then what exactly, I said it  
6 today, and I don't mean to repeat it, Judge, but what  
7 am I doing here?

8 I don't get to confront the accusers  
9 against my client. The accuser is not that police  
10 officer. That police officer was not in there. He  
11 doesn't know what was being said, what the demeanor of  
12 people, what the motives for Mr. Carroll to lie or make  
13 things up are.

14 This is the whole reason why we have a  
15 confrontation clause, so we don't have a detective who  
16 comes in and says well, I don't know if Mr. Carroll was  
17 telling the truth. He seemed like he was telling the  
18 truth. Put your witness on the witness stand. If you  
19 don't have your witness, then you don't play the CDs.

20 The decision is very clear. Mr. Pesci  
21 knows this, and I think the argument they are going to  
22 make is it's unpublished, like somehow the Supreme  
23 Court, their words don't matter if it's unpublished.  
24 Even though these prosecutors are well aware of that  
25 decision in front of you, it doesn't really matter.

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1 And they are going to go ahead and do this again.

2 Because hey, we'll get the Judge to hear  
3 this, but that's not what the Supreme Court ruled, and  
4 in the end, if it is let in, I get to cross-examine no  
5 one, no one in this case.

6 I don't know what I'm going to say to this  
7 detective. I don't think he's going to say yeah, you  
8 know what, I really think Deangelo was in there lying  
9 about this, lying about that, telling the truth about  
10 this, telling the truth about that. He's not the  
11 witness. It's all hearsay.

12 And based upon the Ross ruling, I don't  
13 see, with a violation of the confrontation clause, with  
14 a violation of Bruton because that man is a  
15 co-defendant, and he's essentially saying that my  
16 client is involved. That's Bruton issues. These are  
17 all problems. And I think that case is right on point,  
18 I think it's clear, and I think these prosecutors  
19 should be held to it.

20 With that, I would ask that these not be  
21 admitted.

22 THE COURT: I guess -- what about the  
23 other people on it? People are here, right?

24 MR. ORAM: Well, the people that are heard  
25 allegedly on it, are briefly, I believe, Little Lu.

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1 MR. DRASKOVICH: We don't know. There is  
2 whispering, and the second part of the objection  
3 concerned that of foundation. They are trying to  
4 authenticate these by saying you spoke with them, you  
5 heard their voices, et cetera, et cetera.

6 I can represent to the Court that the very  
7 little that I could hear on these disks is whispering.  
8 And I don't believe that Detective McGrath whispered  
9 back and forth with Mr. Hidalgo during the course of  
10 his interview.

11 Were you whispering to each other? He's  
12 making a face. So, Judge, I mean, I would like to  
13 dovetail my arguments with Mr. Oram's in that obviously  
14 we have a confrontation clause, we have a right to  
15 cross-examination issue, which applied, because a  
16 preliminary hearing is a very important step in the  
17 criminal process. Defendant has a right to a plenary  
18 hearing during a preliminary hearing.

19 My objections concern issues of  
20 authentication, which go again to foundation in that we  
21 don't know. This detective was not present when these  
22 recordings were made. He was not in the room where  
23 they were allegedly made. We have no video. We don't  
24 know.

25 So in order to allow them to play these

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1 tapes that we can do nothing concerning  
 2 cross-examination that he's brought up, or in order to  
 3 properly authenticate them, would be inappropriate, and  
 4 this should not be allowed to occur.

5 MR. ORAM: Your Honor, one thing I would  
 6 also like to say. Did you hear how they said the  
 7 relevant portions? To me, that really worries me any  
 8 time I hear a prosecutor saying the relevant portions.

9 You know, your Honor, if I said to you,  
 10 "You killed the clerk," and you said, "I killed the  
 11 clerk?" Oh, well, look at that, the relevant portion,  
 12 he admitted he killed the clerk. And if you don't put  
 13 it into context, you don't show what was said  
 14 beforehand, you only take the little relevant portions  
 15 out.

16 You thought that was funny? You only take  
 17 the relevant portions out of it as they are saying,  
 18 then it really causes me concern, as well as the fact  
 19 that they know from the Supreme Court they cannot do  
 20 this.

21 MR. DRASKOVICH: Any time that the State  
 22 intends to present a document, obviously opposing  
 23 counsel has a right to introduce the rest of the  
 24 document in order to put it in the appropriate context,  
 25 and that's the argument that Mr. Oram is making.

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1 the response of those other people.

2 So to the extent that there is a hearsay  
 3 problem, it no longer exists as it relates to  
 4 Mr. Carroll.

5 As it relates to Anabel or Little Lu, the  
 6 fact of the matter is anything they say during the  
 7 course of those particular wires are co-conspirator  
 8 statements that are allowed in against both in course  
 9 and in furtherance --

10 If you can let me finish. I let you  
 11 finish.

12 MR. DRASKOVICH: I'm not interrupting you.  
 13 I'm raising my finger. I can raise my finger all I  
 14 want.

15 THE COURT: Why don't you sit down and  
 16 raise it.

17 MR. DIGIACOMO: Thank you, Judge.

18 Now, as to this context issue, I'm sorry,  
 19 I wasn't very clear. I have actually marked and asked  
 20 to be admitted the originals, and they are free to  
 21 listen to the originals. These recordings are such  
 22 that Brett Shields comes on and puts a little lead on  
 23 exactly what this is.

24 Then Deangelo gets into a car, drives for  
 25 some 20 minutes while he's being surveilled going into

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1 If we only have the quote/unquote,  
 2 "relevant portions" of this that have been enhanced,  
 3 obviously we cannot introduce the rest of it, so it's  
 4 inappropriate, once again.

5 MS. WILDEVELD: Your Honor, I have already  
 6 stated that I haven't had the opportunity to listen to  
 7 these disks because the disks that I were provided were  
 8 inaudible. And I would join in Mr. Oram's and  
 9 Mr. Draskovich's arguments.

10 MR. DIGIACOMO: Judge, if I can address  
 11 some issues, and I think that Mr. Pesci wants to  
 12 address the issue that relates to Ross and Church,  
 13 which is totally not relevant to this particular  
 14 situation.

15 But if I can start first with Mr. Carroll,  
 16 the statements that he makes on these tapes are not  
 17 being offered for the truth of the matter asserted,  
 18 which is the major distinction from that particular  
 19 case.

20 By the time Mr. Carroll gets sent into  
 21 that room, he is provided, and the detective will tell  
 22 you, certain information to say to get people to start  
 23 talking. And he is not, he is not being offered for  
 24 anything he said, it is not being offered to say hey,  
 25 that actually happened. It's only to give context to

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1 Simone's, and then the moment he gets out of the car,  
 2 which he's in by himself, to the moment he gets back in  
 3 the car, I had enhanced. And then he drives and the  
 4 FBI agent -- I didn't think they wanted the music  
 5 tastes of Deangelo Carroll enhanced and transcribed  
 6 because they weren't relevant to anything.

7 What I transcribed or what I have enhanced  
 8 is the moment he gets out of the car to the moment he  
 9 gets back into a car, and the two times he went into  
 10 Simone's. So to say that they want to put the whole  
 11 thing in, great, go transcribe it. We can sit here and  
 12 listen for an hour to rap music. But, otherwise, there  
 13 is nothing of substance that is in between there. You  
 14 will hear the entire conversation.

15 I know that Mr. Pesci wants to talk about  
 16 a Bruton issue, but there is also the foundation issue  
 17 too. This detective is, based upon his entire  
 18 investigation, being able to tell you that this is  
 19 Little Lu's voice, this is Anabel's voice.

20 One, Anabel says I'm in Simone's talking  
 21 to the guy. When you listen to the tape, you're going  
 22 to hear hey, Miss Anabel this, Miss Anabel that, and  
 23 she's responding back to him. The conversation occurs  
 24 in Little Lu's room, and you're going to be able to  
 25 establish that through a chain of circumstances.

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1 The next detective who hits the stand is  
2 going to testify as an offer of proof, in case you need  
3 more than just this officer's testimony, that they were  
4 surveilling the place, watched to make sure Little Lu  
5 and Anabel were in the place when Deangelo went in, and  
6 then he left.

7 And even on the 24th, when the warrant was  
8 executed, only two people had left or three people had  
9 left prior to the warrant, Mr. H, Sr., Little Lu and  
10 Anabel. And then the only other people that were  
11 inside that place were some workers back in the  
12 workroom, which is like the big garage area.

13 Mr. Hidalgo, Sr., who is present, I  
14 believe, in the courtroom today, was there, as well as  
15 a receptionist at the front, and that the only people  
16 that left were Little Lu, Anabel and Mr. H, Judge, so  
17 based upon the entire investigation, he is able to  
18 formulate an opinion, as well as in speaking to the  
19 people who are on the wire, that they are on there.  
20 There is no foundational problems.

21 Now, as to the Bruton slash Ross issue,  
22 I'm going to let Mr. Pesci respond to that.

23 MR. PESCI: Judge, if I could, could you  
24 tell me what the date is on that report, the decision  
25 that you have in front of you?

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1 THE COURT: December --

2 MR. PESCI: Maybe counsel will stipulate  
3 to the fact that it's post Crawford?

4 THE COURT: They talk about Crawford here

5 MR. PESCI: Right, so Crawford was, in  
6 fact, discussed in this case.

7 THE COURT: Yes. It's December the 23rd.

8 MR. PESCI: Thank you.

9 So it's after the Crawford decision that  
10 the Supreme Court analyzes what occurred in this case  
11 of Renee Ross and Avery Church. And I've got to go  
12 over a little bit of history because I think we have a  
13 little bit of revisionistic history from defense  
14 counsel.

15 What we had in that case, Judge, were two  
16 individuals charged with, among other things, robbery.  
17 The victim's name was Jack Battle. He was beat, he was  
18 punched, he was stabbed. He had a laptop computer and  
19 a gold medallion stolen from him.

20 After that was done, the co-defendants,  
21 specifically Avery Church's girlfriend, Annette Manso,  
22 was caught on phone calls. And for the record, those  
23 are not surreptitious phone calls. Those are phone  
24 calls at the jail where each and every single time a  
25 defendant is told that this is a tape recording, this .

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1 is subject to monitoring, so there is nothing  
2 surreptitious about it.

3 On those phone calls, the girlfriend of  
4 the defendant talks about pawning the very proceeds of  
5 the robbery. That's what we had going on in that case.  
6 Now, at the time we were going to get those in, there  
7 was arguments made by defense counsel.

8 The very witness who could have been  
9 cross-examined, Annette Manso, had been sitting in the  
10 gallery, much as we have witnesses in here today. When  
11 it was known that she was going to be subject to  
12 cross-examination, she got up and she ran out. And we  
13 didn't have her anymore and couldn't find her so that  
14 she would be subject to cross-examination. Much akin  
15 to Mr. Deangelo Carroll, who is sitting over there  
16 right now, who is not subject to cross-examination.

17 So there is this kind of twisting of the  
18 law, making it such that we can't cross-examine him,  
19 but this person was here. The State can't control him  
20 waiving up. But you set that aside, what the Supreme  
21 Court said in that particular case is that Annette  
22 Manso was not a co-conspirator. They said that the  
23 opportunity to go outside the hearsay to the exception  
24 was not available to us because she was not a  
25 co-conspirator.

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1 Now, let's see. She pawned the proceeds  
2 of the robbery. We have Mr. Carroll sitting there --

3 THE COURT: We don't need to reargue the  
4 case because the Court decided she wasn't a  
5 co-conspirator.

6 MR. PESCI: And I'm trying to make the  
7 connection. I'm trying to make the connection to this  
8 case that we have before you, your Honor. Mr. Carroll  
9 sitting there today is a co-conspirator. He sits there  
10 almost a hub within this conspiracy. We have Mr. H and  
11 the people at the Palomino. We have the dead body.

12 Who is in the middle? Who is the person  
13 that's the go-to guy, to get the shooter and to go out  
14 there and get the deed done? He's well beyond somebody  
15 who pawned the proceeds of a robbery. He is a  
16 co-conspirator. Therefore, the exception to the  
17 hearsay rule, even with Crawford out there, applies.

18 Specifically, in McDowell, even though it  
19 predates Crawford, it says, and I quote, "According to  
20 NRS 51.035, subsection 3, an out-of-court statement of  
21 a co-conspirator made during the course and in the  
22 furtherance of the conspiracy is admissible as non  
23 hearsay against another co-conspirator."

24 There sits a co-conspirator, Judge. We're  
25 not offering it for the truth of the matter asserted,

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1 but we have an exception, even in the face of Crawford,  
2 because Crawford is talking about a testimonial  
3 statement. We have an exception. It clearly can come  
4 into this case.

5 And therefore, the unpublished opinion,  
6 which, of course, I wasn't going to cite because it is  
7 unpublished, but since defense counsel brought it up,  
8 we can respond to it, does not apply to preclude us  
9 from getting in this very evidence.

10 As far as Bruton, the same case talks  
11 about how, if it is a statement by a co-conspirator,  
12 Bruton does not apply. It is not a concern. That's  
13 the risk you run as a co-conspirator involved in these  
14 types of activities and, therefore, this is all  
15 admissible.

16 MR. ORAM: Your Honor --

17 THE COURT: Before you -- here is my  
18 concern, so when you respond you'll know. I don't  
19 think Bruton applies because I'm not a jury. I am  
20 capable of sorting out what, who is saying what and  
21 applying it to just that person. So I am not as  
22 concerned as the Supreme Court would be if there is a  
23 jury.

24 But, and we've got the statement -- I'm  
25 not inclined to anything that Mr. Carroll would say on

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1 this to have any bearing on what this proceeding is all  
2 about.

3 The issue is, if I've got statements by a  
4 defendant here, Mr. Hidalgo or Miss Espindola, and they  
5 are on the tape, that's their own statements. I don't  
6 see how that's a concern, other than how they would  
7 interact with each other.

8 In other words, statements made on the  
9 tape by Mr. Hidalgo, you know, there is concern that,  
10 that's where I see -- I'm coming into a Crawford issue.  
11 Would I have, you know, would I need to disregard any  
12 statements that may incriminate Mr. Hidalgo made by  
13 Miss Espindola and vice versa, because they are not  
14 available for cross-examination?

15 MR. ORAM: Your Honor, the thing that  
16 causes me concern is that in order to understand, or  
17 they are going to try to say Miss Espindola is saying  
18 this or that. The only way it could be in context is  
19 based upon what Mr. Deangelo Carroll is saying. And  
20 therein lies the problem.

21 What are his motives to get her to say  
22 things? Has he asked her to say things? Are they  
23 talking in some kind of code beforehand? There may be  
24 other things in the business they are talking about.

25 In other words, a person can get someone

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1 to say something that may sound suspicious when they  
2 are not talking about those type of things at all. If  
3 that makes sense. You know, you can actually have  
4 conversations where, like where did you put that? And  
5 what were they talking about?

6 It almost sounds like that is a very  
7 suspicious thing, and it's only in context by that  
8 gentleman over there. It just causes me so much  
9 concern that Renee Ross is pretty much right on point.

10 If I could also just respond to that  
11 ruling, the State has cleverly gotten around this  
12 twice. I think if they stand up long enough and say  
13 co-conspirator exception, that that kind of works, but  
14 it doesn't work, and the Supreme Court told them it  
15 doesn't work, and they've got to put Deangelo Carroll  
16 on the witness stand to get this information in. They  
17 have to.

18 I don't see how under that ruling they can  
19 not put him on the stand, unless they are going to --  
20 they just want to play the CD of nothing he says, just  
21 my client's words, my client's words and that's all  
22 they want to do. Well then, I think that may be a  
23 different scenario.

24 But they are saying we're not using it for  
25 the truth of the matter asserted. Good. Then don't

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1 play it. Don't play anything to do with him. If the  
2 Court wants to make that ruling that we'll hear from  
3 Anabel, what she says, but in no context to what  
4 Deangelo Carroll is saying, then that's fine too.

5 MR. DRASKOVICH: He made the argument  
6 was going to make.

7 THE COURT: Okay. What I'm saying is, I  
8 can do that filtering so we can get it done today.

9 MR. DIGIACOMO: If I can just respond,  
10 Deangelo Carroll, if they are just for context, they  
11 are not hearsay statements. I'm not asking you to say  
12 hey, Deangelo says, you'll hear on the wire, Deangelo  
13 says something like hey, I'm worried about Ronta and JJ  
14 flipping on us and then telling the story.

15 Well, he knows Ronta and JJ has already  
16 flipped on us. That's not offered for the truth of the  
17 matter asserted. It's only context to say well, when  
18 Anabel and Luis talk about putting strychnine in gin  
19 and asking him to give it to JJ and Ronta, it explains  
20 the situation. It's not offered for the truth of the  
21 matter asserted, so there is not a hearsay problem  
22 here, hence not a confrontation clause problem.

23 Now, the Court was right saying you could  
24 separate what Little Lu says versus what Anabel says  
25 and just use Little Lu against Little Lu and Anabel

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1 against Anabel, but wait, those are statements made by  
2 co-conspirators. Clearly, they have no idea that the  
3 conspiracy is over.

4 In fact, you will hear the formation of a  
5 second conspiracy, which is charged in Count I, which  
6 is the solicitation to commit murder on both JJ and  
7 Ronta. And those statements are made by  
8 co-conspirators in the room together having a  
9 conversation which is surreptitiously recorded, Judge.

10 How are those statements by one not  
11 admissible against another? How could they possibly be  
12 testimonial if they are made trying to kill somebody?  
13 Those people don't ever want anything in a courtroom.  
14 They can't possibly be testimonial.

15 The only issue for the defense here is  
16 Deangelo Carroll's statement, but I'm asking the Court  
17 not to take anything he says for the truth of the  
18 matter asserted. I'm only asking the Court to  
19 understand the context of the conversation based upon  
20 not what he said so much, but the reaction it had on  
21 the hearers. It goes to their state of mind as the two  
22 defendants and explains why it is their next statement  
23 is relevant to this Court's statements.

24 THE COURT: Well, as I see it from  
25 Mr. Carroll and I'll let defense counsel share their

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1 thoughts on this, too, but his statements would be the  
2 same as if I'm listening to an interrogation by a  
3 police officer. They oftentimes will bend the truth or  
4 misrepresent. I don't consider anything that the  
5 officer says as being true, and that would be my  
6 position as to Mr. Carroll.

7 MR. PESCI: Correct.

8 MR. DRASKOVICH: Briefly, just two points.  
9 Mr. DiGiacomo says that these are not testimonial.  
10 Well, if a man wears a wire at police direction, that  
11 person becomes an agent for the State. Therefore,  
12 anything that is said to that person or response to  
13 that person falls under State, therefore, under  
14 Crawford that is testimonial. So in that sense,  
15 Mr. DiGiacomo's argument fails.

16 As to the second argument, what concerns  
17 me is that of authentication. They are attempting to  
18 bring in these CDs through Detective McGrath, who was  
19 not there. He was not listening to these conversations  
20 at the same time. It's my understanding he listened to  
21 recordings afterwards.

22 So, once again, we have a foundation  
23 problem and an authentication problem. Mr. DiGiacomo  
24 can say all he wants that this was Anabel speaking,  
25 this is Luis Hidalgo speaking. They are in there. No

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1 one left, et cetera, et cetera. He wasn't there. He  
2 wasn't inside the building, nor was Detective McGrath.

3 THE COURT: The authentication, I think,  
4 is a question of fact. I think they have met the  
5 preliminary foundation for me to hear it. And then  
6 whether, after I hear it, I determine that it's clearer  
7 or unclear, we'll make a determination.

8 So, you know, I'm inclined to hear them so  
9 that I can determine the authentication and take  
10 statements if they are, if I determine that they are  
11 made by Miss Espindola against Miss Espindola and  
12 statements made by Mr. Hidalgo against Mr. Hidalgo.

13 My concern, I still have this Crawford  
14 concern as it goes to using the statements between the  
15 two of them or one against the other. I have read  
16 this, and even though it's an unpublished opinion, my  
17 reading of Crawford and in reading the numerous  
18 interpretations of Crawford that have come out since  
19 then, I think the Supreme Court has a different  
20 understanding or opinion of what testimonial is from  
21 what I would determine is testimonial.

22 They were saying that these statements  
23 made by Annette, whoever the other lady was in this  
24 case, were testimonial. I wouldn't say they are  
25 testimonial. So, obviously, the Supreme Court has a

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1 different feeling as to what is testimonial, so I'm  
2 going to have to, I'm going to rely on their definition  
3 here as I'm hearing these to determine if this is  
4 testimonial.

5 So we can set up this, but I think it's  
6 time we take our afternoon break.

7 MR. DIGIACOMO: Judge, for whatever  
8 reason, after hearing it, you feel that there should be  
9 more foundation, we have actually two more witnesses  
10 who can lay additional foundation to the speakers.

11 (A brief recess was taken.)

12 THE COURT: Okay. You may proceed.

13 MR. DIGIACOMO: Judge, I have had placed  
14 in the computer here State's Exhibit Number 68. There  
15 is two recordings, two tracks recording. I don't know  
16 that you can clearly identify when it goes to track one  
17 or track two like a normal CD. It just goes from one  
18 to two. I don't know if we're going to need to stop.

19 We'll just stop it after track one, and we  
20 can make a record that now we're starting track two.  
21 Track one is the 5/23 body recording of Deangelo  
22 Carroll at Simone's, and track two is the 5/24 body  
23 recording of Deangelo Carroll at Simone's.

24 I am not going to play the originals for  
25 the Court. If the Court wants to hear the originals at

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1 some later point in time, you're free to listen to  
2 them, but the enhancements are a lot clearer to listen  
3 to.

4 MR. ORAM: I'd also like the record to  
5 reflect what the DA has told me at the break, and that  
6 is, apparently, there is 20 minutes approximately of  
7 conversation where the wire is supposed to be working  
8 but isn't, or is put in another place, and so we don't  
9 hear what is said. And I just want that to be on the  
10 record that we're not going to hear about that.

11 MR. DIGIACOMO: Yes, Judge, and, in fact,  
12 on track two, and, you know, for purposes of, for  
13 evidentiary, foundational and admittance, Judge, you  
14 don't have to, you actually suspend the rules of  
15 evidence, so what I tell you can be taken into account  
16 if you want to.

17 But during an interview subsequent with  
18 Mr. Carroll, he tells us that during that second time  
19 period Mr. Hidalgo, III, took the device that was  
20 actually using it, locked it in a bathroom, later after  
21 the conversation was done, he then collects the device,  
22 which you will hear on the tape, and let him walk out  
23 and get back into the vehicle, so I was going to stop  
24 the recording. Once it starts going blank we don't  
25 have to sit here and listen to 20 minutes of dead air.

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1 But I'm only offering those portions,  
2 which are caught on the body wire. To the extent that  
3 there is no conversation on the body wire, it's not  
4 being offered.

5 MR. DRASKOVICH: And it's obviously during  
6 this time that we don't have when the two people that  
7 are supposedly Anabel and Luis are asking this Deangelo  
8 what the hell are you talking about? So we would just  
9 like to make that part of the record.

10 MR. ORAM: Well, actually, Judge, we'll  
11 actually hear that from Anabel. She actually does say  
12 I told you to talk to the man, not hurt him. You will  
13 hear that portion.

14 MR. PESCI: Is that in context?

15 MR. ORAM: Is that in context? I hope the  
16 State has kept it in context.

17 THE WITNESS: If that's audible.

18 MR. ORAM: It's audible.

19 MALE SPEAKER: Here is how you turn it on  
20 and off.

21 (Exhibit being played.)

22 BY MR. DIGIACOMO:

23 Q. Detective, that was the first phone call  
24 at 5:23 at Simone's Auto Plaza --

25 A. Yes.

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1 Q. -- first body recording?

2 A. Yes.

3 Q. Were you the agent and, you along with  
4 Detective -- along with Agent Brett Shields the  
5 individual who next contacted Deangelo after he leaves  
6 Simone's Auto Plaza?

7 A. Yes.

8 Q. When you did that, did you collect any  
9 items of evidence off of him?

10 A. Yes.

11 Q. What did you collect?

12 A. A Tangueray bottle of, I think it was a  
13 1.5 liter. I'm not positive.

14 Q. Was it a traditional Tangueray or was it a  
15 high line Tangueray, what kind of --

16 A. It was a high line Tangueray.

17 Q. Tangueray, okay.

18 What else did you collect off him?

19 A. And a quantity of money.

20 Q. Do you know approximately how much money  
21 that was?

22 A. \$1400.

23 Q. Were they in hundred dollars bills, or  
24 were they in 20s, how were they denominated?

25 A. Hundred dollar bills.

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1 Q. Were those items collected and preserved  
2 for later processing?

3 A. Yes, they were.

4 Q. Thereafter, did you do an interview of  
5 Deangelo Carroll to determine what happened, or to  
6 determine what happened during the wire or during the  
7 recording?

8 A. Yes.

9 Q. And then you testified earlier that you  
10 made a determination to send Deangelo back to Simone's  
11 Auto Plaza; is that correct?

12 A. Yes.

13 Q. And that was on May 24th?

14 A. Yes.

15 Q. And, once again, he was surveilled going  
16 in and out of the building?

17 A. Yes.

18 MR. DIGIACOMO: Judge, if we can play  
19 track two.

20 MS. WILDEVELD: Your Honor, before we have  
21 them play that other one, if it's just like this, I  
22 find very little evidentiary value in this. It's so  
23 hard to hear. You can't hear anything. You can only  
24 hear words here and there and bits of pieces. I find  
25 it very useless.

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1 MR. DRASKOVICH: I hear a lot of  
2 scratching too. There is something --  
3 MS. WILDEVELD: I mean, I can't hear a  
4 full conversation. I can't hear a full sentence out of  
5 one person's mouth.  
6 MR. DIGIACOMO: Is the defense actually  
7 stating to the Court that it doesn't appear there is  
8 any relevant information on these particular wires?  
9 MS. WILDEVELD: Yes.  
10 MR. ORAM: Maybe the second one. I think  
11 there may be something that we're about to hear.  
12 MR. DIGIACOMO: That they didn't hear a  
13 female on the wire who repeatedly got called Miss  
14 Anabel say something about killing him, and we can wait  
15 for KC. They didn't hear something on the wire.  
16 MR. ORAM: That somebody being killed, and  
17 that somebody being killed, and apparently that man  
18 back there was responsible.  
19 MR. DIGIACOMO: JJ and Ronta, the female  
20 said that we wanted him beat. Why didn't you turn  
21 around? There was too many witnesses in the car to  
22 kill him.  
23 MS. WILDEVELD: Your Honor, I didn't hear  
24 any of that. I didn't hear any of that. There's very  
25 little evidentiary value in this.

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1 MR. ORAM: Why don't we just hear the next  
2 thing, and then we argue.  
3 THE COURT: How long is this one?  
4 MR. DIGIACOMO: Approximately the same  
5 length. Oh, it's a little bit shorter because we're  
6 going to cut the last 20 minutes off. So it's really  
7 the first 15 minutes or so; is that correct?  
8 THE WITNESS: You enhanced it, so you know  
9 how long it is, correct?  
10 MR. DIGIACOMO: Correct. There is a  
11 20-minute blank, though, and we know the entire length  
12 of the --  
13 MALE SPEAKER: Thirty-four minutes and 36  
14 seconds.  
15 MR. DIGIACOMO: But there's approximately  
16 20 minutes which is blank, and then just him walking to  
17 the car. I was only going to publish up to the time it  
18 goes blank.  
19 (Exhibit being played.)  
20 MR. ORAM: Judge, can we stop this for a  
21 second? Can we stop it? Can you stop that?  
22 MALE SPEAKER: Yes, I can.  
23 MR. ORAM: I find it hard to believe,  
24 Judge, that their original, I could hear my client  
25 saying perfectly on that original, and I think the

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1 police officer said it was audible. Now, it's not  
2 audible what she's saying.  
3 MR. DIGIACOMO: I just heard it. I just  
4 heard her say talk to the guy, not kill him. You  
5 should have gone out. We told you to beat him.  
6 MS. WILDEVELD: I didn't hear that.  
7 MR. ORAM: I didn't hear that either. It  
8 was very clear on the last one.  
9 THE WITNESS: You know, as you move it  
10 closer and further away from microphones, it has some  
11 interruption here. So as I move around here, I can  
12 hear it clearer in spaces and not around here.  
13 MR. ORAM: Did you hear that clearly? Did  
14 you hear her say --  
15 THE WITNESS: I leaned forward and heard  
16 that.  
17 MR. ORAM: Clearly?  
18 THE WITNESS: Yes.  
19 (Overlapping speakers.)  
20 MS. WILDEVELD: I didn't hear any of that,  
21 and I think I'm hearing --  
22 MR. ORAM: Can we just replay that? I  
23 just want to --  
24 MR. DIGIACOMO: Is the Court hearing stuff  
25 being said?

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1 MR. DRASKOVICH: I couldn't hear it.  
2 MR. FIGLER: No, I couldn't say. It was  
3 going in and out.  
4 MR. ORAM: In the original, you can hear  
5 it clearly. And just like when I said it to the Court  
6 before, the detective said yeah, that's right, it's  
7 audible. And he's saying he can hear it now, but I  
8 could barely hear that.  
9 MR. DIGIACOMO: You're free to play during  
10 your cross-examination the originals if you want to,  
11 but --  
12 THE COURT: Let's back up.  
13 THE WITNESS: If you move, like I move  
14 right here, I don't get any static. If I move over  
15 here --  
16 MR. ORAM: So there's no rhyme or reason,  
17 just some play.  
18 THE WITNESS: Just move until you can hear  
19 it.  
20 MS. WILDEVELD: Can you restart the whole  
21 thing?  
22 (Exhibit being played.)  
23 MR. DIGIACOMO: We are at the 20 minutes  
24 of silence and then the wire gets -- the recording  
25 device gets picked back up, and I disagree, you'll hear

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1 Deangelo leaving the establishment.  
 2 MALE SPEAKER: I will just turn these off.  
 3 BY MR. DIGIACOMO:  
 4 Q. Detective, after this interaction between,  
 5 well, inside Simone's Auto Plaza, once again, was  
 6 Mr. Carroll contacted?  
 7 A. Yes.  
 8 Q. And did you recover any items of  
 9 evidentiary value off of him then?  
 10 A. Yes.  
 11 Q. What was that?  
 12 A. A quantity of money.  
 13 Q. Do you know approximately how much?  
 14 A. I believe \$800. Seven or \$800. I don't  
 15 know exactly. I didn't count it at the time.  
 16 Q. And, once again, what denomination was  
 17 this money?  
 18 A. Hundreds.  
 19 Q. And those were collected to preserve them  
 20 for later forensic testing; is that correct?  
 21 A. Yes.  
 22 MR. DIGIACOMO: Court's indulgence.  
 23 I pass the witness, Judge.  
 24  
 25

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1 CROSS-EXAMINATION  
 2 BY MR. ORAM:  
 3 Q. Good afternoon, Detective.  
 4 A. Good afternoon.  
 5 Q. Detective, was Mr. Carroll searched prior  
 6 to entering the business on both occasions?  
 7 A. Yes.  
 8 Q. Who searched him?  
 9 A. Myself and Detective Shields.  
 10 Q. What was he searched for?  
 11 A. To make believe he didn't have any  
 12 contraband or any items on him.  
 13 Q. Was that a strip search?  
 14 A. No.  
 15 Q. So he had clothing on?  
 16 A. Yes.  
 17 Q. So you searched him just sort of for  
 18 weapons and things like that?  
 19 A. Yes.  
 20 Q. You didn't take his socks off, did you?  
 21 A. Socks off, no.  
 22 Q. So money can be put in socks, can't they?  
 23 A. Yes.  
 24 Q. And a search, so a thorough search, you  
 25 weren't looking for anything like money. You were

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1 looking for more sinister objects, weapons, something  
 2 like that?  
 3 A. Yes.  
 4 Q. Okay. This wire that we heard, it came  
 5 from the FBI?  
 6 A. Are we saying a body recorder or are you  
 7 saying a wire?  
 8 Q. I'm sorry, the body recorder.  
 9 A. Yes.  
 10 Q. Is this something that was from the last  
 11 20 or 30 years or, I mean, how old is this device, do  
 12 you know?  
 13 A. How old is it? I have no idea how old it  
 14 is.  
 15 Q. Well, I mean, we've heard an enhanced  
 16 version of a CD, correct?  
 17 A. Yes.  
 18 Q. And a lot of fuzziness in the background.  
 19 Did you hear that?  
 20 A. I definitely heard that.  
 21 Q. And then there's 20 minutes apparently  
 22 where we're not going to hear from because it doesn't  
 23 pick anything up for one reason or another?  
 24 A. Did we hear 20 minutes? We didn't hear 20  
 25 minutes.

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1 Q. No, I'm saying to you that there are 20  
 2 minutes that we're not going to hear from because of  
 3 one reason or another it doesn't pick up voices,  
 4 correct?  
 5 A. There was a portion on the tape which we  
 6 didn't hear. None of us heard. Okay? Is that what  
 7 you are asking?  
 8 Q. Yes, that's what I'm asking.  
 9 A. Yes.  
 10 Q. Okay. So there is 20 minutes where we  
 11 just don't hear anything, right? That's what I'm  
 12 asking.  
 13 A. There is 20 minutes which we didn't listen  
 14 to.  
 15 Q. Well, is there something in that 20  
 16 minutes that would be important?  
 17 A. Well, there is obviously something after  
 18 that and something before that, right?  
 19 Q. No, that's not my question, Detective.  
 20 Here is my question.  
 21 A. Okay.  
 22 Q. On the 20 minutes that we haven't heard  
 23 today, okay? You know what 20 minutes I'm talking  
 24 about?  
 25 A. Yes, the 20 minutes on track two.

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- 1 Q. Is there anything audible in that?
- 2 A. I haven't listened to this, the 20 minutes
- 3 to say that nothing is audible.
- 4 Q. So you don't know is the answer to my
- 5 question?
- 6 A. Yes, that's correct.
- 7 Q. Did you notice that a lot of this stuff
- 8 was inaudible, a lot of what you heard was inaudible?
- 9 A. Yes, some of the stuff was inaudible.
- 10 Q. Some?
- 11 A. Yes.
- 12 Q. And where was the wire on the 23rd? Where
- 13 was it placed on his body? You can answer my question,
- 14 sir. Where was it?
- 15 MR. DIGIACOMO: I pose an objection Judge
- 16 And if we need to approach, that's fine. But clearly
- 17 it's not relevant where on his body this particular
- 18 wire is.
- 19 I know defense counsel would love to know
- 20 where surreptitious recording devices are, and the
- 21 criminals would love to know where surreptitious
- 22 devices are so that they can check for those in the
- 23 future.
- 24 It's a public policy argument --
- 25 MR. ORAM: Is this a privilege?

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- 1 MR. DIGIACOMO: That information should
- 2 not be provided to the defense as it's not relevant.
- 3 MR. ORAM: Is this a privilege? Is this
- 4 some kind of privilege? This is the surreptitious
- 5 device you don't get to know, counsel.
- 6 In fact, they put in reports, Judge, that
- 7 this man was stripped down to his underwear, which
- 8 makes it very suspicious. He was stripped down to his
- 9 underwear where this item was. And the fact that they
- 10 put in reports that he was stripped down to his
- 11 underwear causes me concern as to where this wire was.
- 12 THE COURT: They stripped him?
- 13 MR. DIGIACOMO: Anabel and Lu.
- 14 MR. DRASKOVICH: Moreover, I had addressed
- 15 this previously, and your Honor had made a ruling
- 16 already that we would be allowed to delve into this on
- 17 cross-examination. We are to address this --
- 18 MR. DIGIACOMO: Then if it's relevant, how
- 19 is it relevant the nature of the recording device?
- 20 THE COURT: Approach.
- 21 (Thereupon, a brief discussion was held
- 22 at the bench.)
- 23 THE COURT: Okay. We can proceed on that.
- 24 BY MR. ORAM:
- 25 Q. Detective --

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- 1 A. Yes.
- 2 Q. -- without saying where a wire was or body
- 3 recording device or anything like that, is it possible
- 4 that whatever this device would be, could it be
- 5 covered, could it be played with in such a way by the
- 6 user so that it would be more difficult to pick up what
- 7 was being said?
- 8 A. Well, you can hear on the recording device
- 9 when the person wearing it is walking, so it's rubbing
- 10 against clothing, so part of that filters some of the
- 11 communication both ways.
- 12 Q. Okay. But here is my real question. If
- 13 whatever this recording device is, okay, let's say it
- 14 was a ring, okay? And assuming that I am trying to
- 15 pick up a conversation we're having right now, my
- 16 question, is it possible that whatever this device was
- 17 could be, I could put my hand over it so you couldn't
- 18 hear clearly what you were saying?
- 19 A. I don't know if, if that would be one of
- 20 the things. I know in the amount of time that I use
- 21 these devices that there is a certain, if someone is in
- 22 one room and someone is in the other, it won't pick up
- 23 someone that's having a communication over there, but
- 24 they are very sensitive to people talking, but back and
- 25 forth. Like me and you were talking here, we would

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- 1 hear the entire conversation.
- 2 Q. My point, Detective, is a little more
- 3 sinister, okay? What I'm asking you is, if I was
- 4 trying to record what you had to say, but for whatever
- 5 reason, I didn't want the recording to pick up now what
- 6 you were going to say, could I cover the device to make
- 7 it so that it didn't pick up?
- 8 In other words, could I play with this
- 9 device or whatever this device is, play with it in such
- 10 a manner so that perhaps the recording would not be as
- 11 clear?
- 12 A. The device, once the device is turned on,
- 13 it does never turns off, so it always picks up
- 14 something. Can they put it in and cover it up? I
- 15 mean, I would assume so. I mean, put it in water or
- 16 something like that?
- 17 Q. Or just cover a mike?
- 18 A. I don't believe that -- I believe that you
- 19 could cover it with something to filter it, but I think
- 20 that would have been picked up as to moving something
- 21 around because it's sensitive.
- 22 Q. Detective, there was a portion of the CD,
- 23 the second CD on the 24th, where I believe the person
- 24 who the State is claiming is Anabel states, "I told you
- 25 to talk to him, not F'ing hurt him or kill him."

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1 Did you hear that?  
 2 A. Yes.  
 3 Q. Did you notice that the question before,  
 4 that is not by Anabel, is quite clear, but her answer  
 5 is very difficult to hear? Did you notice that?  
 6 A. I mean, I hear the person that's wearing  
 7 the wire clearly because it's on their body, and then  
 8 there is a -- there is another person speaking that is  
 9 farther away, so it's going to be harder to hear the  
 10 other person that's not closest to where the voice is,  
 11 of course.  
 12 Q. Did you hear her make the statement, "I  
 13 told you to talk to him"? Did you hear that statement?  
 14 A. I heard that, and I heard other things,  
 15 yes.  
 16 Q. Okay. But you heard that?  
 17 A. Yes.  
 18 Q. Okay. And the fact that this is  
 19 supposedly a surreptitious device or recording means  
 20 that Anabel, if that's who it was, should not have been  
 21 able to know that this was being recorded, right?  
 22 That's the whole purpose.  
 23 A. Yes, that's the purpose of it.  
 24 Q. So it would be something where you would  
 25 expect somebody to say "I told you to kill him" as

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1 opposed to "I told you to simply talk to him."  
 2 Do you see what I'm saying?  
 3 A. I know exactly what you're saying.  
 4 Q. Did you also notice a statement supposedly  
 5 by Anabel that money was to maintain yourself? Did you  
 6 hear that statement?  
 7 A. There was some communication in there that  
 8 I heard about amount of time where that would go by and  
 9 he would be getting paid.  
 10 Q. Okay. Detective, did Mr. Carroll have  
 11 conversations with his employers prior to this device  
 12 being placed on him?  
 13 A. Of course, he was an employee there.  
 14 Q. So they would have many things that they  
 15 would discuss that you would not be privy to  
 16 beforehand, right? Does that make sense?  
 17 A. No, it doesn't make sense.  
 18 Q. Okay. He had a relationship with these  
 19 people beforehand, right?  
 20 A. Yes.  
 21 Q. And that they probably have things they  
 22 talk about that you wouldn't have known about? In  
 23 other words, just perfectly innocent things connected  
 24 with the club?  
 25 A. Yes.

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1 Q. And sometimes innocent things can sound  
 2 sinister if you really don't understand the context of  
 3 what is being said, correct?  
 4 A. I suppose so. I mean, some things can  
 5 sinister, yes.  
 6 Q. Okay. You weren't in the places when this  
 7 recording was occurring, correct?  
 8 A. That's correct.  
 9 Q. You don't know what the expressions of the  
 10 people were, correct?  
 11 A. That's correct.  
 12 Q. For example, somebody may say something  
 13 but have a smile on their face where it would be  
 14 obvious to the listener that they were kidding, right,  
 15 because you could see a smile?  
 16 Does that make sense?  
 17 A. I mean, it makes sense, yes. I was not in  
 18 the business and didn't see any facial expressions.  
 19 Q. And it's fair to say that you knew that  
 20 man back there as -- you learned he was a liar, right?  
 21 Fair to say?  
 22 A. Yes.  
 23 Q. Habitual liar, fair to say?  
 24 A. He lied many times, yes.  
 25 Q. And he lied to you?

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1 A. Yes.  
 2 Q. You had no difficulty informing him that  
 3 you thought he was a liar, did you? Did you tell him  
 4 you thought he was lying or was it Detective Vaccaro?  
 5 I think BS me. Do you remember something?  
 6 A. Something along the lines of that. During  
 7 the four-hour interview, I would say that is accurate.  
 8 Q. Okay. Something along the -- because  
 9 it -- without getting into what he said, would it be  
 10 fair to say that he had several different stories of  
 11 what the motive for the plot was?  
 12 A. Yes.  
 13 Q. And he blamed several different people and  
 14 then would change, wouldn't he?  
 15 A. Yes.  
 16 Q. And, again, without going into what he  
 17 said, it was late and this statement was, you described  
 18 it as four hours, but, in fact, 128 pages, if I showed  
 19 it to you?  
 20 A. I believe 128. That would be accurate, I  
 21 believe.  
 22 Q. And it wasn't until very late into this  
 23 statement that he started to try to blame Anabel, isn't  
 24 that fair to say?  
 25 A. It was later in the statement, yes.

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1 Q. It was like story three or four, if you  
2 recall?  
3 A. Three or four would be pretty close to  
4 accurate.  
5 Q. Okay.  
6 MR. ORAM: Court's indulgence.  
7 Nothing further, your Honor.  
8

9 CROSS-EXAMINATION

10 BY MR. DRASKOVICH:  
11 Q. Just to follow up, you would agree that  
12 this device that was used, the recording device was  
13 open to manipulation, correct, just like any microphone  
14 would be?  
15 A. There isn't a particular way that a person  
16 would be able to manipulate it.  
17 Q. They could scratch it, correct? Would you  
18 agree with me that that would affect its ability to  
19 record?  
20 A. I'm not positive scratching it would  
21 affect its ability to record.  
22 Q. Okay. However, you used it on many prior  
23 occasions, correct?  
24 A. Yes.  
25 Q. And there have been times where it has

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1 been covered up or scratched or somehow manipulated so  
2 it becomes difficult to hear. Would you agree with  
3 that based upon your experience with this device?  
4 A. I believe that this recording device that  
5 we used has an extremely good track record and doesn't  
6 really act the way you're asking me.  
7 Q. I see. You would agree with me that this  
8 recording that we have just finished listening to is  
9 difficult to hear the voices?  
10 A. Some things are difficult, yes.  
11 Q. Detective McGrath, was this in your  
12 opinion a complete investigation?  
13 A. In what regards?  
14 Q. What part of my question -- do you not  
15 understand my question?  
16 A. I don't understand your question.  
17 Q. Was it complete?  
18 A. Are you asking my opinion?  
19 Q. Please, yes.  
20 A. I don't think that it is complete.  
21 Q. Is the investigation ongoing?  
22 A. Yes.  
23 Q. Okay. Detective or, I mean, Special Agent  
24 Shields was involved previously in this case, correct?  
25 A. Yes.

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1 Q. Is he still involved, to your knowledge,  
2 in this case?  
3 A. In what regards? I mean, I can explain  
4 it, if you want me to explain it.  
5 MR. DIGIACOMO: Well, Judge, I'm going to  
6 object to relevance. What's the relevance of what the  
7 future investigation of the case has to do with what  
8 the evidence now shows concerning the evidence or  
9 considering the various defendants?  
10 I don't think they should be divulging  
11 what the future investigation should be, particularly,  
12 if there's more individuals who are being investigated.  
13 MR. DRASKOVICH: And, obviously, that's a  
14 different take on my question than was intended.  
15 This is a probable cause hearing as to  
16 whether or not the investigation concerning my client  
17 or any of the other defendants, whether or not this  
18 detective feels it's complete is clearly relevant to  
19 this Court's determination of probable cause.  
20 MR. DIGIACOMO: Well, didn't he already  
21 answer that, that it's ongoing?  
22 THE COURT: Yes.  
23 MR. DRASKOVICH: We're talking about  
24 recording devices. I'm asking if Special Agent Shields  
25 is involved currently in this case. And, obviously, if

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1 the Court --  
2 THE COURT: It's a yes or no.  
3 THE WITNESS: I mean, I'll say yes, but I  
4 don't think that's the question that you are asking me.  
5 I can explain it.  
6 BY MR. DRASKOVICH:  
7 Q. Let me ask you this. There was a  
8 five-page arrest report generated by yourself --  
9 A. Yes.  
10 Q. -- concerning this investigation, correct?  
11 A. Yes.  
12 Q. In addition to that five-page arrest  
13 report, have you authored any other reports in  
14 conjunction with this investigation?  
15 A. Have I authored?  
16 Q. Yes.  
17 A. I haven't authored.  
18 Q. How about members of law enforcement that  
19 are working with you on this case, are you aware of  
20 other reports that have been authored in reference to  
21 this investigation?  
22 A. Yes.  
23 Q. By whom?  
24 A. Well, my partner is -- has a report still  
25 working at this time.

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1 Q. Okay. Your partner, meaning Detective  
2 Vaccaro?  
3 A. No. Detective Teresa Kyger is authoring a  
4 report right now.  
5 Q. And this report that she's authoring is in  
6 reference to the investigation for which you're here  
7 today and you're testifying, correct?  
8 A. Yes.  
9 Q. In addition to her, are there other  
10 reports that have been generated in reference to this  
11 investigation?  
12 MR. DIGIACOMO: Judge, can I interpose an  
13 objection as to relevance? I mean, he has a report,  
14 and you can ask any detective up there if they have  
15 written a report that is completed that you would like  
16 a copy of, but this particular detective has told you  
17 he has no other reports.  
18 MR. DRASKOVICH: No, he hasn't. He said  
19 that he himself has not authored, but I'm asking him  
20 now if there are other reports, and I think I should be  
21 given them if there are.  
22 MR. DIGIACOMO: He has both homicide books  
23 in front of him if he wants to flip through them to see  
24 if he's missing anything. I don't have an objection to  
25 that.

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1 MR. DIGIACOMO: Currently drafted.  
2 THE COURT: Right, not reports from the  
3 future.  
4 MR. DRASKOVICH: And, thank you, that is  
5 my question.  
6 BY MR. DRASKOVICH:  
7 Q. Are there any other reports that you're  
8 aware of?  
9 A. No.  
10 Q. Okay. In reference to your stopping Luis  
11 Hidalgo, III, on May 24th, did you generate a report in  
12 reference to that stop?  
13 A. No.  
14 Q. Okay. Did anybody else working with you  
15 generate a report in reference to that stop?  
16 A. That part of the report is still being  
17 worked on. That's in Detective Kyger's report.  
18 Q. Okay. You had stated that he was  
19 ultimately taken handcuffed to the homicide office,  
20 correct?  
21 A. Yes.  
22 Q. And you testified that he was interviewed?  
23 A. Yes.  
24 Q. And it was a custodial interrogation?  
25 A. Yes.

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1 BY MR. DRASKOVICH:  
2 Q. Are there reports in addition to the  
3 reports that are contained within the two 5 inch  
4 binders in front of you?  
5 A. Yes, there will be more reports to come.  
6 Q. And who are authoring those reports?  
7 A. I know that the computers haven't been  
8 looked at yet that we impounded, which the detective  
9 that works in the cyber crimes unit will author a  
10 report as to what he found on the computer. So that's  
11 to come.  
12 Q. Okay. Who else?  
13 A. I'm not aware of detective, any other  
14 detectives doing surveillance reports or surveillance  
15 reports that have not been turned into me, so --  
16 MR. DIGIACOMO: Judge, this is a way for  
17 him to try and get to the fact that there is additional  
18 things that may be done during the course of the  
19 investigation. I don't see how that's possibly  
20 relevant. Moreover, he shouldn't have to disclose what  
21 future investigation is going to occur.  
22 THE COURT: Well, actually, I don't think  
23 that was the question. I think actually the detective  
24 has gone beyond the question. The question was, are  
25 there any other reports?

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1 Q. And that it was recorded?  
2 A. Yes.  
3 Q. Has there been a transcript, to your  
4 knowledge, of that recording?  
5 A. No.  
6 Q. Okay. Do you have a copy of the tape or  
7 CD or whatever it was that recorded it?  
8 A. I do not have a copy with me here right  
9 now. Mr. DiGiacomo has a copy, I believe.  
10 MR. DRASKOVICH: Oh, he does?  
11 MR. DIGIACOMO: I brought the copy down  
12 here with me in case defense counsel wanted to view it.  
13 I told them that at the bench earlier, I have all the  
14 videotapes of all the interviews here in case they feel  
15 the need to look at any of those because we didn't have  
16 time to make copies for them.  
17 THE COURT: You got them Friday?  
18 MR. DIGIACOMO: I got this Friday. I  
19 actually got these earlier in the week, but I was out  
20 of the office until Friday.  
21 BY MR. DRASKOVICH:  
22 Q. So there is a videotape?  
23 A. Yes.  
24 Q. Any audio tapes or just a videotape that  
25 contains audio with it?

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- 1 A. You mean the portion that you are asking  
2 me about your client is a video and audio, and the  
3 audio will have to be pulled off to the video so we  
4 send that down to our technical analytical section that  
5 will separate the two and that will be transcribed.  
6 Q. Okay. And that's pending right now?  
7 A. Yes.  
8 Q. Okay. Through the course of your  
9 Interrogation of Luis Hidalgo, III, did he invoke his  
10 right to counsel?  
11 A. No.  
12 Q. Okay. Turning your attention now to your  
13 interview of Deangelo Carroll. You had testified that  
14 there was approximately four hours that you spent with  
15 him in an interview room, correct?  
16 A. I would say that's, that's pretty close.  
17 Q. And that was around May 20th of this year?  
18 A. Yes, that was the 20th.  
19 Q. Then you had interviewed him or spoken to  
20 him prior to going on tape, correct?  
21 A. Yes.  
22 Q. Approximately how long did you spend with  
23 him prior to his going on tape?  
24 A. He goes on tape, he goes on videotape as  
25 soon as we go in the room. And then we go audio right

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- 1 away with him.  
2 Q. Okay. However, you did discuss the facts  
3 of this case with him prior to going on tape, correct?  
4 A. I don't believe that we did. I think that  
5 we just went in the room, talked to him real quick and  
6 then went right to audio.  
7 Q. Okay. There came a time during your  
8 interview with him in which you stopped the audio tape,  
9 correct?  
10 A. Yes, there was a few times.  
11 Q. Okay. And you have already covered, and I  
12 don't want to belabor the point, but he gave you  
13 various version of what he say happened out at Lake  
14 Mead, correct?  
15 A. Yes.  
16 Q. And you testified that he lied to you  
17 repeatedly, correct?  
18 A. Yes.  
19 Q. You would agree with me that he lied to  
20 you when it appeared to suit his needs, correct?  
21 A. Yes.  
22 Q. So you would agree with me that your  
23 conclusion based upon your interview with him was that  
24 he could lie quickly, correct?  
25 A. I don't agree that he could lie quickly.

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- 1 Q. Okay. He could come up with many stories  
2 in a short period of time, correct?  
3 A. He had a story.  
4 Q. I see. But that story changed into  
5 various versions through the time that you sat with  
6 him, correct?  
7 A. Yes.  
8 Q. And it appeared to you that these various  
9 versions would change when they suited him, correct?  
10 A. When he got caught in something that he  
11 didn't know how to explain, then he changed his story.  
12 Q. And he changed it quickly, correct?  
13 A. Sometimes quickly and sometimes not  
14 quickly.  
15 Q. Depending, of course, upon the context in  
16 which you were speaking with him, correct?  
17 A. Yes.  
18 Q. He appeared to be intelligent to you,  
19 didn't he?  
20 A. Yes.  
21 Q. He appeared to be shrewd, didn't he?  
22 A. I don't know if shrewd.  
23 Q. How about sneaky?  
24 A. Somewhat in the beginning, yes.  
25 Q. Okay. He appeared to be untrustworthy to

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- 1 you, didn't he?  
2 A. In the beginning, yes.  
3 Q. Obviously, you felt that he was somewhat  
4 untrustworthy because you searched him, you testified,  
5 before he went into this auto body store, correct?  
6 A. Yes.  
7 Q. And you searched him because you did not  
8 trust what he told you, correct?  
9 A. We sent him in there.  
10 Q. But you searched him before you did?  
11 A. Yes.  
12 Q. And you searched him because you couldn't  
13 take his word, correct? You had to see for yourself --  
14 A. Yes.  
15 Q. -- what he had or what he didn't have?  
16 A. Yes, I agree with that. I agree with  
17 that.  
18 Q. So, obviously, you would agree that then  
19 you needed to see for yourself what he had on his body,  
20 you couldn't take his word for it, correct?  
21 A. I didn't take his word for it, yes.  
22 Q. Okay. So you made a credibility  
23 determination on your own in reference to Mr. Deangelo  
24 Carroll?  
25 A. Yes.

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1 MR. DRASKOVICH: If I could have the  
2 Court's indulgence for one moment?  
3 I pass the witness.

4  
5 CROSS-EXAMINATION

6 BY MS. WILDEVELD:

7 Q. Good afternoon, Detective.

8 A. Good afternoon.

9 Q. More than a liar, you also found  
10 Mr. Carroll to be a storyteller, correct?

11 A. More than a liar, a storyteller. I don't  
12 understand.

13 Q. He told you different versions of the same  
14 story?

15 A. Yes. We already discussed that.

16 Q. Right. So he made up things as he went  
17 along?

18 A. He changed things as he went along.

19 Q. He made up, you say changed, is there a  
20 difference?

21 A. Of course there is a difference.

22 Q. What's the difference?

23 A. He's telling us one story and then he  
24 changes it to something else.

25 Q. So he's making it up as he's going along,

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1 changing things?

2 A. He's changing things as he's confronted  
3 with some of the questions we were asking him.

4 Q. Okay. Much like you don't know the  
5 relationship between Mr. Carroll and Anabel or  
6 Mr. Hidalgo, you don't know the relationship between  
7 Mr. Carroll and Mr. Counts, do you?

8 A. What do you mean relationship?

9 MR. DIGIACOMO: I'll object because I'm  
10 not sure that there was testimony that he doesn't know  
11 the relationship between Mr. Carroll and Mr. Hidalgo  
12 and Miss Espindola.

13 MS. WILDEVELD: Let me rephrase that.  
14 Strike that.

15 BY MS. WILDEVELD:

16 Q. When Mr. Oram was asking you questions  
17 about the conversations that were caught on the tape,  
18 the parts and bits of conversations that we could make  
19 out on the audio tape we all listened to, we all  
20 painfully listened to, when he was talking about those  
21 audio tapes, there were certain things that we couldn't  
22 pick up. There is only words that came about, and we  
23 don't know if they were taken out of context or not,  
24 correct?

25 A. I don't believe that is accurate. They

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1 were not just words. I heard way more than just words  
2 in there.

3 Q. Okay. But there were a lot of  
4 disjunctive sentences that we didn't know what  
5 context they were being brought in, right?

6 A. I mean, I listened to it. I understand  
7 what context the stuff was asked and answered.

8 Q. You don't know the history between  
9 Mr. Carroll and Mr. Counts, if any, do you?

10 A. Yes, I do.

11 Q. Do you know since they were born, or do  
12 you know that they just lived across the street from  
13 each other?

14 A. Are you asking -- which question would you  
15 like me to answer? I knew they lived across the street  
16 from each other.

17 Q. So that's the history you know is that  
18 they live across the street from each other? I mean,  
19 we can make this as difficult as you want.

20 A. I have no problem. Okay?

21 MR. DIGIACOMO: I interpose an objection.  
22 If she can just ask a question and wait for him to  
23 answer the question before we start again with the next  
24 question.

25 THE COURT: One question at a time.

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1 MR. DIGIACOMO: Right. One question at a  
2 time.

3 BY MS. WILDEVELD:

4 Q. So at one point, Mr. Carroll told you that  
5 Mr. Counts was going to buy weed from TJ, correct?

6 A. At one point -- say that again. I'm  
7 sorry. You were jumping back to the conversation that  
8 these guys had and --

9 Q. I'm --

10 A. You're asking about their relationship.

11 Q. I'm staying exactly with the statement.

12 A. Okay. Ask me again, please?

13 MR. PESCI: If there's a page reference,  
14 can we get that?

15 MS. WILDEVELD: I don't have a page  
16 reference. I'm sorry.

17 MR. PESCI: Do you need a copy of the  
18 statement?

19 MS. WILDEVELD: No, I don't need a copy of  
20 the statement.

21 BY MS. WILDEVELD:

22 Q. Okay. Detective, you did an interview  
23 with Deangelo Carroll, correct?

24 A. I did a four-hour interview. A large  
25 portion of it was myself, and some portion of it was

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1 two other detectives.  
 2 Q. And during that interview, he told you  
 3 numerous stories, correct?  
 4 A. Yes. He changed his story and told me  
 5 numerous stories.  
 6 Q. And at one point, he had Mr. Counts coming  
 7 along to buy weed, correct?  
 8 A. I believe that at some part of the  
 9 interview that was mentioned.  
 10 MR. ORAM: Your Honor, I would just state  
 11 for the record that I was very careful on behalf of  
 12 Miss Espindola to stay away from the actual context of  
 13 what was in the statements. I did say, you know,  
 14 without telling me what he said, did he change his  
 15 story?  
 16 I am concerned that the State will then  
 17 argue based on my co-defendant's attorney's questions  
 18 that they will say that somehow they can bring in the  
 19 whole statement, which they can't because it would be  
 20 hearsay. They would have to put him on the witness  
 21 stand.  
 22 MR. DRASKOVICH: And we waive no hearsay  
 23 objections. And I also discussed his impressions as to  
 24 his credibility. We didn't get into questions of  
 25 actual what he did, where he went, because we don't

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1 blaming these people.  
 2 So if the Court wants to read it, I  
 3 actually think maybe it's a good idea.  
 4 MR. DIGIACOMO: I have a video camera. I  
 5 intend to play it on the videotape for the Court. I'll  
 6 play the whole darn videotape.  
 7 MR. ORAM: And we're going to call  
 8 Deangelo Carroll. We're going to have to put this guy  
 9 on the witness stand.  
 10 THE COURT: Now everybody is agreeing,  
 11 Mr. Draskovich?  
 12 MR. DRASKOVICH: No, I'm not agreeing. We  
 13 have made several objections concerning independent  
 14 corroboration of what the State has alleged as a  
 15 co-conspirator. We have yet to find any independent  
 16 corroboration of these statements. That's required  
 17 under NRS 52.035.  
 18 MS. WILDEVELD: And, your Honor, that's  
 19 all I'm getting at is trying to find some corroboration  
 20 here.  
 21 MR. DIGIACOMO: Well, hold on a second.  
 22 Corroborating who? Have I offered a statement of  
 23 Deangelo Carroll?  
 24 MS. WILDEVELD: Right.  
 25 MR. DRASKOVICH: Oh, he has. We heard --

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1 want to waive any hearsay objections that we had  
 2 addressed previously before your Honor.  
 3 MR. DIGIACOMO: Well, that's an  
 4 interesting story to have now, but they specifically  
 5 addressed questions concerning the content of the  
 6 statement. I intend, when I stand up, to offer that  
 7 statement so the Court can review the context of the  
 8 questions that they are asking.  
 9 They specifically said when I played those  
 10 wires that you can't just put a portion of a statement  
 11 in and say hey, that's not the whole thing because you  
 12 got to understand the context in which we're talking.  
 13 If they want to talk about he provided  
 14 four stories, the Court needs to know the four stories  
 15 that he was providing in order to make an assessment as  
 16 to the strength of their cross-examination. I'm  
 17 certainly going to offer the whole thing.  
 18 MR. ORAM: Do you know what, Judge, I'm  
 19 not so sure that I don't agree with Mr. DiGiacomo. The  
 20 Court -- this is the most entertaining 128 pages of  
 21 changed testimony, of him admitting he's a liar, having  
 22 detectives turn off tapes and having to talk to him and  
 23 giving him a chance to change his story. And it takes  
 24 him about 60, 70 pages before detectives, after turning  
 25 off the tape, finally discover that I need to start

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1 MS. WILDEVELD: Other than Deangelo  
 2 Carroll --  
 3 MR. DIGIACOMO: What about Ronta Zone,  
 4 does he not testify, and he was not a co-conspirator?  
 5 MR. ORAM: He didn't mention my client.  
 6 MR. DRASKOVICH: He had mentioned my  
 7 client, but that was it. We had made --  
 8 MR. DIGIACOMO: He mentioned both your  
 9 clients.  
 10 MR. DRASKOVICH: We had made several  
 11 objections. Your Honor was going to reserve ruling  
 12 until your Honor heard subsequent evidence because  
 13 under the rule it's required that for a co-conspirator  
 14 statement to come in there must be independent  
 15 corroboration.  
 16 MR. DIGIACOMO: There has to be evidence  
 17 of a conspiracy independent of the statements  
 18 themselves. The fact that Deangelo -- I mean, the fact  
 19 that Ronta Zone testified to three people involved in  
 20 the conspiracy, and then Deangelo Carroll and the whole  
 21 truck going to and fro, and oh, by the way, there is a  
 22 wire with two people who clearly aren't Jayson Taoipu  
 23 or Kenneth Counts on it.  
 24 You have listened to both those wires. I  
 25 think everybody can agree they weren't in Simone's Auto

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1 Body Shop on 5/23 or 5/24. Are they saying that there  
2 is not independent evidence that there is more than one  
3 person involved in the killing of Timothy Hadland?  
4 MR. DRASKOVICH: That's a misapplication  
5 of the law. I mean, are we arguing now, or are we  
6 objecting?  
7 MR. ORAM: It seems like we are going far  
8 afield.  
9 THE COURT: I think maybe we should save  
10 this for argument, but I was going to say I reserved  
11 and it's still reserved.  
12 MR. ORAM: So is the State saying that  
13 they are actually going to bring in a whole video of  
14 Mr. Carroll and play it?  
15 MR. DIGIACOMO: Yes.  
16 MR. DRASKOVICH: I'd object to that.  
17 MS. WILDEVELD: Me too.  
18 MR. DRASKOVICH: That's why we stood up  
19 and made this objection because I very carefully didn't  
20 get into the context of the statement.  
21 MR. DIGIACOMO: Well, I don't think it  
22 becomes relevant until I offer it, but I mean, you can  
23 let her finish her question.  
24 MS. WILDEVELD: I'll withdraw my question.  
25 THE COURT: All right. Anything else?

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1 Madam Clerk could tell me the statement that I had  
2 marked.  
3 THE CLERK: 74.  
4 MR. DIGIACOMO: Judge, I'm going to offer  
5 statement 74.  
6 Mr. Oram specifically stood up there with  
7 the statement and thumbed through it and said he went  
8 three-quarters of the way before he finally told you  
9 the story concerning my client.  
10 And then Mr. Draskovich got up and, once  
11 again, asked him about the number of stories that he  
12 told during the course of the interview.  
13 And then I know that she withdrew her  
14 questions, but she elicited questions concerning KC  
15 going to buy weed or marijuana from Timothy Hadland.  
16 All three of them have addressed this  
17 statement. I never once addressed the contents of that  
18 statement, Judge. They are trying to utilize the  
19 statement to attack his credibility without allowing  
20 you to actually see the statement, and that's not  
21 appropriate, Judge.  
22 They opened the door to this. It should  
23 come in. I offer the statement.  
24 MR. ORAM: Judge, I think it's interesting  
25 that they are really getting away with all sorts of

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1 BY MS. WILDEVELD:  
2 Q. From Mr. Counts' house, you recovered  
3 certain things, correct?  
4 A. Yes.  
5 Q. And one of those things was a gun?  
6 A. No.  
7 Q. You did not recover a gun from Mr. Counts'  
8 house?  
9 A. I did not recover a gun from Mr. Counts'  
10 house.  
11 Q. Did you recover a gun from where he was  
12 arrested?  
13 A. Yes.  
14 Q. And did you do testing on that gun?  
15 A. Yes.  
16 Q. And was that gun found not to be the  
17 murder weapon?  
18 A. Unofficially, I mean, I know it's not.  
19 The reports aren't in though.  
20 Q. Right. I'm asking you.  
21 A. It's not. It's not the murder weapon.  
22 Q. Okay.  
23 MS. WILDEVELD: Thank you very much. I  
24 have nothing further.  
25 MR. DIGIACOMO: I've had it marked, if

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1 stuff. They got away with playing their CD, and they  
2 did it so that we couldn't -- the whole problem's come  
3 in we can't cross-examine that man. That's the whole  
4 problem. I don't need to ask those questions of a  
5 detective if that guy gets up on the witness stand.  
6 They get everything their own way. Put on  
7 the CDs, handcuff them so I have nobody to ask  
8 questions of. I can't say hey, Mr. Carroll, you're a  
9 liar. So I have to do it through the detective who  
10 freely admits yeah, the guy is a liar, you know. And  
11 all of a sudden now, we've opened the door --  
12 THE COURT: What I don't understand is,  
13 you know, Mr. Carroll has waived. He's not part of  
14 these proceedings. Why did you guys want to talk to  
15 the detective about Mr. Carroll and his interview with  
16 him?  
17 MS. WILDEVELD: Well, they played his  
18 video. They played his audio.  
19 THE COURT: Yeah, but I already said I  
20 wasn't going to consider any of his statements.  
21 MR. ORAM: Well, it goes to his motive to  
22 lie. It goes to his motive to want to cover up. It  
23 goes to his motive to want to blame other people for  
24 the crime. It goes to his motive to change things  
25 around so that he would deceive the police to the point

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1 where it would be nothing for him to go in there and  
2 play with the microphone and do things so that we can't  
3 hear exactly what's being said.

4 Take the microphone off wherever it may be  
5 and put it away for 20 minutes so you can't hear them  
6 saying "What are you talking about?" Or cover it up at  
7 a time when Anabel is clearing saying "I only told you  
8 to talk to the guy, not F'ing hurt him." And this is  
9 what causes me concern.

10 And we tried to stay away from -- I never  
11 once asked him a specific question from in here. There  
12 is a lot -- I had taken a tremendous amount of notes to  
13 prepare for, and I never once said on page 55 he says  
14 this or says that. I never went into what the context  
15 of the stories are.

16 MR. DRASKOVICH: Nor did I, your Honor.  
17 And my primary concern with that is there is a great  
18 deal of objections concerning the previous witness,  
19 Ronta Zone. And he went on and on about what Deangelo  
20 Carroll had said. At one point he'd admitted that  
21 everything he knew came from Deangelo Carroll.

22 THE COURT: Well now, he was in the van.

23 MR. DIGIACOMO: He witnessed a heck of a  
24 lot.

25 MR. DRASKOVICH: In reference to third

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1 party's, third-party's involvement, he had testified  
2 that he had to rely upon what -- and I don't know why  
3 we're making this. I mean, this is more of a closing  
4 than anything else. I didn't open any doors. I  
5 discussed his credibility and whether or not --

6 THE COURT: You didn't open doors. I got  
7 it.

8 MS. WILDEVELD: Right. My question was  
9 withdrawn.

10 THE COURT: Anything else you want to say?

11 MR. PESCI: Judge, I'm just going to say  
12 that right now as I'm speaking this wonderful lady here  
13 is taking everything down. It's being transcribed  
14 immediately. Sometimes we don't have that benefit.

15 I'm sure if you go back, there's a quick  
16 find to three-quarters, because three-quarters is  
17 specifically what Mr. Oram said as he advanced on the  
18 witness with the statement in his hand and thumbed  
19 through, indicating after he had attacked his  
20 credibility, the very thing he says he can't do, after  
21 he attacked it with the detective, and then says it's  
22 not until three-quarters of the way through that he  
23 gets to this story. So I think they have been specific  
24 about that.

25 Mr. Draskovich also said specific

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1 statements about during this interview numerous stories  
2 were told. They have referenced that, so we then get  
3 to follow it up and put it in the context that they've  
4 been asking for.

5 THE COURT: Basically, what it's being  
6 offered for is for impeachment.

7 MR. DIGIACOMO: Well, they've offered it  
8 as impeachment. You have to actually see the statement  
9 to determine what --

10 THE COURT: Whether it's impeachment  
11 aside, it's not evidence for the truth of the matter  
12 asserted, so it's not going to go to the real issue  
13 that we're here about anyway. So I'm going to admit  
14 it, but I'm not going to look at it. I'm not going to  
15 read it because I don't have time to do that.

16 It will be part of the record, but so the  
17 record is also clear, I am not going to read it. So my  
18 decision will not be based upon what's in it.

19 MR. DIGIACOMO: Do you have a time period  
20 for how long this is going to go? Are we going to go  
21 until we finish because I have at least two more  
22 witnesses?

23 THE COURT: And two more witnesses will be  
24 how long?

25 MR. DIGIACOMO: Well, it all depends on

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1 defense counsel questioning, but I imagine -- they are  
2 both officers, but they need to go through the search  
3 at Simone's, the search of Room 6 at Simone's, the  
4 surveillance on there to establish that Little Lu and  
5 Anabel are in Simone's during the wire. It's lengthy  
6 testimony.

7 MR. ORAM: Well, perhaps we can have an  
8 offer of proof as to what they would get out. Maybe we  
9 could make some stipulations if this is something that  
10 we could all agree. If they are simply going to say,  
11 we got from Simone's earphones, and we could look at it  
12 and say yeah, okay, you got it. Maybe we could do it  
13 that way just to speed the process along.

14 MR. DIGIACOMO: I have the pictures.

15 THE COURT: Before we do that, let's  
16 finish with our witness here, and then I am willing,  
17 I'll have to talk to my staff, but I'm willing to go  
18 until we're done if it's reasonable, like not past  
19 bedtime.

20 MR. DIGIACOMO: It's already past my  
21 bedtime. Let's finish.

22 THE COURT: So let's finish up with  
23 Detective McGrath.

24 MR. DIGIACOMO: Well, Judge, I have no  
25 further questions for Detective McGrath.

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1 MR. ORAM: Nothing further.  
 2 MR. DRASKOVICH: Nor do I, Judge.  
 3 MR. DIGIACOMO: Judge, they weren't sure  
 4 whether or not you admitted 68 and the other three  
 5 original ones. I have offered them. You reserved the  
 6 ruling. It depends on who I call next and what I ask  
 7 them, depending on what the ruling is.  
 8 The actual recording you listened to, you  
 9 said I'm going to listen to it, but you didn't actually  
 10 say it's admitted.  
 11 THE COURT: Okay. They are admitted. And  
 12 it goes to the weight.  
 13 (Thereupon, State's Exhibit 68 was  
 14 admitted into evidence.)  
 15 MR. DIGIACOMO: Thank you, Judge.  
 16 MR. PESCI: Does defense counsel have  
 17 anymore questions?  
 18 MS. WILDEVELD: No.  
 19 THE WITNESS: I'm going to leave this  
 20 here.  
 21 MR. DIGIACOMO: What is that?  
 22 THE WITNESS: These are the recordings.  
 23 MR. DIGIACOMO: Oh, yeah, put those up  
 24 there for the judge.  
 25 THE COURT: The good ones and the bad

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1 ones.  
 2 MR. DIGIACOMO: Those are the bad ones,  
 3 and this is the good one.  
 4 THE WITNESS: I'm not involved if it's  
 5 good or bad anymore.  
 6 MR. PESCI: Judge, the State calls  
 7 Detective Bob Rogers.  
 8 MR. DIGIACOMO: Well, let's just -- if you  
 9 want to enter into a stipulation.  
 10 THE COURT: Do you want to take five  
 11 minutes to talk about what the -- that way we do not  
 12 have to put it on the record.  
 13 (A brief recess was taken.)  
 14 THE COURT: All right. Where are we at?  
 15 MR. DIGIACOMO: Judge, I believe the  
 16 defense is going to stipulate to the testimony of  
 17 Detective Bob Rogers. I will put that stipulation on  
 18 the record, and then if there is anything I say that is  
 19 wrong, I will allow them to correct me.  
 20 Detective Rogers will testify that he is a  
 21 detective with the Las Vegas Metropolitan Police  
 22 Department homicide division.  
 23 That after Little Lu, Anabel and Mr. H  
 24 left Simone's Auto Plaza that he, along with other  
 25 members of his team, executed a search warrant on

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1 Simone's Auto Plaza down on 6770 Bermuda.  
 2 That when he did so, him and other  
 3 officers cleared the individuals that were out in the  
 4 working bays of the office area of the plaza, and then  
 5 brought them inside and identified those individuals.  
 6 That when he walked into the office area,  
 7 there was a receptionist there. And the only other  
 8 person there inside the office area was an individual,  
 9 which he identified as Luis Hidalgo, Sr., who I believe  
 10 has been in the courtroom all day during the testimony  
 11 here, who turns out to be the father or grandfather of  
 12 this particular defendant.  
 13 That, thereafter, he went back down a long  
 14 hallway in the office area to Room Number 6. That Room  
 15 Number 6 appeared to be a bedroom. He would  
 16 authenticate several pictures, and that during that  
 17 time period he searched Room Number 6, and inside Room  
 18 Number 6 he found a variety of pieces of evidence,  
 19 which were relevant to his investigation, that being a  
 20 number of identifications in the name of Little Lu or  
 21 Luis Hidalgo, III, including his original birth  
 22 certificate or a certified copy thereof, his original  
 23 Social Security card was in that room, checkbooks in  
 24 the name of Luis Hidalgo, III, were in that room and  
 25 other paperwork clearly establishing that was Little --

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1 Luis Hidalgo, III, room.  
 2 In addition, he found a bundle of U.S.  
 3 savings bonds inside that room, each and every one of  
 4 which were in the name of Luis Hidalgo, III, as well as  
 5 down on the floor to the right side, he found order  
 6 forms for more U.S. savings bonds.  
 7 And I believe the other parts of his  
 8 testimony he would object to as not being relevant  
 9 since Deangelo didn't testify; is that correct?  
 10 MR. DRASKOVICH: That is correct. And,  
 11 obviously, we're not going to be stipulating that this  
 12 was Luis Hidalgo, III, room, but that these items were  
 13 found within this particular room.  
 14 So, obviously, we would not stipulate to  
 15 the conclusions that the State wishes to draw, but  
 16 merely that these particular items were found in this  
 17 particular room.  
 18 MR. DIGIACOMO: Then I would state one  
 19 other thing, and that is that the room looks very lived  
 20 in, and it appeared to be -- oh, I'm sorry, there was  
 21 one other thing, that he found numerous bottles of  
 22 liquor throughout the room.  
 23 MR. DRASKOVICH: Yes, and we're not going  
 24 to be stipulating as to who those belonged to or not,  
 25 but yes, that various bottles of liquor were found

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1 within this particular room.  
 2 THE COURT: And then the photos, are we  
 3 stipulating to those?  
 4 MR. DIGIACOMO: Yes, Judge, I didn't pull  
 5 them all out. It's photos 51, 52 -- I messed up my  
 6 order, Judge -- 53, 54, 55, 56, 57, 58, 59 and 60,  
 7 Judge.  
 8 MR. DRASKOVICH: And just so we're clear,  
 9 this stipulation, obviously, applies for the purposes  
 10 of preliminary hearing only. I don't think the State  
 11 has any problem with that.  
 12 MR. DIGIACOMO: That's correct, Judge.  
 13 THE COURT: Okay. They will be admitted.  
 14 MR. DIGIACOMO: As to all defendants?  
 15 MR. PESCI: We just want to hear from  
 16 Mr. Oram and Ms. Wildeveld as far as whether they are  
 17 stipulating to the same facts, your Honor.  
 18 MR. ORAM: Yes, your Honor.  
 19 MS. WILDEVELD: Yes, your Honor, for  
 20 purposes of preliminary hearing only.  
 21 MR. PESCI: Thank you.  
 22 (Thereupon, State's Exhibits 51 through  
 23 60 were admitted into evidence.)  
 24 MR. DIGIACOMO: If you could grab  
 25 Detective Marty Wildemann.

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1 THE CLERK: Raise your right hand.  
 2 Do you swear the statements that you are  
 3 about to make are the truth, the whole truth, and  
 4 nothing but the truth, so help you God?  
 5 THE WITNESS: I do.  
 6 THE CLERK: I need you to state your name  
 7 for the record and spell your name, please.  
 8 THE WITNESS: Marty Wildemann,  
 9 W-I-L-D-E-M-A-N-N.  
 10  
 11 MARTY WILDEMAN,   
 12 having been first duly sworn, did testify as follows:  
 13  
 14 DIRECT EXAMINATION  
 15 BY MR. DIGIACOMO:  
 16 Q. Good afternoon, Detective. How are you  
 17 employed?  
 18 A. With the Las Vegas Metropolitan Police  
 19 Department.  
 20 Q. I guess I should say good evening.  
 21 A. Yeah, almost.  
 22 Q. How long have you been so employed?  
 23 A. Seventeen-and-a-half years.  
 24 Q. And what is your current assignment?  
 25 A. With homicide.  
 Q. How long have you been with them?

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1 A. Three-and-a-half years.  
 2 Q. I'm going to direct your attention back to  
 3 May 19th of the year 2005. Did you become involved in  
 4 the investigation of Timothy Hadland?  
 5 A. Yes, I did.  
 6 Q. Without going into it, did you go to the  
 7 scene?  
 8 A. Yes.  
 9 Q. And then eventually pursued the  
 10 investigation with the other members of your squad?  
 11 A. Yes, I did.  
 12 Q. I want to direct your attention to the  
 13 evening of 5/21 into the early morning hours of 5/22  
 14 out at 1676 E Street. Were you present during the  
 15 execution of the search warrant at 1676 E Street?  
 16 A. Yes, I was.  
 17 Q. Okay. During the course and time you were  
 18 outside at 1676 E Street, did you receive a phone call  
 19 from anybody?  
 20 A. Yes, I did.  
 21 Q. Who did you receive that phone call from?  
 22 A. Deangelo Carroll.  
 23 Q. Where was Deangelo Carroll when he made  
 24 that phone call to you?  
 25 A. He was inside his mother's house across

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1 the street.  
 2 Q. And in relationship to 1676 E Street,  
 3 where was across?  
 4 A. A little bit south and a little bit east.  
 5 Q. Based on the information that he provided  
 6 to you, did you get a warrant for 1677 E Street?  
 7 A. Yes, I did. Actually, Detective Vaccaro  
 8 got the warrant, but with my information.  
 9 Q. Then after SWAT made entry, eventually  
 10 Mr. Counts was taken -- I'm sorry.  
 11 Was an individual taken into custody?  
 12 A. Yes, he was.  
 13 Q. Do you see the individual who was taken  
 14 into custody here in court today?  
 15 A. Yes, I do.  
 16 Q. Can you point him out and describe  
 17 something he's wearing?  
 18 A. He's wearing the blue jail attire in the  
 19 first seat in the front row.  
 20 MR. DIGIACOMO: May the record reflect the  
 21 identification of Defendant Counts, Judge?  
 22 THE COURT: Record will so reflect.  
 23 BY MR. DIGIACOMO:  
 24 Q. When you took Mr. Counts into custody,  
 25 describe his physical condition?

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- 1 A. He was very short of breath. He was very  
2 hot, very sweaty. He was very dirty from being in  
3 insulation and had a hard time speaking.  
4 Q. During the course, did you eventually  
5 drive him down to the homicide office?  
6 A. Yes, I did, with Detective Vaccaro.  
7 Q. During the time that he's being driven  
8 down to the homicide office, did you have chitchat or  
9 conversations related to his health, those kinds of  
10 things?  
11 A. Yes, we did.  
12 Q. Did you ask him any questions concerning  
13 the case at all during that drive?  
14 A. No, we did not.  
15 Q. Eventually, did you conduct an interview  
16 with Mr. Carroll?  
17 A. Yes.  
18 Q. I'm sorry, Mr. Counts?  
19 A. Mr. Counts, yes.  
20 Q. And during the course of this interview,  
21 did he speak for a short period of time before he  
22 eventually terminated the interview?  
23 A. Very short.  
24 Q. I want to direct your attention forward to  
25 5/23. Were you an individual what's known as, one of

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- 1 the individuals known as the "eye" on Simone's Auto  
2 Plaza at 6770 Bermuda?  
3 A. I was one of the detectives there, yes.  
4 Q. What does it mean to be the "eye?"  
5 A. It just means that we have a clear view of  
6 the business and are able to see what's happening  
7 there.  
8 Q. Prior to Deangelo Carroll entering  
9 Simone's Auto Plaza with the body wire, did you have  
10 any information or were able to confirm whether or not  
11 either Luis Hidalgo, III, or Anabel Espindola was  
12 inside the Simone's?  
13 A. Which date are you talking about?  
14 Q. The first day, 5/23.  
15 A. No, we didn't have information regarding  
16 that. We saw vehicles that were there.  
17 Q. What vehicles did you -- first of all,  
18 have you now seen Luis Hidalgo, III.  
19 A. Yes.  
20 Q. And do you see him in court today?  
21 A. Yes, I do.  
22 Q. Can you point him out and describe  
23 something he's wearing?  
24 A. Wearing blue jail attire, middle seat in  
25 the first row.

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- 1 MR. DIGIACOMO: May the record reflect  
2 identification of Luis Hidalgo, III?  
3 THE COURT: The record will so reflect.  
4 MR. DIGIACOMO: Thank you.  
5 BY MR. DIGIACOMO:  
6 Q. Now, had you seen Anabel Espindola; is  
7 that correct?  
8 A. Today.  
9 Q. Well, have you seen her previously?  
10 A. Yes.  
11 Q. Do you recognize her here in court today?  
12 A. Yes, I do.  
13 Q. Can you point her out and describe  
14 something she's wearing?  
15 A. Blue jail attire, four seats, first row.  
16 MR. DIGIACOMO: May the record reflect the  
17 identification of Anabel Espindola?  
18 THE COURT: The record will so reflect.  
19 BY MR. DIGIACOMO:  
20 Q. What cars did you see at Simone's Auto  
21 Plaza before Deangelo entered into the plaza with the  
22 body wire or the body recorder?  
23 A. There is a number of cars. I saw the  
24 black Hummer H2 vehicle with the Nevada personalized  
25 plates. I saw a -- I'm not going to know the make of

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- 1 this vehicle, but it's that new Chevy truck. It's the  
2 SS, the very small two-seater truck. That was parked  
3 along the side of the vehicle to the north.  
4 So I saw a number of vehicles that we  
5 believed that Anabel might be driving, a brown van.  
6 MR. ORAM: Objection as to "we" believe.  
7 First of all, it's "we." Second of all, it's pure  
8 speculation. He said we believed could be driving.  
9 BY MR. DIGIACOMO:  
10 Q. Did you ever see a vehicle there that  
11 Anabel was driving?  
12 A. Yes.  
13 Q. Okay. And what vehicle was that?  
14 A. The black H2.  
15 Q. Okay. After Deangelo entered into  
16 Simone's Auto Plaza, eventually he leaves Simone's Auto  
17 Plaza; is that correct?  
18 MR. DRASKOVICH: Object, this assumes  
19 facts not in evidence. He said that he didn't see them  
20 specifically go in. He just saw vehicles parked  
21 outside. So that mischaracterizes his prior testimony.  
22 MR. DIGIACOMO: Didn't I say Deangelo?  
23 After Deangelo went in, he saw Deangelo come out. That  
24 doesn't mischaracterize his prior testimony.  
25 THE COURT: Well, he asked him about

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- 1 whether he knew who was already in there, and he said  
2 he didn't know who, just the vehicle.  
3 MR. DRASKOVICH: Just so that's clear.  
4 Thank you.  
5 BY MR. DIGIACOMO:  
6 Q. Eventually, Deangelo went in, and  
7 eventually Deangelo left; is that correct?  
8 A. Yes.  
9 Q. After Deangelo left, did you continue  
10 surveillance on 6770, the Simone's Auto Plaza?  
11 A. Yes.  
12 Q. Eventually, did you see an individual that  
13 you now know as Anabel Espindola leave?  
14 A. Yes.  
15 Q. And what vehicle did she leave in?  
16 A. The black H2 Hummer.  
17 Q. Did you remain on site? Well, how is it  
18 that you were able to see her?  
19 A. I was parked in a location across the  
20 street where I could see the front door and see the  
21 vehicle.  
22 Q. Was her driving away in this vehicle  
23 documented in any manner?  
24 A. Yes, it was.  
25 Q. How was that?

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- 1 A. Several of the detectives out there took  
2 notes and a brief synopsis was written up, and it's  
3 being authored into another report.  
4 Q. Was there photographs I guess is my  
5 question?  
6 A. I believe that some of the CAT detectives  
7 did have their camera and were taking photos. I have  
8 never seen those photos, but they were saying that they  
9 were taking photos.  
10 Q. CAT detectives are -- what does CAT stand  
11 for?  
12 A. I'm sorry. Criminal Apprehension Team,  
13 and that's a group of detectives that helped us with  
14 our surveillance.  
15 Q. Okay. Did you remain on -- after Anabel  
16 left inside the black H2, did you remain on the scene  
17 to see if Luis Hidalgo, III, would leave?  
18 A. Yes.  
19 Q. And did he eventually leave or not?  
20 A. He did eventually leave, yes.  
21 Q. You saw him leave Simone's Auto Plaza on  
22 May 23rd?  
23 A. Yes.  
24 Q. What kind of vehicle was he driving?  
25 A. I can't be specific on that vehicle right

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- 1 now. He was with a group of people. They split up.  
2 One went into, I believe, it was a green SUV. And that  
3 might have been the vehicle that he got into. I can't  
4 recall that exact vehicle at that time, but I know --  
5 Q. But needless to say, he left in a vehicle?  
6 A. Yes.  
7 Q. I'm going to jump ahead. On May 24th of  
8 2005, were you also in a position called quote/unquote  
9 the "eye" on Simone's Auto Plaza during the body wire  
10 or the body recorder incident where Deangelo was sent  
11 in a second time?  
12 A. Yes.  
13 Q. And did you, in fact, watch Deangelo  
14 enter?  
15 A. Yes.  
16 Q. Prior to him entering, were you able to  
17 confirm whether or not any of the suspects were on the  
18 scene at that particular time?  
19 A. I did not see them personally, but another  
20 detective relayed to me that they were in there.  
21 Q. How did that work?  
22 A. Surveillance was set up earlier by the CAT  
23 detectives. And when I arrived out there, I was  
24 informed that Anabel and Mr. H, Hidalgo, Jr., had  
25 arrived in the pewter H2 Hummer, another vehicle that

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- 1 is driven by them, and had walked into the business.  
2 The black H2 Hummer was already there, was already  
3 parked there when they arrived on their surveillance.  
4 Q. Based on the black H2 Hummer arriving  
5 there, what conclusions did you draw?  
6 A. We believed from all the information that  
7 we had collected that Luis, III, was already in there.  
8 Q. All right. Did you continue surveillance  
9 until Deangelo Carroll left?  
10 A. Yes, we did.  
11 Q. Did you remain on site until at least one  
12 of the suspects left on the scene?  
13 A. Yes, I did.  
14 Q. Who was the first suspect?  
15 A. The first suspect was Luis Hidalgo, III,  
16 exited the business, got into the black H2. We did a  
17 surveillance on him taking him out of the area and  
18 orchestrated a traffic stop with a patrol unit in the  
19 area of Patrick and Pecos.  
20 Q. Thereafter, did you resume your position  
21 on the eye on Simone's Auto Plaza?  
22 A. Yes, I did.  
23 Q. Did you wait for any other suspects to  
24 leave Simone's Auto Plaza?  
25 A. Yes. Shortly after arriving back there,

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1 Anabel and Hidalgo, Jr., excuse me,  
 2 exited the business and entered the pewter H2 and  
 3 drove, left the area. We surveilled all the way to  
 4 Carson and Sixth Street where I had a vehicle stop done  
 5 and contacted them there.  
 6 MR. DIGIACOMO: May I approach, Judge?  
 7 THE COURT: Yes.  
 8 BY MR. DIGIACOMO:  
 9 Q. After interviews take place, do you  
 10 eventually make it back to Simone's Auto Plaza during  
 11 the course of the search warrant that's being executed  
 12 there?  
 13 A. Yes, I did.  
 14 Q. Now, by the time you got there, had Bob  
 15 Rogers and the crime scene analysts already searched  
 16 Room 6 in the back?  
 17 A. Yes.  
 18 Q. However, did you see other evidence and  
 19 find other evidence during the course of the search?  
 20 A. Yes.  
 21 Q. Showing you what's been marked as State's  
 22 Proposed 39 through 50. If you could flip through  
 23 those.  
 24 MR. DRASKOVICH: If I can approach just  
 25 briefly?

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1 THE COURT: Okay.  
 2 BY MR. DIGIACOMO:  
 3 Q. Do those fairly and accurately depict  
 4 Simone's Auto Plaza when you were there during the  
 5 search warrant?  
 6 A. Yes.  
 7 Q. I'm not going to go through all of them,  
 8 but let me back up slightly. Showing you what's been  
 9 marked as State's Proposed Exhibit --  
 10 MR. DIGIACOMO: Oh, I guess I should move  
 11 to admit, Judge. Did I move to admit?  
 12 THE COURT: No.  
 13 MR. DIGIACOMO: I'll move to admit them.  
 14 MR. ORAM: No objection.  
 15 MR. DRASKOVICH: No objection.  
 16 MS. WILDEVELD: No objection.  
 17 THE COURT: They will be admitted.  
 18 (Thereupon, State's Exhibits 39 through  
 19 50 were admitted into evidence.)  
 20 BY MR. DIGIACOMO:  
 21 Q. State's Exhibit 44, do you recognize  
 22 what's depicted in that photograph?  
 23 A. Yes, I do.  
 24 Q. What is that?  
 25 A. Well, it's a pool table in what I would

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1 say was a gaming area that has a bulletproof vest on  
 2 it. And in the background, there is three chairs. One  
 3 of the chairs has an Outdoors magazine on it and on top  
 4 of that magazine is a note.  
 5 Q. Showing you 47, can you read to the Court  
 6 what is stated on that note?  
 7 A. It's torn in half, and it says, "Maybe we  
 8 are being under surveil. Keep your mouth shut." And  
 9 two exclamation points.  
 10 Q. Eventually, did you become involved in the  
 11 search that was conducted in the front office area of  
 12 Simone's Auto Plaza?  
 13 A. Yes.  
 14 Q. Showing you State's Exhibit Number 41, do  
 15 you recognize what's depicted there?  
 16 A. That's the lobby/waiting room for the Auto  
 17 Plaza and the doors into the main offices.  
 18 Q. And that room right there is where the TV  
 19 is with the couches?  
 20 A. Yes.  
 21 Q. And to the right there, or if you are  
 22 facing it, there is two offices, one to the right and  
 23 one to the left?  
 24 A. Right.  
 25 Q. Did you determine during the course of

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1 your investigation who owned or who occupied the office  
 2 on the far right all the way to the front of the  
 3 building?  
 4 MR. DRASKOVICH: Object, calls for  
 5 speculation.  
 6 MR. DIGIACOMO: Well, I'll ask him this  
 7 question.  
 8 BY MR. DIGIACOMO:  
 9 Q. What did you do to confirm who stayed in  
 10 that particular or who utilized that particular office?  
 11 MR. DRASKOVICH: I would have to object as  
 12 to that. He could testify as to what he found, but as  
 13 to who lived there or anything like that, it calls for  
 14 speculation, unless he saw someone going to bed,  
 15 getting up, living there.  
 16 MR. DIGIACOMO: It's not lived. I'm  
 17 sorry. This is the office. This is the front office  
 18 area. I'm not asking him about the bedroom in the  
 19 back.  
 20 MR. DRASKOVICH: Okay.  
 21 MR. DIGIACOMO: If I said lived, I  
 22 apologize.  
 23 MR. DRASKOVICH: I thought I heard lived.  
 24 I don't know, maybe --  
 25 THE COURT: You didn't.

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1 MR. DRASKOVICH: Okay.  
 2 BY MR. DIGIACOMO:  
 3 Q. The front right office, whose office --  
 4 did you find evidence of whose office that was?  
 5 A. Detective Harvey searched that office,  
 6 walked in there and there was evidence that Luis  
 7 Hidalgo, Jr., used that office.  
 8 Q. Mr. H?  
 9 A. Mr. H.  
 10 Q. Now, what about the office to the left  
 11 with the glass windows? Did you conduct a search of  
 12 that particular office?  
 13 A. Yes.  
 14 Q. Were you able to identify at least one of  
 15 the occupants of that office?  
 16 A. Yes.  
 17 Q. Who was that?  
 18 A. Anabel Espindola.  
 19 Q. Showing you Number 42, do you recognize  
 20 what's depicted in that photograph?  
 21 A. Yes, I do. That's the second office that  
 22 we spoke of.  
 23 Q. During the course of the search of that  
 24 office, did you find what's depicted in State's Exhibit  
 25 Number 43?

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1 A. Yes.  
 2 Q. What is that?  
 3 A. It is a paycheck to Deangelo R. Carroll,  
 4 and the return address on it is the Palomino Club, LLC.  
 5 Q. This morning were you asked to make a  
 6 photocopy of that particular check and have it brought  
 7 here to court?  
 8 A. Yes.  
 9 Q. Did you do so?  
 10 A. Yes.  
 11 Q. Showing you what's been marked as State's  
 12 Proposed Exhibit Number 66, can you identify that?  
 13 A. Yes.  
 14 MR. DRASKOVICH: We stipulate to its  
 15 admission.  
 16 MR. DIGIACOMO: Thank you.  
 17 THE COURT: It will be admitted.  
 18 (Thereupon, State's Exhibit 66 was  
 19 admitted into evidence.)  
 20 MR. DIGIACOMO: Thank you, Judge.  
 21 BY MR. DIGIACOMO:  
 22 Q. If you could, could you please tell me the  
 23 number of hours that's earned on this check dated  
 24 May 27th, 2005, to Deangelo Carroll?  
 25 A. Twenty-four.

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1 Q. Twenty-four hours?  
 2 A. Yes.  
 3 Q. During the search of Simone's Auto Plaza,  
 4 did you locate a white Chevy Astro van?  
 5 A. Yes.  
 6 Q. And had you previously been identified --  
 7 had this van previously been identified by other  
 8 witnesses?  
 9 A. Yes.  
 10 Q. One of those witnesses was Ronta Zone?  
 11 A. Yes.  
 12 Q. Showing you State's Exhibit Number 61 to  
 13 64, do you recognize what's depicted in those  
 14 photographs?  
 15 A. Yes, I do.  
 16 Q. What is that?  
 17 A. It is the -- I believe it's the 1995 white  
 18 Chevy Astro van with Nevada plates 363-NKS.  
 19 Q. And on that van, are there four non  
 20 whitewall tires?  
 21 A. Yes.  
 22 Q. Okay. And the van, how many sliding doors  
 23 does it have?  
 24 A. One on the passenger side.  
 25 MR. DIGIACOMO: Judge, I move to admit

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1 them.  
 2 MR. ORAM: We have no objection to the  
 3 admission.  
 4 MR. DRASKOVICH: Nor do I.  
 5 MS. WILDEVELD: Nor do I.  
 6 THE COURT: They will be admitted.  
 7 THE CLERK: What numbers?  
 8 MR. DIGIACOMO: 61 through 64.  
 9 (Thereupon, State's Exhibits 61 through  
 10 64 were admitted into evidence.)  
 11 BY MR. DIGIACOMO:  
 12 Q. Now, you were present -- let me back up a  
 13 little bit -- you were present outside during the  
 14 execution of the search warrant at 1677 E Street in  
 15 which Mr. Counts was eventually taken into custody,  
 16 correct?  
 17 A. Yes, I was.  
 18 Q. And you eventually learned the  
 19 circumstances under which he was taken into custody;  
 20 correct?  
 21 A. Yes, I did.  
 22 Q. Did you learn from being outside the  
 23 residence and listening to the communications through  
 24 the SWAT officers that Mr. Counts actually received  
 25 several Tases of a Taser or shocks of some sort?

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1 A. Yes.  
 2 Q. Did you also learn that he was cut out of  
 3 an attic?  
 4 A. Yes.  
 5 Q. Eventually, did you have an opportunity to  
 6 listen to phone calls from the jail which involved  
 7 Mr. Counts?  
 8 A. Yes.  
 9 Q. And did you sit and listen to all eight  
 10 phone calls that were provided to you?  
 11 A. Yes.  
 12 Q. Did you also see a document from the jail  
 13 called the call detail, which delineates where the call  
 14 is from or who the call is to, from what part of the  
 15 jail, the time that it's done, date and time that it's  
 16 done?  
 17 A. Yes.  
 18 MS. WILDEVELD: I don't have that piece of  
 19 paper.  
 20 MR. DIGIACOMO: It's on the CD we gave  
 21 you. You can look at mine. That's the only copy I  
 22 have right now. I can print out another one.  
 23 BY MR. DIGIACOMO:  
 24 Q. Showing you what's been marked as State's  
 25 Proposed Exhibit Number 67, does that appear to be a

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1 transcript of all eight phone calls?  
 2 A. Yes.  
 3 Q. Now, the very first phone call, did you  
 4 recognize Mr. Counts' voice on that phone call?  
 5 A. Yes.  
 6 Q. And in there he describes the  
 7 circumstances of his arrest?  
 8 A. On the first phone call?  
 9 Q. Yes.  
 10 A. Yes.  
 11 Q. And it appeared to be consistent with the  
 12 information that you had concerning his arrest?  
 13 A. Yes.  
 14 Q. Ask you just a few questions concerning --  
 15 there has been a lot of talk here that's probably not  
 16 completely -- on page 7, Detective, if you can turn to  
 17 page 7. And I apologize, counsel. You have to look  
 18 over my shoulder because your numbering is slightly  
 19 different.  
 20 A. Okay.  
 21 Q. On page 7 at the top, do you hear  
 22 Mr. Counts have a conversation with his wife Irene?  
 23 A. Yes.  
 24 Q. And during the course of that  
 25 conversation, if you could just read to the Court the

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1 course of that conversation from basically KC on the  
 2 top to KC where he says okay, okay.  
 3 A. "KC: They was nice and comfy?  
 4 Irene: Yes.  
 5 KC: Everything?  
 6 Irene: Uh-huh or huh-huh (affirmative), I  
 7 thought I was. They was gonna be really flat.  
 8 KC: Uh-huh.  
 9 Irene: But both my pillows and everything  
 10 was still in there.  
 11 KC: Okay, okay, so that mean you cool?  
 12 Irene: Uh-huh."  
 13 KC -- I'm sorry, and that was where you  
 14 wanted me to stop. I'm sorry.  
 15 Q. Well, you can finish KC's line there.  
 16 A. "Okay, all right, I'm glad, I'm glad  
 17 that."  
 18 Q. Moving on through the conversations,  
 19 Detective, if you could turn to your page -- well, let  
 20 me ask you this.  
 21 During the time period that you talked to  
 22 Kenneth Counts, the entire time period from the time  
 23 you drove him down to the homicide office to the very  
 24 short interview that you had with him, did you ever  
 25 provide him the names of any of the people -- do you

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1 ever provide him the names of any of the people that  
 2 were involved in this particular case?  
 3 A. No, I didn't.  
 4 Q. Okay. What information did you provide  
 5 him in order to attempt to elicit information from him?  
 6 A. We said that, we told him what he was  
 7 being charged with. We said that we would like to hear  
 8 his side of the story, and we said that we had three  
 9 guys that are telling us a whole different story.  
 10 Q. Okay. You never identified to him who  
 11 those three guys were, correct?  
 12 A. No.  
 13 Q. Go down to Page 19, if you could.  
 14 A. Okay.  
 15 Q. Starting at KC, four lines up from the  
 16 bottom, if you can read that through page 21, line 5.  
 17 A. Okay. So four lines up from the bottom,  
 18 KC?  
 19 Q. Yes. It says why would.  
 20 A. Why would they -- KC -- excuse me.  
 21 "KC: Why would they do that? They mess  
 22 your drugs up?  
 23 Irene: No, but they just went in there  
 24 and left all that stuff sitting in the sink.  
 25 KC: That's it?

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1 Irene: Uh-huh.  
 2 KC: That's all they want?  
 3 Irene: Huh?  
 4 KC: That's all they want?  
 5 Irene: No, they want (inaudible) white  
 6 one and just dumped all that stuff out that cart and  
 7 didn't put it back.  
 8 KC: Oh.  
 9 Irene: But, other than that, you know,  
 10 everything is okay (inaudible).  
 11 KC: What'd you say?  
 12 Irene: I said, other than that, you know,  
 13 everything is (inaudible) in the halls.  
 14 KC: Right, but you got that to go with  
 15 what I gave you.  
 16 Irene: Huh?  
 17 KC: I said, but you got that to go with  
 18 what I gave you.  
 19 Irene: Uh-huh or huh-huh (negative), my  
 20 purse.  
 21 KC: It's in your purse?  
 22 Irene: Uh-huh.  
 23 KC: Everything?  
 24 Irene: Huh-huh (negative)."  
 25 Keep going? I'm sorry.

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1 Q. Keep going until line 5 of the next page.  
 2 A. "KC: Oh, you got (inaudible).  
 3 Irene: (Inaudible) Yep, I had to have my  
 4 cool.  
 5 KC: Okay.  
 6 Irene: 'Cause I don't even feel  
 7 comfortable. I have to go and to send Ashley over  
 8 there to get my pillow. They went in and while my  
 9 daddy and got it.  
 10 KC: (Inaudible).  
 11 Irene: Huh?  
 12 KC: You know what I'm trying to ask you,  
 13 right?  
 14 Irene: Uh-huh (affirmative).  
 15 KC: So (inaudible) you straight?  
 16 Irene: Uh-huh.  
 17 KC: Okay."  
 18 Q. Flip forward to page 23 and read from the  
 19 last two lines from Irene down to when Irene says my  
 20 daddy stayed over there on page 24.  
 21 A. Okay. The last two lines Irene.  
 22 "Irene: Somebody got killed on  
 23 (inaudible) last night. Shot in the head. Mm, mm, mm,  
 24 KC: Hey, uhm.  
 25 Irene: Huh?

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1 KC: Ah, ah, house arrest boy.  
 2 Irene: Uh-huh (affirmative).  
 3 KC: You seen him?  
 4 Irene: Huh-huh (negative).  
 5 KC: Seen his car?  
 6 Irene: That little white one?  
 7 KC: Uh-huh (affirmative).  
 8 Irene: I think it stayed in the driveway.  
 9 KC: Might need -- pause -- might need see  
 10 what's going on with that, or you know what I'm saying?  
 11 Irene: Uh-huh, yep. Already know that.  
 12 KC: Huh?  
 13 Irene: I already know that.  
 14 KC: Uh-huh."  
 15 Q. Okay. You can stop there.  
 16 Now, did you know the type of vehicle that  
 17 Deangelo Carroll personally drove?  
 18 A. Yes.  
 19 Q. What type is that?  
 20 A. It's a small, it's a small white vehicle,  
 21 and I don't know the make off the top of my head.  
 22 Q. Okay. Now, house arrest, did you know  
 23 through your investigation that Deangelo Carroll was  
 24 placed on house arrest for his probation that he was  
 25 currently on at the time of the crime?

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1 A. I didn't know that specifically, but one  
 2 of the detectives had mentioned that.  
 3 Q. Okay. So you eventually learned that  
 4 through the course of your investigation?  
 5 A. Yes.  
 6 Q. We can keep going, Detective. I'm going  
 7 to direct you to page 38.  
 8 A. Okay.  
 9 Q. Page 38, if you can go to the fifth one  
 10 that starts off with KC.  
 11 MS. WILDEVELD: Can I just ask, why are  
 12 my -- if I have the same copies that you do, why are my  
 13 numbers off?  
 14 MR. DIGIACOMO: Judge, this morning at  
 15 7:30 what I did was, hers goes through each hello call,  
 16 hello call, hello call. They weren't broken up by  
 17 page, so what I did was taped the call number and put  
 18 it on the back of the one that I provided to them, and  
 19 a single copy is all I had, so that the detective could  
 20 read that and know which call number we're talking  
 21 about, if she wants to cross-examine him on that.  
 22 So I turned over the transcripts, but the  
 23 transcripts have a slight pagination change, so I told  
 24 Ms. Wildeveld to be reading mine as we talked about it  
 25 because hers are going to be slightly off on the page

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1 numbers.  
2 So that's why she's having confusion here  
3 because my page numbers, which she's free to use when  
4 we're done, they are highlighted as to exactly which  
5 one we're using to cross-examine him.

6 THE COURT: Okay.

7 BY MR. DIGIACOMO:

8 Q. Page 38, Detective, and I want you to  
9 start at Irene when she's -- it's the fourth line down,  
10 it says Irene, and she goes and conspiracy to commit  
11 murder. And then what I want you to do is go all the  
12 way through page 40, and I will stop you on page 40  
13 when I think it's appropriate.

14 A. Okay.

15 "Irene: And conspiracy to commit murder  
16 with a deadly weapon. How they going to say it's  
17 conspiracy? Is that because they don't have a weapon?"

18 KC: I guess. They don't have nothing.  
19 All they got is they said, they said they have three  
20 people saying I did this.

21 Irene: Yeah.

22 KC: You know, did you see the boy?

23 Irene: N, N, number disconnected.

24 KC: What number?

25 Irene: The one 355.

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1 KC: For real?

2 Irene: Yeah.

3 KC: Okay, uhm, you need to call, call  
4 this number.

5 Irene: Uh-huh.

6 KC: 642-0893.

7 Irene: Okay, that's it?

8 KC: I mind, 'cause all I really want you  
9 to find out --

10 Irene: Uh-huh.

11 -- is you know what I'm saying.\* KC said  
12 that. Excuse me.

13 "Irene: Yeah. When they took you and  
14 they said that you were under arrest, did they tell you  
15 you were under arrest for supposedly murdering?"

16 KC: No.

17 Irene: They didn't tell you that?

18 KC: No.

19 Irene: Oh.

20 KC: And they didn't tell you" -- excuse  
21 me.

22 "KC: And they didn't tell me who the  
23 three dudes was that was supposedly telling on me.

24 Irene: Uh-huh.

25 KC: And then the three dudes that they

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1 supposedly telling on me I was supposed.

2 Irene: You was supposed to what?

3 KC: They told ah, ah, what did the three  
4 dudes I was with in the van with said that I did it.

5 Irene: Said that you did, said that you  
6 did it?

7 KC: Yeah. And I'm saying to myself if it  
8 was a possibility that I was in the van with these  
9 three dudes, and something like that happened.

10 Irene: Yeah.

11 KC: Why they ain't in jail too.

12 Irene: Right.

13 KC: Or are they? I don't know.

14 Irene: That don't make no sense. No, I  
15 don't think so.

16 KC: You know?

17 Irene: They was down there for a  
18 questioning the other day, three (inaudible). After  
19 that, you know, they were gone.

20 KC: Ah, that's what they say they was  
21 down there for questioning?

22 Irene: Yeah.

23 KC: Huh. And what made them have to go  
24 down there for questioning?

25 Irene: I don't know. I don't know.

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1 KC: Well, that what I want you to ah,  
2 check on me for when you call that number.

3 Irene: Uh-huh.

4 KC: Or could you call this number?

5 Irene: Uh-huh.

6 KC: Which is, which is ah, next door.

7 Irene: Uh-huh.

8 KC: 633-

9 Irene: Uh-huh (affirmative).

10 KC: 6170.

11 Irene: Okay.

12 KC: 'Cause ah Mom's.

13 Irene: Mom?

14 KC: (Inaudible).

15 Irene: Uh-huh. Okay. And the other one  
16 is what?

17 KC: What?

18 Irene: Direct?

19 KC: Six, yeah.\*

20 Q. I'm going to stop you there, Detective.

21 Were you able to confirm the number 633-6170, who that  
22 number went to?

23 A. That is Deangelo Carroll's mother.

24 Q. That's Deangelo Carroll's mother's house?

25 A. Yes.

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1 Q. You never told Kenneth Counts that  
2 Deangelo Carroll was involved in this particular case?  
3 A. No.  
4 Q. Did you ever tell Kenneth Counts that, or  
5 Kenneth Counts' wife, that the three people had come  
6 down for questioning and were not booked into the jail?  
7 A. No.  
8 MR. DIGIACOMO: We can continue on, Judge.  
9 BY MR. DIGIACOMO:  
10 Q. Sorry. You don't have to continue  
11 reading. Page 44. I'm going to start at Irene talking  
12 about "I don't know. They just said on the paper that  
13 they --" That's about dead center.  
14 A. I have it. Start there?  
15 Q. Start there, and we can go right till she  
16 says I love you at the end of the call.  
17 A. Okay.  
18 "Irene. I don't know. They just said on  
19 the paper that they --  
20 KC: 'Cause uhm is Dennis a jacket there?  
21 Irene: Huh?  
22 KC: Is Dennis jacket there?  
23 Irene: That black hoody?  
24 KC: Yeah.  
25 Irene: No, I don't think so.

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1 KC: No Dennis jacket?  
2 You have one minute left.  
3 Irene: (Inaudible) jacket?  
4 KC: The jacket.  
5 Irene: I don't know.  
6 KC: The one the pants got burnt?  
7 Irene: The one the pants got burnt?  
8 KC: On the heater.  
9 Irene: Oh, I don't know.  
10 KC: Go see.  
11 Irene: Ah, but Babe, I can't, my our  
12 house is, they got the two rooms straightened up, but  
13 our room is just dumped upside down.  
14 KC: Yeah, I really need to know that. I  
15 really need to know that though.  
16 Irene: Okay. Okay.  
17 KC: Okay? I will call you back. I'll  
18 call back later.  
19 Irene: All right.  
20 KC: Love ya'll.  
21 Irene: I love you too."  
22 Q. Then we can go to 46, which is the very  
23 next phone call. The first thing after the recording  
24 about this is a collect call from the inmate at the  
25 Clark County Detention Center. I want you to start

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1 with the very first thing KC says after that recording.  
2 A. Okay.  
3 "KC: Hello.  
4 Mom: Hey.  
5 KC: All right. I just wanted to know did  
6 ah, my wife get that little information for me?  
7 Mom: Yeah.  
8 KC: Yeah?  
9 Mom: Yes.  
10 KC: Okay. Are you saying yeah, they did?  
11 Mom: Yeah, they did. No, we did, we do.  
12 KC: Oh, ya'll.  
13 Mom: Yeah, we do.  
14 KC: Oh, okay, that's good.  
15 Mom: All right.  
16 KC: So, hey, I, okay, yeah, that's good."  
17 Q. Okay. Let me stop you. I will skip ahead  
18 to page 49 in the middle.  
19 MS. WILDEVELD: Your Honor, I'm a little  
20 confused. This means nothing, and I don't know where  
21 we're going at here. Can we have a proffer as to what  
22 we're talking about? I mean, I read this whole thing,  
23 and I got a CSI two-hour episode out of it where they  
24 are talking about the house arrests boy and shooting  
25 someone, and we just keep going on. I don't know what

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1 this is about.  
2 MR. DIGIACOMO: Well, the fact that  
3 Deangelo Carroll happens to be on house arrest, happens  
4 to drive a little white car, and he happens to give his  
5 mother's phone number to contact to find out what's  
6 going on with his murder case when he should have  
7 absolutely no reason to know that Deangelo Carroll is  
8 involved in this murder case seems to be particularly  
9 relevant to this.  
10 As to the statements related to, and if  
11 you will let the Detective finish, the very last thing  
12 they ask him on page 49 is during the course of the  
13 search warrant, and if you want to read the whole  
14 thing, you can tell that that's what they are talking  
15 about.  
16 Clearly, the officers missed some piece of  
17 evidence that Mr. Counts is concerned about and is  
18 saying, "Oh, good, we've got that, you know what to do  
19 with it." It's clearly a consciousness of guilt type  
20 of comments, Judge, and that's what's being offered.  
21 MR. DRASKOVICH: Judge, I think we heard  
22 Ronta Zone testify that Mr. Counts and Mr. Deangelo  
23 Carroll were in the car together, so I object to this  
24 whole line of questioning. It's duplicative. It's  
25 redundant. And I move to strike.

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1 MR. DIGIACOMO: In case some Court or this  
2 Court, and I'm sure they are going to be arguing that  
3 Ronta is an accomplice as a matter of law, and as such,  
4 then need corroboration to his testimony. I don't  
5 think that is even remotely possible, but I certainly  
6 need to put in all the corroboration I have. But one  
7 last section of quotes to put in, and then I'm actually  
8 done with the witness.  
9 THE COURT: Okay. Let's get the last one  
10 in.  
11 MR. DRASKOVICH: Fine. We'll argue at the  
12 end. I agree.  
13 BY MR. DIGIACOMO:  
14 Q. The middle of page 49 where it starts  
15 Irene. Hello.  
16 A. Hello. There is a couple, so I'll just go  
17 to the top one.  
18 \*Irene: Hello.  
19 KC: Yeah.  
20 Irene: Hello.  
21 KC: Yeah.  
22 Irene: Yeah.  
23 KC: So, you got the ah --  
24 Irene: Uh-huh.  
25 KC: -- burnt pants?

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1 Irene: Uh-huh.  
2 KC: Okay. And uhm, so that means, uhm,  
3 okay, uhm, the ah, the ah bottoms that go with the  
4 burnt pants?  
5 Irene: Yeah.  
6 KC: They still in there?  
7 Irene: Uh-huh (affirmative).  
8 KC: Oh, okay.  
9 Irene: Yep.  
10 KC: Okay, ah, tell ah --  
11 Irene: I already know what to do.  
12 KC: All right.  
13 Irene: Yeah."  
14 Q. And you can stop there.  
15 MR. DIGIACOMO: Judge, I have marked the  
16 actual disk in evidence. If anybody ever needs it for  
17 the record, the actual speaking by Kenneth Counts on  
18 the eight phone calls, it's marked as State's Exhibit  
19 Number 75. I offer it.  
20 THE COURT: Okay. Any objection?  
21 MR. DRASKOVICH: This transcript with all  
22 the uh-huh negatives and uh-huh positives?  
23 MS. WILDEVELD: I think uh-huh and huh-huh  
24 are spelled the same.  
25 THE COURT: They didn't offer the

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1 transcript. He offered the --  
2 MR. DIGIACOMO: I was going to offer the  
3 transcript next, so I guess we should offer the  
4 transcript, too, just so that some Court doesn't have  
5 to sit down and listen to the wires if they want to  
6 dispute you. They'll have both the wire itself and the  
7 transcript.  
8 As we all know, the transcript is not  
9 actual evidence. It is just, you know, the hearer  
10 listens to that and decides whether or not it was  
11 actually said. The transcript is just a help for the  
12 hearer.  
13 MR. DRASKOVICH: I think I follow that. I  
14 mean, obviously, this is being admitted against  
15 Mr. Counts. There is nothing concerning the other  
16 codefendants in this. Obviously, the Court is going to  
17 consider this for whatever reason it's going to concern  
18 Mr. Counts alone. And I have no objection to it being  
19 admitted.  
20 MS. WILDEVELD: I would have objections to  
21 just the parts being admitted because, again, they are  
22 taken so out of context. They are talking about a CSI  
23 finale episode that was two hours, and they get all  
24 this out of it. To me, it seems like a story here  
25 that -- I read the whole thing and didn't get any of

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1 that.  
2 MR. DIGIACOMO: Well, that's why I offered  
3 the whole thing.  
4 MS. WILDEVELD: So just not those parts  
5 are let in, the entire conversation is let in?  
6 THE COURT: Yes.  
7 MR. DIGIACOMO: And what is -- I'm sorry,  
8 Detective, what is that transcript marked as?  
9 THE WITNESS: I'm sorry, say that --  
10 MR. DIGIACOMO: The transcript, what was  
11 it marked as?  
12 THE WITNESS: 67.  
13 MR. DIGIACOMO: 67 too, Judge.  
14 THE COURT: All right. What about  
15 Mr. Draskovich saying against just Mr. Counts, or are  
16 you going to address that?  
17 MR. DIGIACOMO: Well, it's an interesting  
18 argument. The fact that there is information to  
19 corroborate Ronta that Kenneth Counts is involved in  
20 this, should it ever become an issue, and I don't think  
21 it ever becomes an issue because it's a question of  
22 fact for a jury. And the jury will be instructed on  
23 whether or not they find him an accomplice or not.  
24 But the fact that any corroboration of  
25 Ronta, should you make a determination that he is an

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1 accomplice as a matter of law, which I'm assuming based  
2 upon the fact that he testified, and based upon his  
3 testimony, you can't find that way, but any  
4 corroboration of Ronta would be admissible to establish  
5 corroboration.

6 MR. ORAM: Against Mr. Counts. Not  
7 against --

8 MS. WILDEVELD: Can I have a chance to  
9 cross-examine this witness?

10 THE COURT: We're just doing the  
11 admission.

12 MR. DRASKOVICH: And, obviously, I'd  
13 appreciate his trying to lay some basis for seeking to  
14 have this admitted, but I think he was addressing the  
15 arguments that I had made and Mr. Oram had made  
16 concerning independent corroboration as co-conspirator  
17 statements, and that has nothing to do with the basis  
18 for my objections.

19 MR. ORAM: Under Hegelmeyer, the Nevada  
20 Supreme Court made it very clear you have to have  
21 independent evidence linking the defendant, in my case  
22 would be Miss Espindola, so I don't believe this has  
23 any relevance, so I have no objection to it.

24 MR. DRASKOVICH: Nor do I for the very  
25 same reason concerning Mr. Hidalgo.

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1 THE COURT: Okay. Cross-examination?

2 MR. ORAM: Nothing.

3 MR. DRASKOVICH: I have none.

4  
5 CROSS-EXAMINATION

6 BY MS. WILDEVELD:

7 Q. Detective Wildemann, you said that you  
8 arrested Mr. Counts at 1677 E Street?

9 A. I took custody of him. SWAT actually took  
10 him in to put the handcuffs on him, but yes, that's  
11 right.

12 Q. At that time, did you make a determination  
13 of whose house that was?

14 A. I had not, no.

15 Q. Do you now know whose house that was?

16 A. I don't know the name. I couldn't tell  
17 you the name specifically.

18 Q. Did you know it was his relatives?

19 A. I got that from reading these phone calls.

20 Q. So they have relatives that live across  
21 the street from where Mr. Counts lives, correct?

22 A. I couldn't tell you if they are blood  
23 relatives, but that's what I got out of the phone  
24 calls.

25 Q. During your ride to the police station

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1 with Mr. Counts, did you come to learn that he actually  
2 has asthma?

3 A. Yes.

4 Q. And he suffers from very severe asthma?

5 A. I don't know that it was very severe, but  
6 I do know that he said he had asthma.

7 Q. So when he was huffing and puffing, and I  
8 think Mr. DiGiacomo made a point of saying that when he  
9 was arrested he was sweating and having a hard time  
10 breathing. Did Mr. Counts ask to go to the hospital?

11 A. No, he did not.

12 Q. Do you know now that he's been to the  
13 hospital a couple times since being incarcerated?

14 A. I had no idea. I know that Detective  
15 Vaccaro asked him if he needed a puffer, and I think  
16 that's the exact terminology that he used, and he said  
17 no.

18 Q. While he was at the detectives' office,  
19 didn't he -- wasn't he transported to the hospital at  
20 one point?

21 A. No.

22 Q. Were you with him the entire time?

23 A. Yes.

24 Q. You're also aware that he was shocked  
25 twice by a Taser gun?

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1 A. I didn't know that it was two. I knew  
2 that it was more than once.

3 Q. And would that cause him also to be out of  
4 breath?

5 A. It could.

6 Q. And if he had asthma, it would only  
7 exacerbate that problem?

8 A. I'm not a medical doctor. I don't know.

9 I know that we offered him anything that we could.

10 Detective Vaccaro asked if he needed a puffer. He said  
11 no.

12 Q. So the first conversation that we went  
13 through described the circumstances of his arrest,  
14 correct?

15 A. Say that again?

16 Q. First conversation with his wife that you  
17 went through so nicely with Mr. DiGiacomo described the  
18 circumstances of his arrest, correct?

19 A. Yes.

20 Q. And he was saying that he was shocked by a  
21 Taser?

22 A. Yes.

23 Q. And there was nothing incriminating in  
24 that first phone conversation, was there?

25 A. In the whole conversation, I don't know.

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1 I would have to read through it all again.  
 2 Q. In the part that you read, Detective?  
 3 MR. DIGIACOMO: I didn't actually have him  
 4 read that first part. I just wanted him to confirm,  
 5 based on the voice and the fact that it's consistent  
 6 with his arrest, that he knows that this is, in fact,  
 7 KC on the phone or Defendant Counts on the phone.  
 8 I don't think I actually had him read  
 9 anything out of the first part. In fact, it might have  
 10 been the entire first phone call that I didn't have him  
 11 read anything out of.  
 12 BY MS. WILDEVELD:  
 13 Q. Okay. The first conversation was starting  
 14 with KC, "They was nice and comfy." "Yes, uh-huh. I  
 15 thought that they were going to be really flat?"  
 16 A. Can you tell me what page you're on?  
 17 Q. My pages are different. It's the first  
 18 conversation that you had to read.  
 19 A. That's several pages, so give me a minute.  
 20 I'll try to find it for you. All right?  
 21 Okay, that will be on page 7 at the top.  
 22 Q. Okay. "So they was nice and comfy?"  
 23 A. Yes.  
 24 Q. "Everything. Uh-huh. I thought I was.  
 25 They was going to be really flat. Uh-huh. Both my

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1 pillows and everything was still in there. KC, Okay,  
 2 okay, so that mean you cool? Uh-huh. All right, I'm  
 3 glad, I'm glad of that."  
 4 Do you have any idea what they're talking  
 5 about there?  
 6 A. I believe I do, yes.  
 7 Q. Could they be talking about a new mattress  
 8 or a bed or sheets?  
 9 A. They could be.  
 10 Q. But you don't know, do you?  
 11 A. I believe I do.  
 12 Q. You believe you do, or do you actually  
 13 know?  
 14 A. I believe I do.  
 15 Q. I believe I do too. They're talking about  
 16 a bed.  
 17 A. Okay.  
 18 Q. And in the next conversation, they were  
 19 talking about mess up your drugs. Did you find drugs  
 20 in Mr. Counts' house when you did your search?  
 21 A. I didn't know what that is talking about  
 22 because I did not search that area that they are  
 23 talking about.  
 24 Q. Have you had an opportunity to look at the  
 25 return from Mr. Counts' house?

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1 A. I haven't today, no.  
 2 MS. WILDEVELD: Your Honor, may I approach  
 3 the witness?  
 4 THE COURT: Yes.  
 5 BY MS. WILDEVELD:  
 6 Q. You signed your name to a return that was  
 7 done, executed on 5/21/05 --  
 8 A. Okay.  
 9 Q. -- of Mr. Counts' house?  
 10 A. Yes.  
 11 Q. And I'm showing you a return that's dated  
 12 5 -- executed on 5/21/05, and it was a copy of an  
 13 inventory of Mr. Counts' house.  
 14 A. Okay.  
 15 Q. Can you tell me if there were drugs listed  
 16 on that inventory?  
 17 A. No, there is not.  
 18 Q. And if you did a search of his house and  
 19 you found drugs, and they were illegal drugs, would you  
 20 have confiscated them?  
 21 A. Yes.  
 22 Q. So that conversation was not about  
 23 anything either, correct?  
 24 A. I don't know.  
 25 MS. WILDEVELD: I would ask the Court to

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1 strike that conversation from the record. It seems  
 2 that Mr. DiGiacomo is trying to get some other  
 3 incriminating evidence against my client in by using  
 4 these phone conversations with his wife of 15 years  
 5 where they are talking about a house that's being torn  
 6 up after a search warrant was executed and some drugs  
 7 that were being found.  
 8 And now it seems that he's trying to say  
 9 that Mr. Counts had drugs in the house, or I mean, he  
 10 read a very short paragraph.  
 11 MR. DIGIACOMO: Judge, the reason -- it  
 12 wasn't a short paragraph, it was two pages. The reason  
 13 I started putting in there why they mess up your drugs,  
 14 no, and they left all the stuff in the sink, is to  
 15 confirm that they are talking still about the search  
 16 warrant.  
 17 It's later in there where they start going  
 18 through everything, and then she goes back to the  
 19 pillow and needing to get the pillow because everything  
 20 is cool, and they got your purse, and we know we got  
 21 some of the money out of the purse but not all of the  
 22 money out of the purse. And that's the reason for that  
 23 information.  
 24 MS. WILDEVELD: And, your Honor, this is  
 25 all --

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1 MR. DIGIACOMO: I didn't ask the detective  
2 what his opinion is. The Court can take it for what  
3 it's worth.  
4 MS. WILDEVELD: This is not evidence.  
5 It's scant. There is nothing in this that can be used  
6 as evidence with any evidentiary value.  
7 THE COURT: Okay. Which means it goes to  
8 the weight. So the tapes and/or the CDs and  
9 transcripts are admitted for whatever weight they have  
10 got.  
11 BY MS. WILDEVELD:  
12 Q. And you don't know what the  
13 relationship -- you don't know any relationship between  
14 Mr. Counts and Mr. Carroll, do you?  
15 A. Mr. Carroll?  
16 Q. Yes.  
17 A. Any relationship?  
18 Q. You don't know if they have a relationship  
19 at all, do you?  
20 A. I know what Mr. Carroll told me.  
21 Q. You only know what Mr. Carroll told you,  
22 correct?  
23 A. Yes.  
24 Q. And Mr. Counts never spoke to you, did he?  
25 A. No.

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1 Q. And Deangelo didn't -- Deangelo's house  
2 was not, in fact, across the street from Mr. Counts'  
3 house, was it?  
4 A. The house that Mr. Counts is in is  
5 peculiar. I don't know if you've been down there.  
6 Q. Just answer the question.  
7 A. I'm trying to answer.  
8 Q. Then strike the question. Does  
9 Mr. Counts -- strike the question. It's my turn now.  
10 THE COURT: Let him finish answering.  
11 MR. DIGIACOMO: Thank you, Judge.  
12 THE WITNESS: The house is almost on a  
13 corner. Instead of one street's going north, one  
14 street is going east/west, north/south. And instead of  
15 facing either north or east or south or west, the house  
16 faces actually northeast.  
17 So when I described it to Mr. DiGiacomo, I  
18 said that it was actually to the east, slightly to the  
19 south. To me, it was across the street.  
20 BY MS. WILDEVELD:  
21 Q. Okay. Does Mr. Counts -- does  
22 Mr. Carroll's mother live across the street from  
23 Mr. Counts' house?  
24 A. Yes.  
25 Q. And that is not the apartment that

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1 Mr. Carroll lives in with his wife and son, is it?  
2 A. No.  
3 Q. So it's not Mr. Carroll's house, is it?  
4 A. It's his mother's house.  
5 Q. Thank you.  
6 MS. WILDEVELD: I have nothing else for  
7 this witness, your Honor.  
8 MR. DIGIACOMO: One question.  
9  
10 REDIRECT EXAMINATION  
11 BY MR. DIGIACOMO:  
12 Q. What were they talking about when they are  
13 talking about the pillow and it being plaid?  
14 MR. DRASKOVICH: Objection, speculation.  
15 MR. DIGIACOMO: First of all, we already  
16 decided it doesn't go against --  
17 MS. WILDEVELD: Objection, speculation.  
18 MR. DIGIACOMO: But you opened the door by  
19 saying do you know what it is? And he says yes. And  
20 she won't ask the next question. What do you know?  
21 THE COURT: He said that he believes so.  
22 Let's see what he believes.  
23 BY MR. DIGIACOMO:  
24 Q. What do you know they're talking about.  
25 A. I believe it to be the money.

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1 Q. Did we ever find the rest of the money?  
2 A. No.  
3 Q. Okay. And later on during the subsequent  
4 conversation when she's talking about my pillows are  
5 still fluffy, and only some of it was in the purse,  
6 does that bring you back to why it is they are talking  
7 about the money?  
8 A. Yes.  
9 Q. Thank you.  
10 MS. WILDEVELD: Objection, your Honor. I  
11 would like to strike that. That was leading, and in  
12 addition --  
13 MR. DIGIACOMO: Well, objection to leading  
14 has to happen before the answer occurs, Judge.  
15 THE COURT: I understand what you are  
16 saying, and it's his supposition as to what it is.  
17 MS. WILDEVELD: I just have a brief  
18 question then.  
19 THE COURT: All right.  
20  
21 RECROSS-EXAMINATION  
22 BY MS. WILDEVELD:  
23 Q. When you do, when you execute a search  
24 warrant on someone's house, you leave quite a mess,  
25 don't you?

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1 A. It totally depends.  
 2 Q. You turned over a couch, correct?  
 3 A. We very well might have. I'm not going to  
 4 tell you we didn't.  
 5 Q. You undid the mattresses, correct?  
 6 A. Yes.  
 7 Q. And you're a seasoned veteran of executing  
 8 search warrants, aren't you?  
 9 A. Yes.  
 10 Q. So you would have looked in the bed and  
 11 looked around the bed, correct?  
 12 A. I would have done the best job I could  
 13 have, yes.  
 14 Q. So if a pillow seemed a little heavier  
 15 than it should, you would have noticed, wouldn't you?  
 16 A. If it had a gun in it, I would have  
 17 noticed.  
 18 Q. Which would have made it a little bit  
 19 heavier, correct?  
 20 A. Yes.  
 21 Q. There is no evidence of a gun in a pillow?  
 22 A. No.  
 23 MS. WILDEVELD: Nothing further.  
 24 MR. DIGIACOMO: I have nothing further,  
 25 Judge.

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1 Judge, if I may consult with your clerk to  
 2 make sure everything is offered and admitted that we  
 3 intended to offer.  
 4 MR. PESCI: Before we consults her, could  
 5 we ask specifically, there were in the Miranda cards,  
 6 the copies of, your Honor, had those marked. We did  
 7 not hear from both defense counsel as to whether they  
 8 were taking any position.  
 9 I believe Mr. Draskovich did not take a  
 10 position as to the admission, but I would like to hear  
 11 for the record from all three counsel as to those two  
 12 Miranda cards.  
 13 THE COURT: I admitted them under my, as  
 14 my exhibits.  
 15 MR. DIGIACOMO: Oh, you did.  
 16 THE COURT: I believe I did.  
 17 MR. DIGIACOMO: Okay. I apologize, Judge  
 18 I didn't know the record was clear on that.  
 19 Judge, I'm going to offer 69, 70 and 71,  
 20 which are the original unenhanced so that the record  
 21 can be clear as to what is the enhanced versus the  
 22 unenhanced.  
 23 THE COURT: They will be admitted.  
 24 (Thereupon, State's Exhibits 69, 70 and  
 25 71 were admitted into evidence.)

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1 MR. DRASKOVICH: Is the State resting?  
 2 MR. PESCI: We're just trying to wait and  
 3 see what we have.  
 4 THE COURT: So the record can be clear,  
 5 and this will be transferred with the file so the clerk  
 6 doesn't have to try and find an unpublished decision.  
 7 I will mark the Ross versus State of Nevada order of  
 8 reversal as an exhibit in the case as the Court's third  
 9 exhibit.  
 10 MR. DIGIACOMO: Judge, the only thing we  
 11 didn't offer was State's Exhibit Number 30 because  
 12 there wasn't someone who could testify to its  
 13 authenticity.  
 14 Other than that, my understanding is that  
 15 all the exhibits have been offered, as well as  
 16 admitted. And at this time, the State would rest.  
 17 Oh, there is one thing before I rest. I  
 18 guess, it's a very brief thing. I don't think anybody  
 19 is going to object. On Count IV, Deangelo -- on  
 20 Count IV, Deangelo Carroll's name is misspelled. It  
 21 needs to be an "O" on line 11 at the last,  
 22 C-A-R-R-O-L-L.  
 23 THE COURT: Okay. That will be amended to  
 24 reflect and add by interlineation at this point.  
 25 MR. DIGIACOMO: And other than that, the

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1 State would rest, Judge.  
 2 MR. ORAM: Your Honor, I have advised my  
 3 client of her right to testify, her right to call  
 4 witnesses. At this time, we're going to waive those  
 5 rights.  
 6 MR. DRASKOVICH: Your Honor, I, as well,  
 7 have counseled with my client, Mr. Hidalgo, III. I  
 8 have informed him of his right. I have informed him of  
 9 the standard that is applied at this juncture. I have  
 10 advised him to not take the stand and testify, nor will  
 11 we be calling witnesses. He's going to be following my  
 12 advice, and we will not be presenting any evidence this  
 13 afternoon.  
 14 MS. WILDEVELD: Your Honor, I have also  
 15 counseled with my client, and Mr. Counts will not be  
 16 appearing, taking the stand this afternoon nor will we  
 17 be offering any evidence.  
 18 THE COURT: Okay.  
 19 MR. DIGIACOMO: Do I dare reserve for  
 20 rebuttal?  
 21 MR. DRASKOVICH: Well, we still have some  
 22 issues concerning that of Ronta Zone. Your Honor was  
 23 reserving the ruling concerning that. Does your Honor  
 24 want to hear argument briefly at this time?  
 25 THE COURT: No, I want to hear -- you can

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1 include that in your closing. I think we can do -- my  
 2 experience is counsel will get two arguments that will  
 3 be essentially the same, and so we'll lump it all  
 4 together, and I'll make a decision before I rule on the  
 5 bind over.

6 MR. ORAM: Are you reserving?

7 MR. DIGIACOMO: I think I'm just going to  
 8 say a little something because I know you guys are  
 9 going to go forever.

10 THE COURT: I would like, in addition to  
 11 addressing the issue of the hearsay matters and  
 12 Mr. Zone, when all counsel, if you can address each  
 13 count, that makes it much easier for the Court to  
 14 follow.

15 MR. DIGIACOMO: Judge, I want to start  
 16 with something very briefly. I don't know if the  
 17 defense is even going to raise it, is whether or not  
 18 Ronta Zone is an accomplice as a matter of law.

19 The law says in order to be an accomplice  
 20 as a matter of law that their personal testimony from  
 21 the stand taken by itself, whether or not that makes  
 22 them liable for the crime for which the defendants are  
 23 charged.

24 And there was nothing said by Ronta Zone  
 25 which makes him liable to conspiracy to commit murder,

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1 ear, and then on the face when he's down on the ground.

2 As such, Judge, certainly the conspiracy  
 3 to commit murder as it relates to Kenneth Counts is  
 4 covered just by Ronta's testimony by itself. Murder  
 5 with use of a deadly weapon is covered by Ronta, his  
 6 testimony by itself.

7 However, out of an abundance of caution,  
 8 and knowing that a Court is going to sometime later on  
 9 look at the evidence that was presented, and there may  
 10 be a writ on the issue whether or not that's  
 11 appropriate, was he corroborated?

12 Corroboration doesn't, first of all, for  
 13 preliminary hearing, it probably is slight or marginal.  
 14 I couldn't find any case law that says exactly what  
 15 corroboration at preliminary hearing is necessary, but  
 16 probably just slight or marginal evidence, since that  
 17 is the standard for everything in a preliminary  
 18 hearing.

19 Just merely the fact that a guy gets  
 20 charged with conspiracy to commit murder and murder  
 21 with use of a deadly weapon where the guy accusing him  
 22 is a guy by the name of Deangelo Carroll, and nobody  
 23 has ever told him that, goes to jail and asks his wife  
 24 to call Deangelo Carroll's mother's house to find out  
 25 what's going on with my case, says to me that he must

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1 murder with use of a deadly weapon, solicitation to  
 2 commit murder two times over, one of which he's the  
 3 victim of.

4 Obviously, he can't be a co-conspirator or  
 5 an accomplice for that particular crime, Judge, and as  
 6 such, once you make a determination that he's not an  
 7 accomplice as a matter of law, the case law is very  
 8 clear, it becomes an issue for a jury.

9 And as such, he does not need to be  
 10 corroborated. He only needs to be corroborated at the  
 11 preliminary hearing stage, should he be an accomplice  
 12 as a matter of law.

13 And that being said, that means that  
 14 Kenneth Counts we're done because what did he say? I  
 15 saw Kenneth Counts shoot that guy in the head, and I  
 16 know that Deangelo was talking about killing him.  
 17 Jayson said he was willing to kill him. And that  
 18 Deangelo went in the house, spent some time with  
 19 Deangelo in the house.

20 And I would note that his attorney made it  
 21 quite clear that there was no conversation in the car  
 22 thereafter. So there must have been some discussion  
 23 inside that house between Deangelo Carroll and Kenneth  
 24 Counts to make it so that he would get out of the car  
 25 and pop this guy in the back of the head twice or the

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1 have known something about the crime because how else  
 2 would he know that Deangelo Carroll is involved.

3 What possibility was there that he would  
 4 call to find out about his case to another  
 5 co-conspirator? Is that a random chance? I would  
 6 think not.

7 Moreover, there is additional  
 8 corroboration, and I know the Court is going to have  
 9 lengthy argument on what exactly those surreptitious  
 10 recordings, and it's going to be the State's position,  
 11 and the Court is going to take whatever position it  
 12 ultimately decides.

13 I know you have read Ross and, you know,  
 14 if you read Ross, you just wonder what the Supreme  
 15 Court was talking about when they said testimonial.  
 16 You wonder what it is that they really should have  
 17 said, which was you can't use that girl's testimony  
 18 against the other guy who is not on the phone call.  
 19 You can't use the other guy on the phone call against  
 20 the other guy because it's a Bruton problem, and oh, by  
 21 the way, the conspiracy is over.

22 They are talking about an act that  
 23 occurred a long time ago in the conspiracy when she  
 24 pawned this necklace. So there is no conspiracy here.  
 25 The State did the wrong thing -- sorry, Mr. Pesci --

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1 but you shouldn't have been able to use all of those  
2 things.

3 When they wrote that opinion, you know,  
4 it's my personal theory that it's an unpublished  
5 opinion because it doesn't make any sense. And hence,  
6 why it may be some persuasive authority, but I don't  
7 think it's binding, that language on this case because  
8 it's different.

9 You have two co-conspirators. Forget  
10 Mr. Carroll, first of all. You have two  
11 co-conspirators talking about the crime, talking about  
12 covering up the crime. Clearly, the conspiracy is  
13 ongoing.

14 And if you have two co-conspirators  
15 talking in furtherance of the crime, and I know there's  
16 going to be a lot of discussion about what exactly you  
17 heard on that tape, and if the Court feels the need,  
18 listen to that tape a hundred times.

19 I've listened to it a number of times, and  
20 every time you listen you get more and more familiar  
21 like you would do with any bad recording, which this is  
22 not the greatest recording on earth.

23 But certainly the discussion between those  
24 two individuals, and Anabel says at one particular  
25 point, "Then don't worry about KC, he's the shooter."

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1 Don't worry about him."

2 Now, that's a statement by a  
3 co-conspirator during the course and in furtherance of  
4 the conspiracy, and I submit to the Court that you can  
5 use that as corroboration as to Ronta Zone because it  
6 is evidence against KC because it is a statement of a  
7 co-conspirator in furtherance.

8 I would also submit to the Court as to  
9 that conversation that occurred back there, nothing  
10 that Deangelo said is relevant to the truth of the  
11 matter asserted because you heard Deangelo make many  
12 statements in there that were obviously something to  
13 cause the conversation to go forth.

14 And I'm going to talk just a little bit  
15 briefly about that, and then I'm going to let them yell  
16 about what's on the wire or not.

17 But, one -- several times he made  
18 statements that if a normal person was having a  
19 conversation, if I were talking to you and called you  
20 Miss Anabel, you would correct me. If Miss Anabel  
21 turned to Luis and called him something else, Luis  
22 would have corrected him, but you can clearly hear  
23 Anabel use Luis's name. Deangelo uses Miss Anabel's  
24 name. Luis uses Miss Anabel's or Anabel. They all  
25 talk intermixably between each other and not a single

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1 person gets up and --

2 MR. ORAM: I would briefly object. I  
3 thought they didn't use that tape for the truth of the  
4 matter asserted. Now, all of a sudden, when he uses  
5 Miss Anabel, it's for the truth of the matter asserted.

6 So I just want that to be on the record  
7 that that is completely inapposite to what he told this  
8 Court he was using the tape for.

9 MR. DRASKOVICH: And they, he argues -- I  
10 would just like to join in this objection because it's  
11 inappropriate.

12 Once again, they say it's not for the  
13 truth of the matter asserted, and at the same time,  
14 they want your Honor to use it in order to bind over a  
15 defendant on murder charges. So, once again, they have  
16 it both ways, and I would object and I think it's an  
17 inappropriate argument.

18 THE COURT: Go ahead. This is closing  
19 argument.

20 MR. DIGIACOMO: If the Court says to me,  
21 you know what, I'm worried about the Crawford issue.  
22 I'm only going to use Luis against Luis. I'm only  
23 going to use Anabel against Anabel, and I'm just going  
24 to completely excise Mr. Carroll.

25 You will still have a bind over, but I

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1 don't think that is the appropriate way to use the  
2 evidence. I believe that the evidence is admissible  
3 for these various purposes.

4 And I'm not using Deangelo's statements  
5 for the truth of the matter asserted in any manner,  
6 however, but if someone says something and a normal  
7 person would have corrected that individual, it's not  
8 the statement of the declarant that's a hearsay  
9 statement, it's the mere fact that the other person  
10 doesn't correct them, it's an adoptive admission. It's  
11 their statement, not Deangelo Carroll's statement.

12 The fact that when he opens the door he  
13 says Room 6, she told me to go to Room 6. The guy  
14 doesn't go hey, you're in the wrong room. Go to a  
15 different room. How do we know what happened in  
16 Room 6? Well, you have a whole bunch of circumstantial  
17 evidence to establish it happened in Room 6.

18 At the end of the first phone call, you  
19 can hear Luis Hidalgo, III, say, "See these bonds on  
20 the floor. I will buy you these, and they'll be  
21 \$25,000 in a year." And lo and behold, in the search  
22 of Simone's Auto Plaza, in Room 6 we happen to find a  
23 whole bunch of bonds, and you can look at them. The  
24 stack has got to be this big.

25 There has got to be a hundred, maybe

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1 \$25,000 worth of savings bonds there in the name of  
2 Luis Hidalgo, III, and more order forms on the floor.  
3 How do you know it happened in Room 6? Because the  
4 circumstances of the case tell you that it happened in  
5 Room 6.

6 What else did you hear Little Lu do? He  
7 coughed numerous times throughout that time, and you  
8 heard the detective testify to that. He says, "Put  
9 something in the food, rat poisoning. We need to get  
10 KC last. Drink the Gatorade. You know what you have  
11 to do. Talk about it. Buy a nice condo and a car."

12 They are talking about, and he talks about  
13 what's this? And he says, "This is gin. Put the rat  
14 poisoning in gin," and Miss Anabel says, "That's not  
15 going to kill him." "Okay. Smoke him a blunt," or  
16 smoke a marijuana cigarette. I don't know the exact  
17 term that she used.

18 But if you listen to these statements, it  
19 is clear that when Deangelo Carroll happened to leave  
20 Simone's with what, a bottle of gin in his hands and  
21 \$1400 in cash, which despite the best efforts of the  
22 defense, he didn't have on his person. \$1400 doesn't  
23 just sit in your pockets, and when you're patted down,  
24 hey, you're missing, you know, you got ten bucks in  
25 your pocket. That's \$1400. That's a big chunk of

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1 change.

2 What else do we know from Little Lu?  
3 Little Lu in both wires, and you actually can hear his  
4 voice better on the second wire, I guess, because he  
5 doesn't believe that he's wired any longer. In all  
6 those statements, you can hear him in the room coughing  
7 and hacking every time Miss Anabel is talking about the  
8 case, about we're all going to be dead.

9 And then what do you know from Miss  
10 Anabel? I'm going to go to track two last because I  
11 know that defense counsel is going to spend a long time  
12 on that. But, one, she's whispering. Why are all  
13 these people whispering?

14 MR. ORAM: Well, we wouldn't know if they  
15 put a witness on the stand to answer the question,  
16 Judge. I was very upset by that.

17 THE COURT: We'll get to that.

18 MR. DIGIACOMO: Why is everybody  
19 whispering if that is not evidence that they are  
20 involved in something?

21 She says to Deangelo Carroll, "Where is  
22 your head? If we have to get to that point, we have to  
23 stick together. Just say what I already told you, that  
24 I want to speak to a lawyer. I am going to give you  
25 some money," to Deangelo Carroll.

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1 Tells Deangelo Carroll he needs to say  
2 that he needs to spend more time at home. "Why didn't  
3 you turn around to Deangelo Carroll? All I'm telling  
4 you is stick to your story. Have your wife look for an  
5 attorney. We're all going to be under the trailer. If  
6 I lose the shop or club, I can't help you or your  
7 family. You had too many eyes on your ass. You should  
8 have turned back. What the fuck were you thinking?  
9 Keep your mouth shut. We will give you a check and  
10 extra cash. I will give you a prepaid number."

11 What else did she say during that? She  
12 says, "We're going to give you a check for 24 hours."  
13 And lo and behold, during the search warrant at  
14 Simone's office, there is a check for 24 hours made out  
15 to Deangelo Carroll.

16 What, are these circumstances not  
17 circumstances the Court needs to consider on what's  
18 going on on that tape? I would also know on the very  
19 first track she says, "I -- we told you to beat him."  
20 And I'm going to discuss the individual counts in just  
21 a moment.

22 She says, "We told you to beat him." And  
23 then later, Mr. Oram made a big to-do about the fact  
24 she said, "Told you to talk to the guy, you know, not  
25 kill the guy." And there was a big to-do on that

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1 second, but if you listen to the whole thing she says  
2 there, "Yeah, I talked to you on the phone. When I  
3 found out," or I can't say that this is specific, but  
4 if you listen to it, what she's essentially saying is  
5 "When I found out you had to go out to the lake and  
6 there is four people in the car, I told you to go to  
7 plan B."

8 Well, does that not tell you that there  
9 has got to be a plan A? And that is not a withdrawal  
10 from the conspiracy. You cannot just call up the guy  
11 who is supposed to commit the murder and go, "You know  
12 what, go to plan B, just beat the guy and be done with  
13 it." Now, what else did she say? I told you "No, you  
14 turned your phone off. I don't know shit, and that's  
15 how I have to play it."

16 What else do you have? You have Ronta  
17 Zone telling you that Deangelo Carroll said Mr. H  
18 wanted a guy hit. That Little Lu said come down here  
19 with baseball bats and garbage bags.

20 Now, conspiracy to commit murder. Is  
21 there evidence, either slight or marginal, that there  
22 is a conspiracy to commit murder? Well, was there a  
23 murder, yes. Was there clearly a conspiracy, yes. As  
24 to Kenneth Counts, absolutely. As to Deangelo Carroll,  
25 though he's not, we don't have to argue that issue,

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1 absolutely.  
 2 What about Luis Hidalgo, is there slight  
 3 or marginal evidence of Luis Hidalgo as conspiracy to  
 4 commit murder? What are you bringing baseball bats and  
 5 garbage bags for? What is that for? And then later on  
 6 when he talks about killing the witnesses, and that's  
 7 absolutely clear because he says, "We're going to have  
 8 to kill KC last."  
 9 When he's talking about that, is that not  
 10 evidence that that was what their intent was? Is that  
 11 not evidence that the murder occurred, and the  
 12 conspiracy occurred and the conspiracy was for killing?  
 13 As to Count II, murder with use of a  
 14 deadly weapon. Well, here is where I will make a  
 15 little bit of an argument to the Court. Let's assume  
 16 for sake of argument that it was merely a conspiracy to  
 17 commit a battery, a battery with a deadly weapon, a  
 18 battery with substantial bodily harm.  
 19 Let's say you enter into that conspiracy  
 20 and then your co-conspirator decides to take it to the  
 21 next level. What crime are you guilty of? Well, it  
 22 depends on how it is that the State alleges the  
 23 charges, so let's go through them.  
 24 Did you directly or indirectly commit the  
 25 acts with premeditation and deliberation and/or lying

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1 in wait? Well, no, if you solely said that, maybe not.  
 2 However, you have to worry about the conspiracy theory,  
 3 which will bring that back in.  
 4 By aiding and abetting the commission of a  
 5 crime, right, where they have to have the specific  
 6 intent. Now, whether or not intent, if you go out to  
 7 beat somebody, and you are aiding and abetting in a  
 8 beating with substantial bodily harm, a beating with a  
 9 deadly weapon, probably based solely on the aiding and  
 10 abetting theory, you're guilty of second degree murder  
 11 with use of a deadly weapon because you are only  
 12 allowed to get to your level of intent.  
 13 Your general intent then in that  
 14 particular case is just malice aforethought and not  
 15 premeditation and deliberation, but you still have to  
 16 deal with the conspiracy theory.  
 17 If you enter into a conspiracy to commit a  
 18 battery, a battery with a deadly weapon, a battery with  
 19 substantial bodily harm, you're on the hook for the  
 20 foreseeable act of your co-conspirator.  
 21 And if the foreseeable act of your  
 22 co-conspirator is such that -- well, let me ask you  
 23 this? Is it so unforeseeable that if you send someone  
 24 out to beat somebody with bats, that they wind up dead?  
 25 Are you not on the hook for everything that your

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1 co-conspirator did?  
 2 And the fact that the guy got shot twice  
 3 in the head clearly establishes that the crime  
 4 committed was first degree murder with use of a deadly  
 5 weapon.  
 6 In other words, even if you believe that  
 7 they just ordered a beat down, as opposed to a murder,  
 8 they are liable for a murder if a murder occurs under a  
 9 conspiracy theory.  
 10 The solicitation to commit murder. You  
 11 can clearly hear Luis and Anabel and Deangelo is in  
 12 there a little bit, but it's mostly Luis and Anabel  
 13 talking about putting the strychnine inside the gin,  
 14 having them drink the gin.  
 15 And Anabel at one point says, "Well,  
 16 that's not even going to work." And Luis says, "Okay.  
 17 We'll smoke them out, or smoke some marijuana with  
 18 strychnine in it. That will do it to them. We need to  
 19 get rid of them."  
 20 And then Luis says, "We have to kill KC  
 21 last." Well, who does that mean else they are killing?  
 22 The other two co-conspirators, which is established as  
 23 Jayson and Ronta.  
 24 As such, Judge, our standard is very low  
 25 for a preliminary hearing, and I would think that based

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1 upon the amount of evidence that was submitted to the  
 2 Court, we're certainly past any threshold of slight or  
 3 marginal evidence for all four of the crimes, and I  
 4 will submit it to the Court.  
 5 MR. ORAM: Your Honor, I agree with  
 6 Mr. DiGiacomo that they have slight burden, and they  
 7 proved it in this case. They have a very light burden,  
 8 and they can really present whatever they want to  
 9 present, according to their own rules.  
 10 They -- Judge, who did I get to  
 11 cross-examine today in terms of an accuser? I don't  
 12 mean somebody that came in and said I don't know,  
 13 that's what they told me. Who was her accuser today?  
 14 Who?  
 15 I mean, they put on Mr. Zone. I asked  
 16 Mr. Zone, do you know her? No. No. The accuser  
 17 doesn't know her and has nothing to offer against her.  
 18 He didn't know of anything beforehand. He doesn't say  
 19 that she told him to go out there. There was no  
 20 evidence that she instructs anybody to go out there.  
 21 Then they call a detective. That was the  
 22 other accuser because that was the only other person I  
 23 really got to ask questions of. Why? Because they  
 24 can't put an accuser on the witness stand.  
 25 And I don't think that the Court has a

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1 great deal of experience, and I would ask the Court to  
2 consider the Court's experience. How many times have  
3 you seen a situation where a lawyer could argue who was  
4 the accuser, Judge? The accuser is sitting back over  
5 there silent, just silent. And there is nothing I can  
6 do about that.

7 And then it is just frustrating to have a  
8 case so on point as Ross, and have what I would  
9 consider as the prosecutors arguing oh, no, it doesn't  
10 apply, exception. That's what they argued over and  
11 over and over to Judge Bonaventure. That's what they  
12 argued over and over and over in the Supreme Court.  
13 And they got whacked.

14 And you know what else is funny, Judge,  
15 they sit here and say what is the Supreme Court doing.  
16 Why didn't they file a motion for reconsideration if  
17 they didn't like the decision? It overturned two  
18 people's trials. Two. And they don't ask for  
19 reconsideration, but they stand here as though the  
20 Supreme Court doesn't know something.

21 Quite frankly, the people that don't  
22 understand the law were the people on the other side of  
23 that case. They don't understand Bruton. They don't  
24 seem to understand the confrontation clause. How do  
25 you play a CD without the witness on the stand to say

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1 yeah, that was me. I was in the room.

2 There was nobody sleeping, that's why, you  
3 know, where there were people sleeping, that's why we  
4 were whispering or we weren't whispering for that  
5 reason, or this person left the room, or this person,  
6 when they said strychnine, had a big smile on their  
7 face. That's the whole purpose of confrontation.  
8 There is nothing for me to confront.

9 Do I dare ask the detective was that stuff  
10 truthful? What's he going to say? Of course, it was,  
11 counsel, the parts that nail your client were. What  
12 parts? What parts were on there, Judge, that are very  
13 incriminating?

14 I can barely hear 5 percent of that, and  
15 I'm not not trying to hear it, I just can't hear it.  
16 The portion that I thought was the most interesting is  
17 when, apparently where we're not allowed to really  
18 consider it because I made the objection, but, quite  
19 frankly, that man confronted Anabel.

20 And he said, "I did what you told me to  
21 do." And what did she say? "No. I told you to talk  
22 to him, not --" and I think she says the word "fucking  
23 hurt him or kill him." She knows what he has done  
24 because he's in there confessing to everybody. But  
25 she's telling him right to his face, when she doesn't

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1 know that it's being recorded, "I never told you that.  
2 I told you that to talk to the man."

3 Now, what the Court didn't get was in his  
4 statement. First of all, he just wants to buy some  
5 marijuana from the guy and then he never sees the guy  
6 again. And, second of all, it's KC, and KC wants to  
7 commit a robbery, and then he shoots him and then he  
8 points the gun at poor Mr. Carroll over here. And then  
9 oh, no, that's not a good story.

10 He goes to a third story, and then  
11 eventually he's like, you know what, I think they want  
12 Anabel, points the finger. And that's what we've got.  
13 That's their case? Nobody for me to cross-examine. No  
14 one, Judge, and I cannot recall a situation where that  
15 has ever happened. Only in Ross have I ever had a  
16 situation where a major portion of the case through  
17 those CDs came in and I couldn't cross-examine someone.

18 I thought it was blatantly obvious. I  
19 thought every attorney would know what the  
20 confrontation clause was, and you can't put on a prelim  
21 by CD, you can't put on trial by CD. And that's what I  
22 got hit with today. Prelim by CD where I have no one  
23 to cross-examine. They have no evidence. They have no  
24 admissible evidence. None whatsoever should come in  
25 against Anabel because where was it, Judge? Where?

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1 You asked us to address the counts  
2 individually. Conspiracy to commit murder. Where from  
3 their admissible evidence do they have Anabel saying,  
4 "Yes, we would like you to go out and kill someone."  
5 An agreement between two people.

6 Even Mr. DiGiacomo got up and what I would  
7 call did some bar review intellectual exercise in  
8 explaining there is somebody, and I think they are  
9 pointing at Anabel, wants somebody beaten up because  
10 that's when she said, "I told you to talk to him," they  
11 really want to interpret another portion of it no,  
12 beaten up, she said he wanted beaten up. Conspiracy to  
13 commit murder. Where do they have that? They don't  
14 have conspiracy to commit murder.

15 Then they talk about murder. What, so  
16 that she told him I told you to talk to him. But they  
17 are all whispering, so this must be suspicious, so you  
18 will get a bind over because you don't need much  
19 evidence. In fact, you don't need any real admissible  
20 evidence because you can't get a witness to come in and  
21 testify against her. Where was the evidence of murder,  
22 your Honor? I don't see that.

23 Then solicitation to commit murder. There  
24 is something on there about strychnine or whatever the  
25 State -- I don't disagree that there is something on

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1 those CDs about that. But what's their demeanor when  
2 they are saying that?

3 Why can I not cross-examine people's  
4 demeanor? How often — I bet the Court can even  
5 remember laughing or saying something just absolutely  
6 ridiculous like put strychnine in a blunt. How does  
7 that get a bind over on solicitation to commit murder?

8 That is just, it just seems this case is  
9 so weak. It is so weak against her. Specifically,  
10 against her. This case is horribly weak. I don't  
11 understand, first of all, how they got certain evidence  
12 in or want the Court to consider certain evidence.

13 Second of all, I don't see under  
14 Hegelmeyer, Nevada Supreme Court said there must be  
15 independent evidence linking a defendant to a crime.  
16 So what we do is we take out the co-conspirator  
17 statements.

18 That's what the jury instructions actually  
19 tell us. They tell the jury take out the  
20 co-conspirator statements. That's Deangelo Carroll.  
21 And what links the person to the crime then? What  
22 links her to this crime? Nothing.

23 The State is not going to argue she was  
24 out there. They have nothing beforehand. All they  
25 have is the word of Deangelo Carroll. That's it. The

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1 word that the detective told us was not worth very much  
2 because he changes all the time.

3 And I asked him if he was an habitual  
4 liar, and I'm not sure if his response was yes, but I  
5 think it was, Judge, that he was an habitual liar. And  
6 that's their case.

7 And my client has no bail. And I don't  
8 understand how they get a bind over on this. I don't  
9 think that there is corroboration of this under  
10 Hegelmeyer, and I would ask that you dismiss this case  
11 in its entirety as to all of the counts against Anabel.

12 MR. DRASKOVICH: This Court is well aware  
13 the standard that is supplied to a preliminary hearing  
14 is that of probable cause. All's we have heard today  
15 is basically imaginary cause. I have heard statements  
16 by Mr. DiGiacomo that I didn't hear, and I'm assuming  
17 the Court didn't hear either, that was going on in this  
18 recording that my client was supposedly a part of.

19 The Court wanted us to address Ronta  
20 Zone's rendition of what supposedly occurred and what  
21 Deangelo Carroll supposedly told him. Under  
22 NRS 52.035, there is basically three things that have  
23 to be shown. A statement made by a co-conspirator  
24 during the course and scope of a conspiracy and,  
25 obviously, that there is a conspiracy.

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1 There has been no independent evidence  
2 whatsoever to show, which is required in the progeny of  
3 case law that's interpreted that statute, of any  
4 independent corroboration of what Ronta Zone said that  
5 Deangelo Carroll told him.

6 You heard on my cross, I began with it and  
7 then I closed with it, everything that Ronta Zone was  
8 doing, and everything that they were supposedly  
9 carrying out, it all came from Deangelo Carroll. It  
10 was his word and his word alone.

11 They heard nothing from anyone else to  
12 corroborate that there was this -- what was the word  
13 they said -- take care of somebody or put a hit on  
14 somebody? It was imaginary because they couldn't show  
15 any corroborating evidence for that. They must show  
16 corroborating evidence independent of the statement  
17 itself. They have shown nothing.

18 In reference to Count I, conspiracy to  
19 commit murder, obviously, this conspiracy has to occur  
20 before the murder occurs; otherwise, there wouldn't be  
21 a conspiracy to commit a murder. It may be some sort  
22 of a conspiracy to cover up a murder or something like  
23 that.

24 We have heard no evidence whatsoever that  
25 Luis Hidalgo, III, conspired to murder T.J. We haven't.

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1 We haven't whatsoever. It's amazing, and it's actually  
2 kind of frightening that we have the State stating that  
3 Ronta Zone, who was in the car when this man was shot,  
4 and who was later with those that changed the tires,  
5 isn't a co-conspirator. He was there.

6 He testified that they went out to the  
7 lake, but he's not a co-conspirator. Nonetheless, Luis  
8 Hidalgo, who never crosses the mountains, never goes to  
9 the lake, never fires a gun, never handles a gun, never  
10 handles bullets, nothing, he is somehow now a  
11 co-conspirator. That's inappropriate. It's  
12 frightening. And the State of Nevada should not make  
13 that argument in this case or any other.

14 We have heard no evidence whatsoever that  
15 Luis Hidalgo conspired to have Timothy Hadland shot.  
16 Nothing. Directly, indirectly, there is absolutely  
17 nothing.

18 In reference of murder with use of a  
19 deadly weapon, we heard from Ronta Zone, that KC shot  
20 T.J. twice. Deangelo was there, according to Ronta Zone.  
21 Deangelo knew everybody. We have heard no evidence  
22 whatsoever that Luis Hidalgo killed anybody.

23 That Luis Hidalgo with premeditation and  
24 deliberation, this is Count II, and/or lying in wait  
25 committed a murder. Aiding and abetting the commission

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1 of the crime by directly, indirectly counseling,  
2 encouraging, hiring, commanding, inducing or otherwise  
3 procuring each other to commit the crime. We have  
4 heard nothing that Luis Hidalgo did any of these  
5 things.

6 We heard a great deal concerning Deangelo  
7 Carroll. We heard a great deal concerning Mr. Counts.  
8 We heard nothing in reference to Luis Hidalgo. There  
9 was one uncorroborated statement that Mr. Zone said  
10 something about trash bags, but he didn't hear it  
11 himself. That's what Deangelo Carroll told him.

12 There was no evidence and no testimony  
13 whatsoever concerning any garbage bags. In fact, he  
14 contradicted that very statement when he said that they  
15 left and got in the van. There was no baseball bat.  
16 There was no trash bags. We don't know what that  
17 statement, if it ever, in fact, was made, was  
18 concerning.

19 It's wholly inappropriate for the  
20 government to now ask the Court to rely upon that to  
21 bind a man over to face murder with use of a deadly  
22 weapon. There is no evidence whatsoever, and I'm still  
23 arguing as to Count II, that Luis Hidalgo, III,  
24 conspired to commit battery or battery with use of a  
25 deadly weapon on Timothy J. Hadland. There is nothing.

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1 Nothing that's admissible, and nothing that has been  
2 shown to hold him over to answer to those counts.

3 We know, once again, that Ronta Zone was  
4 in the car, and apparently he was present when they  
5 went to the lake, and he was present when they changed  
6 the tires but, of course, he's not a co-conspirator.  
7 So if that's not enough to hold Ronta Zone to answer,  
8 it should be nowhere near close enough to hold Luis  
9 Hidalgo, III, to answer for this charge.

10 As far as Counts III and IV, Judge, I was  
11 breaking my head to try and understand what is being  
12 said on that CD. I have a real concern because any  
13 time evidence is presented to a Court, that's not even  
14 good enough for the court reporter to take down, it's  
15 highly questionable for that evidence to be good enough  
16 to hold a man to answer for solicitation to commit  
17 murder, murder with use of a deadly weapon and  
18 conspiracy to commit murder. You can't do it.

19 That evidence, which was of such horrid  
20 quality, Number 1. I couldn't hear anything on that.  
21 I'm assuming the Court couldn't either because it was  
22 bad. It was a bad, bad recording.

23 I don't really want to get redundant, but  
24 Mr. Oram laid out a very good argument concerning how  
25 frustrated he was that he couldn't cross-examine

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1 anybody of any real substance concerning the testimony.  
2 I felt that same frustration.

3 We heard some CDs that were tough to hear,  
4 and we couldn't cross-examine the person who supposedly  
5 wore this wire and supposedly met with the other two  
6 people.

7 The State would have you believe oh, we  
8 heard whispering, they must be guilty of a conspiracy.  
9 Well, if that were the standard, I think I and my  
10 co-counsel, we're all guilty of conspiracy to commit a  
11 crime because there has been a great deal of whispering  
12 going on throughout the course of this preliminary  
13 hearing.

14 We can't put that whispering in context  
15 because the person that was supposedly there was not  
16 called as a witness. You hear whispering. That's  
17 sometimes the polite thing to do if a person is  
18 sleeping, if you don't want to interrupt somebody,  
19 something like. To now say oh, they were whispering,  
20 hold them to answer for murder, that's not only  
21 inappropriate but that's frightening. And that's what  
22 they are asking you to do today.

23 There has been a great deal of talk  
24 concerning for the truth of the matter asserted  
25 consider this evidence. Consider this evidence not for

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1 the truth. That's frightening, as well, because at the  
2 very same time, they asked you to -- whatever it is  
3 they've been trying to present to you, they want you to  
4 consider it, consider it to be truthful, and then hold  
5 a man over to answer to murder charges on that, and on  
6 that alone, that's inappropriate and that is scary.

7 But I have never, and I have had a number  
8 of prelims in front of you, I have never had a  
9 preliminary hearing like the one that I have witnessed  
10 today. This is some tortured beast of something that  
11 the State, in their best efforts, tried to present to  
12 this Court and the defense as a case. It's not. It's  
13 not.

14 Obviously, quantity has nothing to do with  
15 quality. Because we have heard a bunch of things that  
16 were disjointed, unrelated and actually, frankly,  
17 didn't make any sense. That's what this hearing has  
18 been today.

19 My client has been in custody now since  
20 May 24th. He's had no bail. And this is it. This is  
21 what the State has got. Nothing better with their best  
22 efforts, all of their witnesses, this is it.

23 Your Honor, to hold Luis Hidalgo, III,  
24 hold him over to answer to Count I, conspiracy to  
25 commit murder, that of TJ, there is no evidence. You

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1 can't do that.

2 Count II, murder with use of a deadly  
3 weapon, Judge, we really can't do that. Based on  
4 everything that's been presented, there is nothing  
5 there.

6 I did hear something as to Counts III and  
7 IV, but as Mr. Oram had argued, I don't know what they  
8 were talking about, and I represent the man. It was  
9 tough to hear what they were talking about. We don't  
10 even know if it was Luis Hidalgo that had supposedly  
11 said those things.

12 See, the State also wants you to take one  
13 statement from one person, Miss Anabel Espindola, take  
14 another statement from another person, Luis Hidalgo, or  
15 an admission because Luis Hidalgo I couldn't hear him  
16 say anything, and then somehow put that together and  
17 combine that to make it into whatever it is that they  
18 want it to be, and that's why we have courts. That's  
19 why the judiciary is independent of the executive  
20 branch because these things shouldn't be allowed to  
21 happen.

22 For all of these reasons, and for all the  
23 trying that the Court has done to try and understand,  
24 they haven't presented any evidence, especially  
25 admissible evidence for Counts I and II.

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1 As to Counts III and IV, there may be  
2 something that someone had said. We don't know what  
3 context it was, and we don't even know really who said  
4 it.

5 I submit to the Court that it would be  
6 wholly inappropriate to have Luis Hidalgo, III, answer  
7 to Counts III and IV, as well, for the reasons that I  
8 have stated, and the reasons that I would like to adopt  
9 by admission what Mr. Oram has stated, as well. For  
10 those reasons, I would urge the Court to dismiss all  
11 four counts this afternoon.

12 MS. WILDEVELD: Your Honor, I will adopt  
13 by reference the arguments made by my co-counsel. As  
14 to the -- I will just address the two counts that my  
15 client is facing today.

16 As to the conspiracy count, there is  
17 nothing in the evidence that Mr. Counts ever entered  
18 into a conspiracy with any of the named people on this  
19 Criminal Complaint. There is no evidence he's ever  
20 even met Mr. Hidalgo or Miss Espindola, Jayson Taoipu,  
21 Reshawn Carroll. The only person that -- I'm sorry,  
22 Jayson Taoipu or Reshawn Zone.

23 The only person who did offer any kind of  
24 testimony as to any relationship between Mr. Counts and  
25 Mr. Carroll was Reshawn Zone, and I would submit that

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1 he's a co-conspirator and nothing that he has to offer  
2 should go toward Mr. Counts anyway.

3 Mr. Counts, there is no evidence he has  
4 ever even met the two people sitting next to him. Yet,  
5 the State has charged him with conspiracy to commit  
6 murder, which, again, just quite simply, there is  
7 nothing to hold Mr. Counts for conspiracy to commit  
8 murder.

9 Even if we went with the testimony of  
10 Mr. Zone, Mr. Zone said Mr. Counts, if he was in the  
11 van, never said anything about a murder. Never said  
12 anything about killing anyone. There was never any  
13 conversation about a murder that was going to take  
14 place if, in fact, Mr. Counts was even in that van,  
15 which we don't have any evidence that he was in the  
16 van.

17 I didn't hear any fingerprint evidence  
18 today. I didn't hear any evidence of Mr. Counts  
19 leaving his house. All we know is that Deangelo  
20 Carroll, who is a notorious liar, his mother lives  
21 across the street from Kenneth Counts. That's all we  
22 know.

23 We don't know what the relationship is  
24 between these two men. We don't know if Mr. Carroll  
25 has a reason for framing Mr. Counts for this murder and

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1 bringing him in on this. All we have is Mr. Deangelo  
2 Carroll, who never took the stand today, dragging my  
3 client into this.

4 My client doesn't know all of Deangelo's  
5 friends that were supposedly in this van. He has no  
6 familiarity with them. He has no knowledge of them,  
7 besides what Mr. Carroll, who we didn't get to hear  
8 from today, and Ronta Zone said on the stand today.

9 As to Count I, conspiracy to commit  
10 murder, I would urge your Honor to dismiss that count  
11 as to my client, Kenneth Counts, because there is no  
12 evidence of any conspiracy to commit murder as to  
13 Mr. Counts.

14 As to Count II, murder with use of a  
15 deadly weapon, again, all we have is some silly phone  
16 conversations that he had with his wife of 14 years  
17 where they share four kids together, talking about a  
18 fluffy pillow.

19 I would submit they were talking -- he was  
20 saying I'm away, hug the pillow like it's me. Is it  
21 fluffy enough? Because he's a big guy. I mean, it's  
22 silly to take all these phone conversations.

23 It was painstakingly tough to sit through  
24 these phone conversations and get what the detective  
25 and the State got out of those telephone conversations.

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1 I read the entire thing and never got anything like  
2 that. They talked about a CSI finale, season finale  
3 and all that stuff. And yet, they are saying that that  
4 is enough to bind him over on murder charges.

5 It's scant. Scant evidence is all we have  
6 against Mr. Counts and testimony of an uncharged  
7 co-conspirator, which again, as counsel has mentioned,  
8 it's unbelievable that he's not charged. So, I would  
9 submit that anything that he would have to say is  
10 equally unbelievable.

11 He's doing whatever he can so that he can  
12 escape this charge, and he said that the stand today as  
13 well. He would pretty much say whatever those  
14 detectives wanted him to say so that he wasn't sitting  
15 facing the same charges that these people over here are  
16 facing.

17 They say that my client knew things. Knew  
18 that this case had to do with Deangelo Carroll.  
19 Deangelo Carroll is a big mouth. He tells, he told,  
20 probably told everyone in the neighborhood. He was  
21 going around and telling everybody about this.

22 This case was on the news. My client's  
23 face was shown all over the jail once he was arrested.  
24 I mean, he's watching the news counts. He knows what  
25 he's in there for because everyone is telling him what

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1 he's in there for. It's all over the news. It made  
2 the front page.

3 So, to say that just because he had  
4 telephone conversations with his wife where they get  
5 these little blips and blurbs out of these  
6 conversations, worrying about whether or not his wife's  
7 family's house across the street was in an okay  
8 condition. If they ruined the hallway by getting him  
9 out.

10 I mean, it's ridiculous to say that he  
11 should stand murder charges on this until they have --  
12 and the weapon that they supposedly thought was the  
13 murder weapon, which wasn't even presented here, I had  
14 to elicit the testimony from the detective, wasn't even  
15 a murder weapon. They did the testing on it. No  
16 murder weapon.

17 They had Mr. Counts days after this. Did  
18 they test his hands for gunpowder residue, no. Because  
19 they would have found out that he had nothing to do  
20 with it, but instead they wanted to tightly knit up the  
21 case and use the only witnesses they could to bring in  
22 evidence and they did so.

23 And with that, your Honor, I would ask  
24 that the conspiracy to commit murder charge and the  
25 murder with use of a deadly weapon, as well as using

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1 all of the arguments that co-counsel made regarding the  
2 co-defendants and the uncharged co-conspirator's  
3 statements, and the awful audios that we had to listen  
4 to be brought in with that as well, and ask that both  
5 those counts against my client be dismissed.

6 MR. DIGIACOMO: I'm going to try to be  
7 brief. I just want to actually go over the law because  
8 I know the Court has done many cases, but I can't  
9 imagine the number of legal issues as it relates to  
10 evidentiary rulings, and counsel in all their closing  
11 have confused the actual issues.

12 Let's talk first, there's accomplice  
13 testimony. If you find Ronta's an accomplice, you have  
14 to find he's corroborated. If he doesn't, then you  
15 don't have to find he's corroborated. In order to  
16 establish independent --

17 THE COURT: Isn't there a difference  
18 between an accomplice out-of-court statement and an  
19 accomplice statement in the courtroom when we have  
20 cross-examination.

21 MR. DIGIACOMO: Correct, that's what I'm  
22 getting to.

23 Conspiracy, you have to have independent  
24 evidence of a conspiracy in order for co-conspirator  
25 statements to come into -- in the course and in

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1 furtherance of the conspiracy to come in as evidence.  
2 Those are two separate rules, and they want to combine  
3 the two rules together.

4 If you decide that Ronta is not an  
5 accomplice, right, as a matter of law, which I submit  
6 to the Court they didn't even argue that as a matter of  
7 law they have to be, because they know the case law is  
8 against them. It's based solely on his testimony, and  
9 his testimony does not make him an accomplice.

10 While I appreciate their argument about  
11 him being an accomplice, any one of them represented  
12 him would clearly, would be the only guy that wasn't a  
13 bind over in this particular case because he's the only  
14 guy there is no evidence actually he was involved in  
15 the crime itself.

16 His testimony, as well as all the other  
17 evidence, establishes that he was not a co -- or he was  
18 not an accomplice to the crime, hence his testimony is  
19 not accomplice testimony.

20 Now, co-conspirator statements only come  
21 in if there is independent evidence of a conspiracy.

22 No one argued that there is not evidence of a  
23 conspiracy. I mean, obviously -- well, I guess --

24 MR. DRASKOVICH: I did.

25 MR. DIGIACOMO: Ms. Wildeveld didn't.

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1 There is evidence of a conspiracy. They  
2 don't dispute that four guys got into a car or three  
3 guys, I guess, because JJ, Deangelo and Kenneth Counts,  
4 three guys drove out to the lake and then committed a  
5 murder.

6 MR. DRASKOVICH: I seem to be misquoted.  
7 I was arguing that there was no evidence that  
8 Mr. Hidalgo was part of this conspiracy. And,  
9 obviously, the statements that I was, were Mr. Deangelo  
10 Carroll's statements that were allowed to come in  
11 through Ronta Zone. So I'm a little frustrated that  
12 counsel is misstating the law and misstating my  
13 arguments.

14 MR. DIGIACOMO: I'm trying not to, but I  
15 didn't stop him, Judge.

16 The independent evidence of a conspiracy,  
17 which means the Court needs to find that there is  
18 evidence of a conspiracy before you can take in  
19 statements of a co-conspirator in the course and in  
20 furtherance of that conspiracy.

21 It has nothing to do with the accomplice  
22 testimony rule. Accomplice testimony rule is something  
23 totally different, which means once you have  
24 independent evidence of a conspiracy, and he's not  
25 arguing there is independent evidence of a conspiracy.

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1 What he's arguing is there is not  
2 independent evidence of my client being involved in the  
3 conspiracy, which is not the rule. The rule is, is  
4 there independent evidence of a conspiracy?

5 Once there is, all statements by  
6 co-conspirators in the course and in furtherance come  
7 in, which means once you establish there is a  
8 conspiracy, then the statements of the co-conspirator,  
9 "Mr. H wants a hit. Little Lu wants us to bring a bat  
10 and bags. Anabel gave me a hundred bucks to change the  
11 tires on the car." All of those statements come in  
12 once there is independent evidence of a conspiracy.

13 There doesn't have to be independent  
14 evidence of each individual person being involved in  
15 the conspiracy. But now you go back to well, what  
16 evidence do you need other than merely statements of a  
17 co-conspirator for purposes of a bind over?

18 I would agree with defense counsel that  
19 merely the statements of Deangelo Carroll cannot cause  
20 this Court to bind anybody over for any charges. There  
21 has to be something more than just co-conspirator  
22 statements in the course and in furtherance of a  
23 conspiracy.

24 And that is what they cannot get away from  
25 no matter how hard they try, which is the two

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1 surreptitious recordings that occurred in Simone's Auto  
2 Plaza. I ask the Court to look at the exhibit with the  
3 picture that says, of a note that's found in Simone's  
4 Auto Plaza. "Shut your mouth. We're under  
5 surveillance."

6 Ask yourself what it is that they were  
7 having a conversation about if that's not evidence.  
8 Ask yourself what it is these people were talking  
9 about, and ask yourself what possibly is the motive to  
10 solicit the murder of two individuals, which as I hear  
11 Mr. Draskovich say, hey, you know, that one's actually  
12 a close one. There is actually evidence my client  
13 solicited the murder of two of the people that are in  
14 the van.

15 What possible motive is it that he would  
16 do that if he wasn't actually involved in the original  
17 conspiracy? What is his possible motive for that?  
18 What is his possible motive for paying off all the  
19 money? What is the possible motive for him to be  
20 talking about taking care of Deangelo and giving him  
21 \$25,000 in bonds inside the room? What is the possible  
22 motive for him and Anabel to be behaving on that wire?

23 And I guess the last question for this  
24 Court is, why isn't Mr. H sitting there? And the  
25 answer is simple. You have seen the evidence that was

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1 presented so far. There isn't Mr. H on a wire  
2 somewhere. If there was, there would be no question  
3 Mr. H would be sitting next to his son and his  
4 girlfriend over there because there would be  
5 independent corroboration.

6 They cannot get away from those two wires.  
7 Those two wires establish what happened out there. It  
8 establishes that Ronta's testimony is truthful, and it  
9 corroborates the co-conspirator's statement that came  
10 in, Judge. And I would ask the Court to bind them over  
11 on all charges.

12 THE COURT: I know you want to talk again,  
13 but you don't get to.

14 MR. DRASKOVICH: When I'm misquoted, that  
15 hurts.

16 THE COURT: All right. Having heard the  
17 testimony presented and reviewing the evidence on file  
18 herein, having heard the arguments and objections with  
19 respect to various evidence, and whether it be  
20 considered against both defendants or individual  
21 defendants or no defendants, and finding that the --  
22 and let me just address the tape or the CDs that we  
23 have listened to in that regard.

24 They are not the best. You would think  
25 our federal government, the FBI, could get, you know,

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1 they do on the movies.  
 2 MR. DIGIACOMO: There is only CSI, Judge.  
 3 THE COURT: Yeah. They get better  
 4 recordings or better enhancements, and perhaps if I had  
 5 listened to it several times, maybe I would have a  
 6 different -- I would still have the feeling it's not  
 7 very good quality.  
 8 However, I did get enough from that to  
 9 make a decision with respect to two things I was going  
 10 to decide on. One was authentication. Those tapes,  
 11 together with the testimony of the detectives who was  
 12 leaving, following those, has led me to believe that  
 13 the voices that I heard on those were that of Mr. Luis  
 14 Alonso Hidalgo, III, and Anabel Espindola, together  
 15 with Deangelo Carroll.  
 16 I discounted anything Mr. Carroll said on  
 17 that as not to be asserted for the truth. In other  
 18 words, I didn't believe anything in there as it goes to  
 19 making any decision. And, again, I did not take what  
 20 one defendant said against the other defendant because  
 21 of my concerns with the Crawford case.  
 22 Notwithstanding that, I think we still  
 23 meet the burden that we have here in a preliminary  
 24 hearing for each of those defendants to have been  
 25 involved in the solicitation of the two individuals

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1 mentioned in Counts III and IV. And that's really only  
 2 for a preliminary hearing standard. It's not real  
 3 strong. I will state that.  
 4 The statements of Mr. Carroll, I have the  
 5 transcript of the interview, again, I have not reviewed  
 6 that. It was submitted into evidence as for  
 7 impeachment purposes, and I have not considered those  
 8 statements against any of the three defendants that are  
 9 now before me.  
 10 However, based upon the evidence  
 11 presented, I find that all three defendants, there is  
 12 sufficient evidence to believe that they participated  
 13 in a conspiracy and a murder with a deadly weapon in  
 14 Counts I and II.  
 15 Consequently, I guess where I'm going with  
 16 this is, from reviewing the Complaint on file herein,  
 17 and hearing the testimony and evidence presented, I  
 18 find that there is reasonable cause to believe that  
 19 Kenneth Counts, Luis Alonso Hidalgo, III, and Anabel  
 20 Espindola have committed the crimes of conspiracy to  
 21 commit murder and murder with use of a deadly weapon.  
 22 And that the defendants, Luis Hidalgo and  
 23 Anabel Espindola, there is reasonable cause to believe,  
 24 they are defendants in Count III and IV, conspiracy to  
 25 commit murder, and Count III, Jayson Taoipu, and

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1 Count IV, Ronta Zone, solicitation to commit murder,  
 2 the defendants will be bound over on all four counts.  
 3 And the clerk's going to give you the time  
 4 and date to appear in district court.  
 5 MR. ORAM: Your Honor, would you entertain  
 6 a bail motion? We had asked at the end of the bail  
 7 motion last time -- at the end of the preliminary  
 8 hearing, whether you would consider it. I'll be very  
 9 brief. I know the court is late.  
 10 If I could just remind the Court that my  
 11 client has no criminal history. And when the Court  
 12 previously denied bail, I went back, one thing that was  
 13 of great concern is at the time none of us had the CDs  
 14 or the transcripts, except for the State.  
 15 And I want to remind the Court of  
 16 something that was said in the bail motion that has  
 17 caused me concern approximately the day after I started  
 18 listening to the CDs. They are talking about the  
 19 May 24th surreptitious recording, and they say on  
 20 page 5 of their brief, during this conversation, Anabel  
 21 can be heard on the tape acknowledging that Mr. H,  
 22 Anabel, and defendant, that would be Luis, hired  
 23 Deangelo, who, in turn, hired Counts to kill Hadland.  
 24 I don't think anybody could argue they  
 25 heard that on the tape. That wasn't on the tape. She

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1 never confessed to being involved and Mr. H was  
 2 involved. That was never said, but boy, it kept her,  
 3 it was a good argument to make to a Court where, you  
 4 know, even I was sitting there, I read that at the  
 5 time, and I thought oh, boy, they've got my client  
 6 confessing, and the Court, I imagine, relied upon that  
 7 to a certain extent.  
 8 It wasn't true. We've heard the tapes  
 9 now, and it just simply wasn't true. In fact, it's  
 10 sort of the opposite. At least one portion of my  
 11 argument you have heard is that she said that she told  
 12 him to talk to him.  
 13 Without belaboring the point, your Honor,  
 14 she has no prior record. I think the Court can see  
 15 that this is a case that can be fought. And I would  
 16 ask the Court to consider that this woman is a, she was  
 17 a general manager there at the club. I believe very  
 18 high up in Simone's.  
 19 And I would ask you to set bail somewhere  
 20 around \$50,000, put her on house arrest, something so  
 21 that she can go out, fight the case, but still not be a  
 22 flight risk, not be a danger to the community.  
 23 And if they argue she is a flight risk or  
 24 a danger to the community, I'll remind the Court it  
 25 seems to me they've got some problems being a danger to

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1 the community where they say somebody confesses and  
2 they haven't. I'd ask for a reasonable bail.

3 THE COURT: That was in the transcript.

4 MR. ORAM: No, this was actually in their  
5 bail motion.

6 MR. DRASKOVICH: It was in their bail  
7 motion, page 5. I was going to make the same argument.

8 MR. ORAM: It caused me grave concern,  
9 your Honor.

10 MR. DIGIACOMO: If I can address that?

11 THE COURT: Yeah.

12 MR. DIGIACOMO: I'll be happy to.

13 If you actually had Deangelo Carroll's  
14 taped statement, and then you had Deangelo Carroll's  
15 statements, which are certainly admissible for a bail  
16 hearing but not admissible for a preliminary hearing,  
17 you got what Anabel said completely out of context  
18 from -- if you understood the case from the statements  
19 that we had from Deangelo Carroll.

20 They originally believed that Timothy  
21 Hadland would have been at his house and the conspiracy  
22 was to have him killed at the house. When Anabel  
23 learns during a phone call the drive out to the lake  
24 that Mr. Hadland was not at the house, and he would not  
25 be alone, there is a conversation between Mr. Carroll

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1 and Mr. -- Miss Espindola, in which they talk about the  
2 fact that, "Hey, if he's alone, go through with it. If  
3 not, I want you to go to plan B," as Deangelo Carroll  
4 puts it.

5 And then when you listen to the tape, and  
6 I know that they jump up and said, "We told you to talk  
7 to the guy," you have to back up just a few minutes  
8 before that. She is talking about "When I learned that  
9 you were going out to the lake and you had all those  
10 people with you, I told you to talk to the guy, not  
11 F'ing kill the guy." And then she goes on to, "I told  
12 you to go to plan B."

13 And he goes, "No, you didn't. You told me  
14 to kill him if he's alone." And then she says, "But I  
15 tried to call you back but you turned your cell phone  
16 off." And that was clear as day.

17 Now, how else do you interpret that when  
18 someone says to you, "Hey, but you told me to kill him  
19 if he's alone," and she goes, "But I tried to call you  
20 back and your cell phone was off." Is that not a  
21 confirmation of what was said there, then what are we  
22 talking about here?

23 I mean, they are arguing that she told him  
24 to not go do the killing when she found out they went  
25 to the lake. I don't dispute that she made that

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1 statement to them. She told them to go to plan B if  
2 he's not alone. I never disputed that statement.

3 But certainly her statement when he says,  
4 "You told me to kill him if he was alone," and she  
5 says, "But I tried to call you back," what other  
6 implication do you take from that particular statement,  
7 other than it's a confirmation that she was, in fact,  
8 involved?

9 MR. ORAM: Judge, they are taking this out  
10 of context. I'm not so concerned about that. Listen  
11 to what they are saying in there. They are saying that  
12 she can be heard on tape acknowledging that Mr. H and  
13 the defendant. Now, they are not -- now, they are  
14 saying oh, it was her. It's incriminating against her.  
15 No, that's not what they said to you.

16 MR. DIGIACOMO: I said on the tape.

17 MR. ORAM: I'm sorry.

18 MR. DIGIACOMO: When she says Mr. H, "If  
19 Mr. H goes down for this, we're all dead." What is she  
20 saying? Is she not confirming that Mr. H did it? And  
21 Little Luis is in the room.

22 I'm sorry, maybe they are interpreting it  
23 different than I am, but the fact is that I'm taking  
24 the statements as a whole to say that confirms what she  
25 did, which the Court already found that there is

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1 corroboration for a bind over on conspiracy to commit  
2 murder. If that's not what she was confirming on that  
3 tape, why did we have the bind over?

4 MR. DRASKOVICH: Judge, if I could be  
5 heard concerning bail, as well.

6 We have just heard Luis Hidalgo, III, was  
7 in the room while Ronta Zone was in the car, so it's  
8 obviously good for one argument and not good for the  
9 other.

10 I would ask the Court to set bail at  
11 \$50,000 for my client, Luis Hidalgo, because what the  
12 State had said at our bail hearing simply wasn't so.  
13 Luis Hidalgo, III, has been a six-year resident of Las  
14 Vegas. He has very strong family ties here in the  
15 community. He owns a two-story home in Las Vegas,  
16 Nevada, located at 4037 Overbrook Drive. He's employed  
17 full-time. He has no prior criminal history. And he  
18 has no failures to appear.

19 Based upon the very, very tenuous, teased  
20 and tortured evidence that you have heard today, and  
21 based upon his complete lack of failures to appear and  
22 his very strong ties to the community, I would urge the  
23 Court that \$50,000 is an appropriate bail, in addition  
24 to any and all other conditions that the Court may so  
25 impose to release him at this juncture.

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1 MS. WILDEVELD: Your Honor --  
2 MR. DIGIACOMO: Do you want to make an  
3 argument?

4 MS. WILDEVELD: Yes, but I would also ask  
5 that Mr. Counts' bail be reduced to \$50,000, which is  
6 actually a huge stretch for Mr. Counts, given that he  
7 doesn't have the financial resources that perhaps other  
8 co-defendants have.

9 Mr. Counts has been an outstanding member  
10 of the community, save for a previous record of  
11 nonviolent crimes all having to do with drugs or  
12 smoking marijuana. Nothing to do with any kind of  
13 violence.

14 He was a Doolittle coach. And if he was  
15 good enough to be a Doolittle coach, he would be good  
16 enough to be back out in the community. He's a member  
17 of the Mountaintop Church, a strong member of the  
18 Mountaintop Church and a very active member of the  
19 church. He would have many people to vouch for him.

20 He's held two jobs. He has four kids  
21 under the age of 11. He's been with the same woman for  
22 14 years. He has a house at 1676 E Street. He has  
23 family that lives across the street. He's not going to  
24 go anywhere. His family is very established there.  
25 He's not going to pick up and leave his four kids and

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1 his wife.

2 He has too much to lose by running after  
3 these counts. I think the evidence against him was  
4 very scant. I think that he's gotten himself or  
5 somebody has gotten him rolled up into this whole  
6 situation. And I think that it's going to come to  
7 light why he's -- what, if any, role he actually did  
8 play in this. And I would think that that would be a  
9 no role, if any.

10 And I don't think -- there is no evidence  
11 that he was involved in any conspiracy or that he would  
12 ever see these people again. Mr. Carroll would be in  
13 custody. And I would ask that his bail be set at  
14 something like \$50,000 that maybe he could potentially  
15 afford.

16 MR. FIGLER: Your Honor, as long as  
17 everyone is making bail motions.

18 THE COURT: Can we approach on another  
19 issue or kind of a related issue before we finish the  
20 bail argument?

21 (Thereupon, a brief discussion was held  
22 at the bench.)

23 THE COURT: All right. In making a  
24 decision with respect to the bail, I have two  
25 obligations, one is to determine whether the defendants

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1 will continue to appear in court, and the second is  
2 there a danger to the community.

3 In making that decision, I have the  
4 opportunity to rely on more information than what we  
5 would have legally before the Court and at preliminary  
6 hearing.

7 So for purposes of the bail motion, I am  
8 going to review Mr. Carroll's statement for whatever  
9 it's worth. And so I get a feel for the case as to  
10 whether there is more concerns that I am not aware. I  
11 will review that over the evening. I will make a  
12 decision tomorrow. I'll just probably tomorrow  
13 afternoon after court we'll send it down to everybody.

14 MR. DIGIACOMO: Do you have the criminal  
15 history of Kenneth Counts when you make this decision?

16 THE COURT: I do.

17 MR. DIGIACOMO: Okay.

18 MS. WILDEVELD: And, your Honor, I would  
19 just ask that Mr. Counts be thought of separately when  
20 you're addressing bail issue for the other  
21 co-defendants. He does have four children.

22 MR. DRASKOVICH: We would ask that as  
23 well.

24 THE COURT: And, frankly, from what I  
25 heard today, they would want me to consider them

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1 separately.

2 MS. WILDEVELD: I disagree.

3 MR. DIGIACOMO: So we're going to wait  
4 till tomorrow to have the bind over date?

5 THE COURT: No, I'll give you the bind  
6 over date now. Whether they are in jail or not, they  
7 need to be there. I'm going to give you the date as if  
8 they were in custody, but this is a case that should --

9 MR. FIGLER: Your Honor, in all  
10 seriousness, if I could complete the record just really  
11 quickly. The prosecution had graciously offered for us  
12 to be able to cross-examine one of the witnesses.

13 Your Honor, I affirmed that Mr. Carroll  
14 wanted to fight the charges in district court and that  
15 was the reason for his waive up. I did note for the  
16 record that we weren't offered the opportunity to  
17 object during the course of Mr. Zone's testimony. And  
18 I think it was kind of an empty gesture, although I do  
19 appreciate your Honor finding that we would have  
20 standing.

21 Additionally, you know, much maligned  
22 through these proceedings, Mr. Carroll has had to sit  
23 by silently. Certainly there was some evidence of his  
24 cooperation with the police department during the  
25 course of events. Additionally, a lot of references to

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1 Mr. Carroll, I think, in assisting the prosecution  
2 today.  
3 And he would like to be considered as well  
4 for a reasonable bail motion. As everyone else has  
5 been bound over, and he is now bound over as well by  
6 his waiver, I think it would be appropriate for your  
7 Honor to be able to determine a bail for Mr. Carroll.  
8 And because of a number of concerns in the  
9 case, he certainly wants to stay and fight this as  
10 well. So I would just submit it to your Honor on that.  
11 THE COURT: Okay. I will consider him  
12 with respect to bail. With respect to Mr. Carroll's,  
13 since that was brought up, is there anything from the  
14 State, particularly a criminal history or anything?  
15 MR. PESCI: Judge, yes. I'm not sure if  
16 you have his criminal history.  
17 THE COURT: With Mr. Carroll I don't know  
18 because I haven't looked.  
19 MR. FIGLER: I will represent, your Honor,  
20 that he does have a felony conviction upon which he was  
21 given probation and house arrest. And there is no  
22 allegation that he wasn't able to comply with those  
23 court orders.  
24 MR. DIGIACOMO: Well, actually, he went  
25 through two revocation proceedings, and Judge McGroarty

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1 put him back on probation both times.  
2 And while there is a dispute between  
3 counsel and I, Mr. Carroll told the detectives that he  
4 was still on paper for the crime of conspiracy to  
5 commit robbery when the murder occurred. Mr. Figler  
6 seems to tell me that he believes he may have gotten  
7 off a day or two before.  
8 MR. FIGLER: There's a possibility that he  
9 was done with probation.  
10 MR. DIGIACOMO: A day or two before, but  
11 either way, Judge --  
12 MR. PESCI: He has a failure to appear,  
13 and the nature of his priors are conspiracy to robbery,  
14 so there is violence, there is conspiracy, which we  
15 have here today before your Honor. We have failure to  
16 appear.  
17 And you have indicated you do have the  
18 criminal history of Mr. Counts to consider?  
19 THE COURT: I do have that.  
20 MR. PESCI: Thank you, Judge.  
21 THE CLERK: June 27th, 9:00 a.m., District  
22 Court Department XIV.  
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ATTEST: Full, true and accurate transcript.

*Marcia J. Harness*  
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-- [2] 330/20 337/25	addition [7] 272/12 273/9 274/2 300/2 352/12 357/10 404/23	32/15 43/8 43/10 125/3 155/10 182/11 227/8 230/9 235/8 240/23 244/25 245/1 245/11 247/11 247/12 247/15 263/10 339/14 340/15 341/6 341/7 348/3 351/16 360/18 360/19 362/6 363/22 363/23 372/17 375/25 376/21 377/9 377/10 378/11 389/6 391/5 392/8 396/20 397/20 398/8 403/14 406/3
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-	additional [6] 78/6 171/15 172/9 248/10 274/17 360/7	age [2] 16/13 405/21
- [276]	Additionally [4] 41/17 90/6 408/21 408/25	agent [21] 184/18 186/1 192/10 193/2 194/1 204/21 204/23 208/19 208/23 212/15 213/11 213/16 215/21 216/24 217/8 236/4 246/11 251/3 251/4 270/23 271/24
A	address [14] 158/5 158/7 167/1 234/10 234/12 262/17 318/4 340/16 357/12 376/1 378/19 386/14 396/22 401/10	agent -- [1] 236/4
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we're [75] 7/4 9/10 13/6 19/9 22/5 25/5 26/23	372/8 376/24 384/2 385/17 389/11 389/13 407/8	348/4 351/1 359/23 367/4 388/16 390/4 406/1
46/15 54/1 74/4 88/8 88/10 91/15 92/10 92/24	whatsoever [9] 87/16 375/24 379/2 379/24 380/1	wife's [1] 390/6
96/6 99/17 101/6 105/5 127/5 127/6 127/7 128/14	380/14 380/22 381/13 381/22	WILDEMANN [20] 2/17 104/18 108/18 146/22
129/4 129/4 147/2 147/19 161/20 170/8 170/18	when [238]	154/20 157/17 160/3 161/4 162/7 164/2 166/2
170/21 184/23 195/9 215/3 224/21 228/16 240/24	where [172]	166/8 171/20 172/2 192/9 213/17 301/25 302/8
243/24 248/18 248/20 249/10 253/11 254/5	wherever [2] 89/1 293/4	302/11 342/7
259/22 260/2 263/15 271/23 286/12 287/7 287/8	whether [42] 10/12 10/15 11/3 11/8 11/17 11/19	Wildemann's [1] 172/3
294/3 295/13 296/18 300/11 300/23 301/8 328/20	12/22 75/6 89/17 89/20 119/18 121/4 135/11	WILDEVELD [7] 1/21 2/6 2/15 2/18 301/16 328/24
329/4 329/5 335/21 335/22 341/10 355/2 356/4	135/17 175/18 175/18 187/9 214/1 216/24 247/6	392/25
358/14 366/8 367/5 367/12 369/7 372/2 374/17	271/16 271/17 294/5 295/10 297/4 301/16 306/10	will [98] 7/7 8/1 8/19 10/19 10/22 11/1 12/13
383/10 395/4 403/19 408/3	309/1 311/17 339/10 340/23 354/7 357/17 357/21	14/14 14/15 15/11 15/13 17/8 22/22 33/8 36/25
we've [14] 5/5 52/22 128/13 149/6 153/5 223/18	359/10 370/6 390/6 396/19 399/8 406/25 407/10	52/5 57/14 58/6 75/14 101/13 142/10 147/6
227/3 228/6 241/24 259/15 292/11 336/18 375/12	408/6	150/19 151/10 155/14 156/3 156/17 159/13
400/8	which [130] 8/11 8/12 9/5 9/6 11/7 12/21 14/3	159/21 160/18 160/25 174/20 209/7 216/9 224/2
weak [4] 229/23 377/9 377/9 377/10	22/15 23/14 23/17 24/1 24/24 36/23 41/1 53/5	225/4 234/21 236/14 238/2 245/4 246/3 249/22
weapon [29] 14/21 15/11 28/14 290/17 290/21	53/8 55/5 66/6 68/12 74/5 75/12 87/19 92/10 95/5	250/12 257/2 274/5 274/9 277/3 277/5 277/5
329/16 329/17 358/1 359/5 359/21 369/14 369/17	106/4 112/15 114/3 146/14 149/6 149/7 151/13	285/16 285/18 295/16 295/18 295/23 298/17
370/9 370/11 370/18 371/5 380/19 381/22 381/25	151/16 153/5 153/7 153/10 153/14 153/15 154/11	298/19 298/20 301/13 304/22 307/3 307/18
382/17 385/3 388/15 390/12 390/13 390/15	158/6 158/21 177/9 177/20 177/20 180/9 180/11	314/17 318/17 320/6 329/12 334/17 335/17
390/16 390/25 398/13 398/21	180/14 181/1 181/3 181/9 186/10 188/16 190/3	336/11 340/22 345/21 354/23 355/5 355/7 355/23
weapons [2] 258/18 259/1	209/7 214/23 214/24 220/20 221/3 221/3 224/19	356/10 356/12 356/15 356/16 357/2 357/2 363/25
wear [4] 55/15 183/17 183/18 184/3	226/19 229/22 229/23 232/15 232/20 234/13	364/20 367/19 367/10 369/14 370/3 371/18 372/4
wearing [25] 16/23 16/24 16/25 36/8 36/14 36/17	234/18 236/2 237/12 241/6 245/5 245/5 245/9	376/18 386/12 386/14 398/3 399/2 407/1 407/11
51/24 52/1 64/14 64/15 140/1 151/5 151/6 155/9	249/22 250/2 254/16 260/5 260/13 262/7 273/6	407/11 409/11 409/19
159/14 160/19 174/15 174/16 263/9 265/6 304/17	274/8 278/8 279/16 283/14 285/19 286/12 299/9	willing [6] 28/11 130/12 210/10 296/16 296/17
	299/19 300/4 306/13 320/15 320/19 321/6 321/13	358/17



<p><b>W</b></p> <p>wind [5] 34/17 34/20 80/1 220/1 370/24</p> <p>window [3] 69/1 72/4 72/5</p> <p>windows [1] 317/11</p> <p>winds [1] 65/13</p> <p>wire [39] 92/6 183/11 183/17 183/18 184/23 186/17 187/17 188/25 189/2 191/20 191/21 237/19 244/12 246/10 249/7 250/2 250/3 252/6 253/13 253/15 256/24 259/4 259/7 261/12 261/18 262/11 263/2 265/7 288/22 296/5 306/9 307/22 311/9 339/6 362/16 366/4 383/5 395/22 396/1</p> <p>wired [2] 183/10 366/5</p> <p>wires [9] 222/16 235/7 253/8 286/10 288/24 339/5 366/3 396/6 396/7</p> <p>wished [2] 198/20 198/22</p> <p>wishes [1] 300/15</p> <p>with - [1] 162/15</p> <p>withdraw [2] 22/16 289/24</p> <p>withdrawal [1] 368/9</p> <p>withdrawn [1] 294/9</p> <p>withdrew [1] 291/13</p> <p>within [7] 33/21 41/1 221/23 240/10 274/3 300/13 301/1</p> <p>without [17] 10/5 43/19 43/25 55/11 92/17 137/8 164/18 202/7 208/20 263/2 268/9 268/16 285/14 291/19 303/6 373/25 400/13</p> <p>withstanding [1] 53/3</p> <p>witness [77] 1/23 6/15 6/18 6/24 7/1 7/2 7/4 10/14 10/16 11/18 12/6 13/25 15/21 18/21 21/4 25/23 26/22 29/22 30/2 30/14 32/24 33/22 38/11 38/14 41/9 42/2 42/4 44/14 46/13 48/14 56/6 56/23 64/13 65/3 74/6 77/17 83/6 89/7 92/17 93/25 97/8 101/12 121/25 138/3 144/22 144/24 187/2 204/24 206/8 213/25 218/4 229/6 229/7 230/4 230/18 230/18 230/19 231/11 239/8 243/16 257/23 281/3 285/20 287/9 292/5 293/18 294/18 296/16 337/8 341/9 347/3 351/7 366/15 372/24 373/25 376/20 383/16</p> <p>witnessed [4] 95/24 213/9 293/23 384/9</p> <p>witnesses [23] 2/2 6/2 6/8 10/10 13/15 13/16 41/7 53/25 147/7 228/14 239/10 248/9 253/21 295/22 295/23 319/8 319/10 356/4 356/11 369/6 384/22 390/21 408/12</p> <p>woman [5] 45/24 141/8 162/2 400/16 405/21</p> <p>women [2] 97/1 97/2</p> <p>won't [4] 7/6 126/2 263/22 351/20</p> <p>wonder [2] 360/14 360/16</p> <p>wondered [1] 135/17</p> <p>wonderful [1] 294/12</p> <p>wondering [3] 135/18 135/19 135/20</p> <p>word [12] 51/7 59/11 71/16 280/13 280/20 280/21 374/22 377/25 378/1 379/10 379/10 379/12</p> <p>words [22] 23/7 71/20 81/3 115/10 115/11 115/12 127/1 127/2 127/2 230/23 242/8 242/25 243/21 243/21 252/24 264/8 266/23 282/22 283/1 283/1 371/6 397/18</p> <p>wore [1] 383/5</p> <p>work [21] 18/6 19/25 49/2 49/6 86/7 98/25 99/1 99/9 102/12 127/5 127/7 127/14 137/8 148/9 158/23 165/3 182/25 243/14 243/15 311/21 371/16</p> <p>worked [6] 18/8 18/9 49/8 103/11 103/12 275/17</p> <p>workers [1] 237/11</p> <p>working [13] 17/11 20/2 49/12 49/14 49/17 147/5 148/12 148/16 249/7 272/19 272/25 275/14 299/4</p> <p>workroom [1] 237/12</p> <p>works [6] 80/7 80/8 102/17 185/4 243/13 274/9</p> <p>worried [3] 41/9 244/13 363/21</p> <p>worries [1] 233/7</p> <p>worry [4] 88/12 361/25 362/1 370/2</p> <p>worrying [1] 390/6</p>	<p>worth [4] 349/3 365/1 378/1 407/9</p> <p>would [268]</p> <p>would - [1] 7/3</p> <p>wouldn't [13] 12/4 14/6 101/10 129/10 141/18 197/8 198/8 247/24 266/22 268/14 353/15 366/14 379/20</p> <p>wound [6] 80/10 100/22 156/24 157/3 157/6 167/7</p> <p>wounds [2] 8/6 156/21</p> <p>writ [1] 359/10</p> <p>write [1] 210/11</p> <p>writing [3] 106/25 107/18 210/13</p> <p>written [5] 108/6 210/8 228/23 273/15 310/2</p> <p>wrong [3] 298/19 360/25 364/14</p> <p>wrote [2] 108/3 361/3</p> <p><b>X</b></p> <p>XIV [2] 15/17 410/22</p> <p><b>Y</b></p> <p>ya'll [2] 334/20 335/12</p> <p>Yale [2] 20/5 20/6</p> <p>yeah [64] 16/14 19/3 19/12 27/6 28/12 60/23 62/4 64/19 67/14 68/14 70/18 71/22 73/25 95/12 97/15 102/16 111/4 111/4 111/17 113/21 120/17 120/21 125/25 128/6 128/12 130/23 135/6 135/18 135/22 137/10 158/13 197/2 227/11 231/7 256/6 292/10 292/19 296/12 297/23 302/20 329/21 330/2 330/13 331/7 331/10 331/22 332/19 333/24 334/14 335/7 335/8 335/10 335/11 335/13 335/16 337/19 337/21 337/22 338/5 338/13 368/2 374/1 397/3 401/11</p> <p>year [7] 7/14 16/16 104/10 146/5 277/17 303/3 364/21</p> <p>years [11] 16/13 91/2 123/23 146/1 146/3 259/11 302/22 303/1 348/4 388/16 405/22</p> <p>yell [2] 62/2 362/15</p> <p>yelling [2] 176/1 176/2</p> <p>yep [3] 326/3 327/11 338/9</p> <p>yes [696]</p> <p>yet [14] 24/20 83/2 83/4 89/2 89/7 89/16 90/1 100/5 137/8 224/15 274/8 287/15 387/4 389/3</p> <p>you [1892]</p> <p>you - [11] 14/22 48/3 70/20 83/10 85/9 101/1 178/7 182/2 187/19 241/17 306/17</p> <p>you'd [2] 141/17 218/8</p> <p>you'll [4] 7/5 241/18 244/12 256/25</p> <p>you're [52] 13/1 13/24 20/15 24/12 31/3 38/1 82/10 84/10 93/6 101/2 101/2 119/25 123/19 125/13 125/23 126/1 126/5 128/5 130/13 148/15 160/6 167/14 167/17 175/24 177/24 197/16 198/13 204/18 208/17 211/14 228/14 228/17 236/21 236/24 249/1 256/9 266/3 270/6 273/6 273/7 275/7 284/10 292/8 343/24 345/16 353/7 364/14 365/23 365/24 370/10 370/19 407/20</p> <p>you've [3] 123/24 200/15 350/5</p> <p>young [7] 24/7 32/9 33/3 33/19 42/15 57/4 89/2</p> <p>your [249]</p> <p>yours [1] 65/1</p> <p>yourself [10] 131/7 131/10 146/17 266/5 272/8 280/13 280/19 395/6 395/8 395/9</p> <p>yourself - [2] 272/8 280/13</p> <p><b>Z</b></p> <p>Z-O-N-E [1] 9/20</p> <p>Zone [63] 1/23 2/3 8/23 10/13 10/20 11/9 11/17 15/24 16/3 42/7 42/9 43/8 44/12 57/19 57/20 57/22 58/2 58/9 58/17 88/14 88/16 89/17 90/5 122/3 140/20 144/13 165/11 165/15 165/16 165/20 166/10 166/13 167/23 168/16 288/3 288/19 293/19 319/10 336/22 356/22 357/12 357/18 357/24 362/5 368/17 372/15 372/16 379/4</p>	<p>379/7 380/3 380/19 380/20 381/9 382/3 382/7 386/22 386/25 387/10 387/10 388/8 393/11 399/1 404/7</p> <p>Zone's [4] 8/24 57/14 378/20 408/17</p>
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FILED

2005 JUN 17 P 3:29

Justice Court, Boulder Township

CLARK COUNTY, NEVADA

*[Signature]*  
CLERK

THE STATE OF NEVADA

Plaintiff,

District Court Case No. C212647

—vs—

Justice Court Case No. 05FB0052D

DEANGELO RESHAWN CARROLL

Defendant.

XIV  
6-27

I, hereby certify the foregoing to be a full, true and correct copy of the proceedings as the same appear in the above case.

WITNESS my hand this 13 day of JUNE, ~~19~~ 2005

*[Signature]*

Justice of the Peace

RECEIVED

JUN 17 2005

COUNTY CLERK



# Justice Court, Boulder Township

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

—vs—

DEANGELO RESHAWN CARROLL

Defendant(s)

CASE NO. 05FB0052D

**COMMITMENT  
and  
ORDER TO APPEAR**

An Order having been made this day by me, that DEANGELO RESHAWN CARROLL

be held to answer upon the charge of  
CT 1 CONSPIRACY TO COMMIT MURDER  
CT 2 MURDER USE OF A DEADLY WEAPON  
CT 3 & 4 SOLICITATION TO COMMIT MURDER

Committed in said Township and County, on or about the 19 day of MAY, ~~XX~~ 2005  
24 MAY 2005

IT IS FURTHER ORDERED that the Sheriff of the County of Clark is hereby commanded to receive

HIM into custody, and detain HIM until HE be legally discharged, and  
that HE be admitted to bail in the sum of NO BAIL ON ALL COUNTS Dollars, and be  
committed to the custody of the Sheriff of said County, until such bail is given; and

IT IS FURTHER ORDERED that said Defendant IS is/are commanded to appear in  
Department 14 of the Eighth Judicial District Court, Clark County Courthouse, Las Vegas, Nevada, at 9:00 A.M., on  
the 27 day of JUNE, ~~XX~~ 2005 for arraignment and further proceedings on the within chargeS

DATED this 13 day of JUNE, ~~XX~~ 2005



Justice of the Peace



# *Justice Court, Boulder Township*

CASE NO 05FB0052D

NAME: DEANGELO RESHAWN CARROLL

CHARGES: CT 1 CONSPIRACY TO COMMIT MURDER; CT 2 MURDER WITH DEADLY WEAPON;  
CT 3 & 4 SOLICITATION TO COMMIT MURDER

DATE, JUDGE OFFICER OF  
COURT PRESENT

APPEARANCES - HEARINGS

CONTINUE TO:

05/31/05 V. MILLER M. DIGICOMO, DA J. PESCI, DA C. BROWN, PD J. DAVID, CR N. SPILKER, CL K	<p>INITIAL ARRAIGNMENT STATE FILES AMENDED COMPLAINT IN OPEN COURT DEFT PRESENT IN COURT <b>IN CUSTODY</b> DEFT ADVSED AND WAIVES PUBLIC DEFENDER STATES THERE MAYBE CONFLICT IN REPRESENTING DEFT PUBLIC DEFENDER'S OFFICE TO NOTIFY COURT IS THERE IS CONFLICT COURT WILL APPOINT ATTY DAYVID FIGLER AS NEW COUNSEL P/H DATE SET</p> <p>DEFT REMANDED TO THE CUSTODY OF THE SHERIFF</p>	06/13/05 8AM
06/02/05	<p>PER PHONE CALL FROM CURTIS BROWN -PUBLIC DEFENDER, THERE IS A CONFLICT REPRESENTING DEFENDANT. COURT APPOINTS DAYVID FIGLER AS DEFENDANT'S NEW COUNSEL. MR. FIGLER NOTIFIED OF APPOINTMENT.</p>	
06/13/05 V. MILLER M. DIGICOMO, DA J. PESCI, DA D. FIGLER, ESQ M. HARNESS, CR N. SPILKER, CLK	<p>TIME SET FOR P/H DEFT PRESENT IN COURT <b>IN CUSTODY</b> MOTION BY DEFENSE TO EXCLUDE WITNESSES MOTION GRANTED STATE CALLS WITNESS #1 RONTAE ZONE PER NEGOTATIONS: DEFT UNCONDITIONALLY WAIVES HIS RIGHT TO P/H DEFT BOUND OVER TO DISTRICT COURT AS CHARGED APPEARANCE DATE SET STATE REVOKES OFFER MADE TO DEFT MOTION BY DEFENSE FOR BAIL/HOUSE ARREST COURT TAKES BAIL MOTION UNDER ADVISEMENT</p> <p>DEFT REMANDED TO THE CUSTODY OF THE SHERIFF</p>	06/27/05 9AM DEPT CT #14
06/14/05	<p>JUDGE MILLER DENIES DEFENSE MOTION FOR BAIL ORDER FILED WITH COURT. NOTICE SENT TO DA AND DEFENSE COUNSEL</p>	



1 JUSTICE COURT ~~FILED~~ BOULDER TOWNSHIP

2 CLARK COUNTY, NEVADA

3 2005 JUN -3 P 1:06

4 THE STATE OF NEVADA,

5 Plaintiff,

6 -vs-

7 BY

JUSTICE COURT  
LAS VEGAS, NV

DEPUTY

CASE NO: 05FB0052A-E

8 KENNETH COUNTS, aka Kenneth Jay  
9 Counts II, #1525643,  
10 LUIS ALONSO HIDALGO, aka,  
11 Luis Alonso Hidalgo III #1849634,  
12 ANABEL ESPINDOLA #1849750,  
13 DEANGELO RESHAWN CARROLL  
14 #1678381,  
15 JAYSON TAOIPU,

16 Defendants.

17 SECOND AMENDED  
18 CRIMINAL COMPLAINT

19 The Defendants above named having committed the crimes of CONSPIRACY TO  
20 COMMIT MURDER (Felony - NRS 200.010, 200.030, 199.480); MURDER WITH USE  
21 OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165) and  
22 SOLICITATION TO COMMIT MURDER (Felony - NRS 199.500), in the manner  
23 following, to-wit: That the said Defendants, on or between May 19, 2005 and May 24, 2005,  
24 at and within the County of Clark, State of Nevada,

25 COUNT 1 - CONSPIRACY TO COMMIT MURDER

26 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS  
27 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, DEANGELO  
28 RESHAWN CARROLL and JAYSON TAOIPU did, on or between May 19, 2005 and May  
29 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and between  
30 themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire  
31 and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy,  
32 Defendants and/or their co-conspirators, did commit the acts as set forth in Counts 2 thru 4,  
33 said acts being incorporated by this reference as though fully set forth herein.

34 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

35 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS



1 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, DEANGELO  
2 RESHAWN CARROLL and JAYSON TAOIPU did, on or about May 19, 2005, then and  
3 there wilfully, feloniously, without authority of law, and with premeditation and  
4 deliberation, and with malice aforethought, kill TIMOTHY JAY HADLAND, a human  
5 being, by shooting at and into the body and/or head of said TIMOTHY JAY HADLAND,  
6 with a deadly weapon, to-wit: a firearm, the Defendants being liable under one or more of  
7 the following theories of criminal liability, to-wit: (1) by directly or indirectly committing  
8 the acts with premeditation and deliberation and/or lying in wait; and/or (2) by aiding and  
9 abetting the commission of the crime by, directly or indirectly, counseling, encouraging,  
10 hiring, commanding, inducing or otherwise procuring each other to commit the crime, to-  
11 wit: by Defendant ANABEL ESPINDOLA and/or DEFENDANT LUIS HILDAGO, III  
12 and/or Luis Hildago, Jr. procuring Defendant DEANGELO CARROLL to beat and/or kill  
13 TIMOTHY JAY HADLAND; thereafter, Defendant DEANGELO CARROLL procuring  
14 KENNETH COUNTS and/or JAYSON TAOIPU to shoot TIMOTHY HADLAND;  
15 thereafter, Defendant DEANGELO CARROLL and KENNETH COUNTS and JAYSON  
16 TAOIPU did drive to the location in the same vehicle; thereafter, Defendant DEANGELO  
17 CARROLL calling victim TIMOTHY JAY HADLAND to the scene; thereafter, by  
18 KENNETH COUNTS shooting TIMOTHY JAY HADLAND; and/or (3) by conspiring to  
19 commit the crime of battery and/or battery with use of a deadly weapon and/or to kill  
20 TIMOTHY JAY HADLAND whereby each and every co-conspirator is responsible for the  
21 foreseeable acts of each and every co-conspirator during the course and in furtherance of the  
22 conspiracy.

23 COUNT 3 - SOLICITATION TO COMMIT MURDER

24 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
25 ESPINDOLA did, on or between May 23, 2005, and May 24, 2005, then and there wilfully,  
26 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
27 DEANGELO CARROLL, to commit the murder of JAYSON TAOIPU; the defendants  
28 being liable under one or more theories of criminal liability, to-wit: (1) by directly or

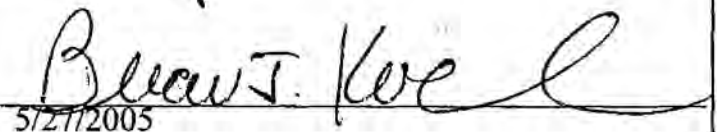


1 indirectly committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
2 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
3 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
4 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
5 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
6 of the conspiracy.

7 COUNT 4 - SOLICITATION TO COMMIT MURDER

8 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
9 ESPINDOLA did, on or between May 23 and May 24, 2005, then and there wilfully,  
10 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
11 DEANGELO CARROLL, to commit the murder of RONTAE ZONE; the defendants being  
12 liable under one or more theories of criminal liability, (1) by directly or indirectly  
13 committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
14 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
15 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
16 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
17 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
18 of the conspiracy.

19 All of which is contrary to the form, force and effect of Statutes in such cases made  
20 and provided and against the peace and dignity of the State of Nevada. Said Complainant  
21 makes this declaration subject to the penalty of perjury.

22  
23   
24 5/27/2005

25  
26 05FB0054A-E/jmh  
27 LVMPD EV# 0505193516  
28 CONSP MRDR; MWDW;  
SOLICIT MRDR - F  
(TK7)



FILED  
JUSTICE COURT  
JUSTICE COURT, BOULDER TOWNSHIP  
CLARK COUNTY, NEVADA

MAY 31 2005

THE STATE OF NEVADA,  
Plaintiff,

JUSTICE COURT  
BOULDER TOWNSHIP  
CASE NO: 05FB0052A-D

-vs-

KENNETH COUNTS, aka Kenneth Jay  
Counts, II, #1525643  
LUIS ALONSO HIDALGO, aka,  
Luis Alonso Hidalgo III #1849634,  
ANABEL ESPINDOLA #1849750,  
DEANGELO RESHAWN CARROLL  
#1678381,

CRIMINAL COMPLAINT

Defendants.

The Defendants above named having committed the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 199.480); MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165) and SOLICITATION TO COMMIT MURDER (Felony - NRS 199.500), in the manner following, to-wit: That the said Defendants, on or between May 19, 2005 and May 24, 2005, at and within the County of Clark, State of Nevada,

COUNT 1 - CONSPIRACY TO COMMIT MURDER

Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, and DEANGELO RESHAWN CARROLL did, on or between May 19, 2005 and May 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and/or Kenneth Counts and/or Jayson Taoipu and between themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy, Defendants and/or their co-conspirators, did commit the acts as set forth in Counts 2 thru 4, said acts being incorporated by this reference as though fully set forth herein.

///



1 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

2 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS  
3 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, and  
4 DEANGELO RESHAWN CARROLL did, on or about May 19, 2005, then and there  
5 wilfully, feloniously, without authority of law, and with premeditation and deliberation, and  
6 with malice aforethought, kill TIMOTHY JAY HADLAND, a human being, by shooting at  
7 and into the body and/or head of said TIMOTHY JAY HADLAND, with a deadly weapon,  
8 to-wit: a firearm, the Defendants being liable under one or more of the following theories of  
9 criminal liability, to-wit: (1) by directly or indirectly committing the acts with premeditation  
10 and deliberation and/or lying in wait; and/or (2) by aiding and abetting the commission of  
11 the crime by, directly or indirectly, counseling, encouraging, hiring, commanding, inducing  
12 or otherwise procuring each other to commit the crime, to-wit: by Defendant ANABEL  
13 ESPINDOLA and/or DEFENDANT LUIS HILDAGO, III and/or Luis Hildago, Jr. procuring  
14 Defendant DEANGELO CARROLL to beat and/or kill TIMOTHY JAY HADLAND;  
15 thereafter, Defendant DEANGELO CARROLL procuring KENNETH COUNTS and/or  
16 JAYSON TAOIPU to shoot TIMOTHY HADLAND; thereafter, Defendant DEANGELO  
17 CARROLL and KENNETH COUNTS and JAYSON TAOIPU did drive to the location in  
18 the same vehicle; thereafter, Defendant DEANGELO CARROLL calling victim TIMOTHY  
19 JAY HADLAND to the scene; thereafter, by KENNETH COUNTS shooting TIMOTHY  
20 JAY HADLAND; and/or (3) by conspiring to commit the crime of battery and/or battery  
21 with use of a deadly weapon and/or to kill TIMOTHY JAY HADLAND whereby each and  
22 every co-conspirator is responsible for the foreseeable acts of each and every co-conspirator  
23 during the course and in furtherance of the conspiracy.

24 COUNT 3 - SOLICITATION TO COMMIT MURDER

25 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
26 ESPINDOLA did, on or between May 23, 2005, and May 24, 2005, then and there wilfully,  
27 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
28 DEANGELO CARROLL, to commit the murder of JAYSON TAOIPU; the defendants



1 being liable under one or more theories of criminal liability, to-wit: (1) by directly or  
2 indirectly committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
3 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
4 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
5 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
6 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
7 of the conspiracy.

8 COUNT 4 - SOLICITATION TO COMMIT MURDER

9 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
10 ESPINDOLA did, on or between May 23 and May 24, 2005, then and there wilfully,  
11 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
12 DEANGELO CARRALL, to commit the murder of RONTAE ZONE; the defendants being  
13 liable under one or more theories of criminal liability, (1) by directly or indirectly  
14 committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
15 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
16 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
17 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
18 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
19 of the conspiracy.

20 All of which is contrary to the form, force and effect of Statutes in such cases made  
21 and provided and against the peace and dignity of the State of Nevada. Said Complainant  
22 makes this declaration subject to the penalty of perjury.

23  
24  
25 5/27/2005

26 05FB0054A-C/jmh  
27 LVMPD EV# 0505193516  
28 CONSP MRDW; MWDW;  
SOLICIT MRDR - F  
(TK7)



FILED

2005 JUN 14 P 4:40

**JUSTICE COURT BOULDER TOWNSHIP  
CLARK COUNTY, NEVADA**

JUSTICE COURT  
BOULDER, NEVADA  
BY RS  
DEPUTY

State of Nevada )

Plaintiff )

-vs- )

Kenneth Counts #1525643 )

Luis Alonso Hidalgo #1849634 )

Anabel Espindola #01849750 )

Deangelo Reshawn Carroll #1678381 )

Defendant (s) )

**CASE NO. 05FB0052A-D**

**ORDER**

Each of the Defendants: Counts, Carroll, Hidalgo and Espindola have requested setting of bail or house arrest or a combination of bail and house arrest. The court took these motions under advisement to review the case and evidence presented at the Preliminary Hearing again in light of the Defendants' likely hood of attending future hearings in the matter (risk of flight) and the danger to society if the defendants are released from the custody. Although the court has evaluated the defendants individually the court makes the same finding with respect to each. That is, bail will not be set.

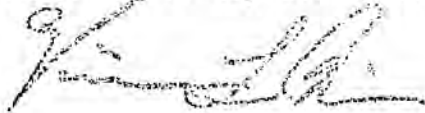
At the preliminary hearing the court found that there is evidence at least to reasonable cause to believe that the Defendants committed a conspiracy to commit murder and then murder. Also present is evidence which suggests that this was a "murder for hire." This causes the court significant cause to believe there is a danger to society. This is particularly true when it is remembered that the court also found reasonable cause to bind over Defendants Hidalgo and Espindola to District Court on charges of soliciting the murder of certain witnesses in this case.

Therefore, in light of the nature of these charges and evidence reviewed it is the court's finding that the defendants in this case present a flight risk and a hazard to the community because of the risk of similar crimes being committed should they be released.



Attached is a e-mail I received in my office from one of the victim's family members.  
It was received after I had made my decision.

So ordered this 14<sup>th</sup> day of June, 2005

A handwritten signature in dark ink, appearing to read "Victor L. Miller", written over a horizontal line.

Victor L. Miller, Justice of the Peace



**From:** Shannon Dillinger [shannon@color-reflectionslv.com]  
**Sent:** Tuesday, June 14, 2005 8:46 AM  
**To:** court@bcnv.org  
**Subject:** State Vs Counts, Carroll, Hidalgo III, Espanola

Judge Miller,

I just wanted to send my concerns to you concerning the bail of 4 people who are currently in custody charged with murder and conspiracy of my uncle Timothy Hadland. From my research my concerns are as follows.

The Hildago family has close ties to Mexico (grandmother lives there), as well as access to lots of cash. There are also concerns as to why this event even took place, which makes me believe they are a danger to this community.

I ask that you consider the above before your decision is made.

Thank you for your consideration.

### Color Reflections

**Shannon Dillinger**

shannon@color-reflectionslv.com  
www.color-reflectionslv.com

REFLECT YOUR WORLD

**Color Reflections**  
4600 South Polaris Ave  
Las Vegas, Nevada 89103  
tel: 702-262-9300  
fax: 702-262-2088  
mobile: 702-332-1344

Add me to your address book...

Want a signature like this?



## CLARK COUNTY PRETRIAL QUESTIONNAIRE AND FINANCIAL AFFIDAVIT

Defendant: <u>Carroll, Deangelo</u>	
Arrest Date: <u>5/25/05</u>	Arraign Date: _____
S.S.N.: <u>530-92-11061</u>	ID: <u>167838</u>
D.R. #: _____	DOB: <u>11/28/81</u>
M J Charge: <u>murder 1st</u>	Bail: <u>WB</u>
M J Charge: <u>Consp murder 1st</u>	Bail: <u>WB</u>
M J Charge: _____	Bail: _____
M J Charge: _____	Bail: _____
M J Charge: _____	Bail: _____
M J Charge: _____	Bail: _____
M J Charge: _____	Bail: _____
M J Charge: _____	Bail: _____
M J Charge: _____	Bail: _____
M J Charge: _____	Bail: _____

BASED ON VERIFIED POINTS THIS DEFENDANT HAS RECEIVED, AND THE INFORMATION GATHERED BY INTAKE SERVICES, THE FOLLOWING RECOMMENDATION IS MADE:

Supervised Release with Conditions as Directed by Intake Services:

Bail Reduction To:

☒ Not Recommended for an O/R Release or Bail Reduction Because: Charge

Release Granted: \_\_\_\_\_ Date: \_\_\_\_\_

Bail Reduction To: \_\_\_\_\_ Date: \_\_\_\_\_

Release Denied: \_\_\_\_\_ Date: \_\_\_\_\_

JC-1 (Intake Services)  
Rev. 02/05

CANARY - Intake Services

Page 1 of 2 Pages

**CONFIDENTIAL**

**Volume 1 - 146**



**Las Vegas Metropolitan Police Department  
TEMPORARY CUSTODY RECORD**

Page 1 of 1  
DATE OF ARREST: 5-25-05 TIME OF ARREST: 0115  
ARRESTING OFFICER: 1127821  
EVENT: 050519-2016

NAME (LAST, FIRST, MIDDLE): **DeAngelis, Robert**  
 ADDRESS: **1917 1/2 St**  
 CITY: **North Las Vegas**  
 STATE: **NV**  
 ZIP: **89030**  
 TRUE NAME: **Robert DeAngelis**  
 BIRTH DATE: **11/28/1981**  
 BIRTH PLACE: **CA**  
 HEIGHT: **5'11"**  
 WEIGHT: **190**  
 HAIR: **BLK**  
 EYES: **BRN**  
 SOCIAL SECURITY: **550392-1061**  
 LOCATION OF ARREST: **1917 1/2 St**  
 ARREST TYPE: **1127821**  
 EVENT NUMBER: **050519-2016**  
 WARRANT NUMBER: **1127821**  
 COURT: **CLC**

CHARGE: **MURDER**  
 BAIL: **NO BAIL**  
 BOND: **200.00**  
 ARRESTING OFFICER'S SIGNATURE: **[Signature]**  
 ARRESTING OFFICER'S NAME: **1127821**  
 ARRESTING OFFICER'S AGENCY: **1127821**  
 ARRESTING OFFICER'S PHONE: **1127821**  
 ARRESTING OFFICER'S ADDRESS: **1127821**  
 ARRESTING OFFICER'S CITY: **1127821**  
 ARRESTING OFFICER'S STATE: **1127821**  
 ARRESTING OFFICER'S ZIP: **1127821**  
 ARRESTING OFFICER'S COUNTY: **1127821**  
 ARRESTING OFFICER'S COUNTRY: **1127821**

ARREST TYPE: **720 - PROBABLE CAUSE**  
 BONDSMAN SURRENDER: **BAW - BENCH WARRANT**  
 WA - WARRANT 720 - REMAND  
 GRAND JURY IND: **CLC**  
 OTHER COURT: **CLC**  
 APPROVAL CONTROL # FOR ADDITIONAL CHARGES: **CLC**

ARRESTING OFFICER'S SIGNATURE: **[Signature]**  
 ARRESTING OFFICER'S NAME: **1127821**  
 ARRESTING OFFICER'S AGENCY: **1127821**  
 ARRESTING OFFICER'S PHONE: **1127821**  
 ARRESTING OFFICER'S ADDRESS: **1127821**  
 ARRESTING OFFICER'S CITY: **1127821**  
 ARRESTING OFFICER'S STATE: **1127821**  
 ARRESTING OFFICER'S ZIP: **1127821**  
 ARRESTING OFFICER'S COUNTY: **1127821**  
 ARRESTING OFFICER'S COUNTRY: **1127821**

RECEIVED  
 05 MAY 25 01 34  
 TIME Stamp at BOOKING  
 FOR PROBABLE CAUSE/NO HIT ARREST SEE PAGE TWO FOR DETAILS  
 BENCH WARRANT SERVED ON  
 WARRANT SERVED ON  
 GRAND JURY INDICTMENT SERVED ON  
 TYPE OF ID FOR VERIFICATION  
 COURT: **CLC**  
 JUSTICE  
 PROBABLE CAUSE  
 O.R. RELEASE  
 STANDARD BAIL  
 JUDGE: **[Signature]**  
 DATE: **5/25/05**  
 BY: **[Signature]**  
 1127821



Sent By: Clark County Detention C 455-4265;

May 25-05

Page 2

## LAS VEGAS METROPOLITAN POLICE DEPARTMENT

## ARREST REPORT

05F09568C / 5

☐ City☒ County☐ Adult☐ Juvenile

Sector/Room

EVENTS 050519-3316	ARRESTEE'S NAME (Last, First, Middle) CARROLL DEANLEO FRESHMAN	SSN 530921061
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) 1917 YALE Ave Las Vegas, NV 89030		
CHARGES CONSPIRACY TO COMMIT MURDER WITH A DEADLY WEAPON - 2 - MURDER WITH A DEADLY WEAPON		
OCURRED: DATE 5-19-05	DAY OF WEEK THURSDAY	TIME 2343
LOCATION OF ARREST (Number, Street, City, State, Zip Code)		
RACE D	SEX M	D.O.B. 1-28-81
HT 5'11"	WT 170	HAIR BLK
EYES BRN	PLACE OF BIRTH Las Vegas, NV	

## CIRCUMSTANCES OF ARREST

On 5-19-2005, at 2344 hours, Ismael Madrid called the Las Vegas Metropolitan Police Department to report a man lying in the roadway at North Shore Road east at Lake Mead Blvd. Patrol officers and medical personnel were dispatched to North Shore Road and East Lake Mead. Officer J. Lafreniere arrived and observed the man, who was later identified as Timothy Hadland, lying in the road with a gunshot wound to the head. Medical units arrived and confirmed Hadland had no signs of life and was dead. Officer Lafreniere informed LVMPD dispatch that there was a vehicle directly east of Timothy Hadland's body. The vehicle was a silver colored Kia Sportage with Nevada registration 803SHR. The Kia Sportage's front driver and passenger windows were down, the engine was running and the lights were on.

Detective G. King arrived and assumed control of the crime scene. The roadway at North Shore Road and East Lake Mead Blvd. was closed and the crime scene was secured. Detective King contacted Lt. Monahan at the Homicide section, who contacted Detective J. Vaccaro, Detective M. McGrath, Detective M. Wildemann, and Detective T. Kyger who responded to North Shore Road and East Lake Mead Blvd.

Upon arrival Detectives Kyger and Wildemann were assigned to interview witnesses and Detective McGrath conducted the crime scene investigation.

Detective McGrath observed Timothy Hadland lying face up on the asphalt approximately 30 feet east of a silver Kia Sportage with Nevada registration 803SHR. The vehicle was registered to Mark and Pajit Karlson at 8032 Glowing Water Street in Las Vegas, Nevada. McGrath observed several advertisement flyers for the "Palomino Club" in the roadway approximately four feet from Timothy Hadland's body. Detective McGrath observed a Nextel cellular telephone on the driver's side floorboard. Detective McGrath recovered the cellular telephone from the vehicle and observed several "missed phone calls". A wallet with identification in the name of Timothy Hadland was located in the rear compartment of the vehicle. The vehicle was sealed with LVMPD evidence stickers and towed to the LVMPD Crime Lab. No cartridge casings or bullets were located at the crime scene.

ARRESTING OFFICER(S) M. McGrath	PR 4575	APPROVED BY LT. Dave Carrigan 05/25/05 1940 Hours	CONNECTING RPTS. (Type or Event Number) 05
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LVMPD 602 (REV 12-00) - AUTOMATED



## ARREST REPORT

☐ City☒ County☐ Adult☐ Juvenile

Sector/Beat

ID/Event# 050519-3516	ARRESTEE'S NAME (Last, First, Middle) CARROLL DEANGELO RESHAON		SS# 530921061
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) 1917 Yale No. Las Vegas, NV 89030			
CHARGES: CONSPIRACY TO COMMIT MURDER WITH A DEADLY WEAPON & - MURDER WITH A DEADLY WEAPON			
OCCURRED:	DATE 5-19-05	DAY OF WEEK THURSDAY	TIME 2343
LOCATION OF ARREST (Number, Street, City, State, Zip Code)			
RACE B	SEX M	D.O.B. 1-28-81	HT 5'11"
WT 190	HAIR BLK	EYES BRN	PLACE OF BIRTH LAS VEGAS, NV

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ARRESTING OFFICER(S) M. McGrath	PE 4575	APPROVED BY M. Wildemann	CONNECTING RPTS. (Type or Event Number) O.R.
------------------------------------	------------	-----------------------------	---



VEGAS METROPOLITAN POLICE DEPARTMENT  
CONTINUATION REPORT

D/Event Number: 050519-3516

Page 2 of 5

On 5-20-05, at approximately 0900 hours, Detective McGrath and Detective Vaccaro attended the autopsy of Timothy Hadland at the Clark County Coroner's Office. The autopsy was performed by Dr. Telgenhoff, who determined the cause of death was multiple gunshot wounds to the head and the manner of death homicide. Several bullet fragments were recovered from the body of Timothy Hadland, which were impounded by CSA Morton.

Homicide detectives used the cellular telephone to identify family members and associates of Timothy Hadland. Detectives accessed the call history of the victim's cell phone, and learned that the last person to call Timothy Hadland's phone was "Deangelo" at 11:27 p.m. "Deangelo" was identified by name in the pre-programmed cell phone directory. A records check of Deangelo's telephone number showed the subscriber to the telephone was Hidalgo's Auto Body Works. The billing is addressed to Anabel Espindola at 6770 Bermuda Road, Las Vegas, Nevada. A records check in scope showed Annabel Espindola has a work card as general manager for the Palomino Club in North Las Vegas.

Det. T. Aiken discovered a person by the name of Deangelo Carroll has a work card for employment at the Palomino Club. The records check of the murder victim, Timothy Hadland, showed he also worked at the Palomino Club.

Detectives contacted Allena Hadland, the daughter of Timothy Hadland. Allena told detectives Timothy was camping at Lake Mead with his girlfriend, Pajit Karison. Detective Wildemann and Detective Kyger met with Pajit Karison at the Lake Mead campsite. Pajit informed detectives that Timothy Hadland left the campground at approximately 11:30 p.m. to meet Deangelo and two other persons. She said Timothy Hadland was driving her silver Kia Sportage when he left the campsite. She further stated "Deangelo" worked at the Palomino Club.

Detective Wildemann and Detective Kyger contacted Luis Hidalgo, the owner of the Palomino Club. Luis Hidalgo informed detectives Deangelo Carroll was an employee of the Palomino Club, but he did not have an address or telephone number for Carroll. Hidalgo told detectives to return after 7:00 p.m. and meet with Ariel, who managed the business.

Detective McGrath and Detective Wildemann returned to the Palomino Club at 7:30 p.m. and spoke with Michelle Schwanderik, also known as "Ariel". She informed McGrath she was a Floor Manager at "the Club" (the Palomino Club) and worked for "Mr. H". She told detectives "Mr. H" was Luis Hidalgo, the owner of the Palomino Club. She informed detectives Deangelo Carroll was working at "the Club" on 5-19-05 and 5-20-05. Ariel did not see Carroll between the hours of 11:00 p.m. on the 19<sup>th</sup> of May and 12:20 a.m. on the 20<sup>th</sup>. During the interview with Ariel, Deangelo Carroll arrived and agreed to speak with homicide detectives. Detectives McGrath and Wildemann drove Carroll to the Homicide office where he was interviewed.



## CONTINUATION REPORT

ID/Event Number: 050519-3516

Page 5 of 5

surveilled directly to Simone's Auto Plaza at 6770 Bermuda Road. He entered the business through the garage. After approximately thirty minutes, Carroll exited the business and met with S/A Shields and Detective McGrath. Carroll handed S/A Shields a 750 milliliter bottle of "Tangueray" gin and fourteen hundred dollars of US currency. S/A Shields and Detective McGrath debriefed Carroll.

The following information was provided by Carroll:

Carroll drove directly to Simone's and entered the business. He met with Anabel Espindola, who told him to go to room #6, Luis Hidalgo III's office. Carroll walked to Luis' office, knocked on the door and entered after being greeted by Luis Hidalgo III. Hidalgo told Carroll the telephones and room were bugged. Hidalgo disconnected the telephone and spoke in a whisper. Espindola entered the office and asked Carroll to remove his clothing. Espindola and Luis wanted to know if Carroll was wearing a "wire." Carroll removed all of his clothing except his underwear. After confirming Carroll was not wearing a wire, Espindola and Hidalgo spoke in a whisper throughout the conversation with Carroll.

Luis had a large sword and was swinging it from side to side during this meeting. Luis told Carroll that if he told the police what happened, he would cut him up. Luis told Carroll that if he should have to go to jail, Luis would purchase "bonds" and give his wife a place to sleep. Luis said the bonds would increase and his wife could live in the condo, while he was in jail. Espindola told Carroll that "Mr. H" was already talking to a lawyer and that they would pay for his lawyer, should he get arrested. Carroll told them that "KC", and the "two others" referring to Jayson Taopu and Rontae Zone, wanted more money. Espindola gave Carroll one thousand dollars to keep the "two others" quiet and told Carroll the four hundred was for him.

Luis Hidalgo III handed Carroll a bottle of "Tangueray" gin. Espindola and Hidalgo discussed killing Zone and Taopu. They told Carroll to put rat poison in the gin and give it to them. Espindola said that won't kill them. Hidalgo told Carroll to put rat poison in a "blunt", referring to a marijuana cigarette. Hidalgo and Espindola believed that if they smoked the cigarette, they would die. Espindola told Carroll to get to the Palermo Club and resign. Espindola told him that he would still get money each week from them. Carroll could come back to work at "The Club" in a few months once the police stopped nosing around. Carroll exited the business and met with S/A Shields and Detective McGrath.

S/A Shields removed the recording device from Carroll. McGrath and Shields listened to the conversation. It was confirmed that the entire conversation was conducted in a whisper and all of the information provided by Carroll in this debriefing was determined to be accurate.



## CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DEANGELO Carroll

Defendant.

CASE NO.: 05F 00054CSEPT. NO.: 5

MAY 27 11 28 AM '05

JUSTICE COURT  
LAS VEGAS, NEVADA

## MEDIA REQUEST &amp; ORDER

Please fax to (702) 455-5975 to ensure that  
the request will be processed as quickly as  
possible.Jessica Hyam

(name), of

KVVN Fox 5

(media organization), hereby requests permission to begin:

(CHECK ALL THAT APPLY:)

☒ Televising/Recording ☐ Photographing ☐ Broadcasting/Recording (audio only) ☐ Other:proceedings in the above entitled case, in Department No. 5, on the 27 day of  
May, 20 05, at the hour of 7 A.M.

I hereby certify that I am familiar with, and will comply with, the Supreme Court's "Rules on Cameras and Electronic Media Coverage in the Courts" (Supreme Court Rule 229-247, inclusive). If this request is being submitted less than seventy-two (72) hours before the above-described proceedings commence, the following facts provide good cause for the Court to grant the request on such short notice:

Just found out through website

It is further understood that any pooling arrangements necessitated among the media shall be the sole responsibility of the media and must be arranged prior to coverage, without asking for the Court to mediate disputes.

Dated this 28 day of May, 20 05.

SIGNATURE:

Jessica Hyam

ADDRESS:

25 TV 5 DR

PHONE:

702-436-0276

FAX:

702-436-2507

## IT IS HEREBY ORDERED THAT:

☐ The media request is denied because it was submitted less than 72 hours before the scheduled proceeding was to commence, and no "good cause" has been shown to justify granting the request on shorter notice.☐ The media request is denied for the following reasons: \_\_\_\_\_☒ The media request is granted. The requested media access will apply for each and every hearing in the above-entitled case, at the discretion of the Court, and unless otherwise notified. This Order is made in accordance with Supreme Court Rules 229-247, inclusive, and is subject to reconsideration upon motion of any party to the action. Media access may be revoked if it is shown that access is distracting the participants, impairing the dignity of the Court, or otherwise materially interfering with the administration of justice.☐ OTHER: \_\_\_\_\_

IT IS FURTHER ORDERED that this document shall be made a part of the record of the proceedings in this case.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

JUSTICE OF THE PEACE

Media

noticed via

Phone

on the following date:

5/31/05

by:

JS

Plaintiff's Attorney(s)

noticed via

on the following date:

by:

Defendant's Attorney(s)

noticed via

on the following date:

by:

The Court did not have contact information for the following individuals:

Any written objection to the Court's order should be filed at least 24 hours prior to the subject hearing.



**FILED**  
**Justice Court, Boulder Township**  
**CLARK COUNTY, NEVADA**

2005 MAY 31 A 8:01

THE STATE OF

NEVADA JUSTICE COURT  
BOULDER, NEVADA

PLAINTIFF THE STATE OF NEVADA

CASE NO. 05FB0054B

**MEDIA REQUEST ORDER**  
**ALLOWING CAMERAS IN THE**  
**COURTROOM**

DEFENDANT CARROLL DeANGELO

ROBERT MARTINEZ

OF KVBC TV-3

Hereby requests

Permission to VIDEOTAPE

Proceedings on the above entitled case, in Courtroom No.

Presiding, on the

31

Day of MAY

2005

At the hour of

1:00PM

M.

I certify that I am familiar with the Supreme Court Rules 229-247 (inclusive) on Cameras and Electronic Media

Coverage In the Courts. I also understand that this request must be submitted to the Court at least seventy-two (72)

Hours before the proceedings commence unless good cause can be shown.

It is further understood any pooling arrangements necessitated among the media shall be the sole responsibility

of the media and must be arranged prior to coverage, without calling upon the Court to mediate any disputes.

DATED this

27

Day of

MAY

20

Media Representative, address &amp; Telephone Number

Robert Martinez

657-3150

IT IS HEREBY ORDERED by this Honorable Court that

Permitted to Videotape

In accordance with Supreme Court Rules 229-247

(inclusive). And that this entry shall be made a part of the record of the proceedings in this case.

DATED this

31

Day of

May

20 05

JUSTICE COURT JUDGE

Plaintiff Attorney Noticed

Defendant Attorney Noticed

Media Noticed

JC-1 8(CrimIn21) Rev. 04/01

Date

Date

Date

5-31-05

*[Signature]*  
*[Signature]*

the media shall be the sole responsibility

Day of

May

Volume 1 - 153



  
CLERK

**INFO**

DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
MARC DIGIACOMO  
Deputy District Attorney  
Nevada Bar #006955  
200 South Third Street  
Las Vegas, Nevada 89155-2212  
(702) 455-4711  
Attorney for Plaintiff

I.A. 06/27/05

9:00 A.M.

Wildeveld/Oram

Draskovich/Figler

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

KENNETH COUNTS, aka Kenneth Jay  
Counts II, #1525643  
LUIS ALONSO HIDALGO, aka, Luis  
Alonso Hidalgo, III, #1849634  
ANABEL ESPINDOLA, #1849750,  
DEANGELO RESHAWN CARROLL,  
#1678381

Defendant.

Case No: C212667  
Dept No: XIV

**INFORMATION**

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That KENNETH COUNTS, aka Kenneth Jay Counts II, LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo, III, ANABEL ESPINDOLA, , the Defendant(s) above named, having committed the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 193.165); MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165) and SOLICITATION TO COMMIT MURDER (Felony - NRS 199.500), on or between May 19, 2005, and May 24, 2005, within the County of Clark,



1 State of Nevada, contrary to the form, force and effect of statutes in such cases made and  
2 provided, and against the peace and dignity of the State of Nevada,

3 COUNT 1 - CONSPIRACY TO COMMIT MURDER

4 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS  
5 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, DEANGELO  
6 RESHAWN CARROLL and JAYSON TAOIPU did, on or between May 19, 2005 and May  
7 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and between  
8 themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire  
9 and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy,  
10 Defendants and/or their co-conspirators, did commit the acts as set forth in Counts 2 thru 4,  
11 said acts being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

13 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS  
14 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, DEANGELO  
15 RESHAWN CARROLL and JAYSON TAOIPU did, on or about May 19, 2005, then and  
16 there wilfully, feloniously, without authority of law, and with premeditation and  
17 deliberation, and with malice aforethought, kill TIMOTHY JAY HADLAND, a human  
18 being, by shooting at and into the body and/or head of said TIMOTHY JAY HADLAND,  
19 with a deadly weapon, to-wit: a firearm, the Defendants being liable under one or more of  
20 the following theories of criminal liability, to-wit: (1) by directly or indirectly committing  
21 the acts with premeditation and deliberation and/or lying in wait; and/or (2) by aiding and  
22 abetting the commission of the crime by, directly or indirectly, counseling, encouraging,  
23 hiring, commanding, inducing or otherwise procuring each other to commit the crime, to-  
24 wit: by Defendant ANABEL ESPINDOLA and/or DEFENDANT LUIS HILDAGO, III  
25 and/or Luis Hildago, Jr. procuring Defendant DEANGELO CARROLL to beat and/or kill  
26 TIMOTHY JAY HADLAND; thereafter, Defendant DEANGELO CARROLL procuring  
27 KENNETH COUNTS and/or JAYSON TAOIPU to shoot TIMOTHY HADLAND;  
28 thereafter, Defendant DEANGELO CARROLL and KENNETH COUNTS and JAYSON



1 TAOIPU did drive to the location in the same vehicle; thereafter, Defendant DEANGELO  
2 CARROLL calling victim TIMOTHY JAY HADLAND to the scene; thereafter, by  
3 KENNETH COUNTS shooting TIMOTHY JAY HADLAND; and/or (3) by conspiring to  
4 commit the crime of battery and/or battery with use of a deadly weapon and/or to kill  
5 TIMOTHY JAY HADLAND whereby each and every co-conspirator is responsible for the  
6 foreseeable acts of each and every co-conspirator during the course and in furtherance of the  
7 conspiracy.

8 COUNT 3 - SOLICITATION TO COMMIT MURDER

9 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
10 ESPINDOLA did, on or between May 23, 2005, and May 24, 2005, then and there wilfully,  
11 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
12 DEANGELO CARROLL, to commit the murder of JAYSON TAOIPU; the defendants  
13 being liable under one or more theories of criminal liability, to-wit: (1) by directly or  
14 indirectly committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
15 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
16 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
17 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
18 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
19 of the conspiracy.


20 COUNT 4 - SOLICITATION TO COMMIT MURDER

21 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
22 ESPINDOLA did, on or between May 23 and May 24, 2005, then and there wilfully,  
23 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
24 DEANGELO CARROLL, to commit the murder of RONTAE ZONE; the defendants being  
25 liable under one or more theories of criminal liability, (1) by directly or indirectly  
26 committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
27 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
28 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by



1 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
2 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
3 of the conspiracy.

4  
5  
6  
7 BY



8 DAVID ROGER  
9 DISTRICT ATTORNEY  
Nevada Bar #002781

10 Names of witnesses known to the District Attorney's Office at the time of filing this  
11 Information are as follows:

12 <u>NAME</u>	<u>ADDRESS</u>
13 HADLAND, ALLAN	ADDRESS UNKNOWN
14 KARSON, PAJIT	ADDRESS UNKNOWN
15 KRYLO, JAMES	LVMPD P#5945
16 MADRID, ISMAEL	1729 STAR RIDGE WAY LV NV
17 MCGRATH, MICHAEL	LVMPD P#4575
18 MORTON, LARRY	LVMPD P#4935
19 RENHARD, LOUISE	LVMPD P#5223
20 SCHWANDERLIK, MICHELLE	4037 OVERBROOK DR LV NV
21 SMITH, STEPHANIE	LVMPD P#6650
22 TAOIPU, JAYSON	2008 JEANNE DR LV NV
23 TELGENHOFF, DR. GARY	C.C.M.E. #0003
24 VACCARO, JAMES	LVMPD P#1480
25 WILDEMANN, MARTIN	LVMPD P#3516
26 ZONE, RONTAE	c/o BILL FALKNER, Clark County D.A. Office

27 DA#05FB0052A-B/ddm  
28 LVMPD EV#0505193516  
CONSP MURDER;MWDW;SOLICIT MURDER - F  
(TK7)



  
CLERK

1 **NISD**  
2 **DAVID ROGER**  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 **MARC DIGIACOMO**  
6 Deputy District Attorney  
7 Nevada Bar #006955  
8 200 South Third Street  
9 Las Vegas, Nevada 89155-2211  
10 (702) 455-4711  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 DEANGELO CARROLL,  
12 #1678381

13 Defendant.

CASE NO: C212667

DEPT NO: XIV

14 **NOTICE OF INTENT TO SEEK DEATH PENALTY**

15 COMES NOW, the State of Nevada, through DAVID ROGER, Clark County District  
16 Attorney, by and through MARC DIGIACOMO, Deputy District Attorney, pursuant to NRS  
17 175.552 and NRS 200.033 and declares its intention to seek the death penalty at a penalty  
18 hearing. Furthermore, the State of Nevada discloses that it will present evidence of the  
19 following aggravating circumstances:

20 1. The murder was committed by a person who, at any time before a penalty hearing  
21 is conducted for the murder pursuant to NRS 175.552, is or has been convicted of a felony  
22 involving the use or threat of violence to the person of another and the provisions of  
23 subsection 4 do not otherwise apply to that felony, to-wit: CONSPIRACY TO COMMIT  
24 ROBBERY. [See NRS 200.033(2)(b)]

25 The evidence will consist of certified copies of judgments of conviction showing that  
26 DEFENDANT DEANGELO CARROLL was convicted in Clark County, Nevada, on  
27 September 9, 2002, of the felony offense of CONSPIRACY TO COMMIT ROBBERY in  
28



1 case number C184573. The testimony of the victim Steven Blodgett and/or police officers  
2 and/or other witnesses and/or exhibits, will be offered in support of this aggravating  
3 circumstance. Furthermore, the underlying facts of the conviction indicate that on or about  
4 May 18, 2002, DEFENDANT DEANGELO CARROLL did, then and there, willfully,  
5 unlawfully, and feloniously take personal property, to-wit: a wallet, contents and lawful  
6 money of the United States, from the person of Steven Blodgett, or in his presence, by means  
7 of force or violence, or fear of injury to, and without the consent and against the will of the  
8 said Steven Blodgett, to-wit: by DEFENDANT DEANGELO CARROLL beating Steven  
9 Blodgett with his fists; thereafter, by his co-conspirator continuing to beat Steven Blodgett  
10 while DEFENDANT DEANGELO CARROLL removed a wallet from the boot of Steven  
11 Blodgett, thereafter, DEFENDANT DEANGELO CARROLL fleeing from the scene with  
12 the property.

13 2. The murder was committed by a person, for himself or another, to receive money  
14 or any other thing of monetary value, to-wit by : by ANABEL ESPINDOLA (a manager of  
15 the PALOMINO CLUB) and/or LUIS HILDAGO, III (a manager of the PALOMINO  
16 CLUB) and/or LUIS HILDAGO, JR. (the owner of the PALOMINO CLUB) procuring  
17 DEFENDANT DEANGELO CARROLL (an employee of the PALOMINO CLUB) to beat  
18 and/or kill TIMOTHY JAY HADLAND; and/or LUIS HIDALGO, JR. indicating that he  
19 would pay to have a person either beaten or killed; and/or by LUIS HIDALGO, JR.  
20 procuring the injury or death of TIMOTHY JAY HADLAND to further the business of the  
21 PALOMINO CLUB; and/or LUIS HIDALGO, III telling DEFENDANT DEANGELO  
22 CARROLL to come to work with bats and garbage bags; thereafter, DEFENDANT  
23 DEANGELO CARROLL procuring KENNETH COUNTS and/or JAYSON TAOIPU to kill  
24 TIMOTHY HADLAND; thereafter, by KENNETH COUNTS shooting TIMOTHY JAY  
25 HADLAND; thereafter, LUIS HIDALGO, JR. and/or ANABEL ESPINDOLA providing  
26 six thousand dollars (\$6,000) to DEFENDANT DEANGELO CARROLL to pay KENNETH  
27 COUNTS, thereafter, KENNETH COUNTS receiving said money; and/or by ANABEL  
28 ESPINDOLA providing two hundred dollars (\$200) to DEFENDANT DEANGELO



1 CARROLL and/or by ANABEL ESPINDOLA and/or LUIS HIDALGO, III providing  
2 fourteen hundred dollars (\$1400) and/or eight hundred dollars (\$800) to DEFENDANT  
3 DEANGELO CARROLL and/or by ANABEL ESPINDOLA agreeing to continue paying  
4 DEFENDANT DEANGELO CARROLL twenty-four (24) hours of work a week from the  
5 PALOMINO CLUB even though DEANGELO CARROLL had terminated his position with  
6 the club and/or by LUIS HIDALGO, III offering to provide United States Savings Bonds to  
7 DEFENDANT DEANGELO CARROLL and/or his family. [See NRS 200.033(6)].

8 The basis for this aggravator is the aggravated nature of the crime itself. The  
9 evidence upon which the State will rely is the testimony and exhibits introduced during the  
10 guilt or penalty phase of the trial, as well as the verdicts from the guilt phase.

11 In filing this NOTICE, the State incorporates all pleadings, witness lists, notices and  
12 other discovery materials already provided to Defendant by the Office of the District  
13 Attorney as part of its open-file policy as well as any future discovery received and provided  
14 to Defendant.

15 DATED this 6th day of July, 2005.

16 Respectfully submitted,

17 DAVID ROGER  
18 Clark County District Attorney  
Nevada Bar #002781

19 BY /s/MARC DIGIACOMO  
20 MARC DIGIACOMO  
21 Deputy District Attorney  
Nevada Bar #006955

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///



1                                    **CERTIFICATE OF FACSIMILE TRANSMISSION**

2            I hereby certify that service of NOTICE OF INTENT TO SEEK DEATH PENALTY,  
3 was made this 6th day of July, 2005, by facsimile transmission to:

4  
5                                    DAYVID FIGLER, ESQ.  
6                                    FAX #386-0344

7                                    D. McDonald  
8                                    Secretary for the District Attorney's Office



IN THE JUSTICE'S COURT OF BOULDER TOWNSHIP  
COUNTY OF CLARK, STATE OF NEVADA

-000-

FEB 22 12 37 PM '06

THE STATE OF NEVADA,  
Plaintiff,

vs.

JASON TAOIPU,  
Defendant.

*Shirley S. Langmuir*  
CLERK

Case No. 05FB0052E

05-C-212667

REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING

THE HONORABLE VICTOR LEE MILLER  
JUSTICE OF THE PEACE  
TUESDAY, DECEMBER 6, 2005  
1:00 P.M.

APPEARANCES:

For the State: Marc DiGiacomo, Esq.  
Giancarlo Pesci, Esq.  
Deputy District Attorneys

For the Defendant: Terrance Jackson, Esq.

Reported by: Norma Jean Silverman, RPR, RMR  
NV. CCR No. 572

NORMA JEAN SILVERMAN CCR 572 (702) 451-5007

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FEB 21 2006

COUNTY CLERK



IN THE JUSTICE'S COURT OF BOULDER TOWNSHIP  
COUNTY OF CLARK, STATE OF NEVADA

-000-

THE STATE OF NEVADA, )

Plaintiff, )

vs. )

Case No. 05FB0052E

JASON TAOIPU, )

Defendant. )

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THE HONORABLE VICTOR LEE MILLER

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For the Defendant: Terrance Jackson, Esq.

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NV. CCR No. 572

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EXHIBITS

STATE'S	Ident'd	Mkt'd	Adm'd
Exh. No. 1	8		10
Exh. No. 2	8		10
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1 BOULDER CITY, CLARK COUNTY, NEVADA  
2 TUESDAY, DECEMBER 6, 2005, 1:00 P.M.

3 \* \* \* \* \*  
4 PROCEEDINGS

5 THE COURT: Case No. 05FB0052E,

6 Jason Taoipu.

7 MR. JACKSON: Good afternoon, your

8 Honor.

9 THE COURT: Mr. Jackson, how are you?

10 MR. JACKSON: Good.

11 Mr. Taoipu is present in custody. We're

12 ready to proceed for preliminary hearing.

13 MR. PESCI: Giancarlo Pesci for the

14 State. Marc DiGiacomo is out in the hall.

15 We have two witnesses we can go with.

16 We're going to just take them a little bit out of

17 order waiting for the medical examiner, if it's

18 okay.

19 THE COURT: Okay. That's fine.

20 MR. PESCI: Thank you.

21 MR. DIGIACOMO: Good morning, Judge.

22 THE COURT: Good morning.

23 Would you like Mr. Taoipu over by you?

24 MR. JACKSON: Yes, please. Thank you.

1 THE COURT: Go ahead.

2 MR. DIGIACOMO: Thank you, Judge.

3 Just for the record, we're currently

4 waiting on the medical examiner to arrive. He --

5 people from his office called me yesterday. They

6 called me again this morning, and they asked me

7 what time he needed to be here. I told them

8 one o'clock. They said he'd be here.

9 So, with that understanding, I'm going

10 put the detective on first, but if the detective's

11 testimony turns lengthy and the doctor arrives,

12 maybe we could take a break and put him on and let

13 him get out of the here so he can get back to the

14 bodies at the M.E.

15 MR. JACKSON: I don't have a problem

16 with that.

17 MR. DIGIACOMO: Thank you.

18 MR. JACKSON: No problem with that.

19 Detective Marty Wildemann.

20 MR. JACKSON: Your Honor, we'd move to

21 exclude witnesses.

22 THE COURT: Request to exclude is

23 granted. Anybody who is here and anticipating

24 testifying in this proceeding needs to wait in the

25 hall until called to testify and do not discuss



1 your testimony with anyone until the proceedings  
2 are concluded.

3 THE CLERK: Please raise your right  
4 hand.

5  
6 MARTIN WILDEMANN,  
7 called as a witness, and having been first duly  
8 sworn to testify to the truth, the whole truth, and  
9 nothing but the truth, was examined and testified  
10 as follows:

11  
12 THE CLERK: I need you to state your  
13 name for the record and spell your name, please.

14 THE WITNESS: Martin Wildemann. Last  
15 name is W-i-l-d-e-m-a-n-n.

16  
17 DIRECT EXAMINATION  
18 BY MR. DIGIACOMO:

19 Q. Good afternoon, Detective.  
20 How are you employed?

21 A. With the Las Vegas Metropolitan Police  
22 Department.

23 Q. In what capacity?

24 A. I'm a detective in homicide.

25 Q. How long have you been with homicide?

1 A. Four years.

2 Q. And how long have you been with Metro  
3 over all?

4 A. Almost 18.

5 Q. I want to direct your attention to  
6 May of this year, May 19th.

7 Did you become involved in an  
8 investigation of what turned into a homicide  
9 investigation out at Lake Mead or near Lake Mead on  
10 North Shore Road here in Clark County, Nevada?

11 A. Yes.

12 Q. Could you describe for the court how it  
13 is you became involved in the investigation?

14 A. I was a member of the team that was up  
15 to handle a homicide. People called in on  
16 North Shore Drive saying that they saw a body --

17 MR. JACKSON: I object to hearsay.

18 MR. DIGIACOMO: It's not offered for the  
19 truth of the matter, sir. It's just for why it is  
20 you went where you went.

21 THE COURT: On that basis, the objection  
22 is overruled.

23 MR. DIGIACOMO: Thank you.

24 THE WITNESS: I was called by my  
25 lieutenant and, then, my sergeant to respond out

1 there at the time.

2 BY MR. DIGIACOMO:

3 Q. Did you respond out to North Shore Road?

4 A. Yes, I did.

5 Q. And approximately where on North Shore  
6 Road did you respond to?

7 A. If you take Lake Mead out of North Las  
8 Vegas east, go up over the saddle, go through  
9 the -- the park ranger booth, you'll come to a T,  
10 and the road T's and stops, and you can either go  
11 left or right.

12 If you go left approximately a third of  
13 a mile, it was right there, and that road is called  
14 North Shore Drive.

15 Q. So it's almost the corner of Lake Mead  
16 and North Shore Road?

17 A. Almost.

18 Q. Okay. And it's just slightly up the  
19 road on North Shore Road?

20 A. Little bit northeast, I believe.

21 Q. Northeast. Okay.

22 When you got there, describe the scene  
23 that you saw.

24 A. When we got there, we saw that a  
25 Kia Sportage was along the side of the road parked

1 in the dirt shoulder of the road there.

2 There was a body laying across the road  
3 perpendicular as the road ran. The body was  
4 clothed in a pair of shorts. There was a hat  
5 laying on victim's chest. A pair of glasses were  
6 laying off to his side, and he was wearing brown  
7 shoes, I believe, or sandals.

8 Q. Did you eventually through the course of  
9 your investigation identify the person who this  
10 body was?

11 A. Yes.

12 Q. Who was that?

13 A. Timothy Hadland.

14 Q. Did he have a nickname?

15 A. T.J.

16 MR. DIGIACOMO: Judge, may I approach?

17 THE COURT: Yes.

18 BY MR. DIGIACOMO:

19 Q. Having previously shown counsel, showing  
20 you what's been marked as State's proposed Exhibits  
21 1 and 2.

22 Those appear to be three photographs of  
23 the scene in question?

24 A. Yes.

25 MR. DIGIACOMO: Judge, I move to admit



1 1 and 2.  
 2 MR. JACKSON: I'd like further  
 3 foundation laid.  
 4 BY MR. DIGIACOMO:  
 5 Q. Are they a true, fair, and accurate  
 6 depiction of the crime scene?  
 7 A. Yes, they are.  
 8 Q. And now I would note that on the bottom  
 9 of State's Exhibit No. 2 there's actually two  
 10 pictures; is that correct?  
 11 A. Yes.  
 12 Q. And those -- seems to be yellow markers  
 13 of those pictures; is that correct?  
 14 A. Yes.  
 15 Q. Those yellow markers, were they present  
 16 when you first arrived on scene?  
 17 A. Not when we first arrived.  
 18 Q. Do you know, being present at the scene  
 19 as well as your training and experience, what those  
 20 markers are from?  
 21 A. They're evidence markers for the  
 22 criminalistics people.  
 23 Q. And the same with No. 1.  
 24 Are those yellow markers the same thing  
 25 that are in No. 1?

1 A. I'm sorry. Can you repeat that?  
 2 Q. In State's Exhibit Proposed No. 1, are  
 3 those yellow --  
 4 A. Yes.  
 5 Q. -- markers, once again, the crime scene?  
 6 A. Yes, they are.  
 7 Q. With the exception of the crime scene  
 8 tags that are placed there by the crime scene  
 9 analysts, do 1 and 2 fairly and accurately depict  
 10 the scene as when you arrived?  
 11 A. Yes.  
 12 MR. DIGIACOMO: Move to admit 1 and 2.  
 13 MR. JACKSON: No objection.  
 14 THE COURT: Be admitted.  
 15 BY MR. DIGIACOMO:  
 16 Q. Now, when you found Mr. Hadland, you  
 17 said he was in that position that he's lying there  
 18 in Photographs 1 and 2?  
 19 A. Yes.  
 20 Q. Did you notice any obvious injuries to  
 21 him?  
 22 A. We could see a large amount of blood.  
 23 MR. JACKSON: Object to "We."  
 24 THE COURT: Sustained.  
 25 \* \* \*

1 BY MR. DIGIACOMO:  
 2 Q. What did you see?  
 3 A. I could see a large amount of blood  
 4 coming from the head area on the street, on the  
 5 concrete.  
 6 Q. Okay. Eventually, did you -- did you  
 7 see the various injuries to Mr. Hadland?  
 8 A. Yes.  
 9 Q. Where was that? Was that still at the  
 10 scene or some later time?  
 11 A. I could see one at the scene and,  
 12 then -- actually, I saw them both at the scene  
 13 later when the coroner arrived. He was moved, and  
 14 we could see the other wound.  
 15 Q. Could you describe the injuries that you  
 16 personally saw?  
 17 A. The ones I saw were the left cheek. I  
 18 saw what looked like to be bullet wound to the left  
 19 cheek and looked like a bullet wound on the top of  
 20 his head and on the left side, another additional  
 21 bullet wound on the left side of his head.  
 22 Q. Okay. You said eventually a member of  
 23 the Medical Examiner's Office arrived on the scene?  
 24 A. Yes.  
 25 Q. And this person, what was his capacity?

1 A. He was a coroner's investigator.  
 2 Q. And what does he do when you're at the  
 3 scene?  
 4 A. He documents the scene as well and  
 5 examines the body quickly at the scene and, then,  
 6 takes custody of the body.  
 7 Q. Based upon what you saw at the scene,  
 8 what did you decide to do in the course of the  
 9 investigation?  
 10 A. I'm sorry. Repeat it, please.  
 11 Q. Based upon what you saw at the scene,  
 12 what did you -- what type of investigation did you  
 13 become involved in?  
 14 A. A murder investigation.  
 15 Q. Okay. And tell me the -- well,  
 16 eventually, do you wind up coming in contact with  
 17 someone you see here in court?  
 18 A. Yes.  
 19 Q. Can you point that person out and  
 20 describe something he's wearing?  
 21 A. He's seated at the table wearing a blue  
 22 scrub top.  
 23 Q. And what -- did you know his name?  
 24 A. His name is Jason, and I will  
 25 mispronounce his name -- but it's Taoipu, I



1 believe. Something along those lines.  
 2 MR. DiGIACOMO: Let the record reflect  
 3 the identification of the defendant.  
 4 THE COURT: Record will so reflect.  
 5 BY MR. DiGIACOMO:  
 6 Q. How is it that you wound up coming into  
 7 contact with Mr. Taoipu?  
 8 A. Through the course of our investigation,  
 9 we learned --  
 10 MR. JACKSON: I'd object to what "we  
 11 learned."  
 12 BY MR. DiGIACOMO:  
 13 Q. Without telling us what other people  
 14 learned, how was it that you personally came into  
 15 contact with Mr. Taoipu?  
 16 A. Through the course of the investigation,  
 17 I learned that Mr. Taoipu was part of a group that  
 18 were out at Lake Mead and was with that group when  
 19 Mr. Hadland was shot.  
 20 Q. And did you -- well, let me ask you  
 21 this.  
 22 What member of that group did you first  
 23 come into contact with?  
 24 A. A member by name of DeAngelo Carroll.  
 25 Q. And was an interview conducted with

1 Mr. Carroll?  
 2 A. Yes, it was.  
 3 Q. Were you present for that interview?  
 4 A. Yes, I was.  
 5 Q. Okay. After the interview with  
 6 Mr. Carroll, was he taken into custody, or was he  
 7 allowed to leave?  
 8 A. He was allowed to leave.  
 9 Q. And where did that interview take place?  
 10 A. At the homicide offices.  
 11 Q. When he left, how did he leave the  
 12 homicide offices?  
 13 A. We drove him home.  
 14 Q. And when you drove him home, did you  
 15 come into contact with anybody else that you later  
 16 learned may have been -- that you had learned was  
 17 at the scene?  
 18 A. We came in contact with a young man by  
 19 the name of Rontae Zone.  
 20 Q. Okay. And at that point was Rontae Zone  
 21 asked to give an interview?  
 22 A. Yes, he was.  
 23 Q. Did you leave when -- when you left  
 24 Mr. Carroll's house, did you leave any instructions  
 25 with Mr. Carroll?

1 A. I told Mr. Carroll that when he came in  
 2 contact with Mr. Taoipu, to bring Mr. Taoipu to our  
 3 offices for a statement.  
 4 Q. How long -- how long after you left  
 5 these instructions with Mr. Carroll did you come  
 6 into contact with Mr. Taoipu?  
 7 A. The next afternoon.  
 8 Q. And how is it that that came about?  
 9 A. Mr. Carroll and Mr. Taoipu arrived at  
 10 our offices and were hanging right around the front  
 11 door when I arrived. Before I even arrived there,  
 12 they were there.  
 13 Q. Okay. And when you arrived, you came in  
 14 contact with Mr. Taoipu?  
 15 A. Yes.  
 16 Q. Can you describe -- well, first of all,  
 17 do you know the date and time that that was  
 18 approximately?  
 19 A. It would have been the 21st of May, and  
 20 it was approximately between three and four.  
 21 Q. Okay. Did you --  
 22 A. In the afternoon. Excuse me.  
 23 Q. And do you know what day of the week  
 24 that is?  
 25 A. I believe it's a Saturday.

1 Q. Okay. And so the office wasn't  
 2 opened --  
 3 A. No.  
 4 Q. -- for them to have gone into; is that  
 5 correct?  
 6 A. Yes.  
 7 Q. So how did you know --  
 8 Or did you expect to find DeAngelo  
 9 Carroll and Jason there when you arrived?  
 10 A. No.  
 11 Q. So you just arrived and they happened to  
 12 be standing outside?  
 13 A. Yes.  
 14 Q. When that happened, did you have  
 15 conversations with Mr. Taoipu?  
 16 A. Yes.  
 17 Q. And what were the nature of those  
 18 conversations?  
 19 A. Regarding his involvement in the death  
 20 of Mr. Hadland.  
 21 Q. Okay. Where did those conversations  
 22 take place?  
 23 A. Right in our homicide offices.  
 24 Q. So you allowed them into the building?  
 25 A. Yes.



1 Q. Okay. Did you provide him any --  
 2 Well, did you do anything for them?  
 3 A. We provided them with a drink, a soda of  
 4 some sort, I can't remember which, and -- and had  
 5 them wait for us. And they waited out in the lobby  
 6 area for, actually, quite a while while we got  
 7 our -- our notes together and, then, eventually  
 8 interviewed them.  
 9 Q. Okay. When you brought Mr. Taoipu into  
 10 the interview room, was there any indicia or had  
 11 you told him he was under arrest?  
 12 A. No, sir.  
 13 Q. Had you handcuffed him?  
 14 A. No.  
 15 Q. Did you in any manner indicate to him  
 16 that he was under arrest?  
 17 A. No.  
 18 Q. Did you ask him if he's willing to speak  
 19 to you?  
 20 A. Yes.  
 21 Q. And what did he indicate?  
 22 A. He said he would.  
 23 Q. Did you eventually take a tape recorded  
 24 statement from Mr. Taoipu?  
 25 A. Yes, we did.

1 Q. Who else was present during that tape  
 2 recorded statement?  
 3 A. Detective Vaccaro.  
 4 Q. And at the time what was  
 5 Detective Vaccaro's capacity in the investigation?  
 6 A. He was actually an acting supervisor at  
 7 that time, and he was a co-interviewer with me.  
 8 Q. Okay. Did you eventually provide the  
 9 digital recording of the interview of Mr. Taoipu to  
 10 my office?  
 11 A. Yes.  
 12 Q. And, then, were informed today that that  
 13 had been reduced to a C.D. recording to be played?  
 14 A. Yes, I was.  
 15 MR. DIGIACOMO: I didn't have a C.D.  
 16 player available for Mr. -- for Detective  
 17 Wildemann.  
 18 If Mr. Jackson objects, we can certainly  
 19 take a break, play it for him, say is that the same  
 20 statement.  
 21 MR. JACKSON: I am going to object to  
 22 the admission of this at this time. I'd like to  
 23 take the witness under voir dire. I'd like to  
 24 make -- ask certain questions before this statement  
 25 is admitted into evidence.

1 THE COURT: Okay. I think --  
 2 MR. DIGIACOMO: I have no objection to  
 3 that if that's appropriate.  
 4 THE COURT: Is this a good time to take  
 5 the medical examiner?  
 6 MR. PESCI: Judge, if I could -- I  
 7 apologize for interrupting.  
 8 He indicated he wanted a minute to  
 9 review his report --  
 10 THE COURT: Okay.  
 11 MR. PESCI: -- so he was going to let us  
 12 know when he was ready.  
 13 THE COURT: All right.  
 14 MR. DIGIACOMO: That's fine, Judge.  
 15 THE COURT: Good enough then. Proceed  
 16 with the voir dire.  
 17  
 18 VOIR DIRE EXAMINATION  
 19 BY MR. JACKSON:  
 20 Q. Officer, you said you've been a homicide  
 21 detective for how long?  
 22 A. Almost four years.  
 23 Q. And you were a Metro officer for 18  
 24 years?  
 25 A. Almost 18 years.

1 Q. You've had training as a Metro officer  
 2 and as a homicide detective in interrogation; is  
 3 that correct?  
 4 A. Yes.  
 5 Q. You've had training in how to get  
 6 confessions from people; is that correct?  
 7 A. Yes.  
 8 Q. You've had training in the law regarding  
 9 the rights of suspects; is that correct?  
 10 A. Yes.  
 11 Q. Now, you've -- it's unusual for someone  
 12 to come in and make voluntary statements in these  
 13 kinds of cases, is it not?  
 14 A. Is it unusual?  
 15 Q. Yes.  
 16 A. It doesn't happen every day, absolutely  
 17 not, but it does happen.  
 18 Q. Now, when someone is 16 years of age,  
 19 almost 17, but 16 years of age, do you have any  
 20 training as to both in law or in -- in your  
 21 interrogation training as to how they are to be  
 22 treated?  
 23 Are they treated the same way as an  
 24 adult suspect or an adult witness --  
 25 A. There's --



1 Q. -- by the homicide department or Metro  
2 Police Department?  
3 A. There's some differences.  
4 Q. Okay. And what are those differences on  
5 how you would treat someone of tender age, someone  
6 16 years of age?  
7 A. If that person were in custody or I was  
8 conducting an interrogation, he would be entitled  
9 to -- he would be read his Miranda rights and  
10 entitled to have a parent present also if he  
11 wanted.  
12 Q. Well, now, if someone is -- if you know  
13 that a very serious crime has been committed, i.e.,  
14 murder, someone is dead --  
15 You knew that someone was dead in this  
16 case.  
17 You were conducting an investigation of  
18 a death; is that correct?  
19 A. Yes.  
20 Q. A homicide?  
21 A. Yes.  
22 Q. You saw the dead body the day before; is  
23 that correct?  
24 A. Yes.  
25 Q. And you knew that someone would have to

1 pay for that crime, if not several people; is that  
2 correct?  
3 A. Yes, eventually.  
4 Q. And you were aware that Mr. DeAngelo  
5 Carroll was involved in this particular incident;  
6 is that correct?  
7 A. Yes.  
8 Q. At the time that he walked into your  
9 office on May 21st, you were aware that he  
10 connected, at least if not directly indirectly,  
11 with this homicide; is that correct?  
12 A. Yes.  
13 Q. He wasn't just a casual passerby.  
14 Your suspicions had focused on  
15 Mr. Carroll; was that correct?  
16 A. Amongst others, yes.  
17 Q. All right. But -- tell the truth,  
18 You -- he was a prime suspect.  
19 Wouldn't that be fair to say?  
20 Based on his connection to the Palomino  
21 Club, based on the cell phone conversation you --  
22 or based on the fact that you had traced his cell  
23 phone to T.J., he was a prime suspect.  
24 Wouldn't that be fair to say?  
25 A. He was one of the prime suspects, yes.

1 Q. And other people at the Palomino Club as  
2 well were prime suspects; isn't that correct?  
3 A. Yes.  
4 Q. All right. And the fact that my client  
5 was with DeAngelo Carroll, that made him at least  
6 some suspect you were looking at.  
7 Isn't that fair to say?  
8 A. A suspect that we were looking at?  
9 Q. All right. You were looking at him.  
10 In fact --  
11 A. I was asking you, sir. I'm sorry.  
12 That's what you said, a suspect we were looking at?  
13 Q. Yeah.  
14 A. You mean for the murder?  
15 Q. Yeah.  
16 A. For his involvement?  
17 Q. For the investigation in the death of --  
18 of -- of T.J.; isn't that correct?  
19 A. A possible suspect, yes.  
20 Q. All right. So when he walked into that  
21 office on the 21st, you didn't feel any obligation  
22 to advise him of his rights at that time?  
23 A. No.  
24 Q. Being 16 years of age, not having any  
25 legal training that you knew of, you didn't know

1 whether or not he was aware of his rights to remain  
2 silent, did you?  
3 A. We didn't talk about it.  
4 Q. All right. You didn't know whether or  
5 not he had any prior experience with the criminal  
6 justice system, did you?  
7 A. I did not know that.  
8 Q. Did you ask him whether or not he had  
9 ever been involved in the criminal system?  
10 A. I may have. I don't recall.  
11 Q. Is it on your -- would it be on your  
12 tape recording of questions you asked him?  
13 A. It's not something that I recall  
14 reading; so, I don't believe that I asked him at  
15 the time the recorder was on.  
16 Q. Did you ask him if he had parents in the  
17 Las Vegas area?  
18 A. I'm trying to recall. I don't believe I  
19 did at that time.  
20 Q. There's a gentleman present in court  
21 today, his father.  
22 Did you happen to contact him before  
23 questioning Mr. Taoipu?  
24 A. For interviewing him, no.  
25 Q. Okay. Did you ask him if he had -- if he



1 wanted to contact his father before interviewing  
2 him?

3 A. No.

4 Q. Did you ask him what his age was -- was  
5 before interviewing him?

6 A. I'm sure we did.

7 Q. Did he appear to you to be under the age  
8 of an adult; is that correct?

9 A. Yes.

10 Q. You knew he wasn't a 25- or 30-year-old  
11 man when you were interviewing him; isn't that  
12 correct?

13 A. Yes.

14 Q. In fact, you found out pretty quickly  
15 that his age was 16 years of age; isn't that  
16 correct?

17 A. Yes.

18 Q. You had no reason to doubt that; isn't  
19 that correct?

20 A. I don't believe so.

21 Q. Did you run him on SCOPE or did you run  
22 him on your computers to find out who he was to  
23 verify any of this information before you started  
24 interviewing him?

25 A. I don't know that I did that, sir. I'm

1 going to say that somebody probably did.

2 Q. That would be normal procedure, would it  
3 not?

4 A. Yes.

5 Q. All right. Now, would normal procedure  
6 be to check and see if he had parents or if he had  
7 family that might have some connection or -- or  
8 some concern about him?

9 A. If he was in custody or in  
10 interrogation, yes, I would do that.

11 Q. All right. Now, if, in fact, he told  
12 you something during this interview that would  
13 incriminate him, you, of course, would use that  
14 against him; isn't that correct?

15 A. Ask it again, please.

16 Q. During this interview on May 21st, if  
17 Mr. Taoipu told you something that incriminated  
18 him, you fully intended to use that against him in  
19 a court of law; isn't that correct?

20 MR. DiGIACOMO: Judge, I object, really,  
21 to the form of the question.

22 The prosecutor is the one who decides  
23 whether or not to use the statement against him  
24 when he supplied that information to the  
25 prosecutor.

1 MR. JACKSON: All right. I'll rephrase  
2 the question.

3 BY MR. JACKSON:

4 Q. Would you supply any information you  
5 received in such an interview to a prosecutor and  
6 allow them to make that decision?

7 A. Yes.

8 Q. All right. Now, you said there was an  
9 interval after you -- my client came to your  
10 office, some period of time passed.

11 How long was that?

12 A. I'm not sure exactly. I would say it  
13 was probably a couple hours.

14 Q. So you had him wait around your office  
15 for a couple hours before you interviewed him?

16 A. Got him sodas and waited there, yes.

17 Q. Well, that was nice you got him sodas.

18 Did you get him food, too?

19 A. I don't think we did.

20 Q. Okay. While he waited, was that one of  
21 the interrogation techniques you had to soften him  
22 up, or was it just -- just you wanted him to sweat  
23 about it for two hours?

24 A. No. We had been up a total of -- on  
25 that investigation up a total of 26 hours the night

1 before.

2 We went home about 3:30 in the morning.

3 I came back to work at three in the afternoon.

4 When we got back to work, we all sat around and  
5 talked about what we had learned the night before,  
6 and that is what took that time, was us getting our  
7 act together so we could interview.

8 Q. Where did he wait while you were talking  
9 about the case and while you were discussing it  
10 with the other detectives?

11 Where did my client, Mr. Taoipu, wait?

12 A. Part of the time, I believe, that he was  
13 in the lobby area and part of the time he was in an  
14 interview room.

15 Q. Now, that's a small cell, that interview  
16 room, isn't it? It's like about six by six? How  
17 big is it?

18 A. It's not a small cell, sir.

19 Q. How big is it?

20 A. It's not a cell. It's a room.

21 Q. How big is the room?

22 A. I have no idea. It's probably less than  
23 six by six. No. It's probably about six by six.

24 Q. Yeah, it's about six foot by six foot,  
25 isn't it?



<p>1 A. Sir, I don't know. You'd be -- feel 2 free to go measure it. 3 Q. I'm just looking from the pictures I've 4 seen on the video trying to guess. 5 When he was sitting in there, he was all 6 alone? 7 A. Hmmm. I believe so, yes. I stuck my 8 head in numerous times, check on him. 9 Q. Okay. While he was sitting in that 10 six-by-six cell, did he have access to 11 communication? Did he have a phone that he could 12 call out, call anyone, like his parents or anyone 13 else? 14 MR. DIGIACOMO: I'm going to object to 15 the term "cell." The witness specifically said 16 it's not a cell. 17 I know what he's trying to do. 18 MR. JACKSON: We don't have a jury here. 19 I don't think it's particularly prejudicial to what 20 English language word I use in describing a 21 six-by-six-foot room. 22 THE COURT: Just move on. 23 BY MR. JACKSON: 24 Q. In this six-foot by six-foot room, did 25 he have access to any communication? Did he have a</p>	<p>1 phone? Did he have any way of communicating with 2 the outside world? 3 A. No. 4 Q. Was he able to get up and leave at any 5 time? 6 A. Yes. 7 Q. Did he have to knock on the door to 8 leave, or could he just walk out? 9 A. The time that he was in the lobby area, 10 he could have walked out. 11 The time that he waited for us, he could 12 have walked out. 13 When he was in the interview room, I'm 14 going to say -- and I can't remember exactly, but I 15 will say, 'cause this is what I normally do, that 16 room was shut and closed. 17 Q. So that room was like locked. 18 You can't open it unless you knock on 19 the door and someone lets you out; is that right? 20 A. It was definitely closed. I'm not sure 21 that it was locked, but if it was locked, I 22 wouldn't be surprised at all because that's 23 accessible to our offices. 24 Q. So during that time at least he wasn't 25 free to leave?</p>
<p>1 A. If he'd have knocked, I would have gone 2 and answered the door. 3 Q. All right. But did he know that? 4 A. Yes. 5 Q. Did you tell him any time you want 6 out -- did you tell him during this two-hour period 7 any time you want to go home, Jason, just knock on 8 the door, and we'll let you go home? 9 A. I don't know that I told him that 10 specifically. 11 Q. Okay. 12 A. He came there to see me. 13 Q. Now, during your studies as a police 14 officer, you studied about the difference between a 15 juvenile brain and an adult brain, how juveniles 16 process information and how adults process 17 information? 18 A. No, sir. 19 Q. You studied how juveniles understand 20 their rights -- the difference between how 21 juveniles understand their rights and how adults 22 understand their rights? 23 A. I have an associate's degree, sir. No. 24 Q. Did you tell my client anything during 25 his interrogation that other people had already</p>	<p>1 accused him of any crime or involvement in this? 2 A. Did I tell him during my interview with 3 him? 4 So, please, just ask it again, sir. 5 Q. Let me rephrase it. That was a poor 6 question. Let me see if I can rephrase it. 7 Specifically, did you tell him that 8 DeAngelo Carroll had implicated him in any way in 9 being involved in the homicide? 10 A. I did not tell him that. 11 Q. Had you previously -- had you 12 interviewed DeAngelo Carroll before interviewing my 13 client, Mr. Taoipu? 14 A. Yes. 15 Q. Okay. You didn't mention anything about 16 your interview with DeAngelo Carroll to my client 17 while you were interviewing him? 18 A. Me specifically? I don't believe so, 19 no. 20 Q. Well, did any of the police officers 21 interviewing him mention anything DeAngelo Carroll 22 said to him? 23 A. Detective Vaccaro was with me. I don't 24 think he ever said DeAngelo Carroll, but I'm not 25 positive on that.</p>



1 Q. Did you tell him you already knew what  
2 happened?  
3 A. We told him that we had talked to  
4 DeAngelo.  
5 Q. So you did tell him you talked to  
6 DeAngelo?  
7 A. Absolutely.  
8 Q. And did you ever mention to my client it  
9 would be better for him if he talked to you than if  
10 he didn't or words to that effect?  
11 A. I don't know that I did. If it's in the  
12 statement, please show it to me.  
13 Q. Well, what do you remember about it?  
14 A. I don't remember me specifically saying  
15 that.  
16 Q. Did Mr. Vaccaro ever mention anything  
17 like that to him?  
18 A. I don't remember, but that's a  
19 possibility. But I don't remember that.  
20 Q. Well, is that something you normally say  
21 to a witness, that it's better for him cooperate or  
22 to tell what happened?  
23 A. It depends on the witness; it depends  
24 on the circumstances of what we're investigating.  
25 Q. In this particular case, you don't

1 remember saying that, but it's possible you did.  
2 Is that your testimony?  
3 A. If it's on the statement, please show it  
4 to me. I'd be glad to read it.  
5 Q. I'm just asking you what you remember  
6 now.  
7 What you're saying, if it's on the  
8 statement, you said it; if it's not on the  
9 statement, you didn't?  
10 Is everything that you said to him on  
11 the statement, or did you say some things that  
12 aren't recorded?  
13 A. I stuck my head in that room numerous  
14 times while they waited. I spoke to him numerous  
15 times.  
16 Q. So there's some things that you said to  
17 him that aren't recorded; is that right?  
18 A. That's right.  
19 Q. Okay. Well, that's -- what kind of  
20 things did you say to him that weren't recorded?  
21 A. "Are you okay?" "Do you need a  
22 bathroom?" "You want something more to drink?"  
23 Q. Anything else?  
24 A. I don't believe so.  
25 Q. Did he appear to you to be frightened?

1 A. No.  
2 Q. Did he appear to you to be upset?  
3 A. No.  
4 Q. Did he appear to you to be under the  
5 influence of either alcohol or drugs, or anything  
6 like that?  
7 A. No.  
8 Q. Did you ask him about his educational  
9 level?  
10 A. I believe he was asked. I think it was  
11 Detective Vaccaro, I think.  
12 Q. What did he tell you his educational  
13 level was, or what did he tell Detective Vaccaro  
14 his educational level was?  
15 A. Tenth or eleventh grade.  
16 Q. Dropped out of school in the tenth  
17 grade; isn't that correct?  
18 A. I don't know, sir.  
19 Q. Is that what he told you?  
20 A. Tenth or eleventh, I think is what he  
21 told me. Or ninth or tenth.  
22 Q. Okay.  
23 A. He couldn't decide.  
24 Q. Did that cause you any concerns about  
25 his understanding of either -- of either his rights

1 or his understanding of English or his  
2 understanding of the whole process the fact that he  
3 only had a tenth grade education?  
4 MR. DIGIACOMO: At some point I'm going  
5 to object.  
6 He's voir diring on whether or not --  
7 the voluntariness of the confession.  
8 MR. JACKSON: Well, I think all these  
9 questions --  
10 MR. DIGIACOMO: Whether or not -- the  
11 detective is not a psychiatrist who can decide. He  
12 can tell you objective facts and those -- that's  
13 what he's told you.  
14 When he starts going into questions  
15 about, well, did this concern you, did that concern  
16 you --  
17 MR. JACKSON: I'll rephrase the  
18 question.  
19 MR. DIGIACOMO: -- was it or was it not  
20 voluntary. We've got well beyond that at this  
21 point.  
22 MR. JACKSON: I've just got a few more  
23 questions, and I'll wrap it up.  
24 THE COURT: Go ahead.  
25 \* \* \*



1 BY MR. JACKSON:

2 Q. Did you have any indication from your  
3 questioning of him that he didn't understand you?

4 A. No.

5 Q. Okay. You never told him he could have  
6 a lawyer, did you?

7 A. No.

8 Q. You never told him he could get a lawyer  
9 for free, did you?

10 A. No.

11 Q. Are you telling me that suspicion hadn't  
12 focused on him at the time that you interviewed  
13 him?

14 A. We were trying to determine his level of  
15 involvement.

16 Q. So you believe he had some level of  
17 involvement at that time; is that correct?

18 A. We didn't know what level of  
19 involvement.

20 Q. You believe he had some level of  
21 involvement at that time; isn't that correct?

22 A. We believed him to be there.

23 Q. All right. Did you believe he had a gun  
24 at that time?

25 A. At the time we were interviewing him?

1 Q. Didn't you have indication from

2 Mr. DeAngelo Carroll that he may have had a gun in  
3 his possession when you interviewed him?

4 MR. DIGIACOMO: Okay. You're confusing  
5 me. Object to the question.

6 Did he have a gun inside the homicide  
7 interview room --

8 MR. JACKSON: No. Let me rephrase it.

9 MR. DIGIACOMO: -- did he have a gun on  
10 the scene?

11 BY MR. JACKSON:

12 Q. Did you believe that my client may have  
13 on the day of the homicide had possession of a  
14 weapon when you were interviewing him?

15 A. We believe that to be a possibility.

16 Q. All right. So you had some reason to  
17 believe that was one of the factors you were  
18 concerned about when you were interviewing him, and  
19 you knew that before you interviewed my client.

20 Isn't that a fact?

21 A. Okay. Please restate the question  
22 because --

23 Q. Hadn't you been made aware of that fact  
24 by DeAngelo Carroll before you interviewed my  
25 client?

1 A. Haven't -- were we made aware of the  
2 fact that he had a gun.

3 We were made aware of the fact that  
4 DeAngelo said he had a gun.

5 Q. Right. All right. And you knew that  
6 before you interviewed my client; isn't that  
7 correct?

8 A. Yes.

9 Q. All right. But you never -- but even  
10 though you knew that, you didn't think it was  
11 important enough to advise my client of his right  
12 to remain silent or to get an attorney at that  
13 time?

14 MR. JACKSON: I have no further  
15 questions.

16 MR. DIGIACOMO: It's argumentative.

17 THE COURT: Okay.

18 MR. JACKSON: Your Honor, at this time  
19 I'd like to make a motion to the court.

20 THE COURT: Sure.

21 MR. JACKSON: I think under the case of  
22 Escobido, suspicion of focus on my client, for them  
23 to say he was free to leave, he could have walked  
24 out the door, they weren't planning on doing  
25 anything except just finding out from this person

1 as a neutral witness, maybe somebody witnessing a  
2 traffic accident, what might have happened, they  
3 just wanted to find out what was going on, is -- it  
4 is fallacious reasoning.

5 Suspicion is clearly focused on him.

6 They had him in the interview room. They kept him  
7 in there, in what I would characterize as a cell,  
8 but the district attorney would respectfully  
9 disagree with me. It was a six-by-six-inch room.  
10 He couldn't get out of the door. They had the door  
11 closed. They sat him there for two hours. He's  
12 waiting in that room.

13 He doesn't have access to his  
14 parents. He's sitting in there. He's 16 years  
15 old. He has no knowledge of the law.

16 Eventually he makes a statement to the  
17 police officer. Officer says it's a voluntary  
18 statement. Of course we don't give him his rights.  
19 We don't tell him about Miranda. We don't tell him  
20 he has a right to a lawyer.

21 We're two experienced homicide police  
22 officers. This officer has 18 years' experience.  
23 The other officer is a senior officer to him.

24 They take this 16 year old after they've  
25 spent 26 hours working the case, after they spent



1 time with the other person involved in the case  
 2 interviewing him, and, then, they question him.  
 3 and, naturally, they get a statement out of him.  
 4 And, then, they want the court to decide.  
 5 This is a voluntary, knowing, and  
 6 intelligent waiver of his fifth amendment rights.  
 7 Now, I think under any reasonable  
 8 interpretation of the law, this is not a  
 9 reasonable, intelligent, voluntary, knowing waiver  
 10 of fifth amendment rights.  
 11 They didn't even presume to read him his  
 12 rights, his Miranda. They just said, oh, he was  
 13 free to leave. He could have left at any time.  
 14 Now, they may have let him walk out the  
 15 door after this statement, but they sure came and  
 16 got him soon thereafter.  
 17 They waited until they built their case.  
 18 They got him to make certain admissions.  
 19 Now, the admissions, which I'm going to  
 20 argue later, are equivocal. The admissions are  
 21 going to put him on the scene; they're going to put  
 22 him in the car.  
 23 He wasn't the main person involved in  
 24 this, but the admissions are somewhat damaging, and  
 25 we're moving to keep them out.

1 But I think these admissions violate his  
 2 fifth amendment rights and his sixth amendment  
 3 rights, and we're asking that the statement not  
 4 come into evidence against him.  
 5 Without these admissions, they have no  
 6 case whatever, and these admissions were taken  
 7 wrongly; they should not come into evidence.  
 8 I think that your Honor's duty is to  
 9 keep this evidence from coming before the Court.  
 10 This was an interrogation that was bad  
 11 from the start. I will urge the Court to suppress  
 12 any statements my client made.  
 13 MR. DIGIACOMO: Well, I appreciate the  
 14 defense counsel get up here and kind of confused  
 15 all the issues.  
 16 The first question is is he in custody  
 17 and how this Court could possibly find he was ever  
 18 in custody when:  
 19 One, he freely came down to the homicide  
 20 offices by himself;  
 21 He sat in the area where he had soda and  
 22 was free to leave;  
 23 He went into the interview room where he  
 24 was free to leave, and;  
 25 If you look at Page 3 of his statement

1 when the detective says, you guys drove down here  
 2 and you've been hanging out, but you're not in  
 3 custody, you've been free to go the whole time,  
 4 drinks, and everything; right?  
 5 And his answer is yes.  
 6 They take a statement from him, and,  
 7 then, they let him go home.  
 8 How the Court could ever find that there  
 9 is any indicia whatsoever of a custodial nature,  
 10 that's one question.  
 11 Is it a Miranda violation? If he's not  
 12 in custody, it can't be a Miranda violation.  
 13 The second question is is it even  
 14 voluntary. We haven't heard any evidence  
 15 whatsoever that the statements made by Mr. Taoipu  
 16 are not voluntary.  
 17 It's not a question of a knowing waiver  
 18 of his Miranda rights. He's not entitled to  
 19 Miranda rights if he's not in custody.  
 20 The question is was he in custody, and  
 21 if he wasn't in custody, then no Miranda.  
 22 And, then was it a voluntary statement  
 23 in the sense of it wasn't involuntary. They didn't  
 24 take a hose to him and, then, beat him to death.  
 25 They didn't turn the screws on him and force him to

1 give a confession.  
 2 And those are the two questions for the  
 3 Court.  
 4 And I'll submit it.  
 5 MR. JACKSON: Well, it's knowing,  
 6 voluntary, and it's intelligent.  
 7 He says this determines. We got that  
 8 far.  
 9 And the other thing is that the  
 10 questions put by this skillful interrogator from  
 11 the Metro is -- were leading questions.  
 12 You're free to go; you realize that.  
 13 I mean, he's 16 years old. We have to  
 14 put it in context.  
 15 There's a case out of California, the  
 16 Lara case, dealing with this exact situation when  
 17 you have juveniles.  
 18 And I refer the Court to there's a -- a  
 19 long annotation in the Federal Digest under Infant  
 20 68.5 dealing with the kinds of situations involving  
 21 juveniles.  
 22 When you have juveniles that are in --  
 23 subject to this kind of interrogation by police,  
 24 the rights should be protected.  
 25 I'm not arguing the police took a hose



1 to him; I'm not arguing that he was in custody in  
2 chains, but he was in that six-by-six room for two  
3 hours, even though they brought him sodas, even  
4 though they said oh, you can go, you can go, he  
5 couldn't communicate with anyone, they didn't talk  
6 to his parents, and he was not able to get up and  
7 walk out of door, and he was -- he did not -- he  
8 was not aware of his rights. It wasn't an  
9 intelligent waiver.

10 Now, voluntariness. Voluntariness is  
11 based on the totality of circumstances, and you  
12 have to look at the age of the defendant; you have  
13 to look at all the facts and circumstances here.

14 It's no question they exploited his  
15 youth and immaturity.

16 And I urge the Court to look at all the  
17 totality before ruling on this hearing. I'd ask  
18 the Court to reserve ruling until you've heard all  
19 the evidence in this prelim.

20 I know your Honor had --

21 THE COURT: That's exactly what I was  
22 going to say --

23 MR. JACKSON: All right.

24 THE COURT: -- so that's.... Because  
25 I -- I have to get it in its context; so, I'll take

1 it under advisement until we conclude at least the  
2 officer's testimony or we conclude the proceedings.

3 MR. DIGIACOMO: Would you like to do the  
4 M.E., Judge?

5 THE COURT: Yeah.

6 MR. DIGIACOMO: The tape is 41 minutes  
7 so....

8 THE COURT: All right. Go ahead and  
9 have a seat in the hall. We'll call you back in.

10 We're going to take a doctor out of  
11 order.

12 THE WITNESS: Yes, sir.

13  
14 GARY TELGENHOFF, M.D.

15 called as a witness, and having been first duly  
16 sworn to testify to the truth, the whole truth, and  
17 nothing but the truth, was examined and testified  
18 as follows:

19  
20 THE CLERK: I need you to state your  
21 name for the record and spell your name, please.

22 THE WITNESS: My name is Dr. Gary  
23 Telgenhoff. My last name is spelled

24 T-c-l-g-e-n-h-o-f-f.

25 MR. PESCI: Just prior to starting,

1 defense counsel had some questions for  
2 'Dr. Telgenhoff, and that's why we brought him  
3 here. We couldn't do a stipulation. I'm wondering  
4 if defense counsel will stipulate to his expertise  
5 in forensic pathology so we won't have to go  
6 through his resume and all his experience.

7 MR. JACKSON: If he's testified in court  
8 before, I'll stipulate that he's testified. If  
9 he's qualified in this court before, I'll be happy  
10 to stipulate.

11 I'm not familiar with the doctor, but  
12 if -- if counsel will state that he's done that,  
13 I'll be happy to....

14 THE COURT: I'm familiar with  
15 Dr. Telgenhoff --

16 MR. JACKSON: All right. I'll be happy  
17 to stipulate under those circumstances.

18 MR. PESCI: Thank you very much.

19 And my understanding also is there's a  
20 stipulation as far as the autopsy was performed on  
21 the individual Timothy Hadland.

22 MR. JACKSON: I'll stipulate to that.

23 MR. PESCI: Okay.

24 \* \* \*

25 \* \* \*

# 1 DIRECT EXAMINATION

2 BY MR. PESCI:

3 Q. Doctor, I want to focus your attention  
4 to May 20th of 2005.

5 Did you perform an autopsy on  
6 Timothy Hadland?

7 A. Yes.

8 MR. PESCI: Your Honor, may I approach  
9 with some exhibits?

10 THE COURT: Yes.

11 BY MR. PESCI:

12 Q. Showing you State's Exhibit 4, 5, and 6,  
13 which have previously been shown to defense  
14 counsel.

15 I ask you to take a minute to review  
16 those and please let me know when you're done.

17 A. I've looked at items 4, 5, and 6.

18 Q. Thank you, doctor.

19 Are those accurate depictions of the  
20 individual that you performed the autopsy on on the  
21 date in question?

22 A. Yes, as I recall.

23 Q. And when you perform an autopsy, what is  
24 your normal procedure?

25 A. Normal procedure is to first gather



1 information as far as what type of case am I be  
 2 looking at; for example, just a general idea, if  
 3 this is a gunshot wound or if this is a natural  
 4 death, or that kind of thing. I get that from our  
 5 investigators as well as police detectives --  
 6 Q. Sorry to interrupt you.  
 7 And in this case did you get some of  
 8 that information from the detectives involved?  
 9 A. Yes. Just very brief generic  
 10 description of....  
 11 Q. And with that information in mind, you,  
 12 then, perform an exam?  
 13 A. Yes.  
 14 Q. Does it start with an external  
 15 examination?  
 16 A. Yes, it does.  
 17 Q. And, then, does it proceed to an  
 18 internal examination?  
 19 A. Yes.  
 20 Q. And do you document or report to what it  
 21 is that you found during your examination?  
 22 A. Yes. As a matter of fact, I have a  
 23 hand-held dictaphone, and I dictate the very time  
 24 that I'm doing this.  
 25 I looked at the wound, I described the

1 wound with the ruler on it, and all my dictations  
 2 are put on that exact moment when I do the case.  
 3 Q. And you just spoke of a wound.  
 4 In this case in your external  
 5 examination did you find any significant findings  
 6 in regards to wounds?  
 7 A. Yes.  
 8 Q. What were those findings?  
 9 A. Two gunshot wounds to the face.  
 10 Q. Now, showing you State's proposed  
 11 Exhibit 4, does that depict at least -- there are  
 12 two photographs on this.  
 13 Does that depict one of those gunshot  
 14 wounds?  
 15 A. Yes. One is a photograph of the  
 16 decedent's head pretty much face on anteriorly, and  
 17 it's -- before being leaned up, there's a lot of  
 18 blood in the picture.  
 19 On the other photograph, after having  
 20 been cleaned, the wounds are more easily visible.  
 21 Q. Okay. And those are accurate  
 22 depictions?  
 23 A. Yes.  
 24 MR. PESCI: I move for the admission of  
 25 State's proposed Exhibit 4, your Honor.

1 MR. JACKSON: No objection.  
 2 THE COURT: Be admitted.  
 3 BY MR. PESCI:  
 4 Q. Showing you State's proposed Exhibit 5.  
 5 Is that a closeup of the wounds you just  
 6 spoke of on the face?  
 7 A. Yes. This is a wound on the left aspect  
 8 of the face in the cheek area. And Exhibit 5 shows  
 9 its location on the face. And, then, the second  
 10 photograph on this page shows a closeup of the  
 11 wound.  
 12 Q. And is that a fair and accurate  
 13 depiction?  
 14 A. Yes.  
 15 MR. PESCI: Move for the admission of  
 16 State Exhibit 5, your Honor.  
 17 MR. JACKSON: No objection.  
 18 THE COURT: Be admitted.  
 19 BY MR. PESCI:  
 20 Q. And showing you State's proposed  
 21 Exhibit 6.  
 22 What is that?  
 23 A. Wound 6 is a photograph of the  
 24 decedent's left ear, and it is a representation of  
 25 the gunshot wound that I saw which entered in the

1 ear area on the left.  
 2 Q. And that's an accurate depiction of  
 3 State's proposed Exhibit 6?  
 4 A. Yeah.  
 5 MR. PESCI: Move for its admission, your  
 6 Honor.  
 7 MR. JACKSON: No objection.  
 8 THE COURT: Be admitted.  
 9 BY MR. PESCI:  
 10 Q. Now, doctor, did you delineate in your  
 11 report by way of an alphabetical letter of the two  
 12 wounds that you just talked about?  
 13 A. Let me check. Sometimes I do that;  
 14 sometimes I don't.  
 15 Q. Would it refresh your recollection to  
 16 review your report?  
 17 A. Absolutely.  
 18 Q. Thank you. Did you do that?  
 19 A. Yes, I did do that. I have wound A and  
 20 wound B listed.  
 21 Q. And let's go with A. Now, A versus B  
 22 doesn't mean the order of which these shots  
 23 occurred.  
 24 It's just the order, the name, that you  
 25 give that a specific wound?



1 A. That's correct, it does not indicate any  
2 order of a shot fired.  
3 Q. Let's start with A then. Tell us about  
4 A.  
5 What were your findings?  
6 A. Well, wound A is the one that was just  
7 in front of the left ear.  
8 I'm pointing to my left ear. And there's  
9 a -- there's a couple of little structures in the  
10 ear. One's called the tragus. That's the biggest  
11 dimple, I guess you would call it, and, then, there  
12 is one right across from it called the antitragus,  
13 and it entered in the antitragus area.  
14 Q. Does State's Exhibit 6 help to  
15 demonstrate that?  
16 A. Yes. Well, without getting real super  
17 technical, it basically entered in the ear.  
18 Q. Okay. So it's an entrance wound?  
19 A. Entrance, yes.  
20 Q. All right. And do you determine or  
21 during your internal examination do you try to  
22 follow the path?  
23 A. Yes.  
24 Q. And can you tell us of gunshot wound A,  
25 was it one of entrance by the ear and, then, what

1 was the path?  
2 Did you find anything internally in  
3 reference to that wound?  
4 A. Well, the path went through the left  
5 temporal bone, which is the bone, you know, the  
6 temple area around the ear, it went through there,  
7 it went into the brain, crossed the midline of the  
8 brain, and went into the right side of the brain  
9 but high up in the skull; so, it was an upper --  
10 upper trajectory anatomic.  
11 Q. Upper trajectory.  
12 So it entered into the ear and stopped  
13 short of the top of the head?  
14 A. Yes.  
15 Q. And, as far as wound B, what can you  
16 tell us about the findings in wound B?  
17 A. Wound B, as I previously described, is a  
18 wound that is on the cheek area on the left of the  
19 face.  
20 Q. So in State's 4, that would be depicted  
21 in the right-hand picture?  
22 A. Yes. It's depicted very well there.  
23 It's actually a little behind the cheek area in the  
24 hollow of the cheek.  
25 Q. Is that a wound of entrance?

1 A. Yes.  
2 Q. And can you tell us a little bit about  
3 the wound of entrance and the path and if you found  
4 anything in relation to that path.  
5 A. Well, neither one of these wounds had  
6 any soot or any unburned gunpowder particles or any  
7 stippling on -- on the skin; so, that indicates  
8 that the shot was -- in front of -- from a handgun,  
9 it would be over two feet approximately.  
10 Q. And what -- and I apologize.  
11 What exactly is stippling? If you can  
12 just describe it a little bit more for the record.  
13 A. A stippling is unburned gunpowder  
14 particles that come out of the muzzle and it hit  
15 the skin and scratch it. Little scratches from  
16 unburned powder particles.  
17 Q. So in wound A and B you did not see  
18 evidence of that?  
19 A. That's correct.  
20 Q. And you say, then, that the wounds or  
21 the shot had to occur further than a distance of  
22 how far?  
23 A. Approximately two feet for a handgun.  
24 Q. But could it be something close to that  
25 two feet? Beyond that point but somewhat still

1 nearby the person?  
2 A. Two feet or beyond in general.  
3 Q. Okay. And could you tell us a little  
4 bit about the trajectory of B.  
5 A. Yes. The trajectory -- well, the path,  
6 it went to the cheek area of the face and the  
7 associated bones and soft tissue, and it went  
8 through the base of the brain and the ear canal on  
9 the inside of the skull.  
10 It, then, went through the brainstem and  
11 ended up in the cerebellum, which is in the back of  
12 the head on the right.  
13 So this trajectory crossed the midline,  
14 it was lower than the other shot, and it ended up  
15 on the right side.  
16 Q. So between the two, A and B, was A in an  
17 upward trajectory?  
18 A. Yes.  
19 Q. And, now, you cannot necessarily tell  
20 where a person was positioned at the time of the  
21 shots.  
22 Can you, doctor?  
23 A. No.  
24 Q. Can -- based on this trajectory, can you  
25 ascertain maybe a position, whether if possible, as



1 far as where the gun would have to be in order to  
2 create that trajectory?

3 A. Well, I could set up a bunch of  
4 scenarios in which a shot like that could occur,  
5 but I don't usually do that.

6 Q. Right. But I guess what I'm saying is  
7 between B and A, would it be -- would it make sense  
8 to you that there was a difference in maybe  
9 positioning?

10 Could that explain for why the  
11 trajectory was different?

12 A. It could, yes. The position of the head  
13 could be different or the position of the assailant  
14 could be different.

15 Q. Now, did you make a termination as to  
16 the cause of death in this case?

17 A. Yeah.

18 Q. And what was that?

19 A. It was multiple gunshot wounds of the  
20 head.

21 Q. Did you make a termination as to the  
22 manner of death?

23 A. Yes.

24 Q. What was that?

25 A. Homicide.

1 MR. PESCI: Court's indulgence.

2 BY MR. PESCI:

3 Q. Was there any other evidence of  
4 significant injury during your examination?

5 A. I believe there were some minor scrapes,  
6 but basically no. Those were the major -- major  
7 wounds.

8 MR. PESCI: Pass the witness, your  
9 Honor.

10

# CROSS-EXAMINATION

12 BY MR. JACKSON:

13 Q. How old was the person that you  
14 examined?

15 A. I'm sorry?

16 Q. How old was the decedent?

17 A. I have to check my report and tell you  
18 what was reported to me.

19 Q. Could you tell by looking at the body  
20 how old it was?

21 A. Well, I can't -- I'm not that good.

22 I -- sometimes if I'm lucky, I can get between 10,  
23 20 years.

24 Q. What -- I mean -- approximately, I mean,  
25 you looked at the body.

1 Did it look like an old man? A young  
2 man?

3 A. No, I can't do that from memory. I see  
4 a thousand bodies a year. I'll have to refer to my  
5 report.

6 Q. Can you refer to your record.

7 A. Well, the stated age was 44 years, and I  
8 thought it was compatible with that.

9 Q. Okay. But you don't really remember  
10 what this body looked like? It wasn't any  
11 different from any of the thousand bodies you see.

12 Is that your testimony here today?

13 A. (No audible response.)

14 Q. It wasn't anything unusual about this  
15 body except it had two gunshot wounds to the head?

16 A. Not to my recollection, and none was  
17 stated in my report, no.

18 Q. Okay. Now, did you do a toxicology  
19 screen on this body?

20 A. Yes.

21 Q. Did you determine whether the body had  
22 alcohol in the blood?

23 A. Yes.

24 Q. What was the blood alcohol in the body  
25 when you tested it?

1 A. As reported to us by Quest Diagnostics,  
2 the laboratory that we sent it to, it was .07 grams  
3 percent.

4 Q. Now, would that have declined after  
5 that, or would that be -- would that stay the same  
6 after someone died? Would it basically remain  
7 constant, or would it decline over time?

8 A. If anything, it would rise after time.

9 Q. All right. So -- so that wouldn't -- so  
10 it would somewhere -- .07 or less would be what the  
11 blood alcohol would have been at the time of  
12 death --

13 A. Correct.

14 Q. -- would that be fair to say?

15 A. Yes.

16 Q. Did you test for any other drugs such as  
17 marijuana or -- or anything else?

18 A. Yes.

19 Q. Did you come up with any? Did the lab  
20 reports come up with anything else?

21 A. Yes. They do a general screen, and it's  
22 for many drugs, the most common of abuse, the most  
23 common prescription drugs of abuse, and the only  
24 thing it showed up was a marijuana metabolite, and  
25 they don't quantitate that, but it shows the person



1 was most likely exposed to marijuana within a month  
2 or so.

3 Q. All right. So they can't tell how  
4 recently someone might have done that based on the  
5 test that they did; is that correct?

6 A. That's correct.

7 Q. All right. Would there be any reason to  
8 do a -- a -- is there any test they could do to  
9 determine whether or not someone had used it more  
10 recently, if that was -- if it was necessary to do  
11 that?

12 A. The parent compound would be present if  
13 they had just recently done it.

14 Q. All right. Did you order such a test?

15 A. Well, that test was automatic with the  
16 screen; in other words, there was none.

17 Q. There wasn't anything that showed up  
18 recently, is what you're saying?

19 A. Yes.

20 Q. All right. Now, you mentioned some  
21 additional scratches or wounds or something on the  
22 body.

23 Did you determine whether or not there  
24 was any evidence that a vehicle may have run over  
25 the body?

1 A. I'd like to review my report.

2 The only thing that may suggest that is  
3 under evidence of injury -- and it's on Page 3 -- I  
4 describe linear abrasions, which are scratches on  
5 both legs.

6 I said in various stages of healing.

7 More appropriately that would be stages of dying.

8 Q. Any evidence of broken bones?

9 A. No.

10 Q. Any evidence of anything like tire marks  
11 or -- or anything -- anything like that that would  
12 suggest a collision with a vehicle?

13 A. Not that I had -- had noted.

14 I'd like to look at the clothing,

15 however, on my report.

16 No, I don't have anything mentioned like  
17 that.

18 Q. Was the clothing booked into evidence,  
19 to your knowledge?

20 A. That would have been booked into  
21 evidence by the crime scene analyst.

22 Q. All right. Now, when the body came to  
23 you, was it clothed?

24 A. When it comes to the coroner's office,  
25 it's clothed.

1 Q. And, then, did you remove the clothing  
2 from the body?

3 A. I did not.

4 Q. Did you -- did you personally see the  
5 clothing?

6 A. I reviewed the clothing after it was  
7 removed from the body.

8 Q. Was the clothing bloody?

9 A. Yes.

10 Q. All of it or just -- just in the area of  
11 the upper neck or arm area, or do you remember?

12 A. I don't remember it. I'd have to review  
13 it.

14 Q. Okay. Can you review your notes.

15 A. I described the clothing after it had  
16 been removed by the crime scene analyst and laid  
17 out the way I asked for it to be laid out.

18 I described it was a light blue pair of  
19 swimming trunks, which are partially blood stained,  
20 and a pair of leather sandals with no size, and it  
21 also mentions that the hands I received in paper  
22 bags. But that's the only description I give.

23 Q. The only clothing the body was wearing  
24 was like shorts; is that correct?

25 A. That's correct as far as what I saw and

1 what the crime scene analyst gave for me to review.

2 Q. Do you know if in review of the personal  
3 effects of the body did the body have a wallet or  
4 identification with it when it was discovered?

5 A. Once more, I must look at the report.

6 I don't know the answer to that  
7 question, but at the morgue, along with the  
8 clothing, I asked to see property that was removed,  
9 and there was a gold chain necklace, and that is  
10 the only thing that I observed.

11 Q. You don't know if it had a wallet or --  
12 or identification, like driver's license, or  
13 anything like that?

14 A. I typically see those if they're laid  
15 out for me, and they usually lay everything out for  
16 me. This could have -- it's possible I didn't see  
17 it, but it's also possible it was removed at some  
18 other location.

19 Q. That would be something you'd look for;  
20 isn't that correct?

21 A driver's license would be something  
22 that would be critical in identifying the person,  
23 and it would be something you would look for; is  
24 that correct?

25 A. It's something I would personally look



1 for, but the staff would look for it for  
 2 identification purposes.  
 3 Q. You don't note in your report whether or  
 4 not a driver's license was found with the body?  
 5 A. I didn't put it in my report.  
 6 Q. Okay. Were there any signs on the body  
 7 indicating that it had been in a physical struggle,  
 8 like scratches or -- or -- on the hands or -- or  
 9 anything? Bruises? Anything like that reflecting  
 10 there had been a fistfight or -- or....  
 11 Anything like that reflecting something  
 12 like that?  
 13 A. Other than the small scratches on the  
 14 legs I mentioned, no other injuries.  
 15 Q. No defensive wounds like somebody put  
 16 their hand up and blocked a fist or -- or someone  
 17 hitting them across the face, or something like  
 18 that?  
 19 A. No, I believe I answered that. There  
 20 are no other injuries that I documented.  
 21 Q. All right. You mentioned that glasses  
 22 were found -- or did you?  
 23 Did you see the glasses, whether or not  
 24 the person was wearing glasses?  
 25 A. No.

1 Q. Were there any injuries to the eyes that  
 2 you observed?  
 3 A. No.  
 4 Q. Could you tell whether or not the person  
 5 was wearing contact lenses?  
 6 A. I typically feel the corneas, and they  
 7 will usually manifest themselves during the exam  
 8 because I get right in the eyes.  
 9 I did not notice any unless -- unless I  
 10 mentioned it in my report and I'd forgotten.  
 11 MR. JACKSON: I have no further  
 12 questions.  
 13 MR. PESCI: No redirect.  
 14 THE COURT: Redirect?  
 15 MR. PESCI: No, Judge.  
 16 THE COURT: Thank you very much, doctor.  
 17 THE WITNESS: You're welcome.  
 18 MR. DIGIACOMO: We can put Detective  
 19 Wildemann back on.  
 20 THE COURT: Okay. Detective, you're  
 21 still under oath.  
 22 THE WITNESS: Yes, sir.  
 23 MR. DIGIACOMO: Thank you, Judge.  
 24 I have a couple of questions before I  
 25 should play the statement.

1 THE COURT: Okay.  
 2  
 3 DIRECT EXAMINATION(Continued)  
 4 BY MR. DIGIACOMO:  
 5 Q. Mr. Jackson asked you a couple of  
 6 questions about did you talk to my client prior to  
 7 actually taking the taped interview.  
 8 Did you talk to him substantively about  
 9 the information that he had prior to turning on the  
 10 tape recorder?  
 11 A. No.  
 12 Q. Okay. So the kind of things you were  
 13 asking him were, you know, comfort type things?  
 14 A. Yes.  
 15 Q. And you also testified that had at any  
 16 time he had asked to leave he would have been  
 17 allowed to have left?  
 18 A. Yes.  
 19 Q. And at any point in a time prior to  
 20 turning on the tape did he ever ask to leave?  
 21 A. No.  
 22 Q. Okay. Eventually after the taped  
 23 statement was taken from Mr. Taoipu, did he leave?  
 24 A. Yes.  
 25 Q. And who did he leave with?

1 A. DeAngelo Carroll.  
 2 Q. Okay. After he left your office on the  
 3 20th, when was the next time you saw Mr. Taoipu?  
 4 A. I believe -- I believe it's when I  
 5 picked him up in California.  
 6 Q. And do you know approximately when you  
 7 went to California to -- to pick him up?  
 8 A. I don't. I'm sorry.  
 9 Q. Was it in, let's say, the last two  
 10 months?  
 11 A. Yes.  
 12 Q. Okay. So between May and the time that  
 13 you saw him whenever he got arrested in California  
 14 you didn't have any further contact with  
 15 Mr. Taoipu?  
 16 A. No.  
 17 Q. Okay.  
 18 MR. DIGIACOMO: Judge, it's marked as --  
 19 I don't remember now what the P.D.s marked it.  
 20 THE CLERK: 3.  
 21 MR. DIGIACOMO: I guess I should show it  
 22 to him.  
 23 BY MR. DIGIACOMO:  
 24 Q. Eventually you had a transcript created  
 25 as State's Exhibit No. 3; is that correct?



1 A. Yes.  
 2 Q. Showing you State's proposed Exhibit  
 3 No. 7.  
 4 Does that appear to be a copy of the  
 5 transcription of the recording that you conducted  
 6 along with Detective Vaccaro with the defendant?  
 7 A. Yes.  
 8 Q. Appears to be a fair and accurate  
 9 depiction -- that appear to be a fair and accurate  
 10 transcript of the recording as you recall?  
 11 A. Yes.  
 12 MR. DIGIACOMO: Judge, I move to admit 7  
 13 subject to the previous ruling concerning  
 14 voluntariness.  
 15 MR. JACKSON: Just my continuing  
 16 objection based on lack of voluntariness, that  
 17 wasn't knowing, voluntary, intelligently, that it  
 18 violates his fifth amendment rights.  
 19 THE COURT: At this point we'll just  
 20 refer to it as proposed exhibit --  
 21 MR. DIGIACOMO: May I publish it for the  
 22 court, Judge?  
 23 THE COURT: Yes.  
 24 MR. DIGIACOMO: I have a copy for you.  
 25 And, then, this was loud enough at my

1 office, and I believe it's loud enough to hear at  
 2 this time. If it's not, Judge...  
 3 (Tape recorded statement is  
 4 being played at this time.)  
 5 BY MR. DIGIACOMO:  
 6 Q. At the end of the recorded statement  
 7 Jason Taoipu was sent on his way with DeAngelo?  
 8 A. Yes.  
 9 Q. Let's talk about a few of the things  
 10 that were in the taped statement.  
 11 There were some people that the  
 12 defendant identified for the record.  
 13 Mr. H is mentioned throughout.  
 14 Do you know Mr. H's real name?  
 15 A. Louis Hildago, Junior.  
 16 Q. Okay. At some point there was a  
 17 discussion of two Louises.  
 18 What was that a reference to?  
 19 A. Louis Hildago, Junior, has a son named  
 20 Louis Hildago, III, and he helps run the club.  
 21 Q. And, then, Ms. -- at one point  
 22 Ms. Annabelle was discussed on several occasions.  
 23 A. She is the girlfriend of Louis Hildago,  
 24 Junior, the owner of the club, and her name is  
 25 Annabelle Espindola.

1 Q. And, now, you said Mr. H, or  
 2 Louis Hildago, Junior --  
 3 (Pause in proceedings.)  
 4 BY MR. DIGIACOMO:  
 5 Q. You said Mr. H, or Louis Hildago,  
 6 Junior, is owner of the Palomino Club?  
 7 A. Yes.  
 8 Q. And the Palomino Club is located on  
 9 Las Vegas Boulevard North across from Jerry's  
 10 Nugget, right in that general area?  
 11 A. Right in that general area.  
 12 Q. Okay. And you -- his son,  
 13 Louis Hildago, Junior -- I'm sorry --  
 14 Louis Hildago, III, did he have any relationship to  
 15 the Palomino Club?  
 16 A. Yes. He was a manager that worked there  
 17 also.  
 18 Q. And you said Ms. Annabelle, who was the  
 19 girlfriend of Mr. H. She was the girlfriend --  
 20 Did she have any other connection  
 21 with -- to the Palomino Club?  
 22 A. She was an employee also.  
 23 Q. Okay.  
 24 MR. JACKSON: Your Honor, my client has  
 25 requested an opportunity to use the restroom. I

1 don't know when we're going take a break. I don't  
 2 know how much longer we've got.  
 3 MR. DIGIACOMO: He's assuming he's about  
 4 to cross, which means maybe a few minutes.  
 5 We can take a break right now for you to  
 6 let him use the restroom.  
 7 THE COURT: Okay.  
 8 MR. JACKSON: Counsel can finish up his  
 9 direct if he's almost done. We could go a few more  
 10 minutes, but...  
 11 MR. DIGIACOMO: Judge, I'm ready to  
 12 pass.  
 13 MR. JACKSON: If we can take a  
 14 five-minute break.  
 15 THE COURT: We'll take a five-minute  
 16 break.  
 17 (Recess taken.)  
 18 MR. DIGIACOMO: Judge, Mr. Pesci is  
 19 waiting for Mr. Pike to come back so we can start  
 20 without him.  
 21 MR. JACKSON: All right. I just have a  
 22 few questions for this officer.  
 23 THE COURT: Sure.  
 24 MR. JACKSON: I did most of mine on voir  
 25 dire.



## CROSS-EXAMINATION

1 BY MR. JACKSON:

2 Q. Officer, you said that you arrested  
3 Mr. Taoipu later, a few months ago; is that  
4 correct?

5 A. Yes. He was arrested in California.

6 Q. Did you -- did you go and arrest him?

7 Were you the officer that went and  
8 arrested him?

9 A. We served a warrant, yes.

10 Q. And at that time did you give him  
11 Miranda warnings?

12 A. No.

13 Q. You did take him into custody, you,  
14 yourself?

15 A. Myself and Detective McGrath from a  
16 correctional facility there.

17 Q. So he was already in custody in  
18 California on some -- on a warrant out of Nevada;  
19 is that correct?

20 A. Yes. Well, and a charge in California.

21 Q. And you simply transported him back?

22 You were the one that -- did you drive  
23 him back or did you fly him back, or how did that  
24 happen?

1 A. Detective McGrath and I drove him back.

2 Q. Did you speak to him at all on the way  
3 back?

4 A. Mm-hmm; yes, sir.

5 Q. Did you give him Miranda warnings before  
6 you spoke to him?

7 A. No, sir.

8 Q. He was in custody at that time; is that  
9 correct?

10 A. Yes, sir.

11 MR. JACKSON: Does the district attorney  
12 have copies of any statements that were made on the  
13 trip back? If I can have them, please.

14 MR. DiGIACOMO: No, Judge. I haven't  
15 offered them.

16 I'm assuming if you ask the detective,  
17 he didn't take a tape recorded statement of him.

18 You have to talk to somebody when you're  
19 driving to and from a location.

20 Maybe you should get into whether or not  
21 he asked about the crime.

22 MR. JACKSON: Well, I would just -- out  
23 of an abundance of caution, I would like all  
24 statements made, and, of course, I would object to  
25 them coming into evidence if he wasn't properly

1 advised.

2 I just would like to have them in my  
3 file, and I think the district attorney has an  
4 obligation to turn them over to me once my client  
5 was in custody if he's making statements that were  
6 not Mirandized.

7 THE COURT: You're correct.

8 MR. JACKSON: He may have given some  
9 exculpatory evidence on that trip back, and I think  
10 I'm entitled to it.

11 THE COURT: Ask the officer. I don't --  
12 Yeah. We don't know --

13 MR. DiGIACOMO: No.

14 BY MR. JACKSON:

15 Q. Any statements you made -- did you make  
16 notes of any statements my client made -- did you  
17 make notes of those statements on the way back?

18 A. No.

19 Q. Okay. Did he make any statements of an  
20 exculpatory nature on the way back, either denying  
21 his involvement in this offense or anything that  
22 contradicted what he might have said earlier?

23 A. No.

24 Q. Okay. When you were questioning my  
25 client on May 21st, near the very end of the

1 statement on Page 46, at its -- that's of the  
2 transcribed statement, you asked him one question,  
3 and I'd like to repeat it for you.

4 You said you had many opportunities to  
5 get out of the van to my client.

6 Do you remember asking him that?

7 A. That was Detective Vaccaro, sir.

8 Q. Okay. I'm sorry. My mistake.

9 Do you remember Detective Vaccaro asking  
10 my client that statement?

11 A. I just heard it, and I recognized his  
12 voice, yes.

13 Q. Okay. Do you know if a similar  
14 statement was asked the witness in this case  
15 Rontae Zone, whether he was asked if he had  
16 opportunities to get out of van?

17 A. I would have to refresh and read the  
18 statement, sir. I don't recall.

19 Q. Okay. Well, if -- let me ask you this.  
20 If -- if -- did you believe that my client had  
21 opportunities to get out of that van?

22 A. Do I believe that he had opportunities  
23 to get out of the van?

24 Q. Yeah.

25 A. During the trip out...



1 Q. Out to the Lake.  
2 Before the homicide took place?  
3 A. Yes.  
4 Q. Do you believe that Rontae Zone had  
5 opportunities to get out of the van on the trip out  
6 to the Lake?  
7 MR. DiGIACOMO: Objection. Relevance,  
8 Judge.  
9 THE COURT: Overruled.  
10 THE WITNESS: Yes.  
11 BY MR. JACKSON:  
12 Q. Okay. Was Rontae Zone questioned about  
13 whether or not he had an opportunity to get out of  
14 the van?  
15 A. You asked that. I don't recall, sir.  
16 Q. You didn't question him about that?  
17 A. I don't recall. I'd be glad to go  
18 through the statement.  
19 Q. Was Rontae Zone a suspect in the  
20 homicide?  
21 A. We considered everybody a suspect in the  
22 homicide.  
23 And please tell me what point you're  
24 talking about in the investigation.  
25 Q. Let's say on May 21st, 2005.

1 At the time you interviewed my client at  
2 the homicide office, was Rontae Zone a suspect at  
3 that time?  
4 Did you think he might be one of the  
5 perpetrators of the homicide?  
6 A. Everybody was considered a suspect.  
7 Q. All right. When did you clear  
8 Rontae Zone?  
9 When did you decide that he wasn't  
10 culpable in the homicide?  
11 A. That I don't know the exact date, and  
12 that was a decision the district attorney came to.  
13 Q. When did you make the decision or when  
14 did you -- did you ever --  
15 Do you still think that he might be a  
16 suspect? Let me ask you that.  
17 In your examination of the case, do you  
18 think he still might be a suspect?  
19 You're an experienced homicide  
20 detective. Are you still investigating Rontae Zone  
21 for the homicide?  
22 A. No, sir, he's not being investigated.  
23 Q. All right. Has he been given immunity,  
24 or has he been given any kind of -- to your  
25 knowledge, any kind of clearance from the District

1 Attorney's Office in this case?  
2 A. Sir, I don't know exactly. I could find  
3 that out for you and you could ask me again --  
4 Q. All right.  
5 A. -- but right now I don't know.  
6 Q. You don't know.  
7 In your questioning of Mr. Zone, has  
8 it -- it come up from him whether or not he is  
9 facing any legal jeopardy for his involvement in  
10 this crime?  
11 A. I'll be glad to review his statement,  
12 and you can ask me regarding the statement, but --  
13 Q. Well, that's a simple question. He's --  
14 there's a homicide where somebody's dead, and when  
15 you question someone about a homicide and they're  
16 in a car where somebody ends up dead or at least at  
17 the end of the car ride somebody ends up dead and  
18 at one time they're a suspect and, then, later  
19 they're not, you don't know whether or not they've  
20 been given immunity by the District Attorney's  
21 Office at this stage, seven months after the  
22 homicide took place, six and a half months?  
23 A. I'm not sure of the exact agreement. I  
24 wouldn't want to answer that because I don't know  
25 exactly. I could find that out for you.

1 Q. All right. Will you --  
2 Who would you find that out from?  
3 A. I'd have to speak with the District  
4 Attorney's Office, I suppose.  
5 Q. Okay. And it would be either  
6 Mr. DiGiacomo or his superiors that would tell you  
7 that?  
8 A. I would suppose, sir. That's their  
9 organization.  
10 Q. Do you ever recommend that a witness be  
11 given immunity? Is that the procedure that the  
12 homicide department does, or it is solely the  
13 function of the District Attorney's Office to make  
14 that decision?  
15 A. I don't make that decision.  
16 Q. Does the senior officer in the  
17 Metropolitan Police Department have influence in  
18 that decision?  
19 A. Does he have influence?  
20 Q. Yeah.  
21 A. That would be a question for the  
22 District Attorney. I know we all discuss things.  
23 Q. Okay. So you do sit down with someone  
24 in the District Attorney's Office and say Witness A  
25 possibly should get immunity in this case, or we



1 should look at immunity for this person because we  
2 need their testimony or....

3 You do discuss things like that when  
4 you're -- when you're trying to put together a case  
5 or trying to see if you can make a case on  
6 somebody, you decide whether or not some witness,  
7 if necessary, whether you're going to have to give  
8 him immunity; is that right?

9 A. The end decision comes from the district  
10 attorney. That doesn't happen in every case. It's  
11 a case by case thing. But we do discuss it. You  
12 bct.

13 Q. And you have to decide whether or not  
14 somebody -- you should proceed on charges against  
15 somebody, whether you need their testimony or  
16 whether you have enough evidence on somebody; is  
17 that right?

18 A. Well, it's kind of a two-part question  
19 there.

20 Q. All right. Well, let me rephrase the  
21 question.

22 Were you involved in the decision-making  
23 process in this case as regards to Rontae Zone?

24 A. Was I involved in the decision-making  
25 process?

1 Q. Yes.

2 A. No.

3 Q. So you didn't have any input in deciding  
4 whether or not Rontae Zone should be prosecuted for  
5 this homicide aside from preparing whatever reports  
6 you've prepared and aside from preparing any  
7 interviews you prepared on Mr. Zone?

8 A. We spoke about it. Did I have a hand in  
9 the decision? Absolutely not.

10 Q. By "we" speaking about it, do you mean  
11 you, yourself, personally spoke about it?

12 A. I was part of a group of detectives,  
13 yes.

14 Q. And who did you speak to about it?

15 A. The district attorney.

16 Q. Which one?

17 A. Marc DiGiacomo.

18 Q. And anybody else? Anybody in -- higher  
19 in the level in the D.A.'s Office?

20 A. I don't believe so.

21 Q. So you spoke to Mr. DiGiacomo about the  
22 culpability or lack of culpability or the level of  
23 culpability of Mr. Zone; is that correct?

24 A. Yes, that would be correct.

25 Q. All right. Did you speak to

1 Mr. DiGiacomo whether or not Mr. Zone's necessity  
2 when you needed him as a witness in this case  
3 against my client, Mr. Taoipu, in order to make the  
4 case?

5 MR. DIGIACOMO: Objection. Relevance.

6 At some point my decision-making  
7 determination is not relevant to what the evidence  
8 does or does not establish.

9 THE COURT: We haven't heard anything  
10 about Mr. Zone in this case.

11 Are we going to?

12 MR. DIGIACOMO: It really depends on  
13 some legal rulings from this Court.

14 I may decide to call Mr. Zone, but if  
15 the Court admits the statement, then, I don't think  
16 Mr. Zone is necessary to be called as a witness,  
17 but, ultimately, you still haven't made a  
18 determination as to whether or not the statement is  
19 admissible.

20 If the Court makes that determination,  
21 then, the answer will probably be no, that it's not  
22 necessary, but I have Mr. Zone here if the Court  
23 were to say yes.

24 MR. JACKSON: Well, maybe I'll call  
25 Mr. Zone as a witness, if he's here.

1 MR. DIGIACOMO: He's here. He has his  
2 lawyer present --

3 THE COURT: We've got five more minutes,  
4 gentlemen.

5 MR. JACKSON: I'll wrap it up, then.  
6 I have no further questions.

7 THE COURT: Okay. Any redirect?

8 MR. PESCI: No, Judge.

9 THE COURT: Okay.

10 MR. DIGIACOMO: I would move to admit  
11 the statement, which is 3, and 7, I believe.

12 THE COURT: Okay.

13 Having heard the statements, heard the  
14 officer's testimony, and the circumstances  
15 surrounding the interview, I find that it was  
16 noncustodial; so, there's no need for the Miranda  
17 warnings.

18 And, also, it was voluntary in that  
19 Mr. Taoipu came to the police department; so, it  
20 was a voluntary discussion and knowledgeable in his  
21 part in giving that statement to the police.

22 So, the statement and the transcript  
23 will be admitted.

24 MR. DIGIACOMO: In that case, Judge, the  
25 State would rest.



1 MR. JACKSON: I call Rontae Zone.  
 2 THE COURT: Okay. Mr. Zone here?  
 3 MR DiGIACOMO: Judge, so the record is  
 4 clear, Mr. Pike is here.  
 5 THE CLERK: Mr. Zone, you need to stand  
 6 while I swear you in.

7  
 8 RONTAE ZONE  
 9 called as a witness, and having been first duly  
 10 sworn to testify to the truth, the whole truth, and  
 11 nothing but the truth, was examined and testified  
 12 as follows:

13  
 14 THE CLERK: I need you to state your  
 15 name for the record and spell your name, please.

16 THE WITNESS: Rontae St. Anthony Zone.

17 THE COURT: You can be seated.

18 THE COURT REPORTER: Can you spell it,  
 19 please.

20 THE WITNESS: R-o-n-t-a-e. Last name  
 21 Z-o-n-e.

22 THE COURT: Mr. Zone, you are here to  
 23 testify in a case involving a Jason Taoipu, and you  
 24 have been, I guess, discussed as a witness in --  
 25 with respect to this case.

1 And you have been appointed counsel; is  
 2 that correct?

3 THE WITNESS: Yes, sir.

4 THE COURT: And your counsel, Mr. Pike,  
 5 is here with you?

6 THE WITNESS: Yes, sir.

7 THE COURT: Okay. So the record was  
 8 clear.

9 MR. JACKSON: I'd like to be allowed to  
 10 examine him as a hostile witness or be -- examine  
 11 him on -- basically be allowed to cross-examine  
 12 him.

13 He is an adverse witness to my client.

14 He has given statements that incriminate my client.

15 The State has decided not to call him at  
 16 this preliminary hearing. That's a tactical

17 decision. But I think I have a right to confront  
 18 and cross-examine under the sixth amendment. I'd  
 19 like to proceed as a cross in this matter.

20 I'll be brief. I have only a few  
 21 questions I want to ask him.

22 THE COURT: Okay.

23 MR. DiGIACOMO: Just as to the adverse  
 24 portion of it, I don't believe Mr. Zone would lay a  
 25 foundation that's adverse.

1 You could call Mr. Taoipu, a friend of  
 2 his, and, then, he doesn't want to see anything bad  
 3 happen to him.

4 THE COURT: I just think Mr. Jackson was  
 5 saying that he may ask some leading questions, and  
 6 we'll address them as they come up

7 MR. JACKSON: I'm not saying he doesn't  
 8 like my client --

9 THE COURT: Right. Right.

10 MR. JACKSON: -- I'm going to try to  
 11 keep it straightforward, but I would like the  
 12 opportunity to ask leading questions, and I realize  
 13 that's irregular because I've called him as my  
 14 witness.

15 THE COURT: Okay. On the basis that you  
 16 understand him to be the State's witness --

17 MR. JACKSON: Yes.

18 THE COURT: -- then I will -- I will  
 19 allow some latitude on --

20 MR. JACKSON: If the State stipulates  
 21 they won't call him at trial, I'll be happy not to  
 22 call him here, but I don't think that Mr. DiGiacomo  
 23 is going to do that.

24 \* \* \*

25 \* \* \*

# DIRECT EXAMINATION

2 BY MR. JACKSON:

3 Q. At any rate, Mr. Zone, you were involved  
 4 in an event that happened on May 20th of this year;  
 5 is that correct?

6 A. May 19th.

7 Q. May 19th?

8 You went out to the Lake with some other  
 9 people; is that correct?

10 A. Yes, I did.

11 Q. And why did you go out to the Lake?

12 A. Be real about the situation, I was set  
 13 up from -- I was set up from the beginning --

14 Q. Now --

15 A. -- I mean, I had no -- I had no clue we  
 16 were intending on going to the Lake.

17 Q. All right. So you got in the car with  
 18 some people; you were -- you were driving around  
 19 with them.

20 And you didn't know why you were going  
 21 out there; is that correct?

22 A. Well, these are not just people, you  
 23 know. These are like employees. These are people  
 24 that I work with.

25 Q. Okay. You knew -- you knew my client



1 J.J.; is that right?  
 2 A. Yes. He's a good friend of mine.  
 3 Q. He's sitting next to me right now; is  
 4 that right?  
 5 A. Yes, sir.  
 6 Q. You also knew DeAngelo?  
 7 A. Yes, sir.  
 8 Q. All right. You didn't know why you were  
 9 getting in the car when you got in the car; is that  
 10 right?  
 11 A. Well, we were told that we were going to  
 12 work. You know what I'm saying? That's all.  
 13 Q. Who told you that?  
 14 A. DeAngelo.  
 15 Q. All right. So DeAngelo is one that set  
 16 this whole thing up; right?  
 17 A. Yes, sir, that's right.  
 18 Q. All right. And did J.J. tell you  
 19 anything about what was going on?  
 20 A. No. DeAngelo told us about what was  
 21 going on.  
 22 Q. He told you and -- you and J.J.?  
 23 A. Yes.  
 24 Q. That you were going to go pass out  
 25 fliers; is that right?

1 A. Yes, sir.  
 2 Q. All right. So you and J.J. got in the  
 3 car, and you went with DeAngelo; is that right?  
 4 A. Yes, sir.  
 5 Q. And you went and picked someone else up;  
 6 is that right?  
 7 A. Yes, sir.  
 8 Q. Who was that person?  
 9 A. That was Kenneth Counts.  
 10 Q. Did you know him before this night?  
 11 A. I ain't never see the man before in my  
 12 life.  
 13 Q. All right. Where did you pick him up?  
 14 A. We picked him up somewhere on the west  
 15 side.  
 16 Q. All right. Do you know why he was  
 17 picked up?  
 18 A. Well, I didn't know. You know what I'm  
 19 saying.  
 20 All I was told that we were going to  
 21 work; so, I'm thinking he's an employee. I'm  
 22 thinking we're going to work.  
 23 Q. All right. Now, after you picked him  
 24 up, did anything happen?  
 25 A. No. We picked him up and, then, we went

1 towards Lake Mead.  
 2 Q. All right. Now, was there any talk  
 3 about a shooting before -- before you got to  
 4 Lake Mead?  
 5 A. Yeah.  
 6 Q. Who talked -- who was talking about the  
 7 shooting?  
 8 A. This is -- this is before it even  
 9 occurred.  
 10 Q. Who was talking about the shooting?  
 11 A. DeAngelo.  
 12 Q. What did he say?  
 13 A. He said that how Hildago had wanted  
 14 somebody dead. He didn't say who; he didn't say  
 15 what he looked like.  
 16 He said he wanted him dead.  
 17 Q. All right. Well, did you think he was  
 18 going to shoot somebody that night?  
 19 A. I didn't know what he was going to do.  
 20 I just -- I'm just at the point to where I was  
 21 holding my own, you know.  
 22 Q. All right. Well, let me ask you this.  
 23 One of the detectives asked my client if  
 24 he had opportunities to get out of the van that  
 25 night.

1 Did you have an opportunity to get out  
 2 of the van sometime from the time that Mr. Counts  
 3 was picked up before you got out to Lake Mead? Did  
 4 you have some opportunity to get out of that van?  
 5 A. Yes. But that's the thing, that I'm at  
 6 the point where I had no job; I had no money to  
 7 support my son and my family --  
 8 Q. All right.  
 9 A. -- and all the other people that I love,  
 10 and it was the only opportunity that we had.  
 11 Q. All right.  
 12 A. We had no job; we had no money; we  
 13 didn't have nothing.  
 14 Q. So what you're saying is you stayed in  
 15 the van because you wanted to keep your job.  
 16 Is that why you stayed in the van?  
 17 A. I stayed in the van because I'm thinking  
 18 that we're going to promote.  
 19 Q. All right. So you didn't think there  
 20 was going to be a shooting.  
 21 Is that what --  
 22 A. No.  
 23 Q. So you really -- you thought they were  
 24 just talking. You really didn't think that there  
 25 was going to be an actual -- somebody was actually



1 going to get killed that night?  
 2 Is that why you didn't get out of the  
 3 van?  
 4 A. Yes. But, you know, DeAngelo --  
 5 DeAngelo does a lot of talking; so, you know, I'm  
 6 thinking it's just talk.  
 7 Q. So if you -- if you knew, if you were a  
 8 hundred percent sure or even 90 percent sure or  
 9 even thought it was pretty likely that DeAngelo or  
 10 K.C. were going right out there to shoot somebody,  
 11 when they stopped that car, you would have got out  
 12 of that car and went running for the hills.  
 13 Isn't that true? You wouldn't have....  
 14 A. But you got to understand. If I -- if  
 15 I'm running out in the desert to where I don't know  
 16 where I'm going, what I'm doing, you got to think  
 17 about -- you got to put yourself in that position,  
 18 you know. You never know until you were in that  
 19 predicament.  
 20 Q. All right. I mean, it was a tough  
 21 situation.  
 22 A. How am I going to run with a man that's  
 23 willing to kill me, my friend, and my other friend?  
 24 Q. So you're a little bit afraid of the  
 25 people in that car.

1 Would that be fair to say?  
 2 A. The only thing that I did was protect my  
 3 life.  
 4 Q. All right. Would it be fair to say you  
 5 were a little bit afraid of K.C.?  
 6 A. Afraid of everything that was going on.  
 7 Q. Were you afraid of K.C.?  
 8 A. Somewhat. I mean, come on --  
 9 Q. All right. Were you afraid of DeAngelo?  
 10 A. -- I'm sitting next to this man. This  
 11 man got a gun. You know what I'm saying? He's  
 12 pointing it right at me --  
 13 Q. Did you see the gun?  
 14 A. -- you know what I'm saying?  
 15 Q. Did you see the gun?  
 16 A. Yeah, I seen it.  
 17 Q. All right. Were you afraid of DeAngelo?  
 18 A. No.  
 19 Q. Were you afraid of my client, Jason?  
 20 A. Why would I be?  
 21 Q. He's not a scary guy, is he?  
 22 A. Why would I be afraid of my own friend?  
 23 Q. If he -- you weren't afraid of him;  
 24 right? He didn't do anything?  
 25 A. Me and J.J., we do everything together.

1 Q. All right. He didn't -- just listen to  
 2 the question.  
 3 He didn't do anything to threaten you,  
 4 did he?  
 5 A. No, sir.  
 6 Q. All right. The person you were afraid  
 7 of was K.C.; right?  
 8 A. Exactly.  
 9 Q. All right. Now, you did see a shooting  
 10 that night; is that right?  
 11 A. Yes, I did.  
 12 Q. Who did the shooting?  
 13 A. K.C.  
 14 Q. Did Jason do anything? Any shooting?  
 15 A. He didn't move; he didn't do nothing.  
 16 Q. Did he encourage --  
 17 A. He didn't --  
 18 Q. -- K.C. to do any shooting?  
 19 Did he say, "Shoot him, K.C."? "Shoot  
 20 him"? or did he --  
 21 A. He did exactly what I did. He didn't  
 22 say nothing.  
 23 Q. Did he ever pull out a gun --  
 24 A. No.  
 25 Q. -- and waive a gun around and look like

1 he was going to shoot?  
 2 A. No.  
 3 Q. Okay. Did he assist afterwards?  
 4 After the shooting, did he try to help  
 5 out in any way K.C.?  
 6 A. (No audible response.)  
 7 Q. Did he help K.C. either move the body  
 8 or try to rob him, or do anything like that?  
 9 A. He was -- he did exactly what I did. He  
 10 stayed in the car.  
 11 Q. Now, afterwards, did K.C. say anything?  
 12 Did K.C. say anything after the shooting?  
 13 A. Yeah. He said why didn't neither one of  
 14 us do anything?  
 15 Q. What did he say exactly?  
 16 A. He said, "Why didn't anybody else shoot  
 17 him?"  
 18 Q. And what did my client say?  
 19 A. He said he was, but, you know, it's just  
 20 talk --  
 21 Q. Was he scared?  
 22 A. -- you know what I'm saying?  
 23 Q. Was he scared?  
 24 A. He was just as scared as I was. You  
 25 know what I'm saying? So he gonna play a role just



1 like I'm gonna play a role.  
 2 MR. DiGIACOMO: I'm going to object as  
 3 to what was going in Taoipu's state of mind at the  
 4 time the crime occurred.  
 5 THE COURT: Sustained.  
 6 BY MR. JACKSON:  
 7 Q. All right. Did my client look scared to  
 8 you?  
 9 A. Yeah.  
 10 MR. DiGIACOMO: That's speculation. I'm  
 11 going to object again.  
 12 MR. JACKSON: Well, he can -- well, you  
 13 can -- you can testify to demeanor.  
 14 THE WITNESS: Excuse me?  
 15 MR. JACKSON: I'm arguing to the Court.  
 16 THE COURT: Let's have some foundation.  
 17 MR. JACKSON: All right.  
 18 BY MR. JACKSON:  
 19 Q. All right. When you look at someone,  
 20 you looked at the situation, at looking at what was  
 21 going on, was it a scary situation for everybody in  
 22 the car?  
 23 A. To be real, basically, it was a scary  
 24 situation just to me and him, because me and him  
 25 ain't never -- we ain't never -- we ain't never

1 been in no predicament like this before.  
 2 Q. Do you know my client, Jason Taoipu,  
 3 pretty well?  
 4 A. Yes, I do.  
 5 Q. Did you observe him while he was in the  
 6 car?  
 7 A. Okay. Come again?  
 8 Q. Were you able to watch him while he was  
 9 in the car?  
 10 A. Yes, I was.  
 11 Q. All right. While you were watching him,  
 12 were you able to tell whether he looked like he was  
 13 scared, or did he look like he was not scared?  
 14 Were you able to see anything that  
 15 suggested...  
 16 A. He did exactly what I did. He -- you  
 17 know what I'm saying? He was scared, but you have  
 18 to look calm because, I mean, you have guys, one of  
 19 these guys wants to kill you as soon you sweat.  
 20 Q. What happened after the shooting?  
 21 A. We left.  
 22 Q. Where did you go?  
 23 A. We went back to the club.  
 24 Q. What happened then?  
 25 A. We went back to the club. Okay? We got

1 out, me and J.J., we got out the van, and we went  
 2 and sat on the bleachers.  
 3 Q. What did the other people in the car do?  
 4 A. They had got out -- they had got out the  
 5 van first, and went into the club.  
 6 Q. Who is "They"? By "They," who do you  
 7 mean?  
 8 A. Counts and Carroll.  
 9 Q. And that's DeAndrae Carroll?  
 10 A. DeAngelo.  
 11 Q. DeAngelo Carroll.  
 12 And where did they go?  
 13 A. They went in the club.  
 14 Q. And you stayed outside?  
 15 A. And we stayed outside.  
 16 Q. Then what happened?  
 17 A. Then after that, we went back to  
 18 DeAngelo's house.  
 19 Q. By "we," who do you mean?  
 20 A. Me and J.J.  
 21 Q. All right. How did you get back to  
 22 DeAngelo's house?  
 23 A. He drove us back to his house.  
 24 Q. How much longer after they went inside  
 25 the club did you go back to DeAngelo's house?

1 A. I say DeAngelo was in the club for about  
 2 a good 45 minutes to an hour because he was taking  
 3 long anyway.  
 4 Q. Did DeAngelo say anything when he came  
 5 out of the club?  
 6 A. He didn't say nothing. He just said  
 7 let's go.  
 8 MR. JACKSON: I have no further  
 9 questions.  
 10 THE COURT: Cross?  
 11 MR. DiGIACOMO: Briefly.  
 12  
 13 CROSS-EXAMINATION  
 14 BY MR. DiGIACOMO:  
 15 Q. Back up before the shooting occurs.  
 16 Okay? The day of the shooting or the day before.  
 17 You said DeAngelo told you that Mr. H  
 18 wanted someone dead; correct?  
 19 A. Correct.  
 20 Q. And he asked you and this defendant  
 21 Mr. Taoipu whether or not you guys would be willing  
 22 to be part of killing this person; right?  
 23 A. Right.  
 24 Q. What words did DeAngelo actually use?  
 25 A. He said that Mr. H wanted Hadland dead.



1 Q. Wanted Hadland dead?  
 2 A. Yes. But he didn't say it like in his  
 3 last name. The white boy in layman terms, which  
 4 turned out to be him.  
 5 Q. Okay. So DeAngelo tells you and the  
 6 defendant -- and, I'm sorry, I don't know if you  
 7 ever identified him.  
 8 Do you recognize Mr. Taoipu?  
 9 A. Of course.  
 10 Q. All right. Where he's sitting in  
 11 counsel table?  
 12 A. He's sitting right before me.  
 13 MR. DiGIACOMO: Let the record reflect  
 14 the identification of the defendant.  
 15 THE COURT: Record will so reflect.  
 16 BY MR. DiGIACOMO:  
 17 Q. So DeAngelo tells you and the defendant  
 18 that Mr. H wants the white boy killed?  
 19 A. Yeah.  
 20 Q. Okay. Do you agree to do it?  
 21 A. No.  
 22 Q. Does he?  
 23 A. Yeah.  
 24 Q. So the defendant agree --  
 25 MR. JACKSON: Who do "we" mean?

1 BY MR. DiGIACOMO:  
 2 Q. So the defendant agreed to take part in  
 3 the killing of the white boy?  
 4 A. Yeah.  
 5 Q. Okay. And did DeAngelo give anything to  
 6 the defendant in order for him to accomplish the  
 7 killing?  
 8 A. Yeah. While he was with DeAngelo, he  
 9 gave him a pistol.  
 10 Q. What kind of pistol, do you know?  
 11 A. No.  
 12 Q. Did DeAngelo try and give anything to  
 13 you?  
 14 A. Yeah.  
 15 Q. What did he try and give to you?  
 16 A. Tried to give me bullets.  
 17 Q. And what did you do with those bullets?  
 18 A. I dumped them out --  
 19 Q. Dumped them out --  
 20 A. -- of my shirt.  
 21 Q. And who picked up the bullets?  
 22 A. J.J.  
 23 Q. J.J. did.  
 24 Why did you dump out the bullets?  
 25 A. Because I didn't want no part.

1 Q. Okay. And you told DeAngelo you didn't  
 2 want any part of this; correct?  
 3 A. Yeah.  
 4 Q. But he didn't, the defendant?  
 5 A. No.  
 6 Q. Okay. Now, during that day, you -- the  
 7 day of the killing -- you went out promoting with  
 8 the defendant and DeAngelo for the Palomino Club;  
 9 correct?  
 10 A. Yes.  
 11 Q. And eventually you wound back up at  
 12 DeAngelo's house; correct?  
 13 A. Yes.  
 14 Q. And while you were at DeAngelo's house,  
 15 DeAngelo tells you and J.J. that -- you and the  
 16 defendant -- that it's time to go; correct?  
 17 A. Yes.  
 18 Q. And isn't it true you asked them what  
 19 were -- what are we going to do; correct?  
 20 A. Yeah.  
 21 Q. And his response to you was?  
 22 A. Was they were going to promote.  
 23 Q. Had you known he was going out to kill  
 24 Timothy Hadland, would you have gotten in the van?  
 25 A. No, I wouldn't have.

1 Q. Okay. Once you got into the van along  
 2 with the defendant and DeAngelo, you drove over to  
 3 the west side and picked up K.C.; correct?  
 4 A. Yes, we did.  
 5 Q. K.C. got into the van; correct?  
 6 A. Yes.  
 7 Q. On the ride out to the Lake, did K.C.  
 8 ask you about whether or not you had, quote,  
 9 unquote, a burner?  
 10 A. Yes.  
 11 Q. All right. What was your response?  
 12 A. No, I didn't.  
 13 Q. All right. And did you, in fact, have a  
 14 gun on you?  
 15 A. No.  
 16 Q. All right. So you haven't agreed to  
 17 commit a killing, and you don't have a gun;  
 18 correct?  
 19 A. Right.  
 20 Q. Did the defendant have a gun in the car  
 21 ride out there?  
 22 A. Yes, he did.  
 23 Q. Okay. What -- did the defendant ask --  
 24 I'm sorry.  
 25 Did K.C. ask the defendant whether or



1 not the defendant had a gun?  
 2 A. Yes.  
 3 Q. It's true you weren't able to hear what  
 4 the defendant's response was; correct?  
 5 A. Yes.  
 6 Q. Okay. Once you got out there and --  
 7 K.C. commits the killing; correct?  
 8 A. ((Witness nods head.))  
 9 Q. And he gets back into the vehicle;  
 10 correct?  
 11 A. (Witness nods head.)  
 12 Q. Is that a "yes"?  
 13 You have to say "yes" --  
 14 A. Yes.  
 15 Q. -- for her.  
 16 So K.C. gets out of the vehicle, commits  
 17 the killing, gets back in the vehicle; correct?  
 18 A. Yes.  
 19 Q. And K.C. asks the defendant why it is he  
 20 didn't shoot; correct?  
 21 A. Yes.  
 22 Q. And the defendant's response was, "I was  
 23 trying to, but DeAngelo's head was in the way";  
 24 correct?  
 25 A. Yes. He lied.

1 Q. Okay. That was a lie because you saw  
 2 that the defendant didn't actually try and shoot  
 3 anybody; correct?  
 4 A. Yes.  
 5 Q. Thereafter the car went back to the  
 6 Palomino Club; correct?  
 7 A. Yes.  
 8 Q. And K.C. went inside and you DeAngelo  
 9 went inside?  
 10 A. Yes.  
 11 Q. And, then, afterwards K.C. came out  
 12 first?  
 13 A. Yes.  
 14 Q. When he came out, did he talk to you or  
 15 Jason at all?  
 16 A. He didn't say much. He didn't say much  
 17 about it. He just said be ready, like he just gave  
 18 us a mean mug, and we hopped in the cab.  
 19 Q. Okay. And, then, the cab left?  
 20 A. Yeah.  
 21 Q. The next day you were present when the  
 22 wheels were taken off the van that was used for the  
 23 killing; correct?  
 24 A. Yeah.  
 25 Q. And it was the defendant driving the van

1 to get the cars to get the wheels taken off;  
 2 correct?  
 3 A. Yes.  
 4 Q. And DeAngelo was following in another  
 5 vehicle; correct?  
 6 A. Yeah.  
 7 Q. And, in fact, at some point the  
 8 defendant, after the wheels are changed, is stopped  
 9 by a North Las Vegas police officer; is that  
 10 correct?  
 11 A. Yes.  
 12 Q. And DeAngelo gets him out of that  
 13 trouble because he shouldn't have been driving,  
 14 he's too young; correct?  
 15 A. Yes.  
 16 Q. And, then, you leave with the van;  
 17 correct?  
 18 A. Yes.  
 19 Q. Okay. Now, you didn't actually cut the  
 20 tires to the van; correct?  
 21 A. No.  
 22 Q. You weren't driving the van at any time;  
 23 correct?  
 24 A. No, I wasn't.  
 25 MR. JACKSON: I'm going to object to the

1 leading questions.  
 2 THE COURT: Sustained.  
 3 MR. DiGIACOMO: Isn't it cross?  
 4 THE COURT: You're about done; right?  
 5 MR. DiGIACOMO: I'm almost -- I've got  
 6 almost nothing left. I want to make this clear  
 7 that....  
 8 BY MR. DiGIACOMO:  
 9 Q. As far as you're aware, did you have any  
 10 participation in the crime itself?  
 11 A. No.  
 12 MR. DiGIACOMO: I pass the witness.  
 13 THE COURT: Redirect?  
 14  
 15 REDIRECT EXAMINATION  
 16 BY MR. JACKSON:  
 17 Q. Did you see a lawyer before you came to  
 18 court the last -- the first time on this case?  
 19 A. No. I seen I -- seen -- I seen a lawyer  
 20 during court.  
 21 Q. Is that Mr. Pike here --  
 22 A. Yes, sir.  
 23 Q. -- standing by you?  
 24 You seen another lawyer before this?  
 25 A. No.



1 Q. Okay. As a District Attorney's Office,  
2 has anyone in the District Attorney's Office  
3 promised you that they're not going to proceed on  
4 any charge arising out of this homicide?  
5 A. Yes.  
6 Q. What have they told you exactly?  
7 A. They told me if I did the right thing  
8 that I wouldn't go to jail.  
9 Q. All right. Have they given you any  
10 written paperwork --  
11 A. No.  
12 Q. -- any written statement of immunity?  
13 A. No.  
14 Q. Who told you that you wouldn't go to  
15 jail?  
16 Was that a detective, or was it a member  
17 of the District Attorney's Office?  
18 A. Detective.  
19 Q. Okay. Was that before you gave your  
20 statement to the detectives, or when was that, if  
21 you know exactly?  
22 A. Depends on what detective you're talking  
23 about.  
24 Q. All right. Which detective told you  
25 that?

1 A. Will. Marty.  
2 Q. Mr. Vaccaro?  
3 A. Wildemann.  
4 Q. Detective that was in here earlier  
5 today?  
6 A. Yes.  
7 Q. And was that right after this happened  
8 back in May that he told you that?  
9 A. It wasn't right after. It was probably  
10 about two months prior.  
11 Q. Okay.  
12 MR. JACKSON: I have no further  
13 questions.  
14 THE COURT: Recross-examination?  
15 MR. DIGIACOMO: No.  
16 THE COURT: Thank you very much.  
17 MR. PIKE: May he be released from  
18 subpoena at this time?  
19 THE COURT: Yes.  
20 MR. PIKE: Thank you.  
21 THE COURT: Anything else from the  
22 defense?  
23 MR. JACKSON: Well, the Court's already  
24 ruled on my motion to exclude the statement.  
25 I simply would submit it.

1 I'd argue that it's clear my client is  
2 not the perpetrator of the homicide. The most the  
3 State has shown that based on his statement he was  
4 present when the homicide took place. He's  
5 admitted he went with people. He's admitted that  
6 he apparently knew that a homicide was going to  
7 take place.  
8 What he admits, at looking at most  
9 favorable to the State, he admits that he went  
10 there to beat the person up. That's -- that's the  
11 worst thing he admits.  
12 He admits also that he has a gun at one  
13 point. He denies -- everything I've read he denies  
14 that he intended that the person be killed.  
15 Now, there's a bunch of leading  
16 questions that are asked. Did you know that he was  
17 going to be killed, and did you -- did you know  
18 what was going to happen, and -- and his answers  
19 are -- are somewhat unclear about that.  
20 And he -- one says he knows he's going  
21 to be taken care of, then, he goes back and says he  
22 means that he knows he's going to be beaten up.  
23 Clearly gets into the car. It's clear  
24 that he's out there when the homicide takes place.  
25 It's clear that Mr. Counts is present,

1 according to the testimony of all witnesses, that  
2 this person that did the homicide.  
3 And it's clear also both from testimony  
4 of this witness, who the State decided not to call,  
5 who had a exculpatory witness from -- exculpatory  
6 evidence from my client that my client did not  
7 shoot, and I don't think wanted to see this person  
8 be killed.  
9 I think he got in over his head. He was  
10 in the wrong place at the wrong time. I don't  
11 think he's guilty of murder.  
12 Now, whether he's guilty of some other  
13 crime or not, I don't know, but I think that he's  
14 over charged. I think the case should not be bound  
15 over on first-degree murder.  
16 I think the most he should be bound over  
17 on is a conspiracy, conspiracy to commit battery,  
18 possibly some lesser offense of homicide.  
19 I simply submit it with that.  
20 MR. DIGIACOMO: Judge, before I make any  
21 statement, should we canvass the defendant that he  
22 knows he has the right to testify at this  
23 proceeding and has on the advice of counsel --  
24 MR. JACKSON: I've advised him -- I'll  
25 put on the record. I've advised the defendant that



<p>1 we wish to put on no witnesses at this time aside  2 from the witness that I called reluctantly because  3 the State wouldn't, and I do not wish the defendant  4 to testify at this stage of the proceeding.  5 THE COURT: Okay. And he also desires  6 not to testify at this stage of the proceeding; is  7 that correct?  8 THE WITNESS: Yes.  9 THE COURT: Okay.  10 MR. JACKSON: Okay.  11 MR. DiGIACOMO: Just briefly in  12 response.  13 The evidence is -- forget what -- even  14 what Rontae said. The evidence is that he entered  15 into a conspiracy to put somebody in the hospital.  16 That person, then, winds up dead. Sorry you're on  17 the hook for the murder, but forget that.  18 He agrees that -- he agreed with  19 DeAngelo to do what DeAngelo wanted done and,  20 Rontae Zone testified that the agreement was to  21 kill Timothy Hadland.  22 As such, he entered into a conspiracy to  23 commit murder; a murder resulted. Whether or not  24 he did any further act, once he made the  25 conspiracy, he's, then, guilty of the further act</p>	<p>1 of the murder taking place.  2 And as such, it's sufficient evidence  3 certainly for preliminary hearing to bind the case  4 over, Judge.  5 I'll submit it.  6 THE COURT: It appears from the  7 Complaint on file herein and from the testimony  8 adduced at this preliminary hearing that the crimes  9 of conspiracy to commit murder and murder with use  10 of a deadly weapon have been committed.  11 And for purposes of preliminary hearing  12 there is sufficient evidence to believe that the  13 defendant, Jason Taoipu, committed those crimes;  14 therefore, I'm binding the defendant over to the  15 Eighth Judicial District Court to answer for those  16 charges.  17 Mr. Taoipu, the clerk will now give you  18 the date and time that you will appear in district  19 Court and which department you'll be going to.  20 THE CLERK: December 21st.  21 Do you have a preference in time,  22 Mr. Jackson?  23 MR. JACKSON: Oh, I'd like....  24 THE CLERK: 9 a.m., 10:30, 1:30, or  25 three o'clock?</p>
<p>1 MR. JACKSON: 9 a.m. I like the  2 morning.  3 THE CLERK: 9 a.m., December 21st, lower  4 level.  5 MR. JACKSON: Which department is it?  6 THE CLERK: It will be tracked to  7 Department 14, but it's in the lower level of the  8 R.J.C.  9 MR. PESCI: Thank you.  10 * * * * *  11  12  13 ATTEST: Full, true, and accurate transcript of  14 proceedings.  15  16  17  18  19  20  21 Norma Jean Silverman, RPR, RMR  22 NV. CCR No. 572  23  24  25</p>	



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## Volume 1 – 201



FILED

2005 DEC -9 P 4:14

Justice Court, Boulder Township

CLARK COUNTY, NEVADA

CLERK

THE STATE OF NEVADA

Plaintiff,

—vs—

JAYSON TAOIPU

Defendant.

District Court Case No. C212667

Justice Court Case No. 05EB0052E

12-21  
9:00  
XIV

I, hereby certify the foregoing to be a full, true and correct copy of the proceedings as the same appear in the above case.

WITNESS my hand this 6 day of DECEMBER, 19X 2005



Justice of the Peace

RECEIVED

DEC 11 8 2005

COUNTY CLERK



# Justice Court, Boulder Township

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

—vs—

JAYSON TAOIPU

Defendant(s)

CASE NO. 05EB0052E

**COMMITMENT  
and  
ORDER TO APPEAR**

An Order having been made this day by me, that JAYSON TAOIPU

be held to answer upon the charge of  
CT 1 CONSPIRACY TO COMMIT MURDER  
CT 2 MUDER WITH USE OF A DEADLY WEAPON

Committed in said Township and County, on or about the 19 day of MAY, ~~19~~ 2005  
24 MAY 2005

IT IS FURTHER ORDERED that the Sheriff of the County of Clark is hereby commanded to receive \_\_\_\_\_

HIM into custody, and detain HIM until HE be legally discharged, and  
that HE be admitted to bail in the sum of NO BAIL PER CT Dollars, and be  
committed to the custody of the Sheriff of said County, until such bail is given; and

IT IS FURTHER ORDERED that said Defendant IS is/are commanded to appear in  
Department 14 of the Eighth Judicial District Court, Clark County Courthouse, Las Vegas, Nevada, at 9:00 A.M., on  
the 21 day of DECEMBER, ~~19~~ 2005, for arraignment and further proceedings on the within charge S.

DATED this 6 day of DECEMBER, ~~19~~ 2005



Justice of the Peace



1 JUSTICE COURT BOULDER TOWNSHIP

2 CLARK COUNTY, NEVADA

3 2005 JUN -3 P 1:06

4 THE STATE OF NEVADA,

5 Plaintiff,

JUSTICE COURT  
LAS VEGAS, NV

BY \_\_\_\_\_ DEPUTY

CASE NO: 05FB0052A-E

-vs-

6 KENNETH COUNTS, aka Kenneth Jay  
Counts II, #1525643,  
7 LUIS ALONSO HIDALGO, aka,  
Luis Alonso Hidalgo III #1849634,  
8 ANABEL ESPINDOLA #1849750,  
DEANGELO RESHAWN CARROLL  
9 #1678381,  
JAYSON TAOIPU,  
10

11 Defendants.

SECOND AMENDED  
CRIMINAL COMPLAINT

12 The Defendants above named having committed the crimes of CONSPIRACY TO  
13 COMMIT MURDER (Felony - NRS 200.010, 200.030, 199.480); MURDER WITH USE  
14 OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165) and  
15 SOLICITATION TO COMMIT MURDER (Felony - NRS 199.500), in the manner  
16 following, to-wit: That the said Defendants, on or between May 19, 2005 and May 24, 2005,  
17 at and within the County of Clark, State of Nevada,

18 COUNT 1 - CONSPIRACY TO COMMIT MURDER

19 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS  
20 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, DEANGELO  
21 RESHAWN CARROLL and JAYSON TAOIPU did, on or between May 19, 2005 and May  
22 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and between  
23 themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire  
24 and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy,  
25 Defendants and/or their co-conspirators, did commit the acts as set forth in Counts 2 thru 4,  
26 said acts being incorporated by this reference as though fully set forth herein.

27 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

28 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS



1 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, DEANGELO  
2 RESHAWN CARROLL and JAYSON TAOIPU did, on or about May 19, 2005, then and  
3 there wilfully, feloniously, without authority of law, and with premeditation and  
4 deliberation, and with malice aforethought, kill TIMOTHY JAY HADLAND, a human  
5 being, by shooting at and into the body and/or head of said TIMOTHY JAY HADLAND,  
6 with a deadly weapon, to-wit: a firearm, the Defendants being liable under one or more of  
7 the following theories of criminal liability, to-wit: (1) by directly or indirectly committing  
8 the acts with premeditation and deliberation and/or lying in wait; and/or (2) by aiding and  
9 abetting the commission of the crime by, directly or indirectly, counseling, encouraging,  
10 hiring, commanding, inducing or otherwise procuring each other to commit the crime, to-  
11 wit: by Defendant ANABEL ESPINDOLA and/or DEFENDANT LUIS HILDAGO, III  
12 and/or Luis Hildago, Jr. procuring Defendant DEANGELO CARROLL to beat and/or kill  
13 TIMOTHY JAY HADLAND; thereafter, Defendant DEANGELO CARROLL procuring  
14 KENNETH COUNTS and/or JAYSON TAOIPU to shoot TIMOTHY HADLAND;  
15 thereafter, Defendant DEANGELO CARROLL and KENNETH COUNTS and JAYSON  
16 TAOIPU did drive to the location in the same vehicle; thereafter, Defendant DEANGELO  
17 CARROLL calling victim TIMOTHY JAY HADLAND to the scene; thereafter, by  
18 KENNETH COUNTS shooting TIMOTHY JAY HADLAND; and/or (3) by conspiring to  
19 commit the crime of battery and/or battery with use of a deadly weapon and/or to kill  
20 TIMOTHY JAY HADLAND whereby each and every co-conspirator is responsible for the  
21 foreseeable acts of each and every co-conspirator during the course and in furtherance of the  
22 conspiracy.

23 COUNT 3 - SOLICITATION TO COMMIT MURDER

24 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
25 ESPINDOLA did, on or between May 23, 2005, and May 24, 2005, then and there wilfully,  
26 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
27 DEANGELO CARROLL, to commit the murder of JAYSON TAOIPU; the defendants  
28 being liable under one or more theories of criminal liability, to-wit: (1) by directly or

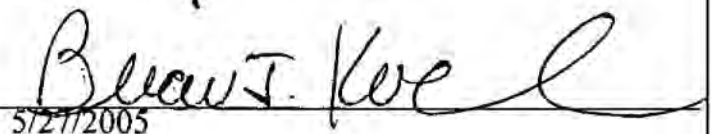


1 indirectly committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
2 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
3 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
4 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
5 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
6 of the conspiracy.

7 COUNT 4 - SOLICITATION TO COMMIT MURDER

8 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
9 ESPINDOLA did, on or between May 23 and May 24, 2005, then and there wilfully,  
10 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
11 DEANGELO CARRALL, to commit the murder of RONTAE ZONE; the defendants being  
12 liable under one or more theories of criminal liability, (1) by directly or indirectly  
13 committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
14 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
15 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
16 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
17 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
18 of the conspiracy.

19 All of which is contrary to the form, force and effect of Statutes in such cases made  
20 and provided and against the peace and dignity of the State of Nevada. Said Complainant  
21 makes this declaration subject to the penalty of perjury.

22  
23   
24 5/27/2005

25  
26 05FB0054A-E/jmh  
27 LVMPD EV# 0505193516  
28 CONSP MRDR; MWDW;  
SOLICIT MRDR - F  
(TK7)



(N.R.S. 171.106)  
(N.R.S. 53 amended 07/13/93)

BY \_\_\_\_\_ DEPUTY



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**DECLARATION OF WARRANT/SUMMONS CONTINUATION**

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the vehicle. The vehicle was sealed with LVMPD evidence stickers and towed to the LVMPD Crime Lab. No cartridge casings or bullets were located at the crime scene.

On 5-20-05, at approximately 0900 hours, Detective McGrath and Detective Vaccaro attended the autopsy of Timothy Hadland at the Clark County Coroner's Office. The autopsy was performed by Dr. Telgenhoff, who determined the cause of death was multiple gunshot wounds to the head and the manner of death homicide. Several bullet fragments were recovered from the body of Timothy Hadland, which were impounded by CSA L. Morton.

Homicide detectives used the cellular telephone to identify family members and associates of Timothy Hadland. Detectives accessed the call history of the victim's cell phone, and learned that the last person to call Timothy Hadland's phone was "Deangelo" at 11:27 p.m. "Deangelo" was identified by name in the pre-programmed cell phone directory. A records check of Deangelo's telephone number showed the subscriber to the telephone was Hidalgo's Auto Body Works. The billing is addressed to Anabel Espindola at 6770 Bermuda Road, Las Vegas, Nevada. A records check in scope showed Annabel Espindola has a work card as general manager for the Palomino Club in North Las Vegas.

Det. T. Aiken discovered a person by the name of Deangelo Carroll has a work card for employment at the Palomino Club. The records check of the murder victim, Timothy Hadland, showed he also worked at the Palomino Club.

Detectives contacted Allena Hadland, the daughter of Timothy Hadland. Allena told detectives Timothy was camping at Lake Mead with his girlfriend, Pajit Karlson. Detective Wildemann and Detective Kyger met with Pajit Karlson at the Lake Mead camp site. Pajit informed detectives that Timothy Hadland left the campground at approximately 11:30 p.m. to meet Deangelo and two other persons. She said Timothy Hadland was driving her silver Kia Sportage when he left the campsite. She further stated "Deangelo" worked at the Palomino Club.

Detective Wildemann and Detective Kyger contacted Luis Hidalgo, the owner of the Palomino Club. Luis Hidalgo informed detectives Deangelo Carroll was an employee of the Palomino Club, but he did not have an address or telephone number for Carroll. Hidalgo told detectives to return after 7:00 p.m. and meet with Ariel, who managed the business.

Detective McGrath and Detective Wildemann returned to the Palomino Club at 7:30 p.m. and spoke with Michelle Schwanderlik, also known as "Ariel". She informed McGrath she was a Floor Manager at "the Club" (the Palomino Club) and worked for "Mr. H". She told detectives "Mr. H" was Luis Hidalgo the owner of the Palomino Club. She informed detectives Deangelo Carroll was working at "the Club" on 5-19-05 and 5-20-05. Ariel did not see Carroll between the hours of 11:00 p.m. on the 19<sup>th</sup> of May and 12:20 a.m. on the 20<sup>th</sup>. During the interview with Ariel, Deangelo Carroll arrived and agreed to speak with



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**DECLARATION OF WARRANT/SUMMONS CONTINUATION**

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homicide detectives. Detectives McGrath and Wildemann drove Carroll to the Homicide office where he was interviewed.

Deangelo Carroll was read his Miranda Rights, he stated he understood and agreed to give a tape recorded statement.

The following information was provided by Carroll;

Carroll worked at the Palomino Club for Mr. Hidalgo. He performed various jobs for Mr. Hidalgo including handing out pamphlets and flyers to cab drivers and other potential customers. Carroll told detectives that Rontae Zone and Jayson Taoipu assisted him in passing out flyers for the Palomino Club.

On 5-19-05, Deangelo Carroll was contacted by Luis Hidalgo Jr., also known as "Little Lou". Luis Hidalgo, III is the son of "Mr. H" (Mr. Hidalgo) and manager of the club. "Little Lou" told Carroll to come to "the Club" and bring baseball bats and garbage bags. Carroll went to the Palomino Club and spoke with "Mr. H" (Mr. Hidalgo). "Mr. H" (Mr. Hidalgo) said he wanted to hire someone to "take care of" Timothy Hadland. Hadland was a previous employee of the Palomino Club and was "bad mouthing" the Club. Hadland had a lot of contact with cab drivers and was spreading rumors about "Mr. H" and "the Club". The Palomino Club was losing thousands of dollars in business. "Mr. H" told Carroll to find someone to kill Timothy Hadland. "Mr. H" said he would pay anyone who killed Hadland.

Carroll and Jayson drove to 1676 "E" Street in a white Chevy Astro Van. The van was a vehicle which was provided by "Mr. H". Carroll met with "KC", who lives at 1676 "E" Street with his wife and kids. Carroll told "KC" that "Mr. H" was looking to hire someone to kill someone. "KC" told Carroll he would do it. Carroll and Taoipu drove back to Carroll's apartment and picked up Rontae Zone. On 5-19-05 at approximately 11:00 p.m., Carroll, Zone, and Taoipu returned to 1676 "E" Street and met with "KC". "KC" entered the white Astro Van. "KC" was wearing a black "hoodie" sweatshirt, black pants, and black gloves. Carroll used his cellular telephone to contact Timothy Hadland. Hadland told Carroll he was camping at Lake Mead with his girlfriend.

Carroll told Hadland he would drive out to the Lake and meet at the stop sign. The stop sign would be at the end of the road after going through the E. Lake Mead toll booth. While driving to the meet Hadland, Carroll, Taoipu, Zone and "KC" all talked about killing Hadland. The plan was that Carroll would contact Hadland, and "KC" and Taoipu would shoot Hadland. During the drive out to meet Hadland, Carroll received a telephone call from Annabel Espindola. Espindola told Carroll that "Mr. H" said, "if Hadland was alone, then go through with the plan". However, if Hadland was not alone, he should not go through with the plan.



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**DECLARATION OF WARRANT/SUMMONS CONTINUATION**

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Carroll turned east on North Shore Road and observed Hadland driving west on North Shore Road. Carroll spoke with Hadland on his cell phone and both vehicles stopped on the side of the road. Hadland, who was driving the silver Kia Sportage, drove past Carroll's vehicle and made a U-turn in the road. Hadland drove east, parked in front of Carroll's white Astro Van and got out of his Kia Sportage. Hadland walked up to meet Carroll, who was seated in the driver's seat of the van. "KC" exited the van from the rear passenger's side door, walked to the front of the van and shot Hadland two times. Hadland fell to the ground and "KC" jumped back into the van, and yelled for Carroll to "drive". Carroll turned around and they drove south, ultimately driving into Henderson, before driving to the Palomino Club. "KC" and Carroll entered the Palomino Club and Carroll went into Mr. Luis Hidalgo, Sr.'s office and met with Anabel Espindola and Mr. Hidalgo, Sr. Carroll told "Mr. H", "it's done and "KC" wants his six thousand dollars." "Mr. H" told Espindola to get the money. Espindola went into the back room and came back with the money, which she handed to Carroll. Carroll then handed the money to "KC", who exited the club and left in a taxi cab. "Mr. H" and Anabel Espindola then devised a story that Carroll should use if the police contacted him.

Sometime between 3:30 pm and 7:30 pm, Carroll received a telephone call from "Mr. H" who told him that the police had been to the Palomino Club looking for him. He also revealed to Carroll that the detectives were driving a White Expedition.

Detectives McGrath and Wildemann asked Carroll for more details on "KC". Carroll explained that "KC" was a member of a criminal gang from California called "Black Pee Stone".

Through further investigation, detectives identified "KC" as possibly being Kenneth Counts. Carroll was shown a photograph of Kenneth Counts, and he positively identified Counts as the person he knows as "KC" and the person who shot Hadland.

On 5-21-05, Detectives McGrath and Wildemann spoke with Rontae Zone. Zone admitted to driving in the Chevy van along with Carroll, "KC" and Taoipu. Zone also confirmed that the plan was devised amongst the four to kill Hadland, and that he knew that "KC" was going to shoot Hadland. He confirmed they drove to 1676 "E" Street, where Counts (KC) was picked up prior to the shooting. Zone recognized the firearm as a .357 revolver, which would explain the absence of shell casings at the murder scene, since revolvers do not eject spent casings like semi-automatic handguns do. Zone told detectives that he personally witnessed "KC" shoot Hadland twice in the head. It should be noted that these statements were made to the police against his own penal interests, and tend to demonstrate his credibility.

On 5-21-05, Detectives Wildemann and Vaccaro spoke with Jayson Taoipu. Taoipu also confirmed that he was in the Chevy van along with Carroll, "KC" and Zone, and that they drove to Lake Mead specifically for the purpose of killing Hadland. He observed Counts (KC) shoot Hadland with a large revolver two times. He confirmed Counts (KC) was picked up at 1676 "E" Street prior to the shooting. Taoipu knew Counts (KC) was going to shoot

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**DECLARATION OF WARRANT/SUMMONS CONTINUATION**

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Hadland, because the four of them had discussed how the shooting was to take place as they drove towards the Lake.

On 05/23/2005, at approximately 1030 hours, Detective Marty Wildemann received a telephone call from Deangelo Carroll. Carroll said he spoke with Luis Hidalgo III, who told him to pick up the Palomino shuttle bus and drive it to Simone's. Carroll was instructed to telephone Mark Quad, the parts manager of Simone's, at 860-6382 when he was ready to pick the shuttle up. On 05/23/2005, at approximately 1400 hours, Detective M. McGrath and F.B.I. Special Agent Brett Shields met with Deangelo Carroll. The purpose of the meeting was to conduct a tape recorded conversation with Luis Hidalgo, "Mr. H", Anabel Espindola, and Luis Hidalgo III. Carroll telephoned Quad and told him he was ready to drive the shuttle bus to Simone's. Carroll was outfitted with a recording device and surveilled directly to Simone's Auto Plaza at 6770 Bermuda Road. He entered the business through the garage. After approximately thirty minutes, Carroll exited the business and met with S/A Shields and Detective McGrath. Carroll handed S/A Shields a 750 milliliter bottle of "Tangueray" gin and fourteen hundred dollars of US currency. S/A Shields and Detective McGrath debriefed Carroll.

The following information was provided by Carroll:

Carroll drove directly to Simone's and entered the business. He met with Anabel Espindola, who told him to go to room # 6, Luis Hidalgo III's office. Carroll walked to Luis' office, knocked on the door and entered after being greeted by Luis Hidalgo III. Hidalgo told Carroll the telephones and room were bugged. Hidalgo disconnected the telephone and spoke in a whisper. Espindola entered the office and asked Carroll to remove his clothing. Espindola and Luis wanted to know if Carroll was wearing a "wire." Carroll removed all of his clothing except his underwear. After confirming Carroll was not wearing a wire, Espindola and Hidalgo spoke in a whisper throughout the conversation with Carroll.

Luis had a large sword and was swinging it from side to side during this meeting. Luis told Carroll that if he told the police what happened, he would cut him up. Luis told Carroll that if he should have to go to jail, Luis would purchase "bonds" and give his wife a place to sleep. Luis said the bonds would increase and his wife could live in the condo, while he was in jail. Espindola told Carroll that "Mr. H" was already talking to a lawyer and that they would pay for his lawyer, should he get arrested. Carroll told them that "KC", and the "two others", referring to Jayson Taoipu and Rontae Zone, wanted more money. Espindola gave Carroll one thousand dollars to keep the "two others" quite and told Carroll the four hundred was for him.

Luis Hidalgo III handed Carroll a bottle of "Tangueray" gin. Espindola and Hidalgo discussed killing Zone and Taoipu. They told Carroll to put rat poison in the gin and give it to them. Espindola said, "that won't kill them." Hidalgo told Carroll to put rat poison in a "blunt", referring a marijuana cigarette. Hidalgo and Espindola believed that if they smoked the cigarette, they would die. Espindola told Carroll to get to the Palomino Club and resign. Espindola told him that he would still get money each week from them. Carroll could come

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back to work at "The Club" in a few months once the police stopped nosing around. Carroll exited the business and met with S/A Shields and Detective McGrath.

S/A Shields removed the recording device from Carroll. McGrath and Shields listened to the conversation. It was confirmed that the entire conversation was conducted in a whisper and all of the information provided by Carroll in this debriefing was determined to be accurate.

Wherefore, declarant prays that a Warrant of Arrest be issued for suspect JAYSON TAOIPU on a charge(s) of MURDER WITH DEADLY WEAPON AND CONSPIRACY TO COMMIT MURDER WITH A DEADLY WEAPON.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on this 1st day of June, 2005.

DECLARANT: \_\_\_\_\_

WITNESS: \_\_\_\_\_

DATE: \_\_\_\_\_



# Justice Court, Boulder Township

CASE NO 05FB0052E

NAME: JASON TAOIPU

CHARGES: CT 1 CONSPIRACY TO COMMIT MURDER; CT 2 MURDER WITH USE OF DEADLY WEAPON

DATE, JUDGE OFFICER OF  
COURT PRESENT

APPEARANCES - HEARINGS

CONTINUE TO:

06/03/05 D. LIPPIS	JUDGE LIPPIS SIGN ARREST WARRANT NO BAIL SET ON WARRANT	
11/08/05 D. LIPPIS FOR J. BONAVENTURE M. DIGIACOMO, DA T. JACKSON, ESQ APPOINTED S. CRAIG, CR P. WILLEY, CLK	INITIAL ARRAIGNMENT DEFT PRESENT IN COURT <b>IN CUSTODY</b> DEFT ADVISED AND WIAIVES COURT PASSES CASE FOR SCK FOR BOULDER CITY JUSTICE CT SCK DATE SET  DEFT REMANDED TO THE CUSTODY OF THE SHERIFF	11/15/05 1PM BOULDER CITY
11/15/05 V. MILLER M. DIGIACOMO, DA T. JACKSON, ESQ J. DAVID, CR N. SPILKER, CLK	DEFT PRESENT IN COURT <b>IN CUSTODY</b> ORDER SIGNED IN OPEN COURT APPOINTING TERRY JACKSON AS COUNSEL P/H DATE SET  DEFT REMANDED TO THE CUSTODY OF THE SHERIFF	12/06/05 1PM
12/06/05 V. MILLER M. DIGIACOMO, DA J. PESCI, DA T. JACKSON, ESQ N. SILVERMAN, CR N. SPILKER, CLK	TIME SET FOR P/H DEFT PRESENT IN COURT <b>IN CUSTODY</b> MOTION BY DEFENSE TO EXCLUDE WITNESSES MOTION GRANTED STATE CALLS WITNESSES #1 MARTIN WILDMANN-WITNESS ID'S DEFT #2 DR. JERRY TELGENHOFF STATE OFFERS EXHIBITS MARKED 1,2,3,4,5,6,7 OBJECTION BY DEFENSE TO EXHIBITS MARKED 3 AND 7 COURT ORDERS EXHIBITS MARKED 1,2,3,4,5,6,7 TO BE ADMITTED STATE RESTS MAGISTATE ADVISES DEFT OF HIS STATUTORY RIGHT TO MAKE SWORN OR UNSWORN STATEMENT, AND/OR HIS RIGHT TO CALL WITNESSES DEFT WAVIES HIS RIGHT TO MAKE A STATEMENT DEFENSE CALLS WITNESSES #1 RONTAE ZONE-PRESENT WITH HIS ATTY SPECIAL PUBLIC DEFENDER RANDY PIKE WITNESS ID'S DEFT DEFENSE RESTS DEFT BOUND OVER TO DISTRICT COURT AS CHARGED IN CRIMINAL COMPLAINT DEFT TO APPEAR IN THE EIGHTH JUDICAL DISTRICT COURT  DEFT REMANDED TO THE CUSTODY OF THE SHERIFF	12/21/05 9AM DIST CT #14



***JUSTICE COURT, LAS VEGAS TOWNSHIP***  
**CLARK COUNTY, NEVADA**

**PRETRIAL SERVICES INFORMATION SHEET**

**CASE NO. 05FB0052E**

**DEPT NO. JC 9**

**REQ:**

**NAME: TAOIPU, JAYSON**

**ID#: 1970800**

**CHARGES: CONSP COMMIT MURDER; MURDER WDW**

**CURRENT BAIL: NB ALL CHARGES**

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**VERIFIED: ADDRESS: NOT INTERVIEWED**  
**WITH WHOM/HOW LONG:**

**VERIFIED: EMPLOYMENT:**  
**DISABLED:**

**UNEMPLOYED:**  
**STUDENT:**

**VERIFIED: RELATIVES: LOCAL**

**NOT LOCAL**

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**FELONY/GROSS MISDEMEANOR CONVICTIONS:**  
**NONE**

**MISDEMEANOR CONVICTIONS: 0**

**FAIL TO APPEAR: 0**

**PENDING CHARGES/HOLDS/COMMENTS:**  
**NONE**

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**RECOMMENDATION:**

**DATE: 110705**  
**JC-18 (PRETRIAL SERVICES) Rev. 04/02**

**PRETRIAL SERVICES T. REDDICK**

**CONFIDENTIAL**

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
TEMPORARY CUSTODY RECORD

NEW 100-201

I.D. #: 1970900 Event #: "

Page 1 of 1  
DATE OF ARREST: 11-3-05 TIME OF ARREST: 1200

I.D. ESTAB. BY:

INTAKE NAME (AKA, ALIAS, ETC.) Last First Middle  
TADIPU JASON JASON  
ADDRESS NUMBER & STREET BLDG./APT. # CITY STATE ZIP

DATE OF BIRTH RACE SEX HEIGHT WEIGHT HAIR EYES SOCIAL SECURITY # PLACE OF BIRTH  
7-26-1988 B M 6'1" 147 BLK BRN 618-14-5406 L.A. CALIFORNIA  
LOCATION OF CRIME (# - Street - City - State - Zip) CC Citizen Arrested LV Y N 1 A. COUNTY JUVENILE DETENTION PCN #

BKG. CODE	CHARGE ORD / NRS #	M	GM	F	ARR TYPE	EVENT NUMBER	WARR / NCIC NUMBER	LV	JC	DC	COURT OTHER
001C	CONSPIRACY TO COMMIT MURDER 200.0301	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WA		05FB0052E	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5045	MURDER W.D.M. 200.030-1	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WA		05FB0052E	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Page 1 of 1

VEGAS METROPOLITAN POLICE DEPARTMENT  
DECLARATION OF ARREST

I.D. #: 1970800

True Name: TAOIPU, Jayson

Date of Arrest: 11/3/05 Time of Arrest: 1200

OTHER CHARGES RECOMMENDED FOR CONSIDERATION:

THE UNDERSIGNED MAKES THE FOLLOWING DECLARATIONS SUBJECT TO THE PENALTY FOR PERJURY AND SAYS: That I am a peace officer with LVMPD (Department), Clark County, Nevada, being so employed for a period of 12.5 years (months). That I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense of Murder - UDW at the location of Hollywood at Lake Mead (ADDRESS / CITY / STATE / ZIP) and that the offense occurred at approximately \_\_\_\_\_ hours on the \_\_\_\_\_ day of \_\_\_\_\_, in the county of ☒ Clark or ☐ City of Las Vegas, NV.

DETAILS FOR PROBABLE CAUSE:

on 11/3/05 Detectives M'Grath and Wildemann contacted the above suspect. He had a warrant for Murder w/ A Deadly Weapon and Conspiracy to Commit murder. THE warrants were confirmed by p# 4192. He was transported and booked into the Clark County Detention Center.

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are a misdemeanor).

Declarant must sign second page with original signature.

Declarant's Signature

Print Declarant's Name

4575  
P #



P4467C

Jun 3 1 07 PM

USD  
RECORDS

JUSTICE COURT, BOULDER CITY TOWNSHIP  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

JAYSON TAOIPU,

Defendant.

CASE NO: 05FB0052E

WARRANT OF ARREST

WD 14648620/001

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An affidavit upon oath has been this day laid before me by M. McGrath, that the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 199.480) and MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165), have been committed, and accusing JAYSON TAOIPU thereof;

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named JAYSON TAOIPU and bring him before me at my office in Boulder City, County of Clark, State of Nevada, or in case of my absence or inability to act, before the nearest and most accessible Magistrate in this County.

WITNESS my hand this 3rd of June, 2005.

And I direct that this Warrant may be served at any hour of the day or night.

No  
Bail  
sic

Justice of the Peace in and for Said Township

SHERIFF'S RETURN

Nov I hereby certify that I received the above and foregoing Warrant on the 3 day of Nov, 2005, and served the same by arresting the within named Defendant, taoipu, J, and bringing him into Court this 3 day of Nov, 2005

BILL YOUNG, Sheriff, Clark County, Nevada

BY [Signature]  
Deputy

4525

05FB0052E/jmh  
LVMPD EV#050519356  
CONSP MRDR; MWDW - F  
(TK7)  
AMA; 07261988; 618145406



# CLARK COUNTY PRETRIAL QUESTIONNAIRE AND FINANCIAL AFFIDAVIT

Defendant: <u>Joseph, Jayson</u>		
Arrest Date: <u>11-3-05</u>	Arraign. Date:	
S.S.N.: <u>618-14-5406</u>	ID.: <u>1970800</u>	
D.R. #:	D.O.B. <u>7-26-88</u>	
M J Charge: <u>Consp Commit Murder WA</u>	Bail: <u>NB</u>	
M J Charge: <u>Murder WSW 05FB0052E</u>	Bail: <u>NB</u>	
M J Charge:	Bail:	
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M J Charge:	Bail:	

BASED ON \_\_\_\_\_ VERIFIED POINTS THIS DEFENDANT HAS RECEIVED, AND THE INFORMATION GATHERED BY INTAKE SERVICES, THE FOLLOWING RECOMMENDATION IS MADE:

\_\_\_\_\_ Supervised Release with Conditions as Directed by Intake Services: \_\_\_\_\_

\_\_\_\_\_ Bail Reduction To: \_\_\_\_\_

☒ Not Recommended for an O/R Release or Bail Reduction Because: N1 / Charge

Release Granted: \_\_\_\_\_ Date: \_\_\_\_\_

Bail Reduction To: \_\_\_\_\_

Release Denied: \_\_\_\_\_ Date: \_\_\_\_\_



\*\*\*\*\*  
\*\*\*\*\*  
\*  
\* \*\*\*\*\* NCJIS WANTED PERSON SYSTEM \*\*\*\*\*  
\*  
\* PIN-0209 NCJIS WARRANT HAS BEEN SUCCESSFULLY CLEARED  
\*  
\* CLEARING AGENCY /NV0020121 - CLARK COUNTY DETENTION CENTER  
\* ARRESTING AGENCY /NV0020100 - LAS VEGAS METROPOLITAN POLICE  
\* ENTERING AGENCY /NV0020135 - CLARK COUNTY DETENTION CENTER  
\* CONFIRMING AGENCY/NV0020135 - CLARK COUNTY DETENTION CENTER  
\* VALIDATING AGENCY/NV0020178 - LAS VEGAS METROPOLITAN PD  
\* NIN/W014648620 DATE:11/03/05  
\* SEQ/001 REASON/SERVED TIME:16:52:33  
\* WARRANT NAME /TAOIPU,JAYSON  
\* BASE RECORD NAME/TAOIPU,JAYSON  
\* COURT CASE #/05FB0052E  
\* COURT/NV002073J - BOULDER TOWNSHIP JUSTICE COURT  
\*\*\*\*\*  
\*\*\*\*\*



JUSTICE COURT, BOULDER CITY TOWNSHIP

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAYSON TAOIPU,

Defendant.

CASE NO: 05FB0052E

WARRANT OF ARREST

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An affidavit upon oath has been this day laid before me by M. McGrath, that the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 199.480) and MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165), have been committed, and accusing JAYSON TAOIPU thereof;

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named JAYSON TAOIPU and bring him before me at my office in Boulder City, County of Clark, State of Nevada, or in case of my absence or inability to act, before the nearest and most accessible Magistrate in this County.

WITNESS my hand this 3rd of June, 2005.

And I direct that this Warrant may be served at any hour of the day or night.

No  
Bail  
sic

Justice of the Peace in and for Said Township

SHERIFF'S RETURN

I hereby certify that I received the above and foregoing Warrant on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and served the same by arresting the within named Defendant, \_\_\_\_\_, and bringing him into Court this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BILL YOUNG, Sheriff, Clark County, Nevada

BY \_\_\_\_\_  
Deputy

05FB0052E/jmh  
LVMPD EV#050519356  
CONSP MRDR; MWDW - F  
(TK7)  
AMA; 07261988; 618145406



  
CLERK

**INFO**

DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
MARC DIGIACOMO  
Chief Deputy District Attorney  
Nevada Bar #006955  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

I.A. 12/21/05  
9:00 A.M.  
T. Jackson

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAYSON TAOIPU,  
#1970800

Defendant.

Case No: C212667  
Dept No: XIV

**INFORMATION**

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That JAYSON TAOIPU, the Defendant(s) above named, having committed the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 199.480) and MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165), on or between May 19, 2005, and May 24, 2005, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

**COUNT 1 - CONSPIRACY TO COMMIT MURDER**

Defendant JAYSON TAOIPU, and KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL



1 ESPINDOLA, and DEANGELO RESHAWN CARROLL did, on or between May 19, 2005  
2 and May 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and between  
3 themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire  
4 and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy,  
5 Defendants and/or their co-conspirators, did commit the acts as set forth in Count 2.

6 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

7 Defendant JAYSON TAOIPU and KENNETH JAY COUNTS, aka Kenneth Jay  
8 Counts, II, and LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL  
9 ESPINDOLA, and DEANGELO RESHAWN CARROLL did, then and there wilfully,  
10 feloniously, without authority of law, and with premeditation and deliberation, and with  
11 malice aforethought, kill TIMOTHY JAY HADLAND, a human being, by shooting at and  
12 into the body and/or head of said TIMOTHY JAY HADLAND, with a deadly weapon, to-  
13 wit: a firearm, the Defendant and KENNETH JAY COUNTS, aka Kenneth Jay Counts, II,  
14 and LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA,  
15 and DEANGELO RESHAWN CARROLL being liable under one or more of the following  
16 theories of criminal liability, to-wit: (1) by directly or indirectly committing the acts with  
17 premeditation and deliberation and/or lying in wait; and/or (2) by aiding and abetting the  
18 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
19 commanding, inducing or otherwise procuring each other to commit the crime, to-wit: by  
20 ANABEL ESPINDOLA and/or LUIS HILDAGO, III and/or Luis Hildago, Jr. procuring  
21 DEANGELO CARROLL to beat and/or kill TIMOTHY JAY HADLAND; thereafter,  
22 DEANGELO CARROLL procuring KENNETH COUNTS and/or JAYSON TAOIPU to  
23 shoot TIMOTHY HADLAND; thereafter, DEANGELO CARROLL and KENNETH  
24 COUNTS and JAYSON TAOIPU did drive to the location in the same vehicle; thereafter,  
25 DEANGELO CARROLL calling victim TIMOTHY JAY HADLAND to the scene;  
26 thereafter, by KENNETH COUNTS shooting TIMOTHY JAY HADLAND; and/or (3) by  
27 conspiring to commit the crime of battery and/or battery with use of a deadly weapon and/or  
28 to kill TIMOTHY JAY HADLAND whereby each and every co-conspirator is responsible



1 for the foreseeable acts of each and every co-conspirator during the course and in furtherance  
2 of the conspiracy.

3  
4  
5  
6 BY



7 DAVID ROGER  
8 DISTRICT ATTORNEY  
Nevada Bar #002781

9 Names of witnesses known to the District Attorney's Office at the time of filing this  
10 Information are as follows:

11 <u>NAME</u>	<u>ADDRESS</u>
12 HADLAND, ALLAN	ADDRESS UNKNOWN
13 KARSON, PAJIT	ADDRESS UNKNOWN
14 KRYLO, JAMES	LVMPD P#5945
15 MADRID, ISMAEL	1729 STAR RIDGE WAY LV NV
16 MCGRATH, MICHAEL	LVMPD P#4575
17 MORTON, LARRY	LVMPD P#4935
18 RENHARD, LOUISE	LVMPD P#5223
19 SCHWANDERLIK, MICHELLE	4037 OVERBROOK DR LV NV
20 SMITH, STEPHANIE	LVMPD P#6650
21 TAOIPU, JAYSON	2008 JEANNE DR LV NV
22 TELGENHOFF, DR. GARY	C.C.M.E. #0003
23 VACCARO, JAMES	LVMPD P#1480
24 WILDEMAN, MARTIN	LVMPD P#3516
25 ZONE, RONTAE	c/o BILL FALKNER, Clark County D.A. Office
26 DA#05FB0052E/ddm	
27 LVMPD EV#0505193516	
28 CONSP;MWDW - F	
(TK7)	



ORIGINAL

1 **INFO**

2 DAVID ROGER  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 MARC DIGIACOMO  
6 Chief Deputy District Attorney  
7 Nevada Bar #006955  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

FILED IN OPEN COURT

JUN 06 2007 20

CHARLES J. SHORT  
CLERK OF THE COURT

BY Carol Donahoe  
CAROL DONAHOE DEPUTY

7 I.A. 12/21/05  
8 9:00 A.M.  
9 T. Jackson

DISTRICT COURT  
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 JAYSON TAOIPU,  
14 #1970800

15 Defendant.

Case No: C212667

Dept No: XIV

AMENDED  
INFORMATION

16 STATE OF NEVADA }  
17 COUNTY OF CLARK } ss.

18 DAVID ROGER, District Attorney within and for the County of Clark, State of  
19 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

20 That JAYSON TAOIPU, the Defendant(s) above named, having committed the  
21 crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030,  
22 199.480) and VOLUNTARY MANSLAUGHTER WITH USE OF A DEADLY WEAPON  
23 (Category B Felony - NRS 200.040, 200.050, 200.080, 193.165), on or about May 19, 2005,  
24 within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes  
25 in such cases made and provided, and against the peace and dignity of the State of Nevada,

26 //

27 //

28 //



1 COUNT 1 - CONSPIRACY TO COMMIT MURDER

2 Defendant JAYSON TAOIPU, and KENNETH JAY COUNTS, aka Kenneth Jay  
3 Counts, II, and LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL  
4 ESPINDOLA, and DEANGELO RESHAWN CARROLL did, on or between May 19, 2005  
5 and May 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and between  
6 themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire  
7 and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy,  
8 Defendant and/or his co-conspirators, did commit the acts as set forth in Count 2.

9 COUNT 2 - VOLUNTARY MANSLAUGHTER WITH USE OF A DEADLY WEAPON

10 Defendant JAYSON TAOIPU did then and there without authority of law, wilfully,  
11 unlawfully, and feloniously, without malice and without deliberation kill TIMOTHY JAY  
12 HADLAND, a human being, by shooting at and into the body and/or head of said  
13 TIMOTHY JAY HADLAND, with a deadly weapon, to-wit: a firearm, the Defendant and  
14 KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS ALONSO HIDALGO,  
15 aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, and DEANGELO RESHAWN  
16 CARROLL being liable under one or more of the following theories of criminal liability, to-  
17 wit: (1) by aiding and abetting the commission of the crime by, directly or indirectly,  
18 counseling, encouraging, hiring, commanding, inducing or otherwise procuring each other to  
19 commit the crime, to-wit: by ANABEL ESPINDOLA and/or LUIS HILDAGO, III and/or  
20 Luis Hildago, Jr. procuring DEANGELO CARROLL to beat and/or kill TIMOTHY JAY

21 //

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1 HADLAND; thereafter, DEANGELO CARROLL procuring KENNETH COUNTS and/or  
2 JAYSON TAOIPU to shoot TIMOTHY HADLAND; thereafter, DEANGELO CARROLL  
3 and KENNETH COUNTS and JAYSON TAOIPU did drive to the location in the same  
4 vehicle; thereafter, DEANGELO CARROLL calling victim TIMOTHY JAY HADLAND to  
5 the scene; thereafter, by KENNETH COUNTS shooting TIMOTHY JAY HADLAND;  
6 and/or (2) by conspiring to kill TIMOTHY JAY HADLAND.  
7  
8

9 BY



10 DAVID ROGER  
11 DISTRICT ATTORNEY  
12 Nevada Bar #002781  
13  
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26 DA#05FB0052E/  
27 LVMPD EV#0505193516  
28 CONSP MURDER;VMWDW - F  
(TK7)



ORIGINAL

FILED

TRAN

DISTRICT COURT 2008 MAR 20 A 8:06

CLARK COUNTY, NEVADA

CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

vs.

JAYSON TAOIPU,

Defendant.

CASE NO. C212667  
DEPT. XXI

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

WEDNESDAY, JUNE 6, 2007

RECORDER'S TRANSCRIPT OF HEARING RE:

CHANGE OF PLEA

APPEARANCES:

FOR THE PLAINTIFF:

MARC DIGIACOMO, ESQ.  
GIANCARLO PESCI, ESQ.

FOR THE DEFENDANT:

TERRANCE M. JACKSON, ESQ.

RECORDED BY: JANIE L. OLSEN, COURT RECORDER



1 LAS VEGAS, CLARK COUNTY, NV, WEDNESDAY, JUNE 6, 2007

2  
3 THE BAILIFF: Remain seated; come to order, please. Court is in  
4 session.

5 THE COURT: You ready to go?

6 MR. DIGIACOMO: On this part, yes.

7 MR. JACKSON: I'm ready. There's one matter that we might want to  
8 address that --

9 THE COURT: In chambers or on the record?

10 MR. JACKSON: We can put it on the record. I think it has to be on  
11 the record.

12 Mr. Taoipu is here. He is -- we have a signed plea agreement  
13 here before the Court. The only members in the court -- the only people in  
14 the court at this time are members of the District Attorney's Office, two  
15 interns from the District Attorney's Office, investigator from the District  
16 Attorney's Office, my investigator, Mr. Saxon, the defendant's father, and  
17 the defendant's girlfriend, and the defendant's cousin. That is at the  
18 defendant's request -- and the court staff.

19 The defendant, because of his --

20 THE COURT: Wait a second.

21 Oh, are we okay?

22 MR. PESCI: Yes, Judge.

23 THE COURT: Because we had called down to --

24 MR. JACKSON: The defendant requested me -- and this has been  
25 long complicated negotiations. It involves the defendant entering the plea of



1 guilty to a reduced charge, voluntary manslaughter with use of a weapon,  
2 and conspiracy to commit murder; serious felonies involving his participation  
3 in homicide.

4           It was a very difficult step for Mr. Taoipu to get involved in  
5 this, but one of the difficulties in him making this decision is that --

6           THE COURT: Excuse me, Mr. Jackson.

7           All right. I'm sorry, Mr. Jackson. Go ahead.

8           MR. JACKSON: One of the difficulties of Mr. Taoipu making this  
9 decision is he has been under substantial pressure, both in terms of fear and  
10 pressure being put on him by other individuals.

11           As the Court may know, there are individuals who are also  
12 charged with him, that were also charged in other counts with attempting to  
13 kill him. This was after the homicide of Mr. Hadland. One of the counts  
14 against, I believe, Mr. Counts and Mr. Carroll, is that they were attempting or  
15 had agreed to kill Mr. Taoipu, mainly to silence him or to keep him from, in  
16 fact, cooperating with the authorities.

17           Because of that -- and that was -- that was almost two years  
18 ago, but more recently there has been substantial pressure put on Mr. Taoipu.  
19 I can advise the Court that I became aware of that pressure at least a  
20 month -- a month ago. I've had numerous conversations in the jail with Mr.  
21 Taoipu. It's been a very delicate negotiation.

22           My investigator, Mr. Saxon, is here. He can verify that we've  
23 had substantial conversations concerning this, that we've been very  
24 concerned about Jayson's welfare. His father is present in court. He has  
25 been very instrumental in helping us work through these difficulties with



1 Jayson. We're all concerned about Jayson's safety.

2 Now, the last conversation I had with Jayson yesterday in the  
3 jail, be -- before these negotiations were finalized, is Jayson agreed he would  
4 go along with the negotiation, but he wanted to do it without people in the  
5 courtroom except those people he trusted.

6 I immediately went back to my office. I called the court, I  
7 think I spoke to Penny Wisner, advised her that this was our request that we  
8 could do this in a closed courtroom. She said she would talk to you and --  
9 and make this request known, but she didn't know if you would go along  
10 with that, especially excluding the press.

11 I said that Jayson was aware that his cooperation would  
12 become known eventually; it would become known to the defense attorneys.  
13 In fact, I have advised Mr. Whipple already that the defendant was  
14 contemplating a plea in this matter, but that he was still uncertain. At least  
15 as of last night he was uncertain.

16 After speaking to him again this morning with his father, he  
17 has reached the decision he's going to go forward with the negotiations. But  
18 he would prefer, at least until the plea is down, at least until he testifies, that  
19 the press not be aware that he's testifying with the intent to -- or that he is  
20 pleading with the intent to testify.

21 I realize there are first amendment rights of the press.

22 THE COURT: Yeah, I mean, just to --

23 MR. JACKSON: And I've never --

24 THE COURT: I'm sorry to interrupt you. And -- and, you know,  
25 basically, my feeling is I don't like to seal the courtroom, especially in a case



1 like this where there is public interest in the case. You know, and there  
2 needs to be, obviously, review of, you know, pleas and actions and things  
3 like that.

4 If there is a compelling interest to take his plea without them  
5 being here then I'm willing to do that. I'm wondering, Mr. Jackson, if we put  
6 it on the record his compliance for taking the plea itself, just the factual plea  
7 of guilty. Is there a reason to exclude and to seal the courtroom just to take  
8 the plea, not to discuss any cooperation or anything like that?

9 Do you understand what I'm saying?

10 MR. JACKSON: I -- the defendant would prefer to do the plea without  
11 the press in here. Afterwards, if -- if it -- if the press wants to be advised  
12 that he entered a plea I don't have any problem with that.

13 THE COURT: Okay.

14 MR. JACKSON: But he would like to just do it without the press  
15 being in here while he does it.

16 Is that correct, Jayson?

17 THE DEFENDANT: Yes, sir.

18 MR. JACKSON: He's nervous.

19 MR. DIGIACOMO: There's no press here now.

20 MR. JACKSON: He -- he's --

21 THE COURT: No, there's no press here now because they all were  
22 removed. But what Mr. Jackson is saying is he does not -- he wants the  
23 guards to stay at the door to make sure the press doesn't come in.

24 MR. DIGIACOMO: Were they actually asked to leave, or was your  
25 hearing over that the press was present for is -- is really the question.



1 Because if there's just nobody here then we do it now and then there won't  
2 be an issue. If the -- if -- if there is an issue then --

3 MR. JACKSON: I'm just saying --

4 THE COURT: Yeah, there's nobody here right now.

5 MR. JACKSON: I'd like to do it now and then we --

6 THE COURT: Let's just do it now.

7 MR. JACKSON: -- can advise him what he pled.

8 MR. DIGIACOMO: Well -- no, that's just the defense attorneys.

9 Okay.

10 THE COURT: Let's just go ahead and do it now. Do you have a guilty  
11 plea memo?

12 MR. JACKSON: Yes.

13 MR. DIGIACOMO: Well, there is one correction that needs to be  
14 made. It shows -- still shows Department 14, it's been moved to 21.

15 THE COURT: We can interlineate.

16 MR. JACKSON: And I also made an interlineation. It says her  
17 attorney on one page. I change -- changed it to his. I think it must've been  
18 a --

19 THE COURT: I'll see counsel at the bench, Mr. Jackson.

20 (Conference at the bench.)

21 THE COURT: All right. Mr. Taoipu, what we're going to do is we're  
22 going to seal Exhibit 2 of the guilty plea agreement. Exhibit 2 is the part of  
23 the guilty plea agreement that talks about you possibly testifying and  
24 everything like that. At Mr. Jackson's request and, I think, at the State's  
25 request as well.



1 Is that right, Mr. DiGiacomo?

2 MR. DIGIACOMO: That's correct, Judge. The State is going to  
3 request that --

4 THE COURT: Because of issues with respect to security and what not  
5 the Court is going to go ahead and do that. For the record, though, one of  
6 the defense attorneys involved in the case --

7 Yes?

8 Oh, you know what, Mr. Jackson? I'm sorry, but I need to run  
9 down -- we need to resolve the issue with Mr. Whipple and Stu is only  
10 available for the next 15 minutes. I need to run down to Judge Bell on that  
11 issue. Mr. Counts will not be brought up. Basically, I'm just going to put on  
12 the record right now Exhibit No. 2 will be sealed at everybody's request to  
13 prevent intimidation or anything like that.

14 I am going to take your plea. You know, if the newspaper  
15 writes about that they write about it, but we're not going to put anything  
16 else on the record. This, obviously, is a part of the record, but it will be in a  
17 sealed file pursuant to court order. Mr. DiGiacomo is going to submit that to  
18 me and I'm going to sign it.

19 And then in terms of when I take your plea, it won't discuss  
20 any of your cooperation or anything like that. I'll just go over the -- you  
21 know, say you signed it, did you understand it, blah blah blah, and then ask  
22 you what you did and kind of go through that with you. All right? So that  
23 won't be part of what goes on in front of anybody.

24 MR. DIGIACOMO: And the court minutes won't reflect anything  
25 related to Exhibit No. 2 that we pulled up on the internet.



1 THE COURT: All right. Very well.

2 MR. JACKSON: So they're going to keep all of that out. None of that  
3 will --

4 MR. PESCI: Judge, do you want us to come with you for this meeting  
5 as well?

6 THE COURT: Well, yeah, come on down.

7 MR. JACKSON: Do you want --

8 THE COURT: I -- I'm --

9 MR. DIGIACOMO: We should grab Mr. Whipple and Ms. Wildeveld as  
10 well.

11 MR. JACKSON: Do you need me as well --

12 THE COURT: I need to --

13 MR. JACKSON: -- Your Honor?

14 THE COURT: -- talk to Stu first, so take your time.

15 MR. JACKSON: Do you need me as well, Your Honor? Or do --

16 THE COURT: You know what --

17 MR. JACKSON: -- should I stay --

18 THE COURT: -- I don't need you. You're welcome to stay here in the  
19 courtroom.

20 MR. JACKSON: All right. I'll stay with my client.

21 THE COURT: As I said, Mr. Counts will not be brought in. We'll do  
22 you first.

23 MR. JACKSON: I'm going to stay with my client.

24 THE COURT: All right. Thank you, Mr. Jackson.

25 (Recess taken at 11:15 a.m.)



1 THE COURT: Are we ready to go on this?

2 MR. JACKSON: I'm ready. I think Mr. Taoipu is ready.

3 THE COURT: Are you ready?

4 MR. DIGIACOMO: Yes, Judge. We're having an argument here, but  
5 we are ready.

6 THE COURT: All right. We're going to go forward on the guilty plea  
7 of Mr. Taoipu.

8 Mr. Taoipu, would you please stand up? The Court is in  
9 possession of a written plea of guilty which was signed by you along with an  
10 Amended Information that was filed in open court.

11 Before I may accept your plea of guilty I must be satisfied that  
12 your plea is freely and voluntarily given.

13 Are you making this plea freely and voluntarily?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. Other than what's contained in the written  
16 plea of guilty, have any promises or threats been made to you to induce you  
17 to enter your plea?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Before you signed the written plea of guilty did you read  
20 it?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Did you understand everything contained in the written  
23 plea as well as the charges of conspiracy to commit murder and voluntary  
24 manslaughter with use of a deadly weapon to which you are pleading guilty?

25 THE DEFENDANT: Yes, ma'am.



1 THE COURT: And I believe Count 2, voluntary manslaughter with use  
2 of a deadly weapon, is going to be a fictitious plea; is that right, Mr.  
3 DiGiacomo?

4 MR. DIGIACOMO: Fictitious in the -- in the charge of the crime. The  
5 actual language used in to what he did is not fictitious.

6 THE COURT: All right. Thank you for clarifying that on the record.

7 Do you understand all of that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right. Did you have a full opportunity to discuss  
10 your plea of guilty as well as the charge to which you are pleading guilty with  
11 your attorney Mr. Jackson?

12 THE DEFENDANT: Can you say that over?

13 THE COURT: Did you have a chance to ask him any questions you  
14 have and --

15 THE DEFENDANT: Oh, yes, ma'am.

16 THE COURT: -- discuss your plea and all of that with Mr. Jackson?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you need to any additional time to discuss your plea  
19 with Mr. Jackson?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: All right. Before the Court accepts your plea of guilty is  
22 there anything you want to ask me about your plea or about the charges to  
23 which you are pleading guilty?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: All right. Now we're going to go through this. And tell



1 me what you did on or about May 19, 2005, which causes you to plead  
2 guilty to the crime of conspiracy to commit murder?

3 THE DEFENDANT: I aided and abetted of killing Timothy Hadland.

4 THE COURT: Okay. And did you agree with these individuals listed  
5 on Count No. 1, conspiracy to commit murder -- to commit the crime of  
6 murder?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right. And you made that agreement with them; is  
9 that right?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And in furtherance of that agreement either you or one  
12 of your co-conspirators committed the acts that are set forth in Count 2,  
13 which we're going to get to right now; is that right?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. And then tell me what you did that is causing  
16 you to plead guilty to Count No. 2, voluntary manslaughter with use of a  
17 deadly weapon?

18 THE DEFENDANT: Can I talk to my lawyer about that?

19 I went with Deangelo Carroll and Ken Counts out to the lake  
20 and assisted if necessary.

21 THE COURT: Okay. And did you actually, pursuant to your  
22 agreement, did you actually drive with them to the lake?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And the purpose of that was to shoot the victim,  
25 Timothy Hadland; is that right?



1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And you were in the same vehicle with them; is that  
3 right?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: All right. And you were there to provide assistance if  
6 necessary; is that right?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And thereafter one of these individuals did actually  
9 shoot and kill Timothy Hadland; is that correct?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Is that acceptable with the State?

12 MR. DIGIACOMO: Which individual?

13 THE COURT: Was that Mr. Kenneth Counts?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. Is that acceptable with the State?

16 MR. DIGIACOMO: Yes, Your Honor.

17 THE COURT: All right. Mr. Taoipu, the Court finds that your plea of  
18 guilty has been freely and voluntarily given and hereby accepts your plea of  
19 guilty. The matter is referred to the department of parole and probation for a  
20 presentence investigation report and set over for rendition of sentencing on --

21 Do we have a sentencing date in the ordinary course, or do we  
22 want to -- I'll see counsel up here.

23 MR. JACKSON: Can we set it in the ordinary course and then we  
24 may want to reset it.

25 (Conference at the bench.)



1 THE COURT: All right. We're going to go ahead and status check  
2 this, and we're going to set this over for further proceedings in the beginning  
3 of September.

4 And if we can have a date? Let's go for the first week in  
5 September.

6 THE CLERK: September 4<sup>th</sup> at 9:30.

7 THE COURT: All right. We'll see you all back here then.

8 MR. DIGIACOMO: Thank you, Judge.

9 MR. PESCI: Thank you.

10 THE COURT: And I'll see George.

11 I'm saying to make sure they get you out of here and then  
12 bring the next guy up.

13 MR. WHIPPLE: Your Honor?

14 THE COURT: Yeah?

15 MR. WHIPPLE: Can -- can we approach you?

16 THE COURT: Sure.


17 MR. JACKSON: What -- what time was it on September 4<sup>th</sup>?

18 THE COURT: 9:30.

19 MR. JACKSON: 9:30. All right.

20 -oOo-

21 ATTEST: I hereby certify that I have truly and correctly transcribed the  
22 audio/video proceedings in the above-entitled case to the best of my ability.

23  
24   
25 JULIE POTTER  
TRANSCRIBER



ORIGINAL

1 GMEM

2 DAVID ROGER

3 DISTRICT ATTORNEY

4 Nevada Bar #002781

5 MARC DIGIACOMO

6 Chief Deputy District Attorney

7 Nevada Bar #006955

8 200 Lewis Avenue

9 Las Vegas, NV 89155-2212

10 (702) 671-2500

11 Attorney for Plaintiff

FILED IN OPEN COURT

JUN 05 2007

20

CHARLES J. SHORT

CLERK OF THE COURT

BY

CAROL DONAHOO DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JAYSON TAOIPU,

13 #1970800

14 Defendant.

CASE NO:

C212667

DEPT NO:

XXI

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: COUNT 1 - CONSPIRACY TO COMMIT  
17 MURDER (Category B Felony - NRS 199.480, 200.030) and COUNT 2 - VOLUNTARY  
18 MANSLAUGHTER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS  
19 200.040, 200.050, 200.080), as more fully alleged in the charging document attached hereto  
20 as Exhibit "1".

21 My decision to plead guilty is based upon the plea agreement in this case which is as  
22 follows:

23 The State retains the right to argue, however, the State agrees to recommend  
24 concurrent sentences between the counts. Additionally, both sides agree to be bound by the  
25 terms and conditions set forth in Exhibit "2," and incorporated by reference.

26 CONSEQUENCES OF THE PLEA

27 I understand that by pleading guilty I admit the facts which support all the elements of  
28 the offense(s) to which I now plead as set forth in Exhibit "1".



1 I understand that as a consequence of my plea of guilty as to Count 1, the Court must  
2 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term  
3 of not less than TWO (2) years and a maximum term of not more than TEN (10) years.  
4 Further, I understand that as a consequence of my plea to Count 2, the Court must sentence  
5 me to imprisonment in the Nevada Department of Corrections for a minimum term of not  
6 less than ONE (1) year and a maximum term of not more than TEN (10) years, plus an equal  
7 and consecutive minimum term of not less than ONE (1) year and a maximum term of not  
8 more than TEN (10) years for the use of a deadly weapon enhancement. The minimum term  
9 of imprisonment may not exceed forty percent (40%) of the maximum term of  
10 imprisonment. I understand that I may also be fined up to \$10,000.00. I understand that the  
11 law requires me to pay an Administrative Assessment Fee.

12 I understand that, if appropriate, I will be ordered to make restitution to the victim of  
13 the offense(s) to which I am pleading guilty and to the victim of any related offense which is  
14 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to  
15 reimburse the State of Nevada for any expenses related to my extradition, if any.

16 I understand that I am eligible for probation for the offense to which I am pleading  
17 guilty. I understand that, except as otherwise provided by statute, the question of whether I  
18 receive probation is in the discretion of the sentencing judge.

19 I understand that if more than one sentence of imprisonment is imposed and I am  
20 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order  
21 the sentences served concurrently or consecutively.

22 I also understand that information regarding charges not filed, dismissed charges, or  
23 charges to be dismissed pursuant to this agreement may be considered by the judge at  
24 sentencing.

25 I have not been promised or guaranteed any particular sentence by anyone. I know  
26 that my sentence is to be determined by the Court within the limits prescribed by statute.

27 I understand that if my attorney or the State of Nevada or both recommend any  
28 specific punishment to the Court, the Court is not obligated to accept the recommendation.



1 I understand that if the State of Nevada has agreed to recommend or stipulate a  
2 particular sentence or has agreed not to present argument regarding the sentence, or agreed  
3 not to oppose a particular sentence, or has agreed to disposition as a gross misdemeanor  
4 when the offense could have been treated as a felony, such agreement is contingent upon my  
5 appearance in court on the initial sentencing date (and any subsequent dates if the sentencing  
6 is continued). I understand that if I fail to appear for the scheduled sentencing date or I  
7 commit a new criminal offense prior to sentencing the State of Nevada would regain the full  
8 right to argue for any lawful sentence.

9 I understand if the offense(s) to which I am pleading guilty to was committed while I  
10 was incarcerated on another charge or while I was on probation or parole that I am not  
11 eligible for credit for time served toward the instant offense(s).

12 I understand that as a consequence of my plea of guilty, if I am not a citizen of the  
13 United States, I may, in addition to other consequences provided for by federal law, be  
14 removed, deported, excluded from entry into the United States or denied naturalization.

15 I understand that the Division of Parole and Probation will prepare a report for the  
16 sentencing judge prior to sentencing. This report will include matters relevant to the issue of  
17 sentencing, including my criminal history. This report may contain hearsay information  
18 regarding my background and criminal history. My attorney and I will each have the  
19 opportunity to comment on the information contained in the report at the time of sentencing.  
20 Unless the District Attorney has specifically agreed otherwise, then the District Attorney  
21 may also comment on this report.

#### 22 WAIVER OF RIGHTS

23 By entering my plea of guilty, I understand that I am waiving and forever giving up  
24 the following rights and privileges:

25 1. The constitutional privilege against self-incrimination, including the right to refuse  
26 to testify at trial, in which event the prosecution would not be allowed to comment to the  
27 jury about my refusal to testify.

28 2. The constitutional right to a speedy and public trial by an impartial jury, free of



1 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the  
2 assistance of an attorney, either appointed or retained. At trial the State would bear the  
3 burden of proving beyond a reasonable doubt each element of the offense charged.

4 3. The constitutional right to confront and cross-examine any witnesses who would  
5 testify against me.

6 4. The constitutional right to subpoena witnesses to testify on my behalf.

7 5. The constitutional right to testify in my own defense.

8 6. The right to appeal the conviction, with the assistance of an attorney, either  
9 appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional  
10 or other grounds that challenge the legality of the proceedings and except as otherwise  
11 provided in subsection 3 of NRS 174.035.

#### 12 VOLUNTARINESS OF PLEA

13 I have discussed the elements of all of the original charge(s) against me with my  
14 attorney and I understand the nature of the charge(s) against me.

15 I understand that the State would have to prove each element of the charge(s) against  
16 me at trial.

17 I have discussed with my attorney any possible defenses, defense strategies and  
18 circumstances which might be in my favor.

19 All of the foregoing elements, consequences, rights, and waiver of rights have been  
20 thoroughly explained to me by my attorney.

21 I believe that pleading guilty and accepting this plea bargain is in my best interest,  
22 and that a trial would be contrary to my best interest.


23 I am signing this agreement voluntarily, after consultation with my attorney, and I am  
24 not acting under duress or coercion or by virtue of any promises of leniency, except for those  
25 set forth in this agreement.

26 I am not now under the influence of any intoxicating liquor, a controlled substance or  
27 other drug which would in any manner impair my ability to comprehend or understand this  
28 agreement or the proceedings surrounding my entry of this plea.



1 My attorney has answered all my questions regarding this guilty plea agreement and  
2 its consequences to my satisfaction and I am satisfied with the services provided by my  
3 attorney.

4 DATED this 6<sup>th</sup> day of June, 2007.

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JAYSON TAOIPU  
Defendant

7  
8 AGREED TO BY:

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10 MARC DIGIACOMO  
11 Chief Deputy District Attorney  
Nevada Bar #006955  
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1 **INFO**

2 DAVID ROGER  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 MARC DIGIACOMO  
6 Chief Deputy District Attorney  
7 Nevada Bar #006955  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

12 I.A. 12/21/05  
13 9:00 A.M.  
14 T. Jackson

DISTRICT COURT  
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 JAYSON TAOIPU,  
19 #1970800

20 Defendant.

Case No: C212667  
Dept No: XIV

AMENDED  
INFORMATION

21 STATE OF NEVADA }  
22 COUNTY OF CLARK } ss.

23 DAVID ROGER, District Attorney within and for the County of Clark, State of  
24 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

25 That JAYSON TAOIPU, the Defendant(s) above named, having committed the  
26 crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030,  
27 199.480) and VOLUNTARY MANSLAUGHTER WITH USE OF A DEADLY WEAPON  
28 (Category B Felony - NRS 200.040, 200.050, 200.080, 193.165), on or about May 19, 2005,  
within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes  
in such cases made and provided, and against the peace and dignity of the State of Nevada,

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EXHIBIT 1



1 COUNT 1 - CONSPIRACY TO COMMIT MURDER

2 Defendant JAYSON TAOIPU, and KENNETH JAY COUNTS, aka Kenneth Jay  
3 Counts, II, and LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL  
4 ESPINDOLA, and DEANGELO RESHAWN CARROLL did, on or between May 19, 2005  
5 and May 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and between  
6 themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire  
7 and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy,  
8 Defendant and/or his co-conspirators, did commit the acts as set forth in Count 2.

9 COUNT 2 - VOLUNTARY MANSLAUGHTER WITH USE OF A DEADLY WEAPON

10 Defendant JAYSON TAOIPU did then and there without authority of law, wilfully,  
11 unlawfully, and feloniously, without malice and without deliberation kill TIMOTHY JAY  
12 HADLAND, a human being, by shooting at and into the body and/or head of said  
13 TIMOTHY JAY HADLAND, with a deadly weapon, to-wit: a firearm, the Defendant and  
14 KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS ALONSO HIDALGO,  
15 aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, and DEANGELO RESHAWN  
16 CARROLL being liable under one or more of the following theories of criminal liability, to-  
17 wit: (1) by aiding and abetting the commission of the crime by, directly or indirectly,  
18 counseling, encouraging, hiring, commanding, inducing or otherwise procuring each other to  
19 commit the crime, to-wit: by ANABEL ESPINDOLA and/or LUIS HILDAGO, III and/or  
20 Luis Hildago, Jr. procuring DEANGELO CARROLL to beat and/or kill TIMOTHY JAY

21 //

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1 HADLAND; thereafter, DEANGELO CARROLL procuring KENNETH COUNTS and/or  
2 JAYSON TAOIPU to shoot TIMOTHY HADLAND; thereafter, DEANGELO CARROLL  
3 and KENNETH COUNTS and JAYSON TAOIPU did drive to the location in the same  
4 vehicle; thereafter, DEANGELO CARROLL calling victim TIMOTHY JAY HADLAND to  
5 the scene; thereafter, by KENNETH COUNTS shooting TIMOTHY JAY HADLAND;  
6 and/or (2) by conspiring to kill TIMOTHY JAY HADLAND.

7  
8  
9 BY

  
\_\_\_\_\_  
DAVID ROGER  
DISTRICT ATTORNEY  
Nevada Bar #002781

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26 DA#05FB0052E/  
27 LVMPD EV#0505193516  
28 CONSP MURDER; VMWDW - F  
(TK7)